

RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:

San Francisco Real Estate Division  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102  
Attn.: Director of Property

WITH A CONFORMED COPY TO:  
San Francisco Public Utilities Commission  
City and County of San Francisco  
525 Golden Gate Avenue, 10<sup>th</sup> Floor  
San Francisco, CA 94102  
Attn: Real Estate Director

The undersigned hereby declares this instrument to be exempt from Recording Fees (Govt. Code § 27383) and Documentary Transfer Tax (Rev. & Tax. Code §11922).

APN: 7303-001; 7303A-002; 7308-003; 7308-002;  
7309A-002; 7333C-001; 7326-003; 7326-002;  
7362-001; 7364-001; 7365-001; 7366-002;  
7370-002; 7330-002; 7330-003; 7331-249;  
7333D-001; and 7335-002

(Space above this line for Recorder's use only)

## FIRST AMENDMENT TO RESTATEMENT AND AMENDMENT OF WATER SYSTEM EASEMENT

THIS FIRST AMENDMENT TO RESTATEMENT AND AMENDMENT OF WATER SYSTEM EASEMENT (this "**First Amendment**") dated \_\_\_\_\_, 2023, is by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Grantor" or "City"), and PARKMERCED OWNER LLC, a Delaware limited liability company, its successors and assigns ("Grantee") (each a "Party" and collectively, the "Parties").

### Recitals

A. Grantor and Grantee have entered that certain Restatement and Amendment of Water System Easement, dated December 18, 2017, and recorded in the Official Records of the City and County of San Francisco ("Official Records") on December 20, 2017 as Document No. 2017K553669 (the "Restated Water System Easement"). Capitalized terms not otherwise defined herein are defined in the Restated Water System Easement. The Restated Water System Easement pertains to a Low-Pressure Water System and certain Future City Low Pressure Water System Improvements and Recycled Water System Improvements and runs over, across and under the Easement Area legally described in Exhibit A and generally shown on Exhibit B to the Restated Water System Easement, each of which are reattached to this First Amendment.

B. Grantee is a Developer (as such term is defined in the Development Agreement defined below) of the Parkmerced Mixed-Use Development Project (the "Project"). On June 7, 2011, at a duly noticed public hearing, the Board of Supervisors considered the Project's approvals, which included amendments to City's General Plan (approved by Ordinance No. 92-11), Zoning

Map (approved by Ordinance No. 91-11), and Planning Code (approved by Ordinance No. 90-11), as well as approval of a Development Agreement, approved on June 7, 2011 by Ordinance No. 89-11 (the "Development Agreement"; collectively, the "Project Approvals"). Ordinance No. 89-11 is on file with the Clerk of the Board in File No. 110300 and is incorporated herein by reference.

C. The Development Agreement was recorded in the Official Records as Document No. 2011-J209959 on July 7, 2011. Pursuant to section 6.1.1 of the Development Agreement, City and Grantee have agreed to transfer certain real property to each other, including certain utility easements at the locations generally shown in Exhibit J of the Development Agreement, as and when needed in connection with the development of an approved Development Phase (as such term is defined in the Development Agreement) for the Project.

D. In instances where Grantee is transferring real property to Grantor for future public right-of-way that contains portions of the Existing Low-Pressure Water System, Future City Low Pressure Water System Improvements, and/or Recycled Water System Improvements, it is necessary for the Easement Area of the Restated Water System Easement to be amended to include such transferred property. As such, Section 14 of the Restated Water System Easement provides the City's Director of Real Estate (also known as the Director of Property) with the authority to unilaterally amend the Restated Water System Easement to expand or relocate the Easement Area (as that term is defined in the Restated Water System Easement) under certain circumstances.

E. Grantor and Grantee desire to amend Section 14 of the Restated Water System Easement to further clarify the circumstances under which the City's Director of Real Estate may unilaterally amend the Restated Water System Easement.

Now therefore, incorporating the foregoing recitals, the Parties agree as follows:

### **Agreement**

1. Amendments. Section 14 of the Restated Water System Easement is hereby deleted in its entirety and replaced as follows:

**14. Amendments.**

a. City Amendments. The City's Director of Property may amend this Easement Agreement without the consent of Grantee (a "City Amendment") provided that it meets the following requirements (the "Amendment Requirements"): (i) the sole purpose of the City Amendment is to (A) add Future City Low Pressure Water System Improvements and/or Recycled Water System Improvements (an "Improvement Amendment") and/or (B) expand or relocate the Easement Area as necessary to ensure the Easement Agreement runs over, across and under all portions of the Low-Pressure Water System, as well as Future City Low Pressure Water System Improvements and Recycled Water System Improvements within the City's right-of-way (a "Property Amendment"), (ii) the City Amendment is made after consultation with the City's Public Works Director, (iii) the property to be included in the Easement Area by the City Amendment is

shown or described in an issued street improvement permit, approved subdivision map and/or approved public improvement agreement related to Project implementation, (iv) the City Amendment does not materially impact Grantee's rights, duties and responsibilities as set forth in this Easement Agreement, and (v) the City Amendment clearly describes the facilities or property, if any, that will no longer be subject to the Easement Agreement pursuant to such City Amendment.

If City amends this Easement Agreement with a Property Amendment, the legal description of the expanded or relocated Easement Area to be included in this Easement Agreement by that Property Amendment must be the same legal description in the irrevocable offer of dedication to City that encumbers that expanded or relocated Easement Area. City shall provide Grantee with notice of a Property Amendment within thirty (30) days of recording that Property Amendment in the Official Records.

Before City amends this Easement Agreement with an Improvement Amendment, City shall provide not less than ten (10) business days' notice to Grantee, together with the anticipated final form of Improvement Amendment. The Improvement Amendment shall be in recordable form. Without limiting City's rights to amend the Easement Agreement as set forth herein without Grantee's consent, the final form of an Improvement Amendment shall be subject to the review of Grantee to confirm that such Improvement Amendment complies with the Amendment Requirements. Grantee shall confirm the delivered Improvement Amendment complies with the Amendment Requirements (through execution of the provided Improvement Amendment in the space provided therefor and delivery of same to the City) or deliver notice to City that the delivered Improvement Amendment does not comply with the Amendment Requirements (specifically describing any Amendment Requirement that is not met) within ten (10) business days after the Grantee's receipt of the Improvement Amendment. Failure to timely grant such confirmation or deliver notice of such non-compliance in accordance with the foregoing sentence shall be deemed confirmation, provided that City shall have first provided Grantee with notice of such failure and a three (3) business day opportunity to cure, with the subject line of such notice including the following in bold, 14-point font: "Failure to act shall be deemed to confirm an Improvement Amendment complies with the Amendment Requirements". Any proposed Improvement Amendment that does not meet the City Requirements will require Grantee's consent, which shall not be unreasonably withheld or delayed.

b. Other Amendments. Except for a City Amendment that meets the City Requirements, any amendment to this Easement Agreement shall require Grantee's written consent, which consent shall not be unreasonably withheld or delayed.

c. Notices. All notices provided between City and Grantee required under this Section 14 shall be in writing and may be delivered personally or by registered mail, return receipt requested. Notice, whether given by personal delivery or registered mail, shall be deemed to have been given and received upon

the actual receipt by any of the addressees designated below as the person to whom notices are to be sent. Either Party may at any time, upon written notice to the other Party, designate any other person or address in substitution of the person and address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

To City: Director of Planning  
San Francisco Planning Department  
49 South Van Ness Avenue  
San Francisco, CA 94103

with a copy to:

City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102  
Attention: Real Estate and Finance Team

To Grantee: Robert Rosania  
Parkmerced Owner, LLC  
One Maritime Plaza, Suite 1900  
San Francisco, CA 94111

with a copy to:

J.Abrams Law, P.C.  
538 Hayes Street  
San Francisco, California 94102

2. No Other Modifications. Except as expressly provided in this First Amendment, the terms and provisions of the Restated Water System Easement are unmodified.

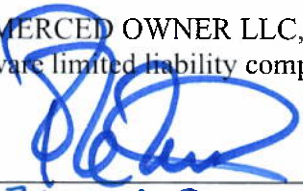
3. Counterparts. This First Amendment may be signed in counterparts, each of which shall be an original and all of which together shall constitute one instrument.

*[Signatures on following page]*

In witness whereof, this Easement Agreement is executed as of the \_\_\_\_ day of \_\_\_\_\_, 2023.

**PROPERTY OWNER:**

PARKMERCED OWNER LLC,  
a Delaware limited liability company

By:   
Robert A. Razonia  
President

**ACCEPTED:**

CITY AND COUNTY OF SAN  
FRANCISCO, a municipal corporation

By: \_\_\_\_\_  
Andrico Penick  
Director of Property

**APPROVED AS TO FORM:**

DAVID CHIU, City Attorney

By: \_\_\_\_\_  
Carol Wong  
Deputy City Attorney

ACKNOWLEDGMENT


STATE OF NEW YORK )

) ss.:

COUNTY OF NEW YORK )

On the 30<sup>th</sup> day of November in the year 2023 before me, the undersigned, a Notary Public in and for said state, personally appeared Robert A. Rosania, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

SARA J. DAVIS  
Notary Public, State of New York  
No. 01DA6370931  
Qualified in Kings County  
Commission Expires February 12, 2026

  
\_\_\_\_\_  
Notary Public

[SEAL]

My commission expires:

**NOTARY ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_)SS  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_

before me, \_\_\_\_\_, a Notary Public, personally appeared

\_\_\_\_\_  
\_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(THIS AREA FOR OFFICIAL NOTARIAL SEAL)

**NOTARY ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_)SS  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_

before me, \_\_\_\_\_, a Notary Public, personally appeared

\_\_\_\_\_  
\_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

(THIS AREA FOR OFFICIAL NOTARIAL SEAL)



**Exhibit A**  
*Legal Description*



November 10, 2017  
BKF Job No. 20090086-54

**EXHIBIT A**

All those public streets as shown on the record of survey map prepared by BKF and recorded in the Official Records on August 24, 2015 as Book FF of Survey Maps, at Pages 110-129, in the office of the Recorder of the City and County of San Francisco;

Together with:

All of those parcels described in that certain "Irrevocable Offer of Dedication and Grant Deed" recorded on September 1, 2017 as Document No. 2017-K509962.

Excepting Therefrom,

All of those certain portions of public street shown of SUR Map 2015-006 and vacated by San Francisco Board of Supervisors' Ordinance 183-16, and more particularly described in that certain "Quitclaim Deed" recorded on September 1, 2017 as Document No. 2017-K509961, reserving to the Grantor existing abutter's rights, including access rights in and to the public streets.

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.



Alex Calder  
Alex Calder, PLS 8863

11/10/2017  
Date

**END OF DESCRIPTION**

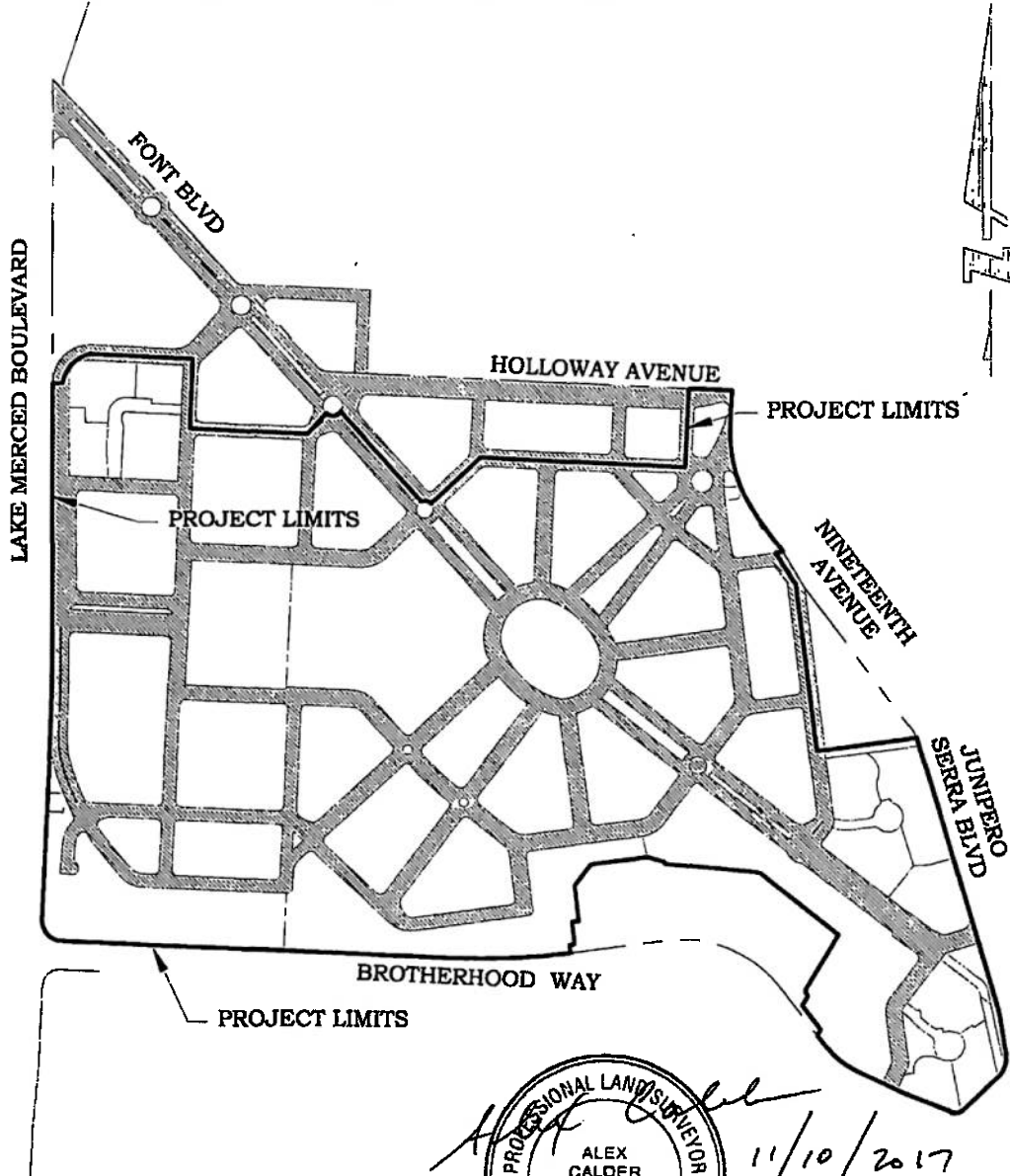
APPROVED LEGAL DESCRIPTION:

By Bruce R. Storrs FOL  
Bruce R. Storrs  
City and County Surveyor

**Exhibit B**

*Plat to Accompany Legal Description*

PROJECT BOUNDARY LIMITS PLAT



PROFESSIONAL LAND SURVEYOR  
 ALEX CALDER  
 No 8863  
 STATE OF CALIFORNIA  
 11/10/2017

GRAPHIC SCALE



1 inch = 600 ft

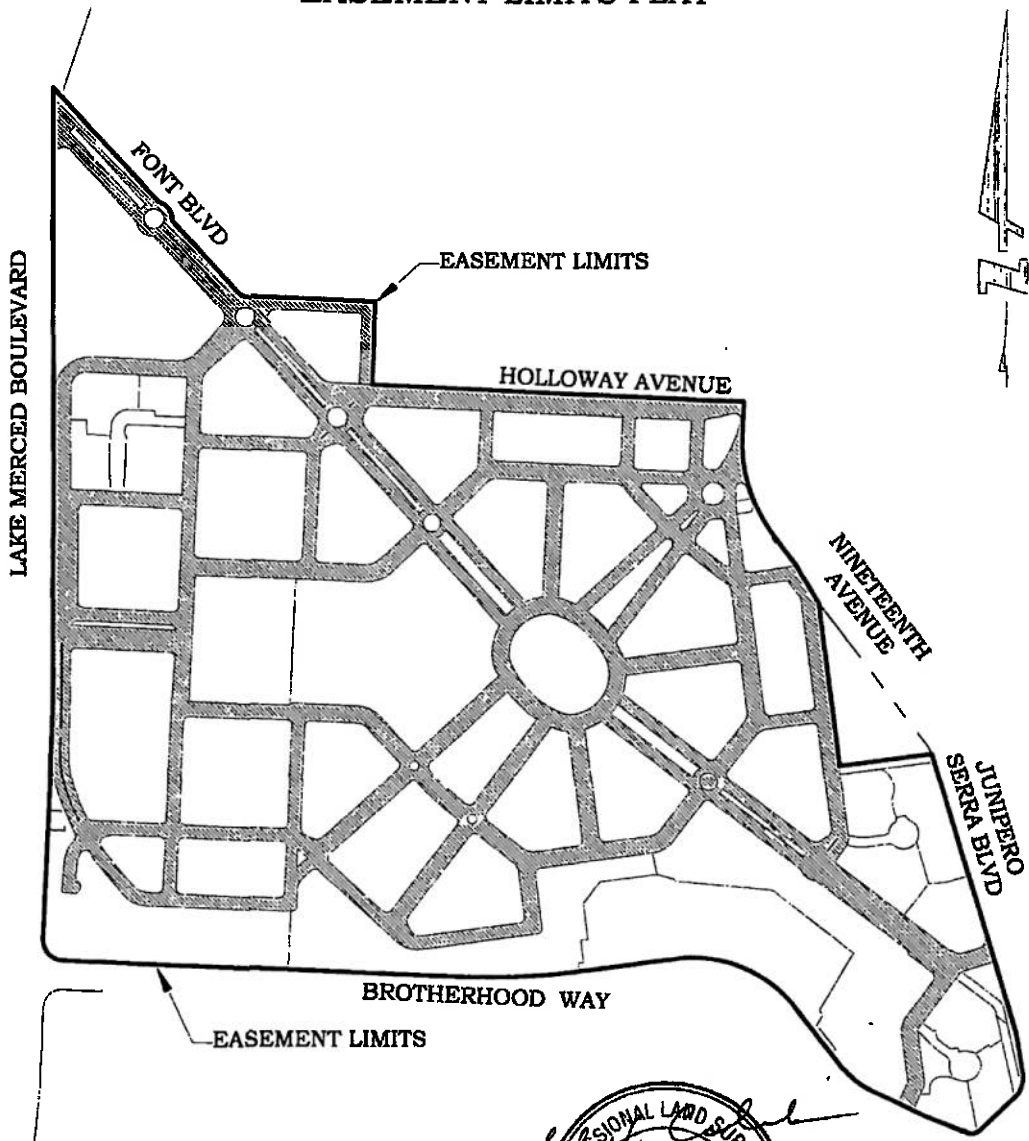
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 PLOT DATE 11-09-17 PLOTTED BY gsh

**BKF 100+**  
 YEARS  
 ENGINEERS . SURVEYORS . PLANNERS  
 255 SHORELINE DR., SUITE 200  
 REDWOOD CITY CA 94065  
 (650) 492-6300  
 www.bkf.com

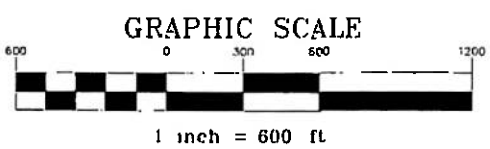
PLAT TO ACCOMPANY DESCRIPTION  
 RESTATEMENT & AMENDMENT OF WATER EASEMENT

Drawn DIW/DCJ  
 Job No 20090086-50  
 Checked AMC  
 Date 11/03/2017  
 Approved AMC  
 Sheet 1 of 2

EASEMENT LIMITS PLAT



PROFESSIONAL LAND SURVEYOR  
 ALEX CALDER  
 No 8863  
 STATE OF CALIFORNIA  
 11/10/2017



DRAWING FILE: C:\Users\jmc11\My Documents\acal\jmc\ArPub\1st\_8082\13 - PLAT.dwg  
 PLOT DATE: 11-03-17 10:07:57 AM

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 255 SHORELINE DR., SUITE 200 (950) 462-6300  
 REDWOOD CITY CA 94065 www.bkf.com

**PLAT TO ACCOMPANY DESCRIPTION  
 RESTATEMENT & AMENDMENT OF WATER EASEMENT**

Drawn DIW/DCJ	Checked AMC	Approved AMC
Job No 20090086-50	Date 11/03/2017	Sheet 2 of 2