

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: John Rahaim, Director, Planning Department
Harlan Kelly, Jr., General Manager, Public Utilities Commission
Mohammed Nuru, Director, Public Works

FROM: *ll*
bn Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

DATE: November 22, 2016

SUBJECT: LEGISLATIONS INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislations, introduced by Supervisor Yee on November 15, 2016:

File No. 161239

Resolution declaring the intent of the Board of Supervisors to 1) order the conditional vacation of certain San Francisco Public Utilities Commission public service easements that exist within the Subphases 1A and 1B of the Parkmerced Development Project area, an approximately 152 acre site located in the Lake Merced District in the southwest corner of San Francisco and generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west; 2) reserve certain easement rights in favor of the SFPUC; 3) delegate authority to the Director of Real Estate to execute certain quit claim deeds; 4) adopt findings under the California Environmental Quality Act; 5) adopt findings that the vacations are consistent with the Parkmerced Development Agreement, the General Plan, and the eight priority policies of Planning Code, Section 101.1; 6) direct the Clerk of the Board of Supervisors to make certain transmittals; and 7) authorize actions by City officials in furtherance of this Ordinance; and setting a hearing date for all persons interested in the proposed vacation of said public service easements.

File No. 161240

Ordinance 1) ordering the conditional vacation of certain San Francisco Public Utilities Commission (SFPUC) public service easements that exist within Subphases 1A and 1B of the Parkmerced Development Project area, an approximately 152 acre site located in the Lake Merced District in the southwest corner of San Francisco and generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west; 2) reserving easement rights in favor of the SFPUC, subject to conditions specified in this Ordinance; 3) delegating authority to the Director of Real Estate to execute certain quit claim deeds; 4) adopting findings under the California Environmental Quality Act; 5) adopting findings that the vacations are consistent with the Parkmerced Development Agreement, the General Plan, and the eight priority policies of Planning Code, Section 101.1; 6) directing the Clerk of the Board of Supervisors to make certain transmittals; and 7) authorizing actions by City officials in furtherance of this ordinance.

If you have comments or reports to be included with the file, 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: alisa.somera@sfgov.org.

c: Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Jeanie Poling, Planning Department
Juliet Ellis, Public Utilities Commission
Donna Hood, Public Utilities Commission
Frank Lee, Public Works
John Thomas, Public Works
Lena Liu, Public Works

1 [Resolution of Intent - San Francisco Public Utilities Commission Public Service Easement
2 Vacation Order - Parkmerced Development Project]

3 **Resolution declaring the intent of the Board of Supervisors to 1) order the conditional**
4 **vacation of certain San Francisco Public Utilities Commission public service**
5 **easements that exist within the Subphases 1A and 1B of the Parkmerced Development**
6 **Project area, an approximately 152 acre site located in the Lake Merced District in the**
7 **southwest corner of San Francisco and generally bounded by Vidal Drive, Font**
8 **Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero**
9 **Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced**
10 **Boulevard to the west; 2) reserve certain easement rights in favor of the SFPUC; 3)**
11 **delegate authority to the Director of Real Estate to execute certain quit claim deeds; 4)**
12 **adopt findings under the California Environmental Quality Act; 5) adopt findings that**
13 **the vacations are consistent with the Parkmerced Development Agreement, the General**
14 **Plan, and the eight priority policies of Planning Code, Section 101.1; 6) direct the Clerk**
15 **of the Board of Supervisors to make certain transmittals; and 7) authorize actions by**
16 **City officials in furtherance of this Ordinance; and setting a hearing date for all persons**
17 **interested in the proposed vacation of said public service easements.**

18
19 WHEREAS, On February 20, 2015, Parkmerced Owner, LLC (together, with its
20 successors and assigns, the "Project Sponsor") submitted three applications for tentative
21 subdivision maps pursuant to the requirements of the California Subdivision Map Act for
22 Subphases 1A and 1B of the Project; and

23 WHEREAS, On August 21, 2015, Public Works ("PW") pursuant to PW Order No.
24 183946 conditionally approved such tentative maps: (1) Tentative Map No. 8530 requested
25 approval to subdivide Assessor's Parcel Block Nos. 7326, 7330, 7331, 7364, 7365, 7366 and

1 7370 (Parkmerced Planning Blocks 20, 21S, and 22); (2) Tentative Map No. 8531 requested
2 approval to subdivide Assessor's Block No. 7335 (Parkmerced Planning Block 6); and (3)
3 Tentative Map No. 8532 requested approval to subdivide Assessor's Block No. 7308
4 (Parkmerced Planning Block 1) (collectively, the "Subphase 1A and 1B Tentative Maps"); and

5 WHEREAS, The Project Sponsor is currently processing with PW the approval of a
6 final subdivision map for each of the Subphase 1A and 1B Tentative Maps (each, a "Final
7 Map"); and

8 WHEREAS, This vacation proceeding is for: certain public service easements
9 (including sewer, storm drain, and water line easements) owned by the SFPUC located within
10 and outside of existing streets (the "Public Utility Easements Area"); and

11 WHEREAS, The Public Utility Easements Area is shown in PW SUR Map Nos. 2016-
12 005, 2016-007, 2016-008, 2016-009, 2016-010, 2016-011, 2016-012, 2016-013, 2016-014,
13 2016-015, 2016-016, 2016-020, and 2016-021; and

14 WHEREAS, Copies of such maps are on file with the Clerk of the Board in File
15 No. _____ and are incorporated herein by reference; and

16 WHEREAS, These public easement vacation actions are conducted under the general
17 vacation procedures of the Public Streets, Highways and Service Easements Vacation Law
18 (California Streets and Highways Code, Sections 8300 et seq.) and Public Works Code,
19 Section 787(a); and

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

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

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

10 WHEREAS, The City proposes to quitclaim its interest in the Public Utility Easements
11 Area; however, because many of these easements will remain in use until specified times,
12 certain portions of the Public Utility Easements Area as described more fully below would not
13 be vacated until certain conditions are satisfied:

14 (a) No portion of the Public Utility Easements Area shall be vacated until the Project
15 Sponsor provides PW with an acceptable Public Improvement Agreement ("PIA") pursuant to
16 Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all
17 improvements within the Final Map or required for development of the area shown in the Final
18 Map prior to approval of a Final Map or issuance of a Street Improvement Permit for
19 Subphases 1A or 1B of the Project, whichever is earlier; and

20 (b) The vacation of the Public Utility Easements Area shown on SUR Maps 2016-005,
21 2016-011, 2016-013, 2016-015, and 2016-016 are subject to the reservation of non-exclusive
22 easements for the benefit of the SFPUC for the SFPUC utilities that are located in, upon, or
23 over any portion of the Public Utility Easements Area shown on SUR Maps 2016-005, 2016-
24 011, 2016-013, 2016-015, and 2016-016 in which the SFPUC's respective in-place and
25 functioning utilities are located, to the extent necessary to maintain, operate, repair, and

1 remove existing lines of pipe and other convenient structures, equipment and fixtures for the
2 operation of such utilities; and

3 WHEREAS, In a letter dated _____ (the "Planning Letter"), the Planning
4 Department determined that the proposed vacations and other actions contemplated herein
5 are on balance consistent with the General Plan, and with the eight priority policies of
6 Planning Code, Section 101.1, comply with applicable provisions of the Planning Code, and
7 are consistent with the Project as defined in the Development Agreement and the Project
8 Approvals; and

9 WHEREAS, A copy of said letter is on file with the Clerk of the Board in File
10 No. _____ and is incorporated by reference herein; and

11 WHEREAS, The Director of PW has prepared PW Order No. _____, dated
12 _____, 2016, a copy of which is on file with the Clerk of the Board of Supervisors in
13 File No. _____ and incorporated herein by reference, and has determined that: (1) upon
14 satisfaction of the applicable condition or conditions, the Public Utility Easements Area will no
15 longer be necessary for the City's present or prospective public service easement purposes
16 as all existing physical public utilities located in the Public Utility Easements Area are
17 abandoned or will be relocated to the satisfaction of the City as part of the construction of the
18 Project; (2) with certain exceptions specified herein, the public interest, convenience, and
19 necessity do not require any easements or other rights be reserved for any public utility
20 facilities that are in place in the Public Utility Easements Area and that any rights based upon
21 any such public utility facilities shall be extinguished automatically upon the effectiveness of
22 the vacation; (3) in accordance with California Streets and Highways Code, Section 892, for
23 those portions of the Public Utility Easements Area to be conditionally vacated, upon
24 satisfaction of the applicable condition or conditions, the rights-of-way and parts thereof
25 proposed within the respective Public Utility Easements Area will no longer be useful as a

1 non-motorized transportation facility, as defined in Section 887, because the Development
2 Agreement requires the dedication and construction of an extensive street, bicycle path,
3 pedestrian path, park, and trail system that is more extensive than the areas being vacated
4 hereby and that is designed to integrate with existing built streets in the adjacent
5 neighborhoods; and (4) it is a policy matter for the Board of Supervisors to quitclaim the City's
6 interest in the Public Utility Easements Area to the Project Sponsor, subject to the
7 requirements of the Development Agreement; and

8 WHEREAS, In addition, in the PW Order the PW Director recommended: (1) that the
9 Board of Supervisors adopt the legislation to vacate the Public Utility Easements Area; (2) that
10 the Board of Supervisors approve all actions set forth herein and previously taken by the
11 Officers of the City with respect to this vacation; (3) although the consent of all property
12 owners adjacent to the Public Utility Easements Area was not obtained, the applicant made
13 reasonable attempts to notify and obtain consent from all property owners adjacent to the
14 Public Utility Easements and the proposed vacations do not deprive any private landowner of
15 access to the built public street grid; and (4) that the Board of Supervisors authorize the
16 Mayor, Clerk of the Board, Director of Property, County Surveyor, Executive Directors of the
17 Public Utilities Commission, and Director of PW to take any and all actions which they or the
18 City Attorney may deem necessary or advisable to effectuate the purpose and intent of this
19 ordinance; and

20 WHEREAS, Subject to the reservations and conditions specified in this Resolution,
21 those portions of the Public Utility Easements Area proposed to be conditionally vacated will
22 be unnecessary for prospective public use once the applicable condition has been satisfied;
23 and

24 WHEREAS, Except as specifically provided above, the public interest, convenience,
25 and necessity require that no other easements or other rights be reserved for any public or

1 private utility facilities that are in place in the Public Utility Easements Area and that any rights
2 based upon any such public or private utility facilities be extinguished upon Board approval of
3 the vacation actions; now, therefore, be it

4 RESOLVED, That pursuant to California Streets and Highways Code, Sections 8300 et
5 seq. and San Francisco Public Works Code, Section 787(a), the Board of Supervisors hereby
6 declares that it intends to order the vacation of the Public Utility Easements Area, as shown
7 on PW SUR Map Nos. 2016-005, 2016-007, 2016-008, 2016-009, 2016-010, 2016-011, 2016-
8 012, 2016-013, 2016-014, 2016-015, 2016-016, 2016-020, and 2016-021, which is
9 incorporated hereby by reference, subject to the conditions, where applicable, and to the
10 reservations described above; and, be it

11 FURTHER RESOLVED, That notice is hereby given that on the _____ day of
12 _____, 2016, beginning at approximately _____ in the Legislative
13 Chamber of the Board of Supervisors, all persons interested in or objecting to the proposed
14 vacation will be heard; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors acknowledges the PW Order
16 No. _____ findings, including among other things, that (a) for those portions of the
17 Public Utility Easements Area to be conditionally vacated, upon satisfaction of the applicable
18 condition or conditions, the respective Public Utility Easements Area will no longer be
19 necessary for the City's present or prospective public service easement purposes; (b) with
20 certain exceptions noted, the public interest, convenience, and necessity do not require any
21 easements or other rights be reserved for any public utility facilities that are in place and that
22 any rights based upon any such public utility facilities shall be extinguished automatically upon
23 the effectiveness of the vacation; (c) in accordance with California Streets and Highways
24 Code, Section 892, for those portions of the Public Utility Easements Area to be conditionally
25 vacated, upon satisfaction of the applicable condition or conditions, the right-of-ways and

1 parts thereof proposed for vacation will no longer be useful as a non-motorized transportation
2 facility, as defined in Section 887, because the Parkmerced Project includes new facilities for
3 bicycle and pedestrian movement that are equal to or in excess of what may currently exist;
4 and (d) it is a policy matter for the Board of Supervisors to quitclaim the City's interest in the
5 Public Utility Easements Area to the Project Sponsor, subject to the requirements of the
6 Development Agreement; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board
8 to transmit to the Department of Public Works a certified copy of this Resolution, and the
9 Board of Supervisors urges the Director of Public Works and the Clerk of the Board to publish
10 and post this Resolution and to give notice of the hearing of such contemplated action in the
11 manner required by law.

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1 [San Francisco Public Utilities Commission Public Service Easement Vacation Order -
2 Parkmerced Development Project]

3 **Ordinance 1) ordering the conditional vacation of certain San Francisco Public Utilities**
4 **Commission (SFPUC) public service easements that exist within Subphases 1A and 1B**
5 **of the Parkmerced Development Project area, an approximately 152 acre site located in**
6 **the Lake Merced District in the southwest corner of San Francisco and generally**
7 **bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north,**
8 **19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south,**
9 **and Lake Merced Boulevard to the west; 2) reserving easement rights in favor of the**
10 **SFPUC, subject to conditions specified in this Ordinance; 3) delegating authority to the**
11 **Director of Real Estate to execute certain quit claim deeds; 4) adopting findings under**
12 **the California Environmental Quality Act; 5) adopting findings that the vacations are**
13 **consistent with the Parkmerced Development Agreement, the General Plan, and the**
14 **eight priority policies of Planning Code, Section 101.1; 6) directing the Clerk of the**
15 **Board of Supervisors to make certain transmittals; and 7) authorizing actions by City**
16 **officials in furtherance of this ordinance.**

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

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

25 Section 1. Findings.

1 (a) On February 10, 2011, at a duly noticed public hearing, the Planning Commission
2 certified the Final Environmental Impact Report (“Final EIR”) for the Parkmerced Mixed-Use
3 Development Project (the “Project”), by Motion No. 18269, finding that the Final EIR reflects
4 the independent judgment and analysis of the City and County of San Francisco, is adequate,
5 accurate and objective, contains no significant revisions to the Draft EIR, and the content of
6 the FEIR and the procedures through which the Final EIR was prepared, publicized and
7 reviewed comply with the provisions of the California Environmental Quality Act (California
8 Public Resources Code Sections 21000 et seq., “CEQA”), the State CEQA Guidelines
9 (California Code of Regulations Title 14 Sections 15000 et seq.), and Chapter 31 of the San
10 Francisco Administrative Code (“Chapter 31”).

11 (b) At the same hearing at which the Planning Commission certified the Final EIR, the
12 Planning Commission by Motion No. 18270 adopted findings, as required by CEQA, regarding
13 the alternatives, mitigation measures, and significant environmental effects analyzed in the
14 Final EIR, a statement of overriding considerations for approval of the Project, and a proposed
15 mitigation monitoring and reporting program (collectively, “CEQA Findings”).

16 (c) On May 24, 2011, at a duly noticed public hearing, the Board of Supervisors
17 reviewed and considered the Final EIR on appeal. By Motion No. M11-83, the Board of
18 Supervisors upheld the Planning Commission’s certification of the Final EIR and found the
19 Final EIR to be complete, adequate and objective and reflecting the independent judgment of
20 the City and in compliance with CEQA and the State CEQA Guidelines (California Code of
21 Regulations Title 14 Sections 15000 et seq.).

22 (d) On June 7, 2011, at a duly noticed public hearing, the Board of Supervisors
23 considered the Project’s approvals, which included amendments to the City’s General Plan
24 (approved by Ordinance No. 92-11), Zoning Map (approved by Ordinance No. 91-11), and
25 Planning Code (approved by Ordinance No. 90-11), as well as approval of a Development

1 Agreement, approved on June 7, 2011 by Ordinance No. 89-11 (the “Development
2 Agreement”) (collectively, the “Project Approvals”). Ordinance No. 89-11 is on file with the
3 Clerk of the Board in File No. 110300 and is incorporated herein by reference. The SFPUC
4 Commission on June 14, 2011 adopted a consent to the Development Agreement (SFPUC
5 Commission Resolution No. 11-0091).

6 (e) In approving the Project, including in its approval of the Development Agreement
7 by Ordinance No. 89-11, the Board of Supervisors adopted the Planning Commission's CEQA
8 Findings as its own and incorporated them by reference. In so doing, the Board of Supervisors
9 approved and endorsed the Mitigation Monitoring and Reporting Program (“MMRP”) for
10 implementation by other City departments and recommended for adoption those mitigation
11 measures that are enforceable by agencies other than City departments. A copy of the CEQA
12 Findings and the Mitigation Monitoring and Reporting Program is on file with the Clerk of the
13 Board in File No. 110300 and is incorporated herein by reference.

14 (f) Section 6.1.1 of the Development Agreement requires that the City convey to
15 Project Sponsor any real property needed in connection with the development of an approved
16 Development Phase for the Project, following vacation and abandonment of any public rights
17 and relocation of any utilities in such real property. The Planning Director approved
18 Development Phase 1 of the Project on June 3, 2015. Development Phase 1 is comprised of
19 four Subphases (1A, 1B, 1C, and 1D).

20 (g) On February 20, 2015, Parkmerced Owner, LLC (together, with its successors and
21 assigns, the “Project Sponsor”) submitted three applications for tentative subdivision maps
22 pursuant to the requirements of the California Subdivision Map Act for Subphases 1A and 1B
23 of the Project. On August 21, 2015, Public Works (“PW”) pursuant to PW Order No. 183946
24 conditionally approved such tentative maps: (1) Tentative Map No. 8530 requested approval
25 to subdivide Assessor's Blocks 7326, 7330, 7331, 7364, 7365, 7366 and 7370 (Parkmerced

1 Planning Blocks 20, 21S, and 22); (2) Tentative Map No. 8531 requested approval to
2 subdivide Assessor's Block 7335 (Parkmerced Planning Block 6); and (3) Tentative Map No.
3 8532 requested approval to subdivide Assessor's Block 7308 (Parkmerced Planning Block 1)
4 (collectively, the "Subphase 1A and 1B Tentative Maps"). The Project Sponsor is currently
5 processing with PW the approval of a final subdivision map for each of the Subphase 1A and
6 1B Tentative Maps (each, a "Final Map").

7 (h) Subphases 1A and 1B of the Project involve the conditional vacation of certain
8 public service easements (including sewer, storm drain, and water line easements) owned by
9 the San Francisco Public Utilities Commission located within and outside of existing streets
10 (the "Public Utility Easements"). The SFPUC Vacation Area is shown in Public Works SUR
11 Map Nos. 2016-005, 2016-007, 2016-008, 2016-009, 2016-010, 2016-011, 2016-012, 2016-
12 013, 2016-014, 2016-015, 2016-016, 2016-020, and 2016-021. Copies of such maps are on
13 file with the Clerk of the Board in File No. _____ and are incorporated herein by
14 reference.

15 (i) On _____, 2016, the Board of Supervisors adopted Resolution No.
16 _____ (the "Resolution of Intention"), a copy of which is on file with the Clerk of the
17 Board of Supervisors in File No. _____, declaring the intention of the Board to
18 conditionally vacate the Public Utility Easements.

19 (j) The Clerk of the Board of Supervisors published the Resolution of Intent in the
20 manner required by law, and the Director of PW posted the Resolution of Intent in the manner
21 required by law.

22 (k) When the Board of Supervisors held a duly noticed public hearing on this public
23 utility vacation order on _____, the Board received public comment regarding the
24 vacation of the Public Utility Easements.

1 (l) The vacation of the Public Utility Easements is necessary to implement the Project,
2 to fulfill the objectives and requirements of the Development Agreement, and to fulfill the
3 objectives of the Parkmerced Special Use District (Planning Code Section 249.64). The
4 proposed vacations and other actions contemplated herein implement the Project vested by
5 the Project Approvals, including the construction of buildings and streets consistent with the
6 Parkmerced Design Standards and Guidelines, the Parkmerced Transportation Plan, and the
7 Parkmerced Infrastructure Report, all of which are incorporated by reference into the
8 Development Agreement.

9 (m) The City proposes to quitclaim its interest in the Public Utility Easements to the
10 Project Sponsor, consistent with Development Agreement Section 6.1.1.

11 (n) Because certain of the easements will remain in use until specified times, no
12 portion of the Public Utility Easements shall be vacated until the Project Sponsor provides PW
13 with an acceptable Public Improvement Agreement ("PIA") pursuant to Section 1351 of the
14 San Francisco Subdivision Code and the Subdivision Map Act for all improvements within the
15 Final Map or required for development of the area shown in the Final Map prior to approval of
16 a Final Map or issuance of a Street Improvement Permit for Subphases 1A or 1B of the
17 Project, whichever is earlier. Such PIA shall address security provisions and provide interim
18 easements or licenses via separate offer, such that the City can complete the improvements if
19 the Project Sponsor fails to do so.

20 (o) On October 25, 2016, after a duly noticed public hearing, the San Francisco
21 Public Utilities Commission in Resolution No. _____, determined that the Public Utility
22 Easements were surplus and unnecessary for public utility purposes, and therefore
23 recommended that the Board of Supervisors terminate and vacate such easements subject to
24 the conditions in this ordinance and authorize the General Manager of the SFPUC to quitclaim
25

1 these real property interests. A copy of this resolution is on file with the Clerk of the Board of
2 Supervisors in File No. _____.

3 (p) The Board of Supervisors finds that the actions proposed herein are consistent with
4 and within the scope of the Project analyzed in the Final EIR and subject to the CEQA
5 Findings. The Board of Supervisors further finds that no substantial changes are proposed in
6 the Project and no substantial changes have occurred with respect to the circumstances
7 under which this Project will be undertaken that would cause new significant environmental
8 effects or a substantial increase in the severity of previously identified effects, and there is no
9 new information of substantial importance showing that the Project would have any significant
10 effects not discussed in the Project environmental impact report, that significant effects would
11 be substantially more severe, or that new or different mitigation measures or alternatives
12 would substantially reduce one or more significant effects of the Project. The Board affirms
13 the Planning Department's determination that an addendum to the Final EIR is not required
14 due to any changes in the Project or the Project's circumstances.

15 (q) In a letter dated _____ (the "Planning Letter"), the Planning Department
16 determined that the proposed vacations and other actions contemplated herein are on
17 balance consistent with the General Plan and with the Eight Priority Policies of City Planning
18 Code Section 101.1, comply with applicable provisions of the Planning Code, and are
19 consistent with the Project as defined in the Development Agreement and the Project
20 Approvals. A copy of said letter is on file with the Clerk of the Board in File No.
21 _____ and is incorporated herein by reference. The Board of Supervisors adopts as
22 its own the consistency findings of the Planning Letter.

23 (r) These public easement vacation actions are conducted under the general vacation
24 procedures of the California Public Streets, Highways and Service Easements Vacation Law
25

1 (California Streets and Highways Code Sections 8300 et seq.) and San Francisco Public
2 Works Code Section 787(a).

3 (s) The Director of PW has prepared PW Order No. _____, dated
4 _____, 2016, in regard to the vacations and other actions contemplated herein and
5 makes the following determinations: (1) upon satisfaction of the applicable condition or
6 conditions provided in Section 1(n), the respective Public Utility Easements will no longer be
7 necessary for the City's present or prospective public service easement purposes as all
8 existing physical public utilities located in the Public Utility Easements will be relocated to the
9 satisfaction of the City as part of the construction of the Project; (2) with the exception of those
10 public easements noted in Sections 3(a) below, the public interest, convenience, and
11 necessity do not require any easements or other rights be reserved for any public utility
12 facilities that are in place in the Public Utility Easements and that any rights based upon any
13 such public utility facilities shall be extinguished automatically upon the effectiveness of the
14 vacation; (3) in accordance with California Streets and Highways Code Section 892, for those
15 portions of the Public Utility Easements to be conditionally vacated identified in Section 1(n)
16 above, upon satisfaction of the applicable condition or conditions, the respective Public Utility
17 Easements will no longer be useful as a non-motorized transportation facility, as defined in
18 Section 887, because the Development Agreement requires the dedication and construction
19 of an extensive street, bicycle path, pedestrian path, park, and trail system that is more
20 extensive than the areas being vacated hereby and that is designed to integrate with existing
21 built streets in the adjacent neighborhoods; and (4) it is a policy matter for the Board of
22 Supervisors to quitclaim the City's interest in the Public Utility Easements to the Buyer,
23 subject to the requirements of the Development Agreement. A copy of the PW Order is on file
24 with the Clerk of the Board of Supervisors in File No. _____ and is incorporated
25 herein by reference.

1 (t) In addition, in the PW Order the PW Director recommended: (1) that the Board of
2 Supervisors adopt the legislation to vacate the Public Utility Easements; (2) that the Board of
3 Supervisors approve all actions set forth herein and previously taken by the Officers of the
4 City with respect to this vacation; (3) although the consent of all property owners adjacent to
5 the Public Utility Easements was not obtained, the applicant made reasonable attempts to
6 notify and obtain consent from all property owners adjacent to the Public Utility Easements
7 and the proposed street vacations do not deprive any private landowner of access to the built
8 public street grid; and (4) that the Board of Supervisors authorize the Mayor, Clerk of the
9 Board, Director of Property, County Surveyor, Executive Directors of the Public Utilities
10 Commission, and Director of PW to take any and all actions which they or the City Attorney
11 may deem necessary or advisable to effectuate the purpose and intent of this ordinance.

12 (u) In addition, solely for those Public Utility Easements shown on SUR Maps 2016-
13 005, 2016-011, 2016-013, 2016-015, and 2016-016, in the PW Order the PW Director
14 determined that the public interest, convenience, and necessity require that the City reserve
15 from the vacation of the Public Utility Easements shown on SUR Maps 2016-005, 2016-011,
16 2016-013, 2016-015, and 2016-016, non-exclusive easements for the benefit of the City for
17 water main utilities located in, upon, and over the Public Utility Easements shown on SUR
18 Maps 2016-005, 2016-011, 2016-013, 2016-015, and 2016-016 in which the SFPUC's in-
19 place and functioning utilities are located as of the effective date of this ordinance, to the
20 extent necessary to maintain, operate, repair, and remove existing lines of pipe and other
21 convenient structures, equipment and fixtures for the operation by SFPUC of SFPUC utilities.
22 This reservation and the automatic extinguishment of the reservation to occur upon
23 satisfaction of certain conditions are described in Section 3 below.

24
25 Section 2. Public Utility Easement Vacation.

1 (a) Except as set forth in Sections 3 and 4 below, the Board of Supervisors hereby
2 vacates the Public Utility Easements in the manner described in Section (1)(m), upon
3 satisfaction of the conditions described in this ordinance and pursuant to California Streets
4 and Highways Code Sections 8300 et seq. and San Francisco Public Works Code Section
5 787(a).

6 (b) The Board of Supervisors hereby finds that the Public Utility Easements are
7 unnecessary for present or prospective public use, subject to the conditions described in this
8 ordinance.

9 (c) The Board finds that the public interest, convenience, and necessity require that
10 the Vacation Action be done as declared in this ordinance.

11 (d) The Vacation Action shall be effective as to all of the Public Utility Easements upon
12 satisfaction of the conditions in Sections 1, 3 and 4 and recording of the City's quitclaim deed
13 in substantially the same form as the draft quitclaim deed on file with the Clerk of the Board of
14 Supervisors in File No. _____.

15
16 Section 3. Conditions to the Vacation Action; Reservation and Easements.

17 (a) The vacation of the Public Utility Easements shown on SUR Maps 2016-005, 2016-
18 011, 2016-013, 2016-015, and 2016-016 are subject to the reservation of non-exclusive
19 easements on the terms and conditions described in Section 1(n) above for the benefit of the
20 City for the utilities that are located in, upon, or over any portion of the Public Utility
21 Easements shown on SUR Maps 2016-005, 2016-011, 2016-013, 2016-015, and 2016-016 in
22 which the SFPUC's respective in-place and functioning utilities are located, to the extent
23 necessary to maintain, operate, repair, and remove existing lines of pipe and other convenient
24 structures, equipment and fixtures for the operation of such utilities and also the rights to trim
25 and cut down trees and brush that may be a hazard to the utilities. To the extent the non-

1 exclusive easements described in this Section 3(a) have not previously merged into a fee
2 interest held by the City, such non-exclusive easements reserved in this Section 3(a) shall be
3 automatically extinguished when such alternative replacement facilities are completed to the
4 satisfaction of the City Engineer and the Board of Supervisors accepts the facilities. The City
5 shall execute a quitclaim of any interest in any easement reserved under this Section 3(a) and
6 shall cause such quitclaim to be recorded against the subject property upon the fee title owner
7 demonstrating to the City that replacement utilities serving the affected area have been
8 substantially completed and operable. In the event a non-exclusive easement described in
9 this Section 3(a) has merged into the fee interest held by the City, such interest shall be
10 deemed to be automatically extinguished and conveyed at the time the fee interest is
11 conveyed by the City to the Project Sponsor or any other transferee pursuant to the
12 Development Agreement.

13 (b) The PIA shall provide that, prior the issuance of the first certificate of occupancy for
14 the first building constructed as part of Development Phase 1 of the Project, the Project
15 Sponsor shall perform those actions as reasonably required by the City (which may include,
16 but not be limited to, execution of a quitclaim deed or performance of a quiet title action) to
17 clarify that the City owns fee title to the public streets and/or the Public Utilities Easements in
18 the Parkmerced Development Project as of the date of issuance of the said certificate of
19 occupancy.

20 (c) Except as specifically provided in this ordinance and subject to the conditions set
21 forth in this Section 3 and in Section 4 of this ordinance, no easements or other rights are
22 reserved for any public utility facilities that are in place in the Public Utility Easements and any
23 rights based upon any such public utility facilities shall be extinguished upon the effectiveness
24 of the vacation hereunder.

1 Section 4. Execution of Quitclaim Deeds and Delegation to Director of Real Estate.

2 (a) The Board of Supervisors hereby authorizes the Director of Real Estate to execute
3 City quitclaim deeds to the Project Sponsor for those portions of the Public Utility Easements
4 to be conditionally vacated (as described in Section (1)(n)) upon satisfaction of the applicable
5 conditions set forth in Section (1)(n).

6 (b) The quitclaim deeds executed pursuant to this Section 4 shall include the
7 reservations of the non-exclusive easements to the City for City utilities described in Section
8 3. The Board hereby delegates to the Director of Real Estate, in cooperation with the County
9 Surveyor, the authority to prepare and record quitclaims pursuant to this ordinance so as to
10 fully implement the intent of this ordinance and to fully implement the Project.

11
12 Section 5. The Board of Supervisors hereby directs the Clerk of the Board of
13 Supervisors to transmit to the Director of PW certified copies of this ordinance, and the Board
14 of Supervisors hereby urges the Director of PW to proceed in the manner required by law.
15 The Clerk of the Board also is hereby directed to transmit to the Director of PW certified
16 copies of this ordinance so that this ordinance may be recorded together with any other
17 documents necessary to effectuate this ordinance.

18
19 Section 6. The Mayor, Clerk of the Board, Director of Property, the General Manager
20 of the San Francisco Public Utilities Commission, and Director of PW are hereby authorized
21 and directed to take any and all actions which they or the City Attorney may deem necessary
22 or advisable in order to effectuate the purpose and intent of this ordinance (including, without
23 limitation, the filing of the ordinance in the Official Records of the City and County of San
24 Francisco, determination of the precise locations of the boundaries of quitclaims to be
25 prepared and recorded pursuant to this ordinance, confirmation of satisfaction of any of the

1 conditions to the effectiveness of the vacation of any portion of the Public Utility Easements
2 hereunder, and confirmation of the reservation of easements pursuant to Section 3(a) of this
3 ordinance and execution and delivery of any evidence of same, which shall be conclusive as
4 to the satisfaction of such conditions upon signature by any such City official or his or her
5 designee).

6

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

11

12 APPROVED AS TO FORM:
13 DENNIS J. HERRERA, City Attorney

14 By: 
15 MARLENA BYRNE

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LEGISLATIVE DIGEST

[San Francisco Public Utilities Commission Public Service Easement Vacation Order - Parkmerced Development Project]

Ordinance 1) ordering the conditional vacation of certain San Francisco Public Utilities Commission (SFPUC) public service easements that exist within Subphases 1A and 1B of the Parkmerced Development Project area, an approximately 152 acre site located in the Lake Merced District in the southwest corner of San Francisco and generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west; 2) reserving easement rights in favor of the SFPUC, subject to conditions specified in this Ordinance; 3) delegating authority to the Director of Real Estate to execute certain quit claim deeds; 4) adopting findings under the California Environmental Quality Act; 5) adopting findings that the vacations are consistent with the Parkmerced Development Agreement, the General Plan, and the eight priority policies of Planning Code, Section 101.1; 6) directing the Clerk of the Board of Supervisors to make certain transmittals; and 7) authorizing actions by City officials in furtherance of this ordinance.

Existing Law

The Parkmerced Development Project ("Project") is a large, multi-phased project to redevelop an approximately 152 acre site located in the Lake Merced District in the southwest corner of San Francisco, generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west. Among other things, the Project involves the realignment of various streets and public rights-of-way.

Amendments to Current Law

The proposed ordinance would conditionally vacate portions of certain public service easements for the first two subphases of the Project. Specifically, Subphases 1A and 1B of the Project involve the conditional vacation of certain public service easements (including sewer, storm drain, and water line easements) owned by the San Francisco Public Utilities Commission located within and outside of existing streets. The SFPUC Vacation Area is shown in Public Works (PW) SUR Map Nos. 2016-005, 2016-007, 2016-008, 2016-009, 2016-010, 2016-011, 2016-012, 2016-013, 2016-014, 2016-015, 2016-016, 2016-020, and 2016-021.

The proposed vacations implement the Project, which was approved by the Board of Supervisors in 2011, by, among other approvals, approval of a Development Agreement for the Project by Ordinance No. 89-11. For the public service easement vacation to become final, the Project Sponsor must provide PW with an acceptable Public Improvement

FILE NO. 161240

Agreement (PIA) with the City for all the improvements required by the Final Map for these phases of the Project, addressing, among other issues, security provisions and provide interim easements or licenses, so that the City can complete the improvements if the Project Sponsor fails to do so.

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