

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

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3 **Resolution declaring the intent of the Board of Supervisors to order the conditional**  
4 **vacation of portions of streets (along with public service easements within those**  
5 **streets) 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; reserve various easement rights in favor of the City and third**  
11 **party utilities, subject to conditions specified; delegate authority to the Director of Real**  
12 **Estate to execute certain quit claim deeds; 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; direct the Clerk of the Board of Supervisors to make**  
16 **certain transmittals; authorize actions by City officials in furtherance of the street**  
17 **vacation ordinance; and setting a hearing date to September 6, 2016, at 3:00 p.m. for all**  
18 **persons interested in the proposed vacation of said street areas and public service**  
19 **easements.**

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21 WHEREAS, On February 20, 2015, Parkmerced Owner, LLC (together, with its  
22 successors and assigns, the "Project Sponsor") submitted three applications for tentative  
23 subdivision maps pursuant to the requirements of the California Subdivision Map Act for  
24 Subphases 1A and 1B of the Project. On August 21, 2015, Public Works ("PW") pursuant to  
25 PW Order No. 183946 conditionally approved such tentative maps: (1) Tentative Map No.

1 8530 requested approval to subdivide Assessor’s Blocks 7326, 7330, 7331, 7364, 7365, 7366  
2 and 7370 (Parkmerced Planning Blocks 20, 21S, and 22); (2) Tentative Map No. 8531  
3 requested approval to subdivide Assessor’s Block 7335 (Parkmerced Planning Block 6); and  
4 (3) Tentative Map No. 8532 requested approval to subdivide Assessor's Block 7308  
5 (Parkmerced Planning Block 1) (collectively, the “Subphase 1A and 1B Tentative Maps”); and

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

9 WHEREAS, This vacation proceeding is for: 1) portions of the following streets within  
10 Parkmerced along with public service easements in the vacated streets: Vidal Drive, Galindo  
11 Avenue, Chumasero Drive, Acevedo Avenue, Serrano Drive, Gonzalez Drive, Cambon Drive,  
12 and Font Boulevard (the "Street Vacation Area"). These street and public easement vacation  
13 actions are conducted under the general vacation procedures of the Public Streets, Highways  
14 and Service Easements Vacation Law (California Streets and Highways Code sections 8300  
15 et seq.) and Public Works Code section 787(a); and

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

20 WHEREAS, The location and extent of the Street Vacation Area is shown in PW SUR  
21 Map No. 2015-006, sheets 1 through 10. Copies of such maps are on file with the Clerk of the  
22 Board in File No. 190870 and are incorporated herein by reference; and

23 WHEREAS, The proposed vacation of the Vacation Area is part of an action to  
24 implement the Parkmerced Development Agreement, approved by this Board of Supervisors

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1 by Ordinance No. 89-11 (the “Development Agreement”) and fulfill the objectives of the  
2 Parkmerced Special Use District (Planning Code Section 249.64); and

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

8 WHEREAS, The City proposes to quitclaim its interest in the Street Vacation Area;  
9 however, because many of these streets and easements will remain in use until specified  
10 times, certain portions of the Street Vacation Area as described more fully below would not be  
11 vacated until certain conditions are satisfied; and

12 WHEREAS, No portion of the Street Vacation Area shall be vacated until certain  
13 conditions are satisfied, as follows:

14 (a) The Project Sponsor shall provide an irrevocable offer of dedication to the City in  
15 form substantially similar to that provided in Exhibit L of the Development Agreement for all  
16 lands needed for construction of proposed improvements shown on the Street Improvement  
17 Permit for Subphases 1A and 1B of the Project. Subdivider shall make such irrevocable offers  
18 of dedication prior to City approval of the Final Subdivision Maps or issuance of a Street  
19 Improvement Permit for Subphases 1A or 1B of the Project, whichever is earlier. The offer of  
20 dedication shall be subject to the reservation of an easement in favor of Project Sponsor for  
21 all domestic water utilities within the dedicated area, which easement shall be extinguished  
22 upon completion of all Development Phases of the Project and formal acceptance of the  
23 domestic water utilities by the City pursuant to the Development Agreement. The sum total of  
24 the square footage of the land proposed for dedication to the City shall be equal to or exceed  
25 the square footage of the Street Vacation Area; and

1 (b) The Project Sponsor shall provide PW with an acceptable Public Improvement  
2 Agreement (“PIA”) pursuant to Section 1351 of the San Francisco Subdivision Code and the  
3 Subdivision Map Act for all improvements within the Final Map or required for development of  
4 the area shown in the Final Map prior to approval of a Final Map or issuance of a Street  
5 Improvement Permit for Subphases 1A or 1B of the Project, whichever is earlier. Such PIA  
6 shall address security provisions and provide interim easements or licenses via separate  
7 offer, such that the City can complete the improvements if the Subdivider fails to do so; and

8 WHEREAS, In a letter dated August 3, 2015 (the "Planning Letter"), the Planning  
9 Department determined that the proposed vacations and other actions contemplated herein  
10 are on balance consistent with the General Plan and with the eight priority policies of Planning  
11 Code Section 101.1, comply with applicable provisions of the Planning Code, and are  
12 consistent with the Project as defined in the Development Agreement and the Project  
13 Approvals; and

14 WHEREAS, A copy of said letter is on file with the Clerk of the Board in File  
15 No. 160870 and is incorporated by reference herein; and

16 WHEREAS, In a letter dated July 5, 2016 (the “DRE Letter”), the Director of the  
17 Department of Real Estate determined that: the Development Agreement contemplates the  
18 vacation of the Street Vacation Area; Exhibit J of the Development Agreement shows the  
19 general locations of the property vacations and dedications required by the Project; Section  
20 6.1.2 of the Development Agreement requires that (a) all real property exchanged under the  
21 Development Agreement be valued on a square foot basis and shall be deemed equal in  
22 value per square foot, (b) if any real property exchange under the Development Agreement  
23 results in a net loss of acreage for the City, then the Project Sponsor must pay to the City the  
24 fair market value of the real property loss at the time of transfer based on the then-current use  
25 of the property so transferred, and (c) the City shall not be required to pay for any net gain in

1 real property; provided, however, such gain can be applied against future real property  
2 transfers for purposes of determining whether there has been a net loss as described above;  
3 and

4 WHEREAS, The Director of Real Estate also determined in the DRE Letter that: the  
5 proposed vacations and dedications associated with Subdivision Maps 8350, 8351, and 8352  
6 result in a net gain in real property owned by the City; therefore, no payment is owed by the  
7 Project for the vacation of the Street Vacation Area; and this net gain should be credited  
8 against future public right of way vacations for the Project; and

9 WHEREAS, A copy of said letter is on file with the Clerk of the Board in File  
10 No. 160870; and

11 WHEREAS, The Director of PW has prepared PW Order No. 185138, dated  
12 July 22, 2016, a copy of which is on file with the Clerk of the Board of Supervisors in File  
13 No. 160870 and incorporated herein by reference, and has determined that: (a) upon  
14 satisfaction of the applicable condition or conditions, the respective Street Vacation Area will  
15 no longer be necessary for the City's present or prospective future public street, sidewalk, and  
16 public service easement purposes as all existing physical public or private utilities located in  
17 the Street Vacation Area will be relocated to the satisfaction of the City as part of the  
18 construction of the Project; (b) with certain exceptions noted, the public interest, convenience,  
19 and necessity do not require any easements or other rights be reserved for any public or  
20 private utility facilities that are in place in the Street Vacation Area and that any rights based  
21 upon any such public or private utility facilities shall be extinguished automatically upon the  
22 effectiveness of the vacation; (c) in accordance with California Streets and Highways Code  
23 Section 892, for those portions of the Street Vacation Area to be conditionally vacated, upon  
24 satisfaction of the applicable condition or conditions, the right-of-ways and parts thereof  
25 proposed within the respective Street Vacation Areas will no longer be useful as a

1 nonmotorized 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; (d) the value of such exchange for future public right-of-way and other public  
6 benefits is equal or in favor of the City, and (e) although the consent of all property owners  
7 adjacent to the Vacation Areas was not obtained, the applicant made reasonable attempts to  
8 notify and obtain consent from all property owners adjacent to a Vacation Area and the  
9 proposed street vacations do not deprive any private landowner of access to the built public  
10 street grid; and

11 WHEREAS, In the PW Order the PW Director determined that the public interest,  
12 convenience, and necessity require that the City reserve from the vacation of the Street  
13 Vacation Area non-exclusive easements for the benefit of the City (and subject to possible  
14 grants by the City of temporary, immediately revocable licenses by the City in favor of AT&T,  
15 PG&E, and any other utilities) for any utilities, telecommunications facilities, or power and gas  
16 transmission facilities, respectively, located in, upon, or over any portion of the Street  
17 Vacation Area in which their respective in-place and functioning utilities are located, to the  
18 extent necessary to maintain, operate, repair, and remove existing lines of pipe, conduits,  
19 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation  
20 by City of City utilities, by AT&T of telecommunications facilities, by PG&E of power and gas  
21 transmission facilities, or for other public utilities; and

22 WHEREAS, This reservation, and any subsequent grant of easements or licenses  
23 would be subject to the City's authority to require AT&T, PG&E, and any other utilities to  
24 remove or relocate their facilities at no expense to the City when necessary to accommodate  
25 a project done under the governmental authority of the City; and

1           WHEREAS, To the extent the non-exclusive easements described in this section have  
2 not previously merged into a fee interest held by the City, such non-exclusive easements  
3 reserved would be automatically extinguished when such alternative replacement facilities are  
4 completed to the satisfaction of the City Engineer and the Board of Supervisors accepts the  
5 facilities; and

6           WHEREAS, The City would execute a quitclaim of any interest in any easement  
7 reserved and would cause such quitclaim to be recorded against the subject property upon  
8 the fee title owner demonstrating to the City that replacement utilities serving the affected area  
9 have been substantially completed and operable; and

10          WHEREAS, In the event a non-exclusive easement described in this section has  
11 merged into the fee interest held by the City, such interest would be deemed to be  
12 automatically extinguished and conveyed at the time the fee interest is conveyed by the City  
13 to Project Sponsor or any other transferee pursuant to the Development Agreement; and

14          WHEREAS, In the PW Order the PW Director determined that the public interest,  
15 convenience, and necessity require that the City reserve from the vacation of the Street  
16 Vacation Area temporary access for the benefit of the public over any portion of the Street  
17 Vacation Area where required to preserve access between a private property and the existing  
18 street grid ; and

19          WHEREAS, The access proposed for reservation in this paragraph would be  
20 automatically extinguished when replacement access serving the affected area has been  
21 substantially completed and is open to the public; and

22          WHEREAS, Except in the case where the reserved access rights have merged into a  
23 fee interest held by the City (in which case they shall be deemed to be automatically  
24 extinguished), the City would execute a quitclaim of the temporary access reserved under this  
25 paragraph and shall cause such quitclaim to be recorded against the subject property upon

1 the servient tenement owner demonstrating to the City that replacement access serving the  
2 affected area has been substantially completed and is open to the public; and

3 WHEREAS, Subject to the reservations and conditions specified in this Resolution,  
4 those portions of the Vacation Area proposed to be conditionally vacated will be unnecessary  
5 for prospective public use once the applicable condition has been satisfied; and

6 WHEREAS, Except as specifically provided above, the public interest, convenience,  
7 and necessity require that no other easements or other rights be reserved for any public or  
8 private utility facilities that are in place in the proposed Vacation Area and that any rights  
9 based upon any such public or private utility facilities be extinguished upon Board approval of  
10 the vacation actions; now, therefore, be it

11 RESOLVED, That pursuant to California Streets and Highways Code Sections 8300 et  
12 seq. and San Francisco Public Works Code Section 787(a), the Board of Supervisors hereby  
13 declares that it intends to order the vacation of the Street Vacation Area, as shown on SUR  
14 Map No. 2015-006, sheets 1 through 10, which is incorporated hereby by reference, subject to  
15 the conditions, where applicable, and to the reservations described above; and, be it

16 FURTHER RESOLVED, That notice is hereby given that on the 6th day of September,  
17 2016, beginning at approximately 3:00 p.m. in the Legislative Chambers of the Board of  
18 Supervisors, all persons interested in or objecting to the proposed vacation will be heard; and,  
19 be it

20 FURTHER RESOLVED, That the Board of Supervisors acknowledges the PW Order  
21 No. 185138 findings, including among other things, that (a) for those portions of the Vacation  
22 Area to be conditionally vacated, upon satisfaction of the applicable condition or conditions,  
23 the respective Vacation Area will no longer be necessary for the City's present or prospective  
24 future public street and sidewalk and public service easement purposes; (b) for those portions  
25 of the Vacation Area to be conditionally vacated, upon satisfaction of the applicable condition



1 or conditions, the right-of-ways and parts thereof proposed for vacation will no longer be  
2 useful as a nonmotorized transportation facility, as defined in Section 887, because the  
3 Parkmerced Project includes new facilities for bicycle and pedestrian movement that are  
4 equal to or in excess of what may currently exist; and (c) the value of such exchange for  
5 future public right-of-way and other public benefits is equal or in favor of the City; and, be it

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

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