

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 22-0097

WHEREAS, The City and County of San Francisco (City), through the San Francisco Public Utilities Commission (SFPUC), owns sewer and water easements (Existing Easements) that encumber real property located in the City and County of San Francisco, near Lake Merced Boulevard and Brotherhood Way, designated as Assessor's Block 7332, 7333, 7333A, and 7333B (collectively, the Burdened Property), which is owned by Parkmerced Owner LLC, a Delaware limited liability company; and

WHEREAS, The Existing Easements are designated in the following documents recorded in the City's Official Records: (1) 6138 Official Records 152, "Miscellaneous Parcels" Block 7333B; (2) 6138 Official Records 152, "Miscellaneous Parcels" Block 7333A; (3) 4252 Official Records 85, Parcel 2(m); (4) 4252 Official Records 85, Parcel 2(o); (5) 4252 Official Records 85, Parcel 2(n); (6) 4252 Official Records 85, Parcel 2(k), and 2(l); (7) 6185 Official Records 147, Block 7332 and Block 7333; and

WHEREAS, In 2011, the City and Parkmerced Investors LLC entered into the Parkmerced Development Agreement. On June 14, 2011, by Resolution No. 11-0091, this Commission consented to the Parkmerced Development Agreement. Having granted consent, the SFPUC anticipated dedication of new wastewater and water infrastructure within public streets serving the Burdened Property and the Project (Replacement Infrastructure). Parkmerced Owner LLC, as successor to Parkmerced Investors Properties LLC, is pursuing development of the Parkmerced project (Project) in accordance with the Parkmerced Development Agreement; and

WHEREAS, Parkmerced Owner LLC has requested that the City vacate the Existing Easements associated with the Burdened Property, and convey all of the City's right, title, and interest in the Existing Easements to Parkmerced Owner LLC so that Parkmerced Owner LLC may proceed with its construction of Project Phase 1C; and

WHEREAS, SFPUC staff has reviewed the SFPUC facilities within the Existing Easements and determined that some of the Existing Easements contain known and active infrastructure, while others require further field investigation; and

WHEREAS, Active infrastructure will be replaced with Replacement Infrastructure in the public right-of-way during the course of the Project. The Existing Easement vacation will be conditioned on the Developer granting the City an interim easement (Interim Easement) pursuant to the attached Interim Easement Agreement. The Interim Easement will remain in effect unless and until the City accepts the Replacement Infrastructure and the Interim Easement may be terminated where SFPUC determines there is no active infrastructure; and

WHEREAS, California Streets and Highways Code Section 8300, *et seq.* and San Francisco Public Works Code Section 787(a) set forth the procedures that the City follows to vacate public service easements. In accordance with the prescribed procedures, the San Francisco Board of Supervisors will consider authorization of an ordinance providing for the vacation of the Existing Easements, the execution and delivery of quitclaim deeds terminating

the Existing Easements and quitclaiming to Parkmerced Owner LLC, the City's interest in the Existing Easements, as set forth in the future proposed ordinance (the Authorizing Ordinance) subject to the satisfaction of certain conditions precedent described in such Authorizing Ordinance, which conditions include the conditions described above; and

WHEREAS, The value of the Replacement Infrastructure is a benefit to the SFPUC and serves as consideration for this vacation action; and

WHEREAS, On February 10, 2011, the Planning Commission certified the Final Environmental Impact Report for the Parkmerced Mixed-Use Development Project (Project) in compliance with the California Environmental Quality Act (CEQA) (Case No. 2008.0021E); and

WHEREAS, On June 14, 2011, by Resolution No. 11-0091, this Commission provided consent to the Parkmerced Development Agreement and adopted the CEQA Findings and the Mitigation Monitoring and Reporting Program as required by the CEQA, and the proposed action for termination of certain sewer and water easements and issuance of an interim easement are within the scope of the project considered in the Final Environmental Impact Report; and

WHEREAS, The Planning Department is the custodian of records, located in Case No. 2008.0021E, at 49 South Van Ness Avenue, Suite 1400, San Francisco, California; and

WHEREAS, The Project files, including the Final Environmental Impact Report, Resolution No. 11-0091, CEQA Findings, and Mitigation Monitoring and Reporting Program have been made available for review by this Commission and the public, and those files are part of the record before this Commission; and

WHEREAS, This Commission has reviewed and considered the information contained in the Final Environmental Impact Report, CEQA Findings, the Mitigation Monitoring and Reporting Program, and all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the Final Environmental Impact Report and the record as a whole and finds that they are adequate for its use as the decision-making body for the action taken by this Resolution and incorporates the CEQA Findings contained in Resolution No. 11-0091 by this reference thereto as though set forth in this Resolution; and be it

FURTHER RESOLVED, This Commission further finds that since the Final Environmental Impact Report was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the Final Environmental Impact Report due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts or that new or different mitigation measures or alternatives would substantially reduce one or more significant effects of the project, and there is no new information of substantial importance that would change the conclusions set forth in the Final Environmental Impact Report; and be it

FURTHER RESOLVED, That this Commission hereby finds that, upon meeting the relevant conditions set forth in California Streets and Highways Code Section 8300, *et seq.* and San Francisco Public Works Code Section 787(a), the Existing Easements are surplus and unnecessary for any present and prospective SFPUC utility uses; and, be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, upon approval by the Board of Supervisors and the Mayor of the Authorizing Ordinance, to execute the Interim Easement Agreement and the quitclaim deeds or to delegate such execution to the City Director of Property, in substantially the same form presented to this Commission, provided that the quitclaim deeds shall not be delivered to Parkmerced Owner LLC until the SFPUC General Manager determines that conditions precedent described in the Authorizing Ordinance have been satisfied, and enter into any amendments or modifications to the quitclaim deeds and/or Interim Easement Agreement; including without limitation, modification, addition, or deletion of exhibits and to enter into any related documents, instruments, memoranda, or other agreements reasonably necessary to consummate the transaction contemplated in the quitclaim deed and/or Interim Easement Agreement, that the General Manager determines, in consultation with the City Attorney, are in the best interests of the City; do not materially increase the liabilities or obligations of the City or materially diminish the benefits to the City; are necessary or advisable to effectuate the purposes and intent of the quitclaim deed, Interim Easement Agreement, or this Resolution; and comply with all applicable laws, including the City Charter; and, be it

FURTHER RESOLVED, That upon approval by City's Board of Supervisors and the Mayor, this Commission authorizes the General Manager and/or the City Director of Property to take any and all other steps he or she, in connection with the City Attorney, deems necessary and advisable to effectuate the purpose and intent of this Resolution.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of May 24, 2022.



Secretary, Public Utilities Commission