



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

Bruce R. Storrs, City and County Surveyor

**DPW Order No: 185138**

**Determination to recommend vacating portions of streets within 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, pursuant to California Streets and Highways Code Sections 8300 *et seq.* and Public Works Code Section 787 subject to certain conditions.**

WHEREAS, The City and County of San Francisco owns most public streets and sidewalks as public right-of-way; and

WHEREAS, The portions of the streets to be vacated are in 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, the areas to be vacated ("the Vacation Area"), are specifically shown on SUR Map 2015-006, dated June 10, 2016; and

WHEREAS, The vacation of the Vacation Area is necessary to implement the Project, to fulfill the objectives and requirements of the Development Agreement and fulfill the objectives of the Parkmerced Special Use District (Planning Code section 249.64). The proposed vacations and other actions contemplated herein implement the Project vested by the Project Approvals, including the construction of buildings and streets consistent with the Parkmerced Design Standards and Guidelines, the Parkmerced Transportation Plan, and the Parkmerced Infrastructure Report, all of which are incorporated by reference into the Development Agreement; and

WHEREAS, The City proposes to quitclaim its interest in the Vacation Area to the Project Sponsor, consistent with Development Agreement Section 6.1.1; and

WHEREAS, On February 10, 2011, at a duly noticed public hearing, the Planning Commission certified the Final Environmental Impact Report ("Final EIR") for the Parkmerced Mixed-Use Development Project (the "Project"), by Motion No. 18269, finding that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, contains no significant revisions to the Draft EIR, and the content of the report and the procedures through which the Final EIR was prepared, publicized and reviewed comply with the provisions of the California Environmental Quality Act (California Public



Resources Code Section 21000 et seq., "CEQA"), the State CEQA Guidelines (California Code of Regulations Title 14 Section 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, At the same hearing during which the Planning Commission certified the Final EIR, the Planning Commission by Motion No. 18629 adopted findings, as required by CEQA, regarding the alternatives, mitigation measures, and significant environmental effects analyzed in the Final EIR, a statement of overriding considerations for approval of the Project, and a proposed mitigation monitoring and reporting program (collectively, "CEQA Findings"); and

WHEREAS, On May 24, 2011, at a duly noticed public hearing, the San Francisco Board of Supervisors reviewed and considered the Final EIR on appeal. By Motion M11-83, the Board of Supervisors upheld the Planning Commission's certification of the Final EIR and found the Final EIR to be complete, adequate and objective and reflecting the independent judgment of the City and in compliance with CEQA and the State CEQA Guidelines; and

WHEREAS, On June 7, 2011, at a duly noticed public hearing, the Board of Supervisors considered the Project's approvals, which included amendments to the 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"); and

WHEREAS, In approving the Project, including in its approval of the Development Agreement by Ordinance No. 89-11, the Board of Supervisors adopted the Planning Commission's CEQA Findings as its own and incorporated them by reference. In so doing, the Board of Supervisors approved and endorsed the Mitigation Monitoring and Reporting Program for implementation by other City departments and recommended for adoption those mitigation measures that are enforceable by agencies other than City departments. A copy of the CEQA Findings and the Mitigation Monitoring and Reporting Program is on file with the Clerk of the Board in File No. \_\_\_\_\_ and is incorporated by reference.

WHEREAS, In a letter (the "DRE Letter"), the Director of the Department of Real Estate determined that (i) the Development Agreement contemplates the vacation of the Street Vacation Area, (ii) Exhibit J of the Development Agreement shows the general locations of the property vacations and dedications required by the Project, (iii) section 6.1.2 of the Development Agreement requires that (a) all real property exchanged under the Development Agreement be valued on a square foot basis, and shall be deemed equal in value per square foot, (b) if any real property exchange under the Development Agreement results in a net loss of acreage for the City, then the project sponsor must pay to the City the fair market value of the real property loss at the time of transfer based on the then-current use of the property so transferred, and (c) the City shall not be required to pay for any net gain in real property; provided, however, such gain can be applied against future real property transfers for purposes of determining whether there has been a net loss as described above. The Director Real Estate also determined in the DRE Letter that (i) the proposed vacations and dedications associated with Subdivision Maps 8350, 8351, and 8352 result in a net gain in real property owned by the City and therefore that (ii) no payment is owed by the Project for the vacation of the Street Vacation Area, and (iii) this net gain should be credited against future public right of way vacations for the Project; and



WHEREAS, Pursuant to the California Streets and Highway Code, the Department of Public Works, Bureau of Street Use and Mapping (the "Department") has initiated the process to vacate the Vacation Area; and

WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawing, a copy of the petition letter, and a PW referral letter to the Department of Technology, San Francisco Municipal Transportation Agency, AT&T, Sprint, San Francisco Fire Department, San Francisco Water Department, Pacific Gas and Electric ("PG&E"), Bureau of Light, Heat and Power, Bureau of Engineering, Department of Parking and Traffic, Utility Engineering Bureau, and the Public Utility Commission ("PUC"). No utility company or agency objected to the proposed vacation, and the Vacation Area is unnecessary for the City's present or prospective public street purposes; and

WHEREAS, The applicant made reasonable attempts to notify and obtain consent from all property owners adjacent to the Vacation Area and the proposed street vacations do not deprive any private landowner of access to the built public street grid; and

WHEREAS, The public interest, convenience, and necessity require that, except as specifically provided herein, no other easements or other rights should be reserved by City for any public or private utilities or facilities that may be in place in the Vacation Area and that any rights based upon any such public or private utilities or facilities are unnecessary and should be extinguished; and

WHEREAS, Because many of these streets and easements will remain in use until specified times, no portion of the Street Vacation Area shall be vacated until certain conditions are satisfied, as follows:

1. The Project Sponsor shall provide an irrevocable offer of dedication to the City in form substantially similar to that provided in Exhibit L of the Development Agreement for all lands needed for construction of proposed improvements shown on the Street Improvement Permit for Subphases 1A and 1B of the Project. Subdivider shall make such irrevocable offers of dedication prior to City approval of the Final Subdivision Maps or issuance of a Street Improvement Permit for Subphases 1A or 1B of the Project, whichever is earlier. The offer of dedication shall be subject to the reservation of an easement in favor of Project Sponsor for all domestic water utilities within the dedicated area, which easement shall be extinguished upon completion of all Development Phases of the Project. The sum total of the square footage of the land proposed for dedication to the City shall be equal to or exceed the square footage of the Street Vacation Area.
2. Project Sponsor shall provide PW with an acceptable Public Improvement Agreement ("PIA") pursuant to Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all improvements within the Final Map or required for development of area shown in the Final Map prior to recording a Final Map or issuance of a Street Improvement Permit for Subphases 1A or 1B of the Project, whichever is earlier. Such PIA shall address security provisions and provide interim easements or licenses via separate offer, such that the City can complete the improvements if Subdivider fails to do so; and

WHEREAS, Pursuant to the Streets and Highways Code Section 892, the Department determines that the Vacation Area is unnecessary for non-motorized transportation because the Development



Agreement requires the dedication and construction of an extensive street, bicycle path, pedestrian path, park, and trail system that is more extensive than the areas being vacated and that is designed to integrate with existing built streets in the adjacent neighborhoods; and

WHEREAS, The Director of Public Works for the City and County of San Francisco has determined the following:

1. The vacation is being carried out pursuant to the California Streets and Highways Code Sections 8300 et seq.
2. The vacation is being carried out pursuant to San Francisco Public Works Code Section 787.
3. The Vacation Area to be vacated is shown on the SUR Map No. 2015-006.
4. These vacations are necessary to implement the Project, to fulfill the objectives and requirements of the Development Agreement and fulfill the objectives of the Parkmerced Special Use District (Planning Code section 249.64).
5. In exchange for the vacated areas, the Project Sponsor shall provide an irrevocable offer of dedication to the City in form substantially similar to that provided in Exhibit L of the Development Agreement for all lands needed for construction of proposed improvements shown on the Street Improvement Permit for Subphases 1A and 1B of the Project. Subdivider shall make such irrevocable offers of dedication prior to City approval of the Final Subdivision Maps or issuance of a Street Improvement Permit for Subphases 1A or 1B of the Project, whichever is earlier. The offer of dedication shall be subject to the reservation of an easement in favor of Project Sponsor for all domestic water utilities within the dedicated area, which easement shall extinguished upon completion of all Development Phases of the Project. The sum total of the square footage of the land proposed for dedication to the City shall be equal to or exceed the square footage of the Street Vacation Area.
6. Project Sponsor shall provide PW with an acceptable Public Improvement Agreement (“PIA”) pursuant to Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all improvements within the Final Map or required for development of area shown in the Final Map prior to recording a Final Map or issuance of a Street Improvement Permit for Subphases 1A or 1B of the Project, whichever is earlier. Such PIA shall address security provisions and provide interim easements or licenses via separate offer, such that the City can complete the improvements if Subdivider fails to do so.
7. The public interest, convenience, and necessity require that the City reserve from the vacation of the Street Vacation Area non-exclusive easements for the benefit of the City (and subject to possible grants by the City of temporary, immediately revocable licenses by the City in favor of AT&T, PG&E, and any other utilities) for any utilities, telecommunications facilities, or power and gas transmission facilities, respectively, located in, upon, and over any portion of the Street Vacation Area in which their respective in-place and functioning utilities are located as of the effective date of this ordinance, to the extent necessary to maintain, operate, repair, and remove existing lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation by City of City utilities, by AT&T of telecommunications facilities, by PG&E of power and gas transmission facilities, or for other public utilities. This reservation, and any subsequent grant of easements or licenses would be subject to the City's authority to require AT&T, PG&E, and any other utilities to remove or relocate their facilities at no expense



to the City when necessary to accommodate a project done under the governmental authority of the City. To the extent such non-exclusive easements have not previously merged into a fee interest held by the City, such non-exclusive easements would be automatically extinguished when such alternative replacement facilities are completed to the satisfaction of the City Engineer and the Board of Supervisors accepts the facilities. The City would execute a quitclaim of any interest in any such easement and would cause such quitclaim to be recorded against the subject property upon the fee title owner demonstrating to the City that replacement utilities serving the affected area have been substantially completed and operable. In the event a non-exclusive easement described in this section has merged into the fee interest held by the City, such interest would be deemed to be automatically extinguished and conveyed at the time the fee interest is conveyed by the City to Project Sponsor or any other transferee pursuant to the Development Agreement.

8. The public interest, convenience, and necessity require that the City reserve from the vacation of the Street Vacation Area temporary access for the benefit of the public over any portion of the Street Vacation Area where required to preserve access between a private property and the existing street grid as of the effective date of this ordinance. To the extent the access rights described in this section have not previously merged into a fee interest held by the City, such access would be automatically extinguished when replacement access serving the affected area has been substantially completed and is open to the public as certified by PW. In the event a non-exclusive easement described in this section has merged into the fee interest held by the City, such interest would be deemed to be automatically extinguished and conveyed at the time the fee interest is conveyed by the City to Project Sponsor or any other transferee pursuant to the Development Agreement.

9. Pursuant to the Streets and Highways Code Section 892, the Vacation Area is not useful as a non-motorized transportation facility for the reasons set forth herein.

10. The Director of the Real Estate Division has negotiated a purchase and sale agreement and a quitclaim for the Vacation Area. Approval of the real estate transaction is a policy matter for the Board of Supervisors, subject to the requirements of the Development Agreement.

**NOW THEREFORE BE IT ORDERED THAT,**

The Director approves all of the following documents either attached hereto or referenced herein:

1. Ordinance to vacate the Vacation Area;
2. Vacation Area SUR Map No. 2015-006

The Director recommends that the Board of Supervisors move forward with the legislation to vacate said Vacation Area subject to obtaining a finding of General Plan consistency from the City Planning Department.

The Director recommends the Board of Supervisors approve all actions set forth herein with respect to this vacation. The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Ordinance.



7/22/2016

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**X** Bruce R. Storrs

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Storrs, Bruce  
City and County Surveyor  
Signed by: Storrs, Bruce

**X** Mohammed Nuru

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Nuru, Mohammed  
Director  
Signed by: Nuru, Mohammed



San Francisco Public Works  
Making San Francisco a beautiful, livable, vibrant, and sustainable city.