

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. 161239 and are incorporated herein by reference; and

16 WHEREAS, These pubic 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 November 14, 2016 (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. 161239 and is incorporated by reference herein; and

11 WHEREAS, The Director of PW has prepared PW Order No. 185483, dated November  
12 21, 2016, a copy of which is on file with the Clerk of the Board of Supervisors in File No.  
13 161239 and incorporated herein by reference, and has determined that: (1) upon satisfaction  
14 of the applicable condition or conditions, the Public Utility Easements Area will no longer be  
15 necessary for the City's present or prospective public service easement purposes as all  
16 existing physical public utilities located in the Public Utility Easements Area are abandoned or  
17 will be relocated to the satisfaction of the City as part of the construction of the Project; (2)  
18 with certain exceptions specified herein, the public interest, convenience, and necessity do  
19 not require any easements or other rights be reserved for any public utility facilities that are in  
20 place in the Public Utility Easements Area and that any rights based upon any such public  
21 utility facilities shall be extinguished automatically upon the effectiveness of the vacation; (3)  
22 in accordance with California Streets and Highways Code, Section 892, for those portions of  
23 the Public Utility Easements Area to be conditionally vacated, upon satisfaction of the  
24 applicable condition or conditions, the rights-of-way and parts thereof proposed within the  
25 respective Public Utility Easements Area will no longer be useful as a non-motorized

1 transportation facility, as defined in Section 887, because the Development Agreement  
2 requires the dedication and construction of an extensive street, bicycle path, pedestrian path,  
3 park, and trail system that is more extensive than the areas being vacated hereby and that is  
4 designed to integrate with existing built streets in the adjacent neighborhoods; and (4) it is a  
5 policy matter for the Board of Supervisors to quitclaim the City's interest in the Public Utility  
6 Easements Area to the Project Sponsor, subject to the requirements of the Development  
7 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 10th day of January,  
12 2017, beginning at approximately 3:00 p.m. in the Legislative Chamber of the Board of  
13 Supervisors, all persons interested in or objecting to the proposed vacation will be heard; and,  
14 be it

15 FURTHER RESOLVED, That the Board of Supervisors acknowledges the PW Order  
16 No. 185483 findings, including among other things, that (a) for those portions of the Public  
17 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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