

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 16-0224

WHEREAS, The City and County of San Francisco (City), through the San Francisco Public Utilities Commission (SFPUC), owns water and sewer easements (Existing Easements) that encumber real property located in the City and County of San Francisco, near 19th Avenue and Holloway Avenue, designated as Assessor's Blocks 7303A, 7315, 7316, 7321, 7322, 7326, 7330, 7331, 7333E, 7335, 7344, 7345, 7345B, and 7366 (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 O.R. 152, "Miscellaneous Parcels" Block 7303A; (2) 6138 O.R. 152, "Miscellaneous Parcels" Block 7333E; (3) 6138 O.R. 152, Parcel Six; (4) 4252 O.R. 85, Parcel 2j; (5) 4252 O.R. 85, Parcel 1a; (6) 3694 O.R. 271; (7) 6138 O.R. 152, Parcel Five; (8) 6138 O.R. 152, Parcel Three; (9) 6191 O.R. 231; (10) 6138 O.R. 152, Parcel Four; (11) Document No. 2009-I879772; (12) 6138 O.R. 152, "Miscellaneous Parcels" Block 7366; and (13) 6138 O.R. 152, Parcel Seven; and

WHEREAS, In 2011, the City and Parkmerced Investors Properties LLC entered into the Parkmerced Development Agreement, to which the San Francisco Public Utilities Commission (SFPUC) provided consent by SFPUC Resolution No. 11-0091, adopted on June 14, 2011. In consenting to the Parkmerced Development Agreement, the SFPUC anticipated dedication of new water and wastewater 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 City's right, title, and interest in the Easements to Parkmerced Owner LLC so that Parkmerced Owner LLC may proceed with its construction of Project Phases 1A and 1B; and

WHEREAS, SFPUC staff has reviewed the SFPUC facilities within the Existing Easements and determined that the Existing Easements are comprised of either: (a) SFPUC facilities in the Existing Easement that will be replaced by new SFPUC facilities (Replacement Infrastructure) in the public right-of-way; or (b) existing SFPUC facilities that will be owned by Parkmerced Owner LLC following easement vacation and for which Parkmerced Owner LLC will bear full and complete liability; or (c) vacant, as there are no SFPUC facilities within the Existing Easement; and

WHEREAS, For Existing Easement category (a) above, the SFPUC will have no further use for said SFPUC facilities in the Existing Easements once Parkmerced Owner LLC grants the City an interim easement (Interim Easement) which will remain in effect unless and until the City accepts the Replacement Infrastructure; and

WHEREAS, For Existing Easement category (b) above, the SFPUC has no further use for the relevant SFPUC facilities in the Existing Easements because the SFPUC facilities therein serve only Parkmerced and Parkmerced Owner LLC will own, operate and maintain them upon execution of the quitclaim deeds; and

WHEREAS, For Existing Easement category (c), above, the SFPUC Wastewater Collection System Division has advised this Commission that there are no in-place public utility facilities that are in use that would be affected by the quitclaim of the relevant Existing Easements; and

WHEREAS, California Streets and Highways Code Sections 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 Easements, the execution and delivery of easement quitclaim deeds, terminating the 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 and of surrendering liability for certain facilities to Parkmerced Owner LLC is a benefit to the SFPUC and serves as consideration for this vacation action; 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 FEIR 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 Sections 21000 *et seq.*, "CEQA"), the State CEQA Guidelines (California Code of Regulations Title 14 Sections 15000 *et seq.*) and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, In consenting to the Parkmerced Development Agreement, this Commission adopted findings, pursuant to CEQA, including a statement of overriding considerations, ("CEQA Findings") and a Mitigation Monitoring and Reporting Program ("MMRP"). A copy of the CEQA Findings and the MMRP is on file with the Secretary of the Commission and is incorporated herein by reference; now, therefore, be it

RESOLVED, This Commission finds that the actions proposed herein are consistent with and within the scope of the project analyzed in the Final EIR and subject to the CEQA Findings. This Commission further finds that no substantial changes are proposed in the project and no substantial changes have occurred with respect to the circumstances under which this project will be undertaken that would cause new significant environmental effects or a substantial increase in the severity of previously identified effects, and there is no new information of substantial importance showing that the project would have any significant effects not discussed in the Final EIR, that significant effects would be substantially more severe, or that new or different mitigation measures or alternatives would substantially reduce one or more significant effects of the project; and be it

FURTHER RESOLVED, That this Commission hereby finds that, upon meeting the relevant conditions set forth in California Streets and Highways Code Sections 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, approves the terms and conditions of the Easement and authorizes the SFPUC General Manager to execute the Interim Easement Agreement, in substantially the same form presented to this Commission, and approves the terms and conditions of the form easement quitclaim deed and authorizes the SFPUC General Manager to execute the easement quitclaim deeds, in substantially the same form presented to this Commission; 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 easement 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 easement 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 easement quitclaim deeds; 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 easement quitclaim deed, 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 easement quitclaim deed 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 consultation 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 October 25, 2016.



Secretary, Public Utilities Commission