[Resolution of Intent - Streets and Public Service Easement Vacation - Parkmerced Development Project]

Resolution declaring the intent of the Board of Supervisors to order the conditional vacation of portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive (the "Street Vacation Area"), and certain San Francisco Public Utilities Commission public service easements (the "Easement Vacation Area"), all 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; reserve various easement rights in favor of the City and third party utilities, subject to conditions specified; adopt findings under the California Environmental Quality Act; adopt findings that the vacations are consistent with the Parkmerced Development Agreement, the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorize actions by City officials in furtherance of the street vacation ordinance, as specified herein; direct the Clerk of the Board of Supervisors to make certain transmittals; and set a Committee of the Whole hearing date of September 20, 2022, at 3:00 p.m. for all persons interested in the proposed vacation of said street areas and public service easements.

WHEREAS, Parkmerced Owner, LLC (together, with its successors and assigns, the "Project Sponsor") submitted two applications for tentative subdivision maps pursuant to the requirements of the California Subdivision Map Act for Subphases 1C and 1D of the Parkmerced Project; those map applications are dated April 13, 2022, and October 29, 2021, respectively; Tentative Map No. 10699 (the "Subphase 1C Tentative Map") requested...
approval to subdivide Assessor’s Parcel Block Nos. 7333, 7333-A, 7333-B, 7334, and 7337 (Parkmerced Planning Blocks 3W and 4); Tentative Map No. 10700 (the “Subphase 1D Tentative Map”) requested approval to subdivide Assessor’s Parcel Block No. 7331, Lot No. 253 (Parkmerced Planning Block 21S); and

WHEREAS, Following the approval by Public Works (“PW”) of these Tentative Maps, the Project Sponsor will pursue the approval of a final subdivision map for each of the Subphase 1C and 1D Tentative Maps (each, a “Final Map”); and

WHEREAS, This vacation proceeding is for vacations needed to facilitate Subphase 1C of the Project which are: (1) portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive (the “Street Vacation Area”); and (2) certain public service easements owned by the SFPUC located within and outside of existing streets (the “Easement Vacation Area”); and

WHEREAS, No street or public service easement vacations are required for Subphase 1D; and

WHEREAS, These street and public easement vacation actions are conducted under the general vacation procedures of the Public Streets, Highways and Service Easements Vacation Law (California Streets and Highways Code, Sections 8300 et seq.); and

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

WHEREAS, The proposed vacation of the Street Vacation Area and Easement Vacation Area is part of an action to implement the Parkmerced Development Agreement, approved by this Board of Supervisors by Ordinance No. 89-11 (the "Development Agreement") and to fulfill the objectives of the Parkmerced Special Use District (Planning Code, Section 249.64); and

WHEREAS, The proposed vacations and other actions contemplated herein implement the Project contemplated by the Parkmerced 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 Street Vacation Area; however, because these streets will remain in use until specified times, no portion of the Street Vacation Area shall be vacated until all the following conditions are satisfied:

(a) The City reserves a public right of way easement to continue public street and utility use until the Project Sponsor replaces the same in new public rights of way; and

(b) 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 Subphase 1C of the Project. The Project Sponsor shall make such irrevocable offers of dedication prior to City approval of the Final Map or issuance of a Street Improvement Permit for Subphase 1C of the Project, whichever is earlier. The offer of dedication shall be subject to the reservation of an easement in favor of the Project Sponsor for all domestic water utilities and recycled water systems, within the dedicated area, which
easement, as to the domestic water utilities, shall be extinguished upon completion of all
Development Phases of the Project and formal acceptance of the domestic water utilities by
the City, and, as to the recycled water systems, shall be extinguished upon completion of
Development Phase 1 and formal acceptance of the recycled water systems by the City, all
pursuant to the Development Agreement. 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; and

(c) The Project Sponsor shall provide PW with an acceptable Public
Improvement Agreement ("PIA") pursuant to Section 1351 of the San Francisco Subdivision
Code and the California Subdivision Map Act for all improvements within the Final Map or
required for development of the area shown in the Final Map prior to approval of a Final Map
or issuance of a Street Improvement Permit for Subphase 1C 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 the Project Sponsor
fails to do so; and

(d) Where a future Development Phase of the Project (Development Phase 2
and onward) anticipates a future dedication of right of way adjacent to a street shown on a
tentative map as being partially improved, PW shall require the Project Sponsor, prior to
submittal of a Final Map mylar for such future phase (Development Phase 2 and onward), but
after acceptance and recordation of the quitclaim deeds for the Street Vacation Area
contemplated by this resolution, to record a Notice of Restrictions on those strips of land
anticipated in such future phase to be dedicated for the ultimate street construction as agreed
upon in the Development Agreement, subject to the review and approval of the City Attorney;
and
WHEREAS, The vacation of the Easement Vacation Area is subject to the reservation of non-exclusive easements for the benefit of the SFPUC for the SFPUC utilities that are located in, upon, or over any portion of the Easement Vacation Area in which the SFPUC’s in-place and functioning utilities are located, to the extent necessary to maintain, operate, repair, and remove existing sewer or water pipes and other convenient structures, equipment and fixtures for the operation of such utilities; provided, however, that such non-exclusive easements reserved will be automatically extinguished when alternative replacement facilities are completed to the satisfaction of the City Engineer and the Board of Supervisors accepts the facilities; and

WHEREAS, In a letter dated March 2, 2022 (the “Planning Letter”), the Planning Department determined that the proposed vacations contemplated herein are consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1, comply with applicable provisions of the Planning Code, and are consistent with the Project as defined in the Development Agreement and the Project Approvals; a copy of said letter is on file with the Clerk of the Board in File No. 220734 and is incorporated by reference herein; and

WHEREAS, In a letter dated June 13, 2022 (the “DRE Letter”), a copy of which is on file with the Clerk of the Board in File No. 220734 and is incorporated by this reference, the Director of Property determined that: the Development Agreement contemplates the vacation of the Street Vacation Area; Exhibit J of the Development Agreement shows the general locations of the property vacations and dedications required by the Project; 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;
and
WHEREAS, The Director of Property also determined in the DRE Letter that: the
proposed real property transfers associated with Subdivision Maps 10699 and 10700 result in
a net gain in real property owned by the City; therefore, no payment is owed by the Project for
the vacation of the Street Vacation Area; and this net gain should be credited against future
real property transfers for the Project; and
WHEREAS, In PW Order No. 206691, dated June 15, 2022, a copy of which is on file
with the Clerk of the Board of Supervisors in File No. 220734 and incorporated herein by
reference, the Director of Public Works determined that: (a) upon satisfaction of the applicable
condition or conditions, the Street Vacation Area and Easement Vacation Area will no longer
be necessary for the City’s present or prospective future public street, sidewalk, and public
service easement purposes as all existing physical public or private utilities located in the
Street Vacation Area and all existing physical public utilities within the Easement Vacation
Area will be relocated to the satisfaction of the City as part of the construction of the Project;
(b) with certain exceptions noted, the public interest, convenience, and necessity do not
require that any easements or other rights be reserved for any public or private utility facilities
that are in place in the Street Vacation Area or the Easement Vacation Area and that any
rights based upon any such public or private utility facilities shall be extinguished
automatically upon the effectiveness of the vacation; (c) in accordance with California Streets
and Highways Code, Section 892 and 8314, for those portions of the Street Vacation Area
and Easement Vacation Area to be conditionally vacated, upon satisfaction of the applicable
condition or conditions, the rights-of-way and parts thereof proposed for vacation will no
longer by useful as a nonmotorized transportation facility, as defined in California Streets and Highways Code, Section 887, 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 hereby and that is designed to integrate with existing built streets in the adjacent neighborhoods; (d) the Project Sponsor is the owner of all of the private property adjacent to the Street Vacation Area and the Easement Vacation Area, and the proposed street vacations do not deprive any private landowner of access to the built public street grid; and,

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

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

RESOLVED, That pursuant to California Streets and Highways Code, Sections 8300 et seq., and San Francisco Public Works Code, Section 787(a), the Board of Supervisors hereby declares that it intends to order the vacation of the Street Vacation Area, as shown in Public Works SUR Map Nos 2022-003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008, and the Easement Vacation Area as shown in Public Works SUR Map Nos. 2022-009, 2022-010, 2022-011, 2022-012, 2022-013, 2022-014, and 2022-015, which are incorporated herein by reference, subject to the conditions and to the reservations described above; and, be it
FURTHER RESOLVED, That notice is hereby given that on September 20, 2022, beginning at 3:00 P.M. in the Legislative Chambers of the Board of Supervisors, all persons interested in or objecting to the proposed vacations will be heard; and, be it

FURTHER RESOLVED, That the Board of Supervisors acknowledges the PW Order No. 206691 findings, including among other things, that (a) upon satisfaction of the applicable condition or conditions, the Street Vacation Area and Easement Vacation Area will no longer be necessary for the City’s present or prospective future public street and sidewalk and public service easement purposes; (b) upon satisfaction of the applicable condition or conditions, the rights-of-way and parts thereof proposed for vacation will no longer be useful as a nonmotorized transportation facility, as defined in California Streets and Highways Code Section 887, because the Parkmerced Project includes new facilities for bicycle and pedestrian movement that are equal to or in excess of what may currently exist; and (c) the value of such exchange for future public right-of-way and other public benefits is equal for, or in favor of, the City; and, be it

FURTHER RESOLVED, That the Board of Supervisors directs the Clerk of the Board to transmit to the Department of Public Works a certified copy of this Resolution, and the Board of Supervisors urges the Director of Public Works and the Clerk of the Board to publish and post this Resolution and to give notice of the hearing of such contemplated action in the manner required by law.
Resolution declaring the intent of the Board of Supervisors to order the conditional vacation of portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive (the “Street Vacation Area”), and certain San Francisco Public Utilities Commission public service easements (the “Easement Vacation Area”), all 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; reserve various easement rights in favor of the City and third party utilities, subject to conditions specified; adopt findings under the California Environmental Quality Act; adopt findings that the vacations are consistent with the Parkmerced Development Agreement, the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorize actions by City officials in furtherance of the street vacation ordinance, as specified herein; direct the Clerk of the Board of Supervisors to make certain transmittals; and set a Committee of the Whole hearing date of September 20, 2022, at 3:00 p.m. for all persons interested in the proposed vacation of said street areas and public service easements.

July 18, 2022 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 18, 2022 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

July 26, 2022 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Dorsey, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton
I hereby certify that the foregoing Resolution was ADOPTED on 7/26/2022 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

8/4/22
Date Approved