

33ed

RESOLUTION NUMBER R- 302403

DATE OF FINAL PASSAGE FEB 27 2007

WHEREAS, Section 8300 et seq. of the California Streets and Highways Code provides a procedure for the summary vacation of public service easements by City Council resolution where the easement is no longer required; and

WHEREAS, the affected property owners have requested the vacation of a slope easement in Lot 61 of Map No. 283 pursuant to Easement Abandonment No. 392085; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings:

A. Findings for Public Service Easement Abandonment San Diego Municipal Code section 125.1050:

1. **There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.** There is no present or prospective public use for the easements, either for the facility or purpose for which there were originally acquired or for any other public use of a like nature that can be anticipated. The portions of the slope easements proposed to be vacated were created to assist in the construction of 47th Street and have not been of public use since the completion of that construction. Therefore, there is no present or prospective public use for the easements, either for the facility or purpose for which they were originally acquired or for any other public use of a like nature that can be anticipated.

R 302403

2. The public will benefit from the action through improved use of the land made available by the abandonment. The portions of the slope easements proposed to be vacated were created to assist in the construction of 47th Street and have not been of public use since the completion of that construction. The public will benefit from the action through improved use of the land made available by the vacation via the reversion of the dedicated portion of the easements back to private ownership. Additionally, allowing the vacation of these easements would reduce City, and therefore Public, liability. Therefore, the public will benefit from the action through improved use of the land made available by the abandonment

3. The abandonment is consistent with any applicable land use plan. The Southeastern San Diego Community Plan identifies the areas proposed for the vacation as Specialized Commercial. The proposed community plan amendment would add language to the Southeastern San Diego Community Plan to permit moving and self storage uses under the Specialized Commercial land use designation at the subject site. The land would revert back to the abutting property owner, who is proposing the development of the self-storage facility and the amendment of the Southeastern San Diego Community Plan. Therefore, the abandonment is consistent with the applicable land use plan.

4. The public facility for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easement was acquired no longer exists. The portions of the slope easements proposed to be vacated were created to assist in the construction of 47th Street and have not been of public use since the completion of that construction. Therefore, the public facility for which the easements were originally acquired will not be detrimentally affected by the abandonment and the purpose for which the easements were acquired no longer exists.

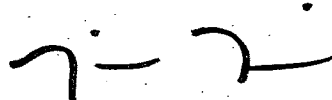
BE IT FURTHER RESOLVED, as follows:

1. That the slope easements, as described in the legal description attached hereto as Exhibit "A," and as more particularly described on Drawing No. 20628-B, attached hereto as Exhibit "B", and said Exhibits also on file in the office of the City Clerk as Document No. RR 302403 which is incorporated by reference herein and made a part hereof, is ordered vacated and Easement Abandonment No. 392085 is therefore granted.

2. That the City Clerk shall cause a certified copy of this resolution, along with Exhibits "A" and "B," attested by her under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Nina M. Fain
Deputy City Attorney

ATTACHMENTS: Exhibit A, Legal Description of Lot 61 of Map No. 283
Exhibit B, Drawing No. 20628-B

NMF:mm
.02/13/07
Or.Dept:DSD
R-2007-751
MMS#4335

EXHIBIT A

R- 302403

EXHIBIT 'A'

LEGAL DESCRIPTION
PORTION OF LOT 61 MAP NO. 283
SLOPE EASEMENT VACATION

BEING A PORTION OF LOT 61 OF NORTON'S PURCHASE, IN THE EX-MISSION LANDS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 283, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MARCH 9, 1878, DESCRIBED AS FOLLOWS:


PARCEL 'A'

ALL OF EASEMENT TO THE CITY OF SAN DIEGO FOR EARTH EXCAVATION OR EMBANKMENT, SLOPE OR SLOPES DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED, RECORDED JULY 3, 1975 AS INSTRUMENT NO. 75-171290, O.R. (TO BE VACATED)

PARCEL 'B'

ALL OF EASEMENT TO THE CITY OF SAN DIEGO FOR EARTH EXCAVATION OR EMBANKMENT, SLOPE OR SLOPES DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED, RECORDED JULY 14, 1975 AS INSTRUMENT NO. 75-180375, O.R. (TO BE VACATED)




RUDY P. PACHECO
L.S. 5717
LIC. EXP. 09/30/07

1/2/07
DATE

R- 302403

EXHIBIT B

R-302403

EXHIBIT 'B'

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS DRAWING IS THE CALIFORNIA COORDINATE SYSTEM ZONE 6, EPOCH 1991.35.
I.E. BEARINGS A-B: N00°43'04"E

LEGAL DESCRIPTION

PORTION OF LOT 61 OF MAP THEREOF NO. 283, FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN DIEGO, MARCH 7, 1878.

LEGEND:

PROPERTY LINE
INDICATES PARCEL A AND PARCEL B SLOPE EASEMENT VACATION (5,850.26 SQ FT)

PORTION LOT 61
MAP 283

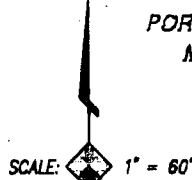
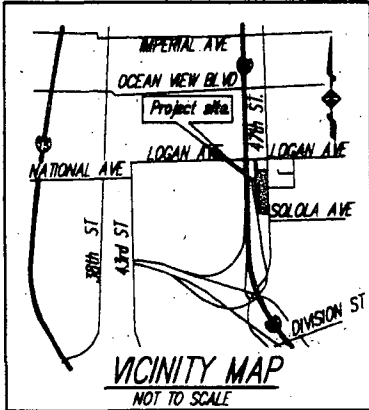
ASSESSORS PARCEL NO.

552-010-11, 550-010-12

REFERENCE DWG. NO.

MAP 283, DWG. NO. 14905-D, 14792-D

LINE TABLE		
NO.	BEARING	LENGTH
L1	N89°33'06"W	8.00'
L2	N06°25'44"E	50.25'
L3	N01°17'29"E	41.52'
L4	N01°17'05"E	57.91'
L5	N02°43'42"E	63.41'
L6	S89°12'10"E	10.78'



PORTION LOT 61
MAP 283

PARCEL B

30' EASEMENT TO THE CITY OF SAN DIEGO FOR ROAD PURPOSES RECORDED MARCH 15, 1927 IN BOOK 1312, PAGE 333 OF DEEDS.

LANDER STREET

47TH STREET

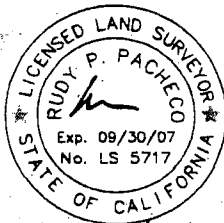
EASEMENT NOTES

- (A) AN EASEMENT TO THE CITY OF SAN DIEGO FOR EARTH EXCAVATION OR EMBANKMENT, SLOPE OR SLOPES DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED, RECORDED JULY 3, 1975 AS INSTRUMENT NO.75-171290, O.R. (TO BE VACATED)
- (B) AN EASEMENT TO THE CITY OF SAN DIEGO FOR EARTH EXCAVATION OR EMBANKMENT, SLOPE OR SLOPES DESCRIBED AS PARCEL 2 IN THAT CERTAIN DEED, RECORDED JULY 14, 1975 AS INSTRUMENT NO.75-180375, O.R. (TO BE VACATED)



PARTNERS
Planning and Engineering

15938 Bernardo Center Dr.
San Diego, CA. 92127
P.h. (858) 376-3444
Fax: (858) 376-3555



RUDY P. PACHECO, L.S. NO. 5717
MY REGISTRATION EXPIRES 09/30/07

9/22/06
DATE

SLOPE EASEMENT VACATION
PORTION OF LOT 61 OF PARCEL MAP NO. 283

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO. 79966
ORIGINAL	PPE				SHEET 1 OF 1 SHEET	W.O. NO. 425000
					<i>[Signature]</i>	1838-6305
					FOR CITY ENGINEER	CCS B3 COORDINATES
					9/22/06	198-1745
					DATE	CCS 27 COORDINATES
						20628-B

R-302403