

RESOLUTION NUMBER R- 302607

DATE OF FINAL PASSAGE MAY 14 2007

WHEREAS, San Diego Municipal Code section 125.1001 et seq. provides a procedure to abandon public service easements by City Council resolution where the easements are no longer required; and

WHEREAS, the affected property owner has requested the vacation of a portion of the sewer easement to unencumber this property and facilitate development of the site as conditioned in Coastal Development Permit [CDP] No. 147413/Site Development Permit [SDP] No. 147529; and

WHEREAS, on February 15, 2007, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 147413/Site Development Permit [SDP] No. 147529 and Easement Abandonment No. 404901, and pursuant to Resolution No. 4224-PC voted to recommend City Council approval of the Easement Abandonment; 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; and

WHEREAS, the City Council finds that:

(a) 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; and

- (b) the public will benefit from the vacation through improved utilization of land made available by the abandonment; and
- (c) the abandonment is consistent with the Peninsula Community Plan; and
- (d) the public facility or purpose 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; NOW, THEREFORE,

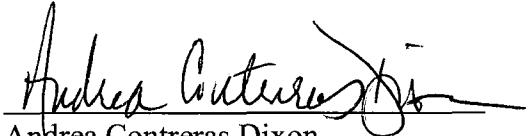
BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the portion of Easement Abandonment No. 404901 located within the Peninsula Community Plan area in connection with CDP No. 147413/SDP No. 147529, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20641-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR- 302607 -1, and RR- 302607 -2, which are by this reference incorporated herein and made a part hereof, is ordered vacated.

2. That said easement abandonment is conditioned upon abandonment of the on-site public sewer main and construction of a replacement private sewer lateral and issuance of CDP No. 147413/SDP No. 147529. In the event this condition is not completed within three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.

3. That the City Engineer shall advise the City Clerk of the completion of the
aforementioned condition and the City Clerk shall cause a certified copy of this resolution, with
attached exhibits, attested by her under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev

03/21/07

07/03/07 COR.COPY

Or.Dept:DSD

R-2007-913

MMS #4551

EASEMENT ABANDONMENT&STREET VACATIONS – Summary Vacation 11-01-04