

RESOLUTION NUMBER R- 307533

DATE OF FINAL PASSAGE JUN 25 2012

A RESOLUTION SUMMARILY VACATING PUBLIC
STORM DRAIN, SEWER, AND MAINTENANCE
EASEMENTS LOCATED IN PARCEL 4 OF PARCEL
MAP NO. 20152, EASEMENT VACATION
NO. 921157 - PROJECT NO. 261565.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide a procedure for the summary vacation of public easements by City Council resolution; and

WHEREAS, it is proposed that public storm drain, sewer, and maintenance easements in Parcel 4 of Parcel Map No. 20152, including the storm drain and sewer easements granted to the City of San Diego by deed recorded June 1, 1909, Book 462, page 274; the storm drain easement granted to the City of San Diego by deed recorded June 1, 1909, Book 462, page 277; the maintenance easement granted to the City of San Diego by deed recorded July 26, 1909, Book 464, page 468; and the storm drain easement granted to the City of San Diego by deed recorded August 26, 1958, Book 7229, page 381, as File No. 140605, described as Easement Abandonment No. 921157, be vacated; and

WHEREAS, the easements have been superseded by relocation and there are no other public facilities located within the easements; and

WHEREAS, the easements do not contain active public utility facilities that would be affected by the vacation; 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, a public hearing was required by law implicating due process rights of individuals affected by the

decision, and 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 matter was set for public hearing on JUN 25 2012, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Easement Abandonment No. 921157, the Council finds that:

(a) 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;

The easements to be vacated were granted to the City for purposes of storm drains, sewer, and building and maintaining a reinforced concrete conduit. Because there are no longer any existing active storm drains, sewer, or concrete conduits within these easements, these easements are no longer needed. The entitled 15th & Market development on the site does not propose any storm drain, sewer, or reinforced concrete conduit which would require an easement. Therefore, these easements are not anticipated to be needed for future use.

(b) The public will benefit from the vacation through improved utilization of the land made available by the vacation;

By vacating these easements, the entitled 15th & Market development with residential apartments and commercial space will be allowed to be built on an otherwise vacant lot.

(c) The vacation is consistent with any applicable land use plan; and

The Downtown Community Plan designates the site for Residential Emphasis (RE), which accommodates primarily residential development, but also allows for small-scale businesses, offices, services, and ground-floor commercial uses provided they do not exceed 20

percent of the overall building area. The entitled 15th & Market development proposed for the site is consistent with that use. The vacation is therefore consistent with the applicable land use plan.

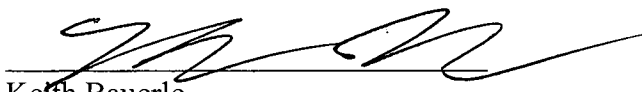
(d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this vacation or the purpose for which the easement was acquired no longer exists.

The easements to be vacated were granted to the City for purposes of storm drains, sewer, and building and maintaining a reinforced concrete conduit. Because there are no longer any existing active storm drains, sewer, or concrete conduits within these easements, these easements are no longer needed.

BE IT FURTHER RESOLVED, that the public storm drain, sewer and maintenance easements in Parcel 4 of Parcel Map No. 20152, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 36733-1-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, are ordered vacated.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keith Bauerle
Deputy City Attorney

KB:als
06/07/12
Or.Dept:DSD
Doc. No. 383115