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(R-2013-264) A
11/13

RESOLUTION NUMBER R- 307837

DATE OF FINAL PASSAGE NOV 13 2012

A RESOLUTION SUMMARILY VACATING PUBLIC SEWER EASEMENT LOCATED ON A PORTION OF LOT 1, BLOCK 394 OLD SAN DIEGO, MISCELLANEOUS MAP 40, EASEMENT VACATION NO. 1031566 - PROJECT NO. 288638.

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 service easements by City Council resolution; and

WHEREAS, John Haerr, as Trustee of Padre Trail Inn L.L.C., filed an application to vacate a public service easement on a portion of Lot 1, Block 394 Old San Diego, Miscellaneous Map 40, granted to the City of San Diego by deed recorded January 2, 1942, Book 1294, page 181, being described as Easement Vacation No. 1031566; and

WHEREAS, Easement Vacation No. 1031566 is located on property owned by John Haerr, as Trustee of Padre Trail Inn L.L.C.; and

WHEREAS, the easement does not contain active public utility facilities that would be affected by the vacation; and

WHEREAS, the easement has been superseded by relocation and there are no other public facilities located within the easement; and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 City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

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WHEREAS, the matter was set for public hearing on NOV 13 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 Vacation No. 1031566, the 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.

The easement to be vacated was granted to the City in 1942 for purposes of sewer utility services. There is no present or prospective public use for the easement to be vacated by this action. The City's public service easement exists on a private easement within a vacant parcel of land. The structures this easement was originally intended to serve no longer exist, though a sewer lateral serving the adjacent hotel currently does exist within the easement. Vacation of the City's interest in this easement will not impair or otherwise affect this current private use of the sewer lateral because the hotel owner owns the property on which this easement exists and the private sewer easement is not planned or expected to serve any future development. Therefore, the easement no longer serves any current public purpose and no future public use of the easement can be anticipated.

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

The public will benefit from the vacation of the easement because it will eliminate unnecessary and unproductive encumbrances on the property at issue. The elimination of these burdens has the potential to facilitate more productive use of the property in the future.

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

The vacation of the easement would not adversely affect the Old Town San Diego Community Plan or any other applicable land use plan or the goals and policies of applicable land use plans. Therefore, vacation would be consistent with applicable land use plans.

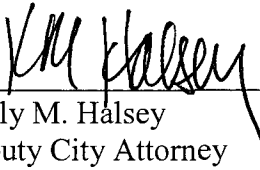
(d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

The easement to be vacated was granted to the City in 1942 for purposes of sewer utility services. The structures this easement was originally intended to serve no longer exist. The public service easement does not contain any public facilities, is not currently in public service, has not been in public service for more than the past five years, and is not necessary for any contemplated future public service. As such, the public facility for which the easement was originally acquired will not be detrimentally affected by vacation.

BE IT FURTHER RESOLVED, that Easement Vacation No. 1031566, as more particularly described in the legal description, marked as Exhibit "A" and shown on Drawing No. 37078, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is 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 
Keely M. Halsey
Deputy City Attorney

KMH:als
10/29/2012
Or.Dept:DSD
Doc. No.: 457211

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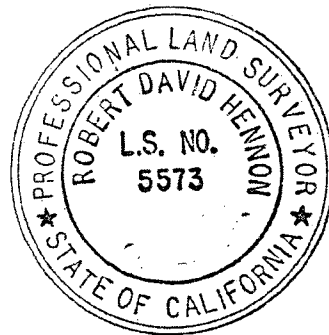
EXHIBIT "A"
LEGAL DESCRIPTION
VACATION OF A SEWER EASEMENT

ALL OF THAT SEWER EASEMENT GRANTED TO THE CITY OF SAN DIEGO,
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, RECORDED JANUARY 2,
1942 IN BOOK 1294, PAGE 181 OF OFFICIAL RECORDS.

ATTACHED HERETO IS A DRAWING NO. 37078-B LABELED EXHIBIT "B"
AND BY THIS REFERENCE MADE A PART HEREOF.






THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION
IN CONFORMANCE WITH PROVISIONS OF THE LAND SURVEYORS' ACT OF
THE STATE OF CALIFORNIA.


ROBERT D. HENNON, PLS 5573 (LIC EXP 9-30-13)



PTS NO. 288638
I.O. NO. 24003001
DRAWING NO. 37078-B: 3

LEGEND:

-  INDICATES SEWER EASEMENT, VACATION AREA=900 SQ.FT. (0.0207 AC)
-  INDICATES PROPERTY LINE
-  INDICATES RECORD DATA PER PARCEL MAP NO. 19272
-  INDICATES RECORD DATA PER MM 40
-  INDICATES RECORD DATA PER DEED

SCALE: 1"=40'

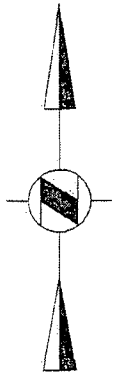
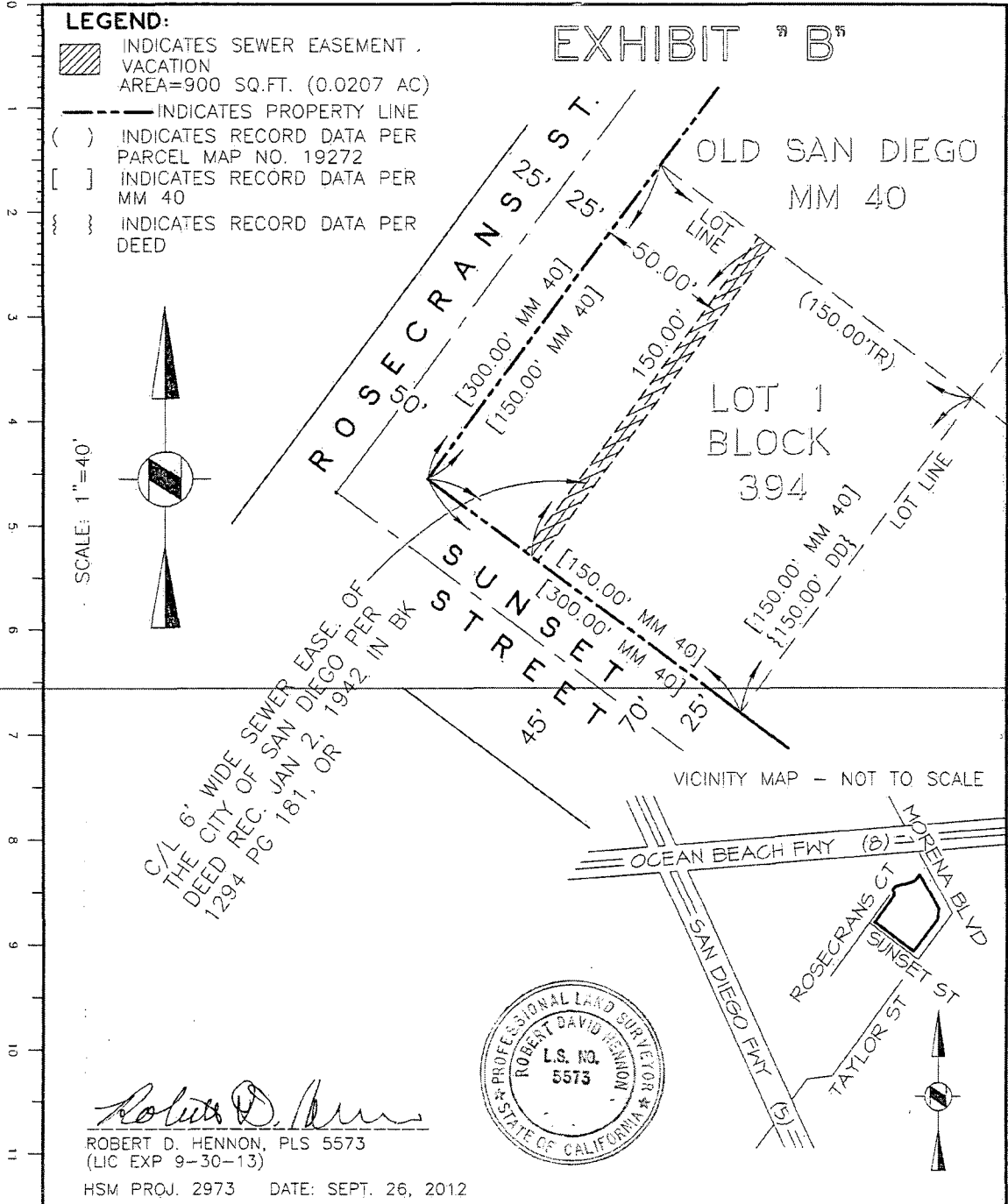
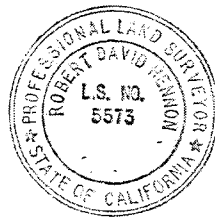


EXHIBIT "B"



Robert D. Hennon

ROBERT D. HENNON, PLS 5573
(LIC EXP 9-30-13)



HSM PROJ. 2973 DATE: SEPT. 26, 2012

HENNON 601 E. GLENOAKS BLVD., SUITE 208
Surveying & Mapping, Inc. GLENDALE, CALIFORNIA 91207
(818)243-0640 FAX: (818)243-0650

**SEWER EASEMENT VACATION
IN LOT 1, BLOCK 394 OF MM 40**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO. 288638
ORIGINAL		<i>AEA</i>	<i>10/1/2012</i>		SHEET 1 OF 1 SHEETS	I.O. NO. 24003001
		<i>[Signature]</i>	<i>10-1-12</i>		FOR CITY ENGINEER	DATE
						1855 - 6269
						NAD 83 COORDINATES
						216 - 1709
						LAMBERT COORDINATES
						37078 -B

DECLARED