

RESOLUTION NUMBER R- 307838

DATE OF FINAL PASSAGE NOV 13 2012

A RESOLUTION SUMMARILY VACATING PUBLIC SEWER EASEMENT LOCATED ON A PORTION OF WHITMAN STREET CLOSED TO PUBLIC USE PER RESOLUTION R-109168, PARCEL MAP 19272, EASEMENT VACATION NO. 1031567 – 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 Whitman Street closed to public use per resolution R-109168, Parcel Map 19272, granted to the City of San Diego by deed recorded June 25, 1953, Book 4901, page 145, being described as Easement Vacation No. 1031567; and

WHEREAS, Easement Vacation No. 1031567 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WHEREAS, the easement has been superseded by relocation and there are no other public facilities located within the easement; and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

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. 1031567, 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 1953 for purposes of sewer utility services. The easement has not been in active service for many more than five years and it currently does not contain any sewer or other utility facilities. Newer sewer facilities have been installed in the adjacent streets that currently serve the property encumbered by the public sewer easement as well as the surrounding properties. Additionally, the public easement at issue 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 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 1953 for purposes of sewer utility services. Newer sewer facilities have been installed in the adjacent streets that currently serve the property encumbered by the public sewer easement as well as the surrounding properties. Additionally, the public easement at issue is not planned or expected to serve any future development. The public easement does not contain any public facilities, is not currently in public service, has not been in public service in many more than 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. 1031567, as more particularly described in the legal description, marked as Exhibit "A" and shown on Drawing No. 37079-1-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

15 NOV 1 10 30

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 KM Halsey
Keely M. Halsey
Deputy City Attorney

KMH:als
10/29/2012
Or.Dept:DSD
Doc. No.: 457254

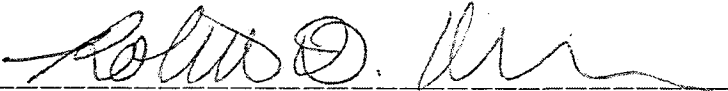
15 NOV - 1 11 31 AM '12
B.S. O'NEILL

EXHIBIT "A"
LEGAL DESCRIPTION
SEWER EASEMENT VACATION

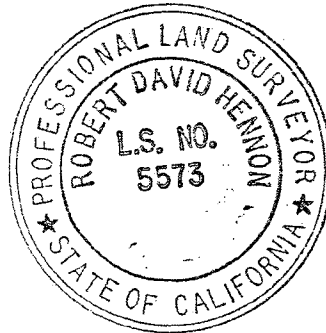
ALL OF THAT SEWER EASEMENT GRANTED TO THE CITY OF SAN DIEGO,
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, RECORDED JUNE 25,
1953 IN BOOK 4901, PAGE 145 OF OFFICIAL RECORDS.

ATTACHED HERETO IS A DRAWING NO. 37079-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. 37079-B

