

RESOLUTION NUMBER R- 307998

DATE OF FINAL PASSAGE FEB 25 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO REGARDING THE SHIRE REGEN TUNNEL'S
COMPLIANCE WITH COUNCIL POLICY NO. 700-18.

WHEREAS, properties located at 9750 and 9795 Summers Ridge Road, San Diego, California are currently under development under a previously approved City permit for construction of the Shire Regenerative Medicine Campus (Site Development/Planned Development Permit No. 98-1199); and

WHEREAS, the owner of said properties, BMR Summers Ridge (the Applicant) has proposed the construction of a private pedestrian tunnel underpass between the properties (the Shire Regen Tunnel); and

WHEREAS, City Council Policy No. 700-18, "Underground Structures Within the Right-of-Way," states that permanent underground structures encroaching into the right-of-way farther than a point three feet behind the existing or future curb line may be approved by Council under specified circumstances; and

WHEREAS, specifically, Council Policy No. 700-18 states that such improvements shall be located at specific depths below the right-of-way; and

WHEREAS, the Shire Regen Tunnel does not comply with those depth requirements, but the City Engineer has assessed the proposed tunnel and determined that it would not pose utility conflicts or other concerns; and

WHEREAS, specifically, Council Policy No. 700-18 also requires that a property owner agree to “[p]rovide for the removal of a structure and restoration of the right-of-way and affected utility facilities upon abandonment or removal of a structure;” and

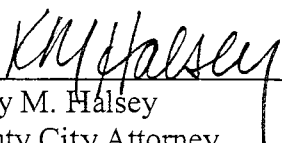
WHEREAS, San Diego Municipal Code section 129.0715 contains a similar removal requirement but provides latitude for the City Engineer to determine that an equivalent to the removal requirement may be appropriate in some cases; and

WHEREAS, the City Engineer has determined that, due to the specific nature of the proposed improvement, inclusion of a removal requirement is not necessary to protect the City’s interests in the affected right-of-way because the Applicant has agreed to assume liability, including maintenance and realignment obligations, that serves as an equivalent to the requirement for removal, and has determined that an Encroachment Maintenance Agreement executed pursuant to San Diego Municipal Code section 129.0715 would adequately protect such City interests; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Applicant has demonstrated compliance with Council Policy No. 700-18 with respect to the Shire Regen Tunnel in all respects except with regard to its depth and encroachment removal requirements; and

BE IT FURTHER RESOLVED, that, with respect to the Shire Regen Tunnel, the City Council waives the depth and encroachment removal requirements of Council Policy No. 700-18.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

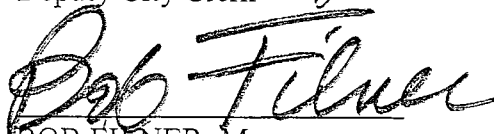
KMH:als
01/28/13
02/11/13 COR.COPY
Or.Dept:DSD
Doc. No. 502383_3

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of FEB 12 2013

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 2/15/13
(date)


BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

Passed by the Council of The City of San Diego on FEB 12 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 (Vacant)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 25 2013

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary Zimay*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 307998