

RESOLUTION NUMBER R- 308429
DATE OF FINAL PASSAGE SEP 10 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING GENERAL UTILITY EASEMENT LOCATED ON THE NORTH 20 FEET OF PLAZA STREET, (VACATED), BETWEEN BROADWAY CIRCLE, (FORMERLY THIRD AVENUE), AND FOURTH AVENUE, BLOCK "PLAZA", HORTON'S ADDITION, DEED BOOK 13, PAGE 522 (VACATION NO. 1090437 – PROJECT NO. 308674).

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, Civic SD filed an application to vacate a public utility easement on the north 20 feet of Plaza Street, (vacated), between Broadway Circle, (formerly Third Avenue), and Fourth Avenue, Block "Plaza", Horton's Addition, Deed Book 13, Page 522, reserved by the City of San Diego per City Council Resolution 257247, recorded October 7, 1982 as File/Page No. 82-308599 and October 11, 1982 as File/Page No. 82-311788, Official records, being described as Easement Vacation No. 1090437; and

WHEREAS, Easement Vacation No. 1090437 is located on property owned by Horton Plaza, L.L.C.; and

WHEREAS, the easement has been superseded by relocation or determined to be excess by the easement holder, and there are no other public facilities located within the easement; and

WHEREAS, the easement does not contain public utility facilities; 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 September 10, 2013, 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. 1090437, the Council finds that:

1. 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 reserved by the City in 1982 for purposes of general utility services in 1982. The easement lies within a site that contains an ongoing Civic San Diego project that will create a new public plaza area at Horton Plaza in the location of the old Robinsons-May building, now demolished. There is no present or prospective public use for the easement to be vacated by this action as the structure this easement was originally intended to serve was the Robinsons-May building, which no longer exists. Therefore, the easement no longer serves any present public use and no future public use of the easement can be anticipated.

2. 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 would facilitate more productive use of the property in the future and remove any liability to the City of San Diego.

3. The vacation is consistent with any applicable land use plan. The vacation of the utility easement would not adversely affect the General Plan, the Gaslamp Quarter Planned District Ordinance, the Downtown Community Plan, or the goals and policies of any other applicable land use plan. The vacation of the utility easement would facilitate growth and revitalization of the Horton Plaza development in a manner that would be harmonious with the applicable community plans. Therefore, the easement vacation would be consistent with applicable land use plans.

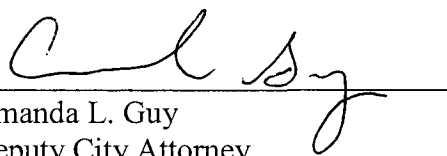
4. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists. The easement to be vacated was reserved by the City in 1982 for purposes of general utility services in 1982. The public service easement does not contain any public facilities, is not currently in public service, 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, Easement Vacation No. 1090437, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37385-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

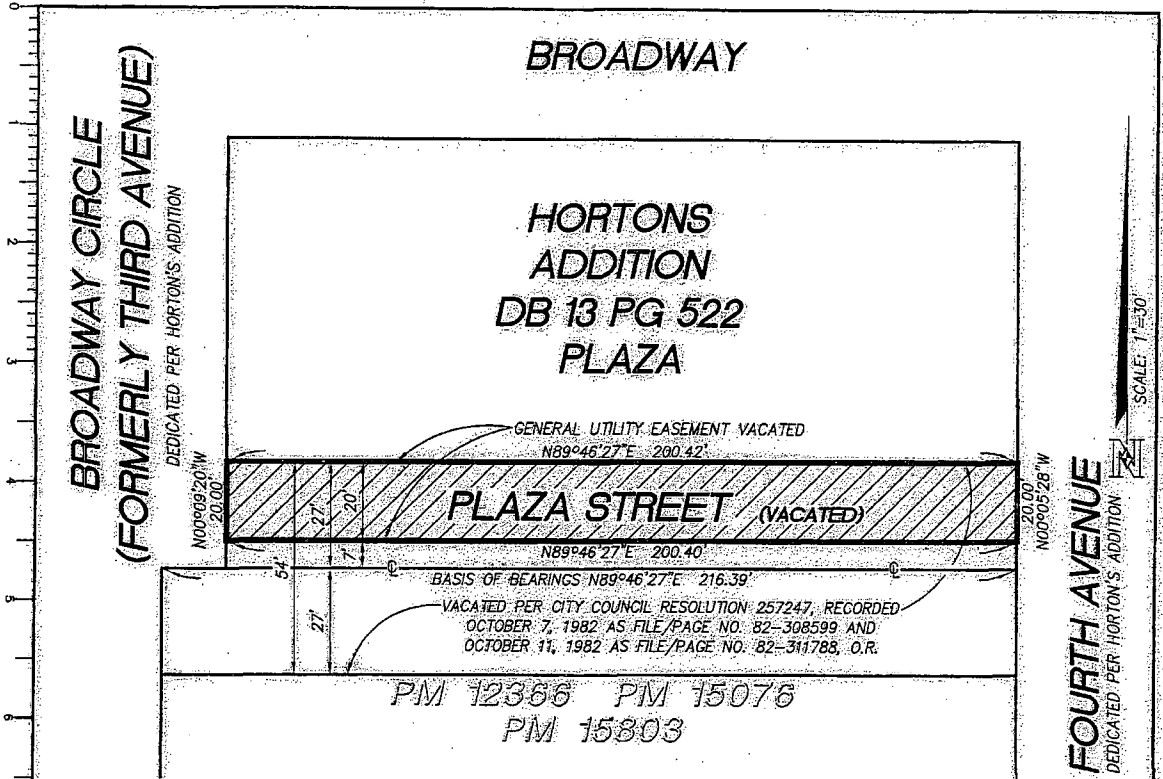
BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Amanda L. Guy
Deputy City Attorney

ALG:hm
08/13/2013
9/04/2013 COR.COPY
Or.Dept:DSD
Doc. No. 614900

EXHIBIT "B"



LEGEND

GENERAL UTILITY EASEMENT, RECORDED OCTOBER 7, 1982, AS DOCUMENT NO. 82-308599 VACATED



LEGAL DESCRIPTION

THE NORTH 20.00 FEET OF PLAZA STREET VACATED PER CITY COUNCIL RESOLUTION 257247, RECORDED OCTOBER 7, 1982 AS FILE/PAGE NO. 82-308599 AND OCTOBER 11, 1982 AS FILE/PAGE NO. 82-311788, O.R. EAST OF THE EASTERLY RIGHT-OF-WAY LINE OF THIRD AVENUE AND WEST OF THE WESTERLY RIGHT-OF-WAY OF FOURTH AVENUE

ASSESSOR PARCEL NUMBER

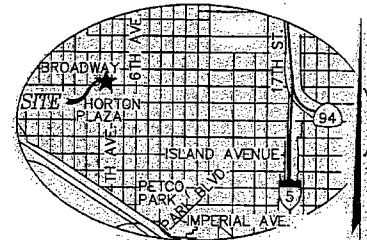
533-610-17

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS DRAWING IS THE SOUTHERLY LINE OF PLAZA STREET, (VACATED), AS SHOWN ON PARCEL MAP 15803
I.E. NORTH 89°46'27" EAST

REFERENCE DRAWINGS

MAP OF HORTON'S ADDITION - DB 13/PG 522, PARCEL MAP 12366, PARCEL MAP 15076, PARCEL MAP 15803, CITY DRAWING 18604-D



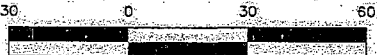
VICINITY MAP

NO SCALE

BY: RJ 5-15-2013
D.K. NASLAND, PLS 5567 DATE



NASLAND ENGINEERING
CIVIL ENGINEERING • SURVEYING • LAND PLANNING
4740 Ruffner Street, San Diego, California, 92111 • 619-282-7770



SCALE 1" = 30'

GENERAL UTILITY EASEMENT VACATION - HORTON PLAZA PARK

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.O. 24083495
ORIGINAL	MLT		10/26/12		SHEET 1 OF 1 SHEET	P.T.S. 308674
		JT	5/29/13		<i>Carroll Horton</i> FOR CITY ENGINEER	1838-6279 CCS 83 COORDINATES
						198-1719 LAMBERT COORDINATES
						37385-B
STATUS						

EXHIBIT "A"

LEGAL DESCRIPTION OF GENERAL UTILITY EASEMENT VACATION

ALL OF "UTILITY EASEMENT - PLAZA STREET" RESERVED AND EXCEPTED FROM THE VACATION OF PLAZA STREET, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, SAID PLAZA STREET CLOSED TO PUBLIC USE BY CITY OF SAN DIEGO COUNCIL RESOLUTION 257247, RECORDED OCTOBER 7, 1982 AS FILE/PAGE NO. 82-308599 AND OCTOBER 11, 1982 AS FILE/PAGE NO. 82-311788, BOTH OF OFFICIAL RECORDS AND AS SHOWN ON CITY DRAWING 18604-D, DESCRIBED AS FOLLOWS:

THE NORTH 20 FEET OF PLAZA STREET, EAST OF THE EASTERLY RIGHT-OF WAY LINE OF BROADWAY CIRCLE, (FORMERLY THIRD AVENUE), AND WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF FOURTH AVENUE.

ATTACHED HERETO IS A DRAWING NO. 37385-B LABELED EXHIBIT 'B' AND BY THIS REFERENCE MADE A PART HEREOF.

PREPARED UNDER THE SUPERVISION OF:

 RJ 5-15-2013
D.K. NASLAND, PLS 5562 DATE

PTS. 308674

I.O. 24003495



SEP 10 2013

Passed by the Council of The City of San Diego on _____, 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"/>
Myrtle Cole	<input checked="" 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 SEP 10 2013

(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>308429</u>