

RESOLUTION NUMBER R- 309117

DATE OF FINAL PASSAGE JUL 14 2014

ITEM #S400

SUB-C

7/14/14

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO VACATING A PORTION OF DATE STREET  
BETWEEN INDIA STREET AND COLUMBIA STREET  
RIGHT-OF-WAY VACATION NO. 1094595 FOR INDIA  
AND DATE STREETS PROJECT.

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego  
Municipal Code section 125.0901 *et seq.* provide a procedure for the vacation of public rights-of-  
way by City Council resolution; and

WHEREAS, H.G. FENTION filed an application to vacate a portion of Date Street  
between India Street and Columbia Street, Right-of-Way Vacation No. 1094595; 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 activity is covered under an Addendum to the Final Environmental  
Impact Report for the 2006 Downtown Community Plan, Centre City Planned District Ordinance  
and 10th Amendment to the Centre City Redevelopment Plan (Downtown FEIR) has been  
prepared for the proposed Project (Sixth Addendum to the Downtown FEIR, dated May 2014).  
The Downtown FEIR was prepared in compliance with the California Environmental Quality  
Act (CEQA) Guidelines Section 15168 and was certified by the Former Redevelopment Agency  
and City Council on March 14, 2006 (Resolutions R-04001 and R-301265, respectively). The  
Sixth Addendum concluded that the proposed amendments do not substantially change the  
original project, introduce new or more severe significant environmental impacts, requires major

revisions to the Downtown FEIR, increases previously identified significant effects, makes previously infeasible mitigation measures or alternatives feasible, or requires adoption of additional mitigation measures or alternatives. This determination reflects the independent judgment of the City of San Diego as Lead Agency for this action; and

WHEREAS, the matter was set for public hearing on July 14, 2014, 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 Right-of-Way Vacation No. 1094595, the Council finds that:

(a) There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.

The Project proposes the vacation of Date Street for the development of an 11,200 square-foot public plaza. The Project seeks to vacate the existing 80-foot right-of-way along Date Street originally intended and currently utilized for vehicular and pedestrian traffic and public utilities. The proposed vacation would convert and improve the right-of-way as a public plaza with pedestrian access. While the vacation would no longer allow vehicular access on Date Street as originally intended, the creation of a new public plaza would continue to serve a public purpose.

A Traffic Assessment Analysis, dated October 14, 2013, Date Street Closure Traffic Assessment prepared by RBF Consulting, evaluated the traffic impacts associated with the street vacation. The analysis evaluated existing and future intersection operations with and without the proposed closure of Date Street, as well as the impacts of removing 13 public parking spaces associated with the proposed street vacation. The findings of the analysis concluded that the

street vacation would not result in any significant impacts related to the redistribution of existing and future traffic, transit conditions or the removal of the existing public parking spaces.

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

The vacation of Date Street will result in the creation of an attractive 11,200 square-foot plaza consisting of enhanced paving, lighting, landscaping, water fountain, and moveable tables and chairs. The plaza will provide a public area for the community to enjoy on a daily basis, as well as provide an area for cultural activities, farmers markets, art events, and music events. The public plaza and the activities associated with the open space will add value and further provide identity and economic benefit to downtown and the Little Italy neighborhood.

(c) The vacation does not adversely affect any applicable land use plan.

The proposed vacation would convert and improve the right-of-way as a public plaza with pedestrian access. The proposed vacation would allow the creation of a public use consistent with the following goals and policies of the Downtown Community Plan's Parks, Open Space, and Recreation Chapters which envision the creation of new parks and plazas in conjunction with development projects:

- 4.1-G-1 – Develop a comprehensive open space system that provides a diverse range of outdoor opportunities for residents, workers, and visitors;
- 4.1-G-2 – Provide public open space within walking distance of all residents and employees;
- 4.1-P-8 – Pursue new smaller open spaces – including public plazas and places, fountains, and pocket parks – on portions of blocks throughout downtown and on geologic faults to supplement larger public open spaces; and as recreational paths; and,

- 4.1-P-15 – Encourage the position of outdoor seating and/or cafes where appropriate.

The Downtown Community Plan's Urban Design Chapter encourages the maintenance of the downtown street-grid system and discourages full or partial street closures by new buildings, utilities, and transportation improvements under the following goals and policies:

- 5.1-G-1 – Maintain the downtown's street grid system and extend it to the waterfront and other larger sites as they are redeveloped; and,
- 5.1-P-1 – Do not allow full or partial street closures by new buildings, utilities, ramps, or transportation improvements. The only allowable use enabled through a street closure is a park or open space. Where a street closure to vehicle traffic may be essential, access for pedestrians and bicycles must still be maintained.

However, the Downtown Community Plan recognizes the need for additional open space downtown and acknowledges that the only allowable use enabled through a street closure should be for parks or open space as cited above. The vacated right-of-way will not be accessible to vehicular traffic, but will maintain pedestrian and bicycle access. Therefore, the proposed vacation of Date Street would not adversely affect any applicable land use plan.

(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

The proposed vacation would convert and improve the right-of-way as a public plaza with pedestrian access. The proposed vacation would not eliminate the public facility, but would change its use by eliminating vehicular traffic to accommodate a new public facility, a public plaza, benefitting the community. In addition, the Traffic Assessment Analysis dated October 14, 2013; Date Street Closure Traffic Assessment prepared by RBF Consulting concluded that the

street vacation would not result in any significant impacts related to the redistribution of existing and future traffic, transit conditions or the removal of the existing public parking spaces.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 1094595, in connection with City of San Diego Permit No. CCDP/PDP/NUP/SDP No. 2013-10, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37412-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following conditions which are made a part of this resolution:

1. Prior to the recordation of the public right-of-way vacation, the Owner/Permittee shall provide a surety to the City that is deemed acceptable by the City Engineer, such surety shall be in an amount of not less than \$300,000 and shall cover the anticipated cost to design, permit, and construct a public storm drain system through the proposed street to be vacated. The City Engineer's acceptance of the public storm drain system shall include irrevocable offers to dedicate drainage easements, granted satisfactory to the City Engineer, the cost of which offers shall be borne by the Owner/Permittee. Prior to the recordation of the public right-of-way vacation, and until such time as the contemplated public storm drain system is accepted by the City Engineer, the Owner/Permittee shall enter into and remain bound by a hold harmless agreement for the public drainage that is conveyed in that portion of the Date Street right-of-way that is subject to this vacation action.

2. The Owner/Permittee shall obtain a grading permit and public right-of-way permit for the proposed drainage improvements, to the satisfaction of the City Engineer.

3. The Owner/Permittee shall reserve a Recreation Easement which provides for public use of the plaza over the 56-foot wide, 11,200 square foot plaza located within, and centered on the former centerline of the vacated right-of-way. The Recreation Easement shall be

approved and accepted by the City of San Diego prior to the recordation of the public right-of-way vacation.

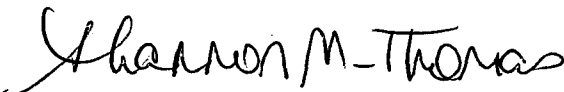
BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way Vacation No. 1094595 the permanent easement for public utility purposes, as more particularly described hereinafter:

An easement for public utility purposes over the entire area to be vacated, with the rights of ingress and egress over, under, upon, along and across as may from time to time be required to construct, place, operate, inspect, maintain, repair, replace and remove underground communication facilities, underground telecommunications equipment, gas or electric facilities together with all appurtenances thereto.

BE IT FURTHER RESOLVED, that the easements reserved herein lie within that portion of Date Street, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37413-B, marked as Exhibit "B."

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   
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
07/01/14  
07/15/14 Cor.Copy  
Or.Dept:Civic San Diego  
Doc. No. 810365\_3

EXHIBIT "A"

LEGAL DESCRIPTION

PUBLIC RIGHT OF WAY VACATION – DATE STREET

THAT PORTION OF DATE STREET DEDICATED PER THE MAP OF MIDDLETOWN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY J.E. JACKSON, FILED IN THE OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY ON OCTOBER 19, 1874, DESCRIBED AS FOLLOWS;

ALL THOSE PORTIONS OF DATE STREET LYING EASTERLY OF THE EAST RIGHT OF WAY LINE OF INDIA STREET AND LYING WESTERLY OF THE WEST RIGHT OF WAY LINE OF COLUMBIA STREET, ALL AS SHOWN ON SAID MAP RESERVING THEREFROM A PUBLIC UTILITY EASEMENT OVER THE ENTIRE VACATED AREA.

CONTAINS 0.365 ACRES

*Stuart Peace* 6-24-14

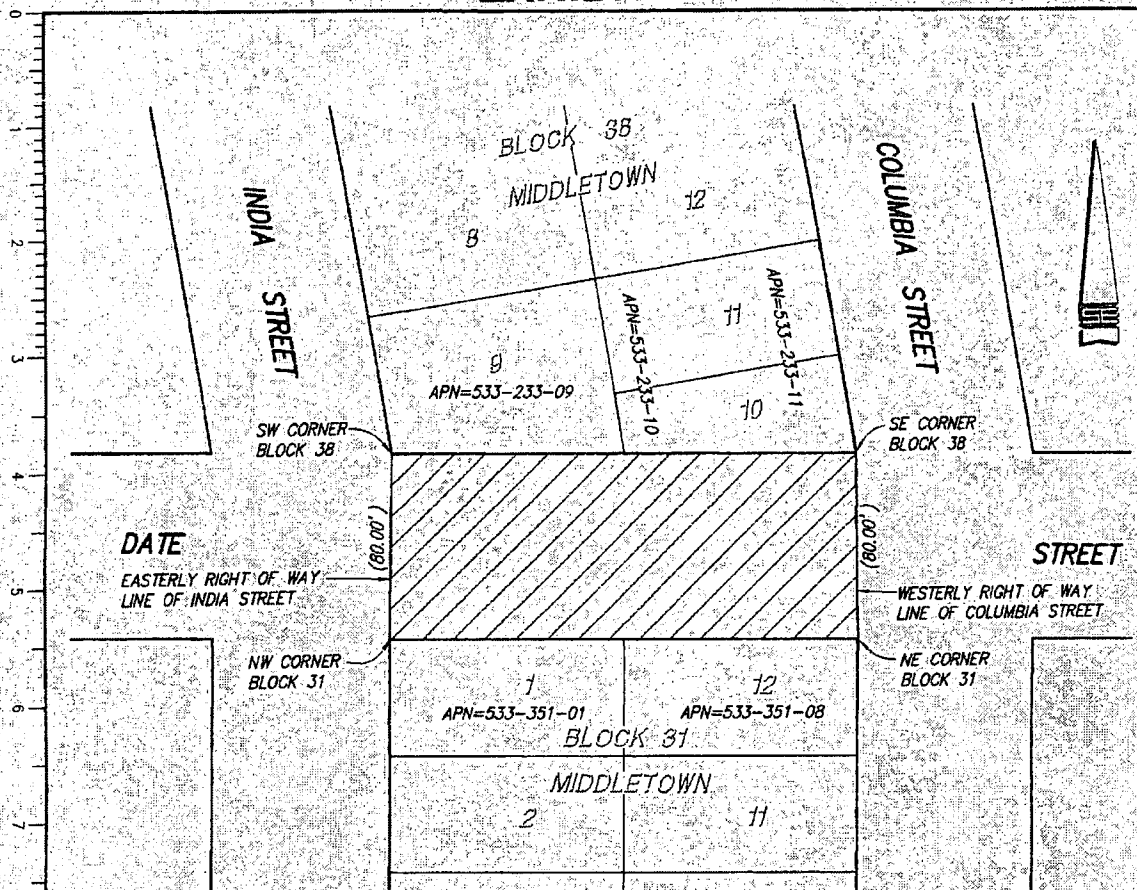
STUART PEACE R.C.E. 27232 DATE  
REGISTRATION EXPIRES 3-31-15  
STUART ENGINEERING  
7525 METROPOLITAN DRIVE, SUITE 308  
SAN DIEGO, CA 92108  
PH. 619-296-1010



ATTACHED HERETO IS A DRAWING NO. 37413-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF.

PTS: 312787  
IO: 24003564

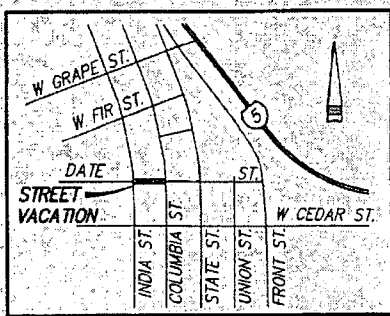
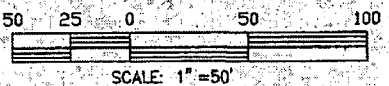
# EXHIBIT "B"



**LEGEND**  
 PORTION OF DATE STREET VACATED WITH PUBLIC UTILITY EASEMENT RESERVED OVER ENTIRE VACATED AREA CONTAINS 0.365 ACRES  
 INDICATES RECORD DATA PER MAP OF MIDDLETOWN

**REFERENCE DRAWINGS**  
 MAP OF MIDDLETOWN

**NOTE**  
 ALL STREETS DEDICATED PER MAP OF MIDDLETOWN



**VICINITY MAP**  
 NO SCALE  
 S.E. JOB NO. 1227-13-02

**SE** STUART ENGINEERING  
 7525 METROPOLITAN DR., #308  
 SAN DIEGO, CALIFORNIA 92108  
 (619) 296-1010  
 FAX (619) 296-9276  
*Stuart Peace* 6-24-14  
 STUART PEACE R.C.E. 27232 DATE  
 REGISTRATION EXPIRES: 3-31-15

## STREET VACATION WITH PUBLIC UTILITY EASEMENT RESERVATION PORTION OF DATE STREET - BETWEEN COLUMBIA STREET AND INDIA STREET

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS. NO. 312787
ORIGINAL	SE	LED	6/25/14		SHEET 1 OF 1 SHEET	W.O. NO. 24003564
					<i>Frederick R. L. Bay</i> FOR CITY ENGINEER	1842-6277
						CCS83
						202-1717
						LAMBERT COORDINATES
						37413-B

STATUS



Passed by the Council of The City of San Diego on JUL 14 2014, 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"/>
Ed Harris	<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: JUL 14 2014

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

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

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

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309117