

2013 1-29-24

(R-2024-294)

315325

RESOLUTION NUMBER R-\_\_\_\_\_

JAN 29 2024

DATE OF FINAL PASSAGE \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING A PORTION OF MAIN STREET NEAR 119 CENTER STREET AND 299 EAST SAN YSIDRO BOULEVARD, PUBLIC RIGHT-OF-WAY VACATION NO. PMT-3199018 WITH RESERVATION OF EASEMENTS- PROJECT NO. PRJ-1081092.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the summary vacation of public rights-of-way by resolution of the Council of the City of San Diego (Council); and

WHEREAS, Kimley-Horn filed an application to vacate a portion of Main Street near 119 Center Street and 299 East San Ysidro Boulevard and reserve certain easements, being described as Right-of-Way Vacation No. PMT-3199018; and

WHEREAS, Right-of-Way Vacation No. PMT-3199018 is located on property owned by Trans Oceanic Investments, LLC; and

WHEREAS, in connection with Right-of-Way Vacation No. PMT-3199018, the City desires to reserve and except certain public easements; and

WHEREAS, the subject vacation does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation; is excess public right of way and is not required for street or highway purposes; and has been impassible for vehicular travel for a period of 5 years and public funds have not been expended for maintenance of the public right-of-way during that period; and

WHEREAS, the matter was set for public hearing, testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the 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; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Public Right-of-Way Vacation No. PMT-3199018, and pursuant to San Diego Municipal Code section 125.0941, 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 proposed public right-of-way vacation is related to a Settlement Agreement dated June 21, 2022, between Trans Oceanic Investments, LLC (Owner) and the City of San Diego, requiring Owner to dedicate approximately 6,289 square feet along East Beyer Boulevard, Center Street, and East San Ysidro Boulevard contingent upon the vacation of a 1,012 square foot (0.023 acre) remnant of "Main Street," an unused street segment shown on Drawing No.

DWG-0100742, attached here as Exhibit B, and commonly referred to as old Main Street. The remnant portion of old Main Street to be vacated was not fully and effectively vacated upon construction of the I-805 freeway and is an unused street segment with no prospective use for public right-of-way or other public use. Therefore, 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.

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

Owner proposes a commercial development within property identified as APN 666-10-30-00 and bordered by East Beyer Boulevard, Center Street, and East San Ysidro Boulevard. The 1,012 square foot (0.023 acre) unused portion of old Main Street proposed to be vacated will help to revitalize the community and provide several beneficial uses for the public including dedication of approximately 6,289 square feet along East Beyer Boulevard, Center Street, and East San Ysidro Boulevard to accommodate public sidewalk and public landscaping and right-of-way for a future widening of East San Ysidro Boulevard. The vacation will be recorded in conjunction with a Public Street Easement and Maintenance Agreement between Owner and the City to accomplish the dedication and improvements. Therefore, the public will benefit from the action through improved use of the land made available by the vacation.

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

The vacation is consistent with the Land Use, Mobility, and Urban Design elements in the San Ysidro Community Plan and Local Coastal Program Land Use Plan. The proposed right-of-way vacation will not affect mobility in the community as the right-of-way is not actively

used by the public and the vacation will not result in any change in use. Therefore, the vacation does 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 public facility or purpose for which the right-of-way was originally acquired no longer exists. The vacation includes a 1,012 square foot (0.023 acre) remainder of “Main Street,” commonly referred to as old Main Street, which was not fully and effectively vacated upon construction of the I-805 freeway, and old Main Street is no longer in use. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. PMT-3199018, as more particularly described in the legal description marked as Exhibit “A” and shown on Drawing No. DWG-0100742, marked as Exhibit “B,” which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following condition(s) which are made a part of this resolution:

1. Any work performed within Caltrans’ Right of Way (R/W) will require discretionary review and approval by Caltrans. As part of the encroachment permit process, the applicant must provide an approved final environmental document, corresponding technical studies, and necessary regulatory and resource agency permits, specifically, any CEQA determinations or exemptions.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way Vacation No. PMT-3199018 the permanent easement(s) for public utility purposes, as more particularly described hereinafter:


An easement for SDG&E (Grantee) to erect, construct, change the size of, improve, reconstruct, relocate, repair, remove, maintain, and use facilities consisting of overhead and underground electric facilities, communication facilities and all appurtenances including necessary anchorage for the transmission and distribution of electricity and for pipelines and appurtenances, together with the right of ingress thereto and egress therefrom over said easement and over other practical routes. No building or other structure shall be permitted within the easement excepting other utility facilities that meet SDG&E's separation requirements. SDG&E's prior written consent shall be required before planting any trees or increasing/decreasing the ground elevation within the easement. Grantee shall have the right but not the duty, to trim or remove trees and brush along or adjacent to this easement and remove roots from within this easement whenever Grantee deems necessary. Said right shall not relieve Grantor of the duty as owner to trim or remove trees and brush to prevent danger or hazard to property or persons. Upon receipt of written request from Grantor, this easement will be quitclaimed by Grantee, provided that the facilities have been removed; and

An easement for existing facilities unto COX COMMUNICATIONS CALIFORNIA, LLC., A DELAWARE LIMITED LIABILITY COMPANY its successors and assigns, as it may require from time to time, to construct, place, operate, repair, maintain, replace, and remove aerial and/or underground Telecommunications equipment consisting of one or more lines of cables, wires, conduits, pedestals, guys, anchors, and all necessary fixtures and appurtenances.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Main Street, vacated by this resolution and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. DWG-0100742, 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: MARA W. ELLIOT, City Attorney

By   
Jeanne MacKinnon  
Deputy City Attorney

JM:hm  
December 21, 2023  
Or.Dept: DSD  
Doc. No. 3520359

Attachments: Exhibit A -- Legal Description  
Exhibit B -- Drawing No. DWG-0100742

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JAN 29 2024.

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**PUBLIC RIGHT OF WAY VACATION – PORTION OF MAIN STREET**

THAT PORTION OF MAIN STREET OF BOUNDARY TRACT, AS DEDICATED ON MAP NO. 1690, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF LOT 47 OF SAID MAP, THENCE RADIAL TO THE CENTERLINE OF SAID MAIN STREET ALONG THE EASTERLY LINE OF THAT STREET VACATION RECORDED OCTOBER 25, 1979 AS INSTRUMENT NO. 79-448005, OFFICIAL RECORDS, NORTH 18° 16'12" EAST 25.00 FEET (NORTH 18°21'50" EAST PER SAID STREET VACATION) TO A POINT ALONG A NON-TANGENT 1089.35-FOOT CURVE CONCAVE SOUTHWESTERLY, A RADIAL TO WHICH BEARS NORTH 18°16'12" EAST;

THENCE LEAVING SAID EASTERLY LINE, NORTHEASTERLY ALONG THE SOUTH BOUNDARY OF SAID INSTRUMENT NO. 79-448005, AND ARC OF SAID CURVE, 10.35 FEET THROUGH A CENTRAL ANGLE OF 0°32'39", TO A POINT ALONG A NON-TANGENT 325.00-FOOT CURVE CONCAVE NORTHEASTERLY, A RADIAL TO WHICH BEARS SOUTH 46°24'45" WEST, SAID CURVE BEING ALSO CONCENTRIC WITH AND 25.00 FEET SOUTHWESTERLY OF THE CENTERLINE OF EAST BEYER BOULEVARD;

THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, 77.75 FEET THROUGH A CENTRAL ANGLE OF 13°42' 24", TO THE SOUTHERLY LINE OF SAID MAIN STREET AND THE BEGINNING OF A NON-TANGENT 1064.35 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A RADIAL TO WHICH BEARS NORTH 22°43'18" EAST;

THENCE ALONG SAID SOUTHERLY LINE, WESTERLY ALONG THE ARC OF SAID CURVE, 82.70 FEET THROUGH A CENTRAL ANGLE OF 4°27'06" TO THE **POINT OF BEGINNING**.

CONTAINING 1012 SQUARE FEET (0.023 ACRES), MORE OR LESS.

ATTACHED HERETO IS A DRAWING NO. 100742-B AND BY THIS REFERENCE MADE A PART HEREOF.

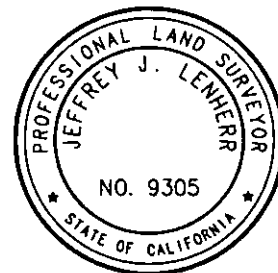
*Jeffrey J. Lenherr*

09/18/2023

JEFFREY J. LENHERR

DATE

P.L.S. 9305 EXPIRES 09/24/24



PROJECT NO.: 1081092

DWG NO.: 100742 -B







JAN 29 2024

Passed by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<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"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 29 2024.

**(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:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p style="text-align: center;"><b>315325</b></p> <p>Resolution Number R-_____</p>
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