

#335B
6/29/21

(R-2021-519)
COR. COPY 2

RESOLUTION NUMBER R- 313642

DATE OF FINAL PASSAGE JUN 29 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING FINDINGS FOR AND APPROVING THE PUBLIC RIGHT-OF-WAY VACATION OF AN UNIMPROVED PORTION OF TORRANCE STREET, PUBLIC RIGHT-OF-WAY VACATION NO. 2310958, WITH RESERVATION OF EASEMENT – PROJECT NO. 639934.

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, Nakhshab Development, filed an application to vacate a 4,010-square-foot portion of Torrance Street located between Torrance Street and Curlew Street, being described as Right-of-Way Vacation No. 2310958; and

WHEREAS, Right-of-Way Vacation No. 2310958 is located on property owned by Gregory Hearn; and

WHEREAS, in connection with Right-of-Way Vacation No. 2310958, the City desires to reserve and except public easements; and

WHEREAS, the public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; the public right-of-way lies within one ownership and does not continue through that ownership or touch the property of another owner; the public right-of-way vacation does not terminate a public service easement; and

WHEREAS, the public right-of-way to be contains public utility facilities that would not be affected by the vacation; 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 June 29, 2021, 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 Public Right-of-Way Vacation No. 2310958, the Council finds that:

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

The project proposes to vacate an unimproved portion of Torrance Street west of Curlew Street within the RS-1-7 zone and Uptown Community Planning Area. The area to be vacated encompasses approximately 4,010 square feet (0.09 acres). Torrance Street near Curlew Street was dedicated to the City of San Diego on January 24, 1912 on Map 1410. The land proposed to be vacated is no longer needed as public right-of-way and is not needed to provide public circulation. The area proposed for vacation would not be needed for access to the surrounding private properties, as each surrounding property is currently developed with access from fronting public streets. Additionally, the portion of ROW vacation are contiguous with private property and therefore would not provide access to roadways for public use. Therefore, there are no present or prospective uses for that unimproved portion of Torrance Street, either for the facility

for which originally acquired, or for any other public use of a like nature that can be anticipated.

Existing utilities including drainage and sewer, and fiber for telephone and internet will be

granted easement reservations within the full limits of the proposed vacated area. There are no

anticipated future utilities that would require easements within this area.

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

The public will benefit from the action through the removal of any cost of burden of maintenance and liability within the vacated right-of-way area and increased property tax revenue. Changing the land use restrictions allows for the proposed installation of a new sewer lateral and second storm drain lateral that will serve a nearby property.

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

The project proposes to vacate of an approximate 0.09-acre unimproved portion of Torrance Street ROW located within the RM-1-7 zone in the Uptown Community Plan Area. The paper street portion of Torrance Street connects to a developed portion of Curlew Street; however, the paper street portion does not provide feasible accessibility for the public due to the steepness of the terrain. The steep terrain is a physical limitation that inhibits any reasonable type of pedestrian access. As a paper street, this portion of Torrance Street is not currently used as a circulation element roadway. The proposed vacated portion of Torrance Street is also not needed to serve adjacent properties. Adjacent properties abutting the proposed vacated area currently have access from Curlew Street and a separate portion of Torrance Street (west of the proposed vacated area).

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

The street pattern/grid for the surrounding community was established in the year 1882, according to Map 310; which was the subdivision of the east half and south quarter of the west half of Pueblo Lot 1122. On January 24th, 1912, the further subdivision of a portion of Pueblo Lot 1123, according to Map 1410 later created the right-of-way of a portion of Torrance Street (formerly dedicated as Mission Street). Because of the existing steep topography, this roadway was not constructed.

The vacation of this unimproved portion of Torrance Street would not preclude access to individual, privately owned parcels as existing residences in the vicinity, maintain access from the improved portion of Torrance Street or other streets. The unconstructed portion of Torrance Street connects to a developed portion of Curlew Street; however, the unconstructed portion does not provide feasible accessibility for the public due to the steep terrain. Easement reservations will be granted for existing utilities within the full limits of the proposed vacated area. Therefore, the public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation of this unimproved portion of Torrance Street.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 2310958, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 42005-B, 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. Prior to the recordation of the public right of way vacation, the Owner/Permittee shall reserve a sewer easement as shown on the street vacation exhibit for an existing sewer manhole and 10" VC sewer main within vacated street, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

2. Prior to the recordation of the public right of way vacation, the Owner/Permittee shall reserve a drainage easement as shown on the street vacation exhibit, satisfactory to the City Engineer.
3. Prior to the recordation of the public right of way vacation, the Owner/Permittee shall reserve an easement for Pacific Bell Telephone Company dba AT&T, California as it may from time to time require to construct, reconstruct and maintain (place operate, inspect, repair, replace and remove) such aerial communication facilities (including ingress thereto and egress therefrom) consisting of poles, anchors, guys, wires, cables, crossarms, terminals, terminal equipment cabinets, service boxes, associated electrical conductor, and necessary fixtures and appurtenances;
4. Prior to the recordation of the public right of way vacation, the Owner/Permittee shall reserve an easement 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, buy anchors attached to the ground, and all necessary fixtures and appurtenances in, over, and under, and upon the hereinafter described Easement, together with the right to ingress thereto and egress therefrom and across that certain real property, in the City of San Diego, County of San Diego, State of California.

In the event these conditions are not completed within three years following the adoption of this Resolution, then this Resolution shall become void and be of no further force or effect.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Torrance Street, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 42005-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: MARA W. ELLIOTT, City Attorney

By _____
Noah J. Brazier
Deputy City Attorney

NJB:nja
06/14/21
06/24/21 Cor. Copy
06/28/21 Cor. Copy 2
Or. Dept: DSD
Doc. No.:2675275_2

Attachments: Exhibit A – Legal Description
Exhibit B – Drawing Map No. 42005-B

EXHIBIT 'A'
LEGAL DESCRIPTION
STREET VACATION

ALL THAT PORTION OF TORRANCE STREET IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FORMERLY KNOWN AS MISSION STREET, DEDICATED ON EL PASO TRACT MAP NO. 1410 FILED IN THE OFFICE OF THE COUNTY RECORDER ON JANUARY 24, 1912. SAID PORTION BEING BOUNDED ON THE WEST BY THE EASTERLY 80-FOOT RIGHT-OF-WAY LINE OF TORRANCE STREET AS SHOWN ON PARCEL MAP NO. 18307 FILED IN SAID OFFICE OF THE COUNTY RECORDER JULY 23, 1999 AS FILE NO. 1999-511137. SAID EASTERLY RIGHT-OF-WAY LINE OF TORRANCE STREET ALSO BEING THE EXTENSION LINE OF THE WESTERLY LINE OF LOTS 'A' THROUGH 'E' OF SAID MAP NO. 1410. SAID PORTION ALSO BEING BOUNDED ON THE EAST BY THE WESTERLY 60-FOOT-WIDE RIGHT-OF-WAY LINE OF CURLEW STREET AS SHOWN ON SAID MAP NO. 1410. SAID RIGHT-OF-WAY LINE OF CURLEW STREET ALSO BEING THE EXTENSION LINE OF THE EASTERLY LINE OF LOTS 1, 2, 3, 7, 8, AND 9 PER SAID MAP NO. 1410.

THE TOTAL AREA WITHIN VACATED PORTION OF TORRANCE STREET IS 4,010 SQUARE FEET OR 0.09 ACRES, MORE OR LESS.

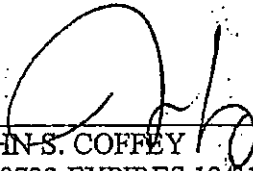
RESERVING THEREFROM AN EASEMENT FOR DRAINAGE AND SEWER PURPOSES OVER AND UNDER THE VACATED STREET DESCRIBED HEREIN.

ALSO EXCEPTING AND RESERVING THEREFROM A PERPETUAL EASEMENT UNTO COX COMMUNICATIONS CALIFORNIA, LLC., A DELAWARE LIMITED 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 EQUIPPED CONSISTING OF ONE OR MORE LINES OF CABLES, WIRES, CONDUITS, PEDESTALS, GUY ANCHORS ATTACHED TO THE GROUND, AND ALL NECESSARY FIXTURES AND APPURTENANCES IN, OVER, UNDER, AND UPON THE HEREINAFTER DESCRIBED EASEMENT, TOGETHER WITH THE RIGHT TO INGRESS THERETO AND EGRESS THEREFROM AND ACROSS THAT CERTAIN REAL PROPERTY, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, OVER AND UNDER THE VACATED AREA.

ALSO RESERVING THEREFROM AN EASEMENT FOR PACIFIC BELL TELEPHONE COMPANY DBA AT&T CALIFORNIA S IT MAY FROM TIME TO TIME REQUIRE TO CONSTRUCT, RECONSTRUCT AND MAINTAIN (PLACE, OPERATE, REPAIR, REPLACE AND REMOVE) SUCH AERIAL COMMUNICATION FACILITIES (INCLUDING INGRESS THERETO AND EGRESS THEREFROM) CONSISTING OF POLES, ANCHORS, GUYS, WIRES,

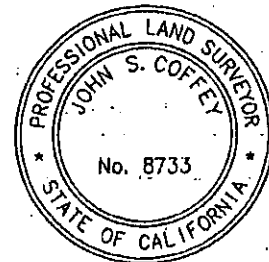
CABLES, CROSSARMS, TERMINALS, TERMINAL EQUIPMENT CABINETS,
SERVICES BOXES, ASSOCIATED ELECTRICAL CONDUCTOR, AND
NECESSARY FIXTURES AND APPURTENANCES OVER AND UNDER THE
VACATED AREA.

ATTACHED HERETO IS A DRAWING NO. 42005-B LABELED AS EXHIBIT 'B',
AND BY THIS REFERENCE MADE A PART HEREOF.



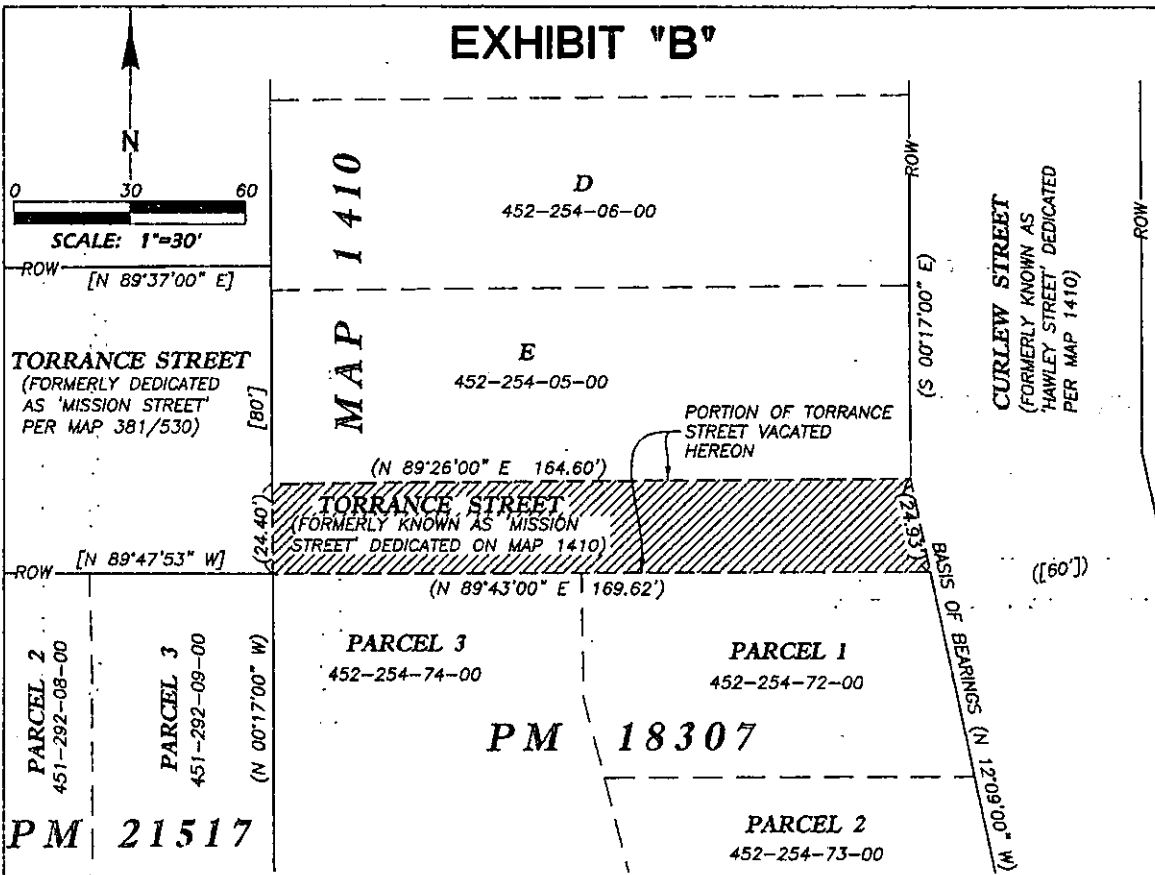
JOHN S. COFFEY
LS 8733 EXPIRES 12/31/22

12/15/20
DATE



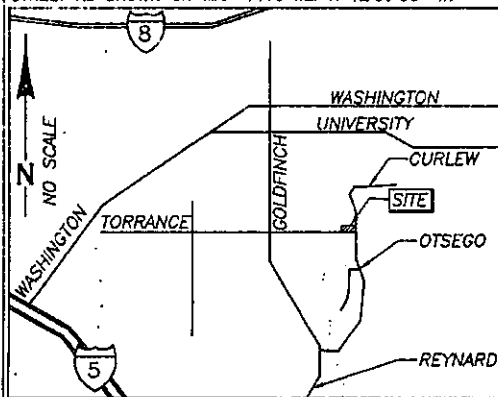
PTS NO. 639934
I.O. NO. 24008306
DWG NO.42005-B

EXHIBIT "B"



BASIS OF BEARINGS:
 THE WESTERLY RIGHT-OF-WAY LINE OF CURLEW STREET AS SHOWN ON MAP 1410 I.E. N 12°09'00" W.

- LEGEND**
- INDICATES STREET VACATION PORTION OF TORRANCE STREET, AREA= 4,010 SQ. FT. (0.09 AC) MORE OR LESS
 - RIGHT-OF-WAY (ROW) LINE
 - LOT LINE
 - () INDICATES RECORD DATA PER MAP NO. 1410
 - [] INDICATES RECORD DATA PER PARCEL MAP 18307
- REFERENCE DRAWINGS/DOCUMENTS:**
 MAP 1410
 PARCEL MAP 18307
 PARCEL MAP 21517
 MAP 381
 40197-D



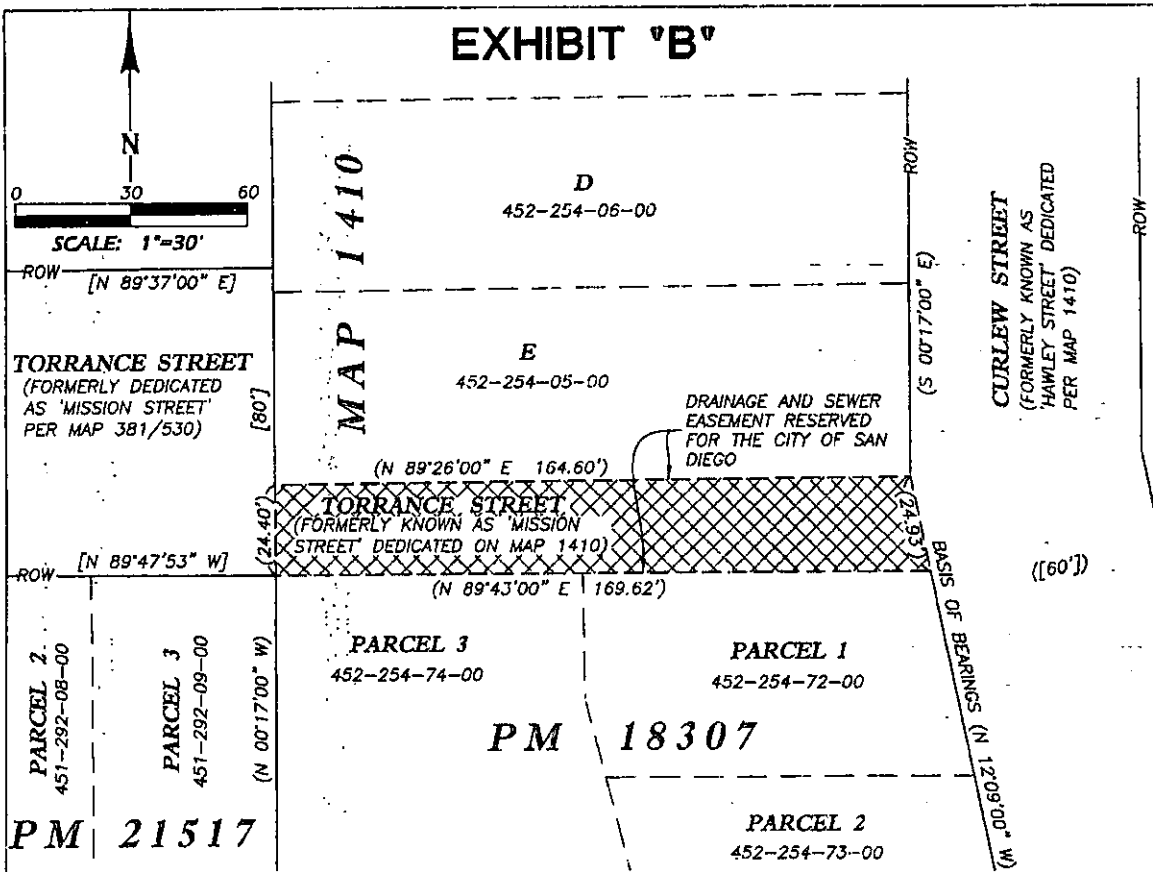
[Signature] 12-15-20
 JOHN S. COFFEY LS 8733
CE COFFEY ENGINEERING, INC.

RESOLUTION NO. _____
 ADOPTED _____
 DOCUMENT NO. _____
 RECORDED _____

STREET VACATION - PORTION OF TORRANCE STREET

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S.#
ORIGINAL	CE				SHEET 1 OF 1 SHEETS	639934
					FOR CITY ENGINEER	1850-6277
					DATE	CCS 83
						210-1717
						LAMBERT COORDINATES
					STATUS	42005-1-B

EXHIBIT 'B'



[Signature]
 JOHN S. COFFEY LS 8733
 COFFEY ENGINEERING, INC.

RESOLUTION NO. _____
 ADOPTED _____
 DOCUMENT NO. _____
 RECORDED _____

DRAINAGE AND SEWER EASEMENT RESERVATION

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S.#
ORIGINAL	CE				SHEET 2 OF 3 SHEETS	639934
					FOR CITY ENGINEER	1850-6277
					DATE	CCS 83
						210-1717
						LAMBERT COORDINATES
					STATUS	42005-2-B

Passed by the Council of The City of San Diego on JUN 29 2021, 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"/>
Monica Montgomery Steppe	<input checked="" 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"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 JUN 29 2021

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

By Ginda Irwin, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 313642