



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

**SUBJECT: SUMMARY VACATION OF
THREE SANITARY SEWER
EASEMENTS**

DATE: 07-11-11

Approved

Date

7/15/11

COUNCIL DISTRICT: 4

RECOMMENDATION

Adopt a resolution summarily vacating three sanitary sewer easements lying on the property owned by Win Time @ First, LLC, a California limited liability company (APN 097-14-094) between Holger Way (private street) and State Route 237, east of North First Street.

OUTCOME

Approval of this recommendation would remove the encumbrance and allow the construction of a 157-room hotel to proceed on the property.

BACKGROUND

A Conditional Use Permit, CP10-059, to construct a 157-room hotel has been approved for the property. In order to allow the construction of the proposed hotel to proceed, existing easements need to be vacated.

A current title report indicates that there are three (3) existing sanitary sewer easements (SSEs) within the property. These easements were created through the recordation of a Grant of Easement on July 25, 1972 in Book 9939, Page 119, an Easement Grant Deed on April 5, 1983 in Book H453, Page 579, and a Parcel Map on August 14, 2007 in Book 817 of Maps at Pages 23 and 24, Santa Clara County Records.

Kier & Wright Civil Engineers & Surveyors submitted an application on behalf of the property owner, Win Time @ First, LLC, a California limited liability company, to vacate these SSEs as shown on the attached map.

ANALYSIS

Staff has determined that the subject SSEs lying within the private property are no longer needed for public purposes. The SSEs have been superseded by relocation and the City has obtained a new sanitary sewer easement along the new alignment. There are no other public utility companies' facilities within the easements. As a result, the subject easements may be summarily vacated per the Streets & Highways Code, Section 8333(c).

Additionally, according to a recorded Grant Deed provided by First American Title Company, Win Time @ First, LLC, is the underlying fee owner of the property with the subject easements. Upon recordation of the vacation, the SSEs will be removed from the property and no further action by the City will be required.

EVALUATION AND FOLLOW-UP

This project addresses Public Works performance measures to maintain a 100% cost-recovery program by charging service fees to pay for the staff time involved in the easement vacation process.

If Council adopts this resolution summarily vacating the subject easements, no further action by the City will be required.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the criteria above. The public was afforded the opportunity to comment on the proposed vacation during the April 20, 2011 Planning Commission meeting. This memorandum will be posted to the City's website for the August 2, 2011 Council agenda.

COORDINATION

The vacation has been coordinated with the Department of Planning, Building, and Code Enforcement, the Department of Transportation and the City Manager's Budget Office. The vacation and required resolution have been reviewed by the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

Vacating the SSEs is in alignment with the Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

COST SUMMARY/IMPLICATIONS

The Public Works Department has collected cost-recovery fees of \$3,370 to process the vacation of the subject easements. These fees were deposited into the General Fund as part of the Public Works Development Services Fee program in 2010-2011.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Addendum to the North San Jose Development Policies Update Final EIR, CP10-059.

/s/

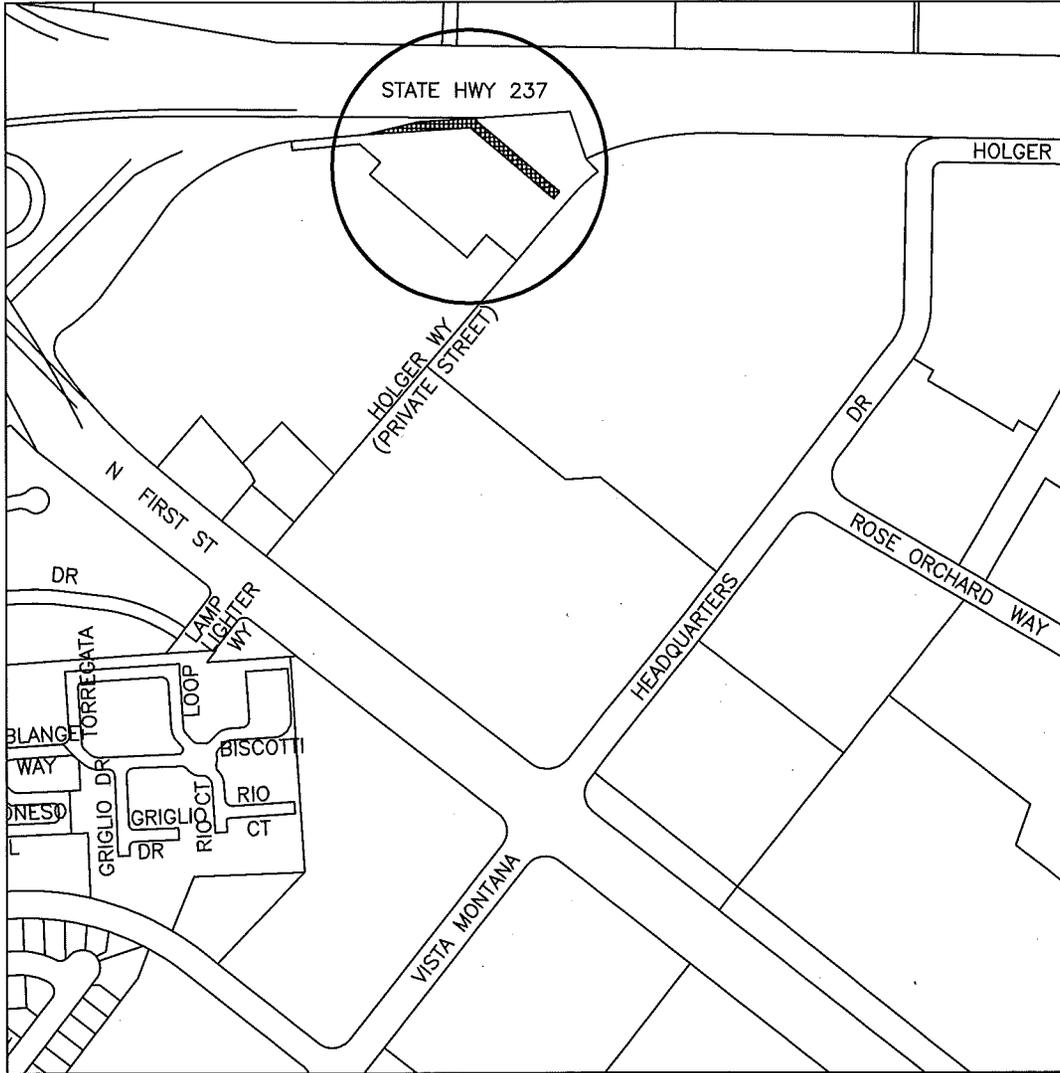
DAVID SYKES
Acting Director of Public Works

For questions please contact HARRY FREITAS, DEPUTY DIRECTOR, at 408-535-8300.

PD:RD:sh
Attachment

LOCATION MAP

SHOWING THE TOTAL AREA OF THE THREE SANITARY SEWER
EASEMENTS TO BE VACATED



AREA TO BE VACATED

