



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes

**SUBJECT: SUMMARY VACATION OF  
A PORTION OF A PEDESTRIAN  
ACCESS EASEMENT**

**DATE:** 07-18-11

Approved

Date

7/28/11

**COUNCIL DISTRICT:** 3

## **RECOMMENDATION**

Adopt a resolution summarily vacating a portion of a 40-foot Public Pedestrian Access Easement lying on the property owned by the Redevelopment Agency of the City of San José, a public body corporate and politic, located at 150 South Second Street (APN 467-22-156).

## **OUTCOME**

Approval of this recommendation would remove the encumbrance and allow for the sale of the property.

## **BACKGROUND**

The Redevelopment Agency of the City of San José (the Agency) is currently preparing the property located at 150 South Second Street (APN 467-22-156) for sale to a potential buyer. The property is currently a surface parking lot and is bounded by a mixed-use high-rise development to the north, South Third Street to the east, the Paseo De San Antonio and San José Repertory Theatre to the south, and South Second Street to the west (see attached location map). During discussions regarding a potential sale of the property, it was identified that an encumbrance exists that should be removed in order to facilitate the sale of this property.

A current engineering survey indicates that a portion, 5.42-feet wide, of a 40-foot wide Public Pedestrian Access Easement exists within the property. The easement was created through the recordation of a Parcel Map recorded June 12, 2003, in Book 761 of Maps at Pages 32 and 33, Santa Clara County Records.

## **ANALYSIS**

Staff has determined that the subject portion of the 40-foot Public Pedestrian Access Easement is not needed for public purposes. This portion has not been used for the purpose for which it was

dedicated or acquired for five consecutive years immediately preceding the proposed vacation. There are no public utility companies' facilities within the subject portion. So, the subject portion of the easement may be summarily vacated per the Streets & Highways Code, Section 8333(a).

According to the title report issued by First American Title Company, the Agency is the underlying fee owner of the property. Upon recordation of the vacation, the subject portion of the easement will be removed from the property and no further action by the City will be required.

### **EVALUATION AND FOLLOW-UP**

If Council adopts this resolution summarily vacating the subject portion of a 40-foot Public Pedestrian Easement, 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. This memorandum will be posted to the City's website for the August 9, 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 subject portion of a 40-foot Public Pedestrian Easement is in alignment with the Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

**COST SUMMARY/IMPLICATIONS**

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.

The Public Works Department collected cost-recovery fees in 2010-2011 of \$3,370 to process the subject vacation. These fees were deposited into the Public Works Development Services Fee Fund (Fund 001).

**BUDGET REFERENCE**

Not applicable.

**CEQA**

Exempt, File No. PP11-060.

/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 PORTION OF THE PUBLIC PEDESTRIAN ACCESS  
EASEMENT TO BE VACATED



AREA TO BE VACATED

