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City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**RESOLUTION CONDITIONALLY VACATING BY THE CITY OF OAKLAND A PORTION OF THE PUBLIC RIGHT-OF-WAY OF 22ND STREET AT THE SOUTHEAST CORNER OF ITS INTERSECTION WITH TELEGRAPH AVENUE; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS**

**WHEREAS**, pursuant to California Streets and Highways Code Section 8300 et seq., a public meeting was held by virtual attendance, on the Zoom platform, on April 20, 2021 beginning at 1:30 p.m. local time to receive supporting evidence and public comments on this proposed resolution conditionally vacating a portion of 22nd Street at the southeast corner of its intersection with Telegraph Avenue; and

**WHEREAS**, pursuant to California Streets and Highways Code Sections 8312 and 8355, W/L Telegraph Owner, LLC, owner and developer of the adjacent property located at 2100 Telegraph Avenue (“Developer”) has filed an application (PPE 200052) with the City Engineer of the City of Oakland and paid fees required by the Master Fee Schedule requesting that the Council of the City of Oakland vacate said portion of 22nd Street, as delineated by the metes and bounds in *Exhibit A*, and shown in the maps attached hereto as *Exhibit B*; and

**WHEREAS**, the Developer has received entitlements for a mixed-use Planned Unit Development located at 2100 Telegraph Avenue, case file PLN16440 and ER16011, approved by the City Planning Commission on July 18, 2018; and

**WHEREAS**, in accordance with Government Code section 65402, the City Planning Commission has considered the partial vacation for conformity with the City’s General Plan, and has determined that the location, purpose, and extent of the proposed vacation conform with the General Plan; and

**WHEREAS**, said land area proposed for vacation, which comprises 3,075 square feet of land area (planner projection), will be added by the Alameda County Assessor to the general levy of property taxes, a portion of which will accrue to the City of Oakland; and

**WHEREAS**, said land area proposed for vacation will be removed from the inventory of public streets maintained by the City of Oakland; and

**WHEREAS**, the City Engineer has determined that the City of Oakland acquired the fee simple interest to said portion of 22nd Street proposed to be vacated through grant deed, recorded January 13, 1940, in reel 3880, image 320 of Alameda County records, and through judgment quieting title, filed on March 4, 2020, by the clerk of the Alameda County Superior Court; and

**WHEREAS**, pursuant to California Streets & Highways Code section 8348, the City Engineer has informed public utilities serving the property abutting 22nd Street of the City's intention to vacate said portion of 22nd Street; and

**WHEREAS**, the City Engineer has determined that the proposed vacation of said portion of 22<sup>nd</sup> Street will not adversely impact current or future traffic, pedestrian, or non-motorized access to the adjoining and surrounding real properties; and

**WHEREAS**, the portion of 22nd Street proposed for vacation is wholly located within the corporate limits of the City of Oakland; and

**WHEREAS**, the Developer, through a separate ordinance being considered by the City Council, plans to enter into a purchase and sale agreement with the City of Oakland to purchase the vacated property; and

**WHEREAS**, pursuant to California Streets and Highways Code Sections 8317, 8322, and 8323, facsimiles of the newspaper publication and public posting, attached hereto as *Exhibit C*, and an affidavit, attached as *Exhibit D*, confirm that the City Engineer completed the statutory requirements for notifying the public of the City's intention to vacate a portion of 22nd Street and of the location, date, and time of public hearing to receive supporting evidence and public comments for the proposed vacation; and

**WHEREAS**, the proposed partial vacation of 22nd Street relies on the Eastline Project – 2100 Telegraph Final Environmental Impact Report (“EIR”), certified by the City Planning Commission on July 18, 2018; and

**WHEREAS**, the proposed partial vacation of 22nd Street would not result in any significant effect that has not already been analyzed in the EIR, and there will be no significant environmental effects caused by the partial vacation that have not already been analyzed in the EIR; and

**WHEREAS**, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163 are present, in that (1) there are no substantial changes proposed to the project or the circumstances under which the project is undertaken that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the EIR; and (2) there is no new information of substantial importance, as defined in CEQA Guidelines section 15162(a)(3); and

**WHEREAS**, pursuant to California Streets and Highways Code Section 8324, the Council of the City of Oakland may apply conditions for the vacation of public right-of-way and may instruct the

City Clerk not to record a vacation until the conditions have been satisfied; now, therefore, be it

**RESOLVED:** That the vacation to the City of Oakland of a portion of 22nd Street at the Southeast corner of its intersection with Telegraph Avenue complies with requirements of CEQA in that the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163 are present because: (1) there are no substantial changes proposed to the project or the circumstances under which the project is undertaken that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the EIR; and (2) there is no new information of substantial importance, as defined in CEQA Guidelines section 15162(a)(3); and be it

**FURTHER RESOLVED:** That the metes and bounds attached hereto at *Exhibit A* and the maps attached hereto as *Exhibit B* do fully delineate the metes and bounds of the section of public right-of-way proposed for vacation; and be it

**FURTHER RESOLVED:** That in accordance with Government Code section 65402, the City Council finds that the partial vacation conforms with the City's General Plan, and that the location, purpose, and extent of the proposed vacation conform with the General Plan; and be it

**FURTHER RESOLVED:** That the conditional vacation of said portion of 22<sup>nd</sup> Street will not adversely impact current or future traffic, pedestrian, or non-motorized access to the adjoining and surrounding real properties; and be it

**FURTHER RESOLVED:** That the conditional vacation by the City of Oakland of a portion of 22nd Street at the Southeast corner of its intersection with Telegraph Avenue, as delineated in *Exhibit A* and *Exhibit B* is hereby ordered; and be it

**FURTHER RESOLVED:** That this order of conditional vacation shall expire by limitations and become void in the event that the Developer and its representatives, heirs, successors, assigns and successive owners of said vacated portion of 22nd Street fail to complete all of the following required actions within each of the time limitations set forth below:

- a. within three (3) years following adoption of this resolution, file complete infrastructure permit applications with the City of Oakland, pay applicable fees and provide required security deposits for the relocation of existing and the installation of new public infrastructure improvements, which include, but are not limited to, potable water piping, natural gas piping (if permitted), fuel oil piping (if permitted), sanitary sewer and storm drain piping, electrical and communications cabling, sidewalk, curb, gutter, storm water catchments, parking meters, roadway striping, traffic control devices, horizontal control monumentation, street lighting, street trees, and irrigation; and
- b. within five (5) years following adoption of this resolution, obtain final approvals from the City Engineer of the City of Oakland for said required infrastructure permits; and be it

**FURTHER RESOLVED:** That the City Clerk shall not record this Resolution unless and until all of the above conditions are satisfied to the satisfaction of the City Engineer; and be it

**FURTHER RESOLVED:** That pursuant to California Streets and Highways Code section 8325, this order of vacation shall not be complete unless and until this resolution has been filed for recording with the Alameda County Clerk-Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

- Exhibit A:*** Metes and Bounds of 22nd Street Vacation
- Exhibit B:*** Map of 22nd Street Vacation
- Exhibit C:*** Public Noticing
- Exhibit D:*** Affidavit