

APPROVED AS TO FORM AND LEGALITY

DRAFT

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION VACATING A PORTION OF THE PUBLIC SEWER EASEMENT AT 2359 HARRISON STREET TO THE PROPERTY OWNER, NASH – HOLLAND 24TH AND WAVERLY INVESTORS, LLC, AND ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

WHEREAS, NASH – Holland 24th and Waverly Investors, LLC, (Owner) is the owner of the Parcel and which is described in a Grant Deed, recorded July 28, 2021, Series No. 2021-260952, by the Alameda County Clerk-Recorder, and which is further identified by the Alameda County Assessor as parcel numbers 008-0670-017, 008-0670-018, 008-0670-001, 008-0670-002, 008-0670-003, 008-0670-004, 008-0670-015, and 008-0670-016 (Subject Property); and

WHEREAS, there is an existing public sewer easement on the Subject Property located at 2359 Harrison Street (Easement) and more particularly described in attached **Exhibit A** (Legal Description) and **Exhibit B** (Graphic Delineation); and

WHEREAS, said Owner obtained Building permit number B2100632 for construction of a mixed-use building with three hundred thirty (330) residential units, including fifteen (15) very low income units, and thirteen thousand (13,000) square feet of retail space (PLN 20-082)

WHEREAS, the proximity of the Easement to said building is such that the proposed structure will encroach into the existing Easement; and

WHEREAS, the Owner has filed an application (PPE2200051) with the City of Oakland, as required by the California Streets and Highway Code, and paid all fees as required by the Master Fee Schedule, requesting that the Council formally summarily vacate a portion of the Easement no longer needed for public purposes; and

WHEREAS, under California Streets and Highways Code section 8320, the legislative body of a local agency may vacate a public utilities easement after having been subjected to a public hearing and public notice for a minimum of two consecutive weeks prior to said hearing; and

WHEREAS, in accordance with Government Code section 65402, the Planning Commission considered the proposed vacation and found it to be consistent with the General Plan; and

WHEREAS, in accordance with Streets and Highways Code section 8313, the City Council has considered the proposed vacation and finds that it conforms to the General Plan; and

WHEREAS, the Director of the Department of Transportation had determined that the Easement to be vacated is no longer necessary for any existing or future public purpose; and

WHEREAS, Staff recommends the City Council find and determine that the vacation is categorically exempt from the requirements of CEQA pursuant to Title 14 California Code of Regulations Section 15305 as a minor alteration in land use limitations; now, therefore, be it

RESOLVED: That the City Council has reviewed all relevant documents relating to its grant of the utilities easement vacation that is the subject of this Resolution, and finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and be it

FURTHER RESOLVED: That the City Council finds and determines that the vacation is categorically exempt from the requirements of CEQA pursuant to Title 14 California Code of Regulations Section 15305 as a minor alteration in land use limitations; and be it

FURTHER RESOLVED: The the City Administrator, or his designee, is authorized to file a Notice of Exemption with the County of Alameda; and be it

FURTHER RESOLVED: That the vacation of the Easement, is described and delineated in the attached **Exhibit A** and **Exhibit B**; and be it

FURTHER RESOLVED: That this Resolution shall take effect immediately upon the approval of the City Council and recordation of this resolution with the Office of the Alameda County Recorder; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder within three-hundred and sixty-five (365) consecutive days following approval of this Resolution by the Council of the City of Oakland; and be it

FURTHER RESOLVED: That the City Administrator is hereby directed to file a certified copy of this Resolution for recordation with the Office of the Alameda County Recorder as an encumbrance of the title of the Subject Property.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, 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: Legal Description of the Public Right of Way Proposed for Vacation.

Exhibit B: Graphic Delineation of the Public Right of Way Proposed for Vacation.

EXHIBIT A

Legal Description of Public Right of Way Proposed for Vacation



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EXHIBIT "A"

VACATION OF A PORTION OF A 5' PUBLIC SANITARY SEWER EASEMENT Lands of The Masri Family Limited Partnership A, L.P.

SITUATE in the State of California, County of Alameda, City of Oakland, and described as follows:

BEING a portion of the lands conveyed to The Masri Family Limited Partnership A, L.P., a California Limited Partnership, by Grant Deed, recorded as Document 2007023649, in the office of the County Recorder of Alameda County, hereinafter referred to as MASRI; and

BEING a portion of a Public Sanitary Sewer Easement, 5 feet wide, as said easement is described in that certain Deed to the City of Oakland, filed for Record on June 1, 1908 in Book 1458 of Deeds at Page 368, in the office of the County Recorder of Alameda County; and more particularly described as follows:

BEGINNING at the Southwest corner of Parcel 4 of the sixth-mentioned description of said lands of MASRI, said Parcel 4 also being Assessor's Parcel Number 008-0670-002; thence from said **POINT OF BEGINNING**, along a Westerly portion of said Parcel four the following three courses:

1. Along a line parallel with the Easterly sideline of Waverly Street, North $13^{\circ}04'10''$ East, 38.82 feet; thence
2. Along a line parallel with the Southerly sideline of 24th Street, North $76^{\circ}57'11''$ West, 10.00 feet; thence along a line parallel with said sideline of Waverly Street
3. North $13^{\circ}04'10''$ East, 5.00 feet; thence leaving the Westerly boundary of said Parcel 4
4. Along a line parallel with said sideline of 24th Street, South $76^{\circ}57'11''$ East, 72.50 feet to a point on the common line between the Easterly boundary of the first-mentioned description and the Westerly boundary of the second-mentioned description of said lands of MASRI; thence along said common boundary, parallel with said sideline of Waverly Street
5. North $13^{\circ}04'10''$ East, 46.18 feet; thence leaving said common boundary
6. Along a line parallel with said sideline of 24th Street, South $76^{\circ}57'11''$ East, 5.00 feet; thence
7. Along a line parallel with said sideline of Waverly Street, South $13^{\circ}04'10''$ West, 51.18 feet; thence
8. Along a line parallel with said sideline of 24th Street and 5.00 feet Southerly (measured at right angles) from the above-referenced Course No. 4, North $76^{\circ}57'11''$ West, 62.50 feet; thence
9. Along a line parallel with said sideline of Waverly Street, South $13^{\circ}04'10''$ West, 38.82 feet to a point on the Southerly boundary of said Parcel 4 of the sixth-mentioned description in said lands of MASRI; thence
10. Along said Southerly boundary, and along a line parallel with said sideline of 24th Street, North $76^{\circ}57'11''$ West, 5.00 feet to the **POINT OF BEGINNING** of this description.

EXHIBIT A (continued)

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This portion of the 5' wide Public Sanitary Sewer Easement to be vacated contains an area of 813 square feet, more or less.

The Basis of Bearings of this description is Grid North, California State Plane Coordinates of 1927, per coordinates of monuments found in Waverly Street as shown on monument card data (9 SW6 and 9 SW 9) obtained from the City of Oakland.

Being portions of Alameda County Assessor's Parcel Nos. 008-0670-002, 008-0670-003, & 008-0670-004.

Description prepared by BKF Engineers, in October, 2020.

As shown on plat entitled, "EXHIBIT B", attached hereto and by this reference made a part hereof.

Signed David Darling 10/28/2020
Dated



EXHIBIT B

Graphic Delineation of the Public Right of Way Proposed for Vacation

