

ORDER OF VACATION NO. 905

**ORDER VACATING AND CLOSING A PORTION OF GIANT HIGHWAY, PUBLIC
RIGHT-OF-WAY EASEMENT, A PORTION OF LOTS 1 AND 2 OF THE PINOLE
POINT BUSINESS PARK, LOCATED AT 2100 ATLAS ROAD
(PLN 10-215)**

WHEREAS, the City Council of the City of Richmond did on the 1st day of February, 2011, duly pass and adopt Resolution of Intention No. 905 to order the vacation and closing to public use of a 41,800 SF portion of Giant Highway in the City of Richmond, County of Contra Costa, State of California, as shown on the map entitled “ Giant Highway Street Vacation” now on file in the City Clerk’s Office of the City of Richmond, particularly described in said Resolution of Intention No. 905 and more particularly described in Exhibits A and B attached hereto and incorporated herein and hereafter referred to as the “area to be vacated,” consisting of a legal description and map of the area attached hereto and made a part hereof; and

WHEREAS, a notice of passage of said Resolution of Intention No. 905 and of the time and place of hearing all persons interested or objecting to the proposed vacation of said portion of Giant Highway was duly and regularly given by the publishing of said Resolution of Intention No. 905 in the West County Times, in the manner prescribed by law, as appears from the affidavit of publication now on file in the office of the City Clerk of the City of Richmond; and

WHEREAS, not less than 15 fifteen (15) days have elapsed since the date of passage of said resolution of Intention No. 905; and

WHEREAS, on Tuesday, the 1st day of March, 2011, in the City Council Chambers of the City of Richmond, said time and place being the time and place fixed for hearing all persons interested in or objecting to the proposed vacation of said portion of said street referred to in Resolution of Intention No. 905, the City Council proceeded with said hearing and heard all of the evidence offered at said hearing; and

WHEREAS, the Council of the City of Richmond now finds from all the evidence submitted that no portion of said street to be vacated in these proceedings is a State highway and that, for the following reasons, said street is not necessary for present or prospective public street purposes and should be vacated and closed to public use; and

WHEREAS, the owners of Pinole Business Park have agreed to provide the necessary easements for utilities; and

WHEREAS, on January 13, 2011, the City Clerk administratively set the public hearing for the City Council to consider the proposed vacation for March 1, 2011 pursuant to the Streets and Highways Code Section 8320; and

WHEREAS, notice of the hearing on the proposed street vacation as described on Exhibits A and B was duly published and posted as required by Streets and Highways Code Section 8322 and 8323; and,

NOW, THEREFORE, IT IS HEREBY ORDERED THAT THE PORTION OF SAID STREET Referred to in Resolution of Intention No. 905 and herein particularly described is hereby vacated and closed.

IT IS FURTHER ORDERED THAT:

1. The City Council finds, based on all the evidence submitted, that the portion of Giant Highway described in the legal description and street vacation map attached hereto, as Exhibits A and B, is not necessary for present or prospective transportation needs and is hereby vacated subject to the following conditions:
 - a. An encroachment permit shall be obtained prior to any work commencing within the public right-of-way. All work within the public right-of-way shall

be subject to review and approval by the City Engineer and the Planning and Building Services Director.

- b. The following language shall be added to the legal description, “EXCEPTING AND RESERVING THEREFROM PURSUANT TO THE PROVISIONS OF SECTION 8340 of the Street and Highways Code and for the benefit of City of Richmond (“City”), the permanent easement and the right at any time or from time to time to construct maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cable, wires, poles and other convenient structures, equipment and fixtures for the operation of sanitary sewer, including access and the right to keep the property free from inflammable materials and wood growth, and otherwise protect the same from all hazards, in, upon, over and across the area to be vacated”, prior to recordation, unless otherwise approved by the City Engineer.
 - c. An improvement plan detailing how the public and private street will be delineated shall be submitted for review and approval by City Engineer. Improvements shall be made prior to recordation of the street vacation.
 - d. Upon vacation of the portion of said street and transfer of ownership, the new property owner shall have all properties adjoining the vacated right-of-way and granted to them, registered under a single parcel number at the Contra Costa County Recorder’s office. All existing easements shall be carried forward on the new parcel map. A copy of said recordation shall be submitted to the Planning Director within one month of the recordation of the Order of Vacation.
 - e. Prior to the recordation of the Order of Vacation, the applicant shall submit the appropriate fee to the Engineering Department for review and approval of the public right of way abandonment.
 - f. Upon vacation of the portion of said street and transfer of ownership, the new owner shall be responsible for installation of drainage system(s) for street water to drain properly on Giant Highway. All improvements shall be constructed to City standards subject to review and approval by the City Engineer.
2. The City Clerk is hereby directed to record this order declaring vacation of the subject portion of Giant Highway described in Exhibits A and B in the Office of the Contra Costa County Recorder only after conditions required by the City Council have been satisfied.

I certify that the foregoing order of vacation was passed and adopted by the City Council of the City of Richmond, California, at a regular meeting thereof held March 1, 2011, by the following vote:

AYES: Councilmembers Beckles, Booze, Ritterman, Rogers, Vice Mayor Butt, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Bates.

DIANE HOLMES
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Order of Vacation No. 905**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on March 1, 2011.