

**RESOLUTION NO. 2015-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY, CALIFORNIA, ORDERING THE CONDITIONAL VACATION OF PORTIONS OF “A” STREET, “B” STREET, A PUBLIC ALLEY, AND THE CONDITIONAL VACATION OF PUBLIC HIGHWAY AND PUBLIC UTILITY USES ON PORTIONS OF LOTS 132 AND 133, ALL AS SHOWN ON THE MAP OF CATHEDRAL CITY, FILED IN BOOK 13, AT PAGES 24 THROUGH 26 OF MAPS, RECORDS OF RIVERSIDE COUNTY, ALL LOCATED SOUTH OF EAST PALM CANYON DRIVE AND EAST OF VAN FLEET AVENUE (VACATION NO. 2015-02)**

**WHEREAS**, there are shown on the official maps of the City of Cathedral City, California, certain public streets, alleys and public service and utility easements located at the southeast quadrant of East Palm Canyon Drive and Van Fleet Avenue, in which area the former Redevelopment Agency (RDA) of the City of Cathedral City acquired a number of lots and parcels for the purposes of removal of blight and to redevelop the area with new mixed use developments; and

**WHEREAS**, in 2006, the majority of these lots were consolidated into a single parcel by the Redevelopment Agency by the recordation of Parcel Map No. 32932, for a proposed hotel development; and

**WHEREAS**, in January, 2008, this parcel was conveyed to the City Urban Revitalization Corporation (CURC), and in March, 2015, CURC entered into a sale and development agreement with the Saxony Group for the construction of a hotel on the land. Saxony subsequently submitted a Planning Department application for the hotel under Design Review Case No. 2015-004; and

**WHEREAS**, the sale and development agreement contemplates the developer's possible acquisition of several privately owned parcels in the vicinity of the proposed hotel, and the development of the hotel, as now proposed, especially if the privately owned parcels are acquired, will require the vacation of the remaining streets and alley in the area south of east Palm Canyon Drive and east of Van Fleet Avenue; and

**WHEREAS**, the City of Cathedral City, has been requested to vacate certain public streets, alley, and easements in the area southerly of East Palm Canyon and east of Van Fleet Avenue, so that the hotel development may proceed; and

**WHEREAS**, pursuant to the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California (said part being the Public Streets, Highways, and Service Easements Vacation Law), and subject to Section 892 of the Streets and Highways Code, this Council, on October 14, 2015, adopted Resolution No.

2015-56, declaring its intention to vacate those portions of "A" Street, "B" Street, a public alley between "A" Street and "B" Street, and certain other public highway and public utility easements, as more particularly described in Exhibit "A", and shown in the sketch marked Exhibit "B", which are attached to and made a part of this Resolution, and to conduct a public hearing thereon on Monday, November 16, 2015; and

**WHEREAS**, this Council, on November 16, 2015, after publishing and posting of due notice thereof, did conduct a public hearing into this matter, and after closing of the public hearing, did find and determine that all other legal requirements of said Public Streets, Highways, and Service Easements Vacation Law had been complied with, and that all applicable requirements of the California Environmental Quality Act (CEQA) had been complied with; and

**WHEREAS**, it was found that certain public utility facilities exist in and over portions of the streets, alley and easements described in said Exhibit "A", and shown in Exhibit "B", which their owners desire to be protected by the reservation of utility easements or other means; and

**WHEREAS**, certain of the street and public utility dedications on the parcels described in Exhibit "A" were made in fee simple, and upon vacation of the public street, highway or utility uses on such parcels, the parcel will remain in the ownership of the City of Cathedral City, and such parcels will thus become surplus land, unnecessary to the needs of the City.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1. FINDINGS:** The City Council finds and determines that:

- a. The public streets, highways, alley and public highway and public utility easements described in the attached Exhibit "A" and shown on Exhibit "B" are unnecessary for any present or prospective use.
- b. Pursuant to Section 892 of the State Streets and Highways Code, the said public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A" are not, and will not in the future be useful as a non-motorized transportation facilities as defined in Section 887 of the said Streets and Highways Code.
- c. The vacation of the said public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A" is exempt from the requirement for an environmental finding pursuant to the General Rule in the California Environmental Quality Act (CEQA) Guidelines, Sec. 15061(b)(3), because it can be seen with certainty that the proposed vacations have no possibility of a significant effect on the

environment based upon the evidence presented in the Staff Report.

d. The vacation of the alley, between “A” Street and “B” Street, as described in Exhibit “A”, meets the criteria for alley vacation approval as set forth in City Council Minute Order No. 867, adopted on August 17, 1988.

e. The vacation of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit “A” is consistent with the General Plan because the streets and alley involved are local streets only, which are not shown or mapped in the Circulation Element of the City’s adopted General Plan.

f. Letters were sent to all utility companies active in the general area, asking for their comments or objections to the proposed vacations of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit “A”, and asking that they notify the City if any of their utility facilities would be affected.

g. Public Notices for the public hearing were duly published in the Desert Sun newspaper for two successive weeks, on October 30, 2015 and on November 6, 2015, and Public Notices and copies of the Resolution of Intention for the public hearing were duly posted on October 28, 2015, along the portions of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit “A” considered for vacation, in accordance with the Streets and Highways Code, and all other proceedings and procedures were similarly performed and done pursuant to the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, said Part 3 being the “Public Streets, Highways, and Service Easements Vacation Law”.

h. The land noted as Vacation Area #4, as described in Exhibit “A”, attached hereto, was dedicated to the County of Riverside in fee simple, and is now the property of the City through incorporation, and upon vacation of the public highway, street or public utility uses on said land, and the recordation of a resolution evidencing such vacation, this area will be unnecessary for any present or prospective public use and will become surplus public property.

i. Upon the vacation of the public highway, street or public utility uses on Vacation Area #4, and in accordance with Sections 37350 and 37351 of the Government Code and Section 8355 of the Streets and Highways Code, the said area will be of value only to the abutting parcel, and may be disposed of by the City as surplus public property to the owner of the said abutting parcel, by deed or deeds executed on behalf of the City by the City Manager.

j. The City General Plan does not apply to the disposal of the surplus public property as outlined and described in Section 1 (h) and 1 (i) above because all such parcels are on

local streets, which are not shown or mapped in the Circulation Element of the City's adopted General Plan.

I. The disposal of the surplus public property as outlined and described in Section 1 (h) and 1 (i) above will be for the benefit of the City of Cathedral City.

**SECTION 2. RESERVATION:** The City Council also finds and determines that there are existing utilities in all the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A", and therefore, pursuant to Section 8340 of the Streets and Highways Code, a public utility easement over, under, across and through those portions of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A" shall be reserved as required from the vacation of each said street, alley or easement, for the maintenance, operation, replacement, removal, renewal or enlargement of overhead or underground public utility facilities, telephone and communication facilities, electrical and power transmission and distribution facilities, cable television and communication lines, and appurtenances, whether existing or to be constructed in the future. A legal description of any such reservation will be included in each final resolution of vacation to be recorded.

This public utility reservation shall not be required for the vacation of any portions of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A" if the utility facilities within the said portions of streets, alley or easements are removed, relocated or otherwise cleared from the streets, alley or easements such that their owners no longer require the utility reservation.

**SECTION 3. CONDITIONS:** The City Council finds and determines that the public safety, convenience and orderly development of the area requires that the City Clerk shall NOT consent to nor order the recordation of this Resolution or any other written instrument evidencing the completion of the vacation process on any portion of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A" until such time as the City Engineer and/or the City Manager have certified in writing to the City Clerk that one or more of the following conditions have been met:

a. that suitable utility easements have been reserved by the City to protect any existing utility facility in any portion or segment of street, highway, alley or highway easement or other easement to be vacated; or

b. that suitable utility easements have been granted to the appropriate utility companies, to protect any existing utility facility, by the abutting owner or other party to whose ownership the vacated street or alley would revert upon final vacation; or

c. that the utility facilities within the said portions of streets, alley or easements have been removed, relocated or otherwise cleared from the streets, alley or easements,

or that financial arrangements have been made with their owners for such removals, relocations or clearance, such that the utility owners no longer require the utility reservation.

**SECTION 4. VACATION IN PORTIONS OR SEGMENTS:** The City Council hereby authorizes the vacation of the public streets, highways, alley and public highway and public utility easements as described in the attached Exhibit "A" to be done in multiple portions, segments or pieces, subject to Section 3 above, by the recordation of one or more of the Resolutions, hereby approved, in the form and content attached hereto as Exhibit "C". Any such Resolution shall have included in it a legal description of the portion, segment or piece of the street, highway or easement being vacated, and shall be processed and recorded as described in the following Section 5.

**SECTION 5. RECORDATION OF RESOLUTIONS:** The City Clerk is hereby directed to cause the Resolutions in the form set forth in the attached Exhibit "C", describing the exact portion, segment or piece of the street, alley or easement being vacated, along with a description of any utility or easement reservations, attested by him under seal, to be recorded in the office of the County Recorder, ONLY upon receipt by the City Clerk of the written certification described in Section 3 above. Upon such receipt by the City Clerk of the written certification, each Resolution in the form as shown in Exhibit "C" is hereby authorized to be signed by the Mayor and City Clerk and necessary City Staff persons, without the need for a subsequent Council meeting. Each such Resolution to be recorded shall bear the same resolution number as this Resolution, followed by a "dash" and sequential letter, For example, if this Resolution is adopted and numbered 2015-950, then the first recorded resolution would be numbered 2015-950-A; the second would be numbered 2015-950-B, and so on.

**SECTION 6: EFFECT OF RECORDATION:** Upon the recordation of any of the Resolutions described above, the portions, segments or pieces of public rights of way or easements described therein shall no longer constitute a public street, highway, alley or easement in this City and they shall be formally vacated as specified in Sections 8335(b)(4) and 8336 of the State Streets and Highways Code.

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**APPROVED AND ADOPTED** at a regular meeting of the City Council for the City of Cathedral City held this \_\_\_\_ day of November, 2015, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

\_\_\_\_\_  
**Stanley E. Henry, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Gary F. Howell**  
**City Clerk**

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
**Charles R. Green**  
**City Attorney**

\_\_\_\_\_  
**John A. Corella**  
**City Engineer**

**APPROVED:**

\_\_\_\_\_  
**Charles P. McClendon**  
**City Manager**

**Resolution Attachments:**

**Exhibit A: Legal Description of street, highway, alley and highway and public utility Segments to be vacated**

**Exhibit B: Sketch of Streets and alley proposed for vacation**

**Exhibit C: Form of Resolution for vacating portions or segments of streets, highway, alleys, and highway and public utility easements**

