

ORDER OF VACATION NO. 893

ORDER VACATING AND CLOSING A PORTION OF EMBARCADERO AVENUE WHICH INTERSECTS THE BIO RAD PROPERTY AT 3110 REGATTA BLVD IN THE CITY OF RICHMOND, CALIFORNIA

WHEREAS, the City Council of the City of Richmond did on the 31st day of January 2006, duly pass and adopt Resolution of Intention No. 893 N.S. stating their intention to order the vacation and closing to public use of a ±15,000 SF portion of Embarcadero within the Bio-Rad Facilities at 3110 Regatta Blvd. and in the City of Richmond, County of Contra Costa, State of California, as shown on the map entitled “EXHIBIT “A” EMBARCADERO STREET VACATION” now on file in the City Clerk’s Office of the City of Richmond, particularly described in said Resolution of Intention No. 893 N.S. and more particularly described in the Legal Description attached hereto and made a part hereof;

WHEREAS, a notice of the passage of said Resolution of Intention No. 893 N.S. and of the time and place of hearing all persons interested in or objecting to the proposed vacation of said portion of said street was duly and regularly given by the publishing of said Resolution of Intention No. 893 N.S. 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, printed notices entitled “NOTICE OF VACATION” were duly and regularly posted as required by law, along the lines of said portion of said street to be vacated, at the time, in the form, manner and number, and in all respects as provided by law, as appears from the affidavit now on file in the office of the City Clerk of the City of Richmond; and

WHEREAS, not less than fifteen (15) days have elapsed since the date of passage of said Resolution of Intention No. 893 N.S. and

WHEREAS, Tuesday, the 31st day of January, 2006, at 7:00 p.m. of said day, in the Council Chambers of the Council of the City of Richmond, City Hall, Richmond, California, 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 alley referred to in Resolution of Intention No. 893 N.S., the 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 of 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 for the following reasons:

1. Access and provision of utility services to properties adjoining the subject right-of-way can be adequately served via an easement over private property as proposed.
2. The unimproved alley intersects private property and has been fenced from public access, jointly maintained and utilized by the adjoining property owners for a considerable period of time and it has not been maintained by the City. Vacating the alley will enable the efficient and appropriate development of the adjoining residential properties while maintaining access to public utilities. It will also relieve the City from future development and maintenance responsibilities (utilities will still be maintained by the applicable utility company/agency), as well as, other potential liabilities.

NOW, THEREFORE, IT IS HEREBY ORDERED that the portion of said street referred to in Resolution of Intention No. 893 N.S. and herein particularly described is hereby vacated and closed.

IT IS FURTHER ORDERED that:

1. EXCEPTING AND RESERVING THEREFROM PURSUANT TO THE PROVISIONS OF SECTION 8340 of the Street and Highway Code and for the benefit of Pacific Bell, 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 telegraphic and telephone lines and other communication facilities, 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 that portion of Embarcadero to be vacated.”
2. Bio-Rad shall grant the City a public access easement over the portion of Bio- Rad property outside of the relocated fence line for the purpose of constructing, operating and maintaining a public right-of-way, including without limitation, a non-vehicular recreation trail with related amenities to be used by the general public.
3. Bio-Rad shall relocate its gate and fence to conform to this agreement within 90 days after the final date of approval.
4. Bio-Rad shall create, install and maintain in good condition a “Meeker Tidal Creek Trail” sign similar to the sign placed on the other end of the trail by Richmond Wholesale Meat Company with the design and location of this sign to be approved by the City of Richmond Planning Department.
5. Bio-Rad shall maintain the entire area between the relocated fence and Meeker Slough with all improvements placed thereon, including the trail and landscaping, in good condition and repair at Bio-Rad’s sole cost and expense in accordance with condition C.5 of Bay Conservation and Development Commission Permit M92-1 dated February 19, 1992.
6. Bio-Rad shall provide metes and bounds legal descriptions and drawings illustrating the above public access easement and record all of the above requirements with the County Assessor and provide a copy of the recorded agreements to the City Attorney,

IT IS FURTHER ORDERED that the Clerk of the City of Richmond cause a certified copy of this Order, attested by said Clerk, under the seal of the City of Richmond, to be recorded in the office of the Recorder of the County of Contra Costa, State of California.

I certify that the foregoing order was passed and adopted by the Council of the City of Richmond, California, at a regular meeting thereof held March 7, 2006, by the following vote:

AYES: Councilmembers Bates, Butt, Griffin, Marquez, McLaughlin,
Rogers, Thurmond, Viramontes, and Mayor Anderson

NOES: None

ABSTENTIONS: None

ABSENT: None

SANDRA THOMPSON
Acting Clerk of the City of Richmond

(SEAL)

Approved:

IRMA L. ANDERSON
Mayor

Approved as to form:

JOHN EASTMAN
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. 893, finally passed and adopted by the Council of the City of Richmond at a regular meeting held on March 7, 2006, and published in accordance with law.