



## Legislation Text

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**File #:** ORD-27421, **Version:** 1

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7           ORDINANCE NO. 27421

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9           AN ORDINANCE vacating a portion of the alleyway between East

10   50th and East 51 st Streets, and a portion of East 51 st Street, more fully  
described as follows:

12           That portion of the alleyway lying between Block 2 and  
Block 3, together with the northerly 29.95 feet of East 51 st

13   Street abutting Block 3, all lands contained within the plat  
of THE CENTRAL PARK ADDITION TO TACOMA, filed

14   for record on January 31, 1889, in Volume 2, Page 111,  
records of Pierce County, Washington.

15

16           All lands contained within the Northeast Quarter of  
Section 22, Township 20 North, Range 3 East, W.M.

17   WHEREAS all steps and proceedings required by law and by

18

19   resolution of the City Council to vacate the portion of the street

20   hereinafter named have been duly taken and performed; Now,

21   Therefore,

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24

25   Ord10678.doc-KJC/bn

Req.#10678

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LEG 004 (11/89)

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BE IT ORDAINED BY THE CITY OF TACOMA:

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5 Section 1. That the City Council hereby adopts the Hearing

6 Examiner's Findings, Conclusions, and Recommendations as contained

7 in the Hearing Examiner's Report and Recommendation to the City

8 Council bearing File No. 124.1249, and dated August 31, 2005, which

9

Report is on file in the office of the City Clerk.

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Section 2. That a portion of the alleyway between East 50th and

11

12 East 51 st Streets, and a portion of East 51 st Street, more fully described

13 as follows:

14 That portion of the alleyway lying between Block 2 and

15 Block 3, together with the northerly 29.95 feet of East 51 st

16 Street abutting Block 3, all lands contained within the plat

of THE CENTRAL PARK ADDITION TO TACOMA, filed

17 for record on January 31, 1889, in Volume 2, Page 1 1 1,

records of Pierce County, Washington.

18 All lands contained within the Northeast Quarter of

19 Section 22, Township 20 North, Range 3 East, W.M.

20 is hereby vacated, and the land so vacated is hereby surrendered

21 and attached to the property bordering thereon, respectively, as a

22 part thereof, and all right or title of the City in and to the portion of

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25 Ord10678.doc-KJC/bn

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Req.#10678

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LEG 004 (11/89)

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4 the streets so vacated does hereby vest in the owners of the

5 property abutting thereon, all in the manner provided by law.

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7 Passed  
8 !AN I O  
9 4Wt(A  
10 Mayor  
11  
12 Attest:  
13  
14 City Clerk  
15  
16 Location: 1327 East 51st Street and 1329 East 51st Street  
17 Petitioner: Unique Construction, Inc.  
18 Vacation Request No. 124.1249  
19  
20 Approved as to form and legality: Property description approved:  
21  
22  
23  
24  
25 -Acting"Chie(,S@urveyor  
26 Assistant City Atigney  
Public Works Department  
Ord10678.doc-KJC/bn 3 - Req.#10678

LEG 004 (11/89)

Tacoma REQUEST FOR O"INANCE  
OR RESOLUTION  
CITY CLERK USE  
Request  
Ordinance  
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Resolution  
nf%  
1"05 SEP 2 2 AM 9: 3 1

1 - DATE: September 22, 2005 LI iY C IL E R ii" -3)

OrUICE

2. REQUESTING DEPARTMENT/DIVISION/PROGRAM

3. CONTACT PERSON (for questions): PHONE/EXTENSION

Hearing Examiner

Louisa Legg

5195

4. PREPARATION OF AN ORDINANCE IS REQUESTED FOR THE CITY COUNCIL MEETING OF TUESDAY, OCTOBER 18, 2005.

5. SUMMARY TITLE/RECOMMENDATION: (A concise sentence, as it will appear on the Council agenda.)

Petitioner: Unique Construction

File No: 124.1249

The petitioner is seeking to vacate that portion of the alleyway between East 50t" and East 5 l't Street, and a portion of East 5 l't Street in Tacoma.

LOCATION: 1327 East 5 1 " Street and 1329 East 5 l's' Street

6. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

7. FINANCIAL IMPACT:

A. FX@ N 0

B. F-@ YES OVER\$ 1 00,000, Fiscal Note Attached

C. YES, UNDER \$100,000, Provide funding source information below

FUNDING SOURCE: (Enter amount of funding from each source)

Fund Number & Name: State \$ City \$ Other \$ Total Amount

If an expenditure, is it budgeted? r-1 Yes F-1 No Where? Cost Center:

Acet #:

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

Source Documents/Backup Material

Location of Document

? Hearing Examiner Report and Recommendation

m Attached

? Departmental (Asset Management) Preliminary Report

0 Attached

9. ATTORNEY CONTACT: (Enter name of attorney with whom you've been working.)

10. Department Director/Utility Division Approval OMBA/Finance Director Approval )iree roval  
GSWebMg, lDocimews, Office of the City Clerk

(5104)

27421 C/

Tacoma City of lbcoma  
Hearing Examiner

August 31, 2005

Mr. Bill Relic  
Unique Construction, Inc.  
2316 891h Street Ct. SW  
Gig Harbor WA 98332

Re: Unique Construction

File No.: 124.1249 Street Vacation Petition

File Nos.: 40000046586 ("Rehe Plat" Preliminary Plat) and 40000047426 (Variance)

Enclosed please find a copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation (124.1249) and Decisions (40000046586 and 40000047426) with regard to the above-referenced matters as a result of a public hearing held August 16, 2005.

RODNEY M. KERSLAKE  
Hearing Examiner

/lal

Enclosures (2)

Cc: See attached mailing list

747 Market Street, Room 720 1 Tacoma, Washington 98402-3768 1 (253) 591-5195 1 Fax (253) 591-2003

MAILING LIST: BILL REHE, UNIQUE CONSTRUCTION  
FILE NOS. 124.1249; 40000046586; AND 40000047426

Cc: David Schroedel, AHBL, Inc., 2215 North 301h Street, STE 300, Tacoma WA 98403  
Robert Denomy, Attorney at Law, 950 Pacific Avenue, STE 630, Tacoma WA 98402  
Lloyd and Dolores Hamilton, 1315 E. 52dStreet, Tacoma WA 98404-2712  
Charlene Hill, 5011 E. "L" Street, Tacoma WA 98404-3627  
Scott Hansen, President, Puget Creek Restoration Society, 702 Broadway, Suite IO 1, Tacoma, WA 98402  
Sandra Collins, 1214 E. 50'h Street Tacoma WA 98406-3633  
James Conlin, 1307 E. 52dStreet, Tacoma WA 98404-2712  
Ann Crawford, 1401 E. 52 dStreet Tacoma WA 98404-2739  
Rose Jones, 1216 E 501h Street, Tacoma WA 98404-3633  
City Clerk (Clerk's Jacket 124.1249), City of Tacoma  
Legal Department (Civil Division), City of Tacoma (Molly Schmidt)  
Department of Public Works, City of Tacoma (Env. Svcs. Eng./Ryan Flynn)  
Department of Public Works, City of Tacoma (Solid Waste Mgmt./R. Coyne)  
Department of Public Works, City of Tacoma (Construction/LID/S. Simpson)  
Department of Public Works, City of Tacoma (LUA/P. Katich)  
Department of Public Works, City of Tacoma (BLUS/T. Dolan)  
Department of Public Works, City of Tacoma (BLUS/Jennifer Hansen)  
Department of Public Works, City of Tacoma (BLUS/Susan Coffinan)  
Department of Public Works, City of Tacoma (BLUS/Andrea Gates)  
Department of Public Works, City of Tacoma (Traffic Engineering/Kurtis Kingsolver)  
General Services Department, Asset Management, City of Tacoma (Rich Price)  
Tacoma Fire Department, City of Tacoma (Carl Anderson)  
Tacoma Power, City of Tacoma (New Svcs. Eng./Nick Tomanelli)  
Tacoma Water, City of Tacoma (Grant Whitley)  
TEDD, City of Tacoma (L. Wung)  
Pierce County Assessor-Treasurer, ATTN: Sally Bames, 2401 South 35th St., Room 142, Tacoma, WA 98409  
Tacoma-Pierce County Health Department, ATTN: Nedda S. Turner, R.S., Env. Source Protection Liason, 3629 South D Street, Tacoma, WA 98418-6813

C

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION TO THE CITY COUNCIL

PETITIONER: Bill Rehe, Unique Construction

FILE NO: 124.1249

SUMMARY OF REQUEST :

A petition to vacate a portion of the alleyway between East 50th and East 51st Streets and a portion of East 51st Street, in Tacoma

RECOMMENDATION OF THE HEARING EXAMINER:

The request is hereby recommended for approval, subject to conditions.

PUBLIC HEARING:

After reviewing the report of the General Services Department, Asset Management Division, examining available information on file with the application, and visiting the subject site and the surrounding area, the Hearing Examiner conducted a public hearing on the application on August 16, 2005.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. Bill Rehe, Unique Construction (hereinafter "petitioner") is requesting the vacation of the alley right-of-way lying westerly of East "N" Street and situated between East 50th and East 51st Streets and terminating at the west boundary of THE CENTRAL PARK ADDITION TO TACOMA. Also being requested for vacation is the northerly 29.95 feet of East 51st Street lying westerly of East "N" Street and terminating at the west boundary of the earlier referred-to plat. The rights-of-way here sought to be vacated are more particularly described below:

That portion of the alleyway lying between Block 2 and Block 3; together with the northerly 29.95 feet of East 51st Street abutting Block 3, all lands contained within the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889 in Volume 2 Page 111, records of Pierce County, Washington.

All lands contained within the Northeast Quarter of Section 22, Township 20 North, Range 3 East, W.M.

2. The petitioner is proposing to subdivide 6.35 acres of property lying westerly of the subject rights-of-way into 34 single-family building lots. The rights-of-way, if vacated, would be incorporated into the subdivision site.

3. The rights-of-way were dedicated for public street and alley purposes when the plat of THE CENTRAL PARK ADDITION TO TACOMA was filed for record on January 31, 1889.

4. Both of the rights-of-way in question are undeveloped and have not been used for street or alley purposes in spite of being dedicated for public use for over 115 years.

5. The subject alleyway is 20 feet in width and extends approximately 80 feet west of East "N" Street and terminates at the west boundary of THE CENTRAL PARK ADDITION TO TACOMA. East 51st Street is a 70-foot wide right-of-way and also extends east of East "N" Street approximately 80 feet and ends at the west line of the referred-to plat boundary. If the vacation of the north 29.95 feet East 51st Street granted, slightly over 40 feet of right-of-way width would remain.

6. All owners of property abutting the subject rights-of-way have joined in the petition seeking their vacation.

7. The vacation petition has been reviewed by a number of governmental agencies and

utility providers. None objects to their vacation; however, the Department of Public Works advises that an "In-Lieu-of-Assessment Charge" is owing for the rights-of-way, if vacated, and Asset Management advises that the petitioner is required to compensate the City in the amount of the appraised value of the rights-of-way.

FINDINGS, CONCLUSIONS,  
AND RECOMMENDATION

- 2 -

15. Since the rights-of-way are not proximate to a body of water, the provisions of RCW 35.79.035 are not implicated.

16. Pursuant to WAC 197-11-800(2)(h), the vacation of streets or roads is exempt from the threshold detennination and Environnniental Impact Statement requirements of RCW43.2I.C, the State Environmental Policy Act (SEPA).

17. The Asset Management Preliminary Report, as entered into this record as Exhibit 6, accurately describes the proposed project, general and specific facts about the site and area, and applicable codes. The report is incorporated herein by reference as though fully set forth.

18. All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing, as required by TMC 9.22.060.

19. Any conclusion hereinafter stated which may be deemed to be a finding herein is hereby adopted as such.

CONCLUSIONS:

1. TheHearingExaminerhasjurisdictionoverthepartiesandsubjectmatterinthis proceeding. See TMC 1.23.050.A.5 and TMC 9.22.

2. Proceedings involved in the consideration of petitions for the vacation of public rights-of-way are quasi judicial in nature. State v. City ofSpokane, 70 Wn.2d 207, 442 P.2d 790 (1967).

3. Petitions for the vacation of public right-of-way are reviewed for consistency with the following criteria:

1. The vacation will provide a public benefit, and/or will be for public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abuttin owner becomes land-locked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.

FINDINGS, CONCLUSIONS,  
AND RECOMMENDATION

- 4 -

GRANTED AND IS A CONTINUING REQUIREMENT OF SUCH APPROVALS. BY ACCEPTING THIS/THESE APPROVALS, THE PETITIONER REPRESENTS THAT THE DEVELOPMENT AND ACTIVITIES ALLOWED WILL COMPLY WITH SUCH LAWS, REGULATIONS, AND ORDINANCES. IF, DURING THE TERM OF THE APPROVAL GRANTED, THE DEVELOPMENT AND ACTIVITIES PERMITTED DO NOT COMPLY WITH SUCH LAWS, REGULATIONS, OR ORDINANCES, THE PETITIONER AGREES TO PROMPTLY BRING SUCH DEVELOPMENT OR ACTIVITIES INTO COMPLIANCE.

7. Any finding hereinbefore stated which may be deemed to be a conclusion herein is hereby adopted as such.

**RECOMMENDATION:**

The vacation request is hereby recommended for approval, subject to conditions contained in Conclusion 6.

DATED this 3 Is' day of August, 2005.

RODNEY M. KERSLAKE, Hearing Examiner

FINDINGS, CONCLUSIONS,  
AND RECOMMENDATION - 6 -

PRELIMINARY "PORT

PREPARED FOR THE HEARING EXAMINER  
BY ASSET MANAGEMENT

For the Hearing to be Held  
Tuesday, August 16, 2005 at 1:30 PM

PETITIONER: UNIQUE CONSTRUCTION, INC

FILE NO. 124.1249

**A. SUMMARY OF REQUEST:**

Asset Management has received a petition to vacate that portion of the alleyway between East 501h and East 5 1 " Streets, and a portion of East 5 l't Street, as shown on the attached vicinity map.

**B. GENERAL INFORMATION:**

**1. Legal Description of Vacation:**

That portion of the alleyway lying between Block 2 and Block 3; together with the northerly 29.95 feet of East 5 1 " Street abutting Block 3, all lands contained within the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 3 1, 1889 in Volume 2, Page l l 1, records of Pierce County, Washington.

All lands contained within the Northeast Quarter of Section 22, Township 20 North, Range 3 East, W.M.

**2. Notification:**

9.22.060 NOTICE OF PLTBLC HEARING The General Services Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the General Services Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacated the street or alley described in the notice, together with a statement that a petition has been filed to vacate the



street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the

J:\Real Estate & Right of Way\Street Vacations\Active Vacations\124.1249 - Unique Construction\Treliminary Report.doc7/22/99  
Page 1 of 4

property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

C. PURPOSE OF REQUEST:

The petitioner plans to combine vacated right of way into adjoining property for the purpose of creating additional residential units under a preliminary plat "Rehe Plat".

D. HISTORY:

The City of Tacoma acquired the rights of way proposed to be vacated when the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889 in Volume 2, Page 111, records of Pierce County, Washington.

E. PHYSICAL LAND CHARACTERISTICS:

The vacation area is unimproved and largely overground with trees and shrubs. This area has not been improved with street improvements the right of way width of East N Street is 60 feet in width. East 50th Street and East 51st Streets are 70 feet in width.

F. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:

9.22.010 PETITION TO VACATE AUTHORIZED: The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraisal value of the area vacated; provided that if the street or alley has been a public right of way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total revenue received hereunder shall be devoted to transportation projects in the tide flats area.

N

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Page 2 of 4

9.22.040 PUBLIC'S RIGHT TO TRAVEL - UTILITIES: Vacation of any portion of a street that is designated as an arterial under Section 11.05.490 of the Municipal Code shall be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

CRITERIA: Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:

1. That the vacation will provide a public benefit and/or will be for a public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or

circulation of the immediate area or the community as a whole.

3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

G. ADDITIONAL INFORMATION:

The area to be vacated has not been assessed for sanitary sewers and is subject to a Connection Charge In-Lieu-of-Assessment per T.M.C. 12.08.350. Should the petitioner wish to clear this item from title, please contact Sue Simpson of the Public Works Department, L.I.D. Section, at 591-5529 for the assessment amount. Please note that the ordinance establishing the rate of assessment is updated every few years, and the amount quoted may increase in the future. When the petitioner has submitted a development plan, an in lieu of amount will be computed.

H. PROJECT RECOMMENDATIONS:

As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Asset Management Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

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Page 3 of 4

PW/Construction/LID - No objections  
Tacoma Water - No objections  
Environmental Services - No objections  
Puget Sound Energy - No objections  
TEDD - No objections  
Tacoma Fire Department- No objection  
Comcast Communications - No objections  
Traffic Engineering - No objections  
Pierce Transit - No objections  
Solid Wast Mgt. - No objections

1. RECOMMENDED CONDITIONS OF APPROVAL:

Should this street vacation request be approved, the Asset Management Division recommends that the following conditions be made conditions of approval for this street vacation petition.

I. PAYMENT OF FEES

The petitioner shall compensate the City in an amount equal to the full appraised value of the area vacated. One-half of the revenue received shall be devoted to the acquisition, improvement and maintenance of public open space land and one-half may be devoted to transportation projects and /or management and maintenance of other City owned lands and unimproved rights-of-way. TMC9.22.010

2. BUILDING AND LAND USE SERVICES

No objections subject to the following condition:

The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.

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Page 4 of 4

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 OFFICE

TO: Doris Sorum, City Clerk  
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Mary Shirley, Office Assistant/Amy Stevenson-Ness

FROM: Kyle J. Crews, Assistant City Attorney

DATE: December 20, 2005

SUBJECT: Street Vacation File No. 124.1249  
Applicant: Unique Construction

Please place Ordinance No. 27421 on the Council agenda of January 10, 2006, for second reading.

Asset Management will cover the second reading. As of the date of this memo, the jacket is located in the Legal Department.

/mds

cc: Louisa Legg, Hearing Examiner's Office  
Jodi Marshall, Hearing Examiner's Office  
Rich Price, General Services, Asset Management

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CITY OF TACOMA

INTER-DEPARTMENTAL COMMUNICATION

TO: Doris Sorum, City Clerk  
Mary Shirley, Office Assistant/Amy Stevenson-Ness

FROM: Kyle J. Crews, Assistant City Attorney

DATE: December 20, 2005

SUBJECT: Street Vacation File No. 124.1249  
Applicant: Unique Construction

Please place Ordinance No. 27421 on the Council agenda of January 10, 2006, for second reading.

Asset Management will cover the second reading. As of the date of this memo, the jacket is located in the Legal Department.

/mds

cc: Louisa Legg, Hearing Examiner's Office  
Jodi Marshall, Hearing Examiner's Office  
Rich Price, General Services, Asset Management

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Tacoma

City of Tacoma

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Memorandum

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DEC I 3 2005

TACOMA CITY ATTORNEY  
CIVIL DIVISION

TO: KYLE CREWS  
ASSISTANT CITY ATTORNEY

FROM: RICHARD PRICE  
Asset Management Division  
General Services Department

SUBJECT: RIGHT OF WAY VACATION NO. 124.1249  
ORDINANCE NO. 27421

DATE: DECEMBER 13,2005

All conditions for the referenced right of way vacation have been met. This ordinance may be placed on the Council Agenda for final reading.

Please schedule the 2 d Reading for January 10, 2006. Asset Management will cover the reading.

JAR\Real Estate & Right of Way\Street Vacations\Active Vacations\124.1249 - Unique Construction\Attorney Memo.doc7/23/99

Ordinance No. 27421

First Reading of Ordinance: OCT 1 8 2005

Final Reading of Ordinance:'JAN I 0 MS

Passed: 41A .2006

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	AB Siff N-T
Ms. Anderson				
Mr.Evans				
Ms. Ladenburg				
Mr. Lonergan				
Mr. Manthou				
Mr. Pb4gps@				
Mr. Stenger				
Mr. Talbert				
[Mayor Baarsma				

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson				
Mr.Evans				
Mr. Ladenburg				
Mr. Lonergan				
Mr. Manthou				
Mr. Talbert				
Mayor Baarsma				

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