

RESOLUTION NUMBER R- 305270

DATE OF FINAL PASSAGE SEP 22 2009

A RESOLUTION TO APPROVE THE SUMMARY  
ABANDONMENT OF THE GENESEE PLAZA SEWER  
EASEMENT (EASEMENT ABANDONMENT NO. 593439) –  
PROJECT NO. 165225

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide a procedure for the summary vacation of public easements by City Council resolution; and

WHEREAS, T.G.F. Company, Applicant, has requested that the Genesee Plaza Sewer Easement, Easement Abandonment No. 693439, located at 6050 Balboa Avenue, be vacated; and

WHEREAS, the easement has been superseded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the easement does not contain active public utility facilities that would be affected by the abandonment; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on SEP 22 2009, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego that with respect to the Genesee Plaza Sewer Easement located at 6050 Balboa Avenue and depicted on Drawing No. 20936-B, and described in the legal description marked as Exhibit "A", the Council finds that:

(a) There is no present or prospective use for the easement, either for the facility or purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

The public sewer easement was to serve only private properties and currently runs across private properties. The purpose and intent for which the easement was originally dedicated has been met. The area to be abandoned was required to be private under the Genesee Plaza Expansion, Project No. 63208, approved April 10, 2007.

(b) The public will benefit from the abandonment through improved utilization of the land made available by the abandonment.

The vacation of the easement allows for the relocation of the sewer line to accommodate the commercial development approved in Site Development Permit No. 188311, Planned Development Permit No. 189029, and Conditional Use Permit No. 190103 for Genesee Plaza Expansion Project No. 63208 on April 10, 2007. Therefore, the public will benefit from the abandonment through improved utilization of land as the abandonment will facilitate the implementation of Genesee Plaza Expansion Project, which will result in the beneficial use of land.

(c) The abandonment is consistent with any applicable land use plan.

The vacation is required by Condition 61 of Site Development Permit No. 188311, Planned Development Permit No. 189029, and Conditional Use Permit No. 190103 for Genesee

Plaza Expansion Project No. 63208 that was approved on April 10, 2007 with the finding that the project did not adversely affect any applicable land use plan. Additionally, the abandonment would be consistent with the plans because essential facilities and infrastructure to serve existing and future development would continue to be provided and maintained.

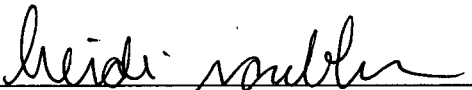
(d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment or the purpose for which the easement was acquired no longer exists.

The public sewer facilities originally within the easement will become private as required by Condition No. 61 of Site Development Permit No. 188311, Planned Development Permit No. 189029, and Conditional Use Permit No. 190103 for Genesee Plaza Expansion, Project No. 63208 approved on April 10, 2007. This project proposes to vacate the remaining portion of a sewer easement that was vacated by the City Council in 1970. Therefore, the public facility for which the easement was originally acquired will not be detrimentally affected by this abandonment and the purpose for which the easement was originally acquired no longer exists.

BE IT FURTHER RESOLVED, that the sewer easement located at 6050 Balboa Avenue, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20936-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Heidi K. Vonblum  
Deputy City Attorney

HKV:js  
08/25/2009  
09/10/2009 Corr. Copy  
Or.Dept: Development Services  
R- 2010-120  
MMS #10199

**EXHIBIT "A"**  
**SEWER EASEMENT VACATION**  
**LEGAL DESCRIPTION**

PAGE 1 OF 2

THE LAND DESCRIBED HEREIN IS A PORTION OF LOT 1 OF GENESEE PLAZA SUBDIVISION, ACCORDING TO MAP THEREOF NO. 6670, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER JUNE 24, 1970, TOGETHER WITH A PORTION OF PARCEL 1 OF THE CITY OF SAN DIEGO PARCEL MAP NO. 11016, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER FEBRUARY 24, 1981, LOCATED IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA,

BEING THAT CERTAIN SEWER EASEMENT GRANTED PER BALBOA SHOPPING CENTER RESUBDIVISION NO. 1, ACCORDING TO MAP THEREOF NO. 6256 FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER DECEMBER 30, 1968, THAT REMAINED AFTER A PORTION WAS VACATED BY CITY COUNCIL RESOLUTION NO. 200441, PER DOCUMENT RECORDED AUGUST 6, 1970 AS INSTRUMENT NO. 139414, OF OFFICIAL RECORDS,

BEING A STRIP OF LAND 10.00 FEET WIDE, LYING 5.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE EASTERLY BOUNDARY OF LOT 1, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY OF MOUNT ABERNATHY AVENUE, 102.00 FEET WIDE, SAID POINT BEING ON A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 812.00 FEET, A RADIAL LINE TO SAID POINT BEARS NORTH 69°23'31" WEST, AS SHOWN ON MAP NO. 6256, THENCE LEAVING SAID BOUNDARY AND SAID RIGHT-OF-WAY, SOUTH 79°31'35" WEST 669.16 FEET; THENCE SOUTH 74°29'56" WEST 10.00 FEET TO THE EASTERLY TERMINUS OF THAT PORTION OF THE SEWER EASEMENT VACATED PER CITY COUNCIL RESOLUTION NO. 200441 PER DOCUMENT RECORDED AUGUST 6, 1970 AS INSTRUMENT NO. 139414, OF OFFICIAL RECORDS.

CONTAINS 0.156 ACRES OF LAND, MORE OR LESS.

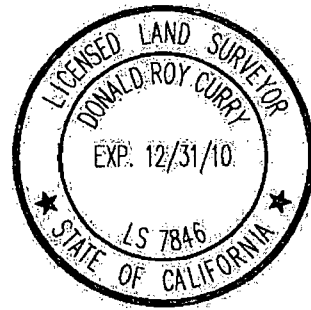
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**EXHIBIT "A"**  
**SEWER EASEMENT VACATION**  
**LEGAL DESCRIPTION**

PAGE 2 OF 2

AS SHOWN ON EXHIBIT "B", CITY DRAWING NO. 20936-B, ATTACHED  
HERETO, AND BY THIS REFERENCE MADE A PART HEREOF.

DATED THIS 16<sup>th</sup> DAY OF July, 2009.

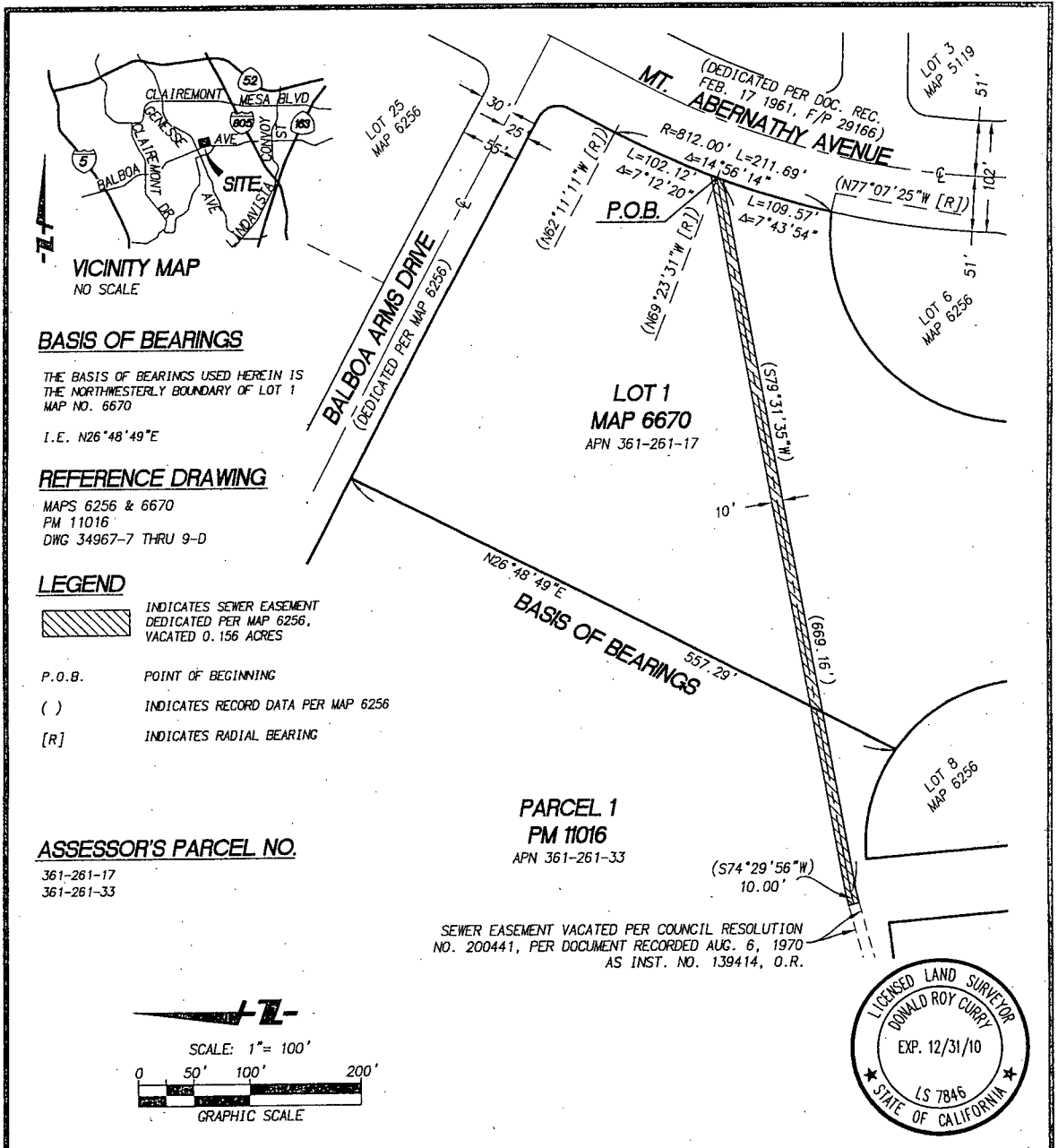


Donald Roy Curry  
DONALD ROY CURRY, L.S. 7846  
EXP. 12/31/10

P.T.S. NO. 165225  
J.O. NO. 431606  
DWG. NO. 20936-B

R-305270

# EXHIBIT "B"



**FUSCOE**  
ENGINEERING  
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tel 858.554.1500 • fax 858.597.0335 • www.fuscoe.com

*Donald Roy Curry* 7-16-09  
DONALD ROY CURRY L.S. 7846 Date

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	J.O. NO.
ORIGINAL	FEI				SHEET 1 OF 1 SHEET	431606
	AEA		7-20-09		<i>Gregory P. Hopkins</i> 7/17/09 FOR CITY ENGINEER DATE	P.T.S. NO. 165225
					DIVISION HEAD	1878-6275
					SECTION HEAD	NAD 83 COORDINATES
						238-1715
						LAMBERT COORDINATES
						20936 - B

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