

RESOLUTION NUMBER R- 306912

DATE OF FINAL PASSAGE JUL 12 2011

VACATION OF DRAINAGE EASEMENT LOCATED AT
5921 UNIVERSITY AVENUE, SAN DIEGO, CALIFORNIA

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide procedures for the formal vacation of public easements by City Council resolution; and

WHEREAS, it is proposed that an existing drainage easement on property at 5921 University Avenue, be vacated; 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 JUL 12 2011, 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 Council of the City of San Diego, that with respect to a drainage easement on property located at 5921 University Avenue, 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.**

In that the eighteen and twenty-four inch drain pipe will be replaced with an eighteen and twenty-four inch drain pipe within an easement on property located at 5921 University Avenue in a new location, the existing easement will have no prospective use. The new eighteen and twenty-four inch drain pipe will serve the needs which necessitated the original improvement and easement. There is no other use of a like nature for this specific easement which can be reasonably anticipated.

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

Presently the property which has the drainage easement is limited by the existence of the easement in that the property may not develop or place new buildings over the area of the existing easement. The adopted Mid Cities Community Plan designates this site for commercial uses at recommended intensity greater than the existing development. Without the vacation of the existing easement an expansion of the existing retail building may not occur over the area of the easement and therefore the recommended intensity of the adopted Mid Cities Community Plan may not be realized or the financial goals of the owner. Without the redevelopment of the property at 5921 University Avenue an expanded retail business would not be available to meet the future needs of the Mid Cities community. The public will benefit by the vacation of the easement through the addition of expanded business opportunities, the improved utilization of urban land and the development of a new building designed and constructed to current state and local code requirements.

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

The adopted Mid-City Communities Plan designates this site for commercial uses at recommended intensity greater than the existing development. The 5921 University Avenue site

is located in the Eastern Area Neighborhood of the community. The planned land uses surrounding the site are commercial uses. The commercial land use designation provides for retail, service, professional office, and other community commercial activities. The proposed easement vacation would not adversely affect the Mid-City Communities Plan or the goals and policies contained therein.

(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 easement was acquired for the purposes of placing and maintaining a public drainage system to serve the needs of the neighborhood. With the construction of a new storm drain within a new easement the present easement across the property at 5921 University Avenue will no longer be necessary. With the construction of a new eighteen and twenty-four inch storm drain the needs of the neighborhood will continue to be served and the purposes for which the drainage easement was acquired will cease its material necessity to meet the storm drain needs of the neighborhood. The public facility for which the easement was originally acquired will not be detrimentally affected by the abandonment.

BE IT FURTHER RESOLVED, that the drainage easement located within 5921 University Avenue, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 21172-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 said vacation is conditioned upon the acceptance by the City Engineer of the realigned drainage facility and easement, which realignment work shall incorporate any construction Best Management Practices necessary to comply with Chapter 14,

Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, and shall comply with applicable provisions of the City's Storm Water Standards Manual. In the event this condition is not completed within three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.

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



David L. Herman
Deputy City Attorney

DLH:hm
5/31/2011
Or.Dept:DSD

EXHIBIT "A"

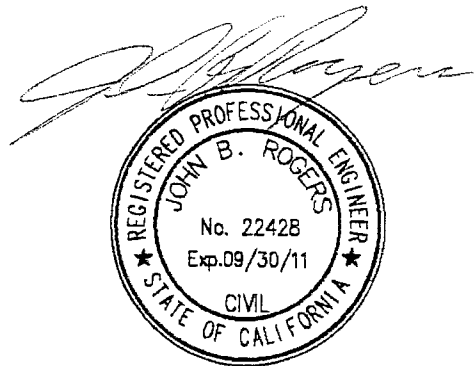
**DRAINAGE EASEMENT VACATION
PARCEL "A"**

A PORTION OF THAT CERTAIN DRAINAGE EASEMENT IN LOT 11 OF UNIVERSITY SQUARE, ACCORDING TO MAP THEREOF NO. 12796, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, GRANTED TO SAID CITY OF SAN DIEGO PER DOCUMENT RECORDED MARCH 3, 1989 AS FILE/PAGE NO. 89-111165, O.R., MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SAID LOT 11, SAID POINT BEING NORTH 58°28'19" EAST 11.32 FEET FROM THE NORTHWESTERLY CORNER OF SAID LOT 11; THENCE, LEAVING SAID LINE, NORTH 63°48'46" EAST ALONG THE SOUTHERLY LINE OF THAT CERTAIN SEWER, WATER AND DRAINAGE EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED MARCH 23, 1989 AS FILE/PAGE NO. 148016, O.R., 116.65 FEET TO THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED PARCEL AND THE BEGINNING OF DEED RECORDED MARCH 3, 1989 AS FILE/PAGE NO. 89-111165; THENCE ALONG THE SOUTHWESTERLY SIDELINE OF SAID EASEMENT THE FOLLOWING TWO COURSES: SOUTH 57°28'37" EAST 17.35 FEET; THENCE SOUTH 37°28'37" EAST 82.72 FEET,

THENCE NORTH 52°31'23" EAST 10.00 FEET; THENCE ALONG THE NORTHEASTERLY SIDELINE OF SAID EASEMENT THE FOLLOWING COURSES: NORTH 37°28'37" WEST 84.48 FEET; THENCE NORTH 57°28'37" WEST 13.04 FEET TO THE SOUTHERLY LINE OF THE AFOREMENTIONED SEWER, WATER AND DRAINAGE EASEMENT; THENCE ALONG SAID SOUTHERLY LINE SOUTH 63°48'46" WEST 11.70 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS 988 SQUARE FEET, MORE OR LESS.



DWG. NO. 21172-1-B
PTS #210480

R. 306912

EXHIBIT "A"

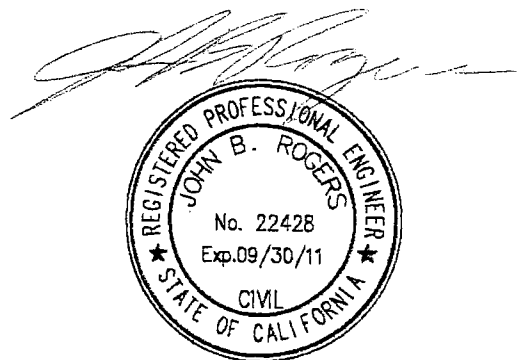
**DRAINAGE EASEMENT
PARCEL "B"**

THAT PORTION OF LOT 11 OF UNIVERSITY SQUARE, ACCORDING TO MAP THEREOF NO. 12796, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF SAID LOT 11, SAID POINT BEING NORTH 58°28'18" EAST 11.32 FEET FROM THE NORTHWESTERLY CORNER OF SAID LOT 11, THENCE LEAVING SAID NORTHERLY LINE NORTH 63°48'46" EAST ALONG THE SOUTHERLY LINE OF THAT CERTAIN SEWER, WATER AND DRAINAGE EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED MARCH 23, 1989 AS FILE/PAGE NO. 89-148016, O.R., 126.81 FEET TO THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH 81°15'57" EAST 19.80 FEET; THENCE SOUTH 37° 27'47" EAST 66.74 FEET TO THE BEGINNING OF A TANGENT 20.00-FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45° 00'00" A DISTANCE OF 15.71 FEET; THENCE TANGENT TO SAID CURVE SOUTH 07° 32' 13" WEST 2.63 FEET TO A POINT IN THE EASTERLY SIDELINE OF THAT CERTAIN DRAINAGE EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED MARCH 3, 1989 AS FILE/PAGE NO. 89-111165, O.R.;

THENCE CONTINUING ALONG THE EASTERLY SIDELINE OF SAID DRAINAGE EASEMENT; SOUTH 37°28'37" EAST 14.14 FEET; THENCE LEAVING SAID SIDELINE, NORTH 07°32'13" EAST 12.62 FEET TO THE BEGINNING OF A TANGENT 30.00-FOOT RADIUS CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 45°00'00" A DISTANCE OF 23.56 FEET; THENCE TANGENT TO SAID CURVE NORTH 37° 27'47" WEST 59.38 FEET; THENCE NORTH 52°32'13" EAST 12.93 FEET; THENCE NORTH 37°27'47" WEST 11.38 FEET, THENCE SOUTH 52°32'13" WEST 12.93 FEET; THENCE NORTH 81°15'57" WEST 9.50 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID SEWER, WATER AND DRAINAGE EASEMENT RECORDED MARCH 23, 1989 AS FILE/PAGE NO. 89-148016, O.R.; THENCE ALONG SAID SOUTHERLY LINE SOUTH 63°48'46" WEST 17.47 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINS 1,254 SQUARE FEET, MORE OR LESS.

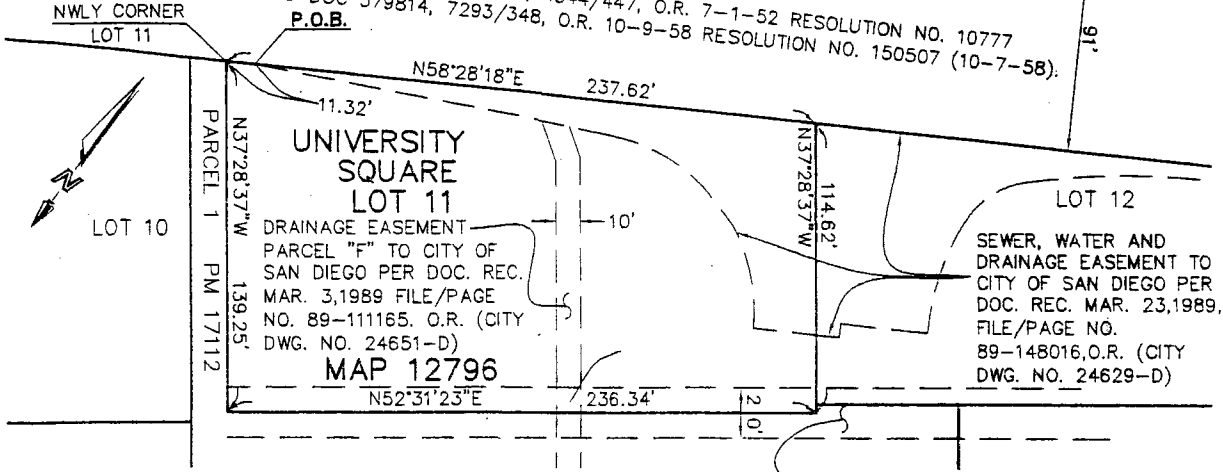


**DWG. NO. 21172-2-B
PTS #210480**

R 306912

EXHIBIT D

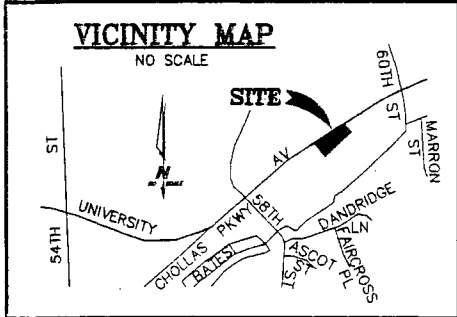
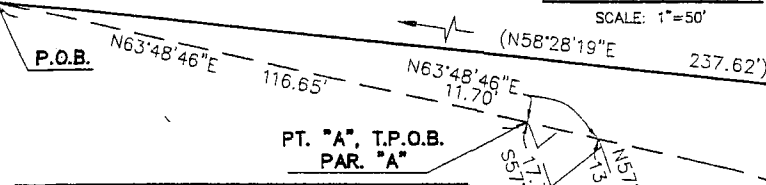
UNIVERSITY AVE
 DEDICATED PER MAP 748, DOC 453031, 4544/447, O.R. 7-1-52 RESOLUTION NO. 10777
 (7-29-52) AND DOC 579814, 7293/348, O.R. 10-9-58 RESOLUTION NO. 150507 (10-7-58).



LOCATION MAP

SCALE: 1"=50'

SEWER EASEMENT TO CITY OF SAN DIEGO PER DOC. REC. DEC. 29, 1988
 FILE/PAGE NO. 88-669521, O.R. (CITY DWG. NO. 24483-1-D)



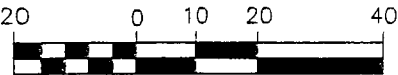
INDICATES PORTION OF PARCEL "F" OF DRAINAGE EASEMENT REC. 3/3/1989, F/P NO. 89-111165, O.R. VACATED AREA = 988 SQ.FT.
 () INDICATES RECORD DATA PER MAP 12796 APN: 472-470-53

DRAINAGE EASEMENT VACATED PARCEL "A"

BASIS OF BEARINGS

BEARINGS SHOWN HEREON ARE BASED UPON THE SOUTH LINE OF LOT 11 OF MAP 12796 BEING: N52°31'23"E.

PORTION OF PARCEL "F" OF DRAINAGE EASEMENT TO CITY OF SAN DIEGO PER DOC. REC. MAR. 3, 1989 FILE/PAGE NO. 89-111165. O.R. (CITY DWG. NO. 24651-D) TO REMAIN.



SCALE: 1" = 20'
 REGISTERED PROFESSIONAL ENGINEER
 JOHN B. ROGERS
 No. 22428
 Exp. 09/30/11
 CIVIL
 STATE OF CALIFORNIA

cle
 CLE ENGINEERING, INC.
 41601 Date Street Murrieta, CA 92562
 Phone: 951.698.1830 Fax: 951.698.8656

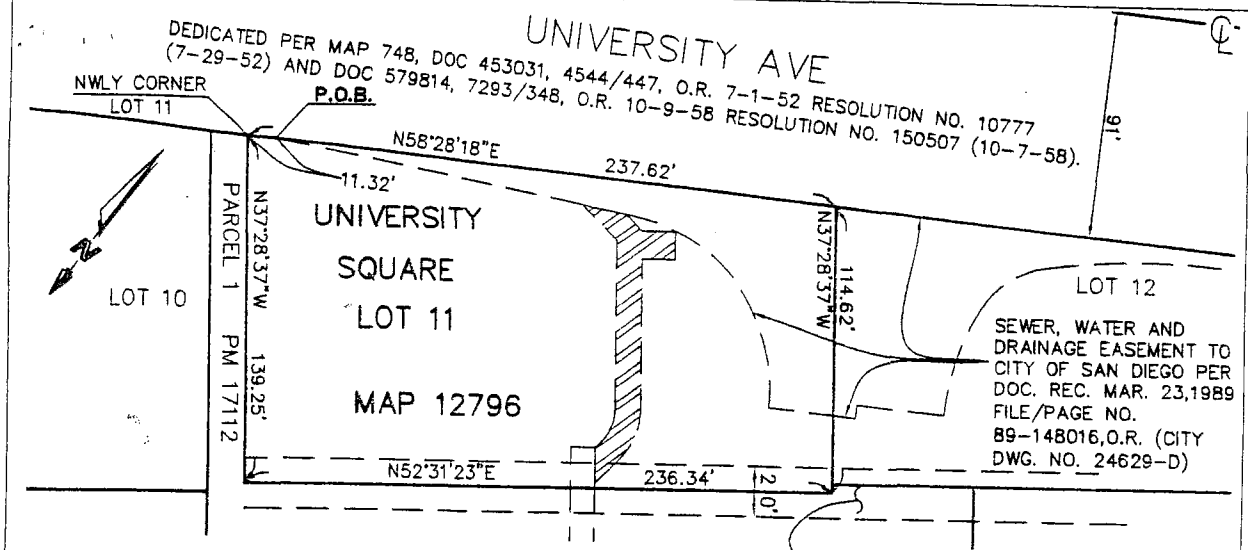
DRAINAGE EASEMENT VACATION

IN LOT 11 OF UNIVERSITY SQUARE MAP 12796

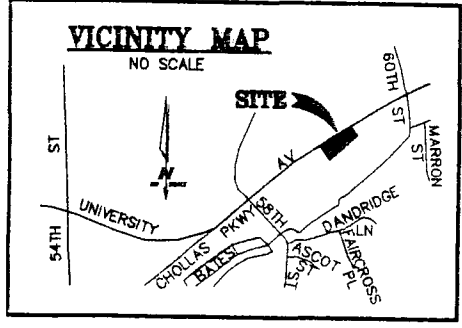
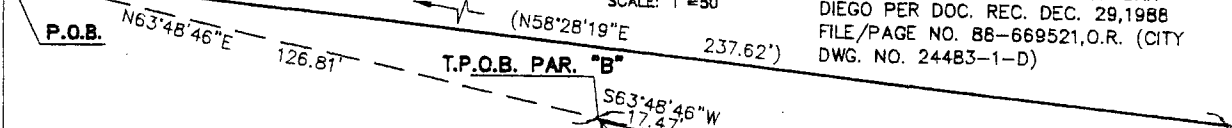
DESCRIPTION	BY	APP'D	DATE	FILMED	CITY OF SAN DIEGO	P.T.S. NO. 210480
ORIGINAL						
			4/20/11			
					SHEET 1 OF 2	1854-6309
					Gregory P. Hopkins FOR CITY ENGINEER	CCS 83 COORDINATES
					4-21-2011 DATE	213-1748
						LAMBERT COORDINATES
						21172-1-B
					complete	
					STATUS	

R 306912

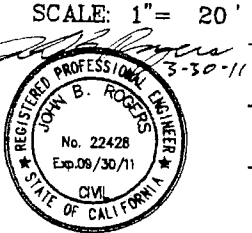
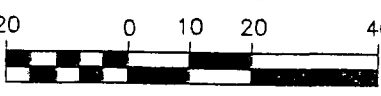
EXHIBIT "B"



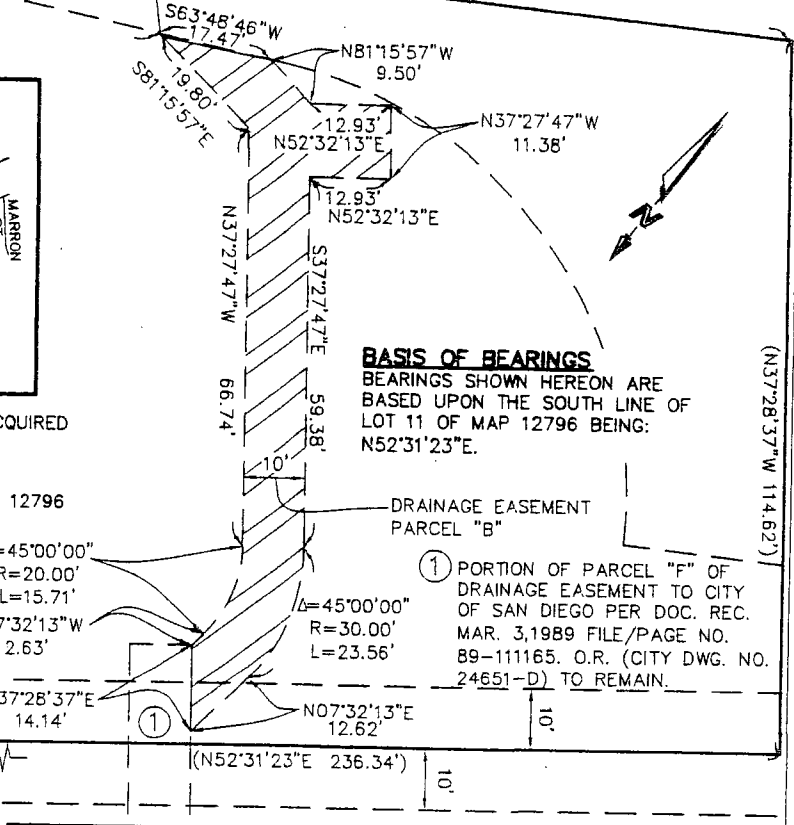
LOCATION MAP



INDICATES DRAINAGE EASEMENT ACQUIRED AREA = 1,254 SQ.FT.
 () INDICATES RECORD DATA PER MAP 12796
 APN: 472-470-53



cle
CLE ENGINEERING, INC.
 41601 Date Street, Murietta, CA. 92562
 Phone: 951.698.1830 Fax: 951.698.8656



DRAINAGE EASEMENT

IN LOT 11 OF UNIVERSITY SQUARE MAP 12796

DESCRIPTION	BY	APP'D	DATE	FILMED	CITY OF SAN DIEGO
ORIGINAL					
	<i>[Signature]</i>		4/20/11		
		<i>[Signature]</i>			P.T.S. NO. 210480
					1854-6309
					CCS 83 COORDINATES
					213-1748
					LAMBERT COORDINATES
					21172-2-B

Complete STATUS

R 306912

Passed by the Council of The City of San Diego on JUL 12 2011, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carl DeMaio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 12 2011

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Devenson-Cruz*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 306912