

RESOLUTION NUMBER R- 307764

DATE OF FINAL PASSAGE OCT 22 2012

A RESOLUTION SUMMARILY VACATING A STORM DRAIN EASEMENT LOCATED AT 4211 CAMINO DE LA PLAZA, SAN DIEGO, CALIFORNIA FOR OUTLETS AT THE BORDER - PROJECT NO. 194101.

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

WHEREAS, on October 21, 2009, the Shamrock/Las Americas Venture I, LLC, Owner/Permittee, submitted an application to the Development Services Department for Site Development Permit No. 685774, Neighborhood Use Permit No. 873083 and Easement Vacation No. 873084 for the Outlets At The Border Project No. 194101; and

WHEREAS, it is proposed that an existing storm drain easement on property located at 4211 Camino de la Plaza and legally described as Parcel 3, 2004 East Side Map, Map No. 19628, lying west of Virginia Avenue and immediately north of the United States and Mexico International Border, 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

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WHEREAS, the matter was set for public hearing on OCT 22 2012, 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 located on property legally described as Parcel 3, 2004 East Side Map, Map No. 19628, lying west of Virginia Avenue and immediately north of the United States and Mexico International Border, 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 existing 36" diameter storm drain facilities lying within the easement to be vacated will be removed as part of the Outlets at the Border project. New storm drain facilities will be provided on the project property through the construction of two (2) new 3'x8' box culverts, to be located within two (2) newly acquired public storm drainage easements, one 24 feet wide and the other 20 feet wide, per approved Exhibit "A" documents, satisfactory to the City Engineer. The two new public storm drainage easements, one 24 feet wide and the other 20 feet wide, will serve the needs that necessitated the original improvement and easement. With the construction of new storm drain facilities, the existing easement will have no prospective use. There is no other use of a like nature for this specific easement that can be reasonably anticipated.

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

The project site is presently limited by the existence of the drainage easement in that the property may not develop or place new buildings over the area of the existing easement. The adopted San Ysidro Community Plan (SYCP) designates this site for commercial uses at a recommended intensity greater than that occurring at the existing development. Without vacation of the existing easement, an expansion of the existing retail use could not occur over the easement area and, therefore, the recommended intensity of the adopted SYCP could not be realized. The public will benefit by the vacation of the easement through improved utilization of the land made available by the abandonment, which includes expanded business opportunities made possible by a development designed and constructed to current code requirements.

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

The adopted SYCP designates this site for Border Commercial land use. The site is located within the Commercial (District 6) and International Gateway Elements area, which calls for tourist-oriented development such as retail, entertainment, and limited professional office uses. As one of a few remaining undeveloped commercial properties in the vicinity, development of the project site with a retail shopping center will implement the goals of the SYCP to provide a tourist-oriented development in this location compatible with the image of San Ysidro as a major tourist/commercial/cultural center and to increase commercial development at the border. The proposed easement vacation will facilitate construction of a new commercial development consistent with the land use designation. The proposed easement vacation will not adversely affect the SYCP 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 the vacation 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 new storm drain facilities within new easements on site, the present easement across the project property will no longer be necessary. With the construction of new storm drain facilities, the needs of the neighborhood will continue to be served and the purposes for which the drainage easement was acquired will no longer exist. The public facility for which the easement was originally acquired will not be detrimentally affected by the abandonment.

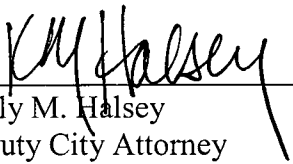
BE IT FURTHER RESOLVED, that the drainage easement located within property legally described as Parcel 3, 2004 East Side Map, Map No.19628, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 36646-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that said vacation is conditioned to ensure that the Owner/Permittee shall assure, by permit, bond, and as-built completion, the relocation of four 36" diameter storm drains with the construction of two (2) 3'x8' box culverts crossing the project site, satisfactory to the City Engineer. The Owner/Permittee shall grant two public storm drainage easements, one 24 feet wide and the other 20 feet wide, per approved "Exhibit A," documents satisfactory to the City Engineer. The Owner/Permittee shall provide the easement free and clear of all encumbrances and prior easements and must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.

In the event this condition is not completed within three years following the adoption of this resolution, 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  _____
Keely M. Halsey
Deputy City Attorney

KMH:als
10/05/12
Or.Dept:DSD
Doc. No. 440001

August 26, 2011

EXHIBIT "A"

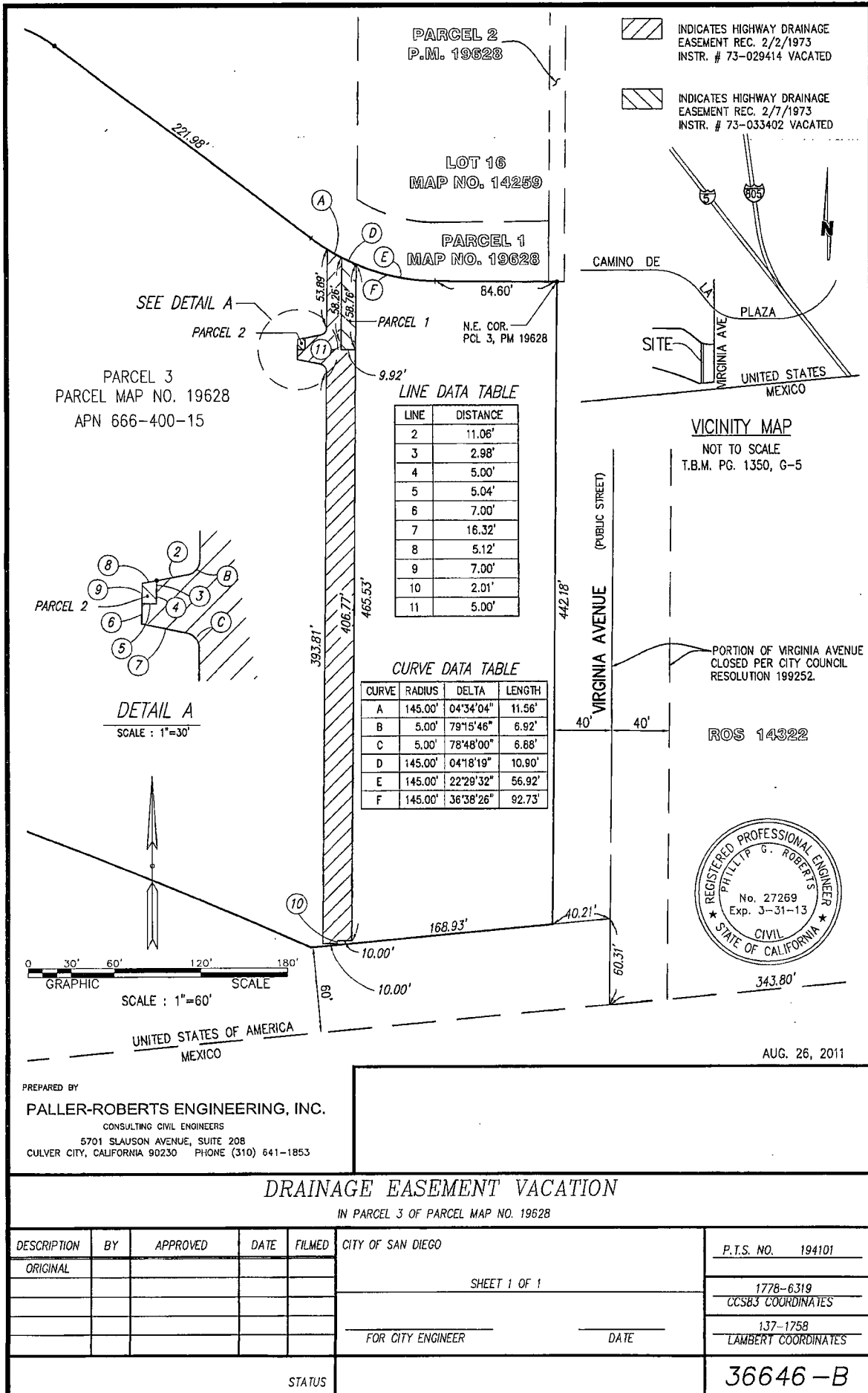
DRAINAGE EASEMENT VACATION

ALL THOSE PORTIONS OF HIGHWAY DRAINAGE EASEMENTS LYING WITHIN PARCEL 3 OF PARCEL MAP 19628 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, GRANTED TO THE STATE OF CALIFORNIA PER DOCUMENT RECORDED, FEBRUARY 7, 1973, AS FILE/PAGE NO. 73-033402, O.R., AND RELINQUISHED BY THE STATE OF CALIFORNIA TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED, JANUARY 4, 1974, AS FILE/PAGE NO. 74-002649, O.R., AND PER DOCUMENT RECORDED FEBRUARY 2, 1973, AS FILE/PAGE NO. 73-029414, O.R., AND RELINQUISHED BY THE STATE OF CALIFORNIA TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED, JANUARY 4, 1974, AS FILE/PAGE NO. 74-002649, O.R. ATTACHED HERETO IS DRAWING NO. 36646-B (EXHIBIT "B") AND BY REFERENCE IS MADE A PART HEREOF. TOTAL ACREAGE IS APPROXIMATELY 0.22 ACRES, MORE OR LESS.

PTS # 194101



Exhibit B



PREPARED BY
PALLER-ROBERTS ENGINEERING, INC.
CONSULTING CIVIL ENGINEERS
5701 SLAUSON AVENUE, SUITE 208
CULVER CITY, CALIFORNIA 90230 PHONE (310) 641-1853

DRAINAGE EASEMENT VACATION

IN PARCEL 3 OF PARCEL MAP NO. 19628

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO	P.T.S. NO.
ORIGINAL						194101
					SHEET 1 OF 1	1778-6319
					FOR CITY ENGINEER	CCS83 COORDINATES
					DATE	137-1758
						LAMBERT COORDINATES
					STATUS	36646-B