

Item # 332
Sub - C
10/8/13

RESOLUTION NUMBER R- 308495

DATE OF FINAL PASSAGE OCT 08 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO SUMMARILY VACATING CONSERVATION
EASEMENT LOCATED AT 10385 VISTA SORRENTO
PARKWAY (PROJECT NO. 158983).

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, PH FBI SD, LLC filed an application to vacate conservation easement within the southeasterly 700.00 feet of acre Lot 8 of Sorrento Lands and Townsite, Map 483 recorded February 9, 1888, granted to the City of San Diego per document file/page no. 2003-0347317, recorded March 27, 2003 (“Easement Vacation No. 1013470”); and

WHEREAS, Easement Vacation No. 1013470 is located on property owned by PH FBI SD, LLC; and

WHEREAS, the conservation easement has been superseded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the conservation easement does not contain active public utility facilities that would be affected by the vacation; 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 and where a public hearing was required by law implicating due process rights of individuals affected by the

decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

WHEREAS, the matter was set for public hearing on October 8, 2013, 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 that with respect to Easement Vacation No. 1013470, the Council finds that:

(a) There is no present or prospective public 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 conservation easement was initially created to protect previous habitat and create a corridor for wildlife. However, the conservation easement area is relatively small, has diminished and unmanaged biological value, is not within the City's Multiple Habitat Planning Area (MHPA), and any remaining habitat will be mitigated at twice the normal ratio within suitable locations to provide connectivity to adjacent flourishing MHPA habitat. Therefore, the City will not have any present or prospective public 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.

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

The vacation of the conservation easement for the construction of a security fence for the Federal Bureau of Investigation (FBI) facility will provide a safe and secure environment for the operations of the intelligence-driven and threat-focused national security organization with both

intelligence and law enforcement responsibilities. The regional FBI facility and their operations will continue to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners. Therefore, the public will benefit from the action through improved utilization of the land made available by the vacation.

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

The proposed project is located in the Mira Mesa Community Plan (MMCP) and North City Local Coastal Program Land Use Plan areas. Specifically, the site is within Sorrento Mesa Subarea and designated for industrial park uses to accommodate a mixture of research and development, office and manufacturing uses. The existing FBI development is consistent with the plan's designation. Furthermore, the MMCP's Sensitive Resources and Open Spaces System Element promotes the preservation of sensitive resources, including plant and animal habitats and wildlife linkages. The conservation easement vacation to allow a secure fenced FBI complex and the creation of a new conservation area on the site will continue to meet the goals and policies of the Element to manage the site resources by preserving habitat area that is located adjacent to the City's MHPA that will ensure viable open space connections. Therefore, the vacation will be consistent with the applicable land use plan.

(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 conservation easement to preserve sensitive habitat and provide wildlife corridor opportunities on the site has been unmanaged for years. Previous predominate habitat has been

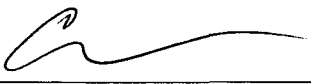
outcompeted by invasive plant species that effectively leaves majority of the easement area with minimal biological value. However, the creation of a new conservation easement area upon the remaining undeveloped portion of the site and adjacent to the MHPA, to include 0.05 acres of habitat within the easement, and additional payment into the City's Habitat Acquisition Fund in order to purchase 1.68 acres of conservation land within the MHPA, would complete mitigation for removal of lands by replacing previously conserved habitats within the easement with habitats of equal or higher value elsewhere. Therefore, the purpose for which the easement was originally acquired will not be detrimentally affected by the vacation and the purpose for which the easement was acquired will no longer exist.

BE IT FURTHER RESOLVED, Easement Vacation No. 1013470, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37086-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 Easement Vacation No. 1013470 is conditioned upon dedication and recordation of a conservation easement for 1.349 acres. 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 

Corrine L. Neuffer
Deputy City Attorney

CLN:dkr
9/11/2013
Or.Dept:DSD
Doc. No. 632848_2

EXHIBIT 'A'

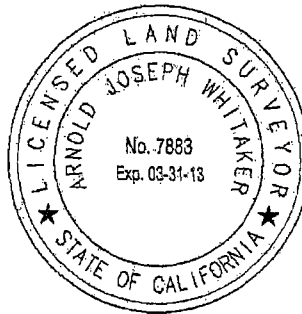
LEGAL DESCRIPTION FOR
CONSERVATION EASEMENT VACATION

ALL OF THE FOLLOWING DESCRIBED EASEMENT WITHIN THAT PORTION OF THE SOUTHEASTERLY 700.00 FEET OF ACRE LOT 8 OF SORRENTO LANDS AND TOWNSITE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 483, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 9, 1888; DESCRIBED AS FOLLOWS:

CONSERVATION EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED MARCH 27, 2003 AS FILE/PAGE NO. 2003-0347317 OF OFFICIAL RECORDS, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY.

ATTACHED HERETO IS DRAWING NO. 37086-B LABELED EXHIBIT 'B' AND BY THIS REFERENCE MADE A PART HEREOF.

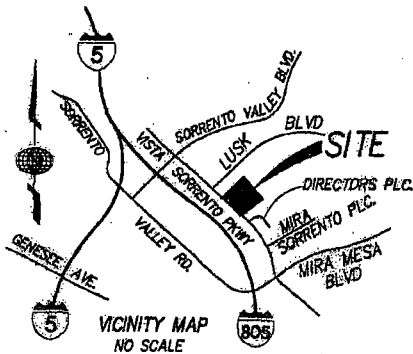
CONTAINS AN AREA OF 2.10 ACRES, MORE OR LESS.




ARNOLD J. WHITAKER
LS 7883 EXPIRES 03-31-13

FILE: PTS 158983
DRAWING NO. 37086-B
I.O. 23431133

EXHIBIT 'B'



CONSERVATION ESMT. DATA TABLE				
NO.	DELTA OR BRG.	RADIUS	LENGTH	REMARKS
1	N68°58'28"W		87.30'	
2	N14°19'51"W		33.95'	
3	NH°23'N'E		73.11'	
4	N02°11'27"W		74.43'	
5	N13°42'26"W		277.90'	
6	N27°06'55"W		234.52'	
7	N51°08'55"E		175.66'	

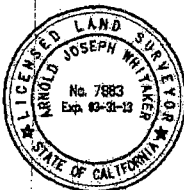
ASSESSOR'S PARCEL NUMBERS
340-090-14

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS DRAWING IS A PORTION OF THE EASTERLY LINE OF ACRE LOT B ACCORDING TO R.O.S. 11628, I.E. N 14°53'10" W.

REFERENCES:

R.O.S. 11628, MAP 12745, MAP 10607, MAP 13604, ROS 11711 MS 728, CITY DRWG. 5263-L, CITY DRWG. 00038-C, AND DOC. REC. 7-2-1984 AS DOC. NO. 1984-248660 O.R.



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Arnold J. Whitaker
ARNOLD J. WHITAKER LS 7883
7/3/12
DATE


CONSERVATION EASEMENT VACATION

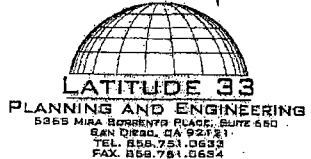
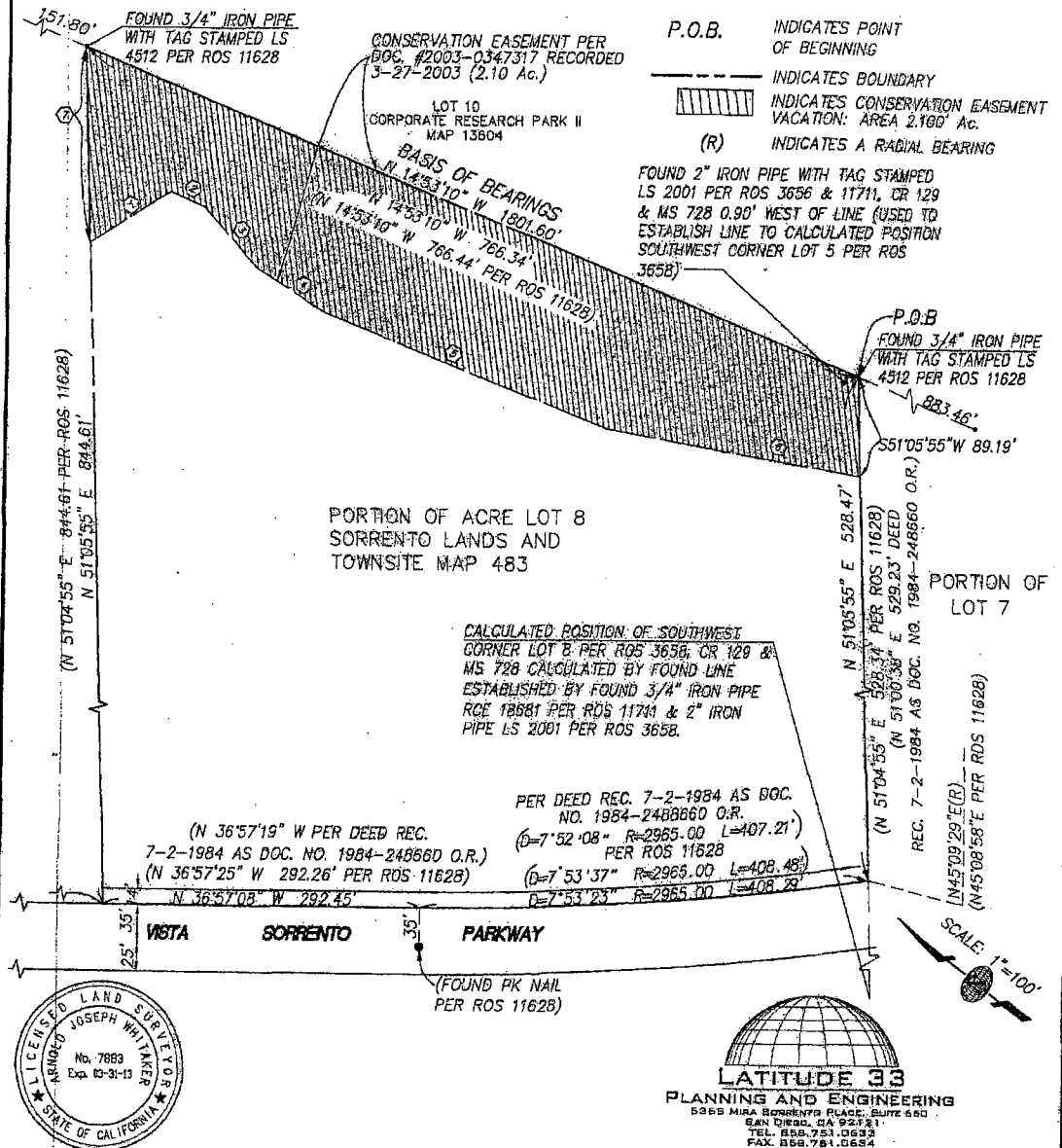
IN ACRE LOT B OF SORRENTO LANDS AND TOWNSITE, MAP NO. 483

DESCRIPTION	BY	APPROVED DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 1 OF 2 SHEETS	L.O. NO. 2343/133 PTS NO. 156983
ORIGINAL	LAT33			<i>Gregory L. Hagan</i> FOR CITY ENGINEER	1904-6263 OCS '83 COORDINATES
	AGA	7-19-2012		7/19/2012 DATE	266-1703 LAMBERT COORDINATES
					37086-1-B

EXHIBIT 'B'

LEGEND

- P.O.B. INDICATES POINT OF BEGINNING
- INDICATES BOUNDARY
-  INDICATES CONSERVATION EASEMENT VACATION: AREA 2.160' Ac.
- (R) INDICATES A RADIAL BEARING



Arnold J. Whitaker
 ARNOLD J. WHITAKER LS 7883
 7/3/12 DATE

CONSERVATION EASEMENT VACATION IN ACRE LOT 8 OF SORRENTO LANDS AND TOWNSITE, MAP NO. 483

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 2 OF 2 SHEET	I.O. NO. 2343/133
ORIGINAL	LAT33				<i>George P. Whitaker</i> FOR CITY ENGINEER	P.T.S. NO. 158783
	AGA		7-15-2012		7-19-2012 DATE	1904-6263 CCS '83 COORDINATES
						266-1703 LAMBERT COORDINATES
						37086-2-B

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Passed by the Council of The City of San Diego on OCT 08 2013, 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"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<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"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<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"/>

Date of final passage OCT 08 2013


(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 308495