

Item 333
Subitem A

Tues. 3/24/15

RESOLUTION NUMBER R- 309574

DATE OF FINAL PASSAGE MAR 24 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO SUMMARILY VACATING A BUILDING
RESTRICTED EASEMENT ON A PORTION OF PARCEL 1 OF
PARCEL MAP NO. 19580 - PROJECT NO. 231240.

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, it is proposed that a Building Restricted Easement Vacation on a portion of
Parcel 1 of Parcel Map No. 19580, Easement Vacation No. 1088562, be vacated; and

WHEREAS, the easement has been determined to be excess by the easement holder, and
there are no other public facilities located within the easement; 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 MAR 24 2015,
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 the by the Council
of the City of San Diego, that with respect to a Building Restricted Easement Vacation on a
portion of Parcel 1 of Parcel Map No. 19580, 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. In October 1995, the City Council approved Black Mountain Ranch Vesting Tentative Map/Planned Residential Development (VTM/PRD) No. 95-0173 covering approximately 4,677-acres for the development of 942 single residential unit lots, 179 multi-residential units, and a series of subordinate uses including schools, churches, public facilities, and open space areas.

Development of the Proposition A lands was implemented either through the Rural Cluster Development alternative of the Planned Residential Permit development regulations, which allowed one dwelling unit per four acres in a clustered manner or through the density permitted by the underlying agricultural zone. The cluster alternative allowed specific undeveloped portions of the property to be retained in open space designations for public uses including golf courses, clubhouses, parks, reclaimed water reservoirs, brush management zones, and desiltation basins. The project site was designated as Amenity Open Space and encumbered with a Building Restricted Easement (BRE) in order to restrict the approved density to what was permissible through the VTM/PRD. The lot is privately owned by the homeowners association and designated as Amenity Open Space in the Black Mountain Ranch Subarea Plan.

The vacation is proposed to eliminate the BRE only over the portion of the lot where the faux house and access road associated with Project No. 231240 are, which totals approximately 0.383-acres of a 18.34-acre lot. The remainder of the property will retain the BRE. Currently, the property is vacant and was previously graded and hydroseeded during the development of Unit 7 of Black Mountain Ranch. Verizon, in conjunction with the Homeowners Associates, is requesting that the BRE be vacated over a portion of the lot to allow construction of the faux house which will provide wireless services to the community.

Although the lot is encumbered with a BRE, which was intended to restrict density, the Plan designation of Amenity Open Space does allow uses including those that would involve construction, thus necessitating an action to remove the BRE. The WCF serves a segment of the public that subscribes to the carriers that would be located in the faux house, in this case, Verizon. It also provides non-subscribers with wireless phone access to emergency 911.

The easement is proposed on a privately owned lot that has no present or anticipated public use.

(b) The public will benefit from the action through improved utilization of the land made available by the vacation. The easement vacation will allow Verizon to construct a faux house that will conceal up to three wireless carriers' facilities, providing wireless coverage to Black Mountain Ranch and the surrounding communities, which will benefit the public by improving communications. The faux house is proposed on a vacant open space lot that is part of a low density residential subdivision. The design of the WCF as a house integrates well into the neighborhood context and will not cause any potential land use or aesthetic impacts. The remainder of the lot will continue to be encumbered with the BRE. Other than a faux house to conceal wireless antennas and equipment and the access road to the faux house, the lot will continue to be restricted for any other type of construction. Maintenance of the lot will continue

to be the responsibility of the homeowners association and Verizon will be required to maintain the faux house, access road and required landscaping. Verizon has demonstrated through network coverage maps that a significant gap in coverage exists in this area of San Diego. The public will benefit from the vacation by provision of wireless coverage to the area once construction of the faux house and installation of the wireless facilities has been completed.

(c) The vacation is consistent with any applicable land use plan. Vacating the easement will allow the 1,568-square foot house, proposed by Verizon, to be built for the sole purpose of providing wireless services. The Black Mountain Ranch Subarea Plan designates the project site as Amenity Open Space and lists uses such as golf courses, clubhouses, brush management lots, Property Owner Association lots, desiltation basins and reclaimed water reservoirs, uses which will serve the community. Vacating the easement in order to construct a faux house concealing wireless facilities will serve the community by providing wireless and emergency communication services.

Furthermore, the Black Mountain Ranch Subarea Plan does not address WCF, but the City of San Diego's General Plan, Section UD-15 requires that visual impacts of these facilities be minimized by concealing them in existing structures or using screening techniques to hide or blend them into the area in which they are proposed. The Plan also calls for these facilities to be designed to be aesthetically pleasing and respectful of the neighborhood context. The project has been designed as a faux adobe house concealing up to three wireless carriers. It does not change the intent of the BRE, which was to restrict residential density and the faux house integrates into the low-density residential neighborhood context while providing wireless services to the area.

The easement vacation will continue to provide necessary public improvements consistent with the Subarea Plan while simultaneously meeting the needs of the community. Therefore, the proposed easement vacation will not adversely affect 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. In October 1995, the City Council approved Black Mountain Ranch Vesting Tentative Map/Planned Residential Development (VTM/PRD) No. 95-0173 covering approximately 4,677-acres for the development of 942 single residential unit lots, 179 multi-residential units, and a series of subordinate uses including schools, churches, public facilities, and open space areas.

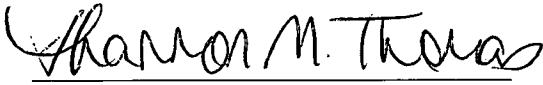
Development of the Proposition A lands was implemented either through the Rural Cluster Development alternative of the Planned Residential Permit development regulations, which allowed one dwelling unit per four acres in a clustered manner or through the density permitted by the underlying agricultural zone. The cluster alternative allowed specific undeveloped portions of the property to be retained in open space designations for uses including golf courses, clubhouses, parks, reclaimed water reservoirs, brush management zones and desiltation basins. The project site was designated as Amenity Open Space and encumbered with a Building Restricted Easement (BRE) in order to restrict the approved density to what was permissible through the VTM/PRD. The lot is privately owned by the homeowners association and designated as Amenity Open Space in the Black Mountain Ranch Subarea Plan.

The BRE is being vacated to accommodate the faux house proposed by Verizon to conceal their WCF and up to two other WCFs for additional carriers. The remainder of the lot will continue to be encumbered with the BRE and the faux house will be restricted to being used for the sole purpose of providing communications as a WCF. The approved density for Black Mountain Ranch will not be impacted by this project and will continue to be restricted with the regulations in place for the Black Mountain Ranch development area. Therefore, the original purpose of the easement, to restrict density, will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that the Building Restricted Easement located within a portion of Parcel 1 of Map No. 19580 the Black Mountain Ranch Community Planning area in connection with Neighborhood Use Permit No. 1088557 and Planned Development Permit No. 1378745, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawings Nos. 37620-1-B and 37620-2-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 
Shannon M. Thomas
Deputy City Attorney

SMT:dkr
1/14/2015
Or.Dept: DSD
Doc. No. 935774_2

Attachment: Exhibit A – Legal Description
Exhibit B – Drawings Nos. 37620-1-B and 37620-2-B

EXHIBIT "A"

LEGAL DESCRIPTION

BUILDING RESTRICTED EASEMENT VACATION

BEING PORTIONS OF A BUILDING RESTRICTED EASEMENT GRANTED PER PARCEL MAP NO. 19580, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, LYING WITHIN PARCEL 1 OF SAID PARCEL MAP NO. 19580.

PARCEL NO 1:

14.00 FOOT WIDE STRIP LYING 7.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT THE NORTHEASTERLY TERMINUS OF THE NORTHWEST RIGHT OF WAY LINE OF NORTHERN LIGHTS, A PRIVATE DRIVE, SAID LINE BEING SHOWN AS HAVING A BEARING AND DISTANCE OF "NORTH 23°57'45" EAST 98.99" FEET PER SAID PARCEL MAP NUMBER 19580, SAID POINT BEING THE BEGINNING OF A 150.00 FOOT RADIUS TANGENT CURVE CONCAVE SOUTHERLY; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43°59'01" AN ARC LENGTH OF 115.15 FEET, TO WHICH POINT A RADIAL LINE BEARS NORTH 22°03'14" WEST, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING COURSES: NORTH 23°28'11" WEST 120.35 FEET TO THE BEGINNING OF A TANGENT 18.00 FOOT RADIUS CURVE CONCAVE TO THE EAST; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 84°53'31" AN ARC LENGTH OF 26.67 FEET; THENCE NORTH 61°25'20" EAST 84.95 FEET TO THE BEGINNING OF A TANGENT 40.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 04°42'25" AN ARC LENGTH OF 3.29 FEET; THENCE NORTH 66°07'45" EAST 37.86 FEET TO THE BEGINNING OF A TANGENT 40.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°13'18" AN ARC LENGTH OF 7.14 FEET; THENCE NORTH 76°21'04" EAST 42.32 FEET TO THE BEGINNING OF A TANGENT 17.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 56°08'00" AN ARC LENGTH OF 16.66 FEET; THENCE SOUTH 47°30'56" EAST 154.56 FEET TO THE BEGINNING OF A TANGENT 23.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°30'56" AN ARC LENGTH OF 5.02 FEET; THENCE SOUTH 35°00'00" EAST 82.61 FEET TO THE POINT OF TERMINUS, SAID POINT BEING DESIGNATED AS POINT "A" HEREON.

THE SIDELINES OF SAID STRIP, AT THE TRUE POINT OF BEGINNING, ARE TO BE SHORTENED OR LENGTHENED SO AS TO TERMINATE AT THE NORTHWEST RIGHT OF WAY LINE OF SAID NORTHERN LIGHTS AND AT THE POINT OF TERMINUS, TO BE MEASURED AT RIGHT ANGLES TO THE SOUTHEAST TERMINUS OF THE LAST COURSE.

CONTAINING 8,141 SQUARE FEET, BEING 0.187 ACRES, MORE OR LESS

PARCEL NO 2:

BEGINNING AT POINT "A" DESIGNATED IN PARCEL NO 1; THENCE SOUTH 55°00'00" WEST 7.00 FEET TO THE SOUTHWESTERLY LINE OF THE TERMINUS COURSE IN SAID PARCEL NO 1, THENCE ALONG SAID LINE NORTH 35°00'00" WEST 2.58 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE

BEGINNING OF A TANGENT 5.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH, THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 7.85 FEET; THENCE SOUTH 55°00'00" WEST 15.00 FEET; THENCE NORTH 35°00'00" WEST 30.00 FEET; THENCE NORTH 55°00'00" EAST 15.00 FEET TO THE BEGINNING OF A TANGENT 5.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" 7.85 FEET TO THE SOUTHWESTERLY LINE OF THE TERMINUS COURSE OF SAID PARCEL NO 1; THENCE SOUTH 35°00'00" EAST, ALONG SAID LINE, 40.00 FEET RETURNING TO THE TRUE POINT OF BEGINNING.

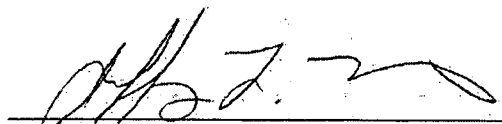
CONTAINING 611 SQUARE FEET, BEING 0.014 ACRES, MORE OR LESS

PARCEL NO 3:

BEGINNING AT POINT "A" DESIGNATED IN PARCEL NO 1; THENCE NORTH 55°00'00" EAST 7.00 FEET TO THE NORTHEASTERLY LINE OF THE TERMINUS COURSE OF PARCEL NO. 1; THENCE NORTH 35°00'00" WEST 1.00 FEET ALONG SAID NORTHEASTERLY LINE; THENCE NORTH 55°00'00" EAST 32.67 FEET; THENCE SOUTH 35°00'00" EAST 98.67 FEET; THENCE SOUTH 55°00'00" WEST 79.33 FEET; THENCE NORTH 35°00'00" WEST 98.67 FEET; THENCE NORTH 55°00'00" EAST 12.66 FEET; THENCE NORTH 35°00'00" WEST 6.58 FEET TO THE MOST SOUTHERLY CORNER OF PARCEL NO. 2; THENCE NORTH 55°00'00" EAST 15.00 FEET ALONG THE SOUTHEAST LINE OF SAID PARCEL NO. 2 TO THE BEGINNING OF A TANGENT 5.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 7.85 FEET ALONG THE SOUTHEAST LINE OF SAID PARCEL NO. 2 TO THE SOUTHEAST CORNER THEREOF, SAID SOUTHEAST CORNER BEING ON THE SOUTHWEST LINE OF PARCEL NO. 1; THENCE SOUTH 35°00'00" EAST 2.58 FEET ALONG SAID SOUTHWEST LINE TO THE SOUTHEAST LINE OF SAID PARCEL NO. 1; THENCE NORTH 55°00'00" EAST 7.00 FEET ALONG SAID SOUTHEAST LINE RETURNING TO THE POINT OF BEGINNING.

CONTAINING 7,940 SQUARE FEET, BEING 0.182 ACRES, MORE OR LESS.

ATTACHED HERETO IS CITY DRAWING NO. 37620-B AND BY THIS REFERENCE MADE A PART HEREOF.



JEFFERY L. MAYS, PLS 6379
PTS NO. 231240
I.O. NO. 24001506
DWG NO. 37620-B



EXHIBIT "B"

LEGEND:

INDICATES PORTIONS OF BUILDING RESTRICTED - EASEMENT, VACATED.



TOTAL AREA = 16,692 SQUARE FEET
0.383 ACRES

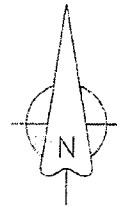
P.O.B. - POINT OF BEGINNING
T.P.O.B. - TRUE POINT OF BEGINNING

INDICATES RECORD DATA - ()
PER PARCEL MAP 19580

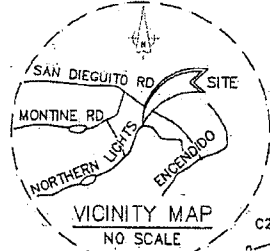
A.P.N. - 269-262-05

BASIS OF BEARINGS:

THE BASIS OF BEARINGS FOR THIS EXHIBIT IS A PORTION OF THE SOUTHWESTERLY LINE OF PARCEL 1 OF PARCEL MAP NUMBER 19580.
I.E. N 23°57'45" E



SCALE = 1" = 80'



SEE SHEET 2 FOR PARCEL NO.'S 2 & 3

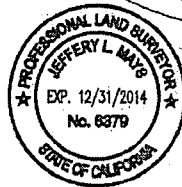
TRUE POINT OF BEGINNING PARCEL NO 1
 $\Delta = 43^{\circ}59'01''$
 $R = 150.00'$
 $L = 115.15'$

POINT OF BEGINNING PARCEL NO 1
(N23°57'45"E)
(98.99')
BASIS OF BEARINGS

BLACK MOUNTAIN RANCH
UNIT NO. 7
MAP NO. 14296

EASEMENT NOTE

1 A BUILDING RESTRICTED EASEMENT GRANTED PER PARCEL MAP NUMBER 19580 AFFECTING ALL OF PARCEL 1.



APN: 269-262-05

JRN CIVIL ENGINEERS

232 AVENIDA FABRICANTE, SUITE 107
SAN CLEMENTE, CA. 92672
(949) 248-4685

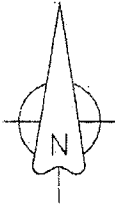
Jeffery L. Mays DATE: 7/25/2014
JEFFERY L. MAYS, PLS 6379

BUILDING RESTRICTED EASEMENT VACATION IN

PORTION OF PARCEL 1 OF PARCEL MAP NO. 19580

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PIS NO. 231240
ORIGINAL		AAA	10-21-14		SHEET 1 OF 2 SHEETS	No. 24001506
					<i>Richard R. Poy</i> FOR CITY ENGINEER	1944-6279
					11/12/14 DATE	NAD 83 COORDINATES
						304-1719
						LANBERT COORDINATES
						37620-1-B

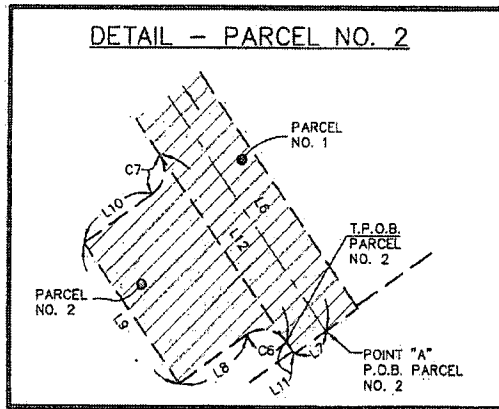
EXHIBIT "B"



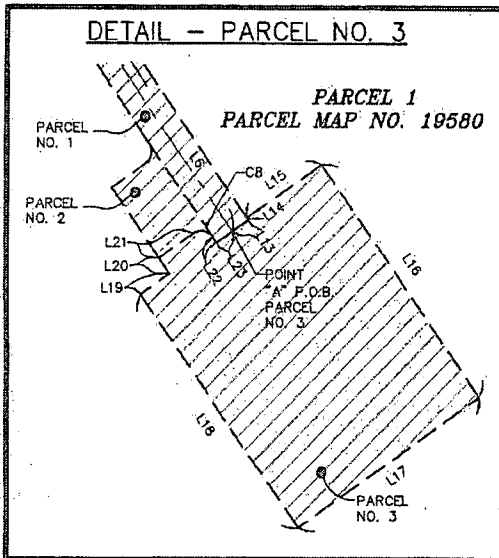
NO SCALE



CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	$\Delta=84^{\circ}53'31''$	18.00'	26.67'
C2	$\Delta=4^{\circ}42'25''$	40.00'	3.29'
C3	$\Delta=10^{\circ}13'18''$	40.00'	7.14'
C4	$\Delta=56^{\circ}08'00''$	17.00'	16.66'
C5	$\Delta=12^{\circ}30'56''$	23.00'	5.02'
C6	$\Delta=90^{\circ}00'00''$	5.00'	7.85'
C7	$\Delta=90^{\circ}00'00''$	5.00'	7.85'
C8	$\Delta=90^{\circ}00'00''$	5.00'	7.85'



LINE TABLE		
LINE	BEARING	LENGTH
L1	N23°28'11"W	120.35'
L2	N61°25'20"E	84.95'
L3	N66°07'45"E	37.86'
L4	N76°21'04"E	42.32'
L5	S47°30'56"E	154.56'
L6	S35°00'00"E	82.61'
L7	S55°00'00"W	7.00'
L8	S55°00'00"W	15.00'
L9	N35°00'00"W	30.00'
L10	N55°00'00"E	15.00'
L11	N35°00'00"W	2.58'
L12	S35°00'00"E	40.00'
L13	N55°00'00"E	7.00'
L14	N35°00'00"W	1.00'
L15	N55°00'00"E	32.67'
L16	S35°00'00"E	98.67'
L17	S55°00'00"W	79.33'
L18	N35°00'00"W	98.67'
L19	N55°00'00"E	12.66'
L20	N35°00'00"W	6.58'
L21	N55°00'00"E	15.00'
L22	N35°00'00"W	2.58'
L23	N55°00'00"E	7.00'



JRN CIVIL ENGINEERS

232 AVENIDA FABRICANTE, SUITE 107
SAN CLEMENTE, CA, 92672
(949) 248-4685

Jeffery L. Mays
DATE: 10/23/14
JEFFERY L. MAYS, PLS 6379

BUILDING RESTRICTED EASEMENT VACATION IN

PORTION OF PARCEL 1 OF PARCEL MAP NO. 19580

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO. 231240
ORIGINAL					SHEET 2 OF 2 SHEETS	T.O. No. 24001506
					<i>Jeffery L. Mays</i> FOR CITY ENGINEER	1944-6279 NAD 83 COORDINATES
					DATE 11/18/14	304-1719 LAMBERT COORDINATES
						37620-2-B

Passed by the Council of The City of San Diego on MAR 24 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lorie Zapf	<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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chris Cate	<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 MAR 24 2015

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

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By *Mary Jurkiewicz*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309574