

RESOLUTION NUMBER R- 309955

DATE OF FINAL PASSAGE AUG 04 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING GENESEE COVE WITH
RESERVATION OF EASEMENT, RIGHT-OF-WAY
VACATION NO. 1293418, FOR THE UNIVERSITY TERRACE
EAST PROJECT, PROJECT NO. 334934.

WHEREAS, California Streets and Highways Code section 8320 *et seq.*, and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the vacation of public rights-of-way by City Council resolution where the easements are no longer required; and

WHEREAS, University Terrace East, a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a permit to amend Planned Residential Development Permit No. 84-0314 to construct 18 additional residential apartments on a site containing 75 apartments for a total of 93 apartments (Planned Development Permit No. 1175450), as well as to vacate water and sewer easements (Vacation No. 1295509) and vacate a public right-of-way (Vacation No. 1293418), on portions of a 3.76 acre site (Project); and

WHEREAS, LUIGI ANGELUCCI filed an application to vacate Genesee Cove, being described as Right-of-Way Vacation No. 1293418; and

WHEREAS, Right-of-Way Vacation No. 1293418 is located on property owned by University Terrace East, a California limited partnership; and

WHEREAS, in connection with Right-of-Way Vacation No. 1293418, the City desires to reserve and except a public easement(s); and

WHEREAS, on June 11, 2015, the Planning Commission of the City of San Diego considered Right-of-Way Vacation No. 1293418, and pursuant to Resolution No. PC-4700 voted 7:0:0 to recommend approval of Right-of-Way Vacation No. 1293418; 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 AUG 04 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 Council of the City of San Diego, that with respect to Vacation No. 1293418, the Council finds that:

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

The land is no longer needed as public right-of-way and is not needed to provide public circulation or public services. The public right-of-way was originally acquired for circulation, access and public services in the year 1985, yet the street is a short cul-de-sac which serves one property developed with apartments. The street has never served a local circulation need. The neighborhood and community have several existing improved public rights-of-way that provide the public circulation necessary to the community and Genesee Cove is not needed for providing public circulation. Public water and sewer services are provided throughout the community and Genesee Cove is not needed for providing water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. Genesee Cove is not needed for these other services.

As such, the existing public right-of-way will no longer be necessary and will have no prospective use. There is no present or prospective public use for the public right-of-way, either for the 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 use of the land made available by the vacation.

Presently the public right-of-way serves only one property developed with an apartment complex. The property adjacent to the right-of-way will benefit by the vacation of the existing right-of-way as the properties will become larger and will control, maintain and be responsible for and liable for this area of land. The City of San Diego and the County of San Diego will benefit by the increase of property value by increasing the area of privately owned land subject to property tax and the incremental increase to the tax base. With an increase of tax revenue the general public will benefit by the vacation of the existing right-of-way by the increase of available funds for public purposes. The public will benefit by the reduction of liability to the City of San Diego from land it controls yet gains no significant benefit or use. The adopted University Community Plan designates the site for residential development. In that the use of the land for public right-of-way purposes has never served a circulation need, it is in the public interest to vacate the right-of-way and transfer responsibility of right-of-way to the adjacent property owner. Further the public will benefit by the vacation of the public right-of-way by the increase in property value. The public will benefit by the vacation of the public right-of-way through improved use of the land.

(c) The vacation does not adversely affect any applicable land use plan.

The adopted University Community Plan identifies this public right-of-way for residential development. The vacation of the public right-of-way will facilitate the fullest and highest use of the property as designated by the Community Plan. For these reasons the proposed vacation of the public right-of-way is consistent with the policies and goals of the adopted within the University Community Plan and will not adversely affect the University Community Plan.

(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

The public right-of-way was originally acquired for circulation, access and public services in the year 1985, yet the street is a short cul-de-sac which serves one property developed with apartments. The street has never served a local circulation need. The neighborhood and community have several existing improved public rights-of-way that provide circulation necessary to the public within and through the community and Genesee Cove is not needed to provide public circulation. Public water and sewer services are provided throughout the community and Genesee Cove is not needed to provide water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. An easement for public utilities will be reserved over the all of the area for the benefit of the public and franchise utility companies. There is no other use of a like nature for this specific right-of-way which can be reasonably anticipated and the purpose for which the right-of-way was originally acquired will no longer exist and will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 1293418, in connection with Planned Development Permit No. 1175450, as more particularly described in the legal

description marked as Exhibit "A" and shown on Drawing No. 38049-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following condition(s) which are made a part of this resolution: the owner shall relocate the existing franchise utility facilities to the satisfaction of Time Warner Cable and the City Engineer. 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.

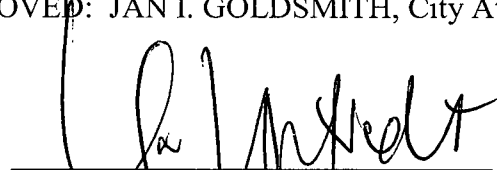
BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way Vacation No. 1293418 a permanent easement for public utility and telecommunications purposes, as more particularly described hereinafter as a general utility easement for public utilities and telecommunications and access for said utilities.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across Genesee Cove, vacated by this resolution and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 38049-B, marked as Exhibit "B."

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



Inga B. Lintvedt
Deputy City Attorney

IBL: mm
7/17/2015
Or.Dept:DSD
Doc. Id: 1065000

EXHIBIT 'A'
LEGAL DESCRIPTION
PUBLIC STREET EASEMENT VACATION
WITH
GENERAL UTILITY AND ACCESS EASEMENT RESERVED
 APN: 348-010-76

GENESSE COVE AS GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT NUMBER 85-265701 DATED JULY 25, 1985 BEING A PORTION OF PARCEL 1 OF PARCEL MAP 13877, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHERLY CORNER OF SAID PARCEL 1, A RADIAL LINE TO SAID POINT BEARS N72°27'22"E; THENCE

1. SOUTHERLY 74.24 FEET ALONG THE ARC OF A 1051.00 FOOT RADIUS, CONCAVE WESTERLY, THE CURVE ALSO BEING THE EASTERLY RIGHT OF WAY OF GENESEE AVENUE DEDICATED PER DOCUMENT NUMBER 187536 DATED OCTOBER 14, 1965 THROUGH A CENTRAL ANGLE OF 04°02'50"; THENCE CONTINUING ALONG SAID RIGHT OF WAY
2. SOUTH 13°29'48" EAST 366.71 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY WITH A RADIUS OF 20.00 FEET, TO A POINT ON THE EXISTING RIGHT OF WAY OF GENESEE COVE DEDICATED PER DOCUMENT NUMBER 85-265701 DATED JULY 25, 1985. HEREON REFERED TO AS THE **TRUE POINT OF BEGINNING**; THENCE ALONG SAID RIGHT OF WAY.
3. SOUTHEASTERLY 31.42 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00"; THENCE ALONG SAID RIGHT OF WAY
4. NORTH 76°30'12" EAST 48.00 FEET; THENCE ALONG SAID RIGHT OF WAY
5. SOUTH 13°29'48" EAST 60.00 FEET; THENCE ALONG SAID RIGHT OF WAY
6. SOUTH 76°30'12" WEST 46.93 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY WITH A RADIUS OF 20.00 FEET; THENCE ALONG SAID RIGHT OF WAY

7. SOUTHWESTERLY 32.38 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 92°44'53", THAT POINT ALSO BEING THE EASTERLY RIGHT OF WAY OF GENESEE AVENUE; THENCE ALONG SAID RIGHT OF WAY
8. NORTH 16°14'41" WEST 22.90 FEET; THENCE ALONG THE SAID RIGHT OF WAY
9. NORTH 13°29'48" WEST 78.09 FEET TO THE TRUE POINT OF BEGINNING

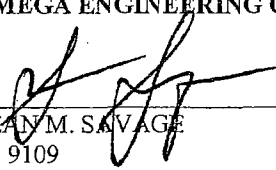
RESERVING THEREFROM, A GENERAL EASEMENT FOR PUBLIC UTILITIES AND ACCESS FOR SAID UTILITIES.

TOTAL RIGHT OF WAY VACATION AREA: 4,261.96 SF = 0.098 ACRES

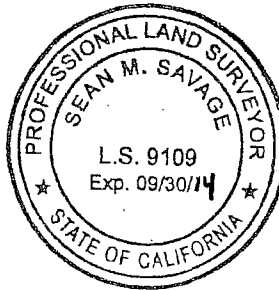
ATTACHED HERETO IS A DRAWING NO. 38049-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF

PREPARED BY:

OMEGA ENGINEERING CONSULTANTS


SEAN M. SAVAGE
LS 9109
LIC. EXP. 09-30-14

8/26/14
DATE



CITY OF SAN DIEGO REFERENCES:

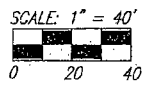
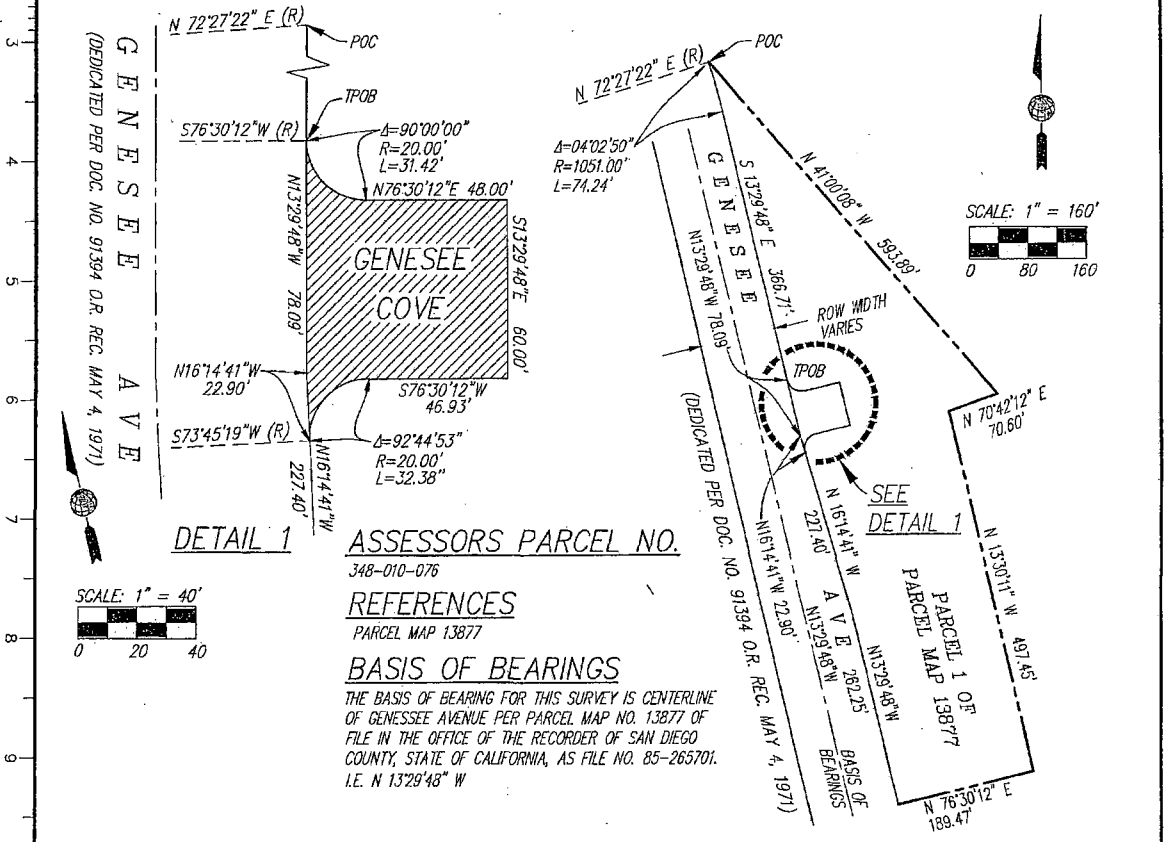
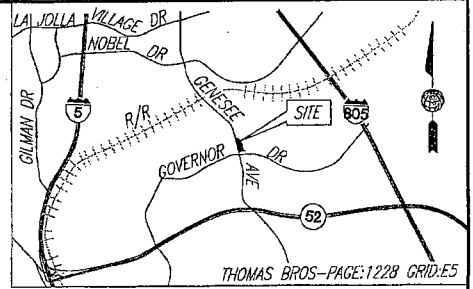
IO 24004006

PTS 334934

DWG 38049-B

LEGEND:

- PROPERTY LINE
- STREET CENTER LINE
- RIGHT-OF-WAY
- INDICATES RIGHT OF WAY VACATED ON GENESEE COVE. DEDICATED PER PARCEL MAP 13877 FILE NO. 85-265701 DATED 7-25-1985. VACATION AREA = 4,261.96 SF (0.098 AC)
- POC POINT OF COMMENCEMENT
- TPOB TRUE POINT OF BEGINNING



ASSESSORS PARCEL NO.
348-010-076

REFERENCES
PARCEL MAP 13877

BASIS OF BEARINGS
THE BASIS OF BEARING FOR THIS SURVEY IS CENTERLINE OF GENESEE AVENUE PER PARCEL MAP NO. 13877 OF FILE IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA, AS FILE NO. 85-265701. I.E. N 13°29'48" W

OMEGA ENGINEERING CONSULTANTS
4340 VIEWRIDGE AVE, SUITE B
SAN DIEGO, CALIFORNIA 92123
Phone: (858) 634-8620



[Signature] 9/11/14
SEAN M. SAVAGE DATE
L.S. 9109 EXP. 09-30-14

**PUBLIC STREET EASEMENT VACATION WITH
GENERAL UTILITY AND ACCESS EASEMENT RESERVED
IN PORTION OF PARCEL 1 OF PARCEL MAP 13877**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S NO. 334934
ORIGINAL	DEC					SHEET 1 OF 1 SHEET
	MDS	✓	9/11/14		<i>Frank R. de Poy</i> FOR CITY ENGINEER	1890-6265 CCS 83 COORDINATES
					9/11/14 DATE	250-1705 CCS 27 COORDINATES
						38049-B

Passed by the Council of The City of San Diego on AUG 04 2015, 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"/>
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 checked="" type="checkbox"/>	<input 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 AUG 04 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 , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309955