

RESOLUTION NUMBER R- 311173

DATE OF FINAL PASSAGE JUN 06 2017

ITEM # 335B  
6/6/17

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO VACATING A PORTION OF TERMAN COURT  
PUBLIC RIGHTS-OF-WAY VACATION NO. 1727973 –  
BIOLEGEND PROJECT NO. 490921.

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; and

WHEREAS, BioLegend, Inc., a California corporation, filed an application to vacate Terman Court, being described as Right-of-Way Vacation No. 1727973; and

WHEREAS, Right-of-Way Vacation No. 1727973 is located on property owned by BioLegend, Inc., a California corporation; 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 June 6, 2017, 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 Right-of-Way Vacation No. 1727973, 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 Terman Court right-of-way was acquired by the City of San Diego in 1984 in conjunction with the development of the four adjacent parcels under separate ownerships. Currently all parcels are under one ownership, and pursuant San Diego Municipal Code Section 125.0910(b)(2), when a public right-of-way lies within one ownership and does not continue through that ownership or touch the property of another owner, a right-of-way vacation may be initiated. Public access to the four parcels is currently taken at the cul-de-sac of Terman Court. Terman Court terminates at a cul-de-sac, does not continue through the project site, no easement for road purposes extends beyond its current terminus, and there are no future plans to extend it farther. The vacation of Terman Court would replace the public access point to the four parcels from the cul-de-sac to the proposed driveway entrance at Carroll Road, the nearest public road. As public access will be provided from Carroll Road, there would be no present or prospective public use for the Terman Court 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.

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

All parcels surrounding the easements are now under one ownership. The Terman Court right-of-way will be vacated and access to the four parcels provided by a private drive, and all ancillary utility and maintenance responsibilities transferred to the owner. The vacation would reduce the operational expenses to the City, and the release of the land to the owner would improve its utilization by increasing the allowable development under the Industrial Land Use as recommended in the community plan. The increase in allowable development may also provide additional services to the public. Therefore, the public will benefit from the vacation through the improved use of the land made available by the vacation.

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

The Mira Mesa Community Plan does not list Terman Court within its Transportation Element, and therefore the proposed vacation would not affect the land use plan. However, Carroll Road, the street perpendicular to the proposed public right-of-way vacation, is classified as a four-lane collector street in the community plan and is currently a 70-foot-wide two-lane roadway with center turning lane. Per the City's Street Design Manual, a four-lane collector width measures 110 feet. The Irrevocable Offer of Dedication proposed by the applicant assures land necessary for the future Carroll Road expansion and meets the recommendations of the community plan. Therefore, the vacation does not adversely affect any applicable land use plan.

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

The Terman Court right-of-way was created for access to four adjacent parcels under separate ownerships, which contain public water, and drainage facilities with ancillary easements

necessary for all parcels connected to Terman Court to access those services. Vacating Terman Court would require privatizing those facilities and vacating the existing easements, with maintenance responsibilities transferred to the owner. Where privately maintained facilities connect to or discharge into public facilities, an Encroachment Maintenance and Removal Agreement would be recorded and enforced. Therefore, public facilities would not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 1727973, in connection with Easement Vacation No. 1727974, as more particularly described in the legal description marked as Exhibit "A1" and shown on Drawing No. 39490-1-B, marked as Exhibit "B1," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following conditions which are made a part of this resolution:

1. Prior to recordation of the Right-of-Way Vacation Resolution, the applicant shall obtain a Construction Permit to construct a clean out per City standard on the existing storm drain line at the most northerly portion of Lot 3.

2. Prior to recordation of Right-of-Way Vacation Resolution, a Private Access Easement must be recorded to secure access for private utilities located within the vacated public right-of-way.

3. Prior to the recordation of the Right-of-Way Vacation Resolution, the applicant shall record a Parcel Map to merge Parcel 2 of Parcel Map 13198 with Parcel 1 of Parcel Map 13198 or Parcel 3 of Parcel Map 13198.

4. Prior to recordation of the Right-of-Way Vacation Resolution, the applicant must obtain an Encroachment and Maintenance Removal Agreement (EMRA) for connecting the private discharge to the public drainage system.

5. Prior to recordation of Right-of-Way Vacation Resolution, the applicant must obtain a Construction Permit to relocate the existing street light from the corner of Carroll Road and Terman Court to the Carroll Road Right-of-Way.

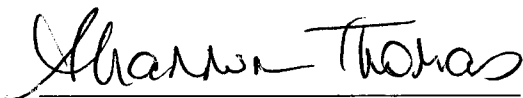
6. Prior to recordation of Right-of-Way Vacation Resolution, the applicant must obtain a Construction Permit to remove the existing street light from the Terman Court cul-de-sac to the satisfaction of the City Engineer.

7. Prior to the recordation of the Right-of-Way Vacation Resolution, the applicant shall assure, by Construction permit and bond, the construction of a new 30-foot-wide driveway per current City Standards, on Carrol Road to replace the existing Terman Court curb return.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way No. 1727973, the Irrevocable Offer of Dedication to the City of San Diego for the purposes of public street improvements, as more particularly described in the legal description marked Exhibit "A2" and shown on Drawing No. 39764-B, marked Exhibit "B2."

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: MARA W. ELLIOTT, City Attorney

By 

Shannon M. Thomas  
Deputy City Attorney

SMT:als  
05/09/2017  
Or.Dept:DSD  
Doc. No. 1510110

J.N. 1349.40

**EXHIBIT "A1"**  
**LEGAL DESCRIPTION**  
**PUBLIC STREET EASEMENT VACATION**

ALL THAT DRAINAGE EASEMENT AND WATER EASEMENT GRANTED TO THE CITY OF SAN DIEGO ON PARCEL MAP NO. 13198, LOCATED WITHIN:

PORTIONS OF PARCELS 1, 2, 3 AND 4 OF PARCEL MAP NO. 13198, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, FEBRUARY 29, 1984 AS INSTRUMENT NO. 84-074333 OF OFFICIAL RECORDS, TOGETHER WITH TERMAN COURT, AS SAID TERMAN COURT IS DEDICATED PER CITY OF SAN DIEGO RESOLUTION NO. 260190 ADOPTED FEBURARY 27, 1984, VACATED.

A TT ACHED HERETO IS A DRAWING NO. 39490-B LABELED EXHIBIT "B1" AND BY THIS REFERENCE MADE A PART HEREOF.

  
C. JOHN EARDENSOHN  
LS 5278 EXPIRES 12-31-17



FILE: PTS 490921  
I.O. NO. 24006720



**EXHIBIT "A2"**  
**LEGAL DESCRIPTION**  
**IRREVOCABLE OFFER OF DEDICATION FOR PUBLIC STREET PURPOSES**

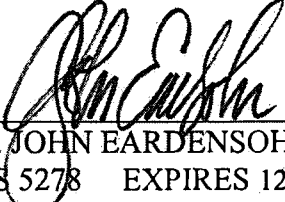
THAT PORTION OF PARCELS 1 AND 4 OF PARCEL MAP NO. 13198, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY, FEBRUARY 29, 1984 AS INSTRUMENT NO. 84-074333 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

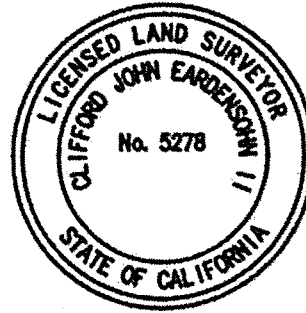
COMMENCING AT THE NORTHWEST CORNER OF PARCEL 4 OF PARCEL MAP NO. 13198, SAID POINT ALSO LYING ON A 1451.10 FOOT RADIUS CURVE, CONCAVE WESTERLY, A LINE RADIAL TO SAID POINT BEARING NORTH 83°08'47" EAST; THENCE ALONG THE WESTERLY SIDE OF SAID PARCEL 4 AND THE ARC OF SAID CURVE

- |                          |              |   |
|--------------------------|--------------|---|
| 1. SOUTHERLY             | 173.56 FEET  | THROUGH A CENTRAL ANGLE OF 6°51'13" THENCE ALONG THE WESTERLY SIDE OF PARCEL 4;                 |
| 2. SOUTH 00°00'38" WEST  | 174.86 FEET; | THENCE TO THE <b>TRUE POINT OF BEGINNING</b> THENCE   |
| 3. SOUTH 00° 00'38" WEST | 30.91 FEET;  | TO A TANGENT 20.00 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY;                                    |
| 4. SOUTHEASTERLY         | 33.04 FEET   | THENCE  |
| 5. NORTH 85° 20'44" EAST | 531.35 FEET; | THROUGH A CENTRAL ANGLE OF 94° 39'51"; THENCE ALONG THE SOUTHERLY SIDE OF SAID PARCELS 1 AND 4; |
| 6. NORTH 04°39'16" WEST  | 20.00 FEET;  | THENCE LEAVING SAID SOUTHERLY SIDE  |
| 7. SOUTH 85° 20'44" WEST | 518.87 FEET; | THENCE TO A TANGENT 30.00 FOOT RADIUS CURVE, CONCAVE NORTHEASTERLY; THENCE                      |
| 8. NORTHWESTERLY         | 49.56 FEET   | THROUGH A CENTRAL ANGLE OF 94°39'33" TO THE <b>TRUE POINT OF BEGINNING</b>                      |

SAID IRREVOCABLE OFFER OF DEDICATION CONTAINS AN AREA OF 11,173.93 SF  
(0.257 ACRES) MORE OR LESS

A TT ACHED HERETO IS A DRAWING NO. 39764-B LABELED EXHIBIT "B2" AND BY  
THIS REFERENCE MADE A PART HEREOF.

 2/23/17  
C. JOHN EARDENSOHN  
LS 5278 EXPIRES 12-31-17



FILE: PTS 490921  
I.O. NO. 24006720



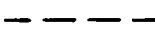


# EXHIBIT "B2"

LINE TABLE		
LINE NO.	LENGTH (FT)	BEARING
L1	30.91'	S0° 00' 38"W
L2	531.35'	N85° 20' 44"E
L3	20.00'	N4° 39' 16"W
L4	518.87'	S85° 20' 44"W

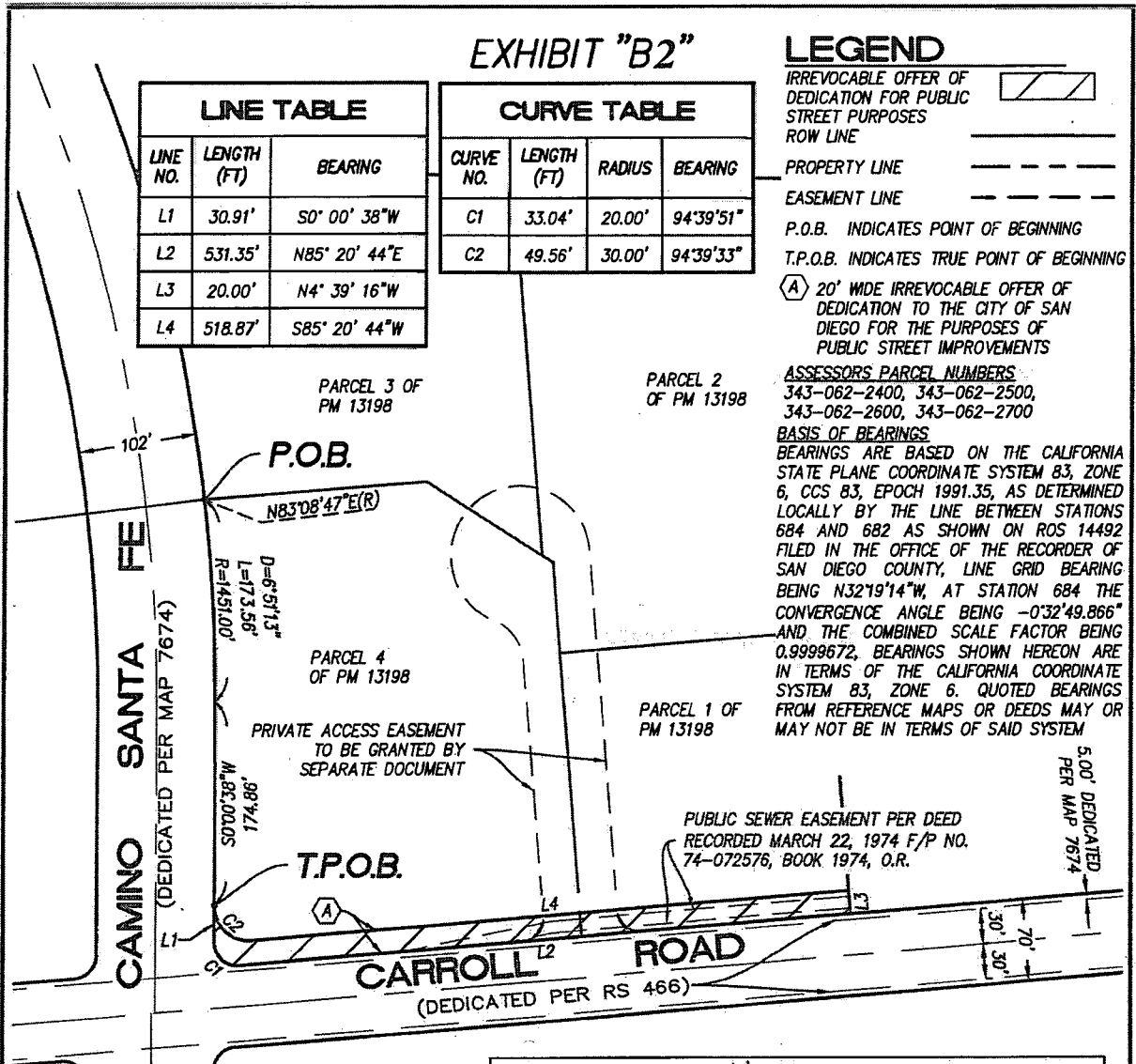
CURVE TABLE			
CURVE NO.	LENGTH (FT)	RADIUS	BEARING
C1	33.04'	20.00'	94°39'51"
C2	49.56'	30.00'	94°39'33"

## LEGEND

- IRREVOCABLE OFFER OF DEDICATION FOR PUBLIC STREET PURPOSES ROW LINE 
- PROPERTY LINE 
- EASEMENT LINE 
- P.O.B. INDICATES POINT OF BEGINNING
- T.P.O.B. INDICATES TRUE POINT OF BEGINNING
- (A) 20' WIDE IRREVOCABLE OFFER OF DEDICATION TO THE CITY OF SAN DIEGO FOR THE PURPOSES OF PUBLIC STREET IMPROVEMENTS

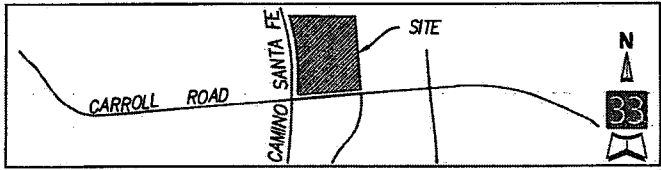
**ASSESSORS PARCEL NUMBERS:**  
 343-062-2400, 343-062-2500,  
 343-062-2600, 343-062-2700

**BASIS OF BEARINGS:**  
 BEARINGS ARE BASED ON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM 83, ZONE 6, CCS 83, EPOCH 1991.35, AS DETERMINED LOCALLY BY THE LINE BETWEEN STATIONS 684 AND 682 AS SHOWN ON ROS 14492 FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY, LINE GRID BEARING BEING N32°19'14"W, AT STATION 684 THE CONVERGENCE ANGLE BEING -0°32'49.866" AND THE COMBINED SCALE FACTOR BEING 0.9999672, BEARINGS SHOWN HEREON ARE IN TERMS OF THE CALIFORNIA COORDINATE SYSTEM 83, ZONE 6. QUOTED BEARINGS FROM REFERENCE MAPS OR DEEDS MAY OR MAY NOT BE IN TERMS OF SAID SYSTEM



SCALE: 1"=100'

**latitude 33**  
 PLANNING & ENGINEERING  
 9968 Hibert Street, 2nd Floor, San Diego, CA 92131  
 Tel 619.751.0633



*John Eardensohn* 2/28/17  
 Q. JOHN EARDENSOHN LS 5278 DATE

LICENSED LAND SURVEYOR  
 CLIFFORD JOHN EARDENSOHN II  
 No. 5278  
 STATE OF CALIFORNIA

RESOLUTION No. \_\_\_\_\_

RECORDED \_\_\_\_\_

DOCUMENT No. \_\_\_\_\_

RECORDED \_\_\_\_\_

## IRREVOCABLE OFFER OF DEDICATION IN PORTIONS OF PARCEL 1 AND PARCEL 4 OF PM 13198

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 1 OF 1 SHEET	I.O. NO. 24006720 PTS NO. 490921
ORIGINAL	LAT33	Jm	3/1/17		<i>Andrew R. F. B.</i> FOR CITY ENGINEER	1902-6279 CCS '83 COORDINATES
					3/1/17 DATE	262-1719 LAMBERT COORDINATES
						39764-B

141,5001,1249.40 - BOLENEHO STREET WIDENING (ENGINEERING) PLANS (ROW AND EASEMENT WIDENING) FOR CARROLL ROAD/DWG 1/23/2017 10:58 AM

Passed by the Council of The City of San Diego on JUN 06 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 06 2017.

**(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 *Aty Beach*, Deputy

Office of the City Clerk, San Diego, California

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