

RESOLUTION NUMBER R- 311174

DATE OF FINAL PASSAGE JUN 06 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING PUBLIC WATER AND DRAINAGE
EASEMENTS -VACATION NO. 1727974 – BIOLEGEND
PROJECT NO. 490921.

ITEM # 335C
6/6/17

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 vacation of public service easements by City Council resolution; and

WHEREAS, BioLegend, Inc., a California corporation, filed an application to vacate a 24-foot-wide public water and a 10-foot-wide drainage easements, being described as Easement Vacation No. 1727974; and

WHEREAS, Easement Vacation No. 1727974 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 Easement Vacation No. 1727974, 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 development surrounding Terman Court contains easements created ancillary to the existing right-of-way as a result of development of four commercial buildings on four parcels under separate ownership for the City to provide public services. The proposed vacation of the Terman Court right-of-way will require privatization of the present facilities and the vacation of these easements, as the need for the City to provide service and maintenance of these facilities within these easements would no longer be required from the vacated area. The City's responsibility to maintain public services or infrastructure would end at the intersection of Terman Court and Carroll Road, and the maintenance of the privatized facilities transferred to the owner. Where these privatized facilities discharge into City public facilities, Encroachment Maintenance and Removal Agreements will be recorded and enforced. As the City would no longer need access to the privatized facilities, 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.

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

The City reserved the easements as a result of development of four commercial buildings on four parcels under separate ownership. All parcels surrounding the easements are now under one ownership, and the applicant is requesting to vacate the Terman Court right-of-way and the ancillary easements connected to the cul-de-sac. The easements and public facilities would be privatized with maintenance responsibility transferred from the City to the owner. The removal of the easements would reduce the operational expenses of 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 recommendation of the community plan. The increase in allowable development may provide additional services to the public. 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 Mira Mesa Community Plan designates the site for industrial development and does not identify any proposed utility for the requested easement vacation area, therefore the vacation of the easement would be consistent with the land use plan. The development originally required public water and drainage facilities with easements necessary for all parcels connected to Terman Court to access those public services. As the vacation of Terman Court would require the privatization of facilities and vacation of easements, the action would allow additional development of the site under the industrial land use designation and is therefore consistent with the goals and policies of the General Plan and the Community 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.

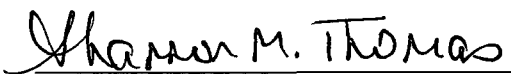
The proposed vacation of Terman Court would require privatization of the ancillary public facilities and the vacation of the present easements. These easements were acquired by the City for access to public facilities, service, or maintenance. The City's responsibility to maintain public services or infrastructure would end at the intersection of Terman Court and Carroll Road, and the maintenance of the privatized facilities transferred to the owner. The need for the City to provide access, service, and maintenance for these easements would no longer be required, therefore the purpose for which the easements were originally acquired would no longer exist.

BE IT FURTHER RESOLVED, that Easement Vacation No. 1727974, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 39490-1-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:

1. Prior to the recordation of the Easement Vacation Resolution, the applicant shall assure, by Construction permit, bond, and the As-Built Drawings, the abandonment or privatization of all public water facilities, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

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.: 1496414

J.N. 1349.40

EXHIBIT "A"
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.

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


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



FILE: PTS 490921
I.O. NO. 24006720

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 *Chris Ward*, Deputy

Office of the City Clerk, San Diego, California

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