

RESOLUTION NUMBER R- 312071

DATE OF FINAL PASSAGE DEC 03 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING A PORTION OF AN OPEN SPACE EASEMENT, EASEMENT VACATION NO. 2105297, BMR-E. CLUSTERS UNIT 1 EASEMENT VACATION – PROJECT NO. 594681.

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide procedures for the vacation of open space easements by City Council resolution; and

WHEREAS, it is proposed that a 0.018-acre portion of an existing 2.107-acre Open Space Easement, located on property described as Lot B of Black Mountain Ranch East Clusters Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map Thereof No. 15923 filed in the Office of the County Recorder of San Diego County, June 26, 2013, and adjacent to 14764 Valle Del Sur Court, being described as Easement Vacation No. 2105297, be vacated; and

WHEREAS, the easement has been superseded by relocation, or dedication, and there are no other public facilities located within the easement; and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, 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 December 3, 2018, 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. 2105297, the Council finds that:

1. 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 0.018-acre project site is a triangular-shaped portion of a larger 2.107-acre Open Space Easement Lot B located approximately 20 miles north of downtown San Diego, within the north central portion of the City. The site is located within the Black Mountain Ranch Community Plan area and at the rear of a single-dwelling unit located at 14764 Valle Del Sur Court (Lot 3) owned by Richard and Tracy Coffman. The project site is designated as Open Space, is zoned RS-1-8 and is immediately west and south of the 123-acre East Clusters residential development approved in 1999. The Open Space Easement Lot B was originally dedicated in 2013 to serve as a buffer between the nearby Multi-Habitat Planning Area (MHPA) to the west and the single-family Black Mountain Ranch East Cluster homes to the east.

Prior to occupancy, a masonry wall was erroneously constructed in a straight line from rear property-corner to rear property-corner of Lot 3 (14764 Valle Del Sur Court) instead of along the inward-inflexing property line established by the Open Space Easement Lot B. The home was sold with the masonry wall configuration and the error was later discovered. Therefore, the developer has requested that the resulting 0.018-acre portion of the Open Space Easement bounded by the property line and the masonry wall be vacated to correct this error. As a condition of approval, an equal amount of land within the same open space system at the southern end of the Open Space Lot will be dedicated. The dedication will encompass a portion of the adjacent Parcel 7, owned by Black Mountain Ranch II. The Open Space Easement will remain at 2.107 acres and will continue to maintain open space and serve as a buffer between the nearby MHPA to the west and the single-family Black Mountain Ranch East Cluster homes to the east. With the proposed dedication, the open space area to be vacated would no longer be needed because the same amount of open space will be dedicated within the same open space system. Further, the dedicated open space is of greater biological value than the open space to be vacated. There will be no present or prospective public use for the 0.018-acre portion of the vacated 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.

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

The proposed easement vacation area is a 0.018-acre triangular-shaped portion of the 2.107-acre Open Space Easement Lot B located at the rear of a single-dwelling unit located at 14764 Valle Del Sur Court (Lot 3). Open Space Easement Lot B was dedicated in 2013 to serve as a buffer between the nearby Multi-Habitat Planning Area (MHPA) to the west and the single-family Black Mountain Ranch East Cluster homes to the east. The project site is designated as Open Space, is zoned RS-1-8 and is immediately west and south of the 123-acre East Clusters residential development approved in 1999.

Prior to occupancy, a masonry wall was erroneously constructed in a straight line from rear property-corner to rear property-corner of Lot 3 (14764 Valle Del Sur Court) instead of along the inward-inflecting property line established by the Open Space Easement Lot B. The home was sold with the masonry wall configuration and the error was later discovered. Therefore, the developer has requested that the resulting 0.018-acre portion of the Open Space Easement bounded by the property line and the masonry wall be vacated to correct this error. As a condition of approval, an equal amount of land within the same open space system at the southern end of the Open Space Lot will be dedicated, so the Open Space Easement will remain at 2.107 acres. The dedication will encompass a portion of the adjacent Parcel 7, owned by Black Mountain Ranch II. The modified open space easement will continue to maintain open space and the buffer between the development and MHPA. Because an equal amount of open space will be dedicated within the same open space easement at the southern end of Open Space Lot B, no public impact would result from the action.

The dedicated open space is of greater biological value than the open space to be vacated. Typically, habitat located closer to a development is not as valuable as habitat located farther away. The vacated area is located furthest from MHPA lands, adjacent to the development. The dedicated open space area will be located at the edge of the easement, closer to the MHPA. Therefore, the dedicated area is of greater biological value to the vacated area and will provide better continuity with the established open space easement.

The public will benefit from the action through improved utilization of the land made available by the vacation because the area of privately owned land will be increased on Lot 3, which will increase the area of privately owned land subject to property tax and contribute an incremental increase to the tax base. With an increase of tax revenue, the general public will benefit by the vacation of the open space easement due to the increase of available public funds. Therefore, the public will benefit from the action through improved utilization of the land made available by the vacation.

3. The vacation is consistent with any applicable land use plan.

The Black Mountain Ranch Community Plan (Plan) designates the site as Open Space. Open Space Easement Lot B was dedicated in 2013 to serve as a buffer between the nearby Multi-Habitat Planning Area (MHPA) to the west and the single-family Black Mountain Ranch East Cluster homes to the east. Additionally, the modified open space easement will continue to maintain that buffer. To maintain consistency with the Plan, an equal amount of open space will be dedicated at the southern portion of the open space easement. Therefore, the vacation is consistent with the applicable land use plan.

4. 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 easement vacation area is a 0.018-acre triangular-shaped portion of the 2.107-acre Open Space Easement Lot B located at the rear of a single-dwelling unit located at 14764 Valle Del Sur Court (Lot 3). The project site is designated as Open Space, is zoned RS-1-8 and is immediately west and south of a 123-acre residential development approved in 1999, known as the Black Mountain Ranch East Clusters. The Open Space Easement Lot B serves as a buffer between the nearby Multi-Habitat Planning Area (MHPA) to the west and a row of the single-family East Cluster homes to the east.

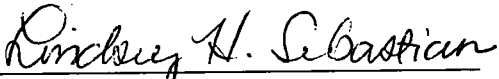
Prior to occupancy, a masonry wall was erroneously constructed in a straight line from rear property-corner to rear property-corner of Lot 3 (14764 Valle Del Sur Court), instead of along an inward-inflecting property line established by the Open Space Easement Lot B. The home was sold with the masonry wall configuration and the error was later discovered. Therefore, the developer has requested that the resulting 0.018-acre portion of the Open Space Easement bounded by the property line and the masonry wall be vacated to correct this error. As a condition of approval, an equal amount of land within the same open space system at the southern end of the Open Space Lot will be dedicated, so the Open Space Easement will remain at 2.107 acres. The dedication will encompass a portion of the adjacent Parcel 7, owned by Black Mountain Ranch II. Because the dedicated open space is of greater biological value than the open space to be vacated and the modified open space easement will continue to maintain open space and the buffer between the nearby MHPA to the west and a row of the single-family East Cluster homes to the east, the purpose for which the easement was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that Easement Vacation No. 2105297, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 40720-1-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 which is made a part of this resolution:

1. Prior to the recordation of the Easement Vacation Resolution, a 0.018-acre Dedication of Open Space, of greater biological value, shall be recorded on a Portion of Parcel 7 of Map No. 18504, as shown on Exhibit "C," to the satisfaction of 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 
Lindsey H. Sebastian
Deputy City Attorney

LHS:nja
11/14/18
Or. Dept: DSD
Doc. No.: 1878239

ATTACHMENT(S): Exhibit A, Legal Description
Exhibit B, Vacation, 40720-1-B
Exhibit C, Easement Acquisition, 40944-B

J-14885-A

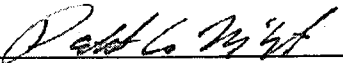
EXHIBIT "A"
LEGAL DESCRIPTION
OPEN SPACE EASEMENT VACATION

Being a vacation of a portion of that Open Space Easement granted over Lot B of Black Mountain Ranch East Clusters Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15923 filed in the Office of the County Recorder of San Diego County June 26, 2013 as File of Official Records, being more particularly described as follows:

Beginning at the Northwesterly corner of Lot 3 of Black Mountain Ranch East Clusters Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15923 filed in the Office of the County Recorder of San Diego County June 26, 2013 as File of Official Records; thence along the westerly line of said Lot 3 South 70°07'14" East 50.53 feet; thence continuing along said westerly line South 32°09'43" East 51.02 feet to the southwesterly corner of said Lot 3; thence leaving said westerly line of Lot 3 North 51°02'53" West 96.03 to the **Point Of Beginning**.

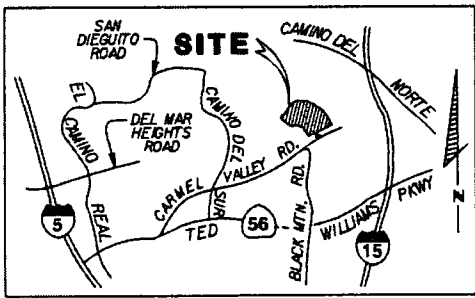
Attached hereto is a Drawing No. 40720-B labeled Exhibit "B" and by this reference made a part hereof.

Containing 793 Square Feet, 0.018 Acres, more or less.

 5-15-2018
Patrick A. McMichael, L.S. 6187 Date

APN: 312-300-22
PTS No.: 594681





VICINITY MAP
NO SCALE

EXHIBIT "B"

BASIS OF BEARINGS

BASIS OF BEARINGS FOR THIS PLAT IS THE SOUTHERLY LINE OF LOT B OF MAP NO. 15923, I.E. N64°45'34"E

LEGEND

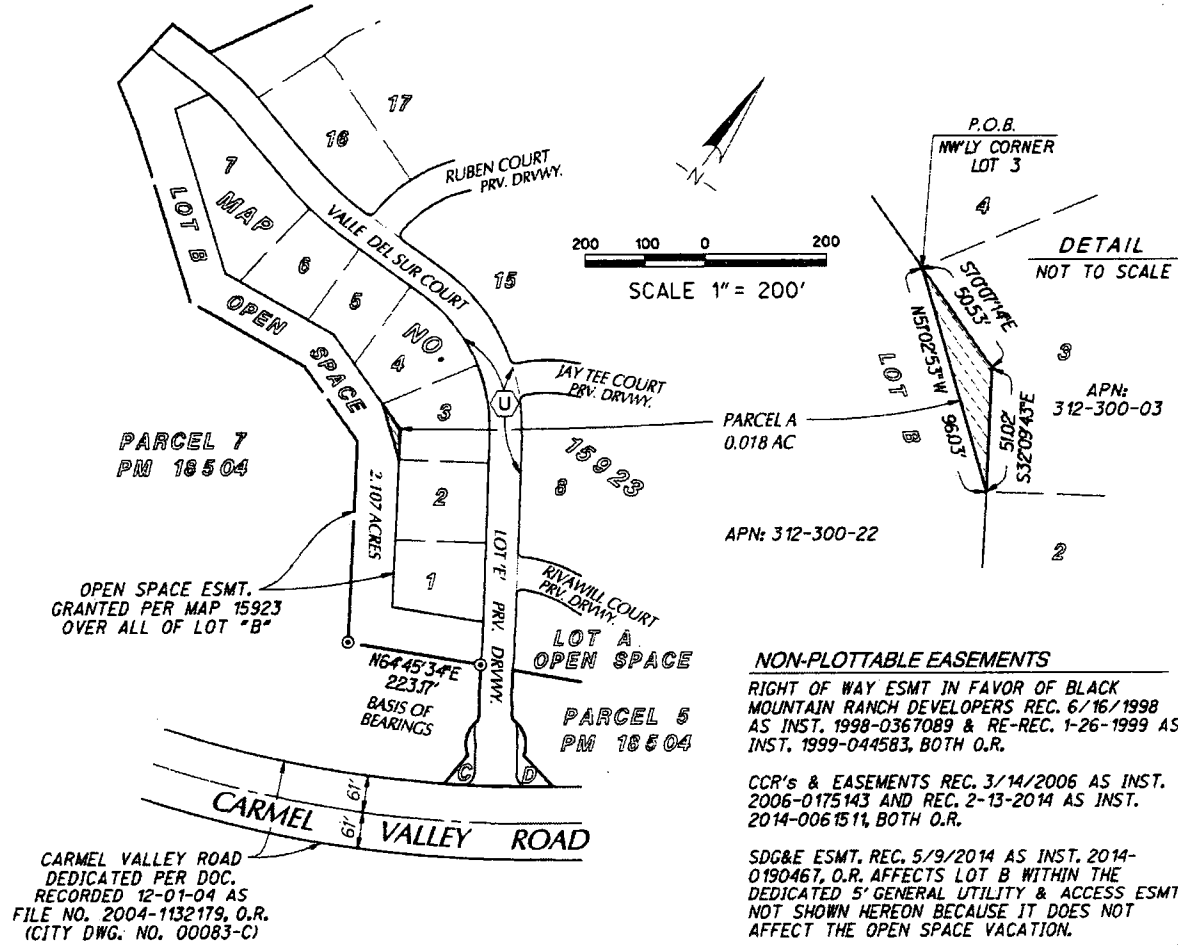
OPEN SPACE EASEMENT VACATED, PARCEL "A" 0.018 ACRES (792.90 SQ. FT.)

P.O.B. INDICATES POINT OF BEGINNING

GENERAL UTILITY & ACCESS EASEMENT GRANTED PER DOC. REC. MARCH 30, 2011 AS INSTR. NO. 2011-0165214, O.R.

REFERENCE DRAWINGS

MAP 15923 AND PM 18504



NON-PLOTTABLE EASEMENTS

RIGHT OF WAY ESMT IN FAVOR OF BLACK MOUNTAIN RANCH DEVELOPERS REC. 6/16/1998 AS INST. 1998-0367089 & RE-REC. 1-26-1999 AS INST. 1999-044583, BOTH O.R.

CCR's & EASEMENTS REC. 3/14/2006 AS INST. 2006-0175143 AND REC. 2-13-2014 AS INST. 2014-0061511, BOTH O.R.

SDG&E ESMT. REC. 5/9/2014 AS INST. 2014-0190467, O.R. AFFECTS LOT B WITHIN THE DEDICATED 5' GENERAL UTILITY & ACCESS ESMT. NOT SHOWN HEREON BECAUSE IT DOES NOT AFFECT THE OPEN SPACE VACATION.

RICK ENGINEERING COMPANY
5620 FRIARS ROAD
SAN DIEGO, CA 92110
619.291.0707
(FAX) 619.291.4165
J. 14885a






Patrick A. McMichael
5-15-2018
PATRICK A. McMICHAEL, LS 6187 DATE

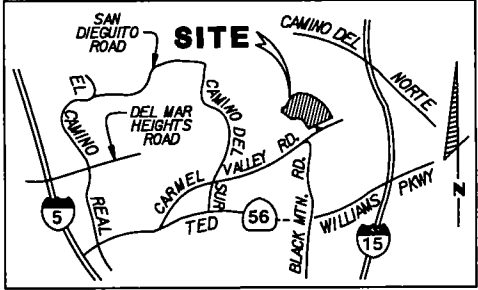
RESOLUTION No. _____
RECORDED _____
DOCUMENT No. _____
RECORDED _____

OPEN SPACE ABANDONED
OVER A PORTION OF LOT B OF MAP NO. 15923,
IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

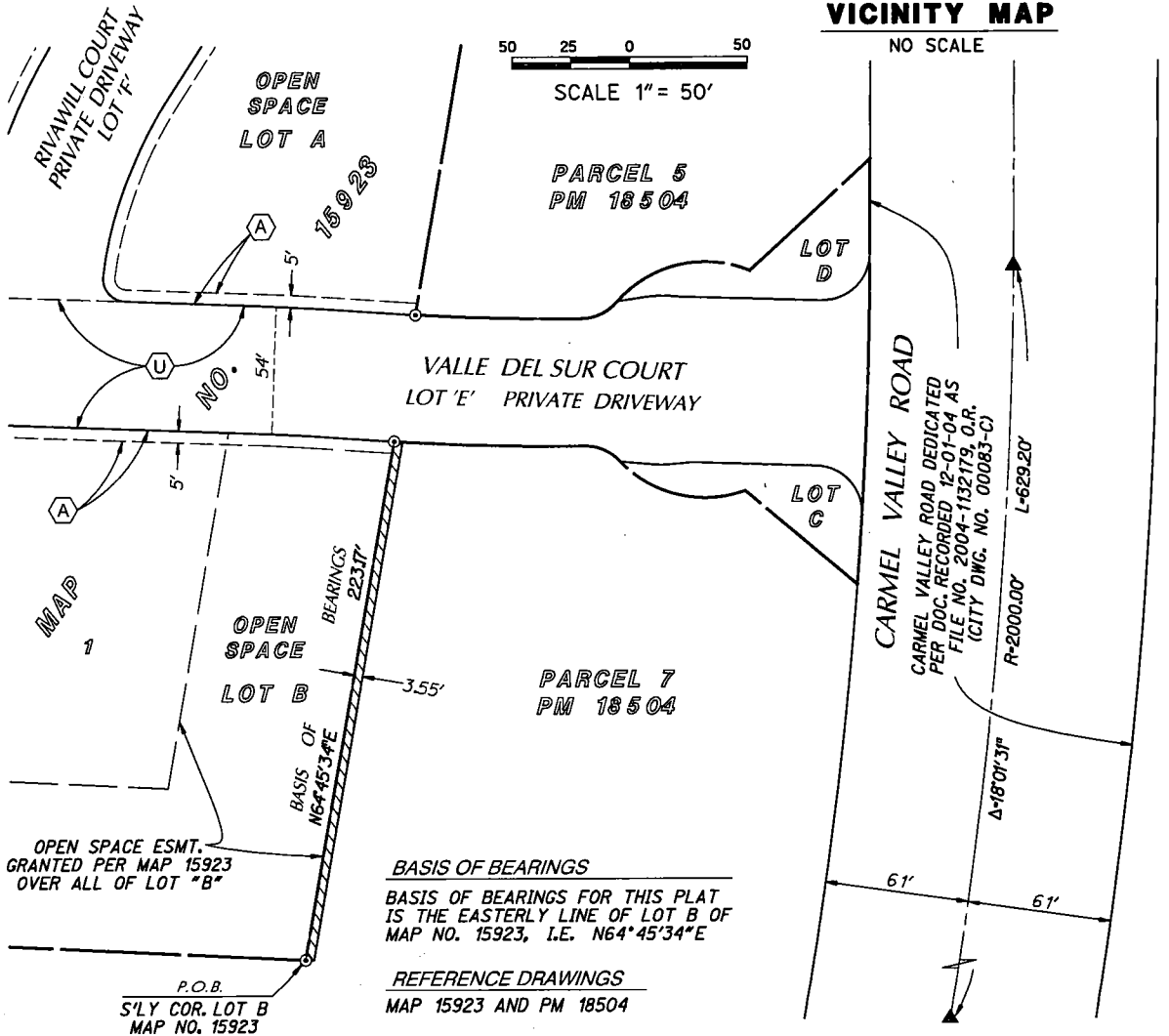
DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	PTS
ORIGINAL	REC				SHEET 1 OF 1 SHEET	594681
		CED	6/11/18			N/A
					<i>Patrick A. McMichael</i> FOR CITY LAND SURVEYOR	1942-6293
					6/19/18 DATE	CCS 83 COORDINATES
						302-1733
						NAD 27 COORDINATES
						40720-1-B
STATUS						

EXHIBIT "C"

- LEGEND**
-  OPEN SPACE ACQUIRED, PARCEL "A" 792.16 SQ. FT. (0.018 ACRES)
 - P.O.B. INDICATES POINT OF BEGINNING
 -  GENERAL UTILITY & ACCESS EASEMENT GRANTED PER MAP NO. 15923
 -  GENERAL UTILITY & ACCESS ESMT. GRANTED PER DOC. REC. MARCH 30, 2011 AS INSTR. NO. 2011-0165214



VICINITY MAP
NO SCALE



RICK ENGINEERING COMPANY
5620 FRIARS ROAD
SAN DIEGO, CA 92110
619.291.0707
(FAX) 619.291.4165
J. 14885a



RESOLUTION No. _____

RECORDED _____

DOCUMENT No. _____

RECORDED _____

PATRICK A. McMICHAEL, LS 6187 DATE _____

OPEN SPACE EASEMENT ACQUIRED
OVER A PORTION OF PARCEL 7 OF PARCEL MAP NO. 18504,
IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS
ORIGINAL	REC				SHEET 1 OF 1 SHEET	600943
						I.O. 24007717
						1942- 6291
					FOR CITY LAND SURVEYOR DATE	CCS 83 COORDINATES
						302 - 1731
						NAD 27 COORDINATES
						40944-B
STATUS						

FOR REFERENCE ONLY

Passed by the Council of The City of San Diego on DEC 03 2018, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 DEC 03 2018

(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:

(Seal)

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

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

By , Deputy

Office of the City Clerk, San Diego, California

312071

Resolution Number R-_____