RESOLUTION NUMBER R- 312388

DATE OF FINAL PASSAGE APR 16 2019

1TEM# 333B

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING PORTIONS OF OTAY CENTER DRIVE, PASEO DE LA FUENTE, PASEO DE LA FUENTE NORTE AND AVENIDA DE LA FUENTE NORTE (RIGHT-OF-WAY VACATION NO. 1583505).

WHEREAS, California Streets and Highways Code section 8300 *et seq.* and Chapter 12, article 5, division 9 of the San Diego Municipal Code provide a procedure for the vacation of public rights-of-way by City Council resolution; and

WHEREAS, the City of San Diego (City) has a public right-of-way easement in an unimproved portion of Otay Center Drive, Paseo de la Fuente, and Paseo de la Fuente Norte, constituting approximately 1.345 acres (Parcel A); and

WHEREAS, Parcel A is specifically that portion of Otay Center Drive as dedicated to the City per the Grant Deed-Public Street Easement recorded in the Office of the County Recorder of San Diego County on December 15, 2006, as Document No. 2006-0890528 of Official Records and as dedicated to the City per the conveyance recorded September 29, 1989, as File No. 89-526250 of Official Records and accepted for public street purposes per Resolution No. R-274427 adopted on September 18, 1989; together with those portions of Paseo de la Fuente and Paseo de la Fuente Norte as dedicated to the City per De la Fuente Business Park – Unit No. 5 according to Map No. 12461 filed in said County Recorder's Office September 21, 1989, all in the City of San Diego, State of California, said portions being more particularly described as in the legal description on attached Exhibit "A," and shown on Drawing No. 39103-B attached as Exhibit "B"; and

WHEREAS, the City has a public right-of-way easement in an unimproved portion of Paseo de la Fuente Norte containing 0.370 acre (Parcel B); and

WHEREAS, Parcel B is specifically that portion of Paseo de la Fuente Norte in the City of San Diego, County of San Diego, State of California, as dedicated to the City per De la Fuente Business Park – Unit 5, according to Map No. 12461 filed in the Office of the County Recorder of San Diego County September 21, 1989, more particularly described as in the legal description on attached Exhibit "A," and shown on Drawing No. 39103-B attached as Exhibit "B"; and

WHEREAS, the City has a public right-of-way easement in improved parkway areas on both sides along Avenida de la Fuente Norte containing 0.125 acres each (Parcels C and D); and

WHEREAS, Parcels C and D are specifically those portions of Avenida de la Fuente Norte in the City of San Diego, County of San Diego, State of California, as accepted for public street purposes by the City of San Diego per Resolution No. R-274427 adopted on September 18, 1989 and recorded September 29, 1989 as File No. 89-526250 of Official Records, more particularly described in the legal description on attached Exhibit "A," and shown on Drawing No. 39103-B attached as Exhibit "B"; and

WHEREAS, Parcels A, B, C, and D (the Parcels), are excess public rights-of-way and not required for street or highway purposes; and

WHEREAS, Carlos Avila of Rick Engineering, filed an application to vacate the Parcels, being described as Right-of-Way Vacation No. 1583505 (Vacation) and shown on Drawing No. 39103-B; and

WHEREAS, in connection with the Vacation, the City desires to reserve and except an easement for Pacific Bell Telephone Company dba AT&T California as it may from time to time require to construct, place, operate, inspect, maintain, repair, replace, and remove such

underground communication facilities (including ingress thereto and egress therefrom) consisting of wires, cables, conduits, pipes, manholes, handholes, service boxes, aboveground markers, risers, service pedestals, underground and above ground switches, fuses, terminals, terminal equipment cabinets, transformers with associated concrete pads, associated electrical conductors, necessary fixtures and appurtenances (AT&T Easement); and

WHEREAS, in connection with the Vacation, the City desires to reserve and except an easement for a perpetual easement unto Cox Communications California, LLC, a Delaware limited liability company, its successors and assigns, as it may require from time to time, to construct, place, operate, repair, maintain, replace, and remove aerial and/or underground telecommunications equipment consisting of one or more lines of cables, wires, conduits, pedestals, guys, anchors, and all necessary fixtures and appurtenances (Cox Easement); and

WHEREAS, in connection with the Vacation, the City desires to reserve and except an easement for San Diego Gas and Electric (SDGE) on the vacation of Avenida de la Norte, San Diego (SDGE 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 April 16, 2019, 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 the Vacation, 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 Parcels are located internally at Border Business Park within the Otay Mesa Community Planning area and are bounded by Airway Road to the north, Siempre Viva Road to the south, Harvest Road to the east, and La Media Road to the west. Parcels A and B are undeveloped and would revert to the adjacent parcels. Parcels C and D are adjacent to Avenida De La Fuente (a developed right-of-way) which was reduced from a four-lane collector to a two-lane road. The areas to be vacated are considered excess right-of-way. The Parcels are internal to the Border Business Park and would not impact the traffic circulation for the area, as shown by a traffic study that Development Services Department staff reviewed. Additionally, the Parcels are not listed as a required element in the Otay Mesa Community Plan Transportation and Mobility Element. Therefore, there is no present or prospective public use for the Parcels.

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

As discussed in finding (a), there is no present or prospective public use for the Parcels, currently dedicated as a public right-of-way. The Parcels contain approximately 1.965 acres or 85,595 square feet of public right-of-way adjacent to industrial zoned properties within the Border Business Park. The Parcels have no present or prospective use for street or highway purposes and are excess public rights-of-way. No development beyond the Vacation is proposed with this action, as the existing Border Business Park is currently developed with a variety of

industrial office/warehouse uses, commercial uses, auto and truck rental facilities. Parcels A and B are undeveloped and would revert to the adjacent parcels. Parcels C and D are adjacent to Avenida De La Fuente (a developed right-of-way) which was reduced from a four-lane collector to a two-lane road. The Vacation will benefit the property and business owners adjacent to the Parcels as the excess rights-of-way (1.965 acres) will be conveyed to private ownership. The public will benefit from the action because public funds will not be required to maintain land or the internal streets which no longer have any functional use as public rights-of-way and will allow the applicant to utilize the land in compliance with the applicable industrial uses allowed within the Industrial Base Zone.

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

The Parcels proposed to be vacated are located within Otay Mesa Community Plan area.

The Border Business Park site is bounded by Airway Road (four-lane collector street) to the north, Siempre Viva Road (six-lane major arterial) to the south, Harvest Road (two-lane collector street) to the east, and La Media Road (four-lane collector street) to the west. Parcels A and B are undeveloped and would revert to the adjacent parcels. Parcels C and D are adjacent to Avenida De La Fuente (a developed right-of-way) which was reduced from a four-lane collector to a two-lane road. The areas to be vacated are considered excess right-of-way. The Parcels are internal to the Border Business Park and are not identified within Otay Mesa's Mobility Element — Roadway Classification. The Planning Department's Long-Range Planning staff determined that the Vacation is consistent with the Community Plan and Development Services Department's Transportation and Development staff determined the Vacation would not impede traffic circulation. Therefore, the Vacation does not adversely affect the Otay Mesa 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 Parcels are internal to the Border Business Park and would not impact the traffic circulation for the area. Parcels A and B are undeveloped and would revert to the adjacent parcels. Parcels C and D are adjacent to Avenida De La Fuente (a developed right-of-way) which was reduced from a four-lane collector to a two-lane road. The Parcels are not listed as a required element in the Otay Mesa Community Plan Transportation and Mobility Element. The areas to be vacated are considered excess right-of-way. Moreover, as discussed in finding (a), there is no present or prospective use for those areas proposed to be vacated. Therefore, the public facility for which these rights-of-way were originally acquired will not be detrimentally affected by the Vacation.

BE IT FURTHER RESOLVED, that the Parcels, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 39103-B marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, are ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from the Vacation the AT&T Easement, Cox Easement, and SDGE Easement.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across those portions of Otay Center Drive, Avenida De La Fuente Norte, Paseo De La Fuente Norte and Paseo De La Fuente vacated herein and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 39103-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: MARA W. ELLIOTT, City Attorney

By

Jeremy A. Jung-

Deputy City Attorney

JAJ:als 03/22/2019

Or.Dept:DSD

Doc. No.: 1963681

EXHIBIT "A"

LEGAL DESCRIPTION

STREET VACATION OF "OTAY CENTER DRIVE" AND PORTIONS OF "PASEO DE LA FUENTE NORTE" AND "PASEO DE LA FUENTE"

Parcel A

Those portions of "Otay Center Drive", as dedicated to the City of San Diego per the Grant Deed-Public Street Easement recorded in the Office of the County Recorder of San Diego County December 15, 2006 as Document No. 2006-0890528 of Official Records; and as dedicated to the City of San Diego per the conveyance recorded September 29, 1989 as File No. 89-526250 of Official Records and accepted for public street purposes per Resolution No. R-274427 adopted on September 18, 1989; together with those portions of "Paseo de la Fuente" and "Paseo de la Fuente Norte" as dedicated per "De la Fuente Business Park — Unit 5" according to Map thereof No. 12461 filed in said County Recorder's Office September 21, 1989, all in the City of San Diego, State of California, said portions being more particularly described as follows:

Beginning at the southwest corner of "Paseo de la Fuente" dedicated on said Map No. 12461; thence along the Rights of Way of said "Paseo de la Fuente" and "Paseo de la Fuente Norte" as dedicated on said Map, North 00°59'06" East 124.00 feet; thence South 89°00'54" East 70.00 feet to the northwest corner of that portion of the Right of Way of "Otay Center Drive" dedicated per said File No. 89-526250, being the beginning of a non-tangent 20.00 foot radius curve concave Northeasterly to which a radial line bears North 89°01'39" West; thence Southeasterly along said Right of Way through a central angle of 89°53'16" a distance of 31.38 feet; thence South 88°54'55" East 258.71 feet to the northwest corner of that portion of the Right of Way of "Otay Center" Drive" dedicated per said Document No. 2006-0890528; thence continuing along said Right of Way 290.88 feet to the beginning of a tangent 20.00 foot radius curve concave Northwesterly; thence Northeasterly along the arc of said curve through a central angle of 90°34'19" a distance of 31.62 feet to a point of cusp; thence leaving said Right of Way tangent to said curve South 00°30'46" West 124.01 feet to a point on the Right of way of "Otay Center Drive" dedicated per said File No. 89-526250, said point being the beginning of a tangent 20.00 foot radius curve concave Southwesterly; thence Northwesterly along said Right of Way through a central angle of 89°25'41" a distance of 31.22 feet; thence North 88°54′55" West 550.61 feet to the beginning of a tangent 20.00 foot radius curve concave Southeasterly; thence Southwesterly along the arc of said curve through a central angle of 90°06'42" a distance of 31.45 feet; thence nontangent to said curve North 89°00′54" West 70.00 feet to the **POINT OF BEGINNING.** Attached hereto is a Drawing No. 39103-B labeled Exhibit "B" and by this reference made a part hereof.

Containing 1.345 acres, more or less.

Patrick A. McMichael, L.S. 6187

Date

1-15-2014

IO No.: 24006328 PTS No.: 452613 Dwg. No.: 39103-B

Dwg. No.: 39103-B

AS:L:\My Documents\Files\16000s\16499\Text\Legals\StreetVacationOtayCenterDrive.docx



EXHIBIT "A"

LEGAL DESCRIPTION

STREET VACATION OF A PORTION OF "PASEO DE LA FUENTE NORTE"

Parcel "B"

That portion of "Paseo de la Fuente Norte" in the City of San Diego, County of San Diego, State of California, as dedicated to the City of San Diego on De La Fuente Business Park Unit 5, according to Map thereof No. 12461 filed in the Office of the County Recorder of San Diego County September 21, 1989, more particularly described as follows:

Beginning at the Northeast Corner of Parcel "A" of Parcel Map No. 18586 recorded in said County Recorder's Office November 21, 2000, being the Southeast Corner of "Paseo de la Fuente Norte" as dedicated per said Map No. 12461; thence along the South Right of Way of said "Paseo de la Fuente Norte" North 89°00'54" West 229.98 feet to a line which bears South 00°59'06" West 70.00 feet from the beginning of the 20.00 feet radius curve concave Northeasterly located in the North Right of Way of "Paseo de la Fuente Norte" as shown on Parcel Map No. 19454 recorded in said County Recorder's Office April 1, 2004; thence along said line North 00°59'06" East 70.00 feet to said North Right of Way; thence along said North Right of Way South 89°00'54" East 229.98 feet to the Northeast Corner of said "Paseo de la Fuente Norte"; thence along the East line of said "Paseo de la Fuente Norte" South 00°59'06" West 70.00 feet to the **POINT OF BEGINNING.**

Attached hereto is a Drawing No. 39103-B labeled Exhibit "B" and by this reference made a part hereof.

Containing 0.370 acres, more or less.

Patrick A. McMichael, L.S. 6187

Date

IO No.: 24006328 PTS No.: 452613 Dwg No.: 39103-B

AS:L:\My Documents\Files\16000s\16499\Text\Legals\StreetVacationPaseoDeLaFuenteNorte.docx

EXHIBIT "A" LÉGAL DESCRIPTION STREET VACATION OF A PORTION OF "AVENIDA DE LA FUENTE NORTE"

Parcel "C"

That portion of "Avenida de la Fuente Norte" in the City of San Diego, County of San Diego, State of California, as accepted for public street purposes by the City of San Diego per Resolution No. R-274427 adopted on September 18, 1989 and recorded September 29, 1989 as File No. 89-526250 of Official Records, more particularly described as follows:

Beginning at the Southeast corner of "Avenida de la Fuente Norte" as described in said File No. 89-526250, being the beginning of a 20.00 foot radius curve concave Northeasterly to which a radial line bears South 00°59'06" West; thence Northwesterly along the Easterly Right of Way of said "Avenida de la Fuente Norte" through a central angle of 90°00'00" a distance of 31.42 feet; thence North 00°59'06" East 433.83 feet to the beginning of a tangent 20.00 foot radius curve concave Southeasterly; thence Northeasterly along the arc of said curve through a central angle of 90°00'00" a distance of 31.42 feet to a point of cusp in the South Right of Way of "Airway Road" accepted for public street purposes by the City of San Diego per Resolution No. 265921 adopted June 9, 1986 and recorded in said County Recorder's Office June 27, 1986 as File No. 86-265324; thence along the Westerly prolongation of said Southerly Right of Way and tangent to said curve north 89°00'54" West 11.50 feet to the beginning of a tangent 20.00 foot radius curve concave Southeasterly; thence Southwesterly along the arc of said curve through a central angle of 90°00'00" a distance of 31.42 feet; thence South 00°59'06" West 433.83 feet to the beginning of a tangent 20.00 foot radius curve concave Northeasterly; thence Southeasterly along the arc of said curve through a central angle of 90°00'00" a distance of 31.42 feet; thence South 89°00'54" East 11.50 feet to the POINT OF BEGINNING.

Attached hereto is a Drawing No. 39103-B labeled exhibit "B" and by this reference made a part hereof.

14-2019

Containing 0.125 acres, more or less.

Patrick A. McMichael, L.S. 6187

Date

IO No.: 24006328 PTS No.: 452613 Dwg No.: 39103-B



J-16499

EXHIBIT "A" LEGAL DESCRIPTION STREET VACATION OF A PORTION OF "AVENIDA DE LA FUENTE NORTE"

Parcel "D"

That portion of "Avenida de la Fuente Norte" in the City of San Diego, County of San Diego, State of California, as accepted for public street purposes by the City of San Diego per Resolution No. R-274427 adopted on September 18, 1989 and recorded September 29, 1989 as File No.89-526250, more particularly described as follows:

Beginning at the southwest corner of "Avenida de la Fuente Norte" as described in said File No. 89-526250, being the beginning of a 20.00 foot radius curve concave Northwesterly to which a radial line bears South 00°59'06" West; thence Northeasterly along the Westerly Right of Way of said "Avenida de la Fuente Norte" through a central angle of 90°00'00" a distance of 31.42 feet; thence North 00°59'06" East 433.83 feet to the beginning of a tangent 20.00 foot radius curve concave Southwesterly; thence Northwesterly along the arc of said curve through a central angle of 90°00'00" a distance of 31.42 feet to a point of cusp in the South Right of Way of "Airway Road" accepted for public street purposes by the City of San Diego per Resolution No. 265921 adopted June 9, 1986 and recorded in said County Recorder's Office June 27, 1986 as File No. 86-265324; thence along the Easterly prolongation of said Southerly Right of Way and tangent to said curve South 89°00'54" East 11.50 feet to the beginning of a tangent 20.00 foot radius curve concave Southwesterly; thence Southeasterly along the arc of said curve through a central angle of 90°00'00" a distance of 31.42 feet; thence South 00°59'06" West 433.83 feet to the beginning of a tangent 20.00 foot radius curve concave Northwesterly; thence Southwesterly along the arc of said curve through a central angle of 90°00'00" a distance of 31.42 feet; thence North 89°00'54" West 11.50 feet to the POINT OF BEGINNING.

Attached hereto is a Drawing No. 39103-B labeled Exhibit "B" and by this reference made a part hereof.

Containing 0.125 acres, more or less.

Patrick A. McMichael, L.S. 6187

IO No.: 24006328 PTS No.: 452613

Dwg No.: 39103-B

AND STATE OF CAUTOR OF CAUTOR

BASIS OF BEARINGS

L.F. N 89°00'54"W

THE BASIS OF BEARINGS FOR THIS PLAT IS THE CENTERLINE OF PASEO DE LA FUENTE NORTE PER MAP NO. 12461.

LEGEND

INDICATES STREET VACATED HEREON, (PARCEL A CONTAINS 1.345 ACRES PARCEL B CONTAINS 0.370 ACRES PARCEL C CONTAINS 0.125 ACRES PARCEL D CONTAINS 0.125 ACRES)

P.O.B. INDICATES POINT OF BEGINNING

() INDICATES RECORD DATA PER INDICATED SOURCE

R1 MAP 12461

RESOLUTION NO. R-274427 ADOPTED 9/18/1989 AND R2 RECORDED 9/29/1989 AS FILE NO. 89-526250, O.R. (CITY DRAWING NO. 24418-D)

R3 - MAP 12707

R4 PM 18586

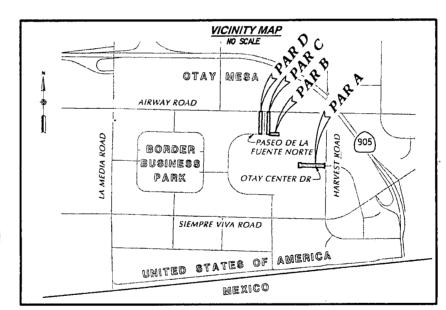
R5 PM 19454

R6 DEED RECORDED 12/15/2006 AS DOC. 2006-0890528, O.R.

NOTE: RECORD AND MEASURED DATA IS EQUIVALENT FOR THOSE COURSES SHOWING RECORD DATA ONLY.

REFERENCE DRAWINGS

MAP 12461, MAP 12707, PM 18586, PM 19454 & CITY DRAWING 24418-D





PATRICK A. MCMICHAEL, LS 6187

RICK ENGINEERING COMPANY	5620 FRIARS ROAD SAN DIEGO, CA 92110 619.291.0707 (FAX)619.291.4165	J. 16499
Prof m	1-h/ 1-1	4.2019

DATE

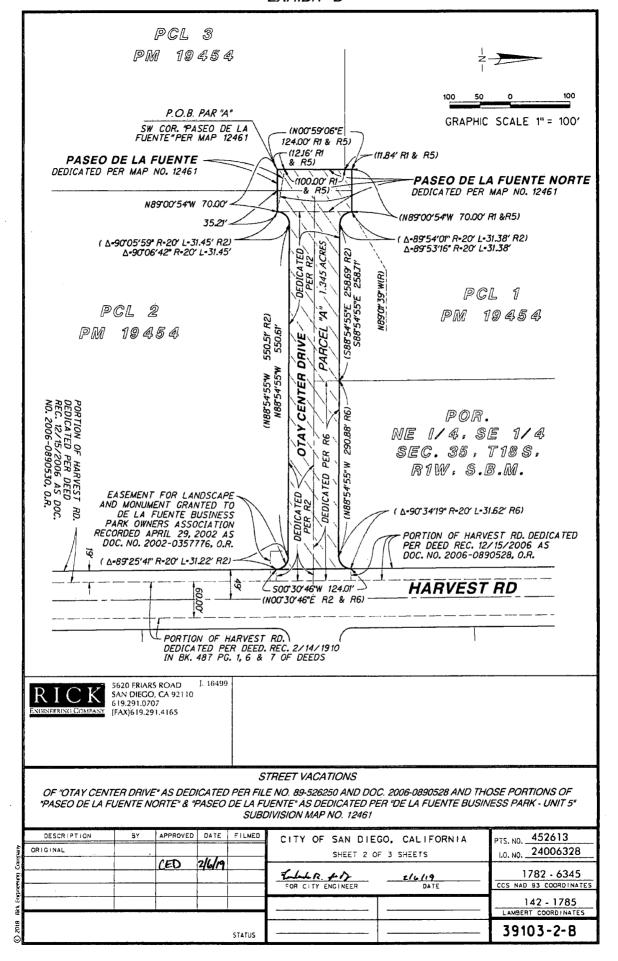
RESOLUTION NO.:	
RECORDED:	

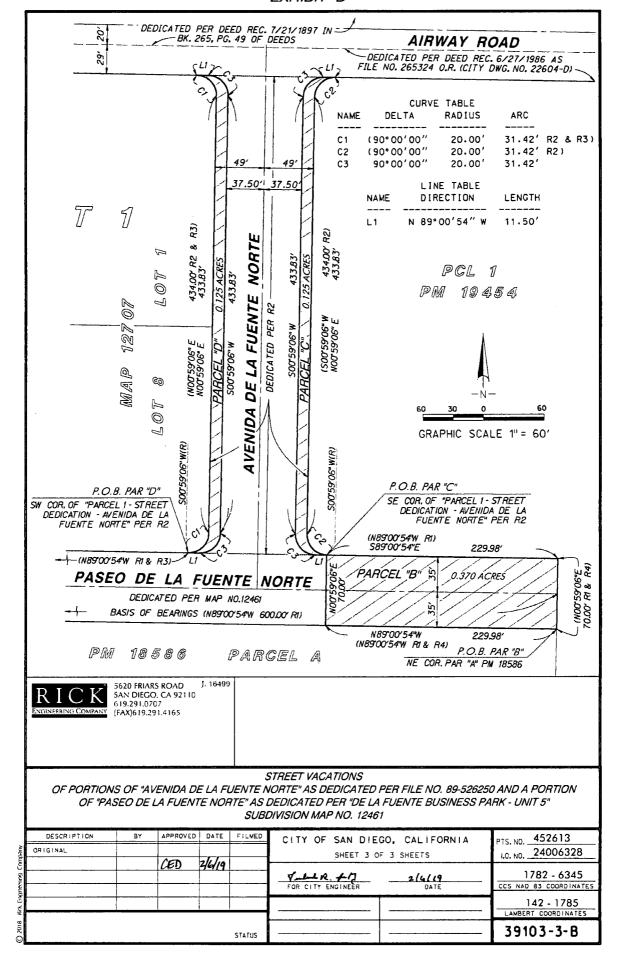
DOCUMENT NO .: _

STREET VACATIONS

OF PORTIONS OF "OTAY CENTER DRIVE" AS DEDICATED PER FILE NO. 89-526250 AND DOC. 2006-0890528, PORTIONS OF "AVENIDA DE LA FUENTE NORTE" AS DEDICATED PER FILE NO. 89-526250 AND PORTIONS OF "PASEO DE LA FUENTE NORTE" & "PASEO DE LA FUENTE" AS DEDICATED PER "DE LA FUENTE BUSINESS PARK - UNIT 5" SUBDIVISION MAP NO. 12461

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO.	CALIFORNIA	PTS. NO. 452613
ORIGINAL			I , , _		SHEET 1 OF 3		i.o. No. 24006328
		CED	26/M		FOR CITY ENGINEER	1/6/19 DATE	1782 - 6345 CCS NAD 83 COORDINATE
							142 - 1785 LAMBERT COORDINATES
				STATUS			39103-1-B





Passed by the Council of The Cit	y of San Die	go onAPI	R 16 2019	_, by the following vote:
Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	Ø			
Jennifer Campbell	Z.			
Chris Ward	\mathbf{Z}_{\cdot}			
Monica Montgomery	Z_{\cdot}			
Mark Kersey	\mathcal{Z}			
Chris Cate				
Scott Sherman	Z_{\cdot}			
Vivian Moreno	Z,			
Georgette Gómez	Z			
Date of final passageAF	PR 16 2019	·		
(Please note: When a resolutidate the approved resolution			=	
			KEVIN L. FAL	II CONER
AUTHENTICATED BY:		Mayo		an Diego, California.
(Seal)			ELIZABETH S	. MALAND San Diego, California.
(Seai)		City Cit	erk of The City of	Sali Diego, Camorina.
		ву	Hax Bear	, Deputy
		Office of the	City Clerk, San D	riego, California
	Res	olution Numbe	er R 31	.2388