

RESOLUTION NUMBER R- **315260**

DATE OF FINAL PASSAGE **DEC 05 2023**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING PORTIONS OF JOSEPHINE STREET, BRUNNER STREET, AND AN UNNAMED PUBLIC ALLEY ADJACENT TO 5702 LINDA VISTA ROAD, PUBLIC RIGHT-OF-WAY VACATION NO. 3196233 - PROJECT NO. 1078906 ALONG WITH ASSOCIATED IMPROVEMENTS AND EASEMENT RESERVATIONS.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the summary vacation of public rights-of-way by City Council resolution; and

WHEREAS, the University of San Diego filed an application to vacate portions of Josephine Street, Brunner Street, and an unnamed public alley located adjacent to 5702 Linda Vista Road, being described as Public Right-of-Way Vacation No. 3196233; and

WHEREAS, Public Right-of-Way Vacation No. 3196233 is located entirely on property owned by the University of San Diego; and

WHEREAS, the public right-of-way lies within one ownership and does not continue through that ownership or touch the property of another owner; and

WHEREAS, the public right-of-way to be vacated contains public utility facilities that would not be affected by the vacation; and

WHEREAS, in connection with Right-of-Way Vacation No. 3196233, the City desires to reserve and except certain public easements; and

WHEREAS, the matter was set for public hearing on December 5, 2023, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, under San Diego 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that with respect to Right-of-Way Vacation No. 3196233 and pursuant to San Diego Municipal Code section 125.0941, the Council finds that:

**1. 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 project proposes to vacate portions of Josephine Street, Brunner Street, and an unnamed alley located adjacent to 5702 Linda Vista Road. These public rights-of-way are classified as local streets pursuant to Figure 17 of the Linda Vista Community Plan. No change in classification is under consideration pursuant to Figure 25 of the Linda Vista Community Plan. All current and future growth, transit, and public transportation recommendations for the area are suggested for Linda Vista Road to the south, with which the proposed public rights-of-way vacations would not interfere. In addition, the location was previously under multiple property ownership. With the recent acquisition of the property at 5701 Josephine Street (APN 436-390-01), all property surrounding the vacation area is now under the University of San Diego as one ownership entity, thus eliminating the need for the public to access (pedestrian, vehicular, bicycle, etc.) the areas previously serviced by these streets and alley. These vacated rights-of-way would also not be appropriate for development as public park use, given their size, configuration and location. Therefore, there is no present or prospective public use for the public rights-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.

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

The public will benefit from the public rights-of-way vacations because the land will be returned to private ownership under the University of San Diego, thus eliminating the responsibility and liability as well as any future economic constraints the City of San Diego will be accountable for to maintain the current conditions. Under private ownership of the University of San Diego, the property will be used to benefit the public by increasing educational resources. Therefore, the public will benefit from the action through improved use of the land made available by the vacation.

**3. The vacation does not adversely affect any applicable land use plan.**

The project proposes to vacate portions of Josephine Street, Brunner Street, and an unnamed alley located adjacent to 5702 Linda Vista Road. Figure 6 of the Linda Vista Community Plan designates the area as the Silver Terrace neighborhood, characterized by large student populations. One of the Residential Goals of the Community Plan is to expand on-campus housing opportunities for students at the University of San Diego. By vacating the public rights-of-way, the proposed action will return the area to the University of San Diego, thus allowing the University to increase the land available to meet the Community Plan goals. Although the Linda Vista Community Plan identifies the need for additional park acreage within walking distance of Silver Terrace residents as an issue, it does not designate any of the public rights-of-way as open space, nor does it include any policies or recommendations with the intention of making it such in the future. The Transportation Element of the Community Plan classifies Josephine Street, Brunner Street, and the unnamed public alley located adjacent to 5702 Linda Vista Road as local streets and does not identify this section of the street for potential public parking or for any improvements related to transit or other transportation infrastructure. The Community Plan does not cite any current or future plans to provide transit or other transportation infrastructure within the area of the public rights-of-way. Finally, a General Community Vision of the Linda Vista Community Plan is to Promote the expansion of the University of San Diego in a manner that positively affects the community. By allowing the public rights-of-way vacations, the land will be solely owned by the University of San Diego, thus meeting the Community Plan vision to promote expansion. Therefore, the vacation does not adversely affect any applicable land use plan.

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

The 1.29-acre site is located north of Linda Vista Road and contains the northerly portions of Josephine Street, Brunner Street, and an unnamed alley located adjacent to 5702 Linda Vista Road. These portions of Josephine Street, Brunner Street, and the unnamed alley were originally established as an amendment to Map No. 695 and filed in the County Recorder of the San Diego County office on December 12, 1891. The northern portion of Josephine Street is a paper street with no current facilities or development. In addition, a portion of Josephine Street right-of-way was vacated per document no. 1984-149496 (resolution no. 260424) (CITY DWG. 16029-B), thus eliminating the ability for the current physical portion of Josephine Street

to connect to the paper street portion of Josephine Street and Brunner Street. There is no indication of the original intent or use for the public facility other than the current classification within the Linda Vista Community Plan as a local street. By failing to fully develop the paper portion of Josephine Street, along with the 1984 vacation of another portion of Josephine Street, the area never conformed with the original intent for which it was acquired and will thus not be affected by the proposed public right-of-way vacation. Furthermore, any individual properties once served by these streets and alleys have now been acquired by the University, thereby eliminating the need for the public right-of-way. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that public right-of-way vacation No. 3196233, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 100924-B, marked as Exhibit "B," 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. Reserving an easement and right of way for SDG&E to erect, construct, change the size of, improve, reconstruct, relocate, repair, remove, maintain, and use facilities consisting of overhead and underground electric facilities, communication facilities and all appurtenances including necessary anchorage for the transmission and distribution of electricity and for pipelines and appurtenances, together with the right of ingress thereto and egress therefrom over said easement and over other practical routes. No building or other structure shall be permitted within the easement excepting other utility facilities that meet SDG&E's separation requirements. SDG&E's prior written consent shall be required before planting any trees or increasing/decreasing the ground elevation within the easement. Grantee shall have the right but not the duty, to trim or remove trees and brush along or adjacent to this easement and remove roots from within this easement whenever Grantee deems necessary. Said right shall not relieve Grantor of the duty as owner to trim or remove trees and brush to prevent danger or hazard to property or persons. Upon receipt of written request from Grantor, this easement will be quitclaimed by Grantee, provided that the facilities have been removed.

2. Prior to the recordation of the right-of-way vacation, the Owner/Permittee shall reconstruct the existing access points to Linda Vista Road at Josephine Street and Brunner Street as standard City driveway curb cuts 26 ft wide per SDG-159, satisfactory to the City Engineer. All improvements shall be constructed and operational prior to recordation.

3. Prior to the recordation of right-of-way vacation the Owner/Permittee shall assure, by permit, bond, and As-built completion the privatization of the sewer main, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

4. The Owner/Permittee shall grant sewer easement for the remaining portion of the existing public sewer main as shown on the approved Exhibit "A" (Site Development plan), in a manner satisfactory to the Director of Public Utilities and the City Engineer.

5. The Owner/Permittee shall process encroachment maintenance and removal agreements (EMRA) for the remaining portion of the existing public sewer main within the private driveway.

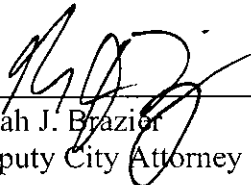
BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Public Right-of-Way Vacation No. 3196233 the permanent easement for public utility purposes, as more particularly described hereinafter:

Adequate sewer easements above the existing public sewer system within the vacated street as described in the conditions of approval and pursuant to the City of San Diego's Sewer Design Guide, satisfactory to 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

  
\_\_\_\_\_  
Noah J. Brazier  
Deputy City Attorney

NJB:nja  
11/08/2023  
Or. Dept: DSD  
Doc. No. 3468955

Attachments: Exhibit – A Legal Description  
Exhibit – B Drawing Nos. 100924-1-B and 100924-2-B

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 05 2023.

DIANA J.S. FUENTES  
City Clerk

By Kristell Medina  
Deputy City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION  
PUBLIC RIGHT OF WAY VACATION

Josephine Street (formerly Post Street), a portion of Brunner Street (formerly Silver Street), and the unnamed alley in Block C of Silver Terrace in the City of San Diego, County of San Diego, State of California, according to Amended Map thereof No. 695 filed in the Office of the County Recorder of San Diego County December 12, 1891, being more particularly described as follows:

**Beginning** at the Northeasterly intersection of said Josephine Street and Brunner Street; thence along the Right of Way of said Josephine Street South  $75^{\circ}58'47''$  West 440.83 feet; thence continuing along said Right of Way South  $44^{\circ}37'49''$  West 40.51 feet to the Northeasterly line of that portion of Josephine Street as Vacated by resolution No. 260424 recorded in said County Recorder's Office April 24, 1984 as Instrument No. 1984-149496; thence along said Northeasterly line South  $47^{\circ}40'06''$  East 49.87 feet to a point on the Southerly Right of Way of said Josephine Street, said point being the beginning of a non-tangent 365.29 foot radius curve concave Southeasterly to which a radial line bears North  $46^{\circ}57'30''$  West; thence Northeasterly along said Right of Way through a central angle of  $00^{\circ}45'15''$  a distance of 4.81 feet; thence non-tangent to said curve North  $75^{\circ}58'47''$  East 394.51 feet to the Westerly Right of Way of said Brunner Street; thence along said Westerly Right of Way South  $14^{\circ}43'25''$  East 100.29 feet to the Northerly Right of Way of said unnamed alley; thence along said Right of Way South  $75^{\circ}58'42''$  West 566.55 feet to a point on Westerly Right of Way of said Josephine Street, said point being the Southwesterly corner of that portion of Josephine Street vacated per said Resolution No 260424, said point also being the beginning of a non-tangent 500.00 foot radius curve concave Easterly to which a radial line bears North  $70^{\circ}23'34''$  West; thence Southerly along said Westerly Right of Way of Josephine Street and a portion of the Easterly boundary of Parcel 1 of Parcel Map No. 16480 recorded in said County Recorder's Office May 23, 1991 through a central angle of  $20^{\circ}09'29''$  a distance of 175.91 feet to the beginning of a reverse 20.00 foot radius curve concave Northwesterly; thence Southwesterly along said the boundary of said Parcel 1 through a central angle of  $71^{\circ}10'17''$  a distance of 24.84 feet to a point on the Northerly Right of Way of Linda Vista Road as shown on said Parcel Map No. 16480, being the point of cusp of a tangent 1950.00 foot radius curve concave Northwesterly; thence Northeasterly along the Easterly prolongation of said Right of Way through a central angle of  $02^{\circ}40'09''$  a distance of 90.84 feet to a point on the Easterly Right of Way of said Josephine Street, said point being the beginning of a non-tangent 365.29 foot radius curve concave Easterly to which a radial line bears South  $82^{\circ}51'39''$  West; thence Northerly along said Right of Way through a central angle of  $24^{\circ}15'07''$  a distance of 154.62 feet to the Southerly Right of Way of said unnamed alley; thence along said Right of Way non-tangent to said curve North  $75^{\circ}58'42''$  East 514.10 feet to the Westerly Right of Way of said Brunner Street;

thence along said Right of Way South 14°43'25" East 22.30 feet to the intersection of said Brunner Street with the Northerly Right of Way of Linda Vista Road as shown on Record of Survey No. 2419 as filed in the County Surveyor's Office of said San Diego County March 22, 1950; leaving said Westerly Right of Way and along the Northeasterly prolongation of said Right of Way of Linda Vista Road North 62°57'28" East 51.13 feet to the Easterly Right of Way of said Brunner Street; thence along said Right of Way North 14°43'25" West 191.08 feet to the **POINT OF BEGINNING.**

Reserving therefrom an easement in favor of San Diego Gas and Electric Company over, under and along all that portion of the public right of way described above.

Containing 1.292 acres, more or less.

Attached hereto is a Drawing No. 100924-B labeled Exhibit "B" and by this reference made a part hereof.

**DRAFT**


Brian D. Jaquess, L.S. 8379      Date

PRJ No. 1078906  
DWG. No. 100924-B  
PMT. No. 3196233



# EXHIBIT "B"

## LEGEND

 INDICATES PUBLIC STREET VACATION AND SDG&E EASEMENT RESERVATION CONTAINS 1.292 ACRES

(R) INDICATES RADIAL BEARING

P.O.B. INDICATES POINT OF BEGINNING

▲ INDICATES FOUND MONUMENT AS NOTED

— RIGHT-OF-WAY

— OFFSITE LOT LINE

— EASEMENT LINE

— STREET LIMITS LINE

## REFERENCE DRAWINGS

MAP 695, PM 16480 & 17255, ROS 2419, 2420, & 10521, AND CITY DWG'S 315-B & 16029-B

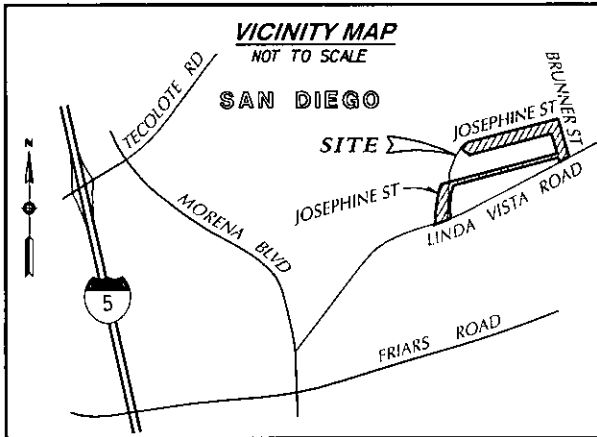
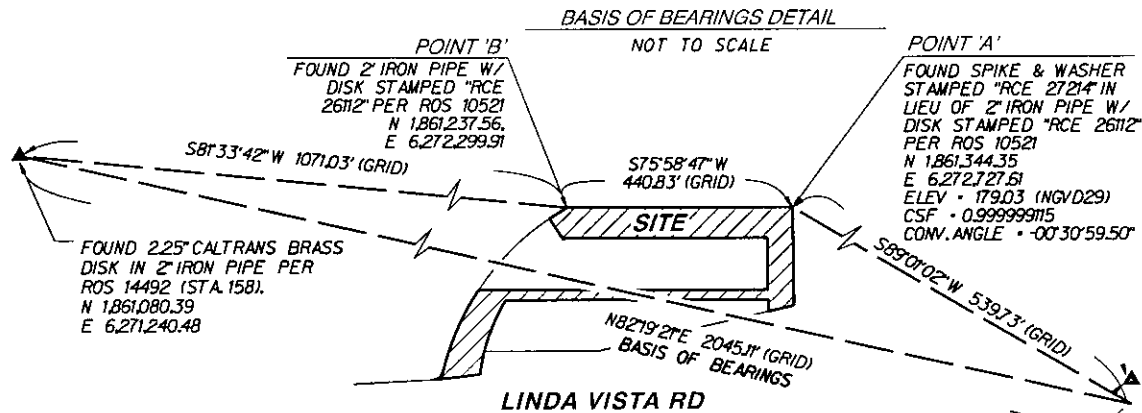
## BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM, CCS83, ZONE 6, EPOCH (1991.35) AND IS DETERMINED BY C.P.S. MEASUREMENTS TAKEN ON 8/01/2022 AT POINTS "A" & "B" AS SHOWN HEREON. POINTS "A" & "B" WERE ESTABLISHED FROM C.P.S. STATION 128 AND C.P.S. STATION 2937 PER ROS 14492, THE BEARING FROM POINT "A" TO POINT "B" IS S 75°58'47"W.

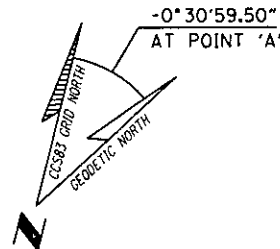
QUOTED BEARINGS FROM REFERENCE MAPS OR DEEDS MAY OR MAY NOT BE IN TERMS OF SAID SYSTEM.

## EASEMENTS

- SDG&E EASEMENT FOR PUBLIC UTILITIES REC. 8/13/1974 AS INSTRUMENT NO. 74-218547, O.R. (EXACT LOCATION CANNOT BE DETERMINED)
- 6' WIDE SDG&E EASEMENT FOR PUBLIC UTILITIES REC. 11/01/1982 AS DOCUMENT NO. 82-335933, O.R. (EXACT LOCATION CANNOT BE DETERMINED)



FOUND 4" CITY SD BRASS DISK IN WELL MON PER ROS 14492 (STA. 2937)  
N 1.861.353.61  
E 6.273.267.26

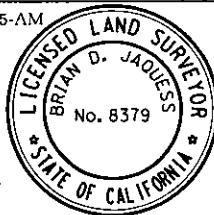


**RICK**  
ENGINEERING COMPANY

5620 FRIARS ROAD J, 19715-AM  
SAN DIEGO, CA 92110  
619-291-0707  
(FAX) 619-291-4165

**DRAFT**

BRIAN D. JACQUESS, LS 8379 DATE



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

RECORDED \_\_\_\_\_

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

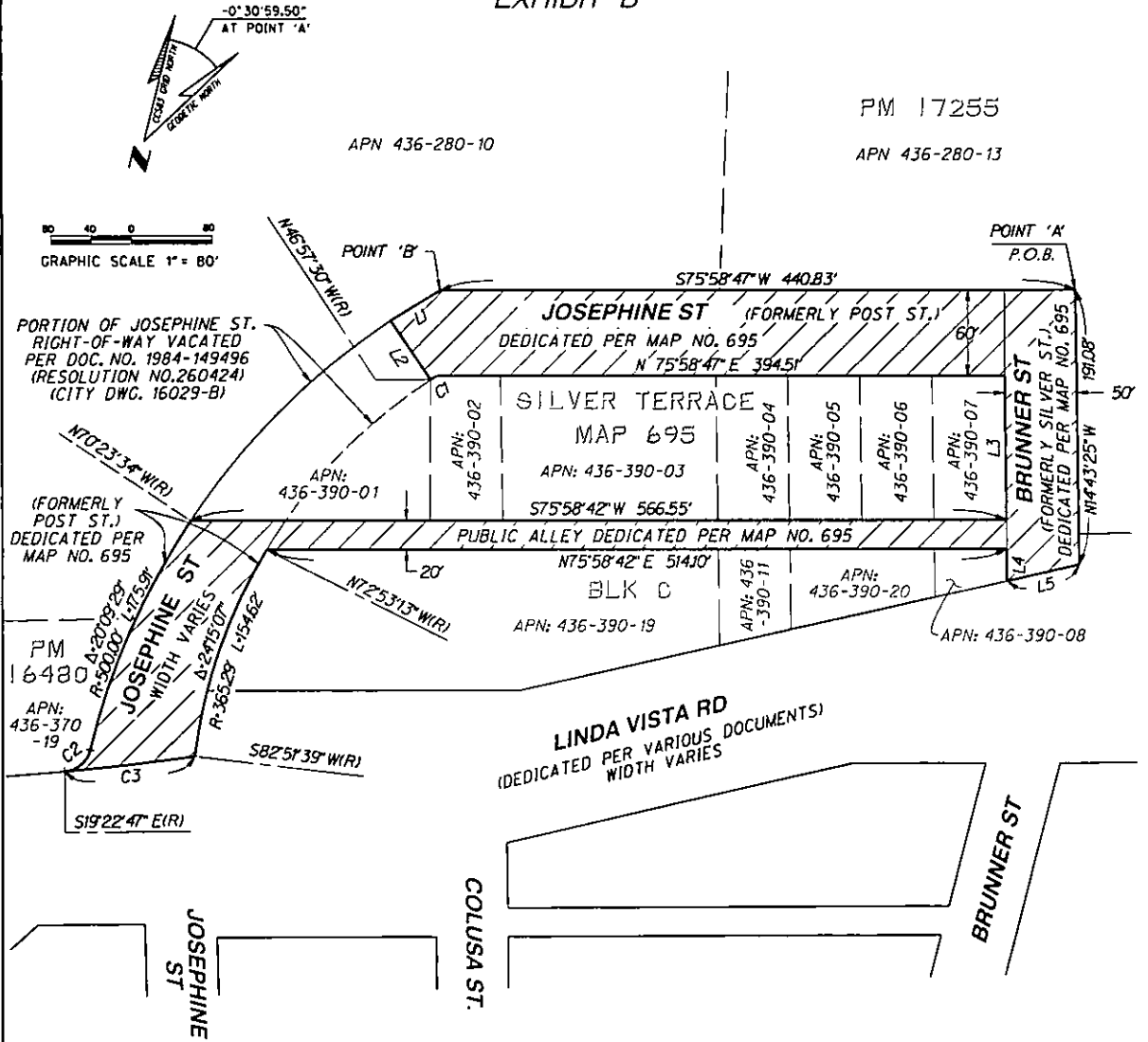
RECORDED \_\_\_\_\_

## PUBLIC RIGHT OF WAY VACATION AND SDG&E EASEMENT RESERVATION

PORTIONS OF JOSEPHINE STREET (FORMERLY POST STREET), BRUNNER STREET (FORMERLY SILVER STREET) AND THE UNNAMED ALLEY ALONG BLOCK C OF SILVER TERRACE MAP NO. 695

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	PRJ
ORIGINAL	REC				SHEET 1 OF 2 SHEET	1078906
						PMT. No. 3196233
						1860-6269
						CCS 83 COORDINATES
						220-1709
						NAD 27 COORDINATES
					100924-1-B	B001
STATUS						

# EXHIBIT "B"



NAME	LINE TABLE DIRECTION	LENGTH
L1	S 44° 37' 49" W	40.51'
L2	S 47° 40' 06" E	49.87'
L3	S 14° 43' 25" E	100.29'
L4	S 14° 43' 25" E	22.30'
L5	N 62° 57' 28" E	51.13'

NAME	CURVE TABLE DELTA	RADIUS	ARC
C1	0° 45' 15"	365.29'	4.81'
C2	71° 10' 17"	20.00'	24.84'
C3	2° 40' 09"	1950.00'	90.84'



5620 PRIARS ROAD J. 19715-AM  
SAN DIEGO, CA 92110  
619-291-0707  
(FAX) 619-291-4165

## PUBLIC RIGHT OF WAY VACATION AND SDG&E EASEMENT RESERVATION PORTIONS OF JOSEPHINE STREET (FORMERLY POST STREET), BRUNNER STREET (FORMERLY SILVER STREET) AND THE UNNAMED ALLEY ALONG BLOCK C OF SILVER TERRACE MAP NO. 695

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PRJ
ORIGINAL	REC				SHEET 2 OF 2 SHEET	1078906
						PMT. No. 3196233
						1860-6269
					FOR CITY LAND SURVEYOR	CCS 83 COORDINATES
					DATE	220-1709
						NAD 27 COORDINATES
					100924-2-B	B002
					STATUS	

Passed by the Council of The City of San Diego on DEC 05 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 - vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 05 2023.

(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:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Kristle Medina, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 315260