

RESOLUTION No. 210797

R. 74-489

Adopted on JUN 6 1974

BE IT RESOLVED, by the Council of The City of San Diego as follows:

That the City Attorney is authorized to enter into a stipulated judgment, attached hereto as Exhibit A, on behalf of The City of San Diego in full and final settlement of the condemnation action, to wit: City of San Diego v. Pacific View Construction Company, Superior Court Case No. 343782, regarding the property commonly known as Tecolote Canyon Park Reserve, for the sum of \$1,100,000.00.

BE IT FURTHER RESOLVED, that the expenditure of \$1,089,000 is hereby authorized out of the Special Environmental Growth Fund 2505 and the expenditure of \$11,000 out of Capital Outlay Fund 245, solely and exclusively for the purpose of providing funds for the abovementioned settlement.

APPROVED: JOHN W. WITTE, City Attorney

By Ronald L. Johnson, Chief Deputy

RLJ:cs
5-30-74
Aud.Cert.
No. 5719

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APR 20 1978

CERTIFICATE OF CITY AUDITOR AND COMPTROLLER *LB*

RECEIVED
JUN 5 1974

CERTIFICATION OF UNALLOTTED BALANCE 1974 JUN -5 AM 8:40
SAN DIEGO, CALIF.

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount \$ \$11,000.00 \$1,089,000.00 Fund 245 Capital Outlay 2505 Special Environmental Growth
Purpose Acquisition of Property in the Tecolote Canyon Area of Clairemont

W. B. Sage

Auditor and Comptroller of
The City of San Diego, Calif. 14

Date May 24, 19 74

By *Robert H. Lawrence*

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said moneys now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to exceed \$ _____

Dated _____, 19 _____

Auditor and Comptroller of
The City of San Diego, Calif.

BY _____

Fund _____ Dept./Activity _____ Object _____ Job Order _____
Resolution No. _____
Project No. _____

Purpose _____

Vendor _____

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210797 JUN 6 1974

CERTIFICATE NO. 5719

1 JOHN W. WITT, City Attorney
RONALD L. JOHNSON, Chief Deputy
2 : City Attorney

3 City Administration Building
4 202 C Street
San Diego, CA 92101

5 Telephone: 236-6220

6 Attorneys for Plaintiff

7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SAN DIEGO

10 THE CITY OF SAN DIEGO, a)
municipal corporation,)

11)
12 Plaintiff,)

13 v.)

14 PACIFIC VIEW CONSTRUCTION CO.,)
a California corporation, et)

15 al.,)

16 Defendants.)

NO. 343782

STIPULATION FOR JUDGMENT

17 IT IS STIPULATED, by and between plaintiff The City of
18 San Diego, a municipal corporation, by and through its attorneys
19 John W. Witt, City Attorney, and Ronald L. Johnson, Chief Deputy
20 City Attorney, and defendant Pacific View Construction Co., by and
21 through its attorneys Seltzer, Caplan, Wilkins & McMahon, by
22 Gerald L. McMahon, as follows:

23 1. That the within action may be settled and that plaintiff
24 may have judgment against the above named defendant in that form
25 of Judgment which is attached hereto as Exhibit A, and by this
26 reference made a part hereof.

27

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EXHIBIT A

210797

1 JOHN W. WITT, City Attorney
RONALD L. JOHNSON, Chief Deputy
2 City Attorney
3 City Administration Building
202 C Street
4 San Diego, CA 92101
5 Telephone: 236-6220

6 Attorneys for Plaintiff
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO

10 THE CITY OF SAN DIEGO, a)
municipal corporation,)
11)
Plaintiff,)
12)
v.)
13)
PACIFIC VIEW CONSTRUCTION CO.,)
14 a California corporation, et)
al.,)
15)
Defendants.)
16)

NO. 343782

JUDGMENT OF CONDEMNATION

17 PURSUANT to stipulation for judgment between the plaintiff
18 The City of San Diego; a municipal corporation, by and through its
19 attorneys John W. Witt, City Attorney, and Ronald L. Johnson, Chief
20 Deputy City Attorney, and defendant Pacific View Construction Co.,
21 by and through its attorneys Seltzer, Caplan, Wilkins & McMahon, and
22 Gerald L. McMahon; and

23 IT APPEARING to the court that trial of the within cause,
24 findings of fact and conclusions of law have been waived by the
25 above named parties; and

26 IT FURTHER APPEARING THAT defendant County of San Diego, a
27 body politic and corporate, as tax lienor, filed a disclaimer in
28 within action; and

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EXHIBIT A

1 IT FURTHER APPEARING that defendant United States of America,
2 a body politic and corporate, as tax lienor, filed a disclaimer
3 in the within action; and

4 Good cause therefor having been shown, IT IS HEREBY ORDERED,
5 ADJUDGED AND DECREED:

6 1. That the real property described in the complaint on
7 file herein comprises all of the property plaintiff seeks to condemn
8 and each parcel is a part of a larger parcel; that the uses to
9 which the property are to be applied are uses authorized by law
10 and are public uses; that said public uses are for the construction,
11 operation and maintenance of a public park and incidents thereto,
12 together with earth excavations, embankments, and slope or slopes
13 by The City of San Diego, plaintiff herein, within the City of
14 San Diego, County of San Diego, State of California; that the
15 taking of said real property in fee was and is necessary for such
16 public uses and purposes.

17 2. That the fair market value of the real property to be
18 condemned and taken herein, together with any and all damages by
19 reason of the taking, is the sum of one million, one hundred thousand
20 and 00/100 dollars (\$1,100,000.00).

21 3. That the aforesaid sum shall be divided as follows:

22 a. The sum of one hundred forty-four thousand five
23 hundred eighty-five and 06/100 dollars (\$144,585.06), plus
24 interest at the rate of \$23.971 per day from May 1, 1974,
25 until paid in full, to Great Western Savings and Loan
26 Association, successors in interest to Sentinel Savings and
27 Loan Association, a California corporation.

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b. The balance of the \$1,100,000.00 to Pacific View Construction Co.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that upon payment into court of the total sum of \$1,100,000.00, plaintiff is entitled to and is hereby awarded the relief prayed for in said complaint and the property described in said complaint is taken and condemned for public uses; to wit: a public park.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that upon payment into court of the said sum of \$1,100,000.00, plaintiff shall be entitled to, and the court shall make, a final order of condemnation in the manner provided by law.

Dated this _____ day of _____, 1974.

Judge of the Superior Court

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210797

1 JOHN W. WITT, City Attorney
2 RONALD L. JOHNSON, Chief Deputy

3 City Administration Building
4 202 C Street
5 San Diego, CA 92101

6 Telephone: 236-6220

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO

10 THE CITY OF SAN DIEGO, a)
11 municipal corporation,)

12 Plaintiff,)

NO. 343782

13 v.)

FINAL ORDER OF CONDEMNATION

14 PACIFIC VIEW CONSTRUCTION CO.,)
15 a California corporation, et)
16 al.,)

17 Defendants.)

18 Judgment of condemnation having been heretofore entered in
19 the above entitled action on _____, in
20 Book _____, at Page _____, of Judgments, in the office of the
21 County Clerk of the County of San Diego, State of California.

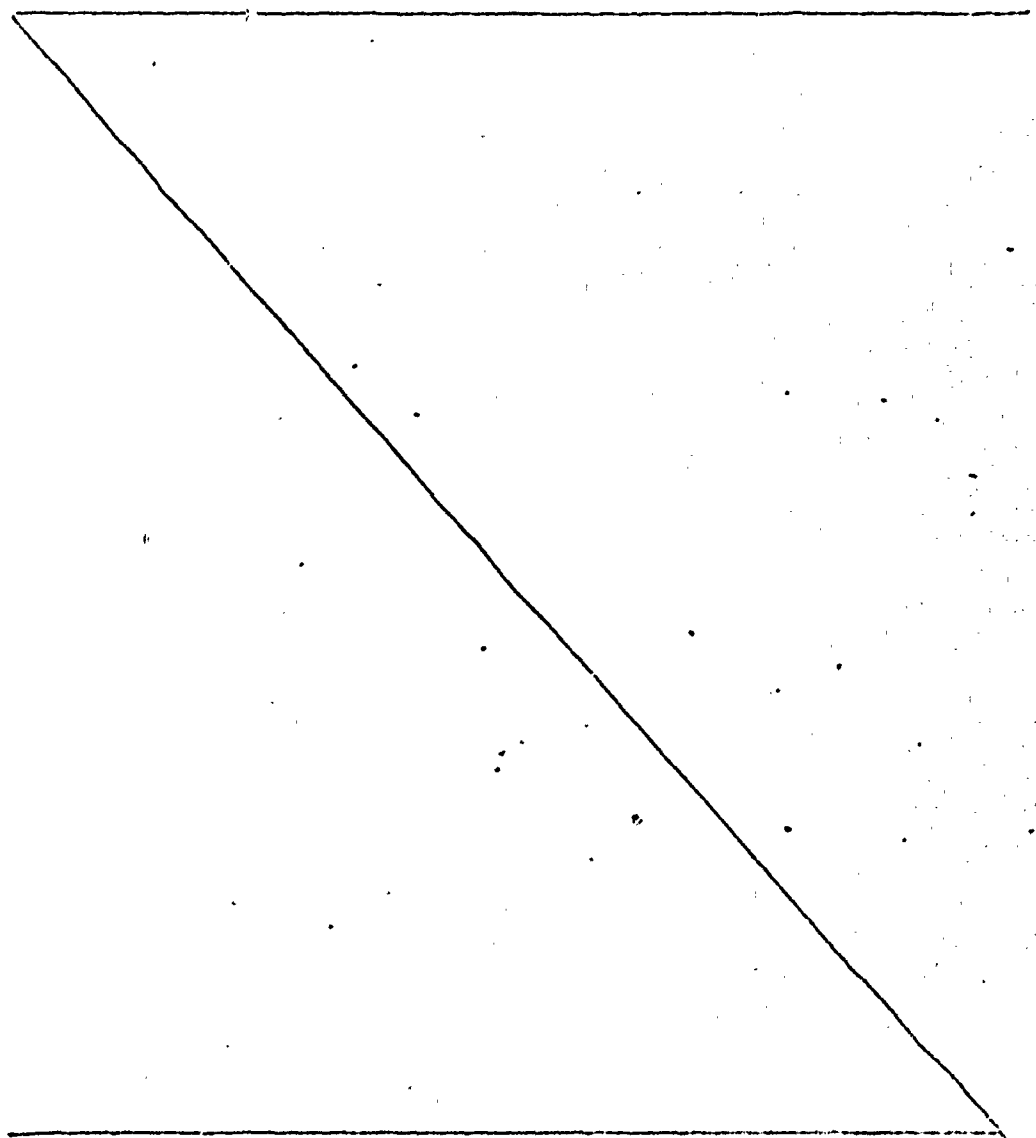
22 IT FURTHER APPEARING to the satisfaction of the court that
23 the above named plaintiff, pursuant to that judgment, has paid
24 into court for the benefit of defendants Pacific View
25 Construction Co. and Great Western Savings and Loan Association,
26 successors in interest to Sentinel Savings and Loan Association,
27 a California corporation, the total amount of compensation
28 awarded by the court for the interest of said defendants in and
to the real property described in plaintiff's complaint and

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herein condemned; NOW, THEREFORE,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the following real property be and the same is hereby condemned to become the property of plaintiff, for the uses and purposes set forth in said complaint; to wit: for a public park and appurtenances thereto, the said real property being situated in the City of San Diego, County of San Diego, State of California, and more particularly described as follows:



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PARCEL 1:

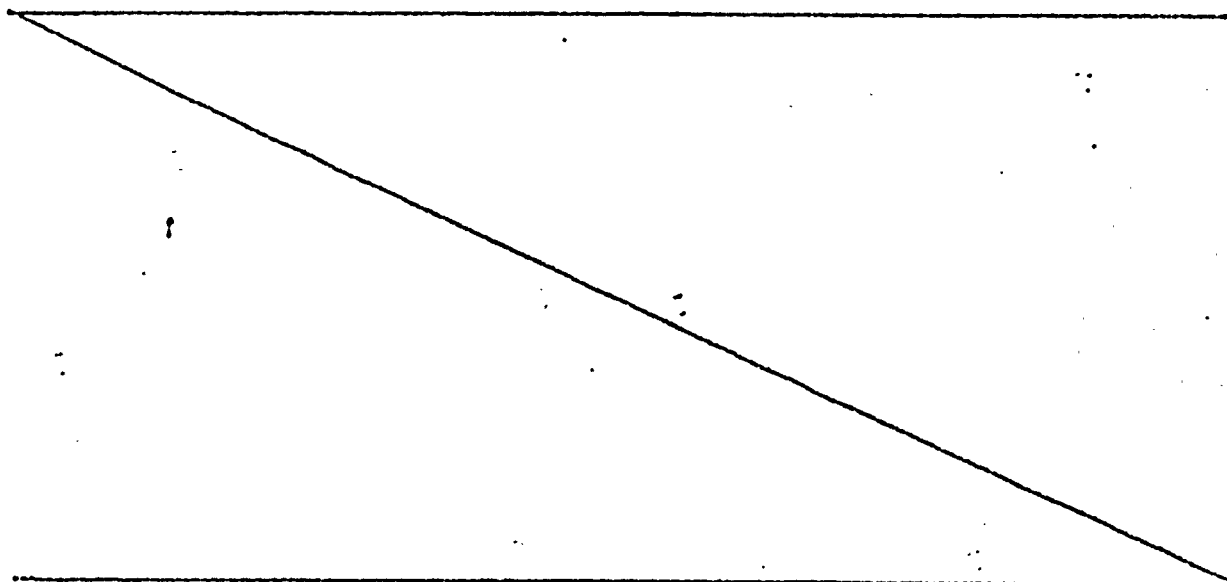
Those portions of Pueblo Lots 1206, 1207, 1210 and 1211, in the City of San Diego, County of San Diego, State of California, according to Map of the Pueblo Lands of San Diego, made by Charles H. Poole in 1856, as described in deed to Conner, recorded in Book 5, page 191 of Deeds, records of San Diego County, as follows:

Beginning at a point 3 chains East of the Southwest corner of Pueblo Lot 1211; thence North 27° West, 40 chains; thence South 67° West, 20 chains; thence South 23° East, 40 chains; thence northeasterly to the Point of Beginning.

EXCEPTING therefrom that portion lying westerly of the most easterly boundary line of the Subdivision of Clairemont Unit No. 7, according to Map thereof No. 2872, filed in the office of the County Recorder of San Diego County, on May 20, 1952.

ALSO EXCEPTING that portion lying within the boundary of East Clairemont Unit No. 7, according to Map thereof No. 4006, filed in the office of the County Recorder of said County, November 7, 1958.

AND ALSO EXCEPTING therefrom that portion lying within Fairway Park Unit No. 2, according to Map thereof No. 5885, filed in the office of the County Recorder of San Diego County, March 25, 1971.



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PARCEL 2:

All that real property in the City of San Diego, County of San Diego, State of California, being portions of Pueblo Lots 1191, 1195, 1206 and 1207 of the Pueblo Lands of San Diego, according to Map thereof made by James Pascoe in 1870, a certified copy of which was recorded November 14, 1921 in the office of the County Recorder of said San Diego County, as Miscellaneous Map No. 36, and that portion of the unnumbered Pueblo Lot bounded by Pueblo Lots 1194, 1195, 1206 and 1207 of said Pueblo Lands of San Diego (said unnumbered Lot being known as Morrow Tract, or Fos' Addition, according to Map thereof No. 629, filed in said County Recorder's Office April 26, 1890, together with portions of Avenues and Streets as shown on said Map No. 629, bounded and described as follows:

Beginning at a point in the southerly line of said Pueblo Lot 1191, distant thereon South 89° 06' 00" East, 371.18 feet from the southeasterly corner of Clairemont Unit No. 2, according to Map thereof No. 2757, filed in the office of the County Recorder of San Diego County; thence North 26° 25' 30" West, 665.47 feet; thence North 15° 38' 00" West, 695.30 feet; thence North 36° 49' 50" West, 484.65 feet; thence North 08° 44' 30" West, 168.03 feet; thence North 01° 49' 10" West, 332.65 feet; thence North 24° 55' 30" West, 575.06 feet; thence North 09° 24' 00" West, 470.55 feet; thence North 31° 31' 30" West, 452.57 feet to a point in a 530 foot radius curve concave northerly, a radial line to said point bearing South 16° 37' 13" East, said point being an angle point in the boundary line of land described in deed to Clairemont Company, recorded January 22, 1953 as Document No. 9011, in Book 4724, page 548, of Official Records; thence along the boundary line of said Clairemont Company's land as follows:

Leaving said curve North 73° 22' 47" East, 85.23 feet; North 24° 30' 10" East, 675.90 feet and North 16° 57' 20" West, 818.24 feet to an angle point in the easterly line of the land described under Parcel 2 in deed to Air Parks, Inc., recorded December 21, 1951 as Document No. 154406 in Book 4326, Page 101 of Official Records; thence along the easterly line of said Parcel 2, North 16° 57' 20" West to and along the boundary of Clairemont Garden, according to Map thereof No. 2047, filed in the office of the County Recorder of said County on January 14, 1953, a distance of 848.60 feet to an angle point therein; thence continuing along the

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PARCEL 2 (Cont'd):

boundary of said Map No. 2047, North 38° 24' 00" West, 631.92 feet; North 18° 47' 00" West, 1,124.87 feet and North 27° 26' 10" West, 393.84 feet to the southeasterly line of land described in deed to Conner, recorded in Book 5, page 191 of Deeds; thence northeasterly along the boundary of said land to the northerly line of said Pueblo Lot 1206; thence easterly along said northerly line to the northeasterly corner of said Pueblo Lot 1206; thence southerly along the easterly line of said Pueblo Lots 1206, 1195 and 1191 to the southerly line of said Pueblo Lot 1190; thence North 89° 06' 00" West along said southerly line of said Pueblo Lot 1191 to the Point of Beginning.

EXCEPTING FROM Parcel 2 above the following described property:

Clairemont Park Unit No. 1, according to Map No. 3535, filed in the office of the County Recorder of San Diego County, October 30, 1956.

Clairemont Park Unit No. 2, according to Map No. 3698, filed in the office of the County Recorder of San Diego County, August 23, 1957.

East Clairemont Unit No. 23, according to Map thereof No. 4644, filed in the office of the County Recorder of San Diego County, September 30, 1960.

Fairway Park Unit No. 1, according to Map thereof No. 6778, filed in the office of the County Recorder of San Diego County, November 6, 1970.

AND ALSO EXCEPTING from said Parcel 2 above that portion thereof lying easterly and southeasterly of the westerly and northwesterly boundary of that portion of Mt. Acadia Boulevard as described in deed to The City of San Diego, recorded August 22, 1957 in Book 6719, Page 380 of Official Records.

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PARCEL 3:

Those portions of Pueblo Lots 1210, 1211, 1222 and 1223 in the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of said Map having been filed in the office of the County Recorder, November 14, 1921, as Miscellaneous Map No. 36, described as follows:

Beginning at the Lot corner common to Lot 1266 and Lot 1267 on Clairemont Unit No. 14, according to Map thereof No. 3914, on file in the office of the County Recorder of said County, said point also being on the easterly right of way line of Balboa Avenue; thence from said point along the boundary of East Clairemont Unit No. 14, as follows:

South 44° 57' 30" East, 347.39 feet; South 09° 38' 10" East, 75.36 feet; South 69° 32' 20" West, 117.14 feet; South 25° 00' 00" West, 147.00 feet; South 13° 34' 10" East, 104.24 feet; to a point on the Subdivision boundary of East Clairemont Unit No. 15, according to Map thereof No. 3970, on file in the office of the County Recorder of said County; thence along the Subdivision boundary of East Clairemont Unit No. 15, as follows:

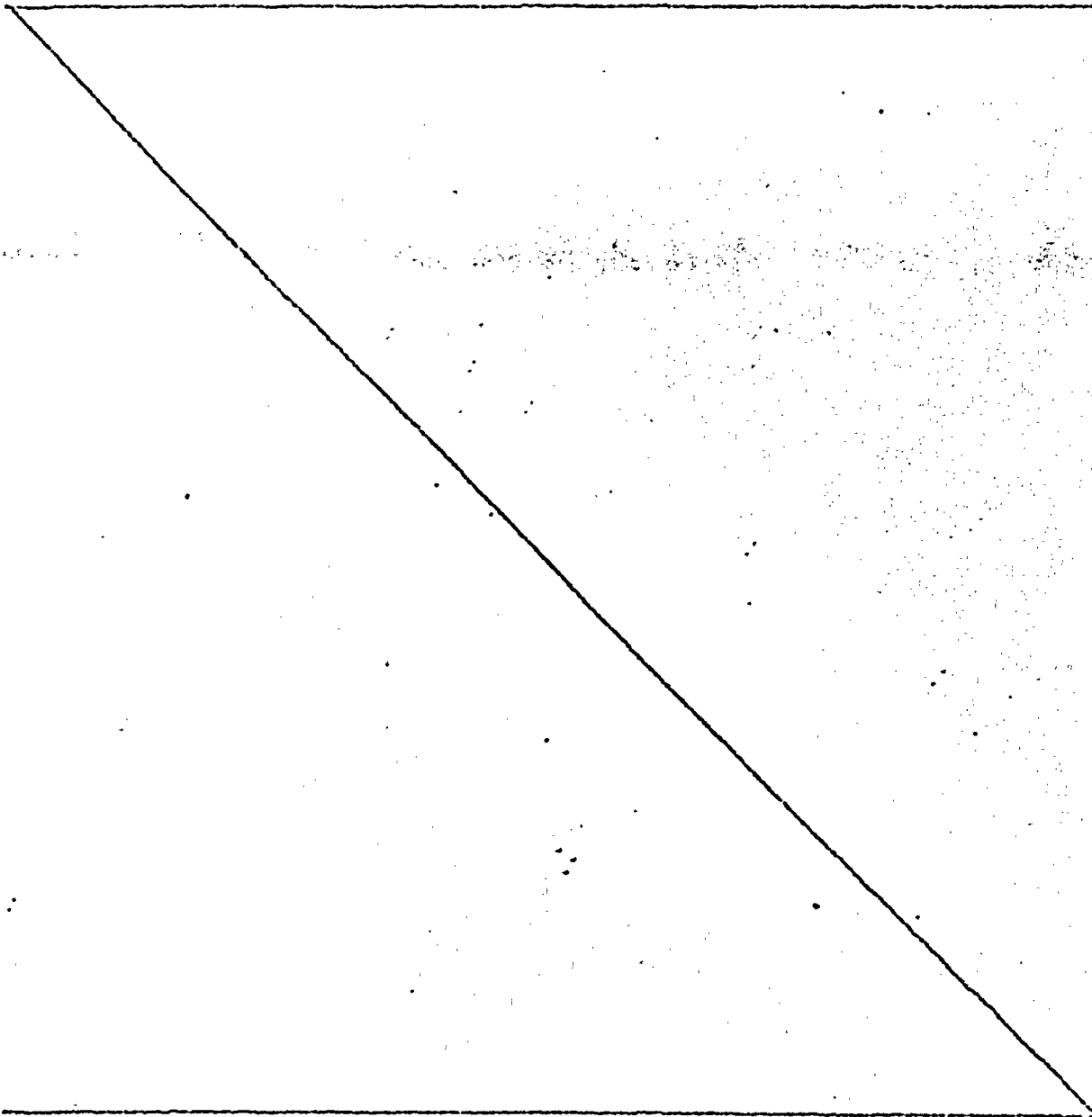
South 35° 55' 25" West, 159.83 feet; South 73° 18' 40" West, 348.75 feet; South 16° 41' 20" East, 724.00 feet to the most southerly corner of Lot 1298 of said Subdivision; thence southerly in a straight line to the most westerly corner of Lot 947 of East Clairemont Unit No. 7, according to Map thereof No. 4006, on file in the office of the County Recorder of San Diego County; thence along the Subdivision boundary of the East Clairemont Unit No. 7, as follows:

South 16° 45' 50" East, 269.27 feet; North 73° 14' 10" East, 393.70 feet; South 24° 13' 30" East, 161.97 feet; South 34° 19' 00" West, 177.26 feet and South 73° 14' 10" West, a distance of 256.33 feet to an intersection with the north-easterly line of the Unnumbered Pueblo Lot known as the Conner Tract; thence along said northeasterly line North 26° 59' 32" West, a distance of 1,764.85 feet to the most north-easterly corner of said Conner Tract; thence South 63° 00' 32" West, a distance of 465.15 feet along the northwesterly line of the Conner Tract to its intersection with the easterly line of the Northwest One-Quarter of Pueblo Lot 1210; thence along said line North 01° 03' 12" West, a distance of 71.77 feet to the southeasterly right of way line of Balboa Avenue;

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PARCEL 3 (Cont'd):

thence along said right of way line in a northeasterly direction along the arc of a curve of radius 2,051 feet, concave northwesterly, a radial line to said point bears South 22° 03' 35" East, an arc distance of 906.10 feet through a central angle of 25° 18' 55" East, thence continuing along a tangent line North 42° 37' 30" East, a distance of 507.09 feet to the Point of Beginning.



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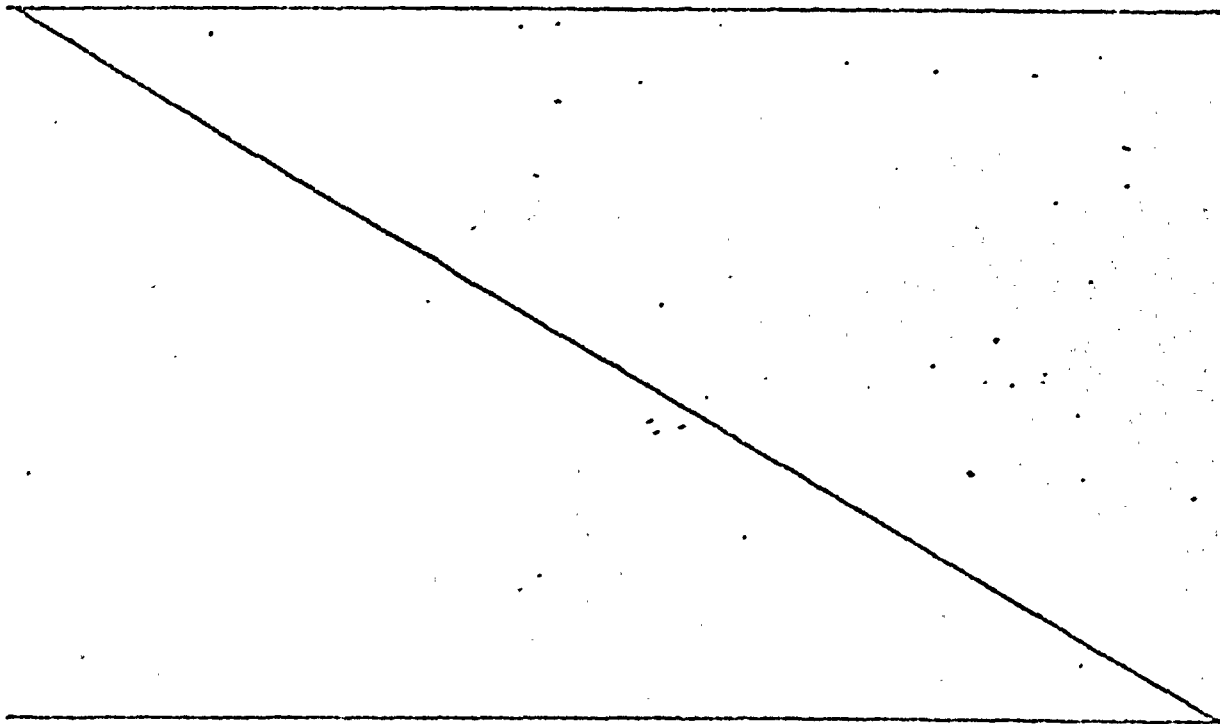
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PARCEL 4:

All that portion of Pueblo Lot 1210 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of said Map having been filed in the County Recorder's Office, November 14, 1921, as Miscellaneous Map No. 36, described as follows:

Beginning at the Southwest corner of the Northeast Quarter of the Northwest Quarter of said Pueblo Lot 1210, said point being also the Southwest corner of Parcel 2-B of the land conveyed to The City of San Diego, by deed recorded April 3, 1958 in Book 7021, Page 511 of Official Records; thence South $39^{\circ} 21' 24''$ East along the South line of said land 371.52 feet to a point in the northwesterly line of the Unnumbered Pueblo Lot known as Corner Tract; thence South $63^{\circ} 00' 32''$ West along said northwesterly line to an intersection with the northeasterly line of Clairemont Unit No. 7, according to Map thereof No. 2872, filed in the County Recorder's office, May 20, 1952; thence northwesterly along said northeasterly line to an intersection with the West line of the Southeast Quarter of the Northwest Quarter of said Pueblo Lot 1210; thence North along said West line to the Point of Beginning.



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IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that a copy of this final order of condemnation be filed in the office of the County Recorder of the County of San Diego, State of California, and upon the filing thereof, title to the above described property be vested in plaintiff, its successors and assigns.

Dated this _____ day of _____, 1974.

Judge of the Superior Court

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Passed and adopted by the Council of The City of San Diego on JUN 6 1974,
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lee Hubbard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Ellis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Bates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

EDWARD NIELSEN
 City Clerk of The City of San Diego, California.

By LaVerne E. Miller Deputy.

(Seal)

RECEIVED
 1974 JUN -5 AM 8:40
 SAN DIEGO, CALIF.
 (REV. 11-73)

Office of the City Clerk, San Diego, California

Resolution **210797** Adopted **JUN 6 1974**

Number _____

E.L. MICROFILMED

APR 20 1978