

RESOLUTION NO. 216014

MAY 19 1976

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC STREET AND INCIDENTS THERETO, IN PORTIONS OF LOTS 42 AND 43 OF HORTON'S PURCHASE IN THE EX-MISSION LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF NO. 283, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER MARCH 9, 1878, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF EASEMENTS IN SAID PROPERTY FOR SAID PUBLIC STREET AND INCIDENTS THERETO; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID EASEMENTS UNDER EMINENT DOMAIN PROCEEDINGS; AND DIRECTING THE CITY ATTORNEY OF THE CITY OF SAN DIEGO TO COMMENCE AN ACTION IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN DIEGO, FOR THE PURPOSE OF CONDEMNING AND ACQUIRING SAID EASEMENTS.

WHEREAS, the Council of The City of San Diego has provided notice to those persons designated in Section 1245.235, Code of Civil Procedure and also has provided all persons a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030, Code of Civil Procedure; NOW, THEREFORE,

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

Section 1. That the public interest, convenience and necessity of The City of San Diego, and the inhabitants thereof, require the construction, operation and maintenance of a public street and incidents thereto in portions of Lots 42 and 43 of Horton's Purchase in the Ex-Mission Lands

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MAY 24 1978

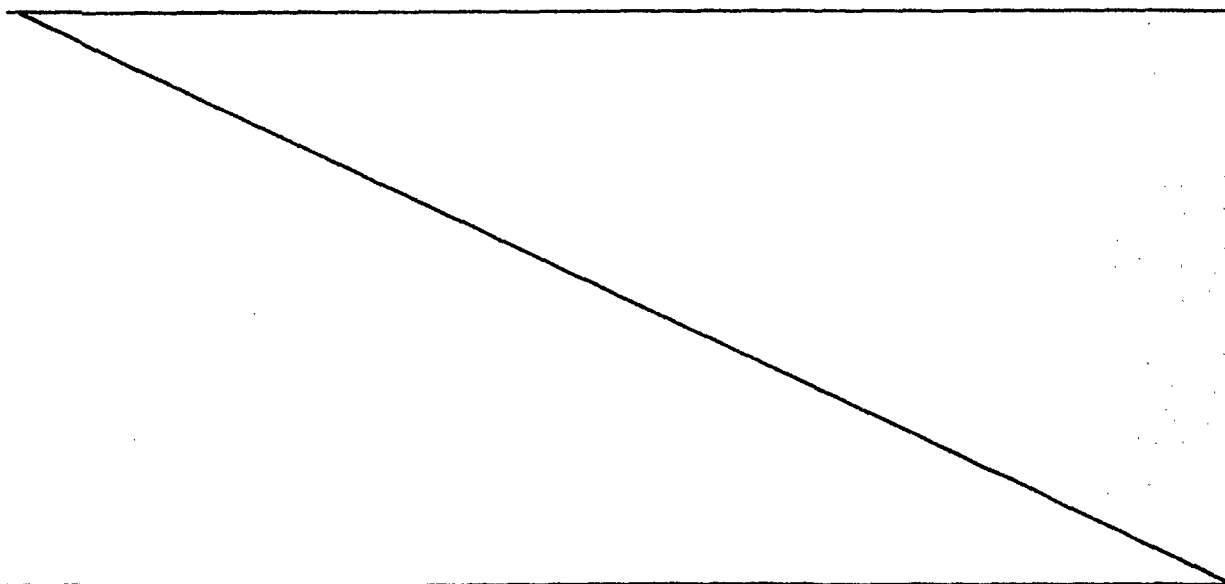
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of San Diego, according to Map thereof No. 283, filed in the office of the San Diego County Recorder March 9, 1878, as more particularly described hereinafter.

Section 2. That the public interest, convenience and necessity of said City, and the inhabitants thereof, demand the acquisition and taking of easements in said property for the construction, operation and maintenance of a public street and incidents thereto, said real property lying within the City of San Diego, County of San Diego, State of California.

Section 3. That Sections 1240.010, 1240.120, 1240.610 and 1255.410, Code of Civil Procedure, Section 220, the Charter of The City of San Diego and various Streets and Highways Code provisions permit the acquisitions referenced herein.

Section 4. That the parcels of real property sought to be condemned are described as follows:



LEGAL DESCRIPTION

PARCEL 1 - Imperial Avenue

All that portion of Lot 43 of Horton's Purchase in the Ex-Mission Lands of San Diego, according to Map thereof No. 283 filed in the Office of the San Diego County Recorder March 9, 1878, more particularly described as follows:

Commencing at a point on the Northerly right-of-way line of Imperial Avenue, as located and established on the date of this instrument, being the Southeasterly corner of Lot 29 of Sunshine Gardens, according to Map thereof No. 1804 filed in the Office of the County Recorder August 27, 1924; thence North $00^{\circ}49'24''$ East, along the Easterly line of said Lot 29, a distance of 10.00 feet to the TRUE POINT OF BEGINNING; thence South $89^{\circ}18'28''$ East, along the Northerly right-of-way line of said Imperial Avenue, a distance of 521.49 feet; thence Northerly at right angles to said last described line, a distance of 4.00 feet; thence continuing along said Northerly right-of-way line, South $89^{\circ}18'28''$ East, 85.03 feet to the beginning of a non-tangent 30.00 foot radius curve, concave Northwesterly; thence continuing along a boundary line of public street right-of-way, and along the arc of said curve, through a central angle of $59^{\circ}55'41''$, a distance of 31.38 feet; thence tangent to said curve North $00^{\circ}52'58''$ East, along the Westerly right-of-way line of 49th Street, as located and established on the date of this instrument, a distance of 14.02 feet to a point of cusp with the arc of a 20.00 foot radius curve, concave Northwesterly, a radial bears South $89^{\circ}07'02''$ East to said point; thence Southwesterly and Westerly, along the arc of said curve, through a central angle of $89^{\circ}48'34''$, a distance of 31.35 feet; thence tangent to said curve North $89^{\circ}18'28''$ West, 601.57 feet to said Easterly line of Lot 29 of Sunshine Gardens; thence South $00^{\circ}49'24''$ West, along said Easterly line, a distance of 24.00 feet, returning to the TRUE POINT OF BEGINNING.

PARCEL 2 - Imperial Avenue

All that portion of Lot 42 of said Horton's Purchase, more particularly described as follows:

Beginning at the intersection of the Northerly right-of-way line of Imperial Avenue, with the Easterly right-of-way line of 49th Street, as said streets are located and established on the date of this instrument; thence South $89^{\circ}31'02''$ East, along said Northerly right-of-way line of Imperial Avenue, a distance of 130.00 feet; thence North $00^{\circ}52'58''$ East, 34.00 feet; thence North $89^{\circ}31'02''$ West, 130.00 feet to said Easterly right-of-way line of 49th Street; thence South $00^{\circ}52'58''$ West, along said Easterly right-of-way line, returning to the Point of Beginning.

PARCEL 3 - 49th Street

Commencing at said intersection of the Northerly right-of-way line of Imperial Avenue, with the Easterly right-of-way line of 49th Street; thence North $00^{\circ}52'58''$ East, along said Easterly right-of-way line of 49th Street, a distance of 54.28 feet to the TRUE POINT OF BEGINNING; thence South $89^{\circ}07'02''$ East, 20.00 feet to a point in the arc of a non-tangent 20.00 foot radius curve, concave Northeasterly, a radial bears North $89^{\circ}07'02''$ West to said point; thence Southeasterly, along the arc of said curve, through a central angle of $90^{\circ}24'00''$, a distance of 31.56 feet to a point of cusp, with a tangent line; thence North $89^{\circ}31'02''$ West, along said tangent line, a distance of 40.14 feet to said Easterly right-of-way line of 49th Street; thence North $00^{\circ}52'58''$ East, along said Easterly right-of-way line, returning to the TRUE POINT OF BEGINNING.

Section 5. That the taking and acquiring by said City of the easements hereinabove described are deemed necessary for the construction, operation and maintenance of a public street and incidents thereto by The City of San Diego and the inhabitants thereof, for municipal purposes; that such use is a public use authorized by law (Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.120, 1240.610 and 1255.410, Code of Civil Procedure); that for such public use it is necessary that The City of San Diego condemn and acquire said easements; that said easements are to be used for the construction, operation and maintenance of a public street and incidents thereto which is planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 6. The public use for which the above-described property is taken and acquired by said City is a more necessary public use than that to which it is now appropriated in that said real property is presently in use as a portion of a school playground.

Section 7. That the City Attorney of The City of San Diego be, and he is hereby authorized and directed to commence an action in the Superior Court of the State of California, in and for the County of San Diego, in the name and on behalf of The City of San Diego, against all owners and claimants to an interest in the above-described real property, for the purpose of condemning and acquiring the easements as above-described, for the use of said City.

APPROVED: JOHN W. WITT, City Attorney

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MAY 24 1978

rb/4-12-76
Orig.Dept.: Property

By 
Donald W. Detisch, Deputy

216014 01294

CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATION OF UNALLOTTED BALANCE

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 \$ 105,000.00 Fund 245 Capital Outlay

Purpose Condemnation with order of immediate possession to acquire right-of-way for widening of Imperial Ave. bet. 47th St. & Euclid Ave.

W. B. Sage

Auditor and Comptroller of
The City of San Diego, Calif.
C. M. Haggaman

By _____

Date March 31, 19 76

RECEIVED
CITY CLERK'S OFFICE
1976 MAY 10 AM 8:55
SAN DIEGO, CALIF.

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 \$ 105,000.00

Dated March 31, 19 76

W. B. Sage

Auditor and Comptroller of
The City of San Diego, Calif.
BY *C. M. Haggaman*

Fund 244 Prog./Elem. 4506 Object 3496 Project No. 390049

Purpose Same as above

Vendor _____

MICROFILMED
MAY 24 1978

CERTIFICATE NO. 7691

216014

MAY 19 1976

01295

Passed and adopted by the Council of The City of San Diego on MAY 19 1976,
 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Tom Gade | <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"/> |
| Jess D. Haro | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Pete Wilson | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 Kathleen Martinez, Deputy.

(Seal)

RECEIVED
 CITY CLERK'S OFFICE
 1976 MAY 10 AM 8:50
 SAN DIEGO, CALIF.

Office of the City Clerk, San Diego, California

Resolution Number 216014 Adopted MAY 19 1976

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 MAY 24 1978 01296