

(#79-324)

SEP 5 1978

RESOLUTION NO. 221753

WHEREAS, the City Council has previously authorized on January 11, 1977 by Resolution No. 217465 the commencement of eminent domain proceedings in City of San Diego v. Fishauf, et al., in San Diego Superior Court Case No. 396150 for purposes of implementing what is commonly known as the Beyer Boulevard Street Widening project, and the funds necessary to acquire the real property necessary for said project have been previously authorized by City Council Resolution No. 216540 on August 4, 1976 and the funds necessary for such acquisition were encumbered in Auditor's Certificate No. 7960 referencing Gas Tax Project 967, CIP No. 52-110.1; and

WHEREAS, Joseph and Teresa M. Paonessa are defendants in this action and are the fee owners of Parcel 20 which is identified in the above referenced lawsuit, and they are also the fee owners of adjacent real property commonly known as 4019 Beyer Boulevard, San Ysidro, California, which is property which will later be required by the City in the Smythe Avenue project to be used in connection with a railroad overcrossing; and

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WHEREAS, said defendants have agreed to accept the amount of \$7,900 as the total amount of just compensation for their claims and interests in Parcel 20, and they have also agreed to sell their said adjacent property to the City for \$37,600 in order to avoid possible future condemnation proceedings arising out of the Smythe Avenue project and they have agreed to waive any relocation benefits they may have been entitled to as a result of the City's acquisition of their real property; and

WHEREAS, Escrow No. 49571-S has been opened at Land Title Insurance Company in San Diego for the purpose of acquiring said defendants' adjacent land for \$37,600, and said acquisition was approved by the City Council in executive session on June 6, 1978 as part of the total settlement of this litigation involving Parcel 20; NOW, THEREFORE,

BE IT RESOLVED that said City Council hereby resolves and authorizes the following settlement of the above referenced litigation as to Parcel 20:

1. That, the City Council of the City of San Diego does hereby authorize the expenditure by the Auditor and Comptroller of \$37,600 from monies encumbered in City Auditor's Certificate No. 7960 as payment to defendants Joseph and Teresa M. Paonessa for their land adjacent to Parcel 20 and commonly known as 4019 Beyer Boulevard, San Ysidro, California,

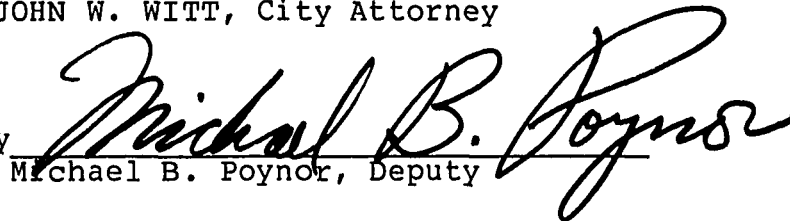
and further described in Land Title Insurance Company Escrow No. 49571-S, in exchange for a grant deed to the City and their waiver of relocation benefits which they may have claimed as the result of said acquisition; and

2. That, said defendants Joseph and Teresa M. Paonessa shall be paid \$7,900, from monies now on deposit with the court in the above referenced litigation, as full payment of just compensation for all their claims arising out of the City's acquisition of Parcel 20; and

3. That the City Attorney is hereby authorized to prepare and execute on behalf of the City of San Diego all necessary legal documents required to accomplish the above settlement.

APPROVED: JOHN W. WITT, City Attorney

By


Michael B. Poyner, Deputy

MBP:sm
Aud.Cert.#7960

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

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<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"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fred Schnaubelt	<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"/>
Larry Stirling	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<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.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Jaymie Gonzalez*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **221753** Adopted SEP 5 1978

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