

RESOLUTION NO. 221849 SEP 18 1978

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, DECLARING ITS INTENTION TO ORDER CERTAIN ACQUISITIONS WITHIN SAID CITY PURSUANT TO THE SAN DIEGO PARK DISTRICT PROCEDURAL ORDINANCE OF 1969; DESCRIBING THE DISTRICT TO BE BENEFITED BY SAID ACQUISITION AND TO BE ASSESSED TO PAY THE COST AND EXPENSE THEREOF; DETERMINING AND DECLARING THAT BONDS SHALL BE ISSUED UNDER THE IMPROVEMENT ACT OF 1911 TO REPRESENT UNPAID ASSESSMENTS; PROVIDING FOR THE USE OF ANY SURPLUS AMOUNT REMAINING IN THE FUND AFTER COMPLETION OF THE ACQUISITION; AND REFERRING THE PROPOSED IMPROVEMENT TO THE CITY MANAGER TO MAKE AND FILE A WRITTEN REPORT

(Park District No. 19 - Del Cerro Open Space)

WHEREAS, a petition was received by the City Clerk for the formation of a park district pursuant to the provisions of the San Diego Park District Procedural Ordinance of 1969, as amended, said petition having been filed in the office of the City Clerk on April 20, 1978, as Document No. 763237, and the Council on May 8, 1978, adopted Resolution No. 220832, which among other things, acknowledged the receipt of said petition; and

WHEREAS, the Council deems it advisable, on its own motion, to initiate proceedings pursuant to the provisions of said procedural ordinance and specifically the provisions of Division 8 thereof (commencing at Section 61.0801 of the San Diego Municipal Code) which incorporates by reference the provisions of the Municipal Improvement Act of 1913 (commencing with Section 10000 of the California Streets and Highways Code) for

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the acquisition, and the financing therefor, of the lands herein-after referred to, for public park, playground and urban open-space lands purposes; and

WHEREAS, a map of the proposed assessment district, designated Plat No. 3940, has been presented to the Council, showing the exterior boundaries of the proposed district to be assessed to pay the cost and expense of said acquisition; and

WHEREAS, the project is exempt from environmental impact report requirements; and

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

Section 1. The Council hereby declares its intention to form a park district to be designated "San Diego Park District No. 19 - Del Cerro Open Space," pursuant to the provisions of The San Diego Park District Procedural Ordinance of 1969, as amended, and specifically the provisions of Division 8 thereof, which incorporates by reference The Municipal Improvement Act of 1913 (commencing with Section 10000 of the Streets and Highways Code).

Section 2. The Council finds and determines that the public interest, convenience and necessity require, and the Council of the City hereby declares its intention to order, the acquisition in fee simple absolute of certain open space lands in the City which have value for park and recreation purposes, and which shall be dedicated for, developed, and in perpetuity held and used for public park, playground and urban open-space lands

purposes, and which are more particularly shown and described in Exhibit "A" attached hereto and incorporated by reference herein.

The foregoing lands are more particularly shown and described on said Plat No. 3940 on file in the office of the City Clerk, and open to inspection by any person interested.

Section 3. The Council hereby declares that should the City have already acquired any of the lands to be acquired pursuant to these proceedings, whether by condemnation or otherwise, the City shall be paid therefor out of the acquisition fund to be established pursuant hereto an amount equal to the price paid by the City, plus the reasonable costs and expenses incurred in making said acquisition.

Section 4. The Council further finds and determines that said lands proposed to be acquired are lands which are primarily in their natural state and have value for public park, playground and urban open-space lands purposes, which should and shall hereafter be held, used and developed for said purposes, which conform to the criteria established for open space land as set forth in the "Progress Guide and General Plan for the City of San Diego," as amended, and which would, if retained in their natural state or improved, enhance the present and potential value of abutting and surrounding properties and would maintain and enhance the conservation of natural and scenic resources.

Section 5. The Council hereby makes the cost and expense of the acquisition chargeable upon a district, which

district the Council hereby declares to be the district specially benefited by said acquisition and to be assessed to pay said cost and expense. The district is described by said map of the assessment district designated "Plat No. 3940," consisting of four sheets, which indicates by a boundary line the extent of the territory to be included in the proposed district, and which shall govern for all details as to the extent of the assessment district. Said map is hereby approved and reference is hereby made to said map for a description of the district. The City Clerk is hereby directed to endorse his certificate on the original and one copy of the map of the assessment district, evidencing the adoption of this resolution, to file the original of the map in the Office of the City Clerk, and to file the copy with the County Recorder of the County of San Diego.

Section 6. The Council hereby declares that any lot or parcel of land belonging to the United States, or to the State of California, or to any county, city, public agent, mandatory of the government, public school board, public educational or reform institution or public institution for the feebleminded or the insane, and in use in the performance of any public function, and which may be within the exterior boundaries of the district to be assessed to pay the costs and expenses of said acquisition, shall be omitted from any assessment hereafter to be made to cover the costs and expenses of such acquisition.

Section 7. The Council hereby determines and declares that bonds shall be issued pursuant to the Improvement Act of

1911 (commencing with Section 5000 of the Streets and Highway Code). The bonds shall be issued to represent each assessment of \$50 or more remaining unpaid for thirty (30) days after the date of recording the assessment in the Office of the Street Superintendent of the City. The bonds shall be dated not earlier than the 31st day after said recordation. The bonds shall be serial bonds and shall extend over a period ending nine (9) years from the second day of January next succeeding the next September 1st following their date. The bonds shall bear interest at a rate to be determined upon the sale thereof. The maximum coupon rate to be paid on the bonds and indebtedness shall be eight percent (8%) per annum, payable semi-annually, which rate shall not be exceeded in the issuance of the bonds. Pursuant to Section 6464 of the Streets and Highways Code, the Council hereby elects to have the redemption provisions of the bonds provide for a premium of five percent (5%) of the unmatured principal of said bonds. Assessments under \$50 which are not paid within thirty (30) days after recordation of the assessment shall be delinquent and shall bear interest at the rate of one percent (1%) per month, the interest to be computed from the date of the bonds, and the collection of any such delinquent assessments shall be pursuant to the provisions of Chapter 18.1 (commencing with Section 5450) of Part 3 of Division 7 of the Streets and Highways Code, as provided in Section 10600.1 of the Streets and Highways Code.

Section 8. After completion of the acquisition and payment of all claims from the acquisition fund, the amount of

the surplus, if any, remaining in the acquisition fund shall be used as follows:

(a) If the entire surplus does not exceed the lesser of \$1,000 or five (5%) percent of the total amount expended from the acquisition funds, the entire surplus shall be transferred to the General Fund of the City.

(b) If the entire surplus is more than the amount specified in subparagraph (a), but is \$30,000 or less, the entire surplus shall be transferred to a fund for the maintenance and improvement of the lands referred to in this resolution.

(c) If the entire surplus is more than \$30,000, \$15,000 thereof shall be transferred to a fund for the maintenance and improvement of the lands referred to in this resolution and the remainder shall be applied as a credit upon the assessment and any supplemental assessment, in the manner provided in Sections 10427.1 and 10427.2, Streets and Highway Code.

If any surplus results for the reasons stated in Section 10427.5, Streets and Highways Code, such surplus shall be disposed of as provided in said Section 10427.5.

Section 9. Title to the said lands to be acquired shall be vested in and shall remain in the City; and, following their acquisition, the Council shall by ordinance formally dedicate

them in perpetuity for public park, playground and urban open-space lands purposes. Said lands shall be developed, improved, maintained and used for said purposes; provided, however, that the detailed design, phasing and financing thereof shall be as the Council shall in its discretion hereafter direct.

Section 10. The proposed acquisition is hereby referred to the City Manager of the City and the City Manager is hereby directed to cause a Report in writing to be made and filed with the City Clerk containing the matters required by the Municipal Improvement Act of 1913, as incorporated by reference in said Division 8 of The San Diego Park District Procedural Ordinance of 1969, as amended.

APPROVED:

JOHN W. WITT, City Attorney

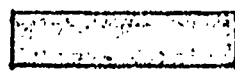
By Janice Sammartino Gardner
Deputy



EXHIBIT A



BOUNDARY OF PROPOSED DISTRICT MARKED THUS.



LAND TO BE ACQUIRED SHADED THUS.

SEP 18 1978

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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Maureen F. O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

Pete Wilson PETER WILSON
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Betty Lueking*, Deputy.

(Seal)

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Office of the City Clerk, San Diego, California

Resolution Number 221849 Adopted SEP 18 1978

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