

RESOLUTION NO. 223701

JUN 11 1979

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE DEVELOPMENT, CONSTRUCTION AND MAINTENANCE OF A FLOOD CONTROL CHANNEL AND APPURTENANT STRUCTURES IN PORTIONS OF LOTS 14, 15, 16 and 17 OF THE JAMES C. WALLACE SUBDIVISION AND PORTIONS OF LOT 45 OF HORTON'S PURCHASE IN THE EX-MISSION LAND OF SAN DIEGO, ACCORDING TO MAP NO. 1226 IN THE COUNTY OF SAN DIEGO; AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF EASEMENTS IN THIS PROPERTY FOR THE DEVELOPMENT, CONSTRUCTION AND MAINTENANCE OF THE FLOOD CHANNEL; AND DECLARING THAT THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE THIS PROPERTY 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 THIS PROPERTY.

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 its inhabitants require the development, construction, and maintenance of a flood control channel and appurtenant structures in portions of Lots 14, 15, 16, and 17 of the James C. Wallace Subdivision and portions of Lot 45 of Horton's Purchase, in the Ex-Mission Land of San Diego according to map thereof No. 1226, as more particularly described hereinafter;

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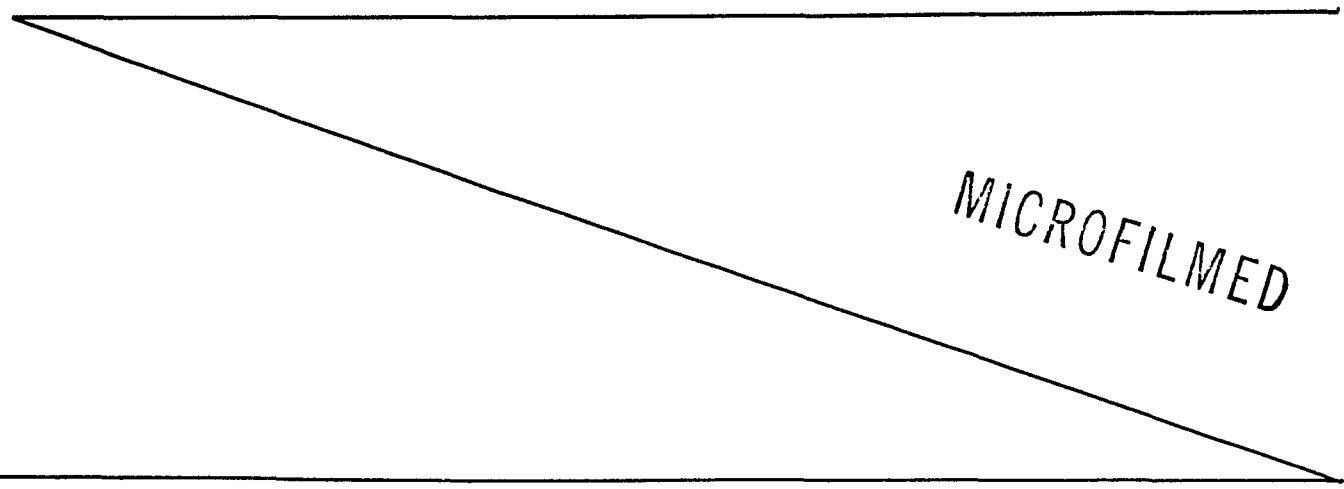
Section 2. That the public interest, convenience and necessity of The City of San Diego and its inhabitants, demand the acquisition and taking of easements to this property for the development, construction and maintenance of a flood control channel and appurtenant structures; the real property lying within the County of San Diego, State of California.

Section 3. That Sections 1 and 220 of the Charter of The City of San Diego; Sections 1240.010, 1240.050, 1240.110, 1240.120, 1240.125 and 1255.410 of California Code of Civil Procedure; Section 5101 of California Streets and Highways Code; and Section 40404 of California Government Code permit the acquisitions stated in this resolution;

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

Parcel 1. (Easement)

An easement and right of way to construct, reconstruct, maintain, operate and repair a flood control channel and a storm drain or drains including any and all appurtenances through, over, under, upon, along and across portions of the following described real property:



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LEGAL DESCRIPTION (Parcel 1)

All those portions of the North 50.00 feet of the West one-half of Lot 15, and the South 25.00 feet of the West one-half of Lot 14, in James C. Wallace's Subdivision, of the East half of Lot 45 of Horton's Purchase, in the Ex-Mission Lands of San Diego, according to Map thereof No. 1226, filed in the Office of the County Recorder of said San Diego County, January 10, 1910, more particularly described as follows:

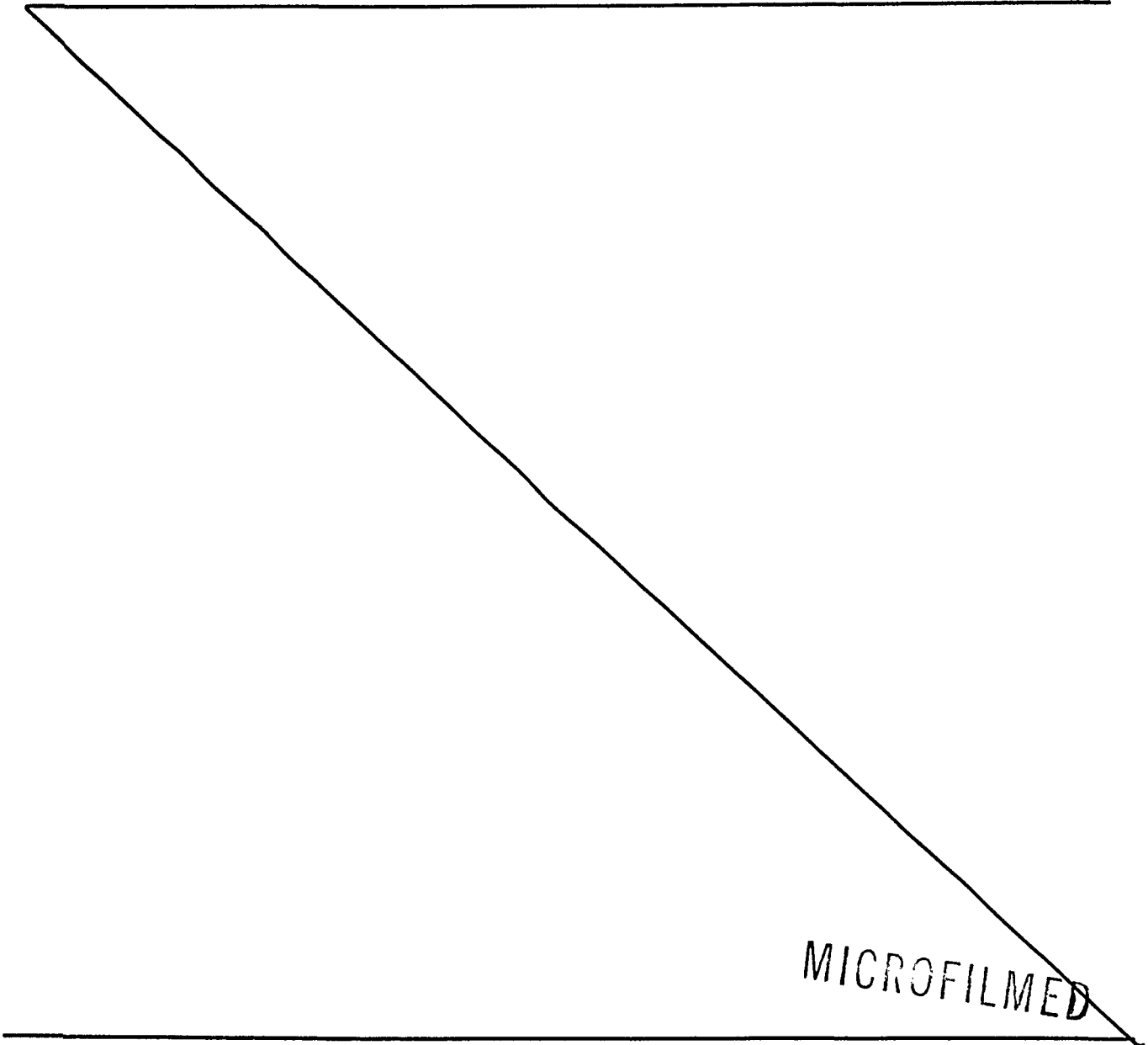
Commencing at the Southeast corner of Lot 45, Ex-Mission Lands of San Diego, according to Map thereof No. 283, filed in said San Diego County Recorder's Office; thence along the southerly line of said Lot 45, Ex-Mission Lands of San Diego, North $89^{\circ}16'26''$ West, 259.55 feet. Thence leaving said southerly line of Lot 45, North $34^{\circ}45'19''$ East, 40.71 feet to an intersection with the northerly line of Imperial Avenue as located & established as of the date of this instrument, said point of intersection being the True Point of Beginning; thence along said northerly line of Imperial Avenue, North $89^{\circ}41'31''$ West, 24.25 feet; thence leaving said northerly line of Imperial Avenue, North $34^{\circ}45'19''$ East, 39.01 feet to the beginning of a tangent 220 foot radius curve, concave northwesterly; thence northeasterly along the arc of said curve, through a central angle of $42^{\circ}44'20''$, an arc distance of 164.11 feet; thence tangent to said curve, North $07^{\circ}59'01''$ West, 208.44 feet; thence South $82^{\circ}00'59''$ West, 30.00 feet to a point on the arc of a non-tangent 250 foot radius curve, concave southeasterly; a radial to said point bears South $82^{\circ}00'59''$ West; thence northeasterly and easterly along the arc of said curve, through a central angle of $79^{\circ}37'35''$, an arc distance of 347.45 feet; thence North $44^{\circ}35'30''$ East, 116.36 feet to a point on the westerly line of 45th Street, as located & established as of the date of this instrument; thence southerly along said westerly line of 45th Street, a distance of 201.94 feet; thence leaving said westerly line of 45th Street, North $89^{\circ}13'10''$ West 52.53 feet; thence South $38^{\circ}30'59''$ West 60.48 feet to the beginning of a tangent 115.00 foot radius curve, concave easterly; thence southwesterly and southerly along the arc of said curve, through a central angle of $46^{\circ}30'00''$, an arc distance of 93.33 feet; thence tangent to said curve, South $07^{\circ}59'01''$ East, 208.44 feet to the beginning of a tangent 325 foot radius curve, concave westerly; thence southerly along the arc of said curve, through a central angle of $37^{\circ}06'00''$, an arc distance of 210.22 feet, to said northerly line of Imperial Avenue; thence along said northerly line of Imperial Avenue, North $89^{\circ}41'31''$ West 101.17 feet, returning to the True Point of Beginning.

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Parcel 2. (Easement)

An easement and right of way to construct, reconstruct, maintain, operate, and repair a flood control channel and a storm drain or drains including any and all appurtenances through, over, under, upon, along and across portions of the following described real property:



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LEGAL DESCRIPTION (Parcel 2)

All those portions of Lot 16, the North Half of Lot 17 and the South 32.00 feet of the West Half of Lot 15 of James C. Wallace Subdivision of the East Half of Lot 45 of Horton's Purchase, in the Ex-Mission Lands of San Diego, County of San Diego, State of California, according to the Map thereof No. 1226, filed in the Office of the Recorder of said San Diego County January 10, 1910.

(EXCEPTING THEREFROM that portion of Lot 16 as described in deed recorded January 2, 1953, No. 306, in Book 4703 Page 491 and more particularly described as follows:

The Northerly 50.00 feet of the Easterly 156.09 feet of Lot 16 of James C. Wallace's Subdivision of the East Half of Lot 45 of Horton's Purchase, in the Ex-Mission Lands of San Diego, in the County of San Diego, State of California, according to Map thereof No. 1226, filed in the Office of the County Recorder of San Diego County January 10, 1910.)

More particularly described as follows:

Commencing at the Southeast corner of Lot 45, Ex-Mission Lands of San Diego, according to Map thereof No. 283, filed in said San Diego County Recorder's Office; thence along the southerly line of said Lot 45, Ex-Mission Lands of San Diego, North $89^{\circ}16'26''$ West, 259.55 feet. Thence leaving said southerly line of Lot 45, North $34^{\circ}45'19''$ East, 40.71 feet to an intersection with the northerly line of Imperial Avenue as located & established as of the date of this instrument, said point of intersection being the True Point of Beginning; thence along said northerly line of Imperial Avenue, North $89^{\circ}41'31''$ West, 24.25 feet; thence leaving said northerly line of Imperial Avenue, North $34^{\circ}45'19''$ East, 39.01 feet to the beginning of a tangent 220 foot radius curve, concave northwesterly; thence northeasterly along the arc of said curve, through a central angle of $42^{\circ}44'20''$, an arc distance of 164.11 feet; thence tangent to said curve, North $07^{\circ}59'01''$ West, 208.44 feet, thence South $82^{\circ}00'59''$ West, 30.00 feet to a point on the arc of a non-tangent 250 foot radius curve, concave southeasterly. A radial to said point bears South $82^{\circ}00'59''$ West; thence northeasterly and easterly along the arc of said curve, through a central angle of $79^{\circ}37'35''$, an arc distance of 347.45 feet; thence North $44^{\circ}35'30''$ East, 116.36 feet to a point on the westerly line of 45th Street, as located & established as of the date of this instrument; thence southerly along said westerly line of 45th Street, a distance of 201.94 feet; thence leaving said westerly line of 45th Street, North $89^{\circ}13'10''$ West, 52.53 feet; thence South $38^{\circ}30'59''$ West, 60.48 feet to the beginning of a tangent 115.00 foot radius curve, concave easterly; thence southwesterly and southerly along the arc of said curve, through a central angle of $46^{\circ}30'00''$, an arc distance of 93.33 feet; thence tangent to said curve South $07^{\circ}59'01''$ East, 208.44 feet to the beginning of a tangent 325 foot radius curve, concave westerly; thence southerly along the arc of said curve, through a central angle of $37^{\circ}06'00''$, an arc distance of 210.22 feet, to said northerly line of Imperial Avenue; thence along said northerly line of Imperial Avenue, North $89^{\circ}41'31''$ West, 101.17 feet, returning to the True Point of Beginning.

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Section 5. That the taking and acquiring by the City of the described easements are deemed necessary for the development, construction, and maintenance of a flood channel including storm drains by The City of San Diego and the inhabitants thereof, for municipal purposes; that such uses are public uses authorized by law (Sections 1 and 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.125 and 1255.410, Code of Civil Procedure; Section 5101, Streets and Highways Code; Section 40404, Government Code) that for such public uses it is necessary that The City of San Diego condemn and acquire these easements; that the easements are to be used for the development, construction, and maintenance of a flood control channel, appurtenant structures and incidents thereto, which are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 6. That pursuant to Section 1245.230, Code of Civil Procedure, and in support of the findings that the public interest and necessity require the proposed project, that the proposed project is planned or located in a manner that will be most compatible with the greatest public good and least private injury, and that the property sought to be acquired is necessary for the project, the Council has determined and found as follows:

(a) The proposed improvements for which the acquisitions are being sought is the construction of flood control improvements for an approximate 1200-foot length of the South Las Chollas Creek between I-805 and

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Imperial Avenue, located in the Southeast San Diego Community Plan area. The basic project would be a concrete lined, soft bottom flood channel designed to contain the 100-year flood. As presently planned and designed, the main features of the project would consist of: the excavation and regrading of approximately 650 feet of the stream channel from I-805 to a point west of 45th Street; replacement/construction of a "dip" section of 45th Street as it crosses the creek; construction of a protective dike along the length of the south and east sides of the creek; the installation/relocation of a 4-foot chain link fence along the portion of the dike between 45th Street and I-805; protecting, by encasement in concrete, an existing 21-inch sewer line located in the creek bed, and the removal of a 24-inch diameter pepper tree. These improvements are needed because the flood channel currently overflows flooding approximately ten acres of land in the floodplain. An existing YMCA complex and several residences are in the direct line of potential flood waters.

(b) The proposed improvements will be constructed along the existing flood channel. The easements are within the natural floodway and without the proposed improvements great property damage and possible loss of life could occur in the event of a major storm. The easements would not cause any property owner to be relocated.

(c) The easements required for the proposed improvements are the minimum necessary for a 100-year storm flood channel and maintenance vehicles. The area to be protected is in the natural floodway and floodplain fringe area of South Chollas Creek. Easement rights through seven parcels are needed to construct the project. Easements through five of the parcels have already been acquired. The two parcels which are the subject of this resolution involve a 4,667 square-foot easement (Parcel 1) and a 24,781 square-foot easement (Parcel 2). Easements through these two parcels are needed to complete the project. Both parcels lie inside the County of San Diego and outside the City of San Diego. The project has been approved by the County Flood Engineer.

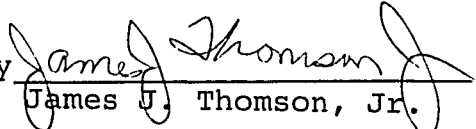
In addition to these particular findings, further reference is made to the City Manager's report accompanying this resolution and to all evidence, oral and documentary, presented to this Council during the hearing.

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 interests as above-described, for the use of the City.

APPROVED: JOHN W. WITT, City Attorney

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Orig.Dept: Property

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By 
James J. Thomson, Jr.

Passed and adopted by the Council of The City of San Diego on JUN 11 1979,
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input type="checkbox"/>	<input checked="" 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"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

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

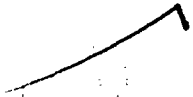
(Seal)

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

By Rita Andrews, Deputy.

Office of the City Clerk, San Diego, California	
Resolution Number	<u>223701</u>
Adopted	<u>JUN 11 1979</u>

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