

RESOLUTION NO. R-253171

NOV 24 1980

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 OR STREETS AND INCIDENTS THERETO, TOGETHER WITH EARTH EXCAVATIONS OR EMBANKMENTS, SLOPE OR SLOPES AND INCIDENTS THERETO IN PORTIONS OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 18 SOUTH, RANGE 2 WEST, SAN BERNARDINO MERIDIAN, 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 FEE TITLE TO AND EASEMENTS IN SAID PROPERTY FOR SAID PUBLIC STREET OR STREETS AND INCIDENTS THERETO, TOGETHER WITH EARTH EXCAVATIONS OR EMBANKMENTS, SLOPE OR SLOPES AND INCIDENTS THERETO; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY AND 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 PROPERTY AND 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:

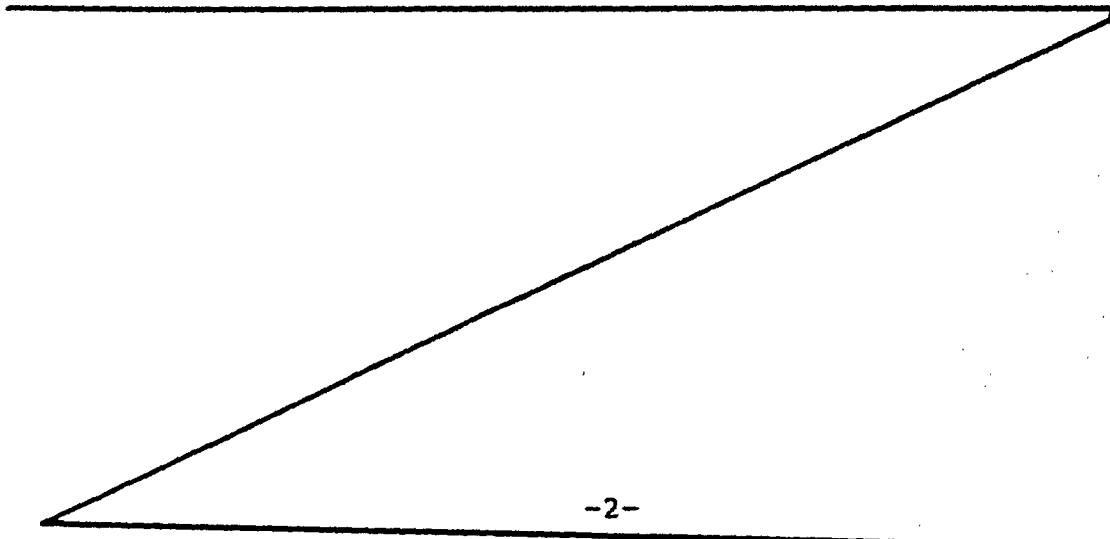
Section 1. That the public interest, convenience and necessity of The City of San Diego, and the inhabitants thereof, require the construction, operation and maintenance of a public street or streets and incidents thereto, together with earth excavations or embankments, slope or slopes and incidents thereto,

in portions of the Northwest Quarter of Section 35,
Township 18 South, Range 2 West, San Bernardino Meridiana,
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 fee title to and easements in
said property for the construction, operation and maintenance
of a public street or streets and incidents thereto, together
with earth excavations or embankments, slope or slopes and
incidents thereto, in said real property lying within the
City of San Diego, County of San Diego, State of California.

Section 3. That Section 220, the Charter of The City
of San Diego; Sections 1240.010, 1240.110, 1240.120 and
1255.410, Code of Civil Procedure; Sections 4090, 5101(d)
and 5102, Streets & Highways Code; Sections 37350.5 and
40404, Government Code, permit the acquisitions referenced
herein.

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



Parcel 1

All that portion of the East Half of the Northwest Quarter of the Northwest Quarter of Section 35, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, being more particularly described as follows:

Parcel 1A, Dairy Mart Road, (Fee Simple)

Beginning at the intersection of the Westerly line of Dairy Mart Road 40.00 feet wide as said street is located and established on August 19, 1979 with the Northeasterly corner of land described in deed to the City of San Diego recorded November 8, 1976 as Document No. 371656, filed in the Office of the County Recorder of San Diego County; thence North $52^{\circ}51'54''$ West along the Northeasterly line of said land described in deed to the City of San Diego, 36.10 feet, said point herein set out as Point "A" for purposes of this description; thence North $00^{\circ}35'47''$ East on a line parallel to and 29.00 feet Westerly of said Westerly line of Dairy Mart Road, 80.90 feet to a point on the Southwesterly line of land described in deed to the San Diego Metropolitan Transit Development Board, recorded January 2, 1980 as File/Page 80-000123, filed in the Office of said County Recorder; thence South $52^{\circ}51'54''$ East along said Southwesterly line 36.10 feet to a point on said Westerly line of Dairy Mart Road; thence South $00^{\circ}35'47''$ West along said Westerly line 80.90 feet returning to the Point of Beginning.

Parcel 1B, Dairy Mart Road (Slope Easement)

The permanent easement and right-of-way for an earth excavation or embankment, slope or slopes and incidents thereto, through, over, under, upon, along and across all that real property described as follows:

Beginning at Point "A" as set out in Parcel 1A above; thence North $52^{\circ}51'54''$ West along said Northeasterly line of land described in deed to the City of San Diego, 12.45 feet; thence North $00^{\circ}35'47''$ East on a line parallel to and 10.00 feet Westerly of the Westerly line of said Parcel 1A above 80.90 feet to a point on said Southwesterly line of land described in deed to the San Diego Metropolitan Transit Development Board; thence South $52^{\circ}51'54''$ East along said Southwesterly line, 12.45 feet to a point on said Westerly line of Parcel 1A above; thence South $00^{\circ}35'47''$ West along said Westerly line of Parcel 1A 80.90 feet returning to the Point of Beginning.

Parcel 2

All that portion of the Northwest Quarter of Section 35, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, being more particularly described as follows:

Parcel 2A, Dairy Mart Road (Fee Simple)

Beginning at the intersection of the Northeasterly line of land described in deed to 4312 Valeta Street Company, recorded July 24, 1980 as Document 80-233832, with the Westerly line of Dairy Mart Road, 40.00 feet wide as said street is located and established on August 19, 1979; thence North $52^{\circ}51'54''$ West along said Northeasterly line, 36.10 feet, said point herein set out as Point "A" for purposes of this description; thence South $00^{\circ}35'47''$ West on a line parallel to and 29.00 feet Westerly of said Westerly line of Dairy Mart Road, 43.56 feet to a point on the Southwesterly line of land described in deed to San Diego Metropolitan Transit Development Board, recorded January 2, 1980 as Document 80-000123; thence South $52^{\circ}51'54''$ East along said Southwesterly line, 36.10 feet to a point on said Westerly line of Dairy Mart Road; thence North $00^{\circ}35'47''$ East along said Westerly line of Dairy Mart Road, 43.56 feet, returning to the Point of Beginning.

Parcel 2B, Dairy Mart Road (Slope Easement)

The permanent easement and right-of-way for an earth excavation or embankment, slope or slopes and incidents thereto, over, under, upon, along and across all that real property described as follows:

Beginning at Point "A" as set out in Parcel 2A above; thence North $52^{\circ}51'54''$ West along said Northeasterly line of land described in deed to 4312 Valeta Street Company, 12.45 feet; thence South $00^{\circ}35'47''$ West on a line parallel to and 10.00 feet Westerly of said Westerly line of said Parcel 2A 43.56 feet, to a point on said Southwesterly line of land described in deed to San Diego Metropolitan Transit Development Board; thence South $52^{\circ}51'54''$ East along said Southwesterly line 12.45 feet to a point on the Westerly line of said Parcel 2A thence North $00^{\circ}35'47''$ East along said Westerly line, 43.56 feet returning to the Point of Beginning.

Parcel 3

All that portion of the Northwest Quarter of Section 35, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, being more particularly described as follows:

Parcel 3A, Dairy Mart Road (Fee Simple)

Beginning at the intersection of the Northeasterly line of land described in deed to 4312 Valeta Street Company, recorded July 24, 1980 as Document 80-233832, with the Westerly line of Dairy Mart Road, 40.00 feet wide as said street is located and established on August 19, 1979; thence North $52^{\circ}51'54''$ West along said Northeasterly line, 36.10 feet, said point herein set out as Point "A" for purposes of this description; thence South $00^{\circ}35'47''$ West on a line parallel to and 29.00 feet Westerly of said Westerly line of Dairy Mart Road, 43.56 feet to a point on the Southwesterly line of land described in deed to San Diego Metropolitan Transit Development Board, recorded January 2, 1980 as Document 80-000123; thence South $52^{\circ}51'54''$ East along said Southwesterly line, 36.10 feet to a point on said Westerly line of Dairy Mart Road; thence North $00^{\circ}35'47''$ East along said Westerly line of Dairy Mart Road, 43.56 feet, returning to the Point of Beginning.

Parcel 3B, Dairy Mart Road (Slope Easement)

The permanent easement and right-of-way for an earth excavation or embankment, slope or slopes and incidents thereto, over, under, upon, along and across all that real property described as follows:

Beginning at Point "A" as set out in Parcel 3A above; thence North $52^{\circ}51'54''$ West along said Northeasterly line of land described in deed to 4312 Valeta Street Company, 12.45 feet; thence South $00^{\circ}35'47''$ West on a line parallel to and 10.00 feet Westerly of said Westerly line of said Parcel 3A 43.56 feet, to a point on said Southwesterly line of land described in deed to San Diego Metropolitan Transit Development Board; thence South $52^{\circ}51'54''$ East along said Southwesterly line 12.45 feet to a point on the Westerly line of said Parcel 3A thence North $00^{\circ}35'47''$ East along said Westerly line, 43.56 feet returning to the Point of Beginning.

Parcel 4

All that portion of the North Half of the South Half of the Northeast Quarter of the Northwest Quarter of Section 35, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, more particularly described as follows:

Parcel 4A, Dairy Mart Road, (Fee Simple)

Beginning at the intersection of the Northerly line of land described in deed to Emil Kamber and Rose E. Kamber, recorded June 17, 1960 as Document No. 124436 filed in the Office of said County Recorder with the Easterly line of said Dairy Mart Road; thence North $00^{\circ}35'47''$ East along said Easterly line of Dairy Mart Road, 149.62 feet; thence South $52^{\circ}51'54''$ East (South $53^{\circ}20'$ East per R.O.S. 2371), 85.74 feet to a point on the Southwesterly line of Beyer Boulevard as said street is located and established on June 10, 1930, said point being a point of cusp in the arc of a 25.00-foot radius curve concave Southeasterly, a radial to said point bears North $37^{\circ}03'06''$ East; thence Northwesterly, Westerly and Southwesterly along the arc of said curve through a central angle of $126^{\circ}32'19''$, a distance of 55.21 feet; thence tangent to said curve on a line parallel to and 29.00 feet Easterly of said Easterly line of Dairy Mart Road, South $00^{\circ}35'47''$ West, 78.48 feet to a point on said Northerly line of land described in deed to Emil Kamber and Rose E. Kamber, said point herein set out as Point "B" for purposes of this description; thence North $89^{\circ}24'48''$ West along said Northerly line, 29.00 feet returning to the Point of Beginning.

Parcel 4B, Dairy Mart Road, Slope Easement

The permanent easement and right-of-way for an earth excavation or embankment, slope or slopes and incidents thereto, through, over, under, upon, along and across all that real property described as follows:

Beginning at Point "B" as set out in Parcel 4A above; thence North $00^{\circ}35'47''$ East along the Easterly line of said Parcel 4A above, 78.48 feet to the beginning of a tangent 25.00-foot radius curve concave Southeasterly; thence Northerly, Northeasterly, Easterly and Southeasterly along the arc of said curve through a central angle of $98^{\circ}11'57''$, a distance of 42.25 feet, a radial to said point bears North $06^{\circ}47'44''$ East; thence South $52^{\circ}51'54''$ East 4.48 feet; thence South $37^{\circ}03'06''$ West, 5.00 feet; thence South $47^{\circ}19'37''$ West, 26.35 feet; thence South $00^{\circ}35'47''$ West, 82.23 feet to a point in the Northeasterly line of land described in said deed to Emil Kamber and Rose E. Kamber; thence North $52^{\circ}51'54''$ West, along said Northeasterly line 6.30 feet to a point on said Northerly line of land described in deed to Emil Kamber and Rose E. Kamber; thence, North $89^{\circ}24'48''$ West along said Northerly line 4.94 feet returning to the Point of Beginning.

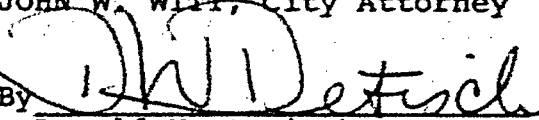
Section 5. That the taking and acquiring by said City of the real property and easements hereinabove described are deemed necessary for the construction, operation and maintenance of a public street or streets and incidents thereto, together with earth excavations or embankments, slope or slopes and incidents thereto, by The City of San Diego and the inhabitants thereof, for municipal purposes; that such uses are public uses authorized by law (Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120 and 1255.410, Code of Civil Procedure; Sections 4090, 5101(d) and 5102, Streets & Highways Code; and Sections 37350.5 and 40404, Government Code); that for such public uses it is necessary that The City of San Diego condemn and acquire said real property and easements; that said real property and easements are to be used for the construction, operation and maintenance of a public street or streets and incidents thereto, together with earth excavations or embankments, slope or slopes 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 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 fee interests and easements as above-described, for the use of said City.

APPROVED:

JOHN W. WITT, City Attorney

By 
Donald W. Detisch, Deputy

hk/9/22/80

Orig.Dept.: Property

Passed and adopted by the Council of The City of San Diego on NOV 24 1980,
 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"/>
Bill Cleator	<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 checked="" type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<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.

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

(Seal)

By *Charles G. Abdelnour*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-253171 Adopted NOV 24 1980