

RESOLUTION NO. R-254397

JUN 9 1981

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 A PORTION OF LOT 6, SECTION 5, TOWNSHIP 15 SOUTH, RANGE 3 WEST, SAN BERNARDINO BASE AND MERIDIAN, AND IN A PORTION OF ACRE LOT 34 OF SORRENTO LANDS AND TOWNSITE ACCORDING TO MAP THEREOF NO. 483, AND A STORM DRAIN OR DRAINS IN A PORTION OF ACRE LOT 34 OF SORRENTO LANDS AND TOWNSITE, ACCORDING TO MAP NO. 483, 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 A STORM DRAIN OR DRAINS; 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,

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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 a portion of Lot 6, Section 5, Township 15 South, Range 3 West, San Bernardino Base and Meridian, and in a portion of Acre Lot 34 of Sorrento Lands and Townsite according to Map No. 483, and a storm drain or drains in a portion of Acre Lot 34 of Sorrento Lands and Townsite, 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, and a storm drain or drains, 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; and 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:

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## LEGAL DESCRIPTION

That Portion of Lot 6 in Fractional Section 5, Township 15 South, Range 3, West, San Bernardino Meridian, according to the official plat thereof, in the City of San Diego, County of San Diego, State of California described as follows:

### Parcel 1 Mira Mesa Boulevard

Commencing at the Southeast corner of said Lot 6 of Fractional Section 5 as shown on Parcel Map No. 7870 filed in the office of said County Recorder; thence North  $02^{\circ}40'19''$  East along the Westerly boundary of said Parcel Map a distance of 74.74 feet to the TRUE POINT OF BEGINNING; thence leaving said Westerly boundary South  $49^{\circ}22'03''$  West a distance of 37.88 feet to an angle point in that certain parcel of land deeded to the City of San Diego by deed recorded November 29, 1972, File/Page 318551, Book 1972, O.R.; thence North  $26^{\circ}14'41''$  West (record North  $26^{\circ}14'49''$  West) a distance of 125.96 feet to an angle point; thence North  $49^{\circ}22'03''$  East a distance of 88.75 feet to the beginning of a tangent 1,263.00 foot radius curve concave Southerly; thence Easterly along the arc of said curve through a central angle of  $01^{\circ}28'17''$  a distance of 32.43 feet to an intersection with the above mentioned Westerly line of Parcel Map 7870; thence Southerly along said Westerly line South  $02^{\circ}40'19''$  West a distance of 167.07 feet to the TRUE POINT OF BEGINNING.

### Parcel 1-A Slope Easement

An easement and right-of-way for earth excavation or embankment, slope or slopes and incidents thereto over, under, upon, along and across all that portion of said Lot 6 described as follows:

Commencing at the Southwest corner of Section 4, Township 15 South, Range 3 West, San Bernardino Meridian, as shown on Parcel Map No. 7870, filed in the Office of the County Recorder of said County and State; thence North  $02^{\circ}40'19''$  East along the West boundary of said Parcel Map No. 7870 a distance of 241.81 feet to the TRUE POINT OF BEGINNING; being a point in the arc of a nontangent 1,263.00 foot radius curve concave Southeasterly, a radial line to said point bears North  $39^{\circ}09'40''$  West; thence Southwesterly along the arc of said curve through a central angle of  $01^{\circ}28'17''$  a distance of 32.43 feet; thence tangent to said curve  $49^{\circ}22'03''$  West a distance of 88.75 feet to a point in the Westerly boundary of said Lot 6; thence North  $26^{\circ}14'41''$  West along said Westerly line a distance of 98.64 feet; thence leaving said Westerly line North  $46^{\circ}17'42''$  East 64.33 feet thence North  $02^{\circ}04'13''$  East 67.04 feet; thence North  $59^{\circ}52'18''$  East a distance of 110.04 feet to a point in Westerly line of the above-mentioned Parcel Map 7870; thence South  $02^{\circ}40'19''$  West along said Westerly line a distance of 176.75 feet to the TRUE POINT OF BEGINNING.

Parcel 1-B Slope Easement

An easement and right-of-way for earth excavation or embankment, slope or slopes and incidents thereto over, under upon, along and across all that portion of said Lot 6, described as follows:

Beginning at the Southeast corner of said Lot 6 of Fractional Section 5 as shown on Parcel Map 7870 filed in the office of the County Recorder; thence North 02°40'19" East along the Westerly boundary of said Parcel Map a distance of 74.74 feet; thence leaving said Westerly boundary South 49°22'03" West, 37.88 feet to an angle point in that certain parcel of land relinquished to the City of San Diego by deed recorded November 29, 1972, File/Page 318551, Book 1972, O.R.; thence South 26°14'41" East (record South 26°14'49" East), along the Westerly line of said Lot 6, a distance of 55.73 feet; thence South 89°29'22" East; 0.62 feet returning to the Point of Beginning.

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That Portion of Acre Lot 34 of Sorrento Lands and Townsite according to Map thereof No. 483 in the City of San Diego, filed in the Office of the County Recorder in the County of San Diego, State of California, described as follows:

Parcel 2 - Mira Mesa Boulevard

Commencing at the Southwesterly corner of Section 4, Township 15 South, Range 3 West, San Bernardino Meridian according to the Official Plat thereof, and shown on Parcel Map 7870 filed in the office of the County Recorder; thence North 02°40'19" East, along the Westerly line of said Parcel Map, a distance of 74.74 feet; thence leaving said Westerly line, South 49°22'03" West, 37.88 feet to an angle point in that certain Parcel of land relinquished to the City of San Diego by Deed recorded November 29, 1972, File/Page 318551, Book 1972, O.R.; thence North 26°14'41" West (Record North 26°14'49" West) a distance of 118.02 feet to an angle point in the boundary of said land relinquished to the City of San Diego being the TRUE POINT OF BEGINNING; thence South 59°15'35" West along the boundary of said parcel, a distance of 44.78 feet; thence North 49°22'03" East, 46.09 feet to the Easterly line of said Acre Lot 34; thence South 26°14'41" East along said Easterly line, a distance of 7.94 feet returning to the TRUE POINT OF BEGINNING.

Parcel 2-A - Slope Easement

An easement and right-of-way for earth excavation or embankment, slope or slopes and incidents thereto over, under, upon, along and across all that portion of said Acre Lot 34, described as follows:

Commencing at the Southwest corner of Section 4, Township 15 South, Range 3 West, San Bernardino Meridian, according to the official plat thereof, and shown on Parcel Map No. 7870, filed in the Office of said County Recorder thence North 02°40'19" East along the Westerly line of said Section 4 and the Westerly boundary of said Parcel Map No. 7870 a

distance of 241.81 feet to a point in the arc of a nontangent 1,263.00 foot radius curve concave Southeasterly; a radial line to said point bears North 39°09'40" West; thence leaving said Westerly line, Westerly along the arc of said curve through a central angle of 01°28'17" a distance of 32.43 feet; thence tangent to said curve South 49°22'03" West a distance of 88.75 feet to the TRUE POINT OF BEGINNING, being a point in the East line of P.L. 1355 of the Pueblo Lands of San Diego as established by the Shaw Survey of 1893; thence continuing South 49°22'03" West a distance of 46.09 feet to a point in the boundary of that certain parcel of land as conveyed to the City of San Diego by deed recorded November 29, 1972 as File/Page 318551, Book 1972, O.R.; thence South 59°15'35" West (record South 59°15'29" West per said deed) a distance of 51.94 feet to the beginning of a tangent 25.00 foot radius curve concave Northeasterly; thence Northwesterly along the arc of said curve through a central angle of 83°14'31" a distance of 36.32 feet to a point of reverse curvature with a 535.00 foot radius curve concave Southwesterly; thence Northerly along the arc of said curve through a central angle of 16°03'53" a distance of 150.00 feet to a point of cusp; thence leaving said curve South 59°53'29" East 100.50 feet; thence North 46°17'42" East a distance of 122.23 feet to the above-mentioned Easterly line of the Pueblo Lands of San Diego; thence South 26°14'41" East along said Easterly line a distance of 98.64 feet to the TRUE POINT OF BEGINNING.

#### Parcel 2-B - Drain Easement

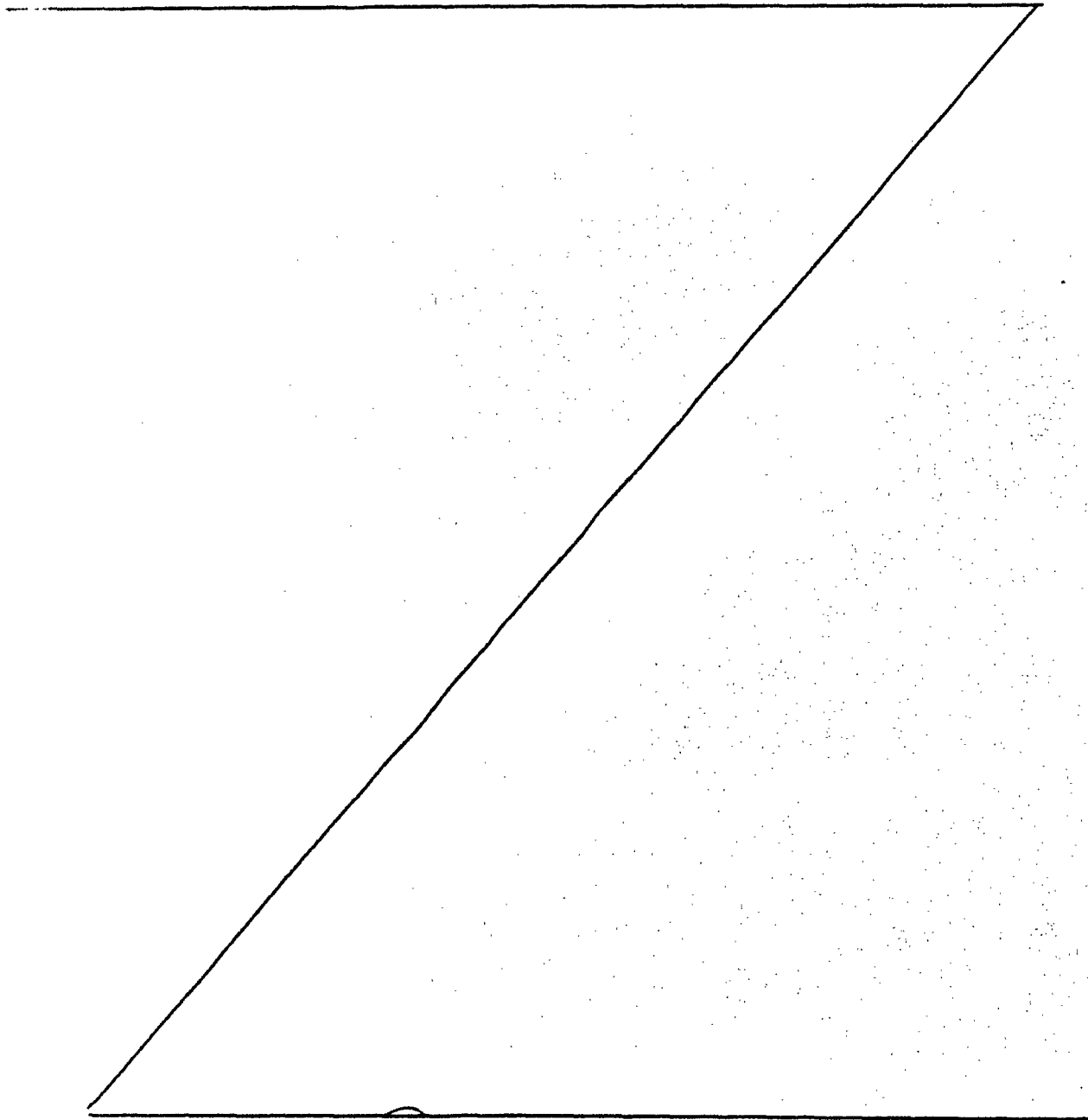
An easement and right-of-way for the construction, operation and maintenance of a storm drain or drains and appurtenances thereto, through, over, under, along and across all that portion said Acre Lot 34, described as follows:

A strip of land 30.00 feet wide lying 15.00 feet on each side of the following described centerline:

Beginning at a point on the Easterly boundary of Pueblo Lands of San Diego, per Shaw Survey of 1893, distance along said Easterly boundary South 26°14'41" East (record South 26°14'49" East per deed recorded November 30, 1973, File/Page 73-333057, Book 1973, O.R.) 678.00 feet from the Northerly line of said Acre Lot 34, being an angle point in that certain parcel of land deeded to the City of San Diego by deed recorded November 29, 1872 as Document No. 318551 in Book 1972, O.R.; thence South 59°15'35" West (record South 59°15'29" West per said deed) a distance of 56.61 feet to the TRUE POINT OF BEGINNING: thence from said TRUE POINT OF BEGINNING North 11°42'00" West a distance of 116.84 feet to the point of terminus, the sidelines of said easement shall be lengthened or shortened so as to terminate on a line which bears North 59°15'35" East through said TRUE POINT OF BEGINNING.

Reserving unto the Grantor herein, heirs and assigns the continued use of the above-described parcel of land subject to the following conditions.

The erection of buildings, masonry walls, masonry fences and other structures; the planting or growing of trees; the changing of the surface grade; and the installation of privately owned pipelines shall be prohibited except by written permission from the City of San Diego.



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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, and a storm drain or drains 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, and a storm drain or drains 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/ 4/1/81

Orig. Dept.: Property



JUN 9 1981

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_  
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<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"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 Jane A. Blackwell Deputy.

Office of the City Clerk, San Diego, California.

Resolution Number R-254397 Adopted JUN 9 1981