

RESOLUTION NUMBER R- 264824

ADOPTED ON JAN 6 1986

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, OPERATION AND REPAIR OF A DRAIN OR DRAINS INCLUDING ANY AND ALL INCIDENTS THERETO INCLUDING FLOOD CONTROL CHANNEL EASEMENTS, TEMPORARY WORKING STRIPS AND FILL PERMIT AREAS, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS, OVER, UNDER, ALONG AND ACROSS PORTIONS OF LOTS 8 THROUGH 12, INCLUSIVE, AND LOTS 17 AND 18, BLOCK "J" IMPERIAL BEACH GARDENS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF SAID PROPERTY FOR SAID DRAIN OR DRAINS AND ANY AND ALL INCIDENTS THERETO INCLUDING FLOOD CONTROL CHANNEL EASEMENTS, TEMPORARY WORKING STRIPS AND FILL PERMIT AREAS; THAT AN OFFER TO ACQUIRE THE PROPERTY AT THE APPRAISED FAIR MARKET VALUE HAS BEEN MADE TO THE OWNERS OF RECORD OF THE PROPERTY AND REJECTED; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID 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 SAID PROPERTY AND ACQUIRING IMMEDIATE POSSESSION THEREOF.

WHEREAS, the Council of The City of San Diego has provided notice to those persons designated in Section 1245.235 of the 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 of the 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, reconstruction, maintenance, operation and repair of a drain or drains including any and all incidents thereto including flood control channel easements, temporary working strips and fill permit areas, together with the right of ingress and egress, over, under, along and across that portions of Lots 8 through 12, inclusive, and Lots 17 and 18, Block "J" Imperial Beach Gardens, County of San Diego, State of California, according to Map thereof No. 1978 filed in the Office of the County Recorder of San Diego County, 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 drainage easements to said property for the construction, operation and maintenance of a drain or drains including any and all incidents thereto including flood control channel easements, temporary working strips and fill permit areas, together with the right of ingress and egress, over, under, along and across said real property lying within the City of San Diego, County of San Diego, State of California.

Section 3. That Section 220 of the Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.610 and 1255.410 of the Code of Civil Procedure; Sections 37350.5, 38900, 39040 and 40404 of the 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:

LEGAL DESCRIPTION

Portions of Lots 8 through 12, inclusive, and Lots 17 and 18, Block "J", Imperial Beach Gardens, in the County of San Deigo, State of California, according to Map thereof No. 1978, filed in the Office of the County Recorder of San Diego County, December 28, 1926, more particularly described as follows:

Parcel 1 - Flood Control Channel Easement

The permanent easement and right-of-way to construct, reconstruct, maintain operate and repair a flood control channel including any or all appurtenances thereto, together with the right of ingress and egress, over, under, along and across all that real property situated in the County of San Diego, State of California, described as follows:

Beginning at the Northwest Corner of Lot 13 of said Block "J", also being a point on the Easterly line of the right-of-way of 18th Street as dedicated and existing on July 2, 1985; thence South 89°51'38" East along the Northerly line of said Lot 13 and Lots 14, 15 and 16 of said Block "J", a distance of 196.15 feet; thence North 81°52'33" West, a distance of 147.43 feet to a point on the Easterly line of said Lot 12; thence North 00°08'05" East along the Easterly line of said Lot as, a distance of .02 feet to a point on the arc of a non-tangent 52.5-foot radius curve concave Northeasterly, a radial line to said point bears South 09°47'20" West; thence Northwesterly along the arc of said curve through a central angle of 80°21'05", an arc distance of 73.63 feet; thence along a tangent line North 00°08'25" East 27.50 feet to a point on the Southerly line of Palm Avenue as dedicated and existing on July 2, 1985; thence North 89°51'35" West along said Southerly line of Palm Avenue, a distance of 6.50 feet to a point on said Easterly line of 18th Street; thence South 00°07'19" West along said Easterly line of 18th Street, a distance of 99.76 feet returning to the Point of Beginning.

Parcel 1A - Flood Control Channel Easement

The permanent easement and right-of-way to construct, reconstruct, maintain, operate and repair a flood control channel including any or all appurtenances thereto, together with the right of ingress and egress, over, under, along and across all that real property situated in the County of San Diego, State of California, described as follows:

Beginning at the intersection of the Northerly line of Dahlia Avenue as dedicated and existing on July 2, 1985 with the common boundary line between said Lot 18 of Block "J" and Lot 2, Westy Park Unit 2, according to Map thereof No. 6872 filed in said Office of the County Recorder, March 12, 1971; thence North 00°08'05" East along said common boundary line, a distance of 18.64 feet to the TRUE POINT OF BEGINNING;

thence North 54°52'33" West 122.07 feet to a point on the Westerly line of said Lot 17; thence North 00°08'05" East along said Westerly line of Lot 17, a distance of 42.70 feet; thence South 54°52'33" East 122.07 feet to a point on the Easterly line of said Lot 18; thence South 00°08'05" West along said Easterly line of Lot 18, a distance of 42.70 feet returning to the TRUE POINT OF BEGINNING.

Parcel 1B - Temporary Work Strip

Together with a temporary construction easement for the right, during construction of said flood control to use for purposes incidental to said construction, the land adjacent to the within-granted right-of-way, described as follows:

Beginning at the intersections of the Northerly line of Dahlia Avenue as dedicated and existing on July 2, 1985 with the common boundary line between said Lot 18 of Block "J" and Lot 2, Westy Park Unit 2, according to Map thereof No. 6872 filed in said Office of the County Recorder, March 12, 1971; thence North 00°08'05" East along said common boundary line, a distance of 6.44 feet to the TRUE POINT OF BEGINNING; thence continuing North 00°08'05" East 12.20 feet; thence North 54°52'33" West, a distance of 122.07 feet to a point on the Westerly boundary line of said Lot 17; thence South 00°08'05" West along said boundary line, a distance of 12.20 feet; thence South 54°52'33" East, a distance of 122.07 feet returning to the TRUE POINT OF BEGINNING.

The temporary easement shall cease to exist upon notice of completion of the construction of said flood control channel.

Parcel 1C - Temporary Work Strip

Together with a temporary construction easement for the right, during construction of said flood control channel to use for purposes incidental to said construction, the land adjacent to the within-granted right-of-way, described as follows:

Beginning at the intersections of the Northerly line of Dahlia Avenue as dedicated and existing on July 2, 1985 with the common boundary line between said Lot 18 of Block "J" and Lot 2, Westy Park Unit 2, according to Map thereof No. 6872 filed in said Office of the County Recorder, March 12, 1971; thence North 00°08'05" East along said common boundary line, a distance of 61.34 feet to the TRUE POINT OF BEGINNING; thence continuing North 00°08'05" East 12.20 feet; thence North 54°52'33" West, a distance of 107.17 feet; thence North 51°50'23" West,

a distance of 15.48 feet to a point on the common boundary line of said Lots 8 and 9; thence North 81°52'33" West, a distance of 87.57 feet; thence South 08°07'27" West, a distance of 10.00 feet; thence South 81°52'33" East, a distance of 84.93 feet to a point on the Southerly line of said Lot 9; thence South 89°51'38" East along said Southerly line, a distance of 4.00 feet to the Northwesterly corner of said Lot 17; thence South 00°08'05" West along the Westerly line of said Lot 17, a distance of 3.70 feet; thence South 54°52'33" East, a distance of 122.07 feet returning to the TRUE POINT OF BEGINNING.

The temporary easement shall cease to exist upon notice of completion of the construction of said flood control channel.

Parcel 1D - Temporary Work Strip

Together with a temporary construction easement for the right, during construction of said flood control channel to use for purposes incidental to said construction, the land adjacent to the within-granted right-of-way, described as follows:

Beginning at the intersection of the Easterly line of the right-of-way of 18th Street as dedicated and existing on July 2, 1985 with the common boundary line between said Lots 12 and 13 of Block "J"; thence North 00°07'19" East along the Westerly line of said Lot 12, a distance of 99.76 feet to the Southerly line of the right-of-way of Palm Avenue as dedicated and existing on July 2, 1985; thence South 89°51'35" East along said Southerly line of the right-of-way of Palm Avenue, a distance of 6.50 feet; thence South 00°08'25" West, a distance of 20.0 feet to the TRUE POINT OF BEGINNING; thence South 00°08'25" West, a distance of 7.50 feet to a point on the arc of a tangent 52.5-foot radius curve concave Northeasterly; thence Southeasterly along the arc of said curve through a central angle of 80°21'05", an arc distance of 73.63 feet to a point on the Easterly line of said Lot 12; thence South 00°08'05" West along the Easterly line of said Lot 12, a distance of .02 feet; thence South 81°52'33" East, a distance of 40.00 feet; thence North 08°07'27" East, a distance of 10.00 feet; thence North 81°52'33" West, a distance of 41.40 feet to a point on the Easterly line of said Lot 12; thence North 00°08'05" East along the Easterly line of said Lot 12, a distance of .10 feet to a point on a non-tangent 42.5-foot radius curve concave Northeasterly, a radial line to said point bears South 12°05'27" West; thence Northwesterly along the arc of said curve through a central angle of 78°02'58", an arc distance of 57.89 feet; thence along a tangent line North 00°08'25" East, a distance of 7.5 feet; thence North 89°51'35" West, a distance of 10.00 feet returning to the TRUE POINT OF BEGINNING.

The temporary easement shall cease to exist upon notice of completion of the construction of said flood control channel.

Parcel 1E - Fill Permit Area

Together with a fill permit for the right, during construction of said flood control channel to grade and place compacted fill in low areas of the land adjacent to the within-granted right-of-way, described as follows:

Beginning at the intersection of the Northerly line of Dahlia Avenue as dedicated and existing on July 2, 1985 with the common boundary line between said Lot 18 of Block "J" and Lot 2, Westy Park Unit 2, according to Map thereof No. 6872 filed in said Office of the County Recorder, March 12, 1971; thence North 00°08'05" East along said common boundary line, a distance of 18.64 feet; thence North 54°52'33" West, a distance of 29.00 feet; thence South 15°19'54" East, a distance of 36.59 feet to a point on the Southerly boundary line of said Lot 18; thence South 89°51'42" East along the Southerly boundary line of Lot 18, a distance of 14.00 feet returning to the Point of Beginning.

The permit rights shall terminate upon notice of completion of the construction of said flood control channel.

Parcel 1F - Fill Permit Area

Together with a fill permit for the right, during construction of said flood control channel to grade and place compacted fill in low areas of the land adjacent to the within-granted right-of-way described as follows:

Beginning at the intersection of the Northerly line of Dahlia Avenue as dedicated and existing on July 2, 1985 with the common boundary line between said Lot 18 of Block "J" and Lot 2, Westy Park Unit 2, according to Map thereof No. 6872 filed in said Office of the County Recorder, March 12, 1971; thence North 00°08'05" East along said common boundary line, a distance of 61.34 feet to the TRUE POINT OF BEGINNING; thence continuing along said common boundary line North 00°08'05" East, a distance of 73.66 feet to the Northeasterly corner of said Lot 18; thence North 89°51'38" West along the common boundary line between said Lots 7, 8, 17 and 18, a distance of 100.00 feet to the Northwesterly corner of Lot 17; thence South 00°08'05" East along the Westerly boundary of Lot 17, a distance of 3.70 feet; thence South 54°52'33" East, a distance of 122.07 feet returning to the TRUE POINT OF BEGINNING.

The permit rights shall terminate upon notice of completion of the construction of said flood control channel.

Parcel 1G - Fill Permit Area

Together with a fill permit for the right, during construction of said flood control channel to grade and place compacted fill in low areas of the land adjacent to the within-granted right-of-way described as follows:

Beginning at the intersection of the Easterly line of the right-of-way of 18th Street as dedicated and existing on July 2, 1985 with the common boundary line between said Lots 12 and 13 of Block "J"; thence North 00°07'19" East along the Westerly line of said Lot 12, a distance of 99.76 feet to the Southerly line of the right-of-way of Palm Avenue as dedicated and existing on July 2, 1985; thence South 89°51'35" East along the Southerly line of the right-of-way of Palm Avenue, a distance of 6.50 feet to the TRUE POINT OF BEGINNING; thence South 00°08'25" West, a distance of 27.50 feet to a point on the arc of a tangent 52.5-foot radius curve concave Northeasterly; thence Southeasterly along the arc of said curve through a central angle of 25°05'31", an arc distance of 23.25 feet; thence North 03°47'45 West, a distance of 30.07 feet; thence North 89°51'35" West, a distance of 1.90 feet; thence North 00°08'25" East, a distance of 20.00 feet; thence North 89°51'35" West along the Southerly line of the right-of-way of Palm Avenue, a distance of 1.10 feet returning to the TRUE POINT OF BEGINNING.

The permit rights shall terminate upon notice of completion of the construction of said flood control channel.

Section 5. That the taking and acquiring by said City of the easements hereinabove described is deemed necessary for the construction, reconstruction, maintenance, operation and repair of a drain or drains including any and all incidents thereto including flood control channel easements, temporary working strips and fill permit areas, together with the right of ingress and egress, over, under, along and across said property, by The City of San Diego and the inhabitants thereof, for municipal purposes; that such uses are public uses authorized by law (Section 220 of the Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.610 and 1255.410 of the Code of Civil Procedure; Sections 5101(d) and 5102 of the Streets & Highways Code; and Sections 37350.5, 38900, 39040 and 40404 of the Government Code); that for such public uses it is necessary that The City of San Diego condemn and acquire said easements; that said easements are to be used for the construction, reconstruction, maintenance, operation and repair of a drain or drains including any and all incidents thereto including flood control channel easements, temporary working strips and fill permit areas, together with the right of ingress and egress, over, under, along and across said property, which are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 6. The City Council hereby makes the following findings in support of the above-referenced findings contained in Paragraph 5 herein: (a) The proposed project for which this acquisition is being sought is to complete the drainage

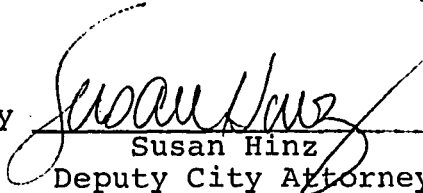
improvements of the Nestor Creek Flood Control Project to fully improve the existing drainage facility therein; and (b) the proposed project will prevent flooding to adjacent properties.

Section 7. That an offer to acquire the property at the appraised fair market value has been made to the owners of record of the property and rejected.

Section 8. 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 drainage easements as above-described, and obtaining immediate possession of said parcels for the use City.

APPROVED: JOHN W. WITT, City Attorney

By


Susan Hinz
Deputy City Attorney

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12/19/85
Or.Dept.: Property
R-86-1202
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JAN 6 1986

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

Councilmen	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<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"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<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"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VACANT

AUTHENTICATED BY:

ED STRUIKSMA

Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California .

(Seal)

By June A. Blackwell , Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-264824 Adopted JAN 6 1986

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