

(R-88-1425)

RESOLUTION NUMBER R- 270416

ADOPTED ON FEB 23 1988

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF PROPERTY KNOWN AS ALBATROSS CANYON OPEN SPACE PROJECT FOR OPEN SPACE PURPOSES IN LOTS 17 AND 18 OF BLOCK 10 AND LOTS 4 THROUGH 8 INCLUSIVE OF BLOCK 11 OF CLEVELAND HEIGHTS, LOTS A, B, D, E, F OF BLOCK 396 AND BLOCK 411 OF HORTON'S ADDITION, AND LOT 1123 OF PUEBLO LANDS; LOCATED IN THE UPTOWN COMMUNITY, 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 SIMPLE ABSOLUTE TO SAID PROPERTY FOR SAID ALBATROSS CANYON OPEN SPACE PROJECT; THAT SAID PROPERTY IS DEEMED NECESSARY FOR COMPLETION OF THE ALBATROSS CANYON OPEN SPACE PROJECT; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS; AND DECLARING THAT AN OFFER TO PURCHASE THE PROPERTY PURSUANT TO GOVERNMENT CODE SECTION 7267.5 HAS BEEN MADE TO THE RECORD OWNER(S) OF SAID PROPERTY AND THEREAFTER REJECTED; 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, 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,

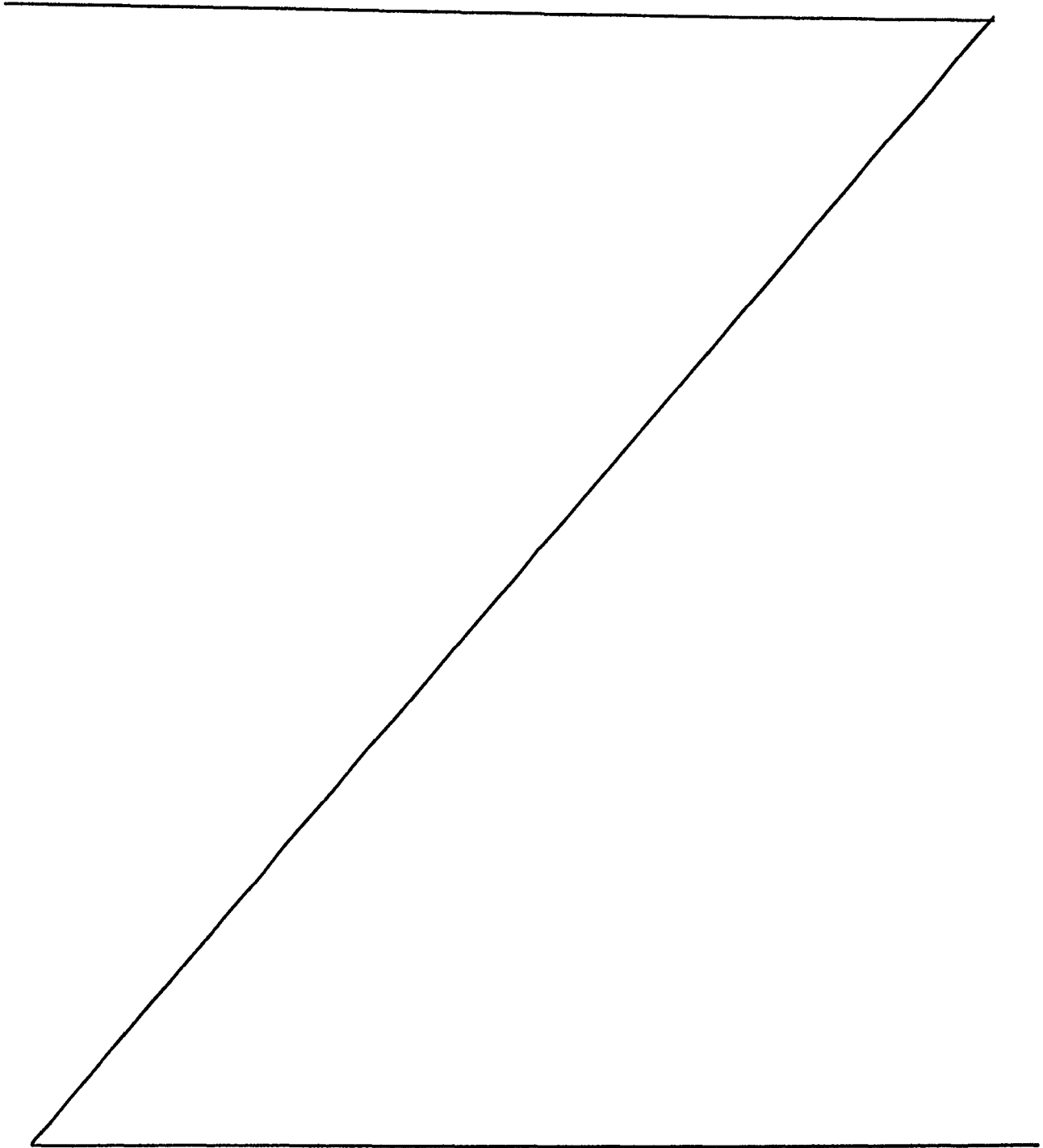
BE IT RESOLVED, by the Council of The City of San Diego, as follows:

Section 1. That the public interest, convenience and necessity of The City of San Diego, and the inhabitants thereof, require the retention of property known as Albatross Canyon Open Space Project for open space purposes, in Lots 17 and 18 of Block 10 and Lots 4 through 8 inclusive of Block 11 of Cleveland Heights, Lots A, B, D, E, F of Block 396 and Block 411 of Horton's Addition, and Lot 1123 of Pueblo Lands, located in the Uptown community, as more particularly described hereinafter, and that the City Council has found and determined the foregoing.

Section 2. That the public interest, convenience and necessity of said City, and the inhabitants thereof, demand the acquisition and taking of fee simple absolute to said property for the retention of open space and the development and completion of the Albatross Canyon Open Space Project, and that said real property lies 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, 1255.410, and 1240.680 Code of Civil Procedure; Parks and Playground Act of 1909, Sections 6950-6954, 37350.5, 38002, 38010, and 40401(b) Government Code; and Section 61.0601, et seq., San Diego Municipal Code, permit the acquisitions referenced herein.

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



Parcel 3 (Project Group 1103-86)

Lot 18, Block 10, of Cleveland Heights, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 621, in Book 13, of Maps, filed in the Office of the County Recorder of San Diego County, February 4, 1890, excepting the West 6 feet thereof.

Also that portion of the West one-half of Albatross Street adjoining said Lot 18 on the East as closed to public use.

Parcel 4 (Dann)

Lot 17 in Block 10 of Cleveland Heights, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 621, in Book 13 of Maps filed in the Office of the County Recorder of San Diego County, February 4, 1890, excepting the West 6 feet thereof.

Also that portion of the West one-half of Albatross Street adjoining said Lot 17 on the East as closed to public use.

Parcel 6 (Kroger)

All of Lots 4, 5, 6, 7 and 8 in Block 11 of Cleveland Heights, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 621 filed in Book 13 of Maps filed in the Office of the County Recorder of San Diego County, February 4, 1890, and the East Half of Albatross Street, closed to public use September 12, 1921 by Resolution 26799 of the Common Council of the City of San Diego, adjoining said Lots 4, 5, 6, 7 and 8 on the West.

Parcel 8 (Jacoby & Jacoby/Willens)

Subparcel 1

That portion of fractional Block 411 of Horton's Addition according to Map thereof on file in the Office of the County Recorder of San Diego County, lying Easterly of the centerline of Curlew Street as deeded to the City of San Diego by Adolph Levi, et ux, recorded July 28, 1926, in Book 1253, Page 47, of Deeds.

Also that portion of the Westerly Half of Curlew Street vacated adjoining said fractional Block 411 on the East, also that portion of the Northerly 20 feet of Upas Street vacated, adjoining said portion of fractional Block 411 and said portion of Curlew Street on the South.

Parcel 8

Subparcel 2

All that portion of Pueblo Lot 1123 of the Pueblo lands of San Diego in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in 1870, a copy of which map was filed November 14, 1921 as is known as Miscellaneous Map 36 described as follows:

Beginning at a point on the South line of Pueblo Lot 1123 distant thereon 465 feet Easterly from the Southwest corner of said Pueblo Lot, said point also being the Southwest corner of Cleveland Heights according to Map thereof No. 621 by E. M. Catts; thence North along the West line of said Cleveland Heights a distance of 62.4 feet; thence West along a line drawn parallel with and distant 62.4 feet Northerly at right angles from the South line of said Pueblo Lot 1123 to the centerline of Curlew Street as street was conveyed to City of San Diego by deed recorded July 28, 1926, in Book 1253, Page 47, of Deeds; thence Southerly along said centerline to the South line of said Pueblo Lot 1123; thence East along said South line to the Point of Beginning.

Parcel 10 (Mills)

Lot A in Block 396 of Horton's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by L. L. Locklin on file in the Office of the County Recorder of San Diego County. Also that portion of the East 15 feet of Dove Street as closed to public use lying West of and adjacent to the lot hereinabove described.

Parcel 11 (Clemens)

Lot B in Block 396 of Horton's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by L. L. Locklin on file in the Office of the County Recorder of San Diego County.

Also that portion of the East 15 feet of Dove Street as closed to public use lying West of and adjacent to the lot hereinabove described.

Parcel 13 (Carey)

Lots D, E and F, in Block 396 of Horton's Addition, according to Map thereof made by L. L. Lockling on file in the Office of the County Recorder of San Diego County.

Also that portion of the East 15 feet of Dove Street as closed to public use lying West of and adjacent to Lots A to F, inclusive, in Block 396, herein described.

Excepting therefrom, any and all right, title and interest in and to that portion of the North Half of Thorn Street, adjacent to said Lot F and closed to public use September 10, 1912 by Resolution 11685, of the Common Council of the City of San Diego, as described in deed to Virginia B. Churchill recorded December 11, 1924 in Book 1051, Page 136 of deeds, being more particularly described as follows:

Commencing at the Southwest corner of Block 396 of Horton's Addition, according to Map thereof on file in the Office of the County Recorder of San Diego County, thence West along the Southerly prolongation of said Block 396, 15 feet, thence at right angles South 40 feet, thence at right angles East 215 feet, thence at right angles North 40 feet to the Southeast corner of said Block 396, thence West along the South line of Block 396, 200 feet to the Point of Commencement.

Section 5. That the taking and acquiring by said City of the real property hereinabove described is deemed necessary for the development of the Albatross Canyon Open Space Project for the preservation of said land in its natural condition, for municipal purposes; that such use is a public use authorized by law (Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.680 and 1255.410, Code of Civil Procedure; Parks and Playground Act of 1909; Sections 6950-6954, 37350.5, 38002, 38010, and 40401(b) Government Code; and, Section 61.0601, et seq., San Diego Municipal Code); that for such public use, it is necessary that The City of San Diego condemn and acquire said real property; that said real property is to be used for addition of the canyon for open space purposes which is planned and located in a manner most compatible with the greatest public good and the least private injury, and that the City Council has so found and determined all of the foregoing.

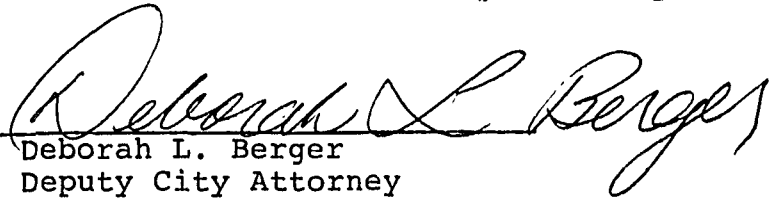
Section 6. That the offer required by Section 7267.2 of the Government Code has been made to the owners of record.

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 fee interests as above-described and

obtaining immediate possession of said parcels for the use of  
said City.

APPROVED: John W. Witt, City Attorney

By



Deborah L. Berger  
Deputy City Attorney

DLB:dr:Lit

1/28/88

Or.Dept: Property

R-88-1425

Form=r.none

Auditor's Certificate No. 8800679



The City of San Diego  
**CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CITY ATTORNEY  
 JAN 21 1988  
 LITIGATION

CERTIFICATE OF UNALLOTTED BALANCE AC 88006790

ORIGINATING DEPT NO. 070

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount \$ 484,120.00 Fund 79104

Purpose Authorizing expenditure of funds for Albatross Canyon Open Space Project

Date January 21, 1988

By: *Nancy McMuray*  
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
1			79104	101	4638	028268				\$484,120.00
TOTAL AMOUNT										\$484,120.00

FUND OVERRIDE

**CERTIFICATION OF UNENCUMBERED BALANCE**

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said moneys now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed \$ \_\_\_\_\_

Vendor \_\_\_\_\_

Purpose \_\_\_\_\_

Date \_\_\_\_\_, 19\_\_\_\_

By: \_\_\_\_\_

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

#336

FEB 23 1988

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

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<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"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struikma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<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"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

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

By *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **R 270416** Adopted **FEB 23 1988**

RECEIVED  
CITY CLERK'S OFFICE  
1908 FEB 10 PM 5:06  
SAN DIEGO, CALIF.