

(R-88-2646)

RESOLUTION NUMBER R- 271410

ADOPTED ON JUL 12 1988

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 SLOPE OR SLOPE EASEMENTS, STORM DRAIN OR DRAINAGE EASEMENTS AND INCIDENTS THERETO, AND AN ACCESS EASEMENT AND INCIDENTS THERETO, IN A PORTION OF THOSE CERTAIN LANDS DESIGNATED AS THAT PORTION OF BLOCK 9 OF BRIMHALL'S ADDITION TO OTAY, PORTIONS OF SECTION 26 AND 27, 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 SAID PROPERTY INTERESTS FOR SAID CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC STREET AND INCIDENTS THERETO, TOGETHER WITH SLOPE OR SLOPE EASEMENTS, STORM DRAIN OR DRAINAGE EASEMENTS AND INCIDENTS THERETO, AND AN ACCESS EASEMENT AND INCIDENTS THERETO; AND THAT THE PROPOSED PROJECT IS PLANNED IN A MANNER THAT WILL BE COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY AND EASEMENTS UNDER EMINENT DOMAIN PROCEEDINGS; AND THAT TAKING AND ACQUIRING SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS ARE DEEMED NECESSARY; AND THAT ACQUISITION BY EMINENT DOMAIN IS AUTHORIZED BY LAW; AND DECLARING THAT AN OFFER TO PURCHASE THE PROPERTY AT THE APPRAISED VALUE PURSUANT TO GOVERNMENT CODE SECTION 7267.5 HAS BEEN MADE TO THE RECORD OWNERS AND 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 INTERESTS AND EASEMENTS 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 construction, operation and maintenance of a public street or streets and incidents thereto, together with slope or slope easements, storm drain or drainage easements and incidents thereto, and an access easement and incidents thereto, in a portion of those certain lands designated as that portion of Block 9 of Brimhall's Addition to Otay, portions of Section 26 and 27, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, 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 simple title to and easements in said property for the construction, operation and maintenance of a public street or streets and incidents thereto, together with slope or slope easements, a storm drain or drainage easements and incidents thereto, and an access easement and incidents thereto, said real property lying within the City of San Diego, County of San Diego, State of California.

Section 3. That said property and easement interests are to be used for the construction, operation and maintenance of a public street or streets and incidents thereto, together with slope or slope easements, a storm drain or drainage easements and incidents thereto and an access easement and incidents thereto, which are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 4. That for the construction, operation and maintenance of a public street or streets and incidents thereto, together with slope or slope easements, a storm drain or drainage easements and incidents thereto, and an access easement and incidents thereto, it is necessary that the City of San Diego and the inhabitants thereof acquire the respective property interests under eminent domain proceedings.

Section 5. That the taking and acquiring of respective property interests of the real property hereinafter described, under eminent domain proceedings, by The City of San Diego, are deemed necessary for improvement and widening of Beyer Boulevard, together with curbs, gutters and sidewalks from Route 117 on the south to the city of San Diego/Chula Vista boundary on the north. In addition, a new bridge will be constructed over the Otay River. Improvement to full-width major street standards is necessary to assure the safe and efficient movement of traffic.

Section 6. That such uses are public uses authorized by law: Article I, Section 19 of the Constitution of California; Article XIV, Section 220, Charter of The City of San Diego; Sections

1240.010, 1240.110, 1240.120, 1240.610 and 1255.410, Code of Civil Procedure; Sections 4090, 5101(d) and 5102, Streets & Highways Code; and Sections 37350.5 and 40404, Government Code.

Section 7. That the parcels of real property and the interests sought to be condemned are described in Exhibit A attached hereto and made a part hereof.

Section 8. That an offer to purchase said property interests pursuant to Government Code Section 7267.2 has been made after an appraisal of said properties dated March 1, 1988 and that this offer was rejected by the owner or owners of record.

Section 9. 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 property described in Exhibit A, for the purpose of condemning and acquiring the fee interests and easements as above-described and obtaining immediate possession of said parcels for the use of said City.

APPROVED: John W. Witt, City Attorney

By 
Alan L. Geraci
Deputy City Attorney

ALG:jt:Lit
06/27/88
Or.Dept:Prop.
Aud.Cert.: 8801153
R-88-2646

Parcel 3 - Malcolm/Raya

DRAIN EASEMENT

LEGAL DESCRIPTION

The permanent easement and right-of-way to construct, reconstruct, maintain, operate and repair a storm drain or drains including any or all appurtenances thereto, together with the right of ingress and egress, over, under, along and across all that real property.

That portion of Block 9 of Brimhall's Addition to Otay, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 598, filed in the Office of the County Recorder of San Diego, May 4, 1889, more particularly described as follows:

That certain 10.00-foot-wide easement for drainage purposes lying 5.00 feet on each side of and at right angles to the following described centerline:

Commencing at the intersection of the Southerly boundary line of lands described in Deed to David Malcolm and Michael Raya executed by Craig L. Linden and Lindsey S. Linden, recorded November 18, 1985 as File/Page No. 85-433940 of Official Records of said County and the Easterly line of the 140.00-foot right-of-way of Beyer Boulevard as dedicated and existing on April 14, 1988, being a point on the arc of a non-tangent curve concave Westerly; thence Northwesterly along the arc of said curve to the left, having a radius of 4,070.00 feet and a central angle 4°26'04", being also the Easterly line of said Beyer Boulevard, an arc distance of 315.0 feet to the TRUE POINT OF BEGINNING; thence North 73°32'47" East a distance of 15.00 feet to a Point of Termination.

The sidelines of the above-described strip of land shall be lengthened or shortened at the Westerly ends so as to terminate in the Easterly right-of-way line of said Beyer Boulevard.

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

The erecting 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 pipe lines shall be prohibited except by written permission from the City of San Diego.

EXHIBIT A

R- 271410

Parcel 5 - H & N Construction

SLOPE EASEMENT

LEGAL DESCRIPTION

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:

That portion of the South Half of the Northwest Quarter of the Southeast Quarter of the Northeast Quarter of Section 27, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to Official Plat thereof, described as follows:

Beginning at the point intersection of the Southerly boundary line of lands described in Deed to H & N Construction Company, executed by Clarence Sanborn and Mabel Dixey Sanborn, recorded January 11, 1978 as File/Page 78-011936 of Official Records of said County and the Southwesterly line of the right-of-way of Beyer Boulevard as dedicated and existing as of April 14, 1988; thence North 89°25'50" West a distance of 15.31 feet; thence North 17°10'51" West a distance of 48.96 feet; thence North 25°50'35" West a distance of 101.92; thence North 22°13'33" West a distance of 107.01 feet; thence North 23°31'42" West a distance of 51.01 feet; thence North 45°00'46" West a distance of 70.27 feet to the Northerly boundary line of lands described in said Deed to H & N Construction Company, recorded January 11, 1978 as File/Page 78-011936 of Official Records; thence South 89°31'26" East a distance of 20.00 feet to a point on the arc of a tangent curve concave Southwesterly; thence Southeasterly along the arc of said curve to the right having a radius of 20.00 feet and a central angle of 89°01'39" an arc distance of 31.07 feet to a point of reverse curvature of a tangent curve concave Easterly being also a point of said Southwesterly line of Beyer Boulevard; thence Southeasterly along said Southwesterly line of Beyer Boulevard being the arc of said curve to the left having a radius of 3,050.00 feet and a central angle of 6°33'35" an arc distance of 349.19 feet returning to the Point of Beginning.

Parcel 8 - Diaz

LEGAL DESCRIPTION

Portions of the Southwest Quarter of the Southwest Quarter of Section 26, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to Official Plat thereof, more particularly described as follows:

EXHIBIT A

R-271410

Parcel 8A - Street Right-of-Way:

Beginning at the point of intersection of the Northwesterly boundary line of lands described in Deed to Jose T. Diaz and Yolanda Diaz executed by Thomas S. Collins and Virginia Collins recorded February 1, 1979 as File/Page No. 79-050301 of Official Records of said County and the Westerly right-of-way line of Beyer Boulevard as dedicated and existing on April 14, 1988; thence Southwesterly along said Northwesterly boundary line of lands deeded to Jose T. Diaz & Yolanda Diaz per said Deed recorded February 1, 1979 as File/Page No. 79-050301, a distance of 21.00 feet to a point hereby set out and designated as Point "A" for the purpose of describing Parcel 8B following; thence South $22^{\circ}30'49''$ East a distance of 146.54 feet to a point on the arc of a tangent curve concave to the Northwest; thence Southwesterly along the arc of said curve to the right, having a radius of 20.00 feet and a central angle of $113^{\circ}10'15''$ an arc distance of 39.50 feet to a point on a non-tangent line; thence South $00^{\circ}39'26''$ West a distance of 10.00 feet to the Northerly right-of-way line of Iris Avenue a dedicated and existing on April 14, 1988; thence South $89^{\circ}20'34''$ East along the said Northerly line of Iris Avenue a distance of 27.12 feet to a point on the arc of a tangent curve concave to the Northwest; thence Northeast-erly along the arc of said curve to the left, having a radius of 20.00 feet and a central angle of $113^{\circ}10'15''$ an arc distance of 39.50 feet to a point on said Westerly right-of-way line of Beyer Boulevard; thence North $22^{\circ}30'49''$ West along said Westerly right-of-way line of Beyer Boulevard a distance of 155.53 feet returning to the Point of Beginning.

Together with the underlying fee in those portions of Iris Avenue and Beyer Boulevard as previously dedicated and as existing on April 14, 1988.

Parcel 8B - 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 and designated in Parcel 8A above; thence South $22^{\circ}30'49''$ East a distance of 146.54 feet to a point on the arc of a tangent curve concave to the West; thence Southerly along the arc of said curve to the right, having a radius of 20.00 feet and a central angle of $49^{\circ}27'24''$, an arc distance of 17.26 feet to a point on a non-tangent line; thence North $22^{\circ}30'49''$ West a distance of 161.74 feet to the Northwesterly boundary line of said lands deeded to Jose T. Diaz and Yolanda Diaz per said Deed recorded February 1, 1979 as File/Page No. 79-050301 of Official Records of said County; thence North $67^{\circ}29'11''$ East a distance of 7.00 feet returning to the Point of Beginning.

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE AC 8801153

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 \$ 125,050.00 Fund 30244

Purpose Authorizing expenditure of funds for Beyer Boulevard Improvement Project -
Condemnation

Date June 27, , 19 88

By: *Tracy McManis*
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
1			30244	107	4638	521102				\$125,050.00
TOTAL AMOUNT										\$125,050.00

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										

FUND OVERRIDE

R-271410

330 a

JUL 12 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
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-271410** Adopted **JUL 12 1988**

RECEIVED
CITY CLERK'S OFFICE
JUN 29 AM 11:50
SAN DIEGO, CALIF.