

RESOLUTION NUMBER R- 285695

ADOPTED ON MAY 02 1995

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE CONSTRUCTION, IMPROVEMENT, OPERATION AND MAINTENANCE OF A PUBLIC STREET OR STREETS AND INCIDENTS THERETO, TOGETHER WITH RIGHT-OF-WAY FOR THE RIGHT OF INGRESS AND EGRESS OVER, UNDER, ALONG, AND ACROSS, A PORTION OF LOT 11 OF LARWIN MESA VIEW UNIT NO. 1, MAP NO. 6605 FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER MARCH 23, 1970 AS FILE NO. 50937 OF OFFICIAL RECORDS, AND PORTIONS OF PARCELS 3 AND 4 OF PARCEL MAP NO. 5847 FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER APRIL 28, 1977, AS FILE NO. 77-159597 OF OFFICIAL RECORDS, AND THAT PORTION OF LOT 1 OF LARWIN SQUARE WEST UNIT NO. 1, MAP NO. 7928 FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER APRIL 23, 1974 AS FILE NO. 74-103343 OF OFFICIAL RECORDS, ALL 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 SAID PROPERTY FOR SAID PUBLIC STREET OR STREETS AND INCIDENTS THERETO, TOGETHER WITH THE RIGHT-OF-WAY FOR THE RIGHT OF INGRESS AND EGRESS OVER, UNDER, ALONG AND ACROSS SAID REAL PROPERTY; THAT THE PROPOSED PROJECT IS PLANNED IN A MANNER THAT WILL BE MOST COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; DECLARING THAT AN OFFER TO PURCHASE THE PROPERTY, PURSUANT TO GOVERNMENT CODE SECTION 7267.2, AT THE APPRAISED FAIR MARKET VALUE HAS BEEN MADE TO THE OWNERS OF RECORD OF THE PROPERTY AND REJECTED; DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS; THAT THE TAKING AND ACQUIRING OF SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS ARE DEEMED NECESSARY; THAT ACQUISITION BY EMINENT DOMAIN IS AUTHORIZED BY LAW; 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; and

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, improvement, operation and maintenance of a public street or streets and incidents and appurtenances thereto, together with right-of-way for ingress and egress over, under, along, and across portions of Lot 11 of Larwin Mesa View Unit No. 1, Map No. 6605 filed in the Office of the County Recorder March 23, 1970, as File No. 50937 of Official Records, and portions of Parcels 3 and 4 of Parcel Map No. 5847 filed in the Office of the San Diego County Recorder April 28, 1977, as File No. 77-159597 of Official Records, and that portion of Lot 1 of Larwin Square West Unit No. 1, Map No. 7928 filed in the Office of the San Diego County Recorder April 23, 1974 as File No. 74-103343 of Official Records, all 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 the City of San Diego, and the inhabitants of the City of San Diego, demand the acquisition and taking of fee title in said property for the construction, improvement, operation and maintenance of a public street or streets and incidents thereto, together with right-of-way for ingress and egress over, under, along and across portions of said real property lying within the City of San Diego, County of San Diego, State of California.

Section 3. That The City of San Diego has the power of eminent domain pursuant to, inter alia, Section 220, of the Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, and 1255.410 of the Code of Civil Procedure; Sections 4090, 5101, 5102, 5023 and 5023.1 of the Streets and Highways Code; and Sections 37350.5 and 40404 of the Government Code.

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

LEGAL DESCRIPTION  
PARCEL A

That portion of Lot 11 of Larwin Mesa View Unit No. 1, Map No. 6605, situated in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of said County, March 23, 1970, as File No. 50937 of Official Records, more particularly described as follows:

Beginning at the Southeasterly corner of said Lot 11, being also the **TRUE POINT OF BEGINNING**, thence  $S88^{\circ}22'00''W$ , 4.00 feet along the Southerly line of said Lot 11; thence  $N04^{\circ}05'00''W$ , 80.94 feet to the beginning of a curve, concave Southwesterly, having a radius of 20.00 feet, thence Northwesterly along said curve through a central angle of  $87^{\circ}33'00''$ , an arc length of 30.56 feet to the Northerly line of said Lot 11, thence  $N88^{\circ}22'00''E$ , 4.00 feet along the Northerly line of said Lot 11 to the beginning of a curve, concave Southwesterly having a radius of 20.00 feet, thence Southwesterly along said curve through a central angle of  $87^{\circ}33'00''$ , an arc length of 30.56 feet along the Northeasterly line of said Lot 11, thence  $S04^{\circ}05'00''E$ , 80.94 feet along the Easterly line of said Lot 11 to the **TRUE POINT OF BEGINNING**.

LEGAL DESCRIPTION  
PARCEL B

That portion of Parcel 4 of Parcel Map No. 5847, situated in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of said County, April 28, 1977, as File No. 77-159597 of Official Records, more particularly described as follows:

Beginning at the Southeasterly corner of Lot 11, Map No. 6605, filed in the Office of the County Recorder of said County, March 23, 1970, as File No. 50937 of Official Records, being also the **TRUE POINT OF BEGINNING**, thence  $S04^{\circ}05'00''E$ , 204.94 feet along the Easterly line of said Parcel 4 to the Southeast corner of said Parcel 4, thence  $S82^{\circ}29'00''W$ , 5.01 feet along the Southerly line of said Parcel 4, thence  $N04^{\circ}05'00''W$ , 205.45 feet to the Northerly line of said Parcel 4, thence  $N88^{\circ}22'00''E$ , 5.00 feet along the Northerly line of said Parcel 4 to the **TRUE POINT OF BEGINNING**.

LEGAL DESCRIPTION  
PARCEL "C"

That portion of Parcel 3 of Parcel Map No. 5847, situated in the City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of said County, April 28, 1977, as File No. 77-159597 of Official Records, more particularly described as follows:

Beginning at the Southeasterly corner of Lot 11, Map No. 6605, filed in the office of the County Recorder of said County, March 23, 1970, as File No. 50937 of Official Records, thence  $S04^{\circ}05'00''E$ , 204.94 feet to the **TRUE POINT OF BEGINNING**, said point being the Northeasterly corner of said Parcel 3, thence  $S04^{\circ}05'00''E$ , 47.01 feet along the Easterly line of said Parcel 3, to the beginning of a curve on the Easterly line of said Parcel 3, concave Easterly, having a radius of 4051.00 feet; thence Southerly along said curve through a central angle of  $01^{\circ}53'41''$ , an arc length of 133.96 feet to the Southeast corner of said Parcel 3, thence  $S89^{\circ}02'14''W$ , 5.02 feet along the Southerly line of said Parcel 3 to the beginning of a non-tangent curve concave Easterly, having a radius of 4056.00 feet, a radial line to said curve bears  $S84^{\circ}01'40''W$ , thence Northerly along said curve through a central angle of  $01^{\circ}53'19''$ , an arc length of 133.72 feet, thence  $N04^{\circ}05'00''W$ , 46.68 feet to the Northerly line of said Parcel 3, thence  $N82^{\circ}29'00''E$ , 5.01 feet along the Northerly line of said Parcel 3 to the **TRUE POINT OF BEGINNING**.

LEGAL DESCRIPTION  
PARCEL "D"

That portion of Lot 1 of Larwin Square West Unit No. 1, Map No. 7928, situated in the City of San Diego, County of San Diego, State of California, filed in the office of County Recorder of said County, April 23, 1974, as File No. 74-103343 of Official Records, more particularly described as follows:

Beginning at the Southeasterly corner of Lot 11, Map No. 6605, filed in the office of the County Recorder of said County, March 23, 1970, as File No. 50937 of Official Records, thence  $S04^{\circ}05'00''E$ , 251.95 feet to the beginning of a curve, concave Easterly, having a radius of 4051.00 feet, thence Southerly along said curve through a central angle of  $01^{\circ}53'41''$ , an arc length of 133.96 feet to the **TRUE POINT OF BEGINNING**, said point being the Northeasterly corner of said Lot 1, thence continuing Southerly along said curve through a central angle of  $02^{\circ}31'27''$ , an arc length of 178.47 feet along the Easterly line of said Lot 1, to a reverse curve, concave Northwesterly, having a radius of 20.00 feet, thence Southwesterly along said curve through a central angle of  $97^{\circ}32'22''$ , an arc length of 34.05 feet along the Southeasterly line of said Lot 1, thence  $S89^{\circ}02'14''W$ , 5.04 feet along the Southerly line of said Lot 1, to a curve, concave Northwesterly, having a radius of 20.00 feet, thence Northeasterly along said curve through a central angle of  $97^{\circ}31'50''$ , an arc length of 34.04 feet to a reverse curve, concave Easterly, having a radius of 4056.00 feet, thence Northerly along said curve through a central angle of  $02^{\circ}31'16''$ , an arc length of 178.47 feet, thence  $N89^{\circ}02'14''E$ , 5.02 feet along the Northerly line of said Lot 1 to the **TRUE POINT OF BEGINNING**.

Section 5. That the taking and acquiring by said City of the real property hereinabove described is deemed necessary for the construction, improvement, operation and maintenance of a public street or streets and incidents and appurtenances thereto, together with right-of-way for the right of ingress or egress over, under, along, and across said real property to serve the City of San Diego and the inhabitants thereof, for municipal purposes; that such use is a public use authorized by law (inter alia, Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, and 1255.410 of the Code of Civil Procedure; Sections 37350.5 and 40404 of the Government Code; and Sections 4090, 5101, 5102, 5023 and 5023.1 of the Streets and Highways Code); that for such public use, it is necessary that The City of San Diego condemn and acquire said real property.

Section 6. That the proposed project for which this acquisition is being sought is to improve the west side of Black Mountain Road between Mira Mesa Boulevard and Gemini Avenue; that the projected traffic volumes on southbound Black Mountain Road require an exclusive right-turn lane to westbound Mira Mesa Boulevard; and that the acquisition will enable the City of San Diego to provide a safer, more efficient street system for the area community.

Section 7. That all of said real property and interests therein are to be used for the construction, improvement, operation and maintenance of a public street or streets and incidents and appurtenances thereto, and are planned and located



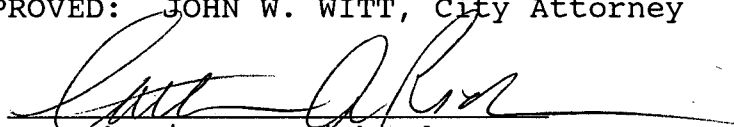
in a manner most compatible with the greatest public good and the least private injury.

Section 8. That an offer to acquire the property, pursuant to Government Code Section 7267.2, at the appraised fair market value has been made to the owners of record of the property to be acquired.

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 above-described real property, for the purpose of condemning and acquiring the certain real property and existing improvements as hereinbefore described in fee simple, for the use of the City of San Diego to take immediate possession thereof pursuant to California Code of Civil Procedure Section 1255.410.

APPROVED: JOHN W. WITT, City Attorney

By

  
Catherine A. Richardson  
Deputy City Attorney

CAR:djr:Lit.  
04/10/95  
Or.Dept:Prop  
R-95-1459  
Aud.Cert:9501005  
Form:r.stimprov

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

**CERTIFICATE OF UNALLOTTED BALANCE**      AC      9501005  
ORIGINATING DEPT. NO.:      542

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 \$ 145,000      Fund 30244

Purpose Authorizing the expenditure of Transnet funds for property acquisition and condemnation costs related to the widening of Black Mountain Rd. from Mira Mesa Blvd, to Gemini Ave.

Date March 31, 1995      By: Darryl G. Jensen  
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
		30244	30244	107	4638	525220				\$145,000.00
TOTAL AMOUNT										\$145,000.00

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 money 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 \_\_\_\_\_      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