

(R-97-1019)

RESOLUTION NUMBER R- 288598

ADOPTED ON APR 29 1997

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF FEE SIMPLE TITLE TO THE PROPERTY DESCRIBED HEREIN FOR THE CONSTRUCTION, IMPROVEMENT, OPERATION AND MAINTENANCE OF THE WIGHTMAN STREET PROMENADE PROJECT, A PUBLIC STREET OR STREETS AND INCIDENTS THERETO; THAT THE PROPERTY IS LOCATED ON THE NORTH SIDE OF WIGHTMAN STREET BETWEEN 43<sup>RD</sup> AND HIGHLAND STREETS, IN BLOCKS 47, 4 AND 5 OF CITY HEIGHTS ANNEX NO. 1, IN THE MID-CITY COMMUNITY, WITHIN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; THAT THE INTERESTS TO BE ACQUIRED ARE ALL FEE SIMPLE TITLE; THAT THE PROJECT IS PLANNED OR LOCATED IN THE MANNER THAT WILL BE MOST COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; THAT THE PROPERTY SOUGHT TO BE ACQUIRED IS NECESSARY FOR THE PROJECT; THAT ACQUISITION BY EMINENT DOMAIN IS AUTHORIZED BY LAW; AND DECLARING THAT THE OFFER TO PURCHASE THE PROPERTY REQUIRED BY GOVERNMENT CODE SECTION 7267.2 HAS BEEN MADE TO THE OWNERS OF RECORD AND REJECTED; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE THE FEE SIMPLE TITLE UNDER EMINENT DOMAIN PROCEEDINGS; AND DIRECTING THE CITY ATTORNEY OF THE CITY OF SAN DIEGO TO COMMENCE AN EMINENT DOMAIN ACTION IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN THE COUNTY OF SAN DIEGO, TO CONDEMN, ACQUIRE AND OBTAIN IMMEDIATE POSSESSION OF THE PROPERTY FOR THE USE OF THE CITY.

WHEREAS, the Council of The City of San Diego ("City") has provided notice to those persons designated in Code of Civil Procedure Section 1245.235, and has provided them a

reasonable opportunity to appear and be heard on the matters referred to in Code of Civil Procedure Section 1240.030; NOW, THEREFORE,

BE IT RESOLVED, THAT THE COUNCIL OF THE CITY OF SAN DIEGO HAS FOUND AND DETERMINED EACH OF THE FOLLOWING:

Section 1. That the proposed Wightman Street Promenade Project will provide a needed transit corridor and parking facilities for the new Community College, library and park and recreation facilities in the Mid-City Community and will provide a safer, more efficient street system for the community as a whole. The Project is being constructed within the Mid-City Urban Village area and is considered a key public improvement for the Village.

Section 2. That the public interest, convenience and necessity of the City, and the inhabitants thereof, require the acquisition of fee simple title to the property described hereafter for the Wightman Street Promenade Project, a public street or streets, and incidents and appurtenances thereto; that the property is to be used for the widening and improvement of the north side of Wightman Street between 43<sup>rd</sup> and Highland Streets, in Blocks 47, 4 and 5 of City Heights Annex No. 1, in the Mid-City community; that the project includes construction, improvement, operation and maintenance, together with the right of ingress and egress over, under, along, and across numerous parcels of land; that the interests to be acquired are fee simple title; and that the property is located in the City of San Diego, County of San Diego, State of California, as more particularly described hereafter.

Section 3. That the Wightman Street Promenade Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

Section 4. That the interests sought to be acquired are necessary for the Wightman Street Promenade Project, for municipal purposes.

Section 5. That the acquisitions sought herein are for a public use authorized by the following code sections: Code of Civil Procedure Sections 1240.010, 1240.110, 1240.120, 1240.150, 1240.410, 1240.610 and 1255.410; The Improvement Act of 1911; Streets and Highways Code Sections 5100, 5101, 5102, 5023 and 5023.1; Government Code Sections 37350.5 and 40404; and Charter of The City of San Diego Section 220.

Section 6. That the parcels of property and the interests sought to be condemned are described as follows:

**DOAN PARCEL**

THE WESTERLY 50.00 FEET OF LOTS 23 & 24 IN BLOCK 47 OF CITY HEIGHTS IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1007, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 3, 1906.

**HENELY PARCEL**

LOTS 23 AND 24, IN BLOCK 47 OF CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THREOF NO. 1007, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 3, 1906.

EXCEPTING THEREFROM THE WESTERLY 50 FEET.

**TO PARCEL**

THE EAST 45 FEET OF LOTS 23 AND 24, IN BLOCK 4 OF CITY HEIGHTS ANNEX 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**NGUYEN AND THAI PARCEL**

THE EAST 58 FEET OF LOTS 25 AND 26 IN BLOCK 4 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**LOPEZ PARCEL**

THE EAST 35 FEET OF THE WEST 67 FEET OF LOTS 25 AND 26, IN BLOCK 4 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**LIME PARCEL**

ALL OF LOTS 25 AND 26, BLOCK 47 OF CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO AMENDED MAP NO. 1007, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 3, 1906. EXCEPTING THEREFROM THE EAST 79 FEET THEREOF.

**PICKERING LAND PARCEL**

THE WEST 80.70 FEET OF LOT 24, BLOCK 5 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**V. E. HIGHLAND ONE PARCEL**

LOTS 25, 26, 27 AND 28 IN BLOCK 5 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**SANDOVAL PARCEL**

LOTS 22 AND 23 IN BLOCK 5 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**VELA AND CHEE PARCEL**

THE WEST 32 FEET OF LOTS 25 AND 26, IN BLOCK 4 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**DENNY PARCELS**

PARCEL 1:

THE WEST 36 FEET OF THE EAST 79 FEET OF LOTS 25 AND 26 IN BLOCK 47 OF CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE AMENDED MAP THEREOF NO. 1007, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON OCTOBER 3, 1906.

PARCEL 2:

AN EASEMENT AND RIGHT OF WAY FOR SEWER PURPOSES OVER AND ACROSS THE SOUTH 2.00 FEET OF LOT 25 IN BLOCK 47 OF CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE AMENDED MAP THEREOF NO. 1007, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON OCTOBER 3, 1906, EXCEPT THE EAST 79.00 FEET THEREOF.

**COLE PARCEL**

THE EAST 43.0 FEET OF LOTS 25 AND 26 IN BLOCK 47 OF CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THREOF NO. 1007 FILED

IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY,  
OCTOBER 3, 1906.

EXCEPTING A 10' STREET DEDICATION OF FAIRMOUNT AVENUE.

**HUA PARCEL**

PARCEL 1:

THE WEST 80.00 FEET OF LOTS 23 AND 24 IN BLOCK 4 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

PARCEL 2:

AN EASEMENT FOR INGRESS AND EGRESS FOR PIPELINES OVER, ALONG AND ACROSS THE NORTH 4.00 FEET OF LOT 23 IN BLOCK 4 OF CITY HEIGHTS ANNEX NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

**NAVA PARCEL**

LOT 24 IN BLOCK 5 OF CITY HEIGHTS ANNEX UNIT NO. 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1001, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 18, 1906.

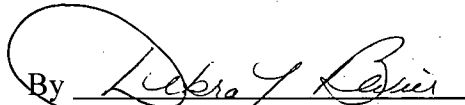
EXCEPTING THE WEST 80.7 FEET THEREOF.

Section 7. That the offer required by Government Code Section 7267.2 has been made to the owners of record of the property to be acquired.

Section 8. That the City Attorney of the City of San Diego be, and he is hereby authorized and directed to commence an eminent domain action in the Superior Court of the State of California, 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 property, to condemn,  
acquire and obtain immediate possession of the property for the use of the City.

APPROVED: CASEY GWINN, City Attorney

By   
Debra J. Bevier  
Deputy City Attorney

DJB:djr:Civ  
4/11/97  
Or.Dept:REA  
R-97-1019  
Aud.Cert:9701007

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

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 9701007  
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 2,300,000.00 Fund 30302

Purpose Authorizing the appropriation and expenditure of funds for the acquisition of real property and related costs for the Wightman Street Promenade.

Date April 10, 1997 By: *Cromo*

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	30244	30244	107	4638	526310				\$2,300,000.00
TOTAL AMOUNT										\$2,300,000.00

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 money 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

*Original Aud Cert R 288598  
Not Available*

**APR 29 1997**

AC 9701007