

RESOLUTION NUMBER R- 290816

ADOPTED ON OCT 06 1998

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION AND ELIMINATION OF LAND USE DEED RESTRICTIONS WHICH ALLEGEDLY PROHIBIT THE CITY OF SAN DIEGO FROM USING AN AREA OF APPROXIMATELY 1.203 ACRES OF CITY OWNED LAND FOR PUBLIC ROAD PURPOSES FOR THE DEL MAR HIGHLANDS ESTATES PUBLIC ROAD PROJECT; THAT SAID APPROXIMATE 1.203 ACRE AREA IS NEEDED FOR THE CONSTRUCTION, IMPROVEMENT, OPERATION AND MAINTENANCE OF A PUBLIC STREET OR STREETS AND INCIDENTS THERETO, OVER UNDER ALONG AND ACROSS PORTIONS OF LOT 4 OF FAIRBANKS COUNTRY CLUB, UNIT NO. 1 ACCORDING TO THE MAP THEREOF NO. 10730, FILED SEPTEMBER 29, 1983 AS FILE NO. 83-349239 OF OFFICIAL RECORDS IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION AND ELIMINATION OF SAID LAND USE DEED RESTRICTIONS WITHIN SAID APPROXIMATE 1.203 ACRE AREA FOR SAID PUBLIC STREET OR STREETS AND INCIDENTS THERETO; 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 REVERSIONARY INTERESTS, IF ANY, PURSUANT TO GOVERNMENT CODE SECTION 7267.2, AT THE APPRAISED FAIR MARKET VALUE, HAS BEEN MADE TO THE PARTY CLAIMING A REVERSIONARY INTEREST IN THE PROPERTY AND THAT SAID OFFER WAS REJECTED; DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE AND ELIMINATE SAID LAND USE DEED RESTRICTIONS WITHIN SAID APPROXIMATE 1.203 ACRE AREA; THAT THE TAKING, ACQUIRING, AND ELIMINATION OF SAID

LAND USE DEED RESTRICTIONS 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, FOR THE COUNTY OF SAN DIEGO, FOR THE PURPOSE OF CONDEMNING, ACQUIRING AND ELIMINATING SAID LAND USE DEED RESTRICTIONS WITHIN SAID APPROXIMATE 1.203 ACRE AREA 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 acquisition and elimination of land use deed restrictions which allegedly prohibit The City of San Diego from using an area of approximately 1.203 acres of City owned land for public road purposes; that said approximate 1.203 acre area is needed for the construction, improvement, operation and maintenance of a public street or streets and incidents and appurtenances thereto, over, under, along, and across portions of Lot 4 of Fairbanks Country Club, Unit No. 1, according to the Map thereof No. 10730, filed September 29, 1983 as File No. 83-349239 of Official Records in the Office of the County Recorder, 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 elimination of land use deed restrictions within said approximate 1.203 acre area for the construction, improvement, operation and maintenance of a public street or streets and incidents thereto, over, under, along and across said 1.203 acre area 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, 1240.510, 1240.610 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, 37353, and 40404 of the Government Code.

Section 4. That the land use deed restrictions sought to be condemned are within an area described as follows:

THAT PORTION OF LOT 4 OF FAIRBANKS COUNTRY CLUB, UNIT NO. 1 ACCORDING TO MAP THEREOF NO. 10730, FILED SEPTEMBER 29, 1983 AS FILE NO. 83-349239 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID MAP NO. 10730; THENCE SOUTH  $88^{\circ}18'09''$  EAST A DISTANCE OF 2,232.25 FEET ALONG THE SOUTH LINE OF SAID MAP NO. 10730 TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH LINE

1. NORTH  $04^{\circ}24'24''$  EAST            62.84 FEET    TO THE BEGINNING OF A NON-TANGENT 392.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH  $64^{\circ}19'50''$  WEST; THENCE ALONG THE ARC OF SAID CURVE
2. NORTHERLY                            211.30 FEET    THROUGH A CENTRAL ANGLE OF  $30^{\circ}53'03''$ ; THENCE
3. NORTH  $05^{\circ}12'53''$  EAST            29.35 FEET; THENCE
4. NORTH  $64^{\circ}15'41''$  WEST            61.93 FEET; THENCE
5. NORTH  $05^{\circ}12'53''$  EAST            20.68 FEET    TO THE SOUTHERLY LINE OF SAN DIEGUITO ROAD AS DEDICATED PER DOCUMENT RECORDED JUNE 4, 1980 AS FILE NO. 80-180104 OF OFFICIAL RECORDS AND SHOWN ON SAID MAP NO. 10730; THENCE ALONG LAST SAID SOUTHERLY LINE THE FOLLOWING THREE COURSES
6. SOUTH  $84^{\circ}15'08''$  EAST            136.95 FEET    TO THE BEGINNING OF A TANGENT 1,044.00 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL LINE TO SAID BEGINNING BEARS SOUTH  $05^{\circ}44'52''$  WEST; THENCE ALONG THE ARC OF SAID CURVE
7. EASTERLY                              39.25 FEET    THROUGH A CENTRAL ANGLE OF  $02^{\circ}09'14''$ ; THENCE

- 8. SOUTH 86°24'22" EAST 23.82 FEET; THENCE LEAVING LAST SAID SOUTHERLY LINE
  - 9. SOUTH 05°12'53" WEST 175.71 FEET TO THE BEGINNING OF A TANGENT 30.00 FOOT RADIUS CURVE CONCAVE EASTERLY, THENCE ALONG THE ARC OF SAID CURVE
  - 10. SOUTHERLY 25.18 FEET THROUGH A CENTRAL ANGLE OF 48°05'28"; THENCE
  - 11. SOUTH 42°52'35" EAST 184.46 FEET TO THE SOUTHERLY LINE OF LOT 4 OF SAID MAP NO. 10730; THENCE ALONG SAID SOUTHERLY LINE
  - 12. NORTH 88°18'09" WEST 233.21 FEET TO THE TRUE POINT OF BEGINNING.
- CONTAINS 1.203 ACRE MORE OR LESS.



*[Signature]* 10.15.97  
 M.J. "TOM" TOMLINSON DATE  
 RCE 26417  
 EXPIRATION DATE 3/31/00

W.O. NO. 967078  
 DWG. NO. 18678-B

Section 5. That the taking, acquiring and elimination of land use deed restrictions by The City of San Diego within the approximate 1.203 acre area hereinabove described is deemed necessary for the construction, improvement, operation and maintenance of a public street or streets and incidents and appurtenances thereto, 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, 1240.510, 1240.610 and 1255.410 of the Code of Civil Procedure; Sections 37350.5, 37353, 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, acquire and eliminate land use deed restrictions within said approximate 1.203 acre area.

Section 6. That the proposed project for which this acquisition is being sought is the Del Mar Highlands Estates public road project, which will provide right of way uses for Del Mar Highland Estates; and that the acquisition will enable The City of San Diego to provide a safer, more efficient street system for the community in the area.

Section 7. That the acquisition and elimination of land use deed restrictions within said approximate 1.203 acre area is necessary in order to proceed with the construction, improvement, operation and maintenance of a public street or streets and incidents and appurtenances thereto, which are planned and located in a manner most compatible with the greatest public good and the least private injury. That the project was planned and designed to minimize impacts to the topography, reduce environmental impacts, accommodate the retention and preservation of a wildlife corridor, and accommodate a future wildlife under crossing of San Dieguito Road. The adopted location and alignment are located and designed to cross only the City's ownership.

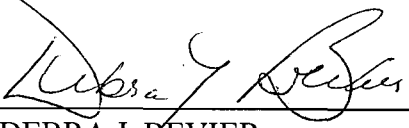
They will not require the acquisition of additional right of way from other property owners in the area. The adopted location and alignment are also consistent with the multiple species conservation program. The design of the street has minimized private injury by limiting the area for street and attendant slope dedications and requiring the slopes to be landscaped and maintained. The landscaped slopes are necessary to protect the road and to preserve the road's attractiveness, safety, and usefulness, and for other protective purposes.

Section 8. That an offer to acquire reversionary interests, if any, pursuant to Government Code Section 7267.2, at the appraised fair market value has been made to the party claiming said interest(s).


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 claimants with any interest(s) in the above-described 1.203 acre area for the purpose of condemning, acquiring, and eliminating land use deed restrictions which prohibit the use of the approximate 1.203 acre area by The City of San Diego and to take immediate possession thereof pursuant to California Code of Civil Procedure Section 1255.410.

APPROVED: CASEY GWINN, City Attorney

By

  
DEBRA J. BEVIER  
Deputy City Attorney

DJB:djr:Civ  
08/28/98  
Or.Dept:REA  
R-99-269  
Aud.Cert:9900202  
Form=stimprov.res

 290816

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

**CERTIFICATE OF UNALLOTTED BALANCE**

AC 9900202

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 \$ 57,800.00 Fund 63020  
 Purpose Authorizing the expenditures related to the Offsite Right-of-Way Acquisition Agreement for the construction of Public Street, Del Mar Highlands Estates.

Date 08/27/98 By: \_\_\_\_\_

  
 AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0		6320	102	4279	650023				\$57,800.00
TOTAL AMOUNT										\$57,800.00

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										

AC 9900202

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