

RESOLUTION NUMBER R-300207

ADOPTED ON MARCH 8, 2005

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO DECLINING TO ACCEPT THE OFFER OF THE
UNITED STATES GOVERNMENT TO ACCEPT TRANSFER
OF TITLE TO THE MT. SOLEDAD MEMORIAL PROPERTY

WHEREAS, on July 27, 2004, the San Diego City Council adopted Ordinance
No. O-19306 placing Proposition K on the November 2, 2004, general municipal election for the
City of San Diego; and

WHEREAS, Proposition K, if approved, would have authorized a further transfer of
property located within the Mt. Soledad Natural Park and upon which is located the Mt. Soledad
Cross and a war veteran memorial installed and maintained by the Mt. Soledad Memorial
Association [Mt. Soledad Property]; and

WHEREAS, Proposition K failed to pass, receiving only about 40% of the vote; and

WHEREAS, the action taken by the City Council on July 27, 2004, also provided that if
Proposition K failed, the City Attorney would enter into a proposed settlement agreement
regarding the Mt. Soledad Cross and the case *Paulson v. City of San Diego*, United States
District Court case no. 89cv00820-GT(POR); and

WHEREAS, on November 20, 2004, Congress adopted Bill No. 4818 (P.L. 108-447)
which included a provision that, should the City of San Diego offer to donate the Mt. Soledad
Property to the federal government, the National Park Service was required to accept title to the
Mt. Soledad Property; and

WHEREAS, on February 24, 2005, the City Attorney issued a Memorandum of Law (ML-2005-4) expressing the opinion that while the City of San Diego otherwise had the authority to transfer the Mt. Soledad Property to the federal government, such a transfer would violate the federal and state constitutions; and

WHEREAS, a public hearing was set for March 8, 2005, on the matter of the disposition of the Mt. Soledad Property and the offer of the federal government to accept title to the Mt. Soledad Property; and

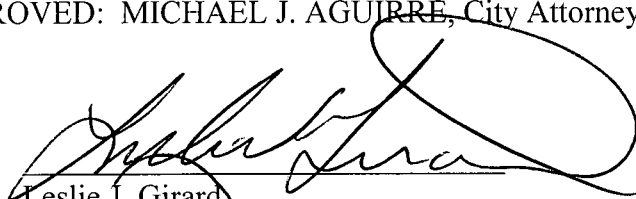
WHEREAS, the City Council received public testimony on the issues from a substantial number of speakers; and

WHEREAS, it is now appropriate for the City Council to respond to the offer of the federal government to accept the donation of the Mt. Soledad Property as set forth in Bill 4818 (P.L. 108-447); NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego that the offer of the federal government to accept title to the Mt. Soledad Property, as set forth in Bill 4818 (P.L. 108-447) is hereby declined.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Leslie J. Girard
Assistant City Attorney

LJG:km
3/11/05
Or.Dept:City Manager
R-2005-954