

RESOLUTION NUMBER R- 303206

DATE OF FINAL PASSAGE NOV 30 2007

A RESOLUTION OF THE CITY COUNCIL APPROVING THE SUMMARY ABATEMENT OF AN IMMINENT THREAT TO THE PUBLIC HEALTH, SAFETY AND WELFARE EXISTING IN THE VICINITY OF SOLEDAD MOUNTAIN ROAD.

WHEREAS, on October 3, 2007, a landslide occurred in the 5600 and 5700 blocks of Soledad Mountain Road; and

WHEREAS, on October 3, 2007, the Mayor proclaimed a State of Local Emergency as authorized by Section 51.0106 of the Municipal Code; and

WHEREAS, the Council of the City of San Diego ("City Council") at its meeting of October 5, 2007 passed Resolution Number R-303041 ratifying the Mayor's declaration of a State of Local Emergency and resolved that pursuant to California Government Code section 8630, a State of Local Emergency exists in the City of San Diego ("City ") due to the landslide on Soledad Mountain Road; and

WHEREAS, Resolution Number R-303041 authorized, in part, the Mayor to "execute all necessary contracts for the stabilization of the landslide;" and

WHEREAS, the City Council. at its meeting of October 16, 2007 heard and passed Resolution Number R-303086 declaring a continued State of Emergency to persist relative to the landslide on Mount Soledad, and the Council again declared a continued State of Emergency at its meeting of November 13, 2007 in Resolution Number R-303169; and

WHEREAS, Resolution Numbers R-303086 and R-303169 found that "the landslide continues to pose the possibility of peril to persons or property until remedial action is completed

to stabilize the landslide and repair the affected property," and that the City was "undertaking measures to determine and implement remedial action to stabilize and repair the property affected by the landslide;" and

WHEREAS, Resolution Numbers R-303086 and R-303169 resolved, in part, that the measures previously authorized by Resolution Number R-303041 "shall continue to have full force and effect;" and

WHEREAS, on October 8, 2007, pursuant to Government Code section 8558(b), the Governor of the State of California issued a proclamation declaring a State of Emergency to exist within the City based on conditions of extreme peril to the safety of persons and property due to the landslide on Mount Soledad; and

WHEREAS, the City has undertaken and continues to undertake measures to determine and implement remedial action to stabilize the property affected by the landslide; and

WHEREAS, investigation conducted since the landslide occurred reveals that the landslide consists of loose material with deep, open fissures on a weak clay layer, which would rapidly accept any incident water from heavy rainfall or runoff, likely resulting in rapid down-slope movement of the landslide mass; and

WHEREAS, investigation conducted since the landslide occurred reveals additional adverse geologic structure underlying property immediately adjacent to the landslide, which could be triggered by reactivation of the existing landslide; and

WHEREAS, the City Council has received written and oral evidence from qualified City staff and independent engineering consultants hired to determine and implement remedial stabilizing action, that a portion of Mount Soledad impacted by the landslide poses an imminent


threat to the public health, safety and welfare, especially to persons and property in the vicinity of the landslide, and immediate action is required to abate that threat; and

WHEREAS, the expert reports and testimony received by the City Council advise that the minimum level of correction or abatement necessary to eliminate the imminent threat to the public health, safety and welfare is the "winterization" of a portion of the slope impacted by the landslide, and that this "winterization" process will include by necessity: (1) the razing of four homes, already rendered uninhabitable by the landslide, located at 5695, 5703, 5715, and 5725 Soledad Mountain Road, and the subsequent soil removal and grading of these properties, and (2) soil removal and grading of portions of the properties located at 5735 Soledad Mountain Road, and 5706, 5720, 5734, and 5748 Desert View Drive; and

WHEREAS, the condition of the properties listed herein represent a public nuisance in that they each constitute a threat to the public's health, safety and welfare, and significantly obstruct, injure and interfere with the reasonable and free use of property in a neighborhood, community and to a considerable number of persons; and

WHEREAS, Division 7 of Article 2 of Chapter 1 of the San Diego Municipal Code provides authority for the City to summarily abate a public nuisance when there exists an imminent life safety hazard that requires immediate correction or elimination, including the razing and grading of portions of a building or site to prevent further collapse, and the removal of any hazard to the general public; and

WHEREAS, pursuant to the police power, exercisable under the federal and state constitutions, and the City Charter, the City has the authority to act to protect and promote the public health, safety and welfare of its citizens; NOW, THEREFORE,

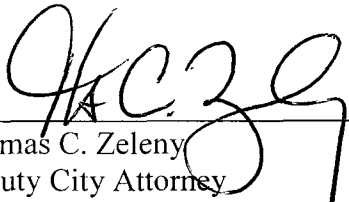
 303206

BE IT RESOLVED, by the Council of the City of San Diego that the recommendation of the Director and the Mayor to summarily abate the public nuisance which has created a situation of imminent peril to public health, safety and welfare is hereby approved.

BE IT FURTHER RESOLVED, that the assessment and recovery of costs incurred by the City during the summary abatement process are not waived but are deferred until such time as the cause of the landslide has been determined.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to take any additional action which may become necessary or appropriate to eliminate any imminent life safety hazard as a result of the landslide.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Thomas C. Zeleny  
Deputy City Attorney

11/27/07  
Or.Dept:E&CP  
R-2008-485

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of NOV 20 2007.

ELIZABETH S. MALAND, City Clerk

By   
Deputy City Clerk

Approved: 11-30-07  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor