

RESOLUTION NUMBER R- 306548

DATE OF FINAL PASSAGE ~~_____~~ **JAN 28 2011**

RESOLUTION OF THE SAN DIEGO CITY COUNCIL
DETERMINING THAT THE PUBLIC INTEREST AND
NECESSITY REQUIRE ACQUISITION OF PROPERTY
RIGHTS FOR PUBLIC USE FOR THE CARROLL CANYON
ROAD EXPANSION PROJECT AND AUTHORIZING THE
CITY ATTORNEY TO COMMENCE PROCEEDINGS IN
EMINENT DOMAIN AND ACQUIRE IMMEDIATE
POSSESSION THEREOF

WHEREAS, on May 28, 2009, the City of San Diego [City] and the State of California, Department of Transportation [Caltrans] entered into a Cooperative Agreement [Agreement] (filed with the City Clerk as Document No. R304921), pursuant to California Streets & Highway Code §§114 and 130 for improvement to the State highway system within the City's jurisdiction; and

WHEREAS, Caltrans has undertaken, as part of the improvement to the State highway system the construction of high occupancy vehicle (HOV) lanes, direct access ramps on Interstate 805 at Carroll Canyon Road, and an extension of Carroll Canyon Road from Scranton Road to Sorrento Valley Road (collectively hereinafter referenced to as the "Project"); and

WHEREAS, the City is vested with the power of eminent domain by Section 19, of Article I, of the California Constitution California Government Code §37350.5, and an Diego City Charter §220, to acquire property interests necessary for a public purpose; and

WHEREAS, pursuant to terms of the Agreement, City agreed to exercise its powers of eminent domain to acquire by condemnation any property interests within the City's jurisdiction found to be necessary for the Project; and

WHEREAS, the hearing set out in said notice of hearing was held on January 24, 2011, at the time and place stated therein, and all interested parties were given an opportunity to be heard on the following matters: (a) whether the public interest and necessity require the Project (b) whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury; (c) whether the property interests proposed to be acquired are necessary for the Project; (d) whether the offer meeting the requirements of Government Code Section 7267.2 has been given; and (e) whether all other prerequisites for the exercise eminent domain to acquire the property rights have been met; and

WHEREAS, the City Council, as a result of such hearing, has determined that the public health, safety, and welfare require the City to acquire the property interests described herein for the stated purposes; NOW, THEREFORE,

BE IT RESOLVED, that the public interest, convenience and necessity of the City of San Diego, and the inhabitants thereof require the acquisition of the following property interests:

- a) a Road Easement upon, over and across that portion of APN 341-321-37, as more particularly described, and depicted in Exhibit "A" attached hereto; and
- b) a Road Easement upon, over and across that portion of APN 343-010-1-9, as more particularly described and depicted in Exhibit "B" attached hereto,

BE IT FURTHER RESOLVED, 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, 1240.140, 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,

BE IT FURTHER RESOLVED, that the taking and acquiring of the property interests described herein are deemed necessary for the construction, improvement, operation and maintenance of a public highway 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, 1240.140, 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 the city of San Diego condemn and acquire said property interests.

BE IT FURTHER RESOLVED, that the proposed Project for which these acquisitions are being sought is part of improvements to the State highway system, the construction of high occupancy vehicle lanes add direct access ramps on Interstate 805, at Carroll Canyon Road, and an extension of Carroll Canyon Road from Scranton Road to Sorrento Valley Road, and that the acquisitions will enable the City of San Diego to provide a safer, more efficient street system for the community in the area.

BE IT FURTHER RESOLVED, that the taking and acquisition of the property interests sought and described herein are necessary in order to proceed with the construction, improvement, operation and maintenance of the Project 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.

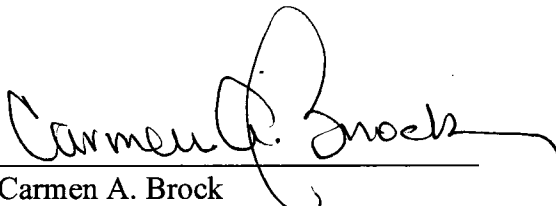
BE IT FURTHER RESOLVED, that an offer to acquire the property interests, pursuant to Government Code Section 7267.2, at the appraised fair market value, has been made to each party claiming an interest(s) in the property interests sought.

BE IT FURTHER RESOLVED, 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 of and on behalf of the City of San Diego, against all claimants with any interest(s) in the above-described property interests, and to seek immediate possession thereof pursuant to California Code of Civil Procedure Section 1251410.

BE IT FURTHER RESOLVED, that the deposit of the probable amount of compensation, to be paid by the State of California, into the State Treasury's State Condemnation Fund, is authorized.

BE IT FURTHER RESOLVED that the City of San Diego, as Responsible Agency under CEQA, has reviewed and considered a Mitigated Negative Declaration/Environmental Assessment (MND/EA) prepared by Caltrans as Lead Agency covering this activity.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Carmen A. Brock
Deputy City Attorney

CAB:mc
12/30/2010
Or.Dept: READ

I hereby certify that the foregoing Resolution was passed by a two-thirds vote of the Council of the City of San Diego, at this meeting of JAN 24 2011

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 1-28-11
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor