

(R79-560R)

RESOLUTION NO. 222191

NOV 7 1978

WHEREAS, the San Diego City Council previously authorized on February 2, 1977, by Resolution No. 217643 the commencement of eminent domain proceedings in City of San Diego v. Adobe Falls, et al., Superior Court Case No. 398189 for the purpose of acquiring the approximately 6.36 acres of land necessary for a public park to be known as Adobe Falls Park, and the amount of \$61,500 was authorized to acquire the real property necessary for the park in City Council Resolution No. 217643 and was encumbered in City Auditor's Certificate No. 8279, referencing Fund 244, Program Element 4505, Object 3496, Project No. 292530; and

WHEREAS, the City of San Diego deposited the amount of \$44,500, the appraised value as of April 16, 1975, as probable compensation with the San Diego Superior Court on May 5, 1977, to secure payment of just compensation to the owners of said property, and the City obtained a court order from the Honorable Franklin B. Orfield authorizing the City to take legal possession of said real property on June 9, 1977; and

WHEREAS, the property has now been reappraised at a value of \$67,400 as of May 5, 1977, the date on which the said condemnation lawsuit was filed; and

MICROFILMED

01255

WHEREAS, since the filing of the condemnation lawsuit, the property has been conveyed to a new owner, Smoke-Tree-Adobe Falls Limited, a California limited partnership, which now wishes to enter into a settlement agreement with the City of San Diego in order to eliminate further court proceedings and in order to assist the City of San Diego in the implementation of the Adobe Falls Park for the public's use and enjoyment;

WHEREAS, the new owner of said property, Smoke-Tree-Adobe Falls Limited, a California limited partnership, is now planning to develop a residential condominium development to the north of said property and is now willing to sell approximately four acres of the real property now under condemnation to the City of San Diego for the amount of \$28,000 and is willing to dedicate approximately two acres in the westerly portion of said land in an open space easement and will construct a necessary cul-de-sac and will grant a necessary 24 feet wide fire road easement to the City; NOW THEREFORE;

BE IT RESOLVED that said City Council hereby authorizes the following settlement of the above referenced condemnation litigation for the acquisition of land for the Adobe Falls Park:

1. That the City Council agrees and accepts the settlement and the City Manager is hereby authorized to accept the deed and execute on behalf of the City of San Diego that "Settlement Agreement," which is incorporated herein by reference and a copy of which is now on file in the office of

MICROFILMED

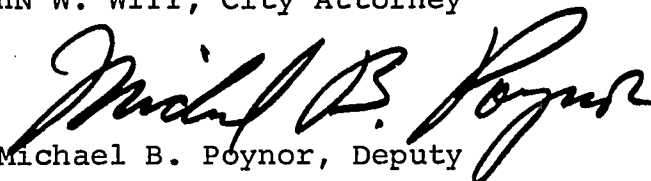
222191

01256

the City Clerk as Document No. 765174; and that the City Attorney is authorized to execute all documents necessary to accomplish this settlement and conclude the litigation in San Diego Superior Court Case No. 398189.

2. That the expenditure of \$28,000 along with any additional escrow and title insurance expenses reasonably incurred not to exceed \$700 is hereby authorized from those monies now on deposit with the court in this litigation, and accrued interest thereon, and from those monies previously encumbered in City Auditor's Certificate No. 8279 for the deed to the easterly four-acre portion of the land now under condemnation for Adobe Falls Park and for the purpose of carrying out the terms and conditions of the "Settlement Agreement."

APPROVED: JOHN W. WITT, City Attorney

By   
Michael B. Poynor, Deputy

MBP:sh  
9.19.78  
Aud.Cert.#8279 and #79210

MICROFILMED

11-20  
11-15  
11-10

# CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

---

## CERTIFICATION OF UNALLOTTED BALANCE

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 \$ \_\_\_\_\_ Fund \_\_\_\_\_

Purpose \_\_\_\_\_

\_\_\_\_\_  
Auditor and Comptroller of  
The City of San Diego, Calif.

Date \_\_\_\_\_, 19 \_\_\_\_\_

By \_\_\_\_\_

## 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 moneys 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 \$ 56,700.00

Dated Sept. 20, 19 78

*W. B. Sage*

\_\_\_\_\_  
Auditor and Comptroller of  
The City of San Diego, Calif.

BY *Jose L. Lozano*

Job Order  
Resolution No.

Fund 244 Prog./Elem. 4505 Object 3496 Project No. 292530

Purpose Acquisition and related escrow and title insurance costs-Adobe Falls Park

Vendor Smoke-Tree-Adobe Falls Limited

MICROFILMED

RECEIVED  
CITY CLERK'S OFFICE

1978 SEP 22 AM 11:14

SAN DIEGO, CALIF.

1258-A

# CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

## CERTIFICATION OF UNALLOTTED BALANCE

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 \$ 51,400.00 Environmental Growth Fund 2505  
10,100.00 Fund Park Ordinance Fund 11381

Purpose Acquisition & condemnation of 6.76 acre of Lot 67, Rancho Mission for Adobe Falls Park.

Auditor and Comptroller of  
The City of San Diego, Calif.

Date December 23, 19 76

By \_\_\_\_\_

## 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 moneys 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 \$ 61,500.00

Dated December 23, 19 76

[Signature]  
Auditor and Comptroller of  
The City of San Diego, Calif.

BY [Signature]  
Job Order  
Resolution No.  
Project No. 292530

Fund 244 Prog./Elem. 4505 Object 3496

Purpose Same as above

Vendor \_\_\_\_\_

MICROFILMED

NOV 7 1978

222191 CERTIFICATE NO. ... 8279

01259

RECEIVED  
CITY CLERK'S OFFICE  
1978 DEC 14 PM 4:23  
SAN DIEGO, CALIF.

1259-A

Passed and adopted by the Council of The City of San Diego on NOV 7 1978,  
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON  
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

By E. J. Cook, Deputy.

(Seal)

Office of the City Clerk, San Diego, California	
Resolution Number <b>222191</b>	Adopted <b>NOV 7 1978</b>