

RESOLUTION NO. R- 259319

R-84-339

**SEP 26 1983**

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, OPERATION AND REPAIR OF A DRAIN OR DRAINS INCLUDING ANY AND ALL APPURTENANCES THERETO, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS, OVER, UNDER, ALONG AND ACROSS THAT PORTION OF PARCEL "00," LOT 19, OF RANCHO MISSION OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF SAID PROPERTY FOR SAID DRAIN OR DRAINS AND ANY AND ALL APPURTENANCES THERETO; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS; AND DIRECTING THE CITY ATTORNEY OF THE CITY OF SAN DIEGO TO COMMENCE AN ACTION IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN DIEGO, FOR THE PURPOSE OF CONDEMNING AND ACQUIRING SAID PROPERTY 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 of the 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 of the Code of Civil Procedure; NOW, THEREFORE,

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 construction, reconstruction, maintenance, operation and repair of a drain or drains including

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any and all appurtenances thereto, together with the right of ingress and egress, over, under, along and across that portion of Parcel "00," Lot 19 of Rancho Mission of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 2753, filed in the Office of the County Recorder of San Diego County, as more particularly described hereinafter.

Section 2. That the public interest, convenience and necessity of said City, and the inhabitants thereof, demand the acquisition and taking of drainage easements to said property for the construction, operation and maintenance of a drain or drains including all appurtenances thereto, together with the right of ingress and egress, over, under, along and across said real property lying within the City of San Diego, County of San Diego, State of California.

Section 3. That Section 220, of the Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.610 and 1255.410, of the Code of Civil Procedure; Sections 5101(d) and 5102, of the Streets & Highways Code; and Sections 37350.5, 38900, 39040 and 40404, of the Government Code, permit the acquisitions referenced herein.

Section 4. That the parcels of real property and the interests sought to be condemned are described as follows:

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LEGAL DESCRIPTION

PARCEL 2

The permanent easement and right-of-way to construct, reconstruct, maintain, operate and repair a drain or drains including any or all appurtenances thereto, together with the right of ingress and egress, over, under, along and across all that real property described as follows:

All that portion of Parcel "00" of Lot 19 of Rancho Mission of San Diego, in the City of San Diego, according to the Partition Map thereof as shown in Case 12524 of the Superior Court of the State of California in and for the County of San Diego, in an action entitled, "J. W. Sefton versus Viola M. Roach, executrix," on file in the office of the County Clerk of said County, more particularly described as follows:

Commencing at the Southeast corner of Lot 641 of Redwood Village Unit 5, according to Map thereof No. 2753 filed in the Office of the County Recorder of San Diego County; thence North  $19^{\circ}23'52''$  West along the Easterly line of said Lot 641 and 642 of said Map 2753, 69.55 feet to the TRUE POINT OF BEGINNING; thence continuing North  $19^{\circ}23'52''$  West along said Easterly line of Lot 642 and 643 of said Map 2753, a distance of 31.62 feet; thence North  $89^{\circ}02'48''$  East, 52.71 feet to a point on the Easterly line of that land described in deed to Earl S. Russell and Vivian G. Russell, recorded November 28, 1952 in Book 4669, Page 103 of Official Records; thence South  $19^{\circ}23'52''$  East along said Easterly line of land described in deed to Earl S. Russell and Vivian G. Russell, a distance of 31.62 feet; thence South  $89^{\circ}02'48''$  West, a distance of 52.71 feet returning to the TRUE POINT OF BEGINNING.

LEGAL DESCRIPTION

PARCEL 3

The permanent easement and right-of-way to construct, reconstruct, maintain, operate and repair a drain or drains including any or all appurtenances thereto, together with the right of ingress and egress, over, under, along and across all that real property described as follows:

That portion of Parcel "00" of Lot 19 of Rancho Mission of San Diego, in the City of San Diego, County of San Diego, State of California, according to Partition Map of a portion of Sections 26 and 35 and other property in Township 16 South, Range 2 West, San Bernardino Base and Meridian, all lying in said Lot 19, as shown in Case 12524 of Superior Court of San Diego County entitled J. W. Sefton versus Viola M. Roach, executrix, more particularly described as follows:

Commencing at the Southeast corner of Lot 641 of Redwood Village Unit 5, according to Map thereof No. 2753 filed in the office of the County Recorder of San Diego County; thence North  $70^{\circ}36'08''$  East along the Northerly line of Lot 640 of said Redwood Village Unit 5, a distance of 50.00 feet; thence North  $19^{\circ}23'52''$  West, 52.87 feet to the TRUE POINT OF BEGINNING; thence continuing North  $19^{\circ}23'52''$  West, 31.62 feet; thence North  $89^{\circ}02'48''$  East, 113.39 feet; thence South  $18^{\circ}50'20''$  East, 31.52 feet; thence South  $89^{\circ}02'48''$  West, 113.07 feet returning to the TRUE POINT OF BEGINNING.

Section 5. That the taking and acquiring by said City of the easements hereinabove described is deemed necessary for the construction, reconstruction, maintenance, operation and repair of a drain or drains including any and all appurtenances thereto, together with the right of ingress and egress, over, under, along and across said property, by The City of San Diego and the inhabitants thereof, for municipal purposes; that such uses are public uses authorized by law (Section 220, of the Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.610 and 1255.410, of the Code of Civil Procedure; Sections 5101(d) and 5102, of the Streets & Highways Code; and Sections 37350.5, 38900, 39040 and 40404, of the Government Code); that for such public uses it is necessary that The City of San Diego condemn and acquire said easements; that said easements are to be used for the construction, reconstruction, maintenance, operation and repair of a drain or drains including any and all appurtenances thereto, together with the right of ingress and egress, over, under, along and across said property, which are planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 6. The City Council hereby makes the following findings in support of the above-referenced findings contained in Paragraph 5 herein: (a) The proposed project for

which this acquisition is being sought is to complete the drainage improvements of Las Chollas Creek to fully improve the existing drainage facility therein; and (b) the proposed project will prevent flooding to adjacent private properties.

Section 7. 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 owners and claimants to an interest in the above-described real property, for the purpose of condemning and acquiring the drainage easements as above-described, and obtaining immediate possession of said parcels for the use of said City.

APPROVED: JOHN W. WITT, City Attorney

By Thomas W. Byren  
Thomas W. Byren, Deputy

TWB:cc:8/26/83  
Or.Dept.: Property

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Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_,  
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"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour*, Deputy.

Office of the City Clerk, San Diego, California

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Number ..... Adopted **SEP 26 1983**