

(R-91-423)

276547

RESOLUTION NUMBER R-_____

ADOPTED ON SEP 17 1990

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE CONSTRUCTION, OPERATION AND MAINTENANCE OF CARMEL VALLEY RESTORATION AND ENHANCEMENT PROJECT ON PORTIONS OF LOT 1 OF SECTION 30, TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN; AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF FEE TITLE TO SAID PROPERTY FOR THE CARMEL VALLEY RESTORATION AND ENHANCEMENT PROJECT AND THAT THE PROPOSED PROJECT IS PLANNED IN A MANNER THAT WILL BE MOST COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; AND THAT AN OFFER TO ACQUIRE THE PROPERTY AT THE APPRAISED FAIR MARKET VALUE HAS BEEN MADE TO THE OWNERS OF RECORD OF THE PROPERTY AND REJECTED; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS; AND DIRECTING 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 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 California 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 California Code of Civil Procedure;

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, and operation of the Carmel Valley Restoration and Enhancement Project including any and all incidents thereto over, under, along and across portions of Lot 1 of Section 30, Township 14 South, Range 3 West, San Bernardino Meridian, in the County of San Diego, State of California, according to Official Plat thereof 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 fee title to said property for the construction, operation and maintenance of Carmel Valley Restoration and Enhancement Project including any and all incidents thereto, in 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 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:

PARCEL 1:

The Southerly Half of Lot 1 of Section 30, Township 14 South, Range 3 West, San Bernardino Meridian, in the County of San Diego, State of California, according to Official Plat thereof.

PARCEL 2:

The North Half of Lot 1 of Section 30, Township 14 South, Range 3 West, San Bernardino Meridian, in the County of San Diego, State of California, according to Official Plat thereof.

EXCEPTING THEREFROM that portion granted in Deed to Leonard G. Muskin, a married man, and Donald T. Leahy, a married man, recorded February 23, 1984 as File No. 84-064922 of Official Records, described as follows:

All that portion of the North Half of Lot 1 of Section 30, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to United States Government Survey approved May 20, 1884, described as follows:

Beginning at a point on the West line of said Lot 1. Said point bears South $00^{\circ}48'01''$ West 252.22 feet from the Northwest corner thereof; thence leaving said West line, North $56^{\circ}51'19''$ East 222.36 feet to a point on the arc of tangent 1,861-foot radius curve concave Southerly; thence Northeasterly along the arc of said curve through a central angle of $07^{\circ}40'20''$, a distance of 249.20 feet to a point on the North line of said Lot 1; a distance of 398.42 feet to the Northwest corner of said Lot 1; thence South $00^{\circ}48'01''$ West along the West line of said Lot 1, a distance of 252.22 feet to the Point of Beginning.

Also excepting therefrom that portion acquired by the City of San Diego by stipulated judgement, Case No. 506419, recorded April 11, 1986 of Official Records, described as follows:

All that portion of the Northwest Quarter of Section 30, Township 14 South, Range 3 West, San Bernardino Base and Meridian, in the City of San Diego, County of San Diego, State of California, being more particularly described as follows:

Commencing at the Northwest corner of said Section 30; thence South $89^{\circ}04'53''$ East along the Northerly line of said Section, 398.42 feet to the TRUE POINT OF BEGINNING; thence continuing South $89^{\circ}04'53''$ East along said Northerly line of Section 30, 274.85 feet; thence South $64^{\circ}34'37''$ West, 233.88 feet to the beginning of a 1,739.00-foot radius curve concave Southeasterly; thence Southwesterly along the arc of said curve through a central angle of $08^{\circ}03'18''$, a distance of 244.48 feet; thence tangent to said curve, South $56^{\circ}31'19''$ West, 305.51 feet to a point on the Westerly line of said Section 30; thence North $00^{\circ}48'01''$ East along said Westerly line of Section 30, 147.64 feet; thence North $56^{\circ}31'19''$ East, 22.36 feet to a point on the arc of a 1,861.00-foot radius curve concave Southeasterly; thence Northeasterly along the arc

of said curve through a central angle of $07^{\circ}40'20''$, a distance of 249.20 feet returning to the TRUE POINT OF BEGINNING.

PARCEL 3:

An easement and right-of-way for road purposes to be used in common with the Grantor and others, over the Westerly 60.00 feet of the Southeast Quarter of the Southwest Quarter of Section 19 and the Westerly 30 feet of the North Half of the Northeast Quarter of the Northwest Quarter of Section 30, all in Township 14 South, Range 3 West, San Bernadino Meridian, in the County of San Diego, State of California, according to United States Government Survey thereof.

Excepting that portion thereof lying Northelry of the centerline of said County Road Survey No. 758.

Job 520795-6/BLM/st(109-1)

Section 5. That the taking and acquiring by said City of the fee title hereinabove described is deemed necessary for the construction, reconstruction, maintenance, and operation of the Carmel Valley Restoration and Enhancement Project, including any and all incidents thereto in 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 and 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 the subject property; that said subject property is to be used for the construction, reconstruction, maintenance, and operation of the Carmel Valley Restoration Enhancement Project, which is planned and located in a manner most compatible with the greatest public good and the least private injury.

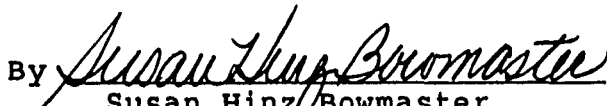
Section 6. The City Council hereby makes the following findings in support of the above-referenced findings contained in Paragraph 5 herein: The proposed project for which this acquisition is being sought is to complete the Carmel Valley Restoration and Enhancement Project which will (a) provide 100-year flood protection for Carmel Valley west of Carmel Country Road, (b) reduce sediment transport to Los Penasquitos Lagoon and

(c) create an enhanced riparian floodway/wildlife habitat area.

Section 7. That an offer to acquire the property at the appraised fair market value has been made to the owners of record of the property and rejected.

Section 8. 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 fee title to the property as above-described, and obtaining immediate possession of said parcels for the use of the City of San Diego.

APPROVED: John W. Witt, City Attorney

By 
Susan Hinz Bowmaster
Deputy City Attorney

SHB:dr:Lit.
08/31/90
Or.Dept:Prop.
Aud.Cert:9100201
R-91-423
Form=r.title

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE AC 9100201

ORIGINATING DEPT. NO.: 070

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 \$ 3,500,000.00 Fund 30244

Purpose Authorizing the expenditure of funds for Carmel Valley Restoration Enhancement Plan (CVREP).

Date August 30, 1990

By: *Amy Kolenbeck*
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
1			30244	107	4279	523560				\$3,500,000.00
TOTAL AMOUNT										\$3,500,000.00

FUND OVERRIDE

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 \$ _____

Vendor _____

Purpose _____

Date _____, 19____

By: _____
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

R-276547

SEP 17 1990

#205

Passed and adopted by the Council of The City of San Diego on **SEP 17 1990**,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

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

By *Linda Luzan*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number **R-276547** Adopted **SEP 17 1990**