

(R-91-1198)

RESOLUTION NUMBER R- 277386

ADOPTED ON FEB 19 1991

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF PORTIONS OF LAND KNOWN AS LOTS 25, 26, 27, 28 AND 29, IN BLOCK 48 OF MANNASSE AND SCHILLERS ADDITION, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP NO. 209 FOR THE PURPOSE OF REPLACING, MODERNIZING, RECONSTRUCTING, OPERATING AND MAINTAINING SEWER PUMP STATION NO. 5; AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE ACQUISITION OF FEE TITLE TO SAID PROPERTY FOR THE PURPOSE OF REPLACING, MODERNIZING, RECONSTRUCTING, OPERATING AND MAINTAINING SEWER PUMP STATION NO. 5; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY UNDER EMINENT DOMAIN PROCEEDINGS; AND DECLARING THAT AN OFFER TO PURCHASE THE PROPERTY PURSUANT TO GOVERNMENT CODE SECTION 7267.2 HAS BEEN MADE TO THE RECORD OWNER; 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, 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, 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 acquisition of portions of real property known as Lots 25, 26, 27, 28 and 29, in Block 48 of Mannasse and Schillers Addition, in the City of San Diego, County of San Diego, State of California, according to Map No. 209 filed in the Office of the County Recorder of said County of San Diego.

Section 2. That the public interest, convenience and necessity of said City of San Diego, and the inhabitants thereof, demand the acquisition and taking of fee title to such property for the reconstruction, operation and maintenance of a public sewer or sewers and all incidents and appurtenances thereof, to transport and facilitate the disposal of San Diego sewage flows in portions of property in the downtown area of the City of San Diego, County of San Diego, State of California, as more particularly described hereinafter.

Section 3. That section 220, the Charter of the City of San Diego; sections 1240.010, 1240.110, 1255.410, 1240.120, 1240.610 and 1240.650, Code of Civil Procedure; sections 37350.5, 38900, 39040 and 40404, 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:

Those portions of Lots 27, 28 and 29 in Block 48 of MANNASSE AND SCHILLERS ADDITION, in the City of San Diego, County of San Diego, soc, according to Map thereof No. 209 filed in the Office of the County Recorder of San Diego County, described as follows:

BEGINNING at the most Easterly corner of said Block 48; thence South $39^{\circ} 19' 08''$ West along the Southeasterly line of said Block 48, 1.54 feet to a point on the Southwesterly line of Colton Avenue widened to 100.0 feet as described in Parcel 3 of deed to the City of San Diego recorded December 4, 1941 as Document No. 74693 of Official Records; thence along said Southwesterly line North $52^{\circ} 06' 10''$ West 60.02 feet to the most Northerly corner of the sewer pumping plant easement described in Parcel 4 of deed to the City of San Diego recorded December 4, 1941, as Document No. 74694 of Official Records, being the TRUE POINT OF BEGINNING; thence continuing North $52^{\circ} 06' 10''$ West 65.00 feet to the Northwesterly line of said Lot 29; thence along said Northwesterly line South $39^{\circ} 19' 08''$ West 40.00 feet; thence South $52^{\circ} 06' 10''$ East 65.00 feet to the most Westerly corner of said sewer pumping plant; thence along the Northwesterly line thereof North $39^{\circ} 19' 08''$ East 40.00 feet to the TRUE POINT OF BEGINNING.

PARCEL 2:

Those portions of Lots 25, 26 and 27 in Block 48 of MANNASSE AND SCHILLERS ADDITION, in the City of San Diego, County of San Diego, soc, according to Map thereof No. 209 filed in the Office of the County Recorder of San Diego County, described as follows:

BEGINNING at the most Easterly corner of Block 48 of said MANNASSE AND SCHILLERS SUBDIVISION; thence South $39^{\circ} 19' 08''$ West along the Northwesterly line of vacated Beardsley Street 1.54 feet to the most Northerly corner of Parcel No. 3, described in document recorded December 4, 1941 in Book 1285, Page 78 of Official Records, to the TRUE POINT OF BEGINNING for this description; thence continuing South $39^{\circ} 19' 08''$ West along said Northwesterly line which is also the Northwesterly line of said Parcel 3, a distance of 41.72 feet; thence North $50^{\circ} 39' 22''$ West 60.0 feet; thence North $39^{\circ} 19' 08''$ East 40.0 feet to a point in the proposed Southwesterly line of Colton Avenue, 100.0 feet in width; thence along last mentioned line South $52^{\circ} 06' 10''$ East 60.02 feet to the TRUE POINT OF BEGINNING.

Section 5. That the taking and acquiring by said City of the real property, fee title herein described is deemed necessary for the reconstruction, operation and maintenance of a public sewer or sewers and all incidents and appurtenances thereto for sewer facilities to handle sewage flows in the downtown area in the City of San Diego for the inhabitants thereof, for municipal purposes; and that such uses are public uses authorized by law (section 220, Charter of The City of San Diego; sections 1240.010, 1240.110, 1240.120 and 1255.410, Code of Civil Procedure; sections 37350.5, 38900, 39040 and 40404, Government Code); that for such public use, it is necessary that the City of San Diego condemn and acquire said property, fee title. That said real property in fee title is to be used for the reconstruction, operation and maintenance of a public sewer or sewers and all incidents and appurtenances thereto, for the Sewer Pump Station #5 project which is planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 6. That the offer required by section 7267.2 of the Government Code, at the appraised fair market value, has been made to the owners of record of the property and thereafter rejected by operation of law.

Section 7. That, as to any portion of the property currently appropriated for a public use, the use to which the property is sought to be taken is of more necessary public use. Such use is authorized by law (sections 1240.610 and 1240.650, Code of Civil Procedure).

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 the fee interests as above-described and obtaining immediate possession of said parcels for the use of said City.

APPROVED: John W. Witt, City Attorney

By 
Deborah A. Hollingsworth
Deputy City Attorney

DAH:eh:Lit.
01/18/91
Or.Dept:Prop.
R-91-1198
Form=r.title

A/C 9000683

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE AC 9000683

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 \$ 60,000.00 Fund _____

Purpose Authorizing the expenditure of funds for the acquisition of land for sewer - pump station no. 5

Date February 1, 1990

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

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
1			700	203	4638	171129				\$ 60,000.00
TOTAL AMOUNT										\$ 60,000.00

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

JAN 23 REC'D
SRB

#205

FEB 19 1991

Passed and adopted by the Council of The City of San Diego on.....
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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. ABDELMOUR

City Clerk of The City of San Diego, California.

By  Deputy.

Office of the City Clerk, San Diego, California

Resolution **R-277386**
Number Adopted **FEB 19 1991**.....

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U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION