

(R-91-1698)

RESOLUTION NUMBER R- 277775

ADOPTED ON APR 23 1991

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF AN APPROXIMATE 0.898 ACRE VACANT PARCEL OF LAND WHICH IS PART OF AN APPROXIMATE 5.36 ACRE PROPERTY KNOWN AS A PORTION OF PARCEL 2, STATE BOARD OF EQUALIZATION 141-37-46D LOCATED 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 FEE INTEREST SUBJECT TO EASEMENTS TO SAID PROPERTY TO PROVIDE ADDITIONAL ACCESS, A PARKING LOT AND LANDSCAPING FOR THE EXPANSION OF THE EAST CLAIREMONT ATHLETIC AREA, A NEIGHBORHOOD PARK PROJECT; THAT SAID PROPERTY IS DEEMED NECESSARY FOR THE EAST CLAIREMONT ATHLETIC AREA 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 OF SAID PROPERTY AND THE OFFER REJECTED; 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 an approximate 0.898 acre vacant parcel of land which is part of an approximate 5.36 acre property known as a portion of Parcel 2, State Board of Equalization 141-37-46D, as more particularly described hereinafter, and that the City Council has found and determined the foregoing.

Section 2. That the public interest, convenience and necessity of said City, and the inhabitants thereof, demand the acquisition and taking of fee simple absolute interest subject to a 100% overhead electric easement, a ten-foot wide sewer line easement, and a 30-foot wide gas line easement to said property to provide additional access, a parking lot and landscaping for the expansion of the East Clairemont Athletic Area, a neighborhood park project.

Section 3. That Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.680, and 1255.410, Code of Civil Procedure; Park and Playground Act of 1909 (Government Code Section 38000, et seq.); Sections 6950-6954, 37350.5, 38002, 38010, 38304, 39732 and 40401(b),

Government Code; Sections 5301, 5302 and 5303, Public Resources Code; and Sections 61.0601, et seq., and 61.2000, et seq., San Diego Municipal Code, permit the acquisitions referenced herein.

Section 4. That the parcel of real property sought to be condemned is located within the City of San Diego, County of San Diego, State of California, and is more particularly described as follows:

That portion of Pueblo Lot 1205 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870, a copy of which said Map was filed in the Office of the County Recorder of San Diego County and is known as Miscellaneous Map No. 36, as described in deed to San Diego Gas and Electric Company recorded November 28, 1956, Document No. 165852, Book 6354, Page 342, O.R. in the Office of the County Recorder of San Diego County, and further described as follows:

Beginning at a point on the westerly line of Pueblo Lot 1205, said point being the intersection of the westerly line of Pueblo Lot 1205 and the easterly right of way line of Mt. Acadia Boulevard as shown on Clairemont Park Unit No. 2, Map No. 3698; thence along the easterly right of way line of Mt. Acadia Boulevard North  $17^{\circ}41'39''$  East, 0.15 feet to the TRUE POINT OF BEGINNING; thence continuing along the easterly right of way line of Mt. Acadia Boulevard North  $17^{\circ}41'39''$  East, 498.21 feet to a point of intersection with the easterly line of said property granted to San Diego Gas and Electric Company in deed recorded November 28, 1956, Document No 165852, Book 6354 Page 342, O.R. in the Office of the County Recorder of San Diego County; thence along said easterly line of said San Diego Gas and Electric Company property South  $0^{\circ}10'38''$  West, 521.85 feet; thence North


72°30'43" West, 157.07 feet to the TRUE POINT  
OF BEGINNING.

Section 5. That the taking and acquiring by said City of the real property hereinabove described is deemed necessary for the expansion of the East Clairemont Athletic Area, a neighborhood park project, for municipal purposes; that such use is a public use authorized by law (Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.680, and 1255.410, Code of Civil Procedure; Park and Playground Act of 1909 (Government Code Section 38000, et seq.); Sections 6950-6954, 37350.5, 38002, 38010, 38304, 39732 and 40401(b), Government Code; Sections 5301, 5302 and 5303, Public Resources Code; and Sections 61.0601, et seq., and 61.2000, et seq., San Diego Municipal Code); that for such public use, it is necessary that The City of San Diego condemn and acquire said real property; that said real property is to be used for additional access, a parking lot and landscaping for the expansion of the East Clairemont Athletic Area, a neighborhood park project, which is planned and located in a manner most compatible with the greatest public good and the least private injury, and that the City Council has so found and determined all of the foregoing.

Section 6. That the offer required by Section 7267.2 of the Government Code has been made to the owners of record.

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 fee interest subject to easements as above-described and obtaining immediate possession of said parcel for the use of said City.

APPROVED: John W. Witt, City Attorney

By   
Linda Bartz Kinsey  
Deputy City Attorney

LBK:wk:hk:Lit.  
04/03/91  
Or.Dept:Property  
R-91-1698  
Form=r.opnspc

The City of San Diego  
**CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

CERTIFICATE OF UNALLOTTED BALANCE AC 9100765

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 \$ 70,000.00 Fund 11430/79521

Purpose Authorizing the expenditure of funds for condemnation proceedings for East Clairemont Athletic Area.

Date March 28, 19 91

By: *Diane Sheehan*  
AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
1	0	30244	30244	105	4279	296880				\$70,000.00
TOTAL AMOUNT										\$70,000.00

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-277775

APR 23 1991

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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 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"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number *R-277775* Adopted *APR 23 1991*