

(R-92-688)

RESOLUTION NUMBER R- 278958

ADOPTED ON NOV 12 1991

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 THE NORTH MISSION VALLEY INTERCEPTOR SEWER, A PUBLIC SEWER OR SEWERS AND ALL INCIDENTS AND APPURTENANCES THERETO TO PROVIDE ADDITIONAL SEWER CAPACITY FOR EAST CITY AND EAST COUNTY COMMUNITIES; THAT SAID PUBLIC SEWER OR SEWERS WILL NECESSARILY REQUIRE THE ACQUISITION OF A PERMANENT SEWER EASEMENT AND TEMPORARY RIGHT OF ENTRY WORK EASEMENT OVER, UNDER, ALONG AND ACROSS PORTIONS OF REAL PROPERTY LOCATED IN LOT 44 OF RANCHO MISSION, ALL IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND SAID ACQUISITIONS; 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 DECLARING THAT AN OFFER TO PURCHASE SAID PROPERTY, PURSUANT TO GOVERNMENT CODE SECTION 7267.2, AT THE APPRAISED FAIR MARKET VALUE HAS BEEN MADE TO THE OWNER OF RECORD OF THE PROPERTY, 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, 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 construction, operation and maintenance of The North Mission Valley Interceptor Sewer, a public sewer or sewers and all incidents and appurtenances thereto, to serve and maintain the sewer flow capacity needs for the east city and east county communities, in portions of property located in Lot 44 of Rancho Mission in the Mission Valley area, all in the City of San Diego, County of San Diego, State of California, 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 a permanent sewer easement and a temporary right of entry work easement in said property for the construction, operation and maintenance of a public sewer or sewers and incidents and appurtenances thereto, together with the right of ingress and egress over, under, along and across portions of said real property lying within the City of San Diego, County of San Diego, State of California.

Section 3. That Section 220, the Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120 and 1255.410, Code of Civil Procedure; and 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:

North Mission Valley Interceptor Sewer

LEGAL DESCRIPTIONS

PARCEL NO. 1 (Atomic Investments, Inc.)  
PERMANENT SEWER EASEMENT

The permanent easement and right-of-way to construct, reconstruct, maintain, operate and repair a public sewer or sewers including any or all appurtenances thereto, together with the right of ingress and egress, over, under, along and across all that real property situated in the County of San Diego, State of California, described as follows:

A 35-foot easement for sewer line purposes over and across a portion of Lot 44 of Rancho Mission of San Diego, County of San Diego, State of California, according to partition map thereof on file in the Office of the County Clerk of said San Diego County in the action of Juan M. Luco, et al., vs. the Commercial Bank of San Diego, et al., Case 348 of the Superior Court of San Diego County; being more particularly described as follows:

The Point of Commencement is a 3/4-inch iron pipe with a disc marked RCE 14778 East of Ward Road per Parcel Map 429, thence North 83°01'34" West 285.42 feet; thence South 01°01'41" West 211.00 feet; thence South 78°18'21" West, 54.69 feet; thence South 00°29'25" West 25.01 feet; thence North 88°58'23" West 26.89 feet to a point on the Westerly right-of-way of said Ward Road; thence along said right-of-way North 01°01'41" East 103.55 feet to the TRUE POINT OF BEGINNING; said point being a point on the arc of a 410-foot radius curve concave Northerly; thence leaving said right-of-way along the arc of said curve through a central angle of 02°39'29" a distance of 19.02 feet; thence North 74°56'38" West, 534.79 feet; thence North 46°29'44" West, 32.19 feet to a point on the South right-of-way line of Rancho Mission Road; thence along said right-of-way South 87°39'49" East, 89.31 feet; thence leaving said right-of-way South 74°56'38" East, 475.99 feet to the beginning of

a tangent 375.00-foot radius curve concave Northerly; thence Southeasterly along the arc of said curve through a central angle of 01° 34'50" a distance of 10.34 feet; thence South 01°01'41" West, 35.77 feet to the Point of Beginning.

Contains 19,149 square feet.

Reserving unto the Grantors herein, their heirs and assigns the continued use of the above-described parcel of land subject to the following conditions:

The erecting of buildings, masonry walls, masonry fences and other structures; the planting or growing of trees; the changing of the surface grade; and the installation of privately owned pipelines shall be prohibited except by written permission from The City of San Diego.

PARCEL NO. 2  
TEMPORARY RIGHT OF ENTRY (Atomic Investments, Inc.)  
WORK EASEMENT

Together with a temporary construction easement for the right, during construction of said sewer or sewers to use for purposes incidental to said construction, the land adjacent to the within-granted right-of-way, described as follows:

A Temporary Working Strip 30 feet in width, south of and parallel to the aforementioned 35 foot sewer easement.

Contains 15,895 square feet.

The temporary easement shall cease to exist upon notice of completion of the construction of said sewer or sewers.

Section 5. That the taking and acquiring by said City of the permanent sewer easement, and temporary right of entry work easement hereinabove described is deemed necessary for the construction, operation and maintenance of a public sewer or sewers and all incidents and appurtenances thereto to serve and maintain the sewer flow capacity needs for the east city and east county communities 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; and 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 permanent sewer easement and temporary right of entry work easement; that said real property is to be used for the construction, operation and maintenance of a public sewer or sewers and all incidents and appurtenances thereto, for the North Mission Valley Interceptor Sewer Project, which is planned and located in a manner most compatible with the greatest public good and the least private injury.

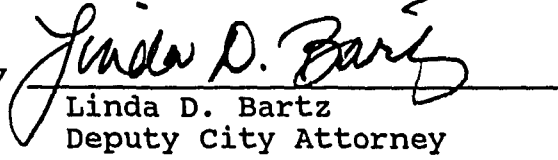
Section 6. That an offer to acquire the property, pursuant to Government Code Section 7267.2, at the appraised fair market value has been made to the owners of record of the property and thereafter rejected by operation of law.

Section 7. That 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 any interest in the above-described real property, for the purpose of condemning and acquiring the property and easements as above

described and obtaining immediate possession of said parcels for  
the use of said City.

APPROVED: John W. Witt, City Attorney

By

  
Linda D. Bartz  
Deputy City Attorney

LDB:sdv:Lit.  
10/23/91  
Or.Dept:Prop.  
R-92-688  
Form:r.stimprov

#204 (N)  
(a-b)

NOV 12 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 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 *Raymond L. Pellicano*, Deputy.

Office of the City Clerk, San Diego, California

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