

(R-92-2139)

RESOLUTION NUMBER R- 280459

ADOPTED ON AUG 03 1992

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 PERMANENT SEWER AND DRAINAGE FACILITIES TOGETHER WITH A TEMPORARY GRADING EASEMENT OVER, UNDER, UPON, ALONG AND ACROSS A PORTION OF PUEBLO LOT 1307 OF THE PUEBLO LANDS 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 EASEMENTS IN SAID PROPERTY FOR SEWER, DRAINAGE AND GRADING, AND INCIDENTS THERETO, 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 DECLARING THAT AN OFFER TO PURCHASE THE 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 REJECTED; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID EASEMENTS 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 EASEMENTS 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; and

WHEREAS, the City of San Diego desires to acquire the property hereinafter described for the construction, reconstruction, operation, maintenance and repair of permanent public sewer and drainage facilities, together with a temporary grading easement, and all incidents and appurtenances thereto, in a portion of Pueblo Lot 1307 of the Pueblo Lands of San Diego, all in the City of San Diego, County of San Diego, State of California as more particularly described hereinafter; and

WHEREAS, the City of San Diego has the power of eminent domain pursuant to, inter alia, Sections 1240.010, 1240.110, 1240.120, and 1255.410 of the California Code of Civil Procedure; Section 220, The Charter of the City of San Diego; Sections 37350.5 and 40404 of the Government Code and Section 624 of the Public Utilities Code.

WHEREAS, it is in the public interest and necessity to acquire the subject real property as hereinafter described for the purpose of the construction, reconstruction, operation, maintenance and repair of permanent public sewer and drainage facilities, together with a temporary grading easement, and all incidents and appurtenances thereto, together with the right of ingress and egress through, over, under, upon, along, and across, portions of Pueblo Lot 1307 of the Pueblo Lands of San Diego; said real property lying within the City of San Diego, County of San Diego, State of California;

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, operation, maintenance and repair, of permanent public sewer and drainage facilities, together with a temporary grading easement, and all incidents and appurtances thereto, through, over, under, upon, along and across portions of Pueblo Lot 1307 of the Pueblo Lands of San Diego, 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 The City of San Diego, and the inhabitants of the City of San Diego, demand the acquisition and taking of the easements in said property for the construction, reconstruction, operation, maintenance and repair of permanent public sewer and drainage facilities, together with a temporary grading easement, and all incidents and appurtances thereto, together with the right of ingress and egress through, over, under, upon, along, and across portions of Pueblo Lot 1307 of the Pueblo Lands of San Diego; 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 and 40404, Government

Code; and Section 624 of the Public Utilities Code, inter alia, permit the acquisitions referenced herein.

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

LEGAL DESCRIPTION FOR TEMPORARY OFFSITE GRADING EASEMENT

All that portion of Southwest Quarter of the Northeast Quarter of Pueblo Lot 1307, 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 said map was filed in the Office of the County Recorder of San Diego County, November 14, 1921 and is known as Miscellaneous Map No. 36, described as follows:

BEGINNING at the Northeast corner of the Southeast Quarter of the Northwest Quarter of said Pueblo Lot 1307; thence along the North line of said Southwest Quarter of the Northeast Quarter, South 89 DEG 06' 48" East a distance of 52.00 feet; thence leaving said North line, South 53 DEG 17' 26" West a distance of 65.56 feet to the West line of said Southwest Quarter of the Northeast Quarter; thence along said West line, North 00 DEG 48' 45" East a distance of 40.00 feet to the POINT OF BEGINNING.

Contains 0.024 Acres (more or less).

LEGAL DESCRIPTION FOR PERMANENT DRAINAGE AND SEWER EASEMENTS

All that portion of Southwest Quarter of the Northeast Quarter of Pueblo Lot 1307, 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 said map was filed in the Office of the County Recorder of San Diego County, November 14, 1921, and is known as Miscellaneous Map No. 36, described as follows:

DRAINAGE EASEMENT

Beginning at the Northeast corner of the Southeast Quarter of the Northwest Quarter of said Pueblo Lot 1307; thence along the West

line of the Northwest Quarter of the Northeast Quarter of said Pueblo Lot 1307, North 00°48'10" East, a distance of 26.51 feet; thence leaving said West line, South 89°06'48" East, a distance of 24.00 feet; thence South 36°14'42" East, a distance of 33.25 feet to the TRUE POINT OF BEGINNING, said point being on the North line of said Southwest Quarter of the Northeast Quarter; thence along said North line, South 89°06'48" East, a distance of 18.81 feet; thence leaving said North Line, South 36°14'42" East, a distance of 59.52 feet; thence South 53°45'18" West, a distance of 15.00 feet; thence North 36°14'42" West, a distance of 70.88 feet to the TRUE POINT OF BEGINNING.

Reserving unto the fee owner herein, 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 pipe lines shall be prohibited except by written permission from the City of San Diego.

SEWER EASEMENT

Beginning at the Northeast corner of the Southeast Quarter of the Northwest Quarter of said Pueblo Lot 1307; thence along the North line of said Southwest Quarter of the Northeast Quarter, South 89°06'48" East, a distance of 7.50 feet to a point on a line parallel with and 7.50 feet Easterly, measured at right angles, from the West line of said Southwest Quarter of the Northeast Quarter; thence along said parallel line, South 00°48'45" West, a distance of 444.97 feet to the Northerly line of the sewer easement granted to the City of San Diego per deed recorded June 11, 1971 as File/Page No. 123641, Book 1971 of Official Records; thence along said Northerly line, North 61°43'43" West, a distance of 8.45 feet to West line of said Southwest Quarter of the Northeast

Quarter; thence along said West line,
North 00°48'45" East, a distance of
441.08 feet to the Point of Beginning.

Reserving unto the fee owner herein, 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 pipe
lines shall be prohibited except by written
permission from the City of San Diego.

Section 5. That the taking and acquiring of said City of
the real property easements hereinabove described is deemed
necessary for the construction, reconstruction, operation,
maintenance and repair of permanent public sewer and drainage
facilities, together with a temporary grading easement, and all
incidents and appurtenances thereto, by The City of San Diego and
the inhabitants thereof, for municipal purposes; that such uses
are public uses authorized by law (inter alia, 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
and 40404, Government Code and Section 624 of the Public
Utilities Code); that for such public uses, it is necessary that
The City of San Diego condemn and acquire said real property.

Section 6. That said real property easements are to be used
for the construction, reconstruction, operation, maintenance, and
repair, of permanent public sewer and drainage facilities,
together with the temporary grading easement, and all incidents
and appurtenances thereto, which are planned and located in a

manner most compatible with the greatest public good and the least private injury.

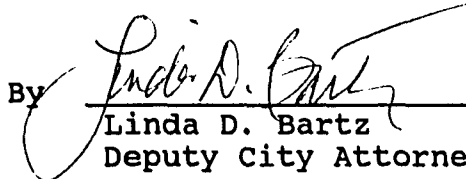
Section 7. The public project for which this acquisition is being sought is required for development of Executive Drive which provides east/west access to the Nexus Technology Park. The required sewer and drainage facilities and grading easements are consistent with the General Plan and the University Community Plan. The sewer and drainage facilities will be constructed on an alignment and grade which is compatible with future street improvements. The sewer easement will support existing, as well as, future development of the immediate area as identified in the 1982 study by Shoulders & Sanford and is needed to construct and maintain the required sewer main, as well as drainage for Executive Drive.

Section 8. That an offer to acquire the property, pursuant to Government Code Section 7257.2, at the appraised fair market value has been made to the owners of record of the property.

Section 9. 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 certain real property as hereinbefore described in easements, for the use of The City of

San Diego and to take immediate possession thereof pursuant to
California Code of Civil Procedure Section 1255.410(c).

APPROVED: JOHN W. WITT, City Attorney

By 
Linda D. Bartz
Deputy City Attorney

ALG:LDB:djr:hk:Lit
07/06/92
Or.Dept:Prop.
Aud.Cert:9200991
R-92-2139
Form=r+t

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE AC 9200991

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 \$ 20,000.00 Fund 63020

Purpose Authorizing expenditure of funds to acquire a sewer, drainage and grading easement as an off-site requirement to TM88-1073.

Date July 10, 1992

By: *Cecilia San Pedro*

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		6320	102	4935	650012				\$20,000.00
TOTAL AMOUNT										\$20,000.00

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 money 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 _____

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

Passed and adopted by the Council of The City of San Diego on AUG 03 1992
 by the following vote:

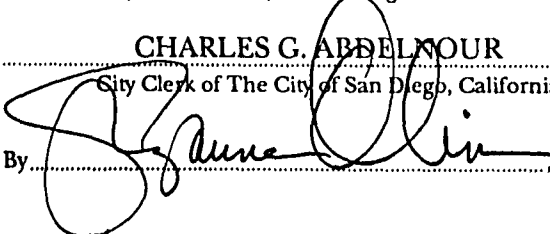
Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<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"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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:

(Seal)

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

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

By , Deputy.

Office of the City Clerk, San Diego, California

Resolution R-280459 Adopted AUG 03 1992
 Number.....

RECEIVED

92 JUL 22 PM 4: 39

UNITED STATES OFFICE
SAN DIEGO, CA