

285414

RESOLUTION NUMBER R-

ADOPTED ON FEB 28 1995

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--PHASE II PROJECT ("NMVIS2"), A PUBLIC SEWER, AND ALL INCIDENTS AND APPURTENANCES THERETO, TO PROVIDE ADDITIONAL SEWER CAPACITY AND RELIEF FOR THE EXISTING LINES, AND TO ENABLE THE CITY TO PROVIDE FOR ULTIMATE SEWAGE CONVEYANCE NEEDS FOR THE NORTHEASTERN COMMUNITIES OF THE CITY OF SAN DIEGO (KEARNY MESA, CLAIREMONT MESA, TIERRASANTA, SAN CARLOS, NAVAJO, LINDA VISTA, COLLEGE AREA AND MISSION VALLEY) AND SEVERAL CITIES IN EASTERN SAN DIEGO COUNTY (SANTEE, EL CAJON, LA MESA AND ALPINE); THAT SAID PUBLIC SEWER WILL NECESSARILY REQUIRE THE ACQUISITION OF PERMANENT SEWER EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS OVER, UNDER, ALONG AND ACROSS PORTIONS OF REAL PROPERTY LOCATED IN PUEBLO LOTS 1103, 1104 AND 1105, ALL IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, AND THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY DEMAND THE 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 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 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; NOW, THEREFORE,

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 NMVIS2 project, a public sewer, and all incidents and appurtenances thereto, to serve and maintain the sewer flow and capacity relief for the existing lines, and to enable the City to provide for ultimate sewage conveyance needs for the inhabitants of the Northeastern Communities of the City of San Diego and several cities in eastern San Diego County; that said sewer system will require the acquisition of Pueblo Lots 1103, 1104 and 1105, 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 permanent sewer easements and temporary construction easements in said property for the construction, operation and maintenance of the subject public sewer, 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 Sections 1 and 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 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:

EXHIBIT "A"

SEWER EASEMENT

Parcel #3

Portion of the Un-Numbered Lot and the 5 acre Lot 1 of Riener's Subdivision of Pueblo Lot 1103, in the City of San Diego, County of San Diego, State of California, according to map thereof recorded January 28, 1858 in Book 1, Page 184 of deeds, in the office of the County Recorder of said county lying 10 feet Northerly and 15 feet Southerly of the following described line;

Beginning at the Northwest corner of the said Un-Numbered Lot of said Riener's Subdivision, (Said point having a 1-1/2 inch iron pipe with an unreadable disc accepted as set per Record of Survey 1235); thence along the Westerly line of said Un-Numbered Lot South 14 degrees 45 minutes 01 seconds East (South 15 degrees 12 minutes 00 seconds East per R.O.S. 1235) 28.26 feet to the Northwest corner of property deeded to Purvis L. and Deva S. Martin, trustee under agreement dated September 20, 1982, recorded January 14, 1983 as file No. 83-014593 of Official Records also being the Northwest corner of the Southerly 1/2 of the said Un-Numbered lot; thence continuing South 14 degrees 45 minutes 01 seconds East, 22.03 feet, along the Westerly line of said property to the TRUE POINT OF BEGINNING; thence leaving said line on a non-tangent curve concave Southwesterly having a radius of 180.00 feet, to which a radial line bears North 18 degrees 23 minutes 30 seconds East, Southeasterly along said curve through a central angle of 02 degrees 37 minutes 04 seconds an arc distance of 8.22 feet; thence tangent to said curve, South 68 degrees 59 minutes 26 seconds East, 66.46 feet to the beginning of a tangent curve concave Northeasterly having a radius of 180 feet to which a radial line bears South 21 degrees 00 minutes 34 seconds West; thence Southeasterly along said curve through a central angle of 35 degrees 18 minutes 56 seconds an arc distance of 110.95 feet; thence tangent to said curve North 75 degrees 41 minutes 38 seconds East 165.69 feet to the Easterly line of said deed a distance thereof South 14 degrees 42 minutes 32 seconds East, 97.96 feet from the Northeast corner of the said deed.

The boundaries of said easement shall be prolonged or shortened to terminate in the Westerly and Easterly lines of said deed.

Said Easement contains 8,777.15 S.F. or 0.2015 acres more or less.

Prepared under the supervision of:



David L. Putt, LS #5861
HIRSCH & COMPANY
License Expires 12/31/96



EXHIBIT "A" (continued)

TEMPORARY CONSTRUCTION AREA

Parcel #3

Portion of the Un-Numbered Lot and the 5 acre Lot 1 of Riener's Subdivision of Pueblo Lot 1103, in the City of San Diego, County of San Diego, State of California, according to map thereof recorded January 28, 1858 in Book 1, Page 184 of deeds, in the office of the County Recorder of said county lying 35 feet Northerly and 35 feet Southerly of the following described line;

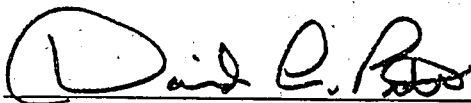
Beginning at the Northwest corner of the said Un-Numbered Lot of said Riener's Subdivision, (Said point having a 1-1/2 inch iron pipe with an unreadable disc accepted as set per Record of Survey 1235); thence along the Westerly line of said Un-Numbered Lot South 14 degrees 45 minutes 01 seconds East (South 15 degrees 12 minutes 00 seconds East per R.O.S. 1235) 28.26 feet to the Northwest corner of property deeded to Purvis L. and Deva S. Martin, trustee under agreement dated September 20, 1982, recorded January 14, 1983 as file No. 83-014593 of Official Records also being the Northwest corner of the Southerly 1/2 of the said Un-Numbered lot; thence continuing South 14 degrees 45 minutes 01 seconds East, 22.03 feet, along the Westerly line of said property to the TRUE POINT OF BEGINNING; thence leaving said line on a non-tangent curve concave Southwesterly having a radius of 180.00 feet, to which a radial line bears North 18 degrees 23 minutes 30 seconds East, Southeasterly along said curve through a central angle of 02 degrees 37 minutes 04 seconds an arc distance of 8.22 feet; thence tangent to said curve, South 68 degrees 59 minutes 26 seconds East, 66.46 feet to the beginning of a tangent curve concave Northeasterly having a radius of 180 feet to which a radial line bears South 21 degrees 00 minutes 34 seconds West; thence Southeasterly along said curve through a central angle of 35 degrees 18 minutes 56 seconds an arc distance of 110.95 feet; thence tangent to said curve North 75 degrees 41 minutes 38 seconds East 165.69 feet to the Easterly line of said deed a distance thereof South 14 degrees 42 minutes 32 seconds East, 97.96 feet from the Northeast corner of the said deed.

The boundaries of said easement shall be prolonged or shortened to terminate in the Westerly and Easterly lines of said deed.

Excepting that permanent sewer easement lying 10 feet Northerly and 15 feet Southerly of the afore described line. Said sewer easement contains 8,777.15 S.F. or 0.2015 acres more or less.

Said temporary construction area contains 15,504.96 S.F. or 0.1544 acres more or less.

Prepared under the supervision of:



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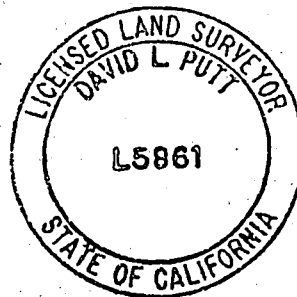


EXHIBIT "A"

SEWER EASEMENT

Parcel #5

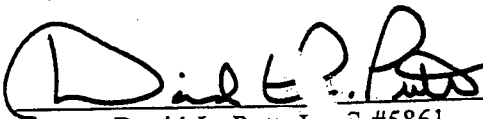
Portion of the 5 acre Lot 5 and 5 acre Lot 6 of Riener's Subdivision of Pueblo Lot 1103, in the City of San Diego, County of San Diego, State of California, according to map thereof recorded January 28, 1858 in book 1, page 184 of deeds, in the Office of the County Recorder of said county, lying 10 feet Northerly and 15 feet Southerly of the following described line;

Beginning at the Northwest corner of the property conveyed to Richard C. Levi, Trustee of the Levi Family Trust, dated December 14, 1989 by deed recorded January 23, 1990 as File No. 90-039158 of Official Records, also being the Northwest corner of said 5 acre Lot; thence along the Westerly line thereof, South 14 degrees 44 minutes 43 seconds East (South 15 degrees 17 minutes 17 seconds East per Map 5344) 63.91 feet to the TRUE POINT OF BEGINNING; thence leaving said Westerly line, North 72 degrees 59 minutes 42 seconds East, 439.44 feet to the Easterly line of said deed, also being the boundary of Parcel "A" of Ohmer Subdivision Map No. 5344 as filed in the Office of the County Recorder February 14, 1964. A distance thereof South 14 degrees 44 minutes 43 seconds East (South 15 degrees 17 minutes 17 seconds East per Map 5344) 42.82 feet from the Northeast corner of the said deed.

The boundaries of said Parcel 5 shall be prolonged or shortened to terminate in the said Westerly and the said Easterly line of said deed.

Said easement contains 10,985.92 S.F. or 0.2522 acres more or less.

Prepared under the supervision of:



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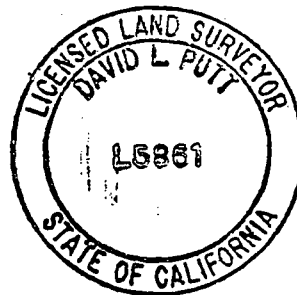


EXHIBIT "A"

TEMPORARY CONSTRUCTION AREA

Parcel #5

Portion of the 5 acre Lot 5 and 5 acre Lot 6 of Riener's Subdivision of Pueblo Lot 1103, in the City of San Diego, County of San Diego, State of California, according to map thereof recorded January 28, 1858 in book 1, page 184 of deeds, in the Office of the County Recorder of said county, lying 35 feet Northerly and 35 feet Southerly of the following described line;

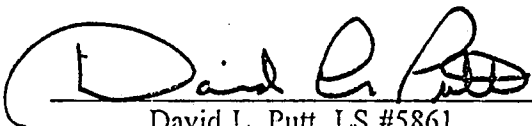
Beginning at the Northwest corner of the property conveyed to Richard C. Levi, Trustee of the Levi Family Trust, dated December 14, 1989 by deed recorded January 23, 1990 as File No. 90-039158 of Official Records, also being the Northwest corner of said 5 acre Lot; **thence** along the Westerly line thereof, South 14 degrees 44 minutes 43 seconds East (South 15 degrees 17 minutes 17 seconds East per Map 5344) 63.91 feet to the TRUE POINT OF BEGINNING; **thence** leaving said Westerly line, North 72 degrees 59 minutes 42 seconds East, 439.44 feet to the Easterly line of said deed, also being the boundary of Parcel "A" of Ohmer Subdivision Map No. 5344 as filed in the Office of the County Recorder February 14, 1964. A distance thereof South 14 degrees 44 minutes 43 seconds East (South 15 degrees 17 minutes 17 seconds East per Map 5344) 42.82 feet from the Northeast corner of the said deed.

The boundaries of said Parcel 5 shall be prolonged or shortened to terminate in the said Westerly and the said Easterly line of said deed.

Excepting that permanent sewer easement lying 10 feet Northerly and 15 feet Southerly of the afore described line. Said sewer easement contains 10,985.92 S.F. or 0.2522 acres more or less.

Said temporary construction area contains 19,774.65 S.F. or 0.2018 acres more or less.

Prepared under the supervision of:



David L. Putt, LS #5861
HIRSCH & COMPANY
License Expires 12/31/96



EXHIBIT "A"

SEWER EASEMENT

Parcel #8

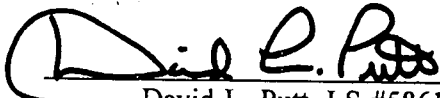
Portion of Pueblo Lots 1104 and 1105, in the City of San Diego, County of San Diego, State of California, as shown on Miscellaneous Map No. 36 filed in the office of the County Recorder of said county on November 14, 1921, lying 10 feet Northerly and 15 feet Southerly of the following described line;

Beginning at the Northeast corner of the property conveyed to Metropolitan Transit Development Board, per deed recorded November 04, 1993 as File No. 1993-0740730 of Official Records, also being the Northeast corner of the un-numbered lot of Riener's Subdivision recorded January 28, 1858 in Book 1, Page 184 of Deeds, as shown in Record of Survey No. 1235 filed in the Office of the County Recorder of said county, also being a point on the Westerly line of Pueblo Lot 1104; thence along the said Westerly line of Pueblo Lot 1104, South 14 degrees 46 minutes 15 seconds East (South 15 degrees 12 minutes East per Record of Survey 1235) a distance of 57.68 feet to the TRUE POINT OF BEGINNING; thence leaving said Westerly line North 72 degrees 59 minutes 42 seconds East 110.77 feet to the beginning of a tangent curve concave Southeasterly having a radius of 1265.00 feet to which a radial line bears North 17 degrees 00 minutes 18 seconds West; thence Northeasterly along the arc of said curve through a central angle of 17 degrees 50 minutes 55 seconds a distance of 394.07 feet; thence tangent to said curve South 89 degrees 09 minutes 23 seconds East, 198.55 feet to the beginning of a tangent curve concave Northerly having a radius of 2535.00 feet to which a radial line bears South 00 degrees 50 minutes 37 seconds West; thence Northeasterly along the arc of said curve through a central angle of 22 degrees 41 minutes 04 seconds a distance of 1003.65 feet; thence tangent to said curve North 68 degrees 09 minutes 33 seconds East, 556.39 feet to the beginning of a tangent curve concave Southerly having a radius of 765.00 feet to which a radial line bears North 21 degrees 50 minutes 27 seconds West; thence Easterly along the arc of said curve through a central angle of 35 degrees 56 minutes 47 seconds a distance of 479.95 feet; thence tangent to said curve, South 75 degrees 53 minutes 40 seconds East 764.65 feet to the beginning of a tangent curve concave Northerly having a radius of 270.00 feet to which a radial line bears South 14 degrees 06 minutes 20 seconds West; thence Easterly along the arc of said curve through a central angle of 31 degrees 04 minutes 52 seconds a distance of 146.47 feet; thence tangent to said curve, North 73 degrees 01 minutes 28 seconds East 9.20 feet to the Westerly Right of Way line of Fashion Valley Road, dedicated on Map No. 6170.

The boundaries of said easement shall be prolonged or shortened to terminate in the said West line of Pueblo Lot 1104 of said Westerly Right of Way line of said Fashion Valley Road.

Said easement contains 91,593.01 square feet, or 2.1027 acres, more or less.

Prepared under the supervision of:


David L. Putt, LS #5861
HIRSCH & COMPANY
License Expires 12/31/96



R-285414

EXHIBIT "A"

TEMPORARY CONSTRUCTION AREA

Parcel #8

Portion of Pueblo Lots 1104 and 1105, in the City of San Diego, County of San Diego, State of California, as shown on Miscellaneous Map No. 36 filed in the office of the County Recorder of said county on November 14, 1921, lying 35 feet Northerly and 35 feet Southerly of the following described line;

Beginning at the Northeast corner of the property conveyed to Metropolitan Transit Development Board, per deed recorded November 04, 1993 as File No. 1993-0740730 of Official Records, also being the Northeast corner of the un-numbered lot of Riener's Subdivision recorded January 28, 1858 in Book 1, Page 184 of Deeds, as shown in Record of Survey No. 1235 filed in the Office of the County Recorder of said county, also being a point on the Westerly line of Pueblo Lot 1104; **thence** along the said Westerly line of Pueblo Lot 1104, South 14 degrees 46 minutes 15 seconds East (South 15 degrees 12 minutes East per Record of Survey 1235) a distance of 57.68 feet to the TRUE POINT OF BEGINNING; **thence** leaving said Westerly line North 72 degrees 59 minutes 42 seconds East 110.77 feet to the beginning of a tangent curve concave Southeasterly having a radius of 1265.00 feet to which a radial line bears North 17 degrees 00 minutes 18 seconds West; **thence** Northeasterly along the arc of said curve through a central angle of 17 degrees 50 minutes 55 seconds a distance of 394.07 feet; **thence** tangent to said curve South 89 degrees 09 minutes 23 seconds East, 198.55 feet to the beginning of a tangent curve concave Northerly having a radius of 2535.00 feet to which a radial line bears South 00 degrees 50 minutes 37 seconds West; **thence** Northeasterly along the arc of said curve through a central angle of 22 degrees 41 minutes 04 seconds a distance of 1003.65 feet; **thence** tangent to said curve North 68 degrees 09 minutes 33 seconds East, 556.39 feet to the beginning of a tangent curve concave Southerly having a radius of 765.00 feet to which a radial line bears North 21 degrees 50 minutes 27 seconds West; **thence** Easterly along the arc of said curve through a central angle or 35 degrees 56 minutes 47 seconds a distance of 479.95 feet; **thence** tangent to said curve, South 75 degrees 53 minutes 40 seconds East 764.65 feet to the beginning of a tangent curve concave Northerly having a radius of 270.00 feet to which a radial line bears South 14 degrees 06 minutes 20 seconds West; **thence** Easterly along the arc of said curve through a central angle of 31 degrees 04 minutes 52 seconds a distance of 146.47 feet; **thence** tangent to said curve, North 73 degrees 01 minutes 28 seconds East 9.20 feet to the Westerly Right of Way line of Fashion Valley Road, dedicated on Map No. 6170.

The boundaries of said easement shall be prolonged or shortened to terminate in the said West line of Pueblo Lot 1104 of said Westerly Right of Way line of said Fashion Valley Road.

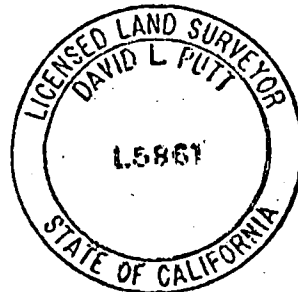
Excepting that permanent sewer easement lying 10 feet Northerly and 15 feet Southerly of the afore described line. Said sewer easement contains 91,593.01 S.F. or 2.1027 acres more or less.

Said temporary construction area contains 164,866.74 square feet, or 1.6821 acres, more or less.

Prepared under the supervision of:



David L. Putt, LS #5861
HIRSCH & COMPANY
License Expires 12/31/96



Section 5. That the taking and acquiring by said City of the permanent sewer easements, and temporary construction easements hereinabove described is deemed necessary for municipal purposes for the construction, operation and maintenance of the subject public sewer, and all incidents and appurtenances thereto, to provide capacity relief for the existing lines, and to enable the City to provide for ultimate sewage conveyance needs for the inhabitants of the Northeastern Communities of the City of San Diego and several cities in eastern San Diego County; and that such uses are public uses authorized by law (Sections 1 and 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 easements and temporary construction easements; that said real property is to be used for the construction, operation and maintenance of a public sewer, and all incidents and appurtenances thereto, for the NMVIS2 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.

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 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


Debra J. Bevier
Deputy City Attorney

DJB/djr/Lit
02/03/94
Or.Dept:Prop
Aud.Cert: 9500820
R-95-1166
Form=r.sewer