

RESOLUTION NUMBER R- 286317

ADOPTED ON SEP 12 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 DISTRIBUTION SYSTEM IMPROVEMENT--GROUP JOB 506 PROJECT, A PUBLIC WATER PIPELINE, AND ALL INCIDENTS AND APPURTENANCES THERETO TO PROVIDE ADDITIONAL WATER LINE CAPACITY AND RELIEF FOR THE EXISTING LINES, AND TO ENABLE THE CITY TO PROVIDE FOR ULTIMATE WATER DISTRIBUTION NEEDS FOR THE SOLEDAD MOUNTAIN AREA IN THE CITY OF SAN DIEGO; THAT SAID PUBLIC WATER PIPELINE WILL NECESSARILY REQUIRE THE ACQUISITION OF A WATER PIPELINE TUNNEL EASEMENT, OVER, UNDER, ALONG, ACROSS AND THROUGH A PORTION OF REAL PROPERTY LOCATED IN PUEBLO LOT 1264, 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 WATER PIPELINE TUNNEL EASEMENT 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 EASEMENT 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

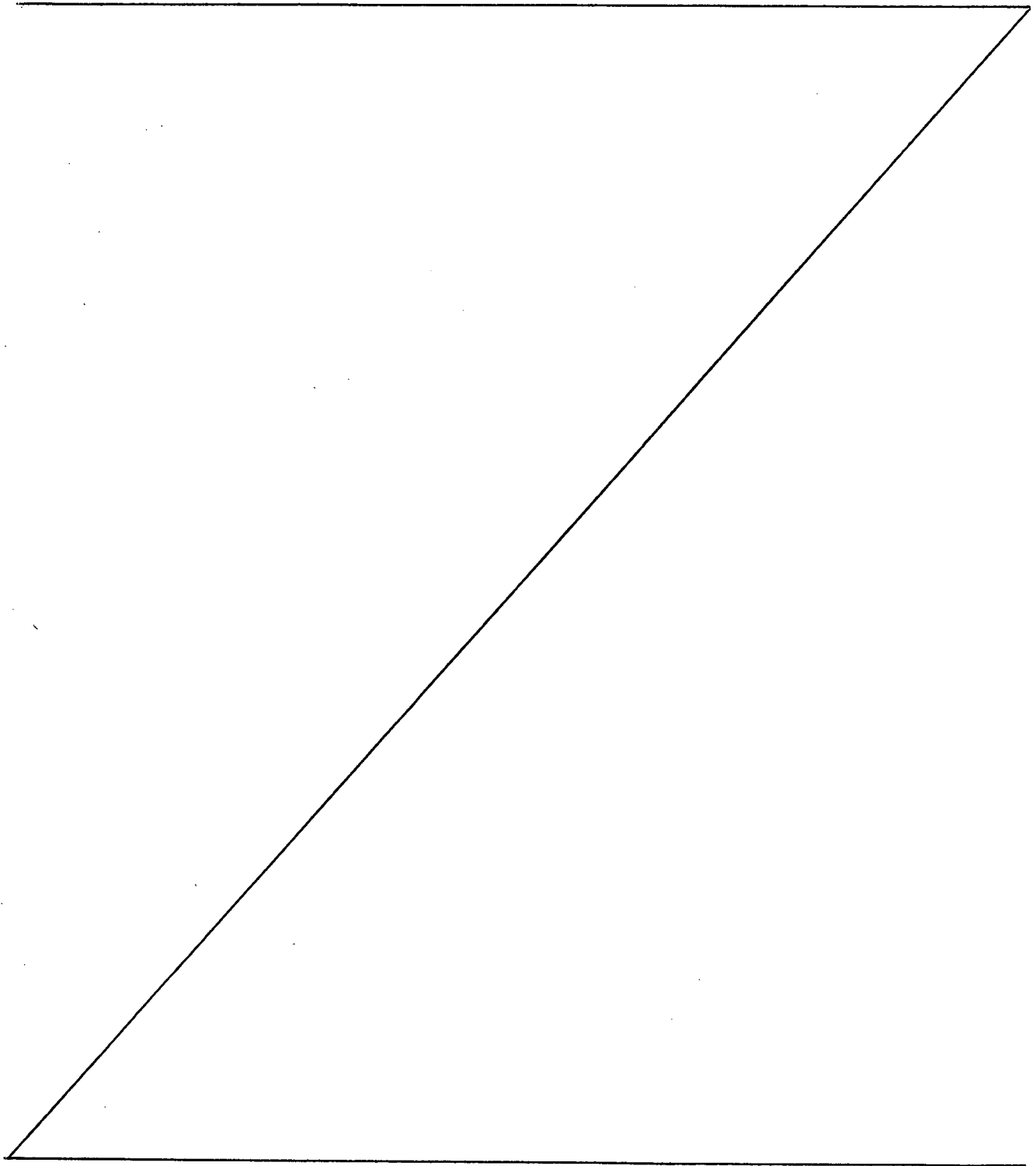
opportunity to appear and be heard on the matters referred to in Section 1240.030, Code of Civil Procedure; NOW, THEREFORE,

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 Distribution System Improvement--Group Job 506 Project, a public water pipeline and all incidents and appurtenances thereto, to provide additional water line capacity and relief for the existing lines, and to enable the City to provide for ultimate water distribution needs for the Soledad Mountain area in the City of San Diego for the inhabitants thereof, in a portion of property located in Pueblo Lot 1264 in the Soledad Mountain 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 water pipeline tunnel easement in said property for the construction, operation and maintenance of a public water pipeline and incidents and appurtenances thereto, together with the right of ingress and egress over, under, along, across and through 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, 38730, 38731, 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:



MIDWEST TELEVISION INC.

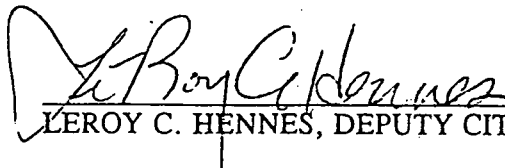
A PERPETUAL EASEMENT AND RIGHT-OF-WAY FOR A TUNNEL FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC WATER PIPELINE AND APPURTENANCES THERETO, IN, UNDER, ALONG, ACROSS AND THROUGH THE REAL PROPERTY SITUATED IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA:

A CYLINDER 30.00 FEET IN DIAMETER THROUGH THAT PORTION OF PUEBLO LOT NO. 1264 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP OF THE PUEBLO LANDS OF SAN DIEGO MADE BY JAMES PASCOE IN 1870, BEING THAT CERTAIN PARCEL OF LAND GRANTED TO MIDWEST TELEVISION, INC., AN ILLINOIS CORPORATION, PER DOCUMENT RECORDED APRIL 19, 1964, AS FILE NO. 58806, OF OFFICIAL RECORDS. THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID MIDWEST TELEVISION, INC., PARCEL, ALSO BEING THE MOST EASTERLY CORNER OF LA JOLLA SOLEDAD WEST UNIT NO. 2, MAP NO. 7268, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY ON APRIL 27, 1972; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL NORTH 17° 48' 28" WEST (NORTH 17° 55' 14" WEST PER MAP NO. 7268) 298.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING THE SOUTHWESTERLY LINE OF SAID MIDWEST TELEVISION, INC., PARCEL NORTH 72° 16' 19" EAST 387.03 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF LA JOLLA SCENIC DRIVE AS DEDICATED AND ACCEPTED FOR PUBLIC USE PER DOCUMENT RECORDED AUGUST 27, 1948 IN BOOK 2928, PAGE 297, OF OFFICIAL RECORDS, SAID POINT BEING THE TERMINUS OF SAID CENTERLINE.

THE SIDELINES OF SAID CYLINDER TO BE SHORTENED OR LENGTHENED TO TERMINATE AT THE VERTICAL SURFACE PASSING THROUGH THE ABOVE DESCRIBED SOUTHWESTERLY LINE OF SAID MIDWEST PARCEL AND WESTERLY LINE OF LA JOLLA SCENIC DRIVE. THE ELEVATION OF THE CENTER OF THE CIRCLE OF THE CYLINDER AT THE TRUE POINT OF BEGINNING TO BE ELEVATION 675.00 FEET AND AT THE TERMINUS OF THIS SEGMENT ON THE SAID WESTERLY LINE OF LA JOLLA SCENIC DRIVE TO BE ELEVATION 695.00 FEET. (ALL ELEVATIONS ARE BASED ON USC&GS STATION "NEBP SOLEDAD MOUNTAIN ROAD AND LA JOLLA SCENIC DRIVE", 692.269 FEET M.S.L., 1972.)

THIS LEGAL DESCRIPTION WAS  
PREPARED BY ME OR UNDER MY DIRECTION:

  
LEROY C. HENNES, DEPUTY CITY ENGINEER

L.S. 4804  
W.O. NO. 181341  
DWG. NO. 18288-B



Section 5. That the taking and acquiring by said City of the water pipeline tunnel easement, hereinabove described is deemed necessary for the construction, operation and maintenance of a public water pipeline and all incidents and appurtenances thereto to provide capacity relief for the existing lines, and to enable the City to provide for ultimate water distribution needs for the Soledad Mountain 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; and Sections 37350.5, 38730, 38731, and 40404, Government Code); that for such public use, it is necessary that The City of San Diego condemn and acquire said water pipeline tunnel easement; that said real property is to be used for the construction, operation and maintenance of a public water pipeline and all incidents and appurtenances thereto, for the Distribution System Improvement--Group Job 506 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 water pipeline tunnel easement as above described and obtaining immediate possession of said parcel for the use of said City.

APPROVED: JOHN W. WITT, City Attorney

By Leslie A. FitzGerald  
Leslie A. FitzGerald  
Deputy City Attorney

LAF/djr/Lit  
08/23/95  
Or.Dept:REA  
Aud.Cert:9600097  
r-96-0208  
Form=r.sewer

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

**CERTIFICATE OF UNALLOTTED BALANCE**      AC 9600097

ORIGINATING DEPT. NO.: 700

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 \$ 80,000.00 Fund 41500

Purpose To authorize the expenditure for a tunnel easement--condemnation  
for a Distribution System Improvement-- Group Job 506.

Date July 26, 1995

By: *Angie Ayle*

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	40012	700	384	4638	181349		41500		\$80,000.00
TOTAL AMOUNT										\$80,000.00

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

*R-286317*