

(R-97-287)

RESOLUTION NUMBER R- 287911

ADOPTED ON OCT 08 1996

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF ONE PARCEL OF PROPERTY IN THE AREA KNOWN AS GOLDFINCH CANYON FOR OPEN SPACE PURPOSES, SAID PROPERTY SPECIFICALLY BEING LOTS 5 THROUGH 12 IN BLOCK 11 OF ARNOLD & CHOATE'S ADDITION, LOCATED IN THE UPTOWN COMMUNITY, 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 SIMPLE ABSOLUTE TO SAID PROPERTY FOR THE GOLDFINCH CANYON PROJECT; THAT SAID PROPERTY IS DEEMED NECESSARY FOR COMPLETION OF THE PROJECT; 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 KNOWN HEIRS AND DEVISEES OF THE RECORD OWNER OF SAID PROPERTY, WHO IS DECEASED; 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.

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 one parcel of property in the area known as Goldfinch Canyon for open space purposes, said property specifically being Lots 5 through 12 in Block 11 of the Arnold & Choate's Addition, located in the Uptown Community, 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 to said property for the retention of open space for the Goldfinch Canyon Project; and that said real property lies within the City of San Diego, County of San Diego, State of California.

Section 3. That Section 220, Charter of The City of San Diego; Sections 1240.010, 1240.110, 1240.120, 1240.610 and 1240.680, Code of Civil Procedure; Parks and Playground Act of 1909; Sections 6950-6954, 37350.5, 38002, 38010, 39732, 40401(b), and 51063, Government Code; and Section 61.0601, et seq., San Diego Municipal Code, permit the acquisitions referenced herein.

Section 4. That the parcel of real property sought to be condemned is described as follows:

Parcel 44 - McCann

Lots 5 through 12, inclusive, in Block 11 of Arnold & Choate's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 334, filed in the Office of the County Recorder of San Diego County, November 29, 1872.

Section 5. That the taking and acquiring by said City of the real property hereinabove described is deemed necessary for the Goldfinch Canyon Project for the preservation of said land in its natural condition, 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, 1240.610 and 1240.680, Code of Civil Procedure; Parks and Playground Act of 1909; Sections 6950-6954, 37350.5, 38002, 38010, 39732, 40401(b) and 51063, Government Code; and Section 61.0601, 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 the Goldfinch Canyon Project for open space purposes 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 and 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 known heirs and devisees of the owner of record, who is deceased.

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 interests as above-described for the use of said City.

APPROVED: JOHN W. WITT, City Attorney

By 
Leslie A. FitzGerald
Deputy City Attorney

09/10/96
LAF:djr:Civ
Or.Dept:REA
Aud.Cert:9601164
R-97-287
Form=r.opnspc

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

CERTIFICATE OF UNALLOTTED BALANCE AC 9601164

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 \$ 31,105.00 Fund 79104

Purpose Authorizing the expenditure of funds for acquisition of property rights, title, litigation and miscellaneous costs required for Goldfinch Canyon Open Space.

Date May 1, 1996 By: *Nancy McClaner*

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1			79104	101	4638	028269				\$31,105.00
TOTAL AMOUNT										\$31,105.00

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

AC 9601164

R 287912

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