

(R-98-267)

289254

RESOLUTION NUMBER R-_____

SEP 30 1997

ADOPTED ON _____

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF A PERMANENT EASEMENT AND RIGHT-OF-WAY OVER THE PROPERTY DESCRIBED HEREIN FOR THE MIRAMAR PIPELINE ACCESS EASEMENT - PHASE I PROJECT; THAT THE PROPERTY IS LOCATED IN THE MIRAMAR AREA, WITHIN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; THAT THE INTEREST TO BE ACQUIRED INCLUDES A PERMANENT EASEMENT AND RIGHT-OF-WAY FOR ACCESS TO CONSTRUCT, RECONSTRUCT, MAINTAIN, OPERATE AND REPAIR THE MIRAMAR PIPELINE, INCLUDING ANY OR ALL APPURTENANCES THERETO, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER, UNDER, ALONG, AND ACROSS THE LAND DESCRIBED HEREIN; THAT THE MIRAMAR PIPELINE ACCESS EASEMENT - PHASE I PROJECT IS PLANNED OR LOCATED IN THE MANNER THAT WILL BE MOST COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; THAT THE PROPERTY SOUGHT TO BE ACQUIRED IS NECESSARY FOR THE MIRAMAR PIPELINE ACCESS EASEMENT - PHASE I PROJECT; THAT ACQUISITION BY EMINENT DOMAIN IS AUTHORIZED BY LAW; AND DECLARING THAT THE OFFER TO PURCHASE THE PROPERTY REQUIRED BY GOVERNMENT CODE SECTION 7267.2 HAS BEEN MADE TO THE OWNERS OF RECORD AND REJECTED; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE THE PERMANENT EASEMENT AND RIGHT-OF-WAY UNDER EMINENT DOMAIN PROCEEDINGS; AND DIRECTING THE CITY ATTORNEY OF THE CITY OF SAN DIEGO TO COMMENCE AN EMINENT DOMAIN ACTION IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN THE COUNTY OF SAN DIEGO, TO CONDEMN, ACQUIRE AND OBTAIN IMMEDIATE POSSESSION OF THE PROPERTY FOR THE USE OF THE CITY.

WHEREAS, the Council of The City of San Diego ("City") has provided notice to those persons designated in Code of Civil Procedure Section 1245.235, and has provided them a reasonable opportunity to appear and be heard on the matters referred to in Code of Civil Procedure Section 1240.030; NOW, THEREFORE,

BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN DIEGO HAS FOUND AND DETERMINED EACH OF THE FOLLOWING:

Section 1. That the Water Department provides water to its customers via the water distribution system and access to the water mains is required for their operation and maintenance. The Miramar Pipeline is a critical transmission main within the system supplying water to the University City, Eastgate Mall, Miramar Road, Kearny Mesa and Clairemont areas. The proposed permanent easement is located within the alignment of an existing dirt road which was used for access during the Miramar Pipeline Rehabilitation Project under a previous Right-of-Entry Permit, which has expired. Although the Miramar Pipeline Rehabilitation Project has been completed, access to the pipeline is not sufficient for any future maintenance or repair activity. The Miramar Pipeline Access Easement - Phase I Project is needed to obtain a permanent easement and right-of-way for access to the Miramar Pipeline.

Due to existing terrain, the proposed easement is the only logical access route. Other routes would be much longer and require extensive grading to create a suitable access road. Language within the Easement Deed allows the land owners, at their sole cost and expense and subject to the prior approval of the City, to provide an alternate access route in the event of any future development of the land.

Section 2. That the public interest, convenience and necessity of the City, and the inhabitants thereof, require the acquisition of a permanent easement and right-of-way for the

Miramar Pipeline Access Easement - Phase I Project to construct, reconstruct, maintain, operate and repair the Miramar Pipeline, including any or all appurtenances thereto, together with the right of ingress and egress over, under, along, and across the land described hereafter; and that the property is located near Miramar Road and Miramar Place in the Miramar area of the City of San Diego, County of San Diego, State of California, as more particularly described hereafter.

Section 3. That the Miramar Pipeline Access Easement - Phase I Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

Section 4. That the property sought to be acquired is necessary for the Miramar Pipeline Access Easement - Phase I Project, for municipal purposes.

Section 5. That the acquisitions sought herein are for a public use authorized by the following code sections: Charter of The City of San Diego Section 220; Code of Civil Procedure Sections 1240.010, 1240.110, 1240.120 and 1255.410; The Improvement Act of 1911; Streets and Highways Code Sections 5100, 5101, 5102, 5023 and 5023.1; and Government Code Sections 37350.5, 38730 and 40404.

Section 6. That the parcels of property and the interests sought to be condemned are described as follows:

LEGAL DESCRIPTION

Parcel 1: 27451-1-D

All that portion of the West Half of the Southwest Quarter of the Northwest Quarter of Section 10, Township 15 South, Range 3 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, included within a strip of land 25.00 feet wide, the centerline of which is described as follows:

Beginning at a 2" iron pipe with disc stamped "City Engineer" as shown on Corner Record No.9346, on file with San Diego County Map Records, marking the West 1/4 corner of said Section 10; Thence South 88°42'50" East 542.88 feet along the South line of said West Half to the TRUE POINT OF BEGINNING; Thence North 40°05'59" West 72.23 feet to the beginning of a tangent curve concave southwesterly, having a radius of 205.61 feet; Thence Northwesterly 98.10 feet along said curve, through a central angle of 27°20'07"; Thence North 67°26'06" West 43.19 feet to the beginning of a tangent curve concave northeasterly, having a radius of 168.61 feet; Thence Northwesterly 97.22 feet along said curve, through a central angle of 33°02'07"; Thence North 34°23'59" West 96.42 feet to the beginning of a tangent curve concave southwesterly, having a radius of 127.45 feet; Thence Northwesterly 95.30 feet along said curve, through a central angle of 42°50'26"; Thence North 77°14'25" West 164.64 feet, to the westerly line of said West Half.

The side lines of said strip of land shall be lengthened or shortened so as to terminate westerly, on said westerly line of said West Half.

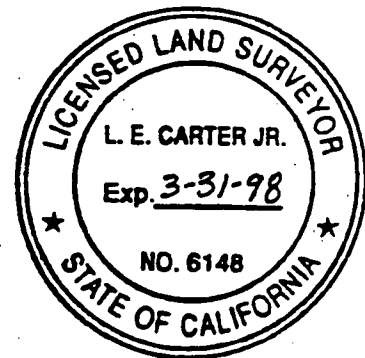
Said parcel of land containing 0.383 acres, more or less.

City DWG No.27451-D attached and by this reference made a part hereof.

Frank Belock, Jr.
CITY ENGINEER

 10/5/95

By: Lester E. Carter Jr., PLS 6148
My Registration Expires: 3/31/98



File: SURPCB\MMPL_1.LGL Revised 10/5/95-lec

R- 289254

LEGAL DESCRIPTION

Parcel 3: 27451-1-D

All that portion of Lot 15 of Miramar 805 Project, in the City of San Diego, State of California, according to Map No. 10031, filed in the office of the County Recorder of San Diego County, March 13, 1981, included within a strip of land 24.00 feet wide, the centerline of which is described as follows:

Beginning at a point on the Easterly line of said Lot 15 of Miramar 805 Project per Map No.10031 of Official Records, said point being an angle point in the Northeasterly boundary of said Lot 15 at the intersection of Record Courses " North 2°18'35" West and North 67°45'36" West " per said Map No. 10031; Thence South 02°20'02" East 597.67 feet along the Easterly line of said lot 15; Thence South 84°12'37" West 60.72 feet to the TRUE POINT OF BEGINNING, said TRUE POINT OF BEGINNING also being the beginning of a tangent 172.00 foot radius curve, concave Northeasterly; Thence Northwesterly 88.92 feet along said curve, through a central angle of 29°37'20"; Thence North 66°10'04" West 27.58 feet to the beginning of a tangent 597.00 radius curve, concave Northeasterly; Thence Northwesterly 332.32 feet along said curve, through a central angle of 31°53'39"; Thence North 34°16'25" West 202.90 feet to the beginning of a tangent 327.00 foot radius curve, concave Southwesterly; Thence Northwesterly 210.11 feet along said curve, through a central angle of 36°48'50"; Thence North 71°05'15" West 75.71 feet to the beginning of a tangent 147.00 foot radius curve, concave Northeasterly; Thence Northwesterly 118.98 feet along said curve, through a central angle of 46°22'35"; Thence North 24°42'40" West 45.45 feet to the Northerly line of said Lot 15.

The side lines of said strip of land shall be lengthened or shortened so as to terminate Northerly, on the Northerly line of said Lot 15.

Excepting therefrom any portion included within Miramar Place as dedicated and shown on City of San Diego Drawing 15411-B.

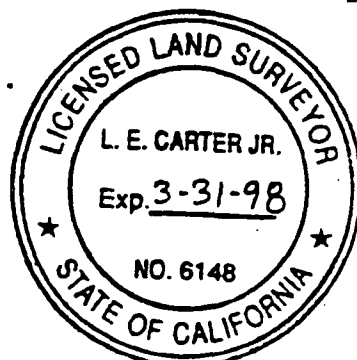
Said parcel of land contains 0.617 acres, more or less.

City DWG. No.27451-D attached and by this reference made a part hereof.

Frank Belock, Jr.
CITY ENGINEER

Lester E. Carter Jr. 10/5/95

By: Lester E. Carter Jr., PLS 6148
My registration expires: 3/31/98



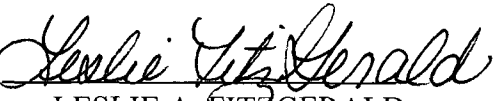
File: MMPL_3.LGL Revised 5/3/95 lec

R- 289254

Section 7. That the offer required by Government Code Section 7267.2 has been made to the owners of record of the property to be acquired.

Section 8. That the City Attorney of the City of San Diego is hereby authorized and directed to commence an eminent domain action in the Superior Court of the State of California, 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 property, to condemn, acquire and obtain immediate possession of the property for the use of the City.

APPROVED: CASEY GWINN, City Attorney

By 
LESLIE A. FITZGERALD
Deputy City Attorney

LAF:djr:Civ
09/09/97
Or.Dept:REA
R-98-267
Aud.Cert:9701078
Form:r.stimprov

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

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING AC 9701078
 DEPT. NO.: 760

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 50,000.00 Fund 41500

Purpose To authorize the expenditure for Miramar Pipeline Access Easement- Phase I
and other related acquisition costs.

Date May 5, 1997 By: *Angie Stille*
 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	41500	760	698	4278	182180				\$50,000.00
TOTAL AMOUNT										\$50,000.00

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

Q - 289254
Q - 289255

SEP 30 1997

AC 9701078