

RESOLUTION NUMBER R- 290988

ADOPTED ON NOV 24 1998

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF THE PROPERTY DESCRIBED HEREIN FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A SEWER PIPELINE AND PUMP STATION, AND FOR IMPROVEMENT OF PORTIONS OF NESTOR CREEK, AS PART OF THE SOUTH BAY RECLAMATION SEWER AND PUMP STATION PROJECT; THAT THE PROPERTY IS LOCATED ON THE SOUTHWEST SIDE OF INTERSTATE 5, BORDERED BY CORONADO AVENUE TO THE NORTH AND GROVE AVENUE TO THE SOUTH, IN THE OTAY MESA/NESTOR AND TIJUANA RIVER VALLEY AREA, WITHIN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; THAT THE INTERESTS TO BE ACQUIRED INCLUDE FEE TITLE, A SEWER EASEMENT, AND A TEMPORARY CONSTRUCTION EASEMENT, AS DESCRIBED HEREIN; THAT THE SOUTH BAY RECLAMATION SEWER AND PUMP STATION 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 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 PROPERTY 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 this portion of the South Bay Reclamation Sewer and Pump Station Project provides for construction of a sewer pipeline and pump station within the Otay Mesa/Nestor and Tijuana River Valley communities to divert reclaimable quality wastewater from the existing San Ysidro Trunk Sewer to the South Bay Water Reclamation Plant for treatment. This water will be treated to stringent water reclamation standards. After treatment, this water will be beneficially reused for irrigation purposes, which will make the City less dependent on imported water. This diversion will also reduce the amount of flow being treated at the Point Loma Treatment Plant via the South Metro Interceptor system, and will provide relief to the South Metro Interceptor system, which is flowing near capacity.

The South Bay Pump Station is one of the essential components of the wastewater treatment plan for the South Bay. The operation of the pump station, together with the South Bay Water Reclamation Plant, will enable the City to meet the performance requirements of the Ocean Pollution Reduction Act. This legislation enabled the City to apply for and obtain a waiver from secondary treatment at Point Loma Treatment Plant.

The proposed project will also improve approximately 550 feet of Nestor Creek to withstand 100-year flood. Nestor Creek is currently overgrown and unmanageable on the site, which causes improper drainage and flooding on a major portion of the site.

The City has worked cooperatively with the community to ensure that the selected site meets the project requirements and community needs. The proposed site was selected from a total of ten sites studied. This site was selected because of its size, setting, proximity to the existing San Ysidro Trunk Sewer and Nestor Creek, facilitation of the alignment of the proposed sewer and sludge pipelines, commercial zoning, proximity to Interstate 5, and compatibility with the surrounding community. A sixty-foot wide private general utility and access easement will be reserved across the site for the benefit of the property owners.

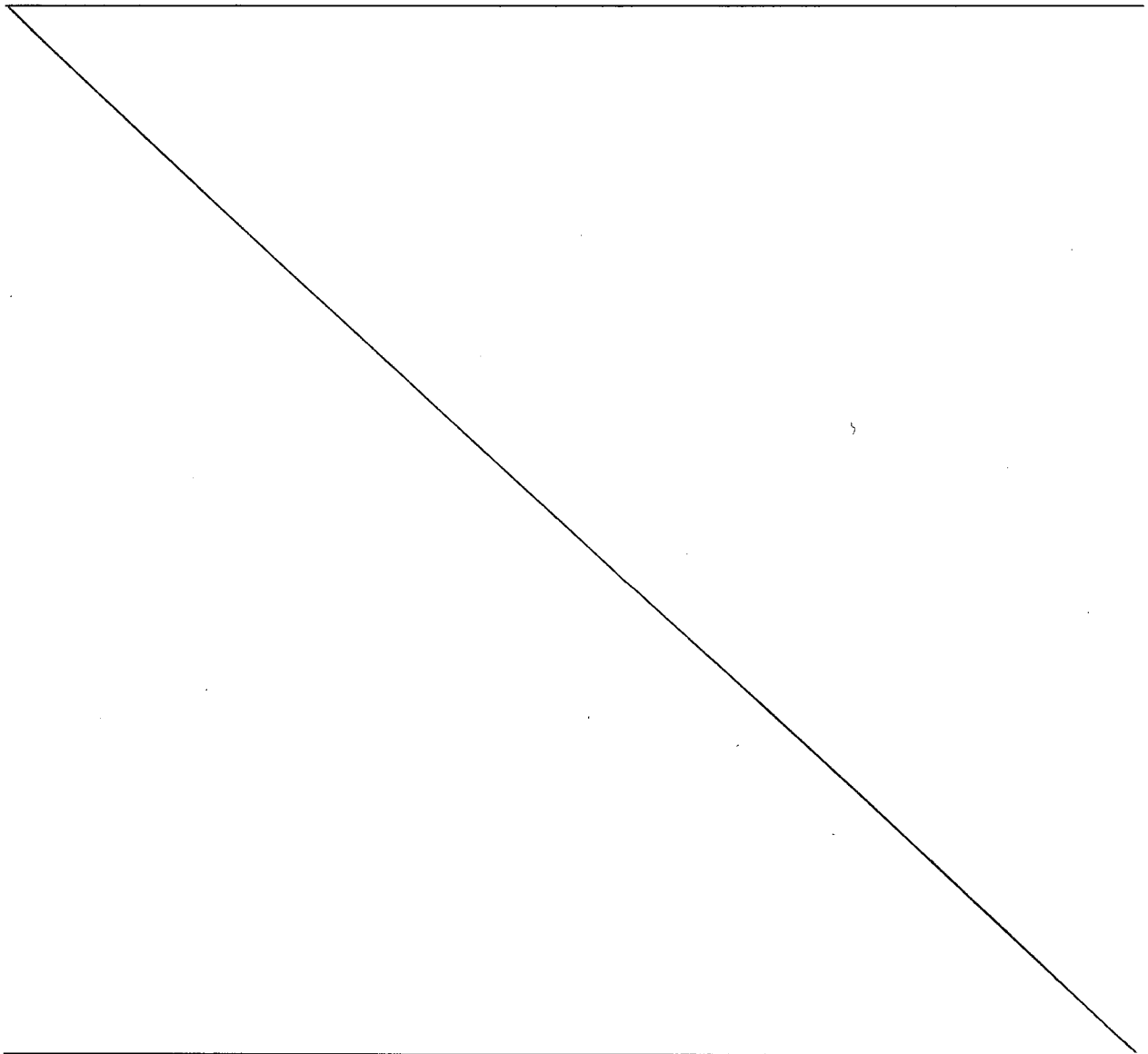
Section 2. That the public interest, convenience and necessity of the City, and the inhabitants thereof, require the acquisition of temporary and permanent property rights in the property described hereafter for the South Bay Reclamation Sewer and Pump Station Project, a public project, and incidents and appurtenances thereto; that the property is to be used for construction of a pump station and sewer pipeline and the improvement of approximately 550 feet of Nestor Creek to withstand 100-year flood; that the project includes construction, improvement, operation and maintenance; that the interests to be acquired include fee simple title, and easements for sewer and temporary construction purposes; and that the property is located on the southwest side of Interstate 5, bordered by Coronado Avenue to the north and Grove Avenue to the south, in the Otay Mesa/Nestor and Tijuana River Valley area of the City of San Diego, County of San Diego, State of California, as more particularly described hereafter.

Section 3. That the South Bay Reclamation Sewer and Pump Station 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 South Bay Reclamation Sewer and Pump Station 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, 1240.150, 1240.410, 1240.430 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, 38731, 38900, 38901 and 40404.

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



LAND ACQUISITION

PARCEL INDEX No. 1

Those portions of Lots 35, 36, 45 and 46 of Nestor Acres, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1768, filed on 11/21/1923 in the office of the County Recorder of said County, described as follows:

Commencing at the City of San Diego Horizontal Control Station GPS 24, having a coordinate value of North 1,791,073.50 East 6,309,731.68 based on the North American Datum of 1983 (NAD 83), as shown on Record of Survey No. 14492, filed in the Office of the County Recorder of above said San Diego County on March 31, 1994, said station bears South 69°25'33" East 6293.42 feet from City of San Diego Horizontal Control Station GPS 185, having a coordinate value of North 1,793,285.14 East 6,303,839.67 as shown on said Record of Survey No. 14492; Thence South 66°58'23" West 4,668.92 feet to the Southwest corner of above said Lot 35 as shown on said Map 1768, also being the POINT OF BEGINNING; Thence North 0°25'48" East 397.34 feet along the Westerly line of said Lot 35; Thence South 68°35'29" East 412.34 feet to the West Right-of-way line of Interstate 5 as described in Final Order of Condemnation recorded 5/7/1953 in book 4848, page 26 of Official Records; Thence South 31°49'00" East 295.22 feet along said West Right of Way Line; Thence continuing South 58°03'00" West 1.10 feet to the North line of Grove Avenue as shown on above said Map 1768; Thence North 89°30'40" West 437.60 feet along said North line to a point hereinafter referred to as point "A"; Thence continuing North 89°30'40" West 104.00 feet to the POINT OF BEGINNING.

Above described parcel of land contains 3.3145 Ac., 144,379.62 Sq. Ft.

PARCEL INDEX No. 1A

Reserving therefrom a General Utility Easement with ingress and egress rights described as follows:

Beginning at aforementioned point "A"; Thence North 0°29'20" East 357.43 feet to the Northerly line of above said Parcel 1; Thence South 68°35'29" East 64.23 feet; Thence South 0°29'20" West 334.49 feet to the Northerly line of Grove Avenue as shown on said map 1768; Thence North 89°30'40" West 60.00 feet to point "A", the POINT OF BEGINNING.

Above described parcel of land contains 0.4765 Ac., 20,756.680 Sq. Ft.

The bearings and distances used in the above description are on the California Coordinate System 1983, Zone 6. Multiply all distances used in this description by 1.00004462 to obtain ground level distances per City of San Diego Horizontal Control Station GPS 24 as shown on Record of Survey 14492.

PARCEL INDEX No. 2

Those portions of Lots 35, 36, 40, 45 and 46 of Nestor Acres, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1768, filed on 11/21/1923 in the office of the County Recorder of said County, included within a strip of land 20.00 feet wide, the Easterly sideline, being described as follows:

Commencing at the City of San Diego Horizontal Control Station GPS 24, having a coordinate value of North 1,791,073.50 East 6,309,731.68 based on the North American Datum of 1983 (NAD 83), as shown on Record of Survey No. 14492, filed in the Office of the County Recorder of above said San Diego County on March 31, 1994, said station bears South 69°25'33" East 6293.42 feet from City of San Diego Horizontal Control Station GPS 185, having a coordinate value of North 1,793,285.14 East 6,303,839.67 as shown on said Record of Survey No. 14492; Thence South 66°58'23" West 4,668.92 feet to the Southwest corner of above said Lot 35 as shown on said Map 1768; Thence North 0°25'48" East 397.34 feet along the Westerly line of said Lot 35; Thence South 68°35'29" East 412.34 feet to the Westerly Right-of-way line of Interstate 5 as described in Final Order of Condemnation recorded 5/7/1953 in book 4848, page 26 of Official Records, also being the POINT OF BEGINNING; Thence North 31°49'00 West 255.91 feet along said Westerly Right of Way Line; Thence continuing along said Westerly Right of Way Line North 33°51'51" West 225.30 feet to the Southerly line of an existing sewer easement as shown on City of San Diego Drawing 7453-AD.

Above described parcel of land contains 0.2193 Ac., 9,550.94 SQ. FT.

The Westerly line of said 20.00 foot strip is to be extended or shortened to terminate as follows:

On the North, with the Southerly line of existing 10 foot wide sewer easement as shown on City of San Diego Drawing 7453-AD.

On the South, with the Northerly line of Parcel 1 as shown on City of San Diego Drawing 28651-2-D.

The bearings and distances used in the above description are on the California Coordinate System 1983, Zone 6. Multiply all distances used in this description by 1.00004462 to obtain ground level distances per City of San Diego Horizontal Control Station GPS 24 as shown on Record of Survey 14492.

See City of San Diego Drawing 28651-1-D.

Mikeal Obst 5/22/97
 Mikeal Obst PLS 6194
 Associate Land Surveyor, Field Engineering
 My Registration Expires 3/31/98

POR. APN 634-020-38 & 634-020-42
 File: SURBCB C:\legals\GRV_2.lgl
 W.O. 196255

-PAGE 6 OF 8-



290988

TEMPORARY CONSTRUCTION WORK AREA
LEGAL DESCRIPTION

THOSE PORTIONS OF LOTS 37 THROUGH 40, INCLUSIVE, IN NESTOR ACRES, AS SHOWN ON MAP NO. 1768 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY NOVEMBER 21, 1923; LYING SOUTHWESTERLY OF THE SOUTHWESTERLY RIGHT OF WAY LINE OF STATE FREEWAY 11 SD-5. 4,0, SAID PORTIONS HEREBY CONVEYED DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 37; THENCE ALONG THE FOLLOWING NUMBERED COURSES: (1) ALONG THE WESTERLY LINE OF SAID LOT 37, N. $00^{\circ} 26' 00''$ E., 582.34 FEET TO SAID RIGHT OF WAY LINE; THENCE ALONG SAID RIGHT OF WAY LINE THE FOLLOWING FOUR COURSES: (2) S. $89^{\circ} 30' 29''$ E., 95.38 FEET; (3) S. $40^{\circ} 55' 43''$ E., 74.90 FEET; (4) S. $36^{\circ} 39' 36''$ E., 393.89 FEET; (5) S. $33^{\circ} 51' 59''$ E., 257.00 FEET; TO THE SOUTHERLY LINE OF SAID LOT 37 THROUGH 40 INCLUSIVE; (6) ALONG SAID LAST LINE N. $89^{\circ} 30' 55''$ W., 527.26 FEET TO THE POINT OF BEGINNING.

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 in connection with this action the Council has reviewed and considered the information contained in Mitigated Negative Declaration, LDR File No. 96-0471, dated November 17, 1997, and certified December 2, 1997, in connection with the South Bay Reclamation Sewer and Pump Station Project, on file in the office of the City Clerk.

Section 9. 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:ccm:Civ.
November 9, 1998
Or.Dept:REA
Aud.Cert:AC9900457
R-99-531
Form=wastewtr.res

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

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING AC 9900457
DEPT. NO.: 779

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 500,000.00 Fund 41509

Purpose To authorize the expenditure of funds for property acquisition of property rights and related costs.

Date 11/2/98 By: _____

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	41509	779	-	4638	196245				\$500,000.00
TOTAL AMOUNT										\$500,000.00

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										

AC-361 (REV 2-92)

FUND OVERRIDE

R - 290988

NOV 24 1998

AC 9900457