

(R-99-531)

RESOLUTION NUMBER R- 291565

ADOPTED ON MAY 04 1999

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY OF THE CITY OF SAN DIEGO REQUIRE THE ACQUISITION OF THE REAL PROPERTY INTEREST DESCRIBED HEREIN FOR A TEMPORARY CONSTRUCTION STAGING AREA 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 INTEREST TO BE ACQUIRED IS A TEMPORARY CONSTRUCTION AREA, 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 REAL PROPERTY INTEREST 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 a temporary construction staging area for the 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 this temporary property right 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 real property interest sought herein is to be used for a temporary construction staging area for the 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 interest to be acquired is for temporary construction purposes; and that the real property interest sought herein 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 real property interest sought to be acquired is necessary for the South Bay Reclamation Sewer and Pump Station Project, for municipal purposes.

Section 5. That the real property interest sought herein is 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 interest sought to be condemned is described as follows:

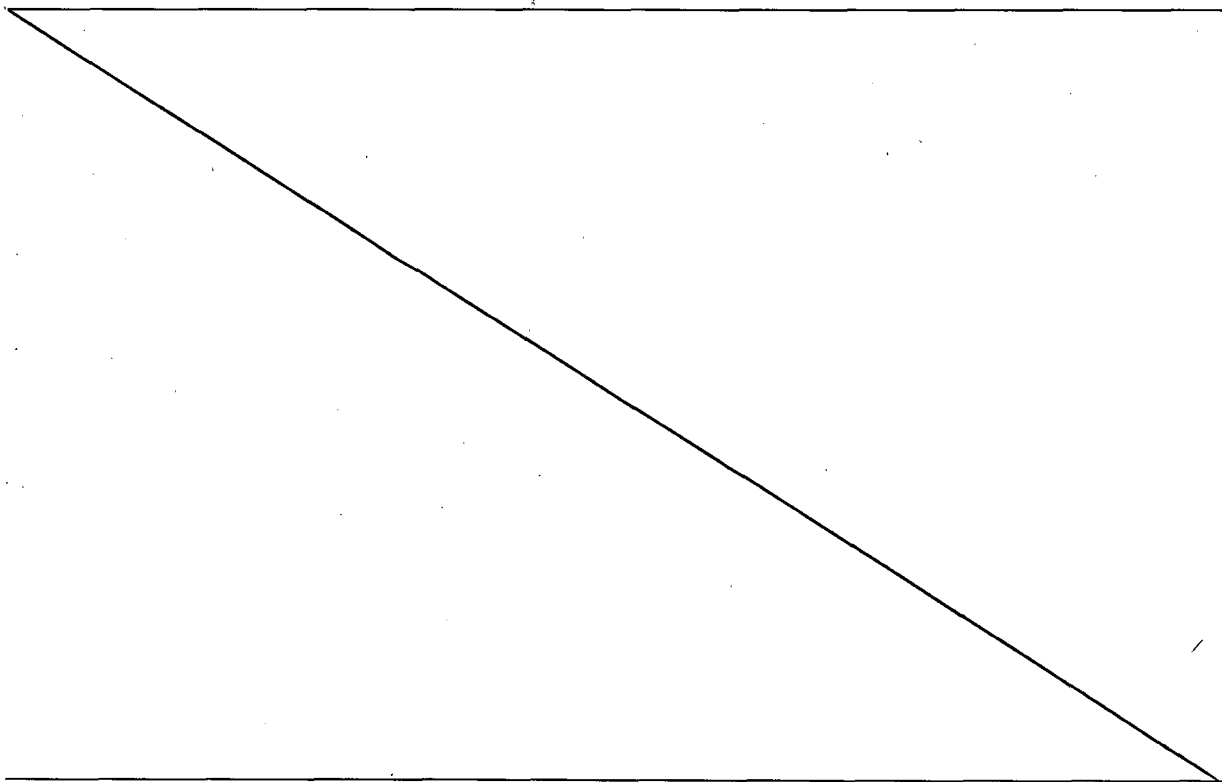


EXHIBIT "A"
TEMPORARY CONSTRUCTION STAGING AREA

Page 1 of 1

Parcel 3

Those portions of Lots 35, 36, and 45 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, 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 to the **POINT OF BEGINNING**; Thence South 68°35'29" East 378.93 feet to a line, parallel with, and distant Westerly 20.00 feet, measured a right angles, from 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; Thence along said parallel line North 31°49'00 West 228.79 feet; Thence along a line, which is parallel with, and distant Westerly 20.00 feet, measured at right angles, from said Westerly Right-of-Way line, North 33°51'51" West 221.38 feet to the Northerly line of said Lot 35; Thence North 89°34'35" West 107.00 feet to the Northwest corner thereof; Thence South 0°25'48" West 240.73 feet along said Westerly line of said Lot 35 to the **POINT OF BEGINNING**.

Above described parcel of land contains 1.4607 Ac., 63,628.78 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.

See City of San Diego Drawing 18593-B.

Mikeal Obst

2/1/99

Mikeal Obst PLS 6194

Associate Land Surveyor, Field Engineering

My Registration Expires 3/31/02

POR. APN 634-020-38

File: SURPCB GRV_3.lgl

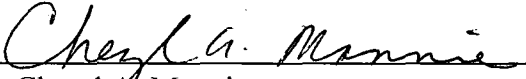
W.O. 196255-frl

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; as well as Resolution of Necessity, R-290988 and Funding Resolution, R-290989.

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 real property interest, to condemn, acquire and obtain immediate possession of the property for the use of the City.

APPROVED: CASEY GWINN, City Attorney

By 
Cheryl A. Mannie
Deputy City Attorney

CAM:ccm:Civ.
April 12, 1999
Or.Dept:REA
R-99-531
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