

RESOLUTION NUMBER R- 293100

ADOPTED ON MAY 15 2000

WHEREAS, by Resolution No. 290988, adopted November 24, 1998, and Resolution No. 291565, adopted May 4, 1999, the Council for The City of San Diego authorized the filing of eminent domain proceedings to acquire property rights necessary for the project known as the South Bay Reclamation Sewer and Pump Station - Package A; and

WHEREAS, after unsuccessful attempts to negotiate the purchase of the property interests required for the project, an eminent domain action entitled *The City of San Diego v. McClurken Machinery, Inc.*, San Diego County Superior Court Case No. 727522, was filed; and

WHEREAS, after a jury trial, a judgment was entered in the eminent domain action for an amount in excess of those funds originally authorized for the project; and

WHEREAS, as part of the judgment, the City is faced with further potential costs if the Court awards the payment of attorneys' fees and litigation expenses to the property owner; and

WHEREAS, the City has also incurred costs in prosecuting the eminent domain action for experts, litigation expenses, labor and other miscellaneous items; and


WHEREAS, the amount of additional funds required to pay the jury award and all other costs and fees is estimated not to exceed \$915,000.00; and

WHEREAS, the required funds are available from Sewer Fund 41509, CIP 40-911.1 South Bay Pump Station and Conveyance System - Phase 1 and would need to be transferred to Sewer Fund 41509, CIP 40-911.3 South Bay Reclamation Sewer and Pump Station - Package A to effect payment; NOW THEREFORE,

BE IT RESOLVED, that the City Auditor and Comptroller is authorized to transfer the sum of \$915,000.00, from Sewer Fund 41509, CIP 40-911.1 South Bay Pump Station and Conveyance System - Phase 1 to Sewer Fund 41509, CIP 40-911.3 South Bay Reclamation Sewer and Pump Station - Package A.

BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is authorized to expend an amount not to exceed \$915,000.00, from Sewer Fund 41509, CIP 40-911.3 South Bay Reclamation Sewer and Pump Station - Package A, to satisfy the judgment in San Diego County Superior Court Case No. 727522, entitled *The City of San Diego v. McClurken Machinery, Inc.*, and to fund any attorneys' fees and litigation expenses that may be awarded by the Court to the property owner or incurred by the City.

APPROVED: CASEY GWINN, City Attorney

By 
for Debra J. Bevier
Deputy City Attorney

LAF:ccm:Civ.
4/28/00
Or.Dept:REA
Aud.Cert:2001085
R-2000-1290
Form=r-t.frm

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

CERTIFICATE OF UNALLOTTED BALANCE

ORIGINATING AC 2001085
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 \$915,000.00 Fund 41509

Purpose AUTHORIZING THE EXPENDITURE OF FUNDS FOR SOUTH BAY RECLAMATION

SEWER AND PUMP STATION - PACKAGE A

Date APRIL 28, 2000 By: Kay Hoey

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
01	0	41509	779		4278	196245				\$915,000.00
TOTAL AMOUNT										\$915,000.00

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										

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