

RESOLUTION NUMBER R- 295617

ADOPTED ON OCT 23 2001

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING AND DECLARING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN EASEMENTS AND RIGHTS-OF-WAY OVER THE PROPERTY DESCRIBED HEREIN FOR THE DEER CANYON SEWER PROJECT AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS TO CONDEMN, ACQUIRE, AND OBTAIN PREJUDGMENT POSSESSION OF THE PROPERTY FOR THE USE OF THE CITY

WHEREAS, it is desirable and necessary for the public interest of the City of San Diego to acquire certain interests in real property located in the City of San Diego, within the County of San Diego, State of California, for the Deer Canyon Sewer Project [Project], in particular, a permanent sewer easement right-of-way 20 feet in width to accommodate an 8-inch gravity flow sewer main, a maintenance road and drainage facilities; and

WHEREAS, in June of 1996, the Council for the City of San Diego certified the Master Environmental Impact Report No. 95-0353 for the original Del Mar Mesa Specific Plan which was thereafter approved in 1997 and Amended on June 27, 2000; and

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WHEREAS, on August 15, 2000, the Council for the City of San Diego by Resolution No. R-293733 adopted Findings to that Master Environmental Impact Report, LDR No. 99-0099, dated July 23, 1999; and

WHEREAS, legal descriptions of the property interests to be acquired for the Project are attached hereto as Exhibit A, and diagrams showing the general location and extent of the property to be acquired are attached hereto as Exhibit B; and

WHEREAS, the City of San Diego is vested with the power of eminent domain to acquire real property for this Project for a public use by virtue of Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010-050, 1240.110-120, and 1255.410; The Improvement Act of 1911; California Streets and Highways Code sections 5023, 5023.1, 5100, 5101, and 5102; California Government Code sections 37350.5, 38900, 40404, and 66462.5; and Charter of the City of San Diego, Section 220; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain for the Project and whose names and addresses appear on the last San Diego County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before the Council of the City of San Diego on the following matters:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

(c) Whether the property sought to be acquired is necessary for the Project;

and

(d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

NOW, THEREFORE, BE IT RESOLVED AND FINDINGS MADE, BY THE COUNCIL OF THE CITY OF SAN DIEGO AS FOLLOWS:

1. The public interest and necessity require the City of San Diego to implement the objectives of the Deer Canyon Sewer Project; that the public interest, convenience and necessity of the City, and the inhabitants thereof, require the acquisition of the permanent sewer right-of-way easement affecting the property described hereafter for the Project and incidents and appurtenances thereto; that the Project includes construction, improvement, operation and maintenance, together with the right of ingress and egress over, under, along, and across the specified parcels of land; that the interests to be acquired include but are not limited to easements to construct, improve, operate and maintain the sewer line; that the property is located in the City of San Diego, County of San Diego, State of California, as more particularly described hereafter in Exhibits A and B; and that the Project is necessary in order to provide public sewer services to a portion of the City that has not had the benefit of a public sewer system without which some property owners would continue to rely on septic systems, and proposed projects would have to employ private sewer pump stations which are more susceptible to failure and sewage spills.

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The construction and operation of the Deer Canyon Sewer Project will result in a safe, efficient sewer system for the Del Mar Mesa community where none exists today. This sewer system will create an essential sewer infrastructure for existing residents and permit the orderly phasing of land development as set forth in the Del Mar Mesa Specific Plan and the Del Mar Mesa Facilities Benefit Assessment District. If the Project is not built, orderly development of Del Mar Mesa may be significantly delayed and alternative private lift stations may be employed which are not considered to be the preferred method for handling wastewater disposal.

2. The Deer Canyon Sewer Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. Alternatives were evaluated for the purpose of identifying the most environmentally preferred route for the sewer line. The recommended alignment of the Project achieves this goal by avoiding impacts to sensitive habitat resources and is consistent with the Del Mar Mesa Specific Plan and the City of San Diego's Multiple Species Conservation Program (MSCP) while concurrently minimizing or mitigating impacts to existing and planned land uses. The recommended alignment balances the interests of the environment, the community, and various property owners located along the proposed right-of-way. Other alternatives to the Project were considered and rejected because of their greater environmental impacts and/or lack of the same level of safety and reliability as this gravity flow system. Design of the Project has also minimized private injury by following topographic contours, keeping the width of the permanent easement (20 feet) to the minimum needed to operate and maintain the sewer system and eliminating the need for a temporary construction easement. The Project is the result of many studies and discussions between the City, community members and affected property owners, and the subject of public hearings.

3. The taking of the interests in and to the real property more particularly described in Exhibits A and B is necessary for the Project, for municipal purposes, namely, the provision of a safe, reliable public sewer system to handle wastewater disposal for the Del Mar Mesa Subarea of the Future Urbanizing Area. Construction of this sewer line over the subject real property is an important element of providing adequate public utilities for both existing and future residents of Del Mar Mesa.

4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property.

5. In connection with this action the Council has reviewed and considered the information, conditions and requirements contained in documents such as the Amended Del Mar Mesa Specific Plan approved on June 27, 2000, the Master Environmental Impact Report No. 95-0353 for said Plan certified in June of 1996, the Findings to that Master Environmental Impact Report, LDR No. 99-0099, dated July 23, 1999, and adopted on August 15, 2000, by Resolution No. R-293733, Resource Protection Ordinance [RPO] Permit No. 96-0625 recorded on April 30, 1999, City Council Resolution R-290515 approving said RPO Permit and incorporating the Conditions for Mesa Verde Estates Tentative Map No. 96-0625, the sewer study called for by said approvals, and Resource Protection Ordinance Permit No. 99-0099 recorded on October 21, 1999.

6. The acquisitions sought herein are for a public use authorized by the following laws: Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010-050, 1240.110-120, and 1255.410; The Improvement Act of 1911; California Streets and Highways Code sections 5023, 5023.1, 5100, 5101, and 5102;

California Government Code sections 37350.5, 38900, 40404, and 66462.5; and Charter of the City of San Diego, Section 220.

7. The legal counsel for the City of San Diego be, and 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 property described herein, to condemn, acquire and obtain immediate possession of the property for the use of the City.

8. An order for prejudgment possession may be obtained in said action and a warrant issued to the County of San Diego, in the amount determined by the Court to be so deposited, as a condition to the right of prejudgment possession.

APPROVED: CASEY GWINN, City Attorney

By 
LESLIE A. FITZGERALD
Deputy City Attorney

LAF:ccm:Civ.
10/5/01
10/25/01 CORR. COPY
Or.Dept:REA
Aud.Cert:N/A
R-2002-518
Form=sewer.res

EXHIBIT A

R-295617

EXHIBIT 'A'
SEWER EASEMENT
LEGAL DESCRIPTION

PARCEL ONE

BEING A PORTION OF PARCEL 4 OF PARCEL MAP NO. 12337, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 24, 1982 AS FILE NO. 82-296204 OF OFFICIAL RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS.

A STRIP OF LAND 20.00 FEET IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SECTION 15, SOUTH $89^{\circ}52'33''$ WEST, 123.54 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH LINE NORTH $35^{\circ}03'36''$ WEST 122.17 FEET TO THE BEGINNING OF A 675.00 FEET RADIUS TANGENT CURVE CONCAVE SOUTHWESTERLY, A LINE RADIAL TO SAID TANGENT CURVE BEARS NORTH $54^{\circ}56'24''$ EAST; THENCE NORTHWESTERLY THROUGH A CENTRAL ANGLE OF $33^{\circ}57'11''$ AN ARC LENGTH OF 400.00 FEET TO A POINT OF NON-TANGENCY, A LINE RADIAL TO SAID NON-TANGENT POINT BEARS NORTH $20^{\circ}59'13''$ EAST; THENCE NORTH $84^{\circ}59'03''$ WEST 161.25 FEET TO THE WESTERLY LINE OF PARCEL 4 OF SAID PARCEL MAP NO. 12337.

THE SIDELINES OF THE AFOREMENTIONED STRIP OF LAND ARE TO BE PROLONGED OR SHORTENED SO AS TO TERMINATE ON THE SOUTH LINE AND THE WEST LINE OF SAID PARCEL 4.

CONTAINING AN AREA OF 0.314 ACRES



By: *C. John Eardensohn*
C. John Eardensohn, LS 5278
(My license expires 12-31-2003)
Date: 8-17-00

LEGAL-2411-DEER CYN-SWR-A.doc
W.O. No. 980733
Dwg. No. 19022-B

R-295617

**EXHIBIT A
SEWER EASEMENT
LEGAL DESCRIPTION**

PARCEL TWO

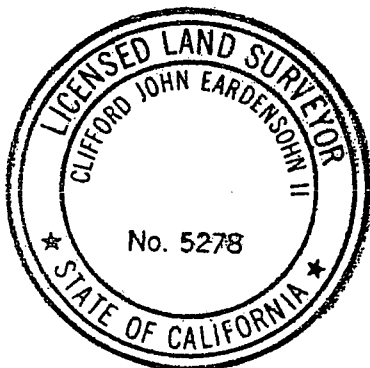
BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 14 SOUTH, RANGE 3 WEST, SAN BERNARDINO MERIDIAN, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO OFFICIAL PLAT THEREOF, BEING MORE CLOSELY DESCRIBED AS PARCEL 3 IN THE DEED RECORDED AUGUST, 19, 1997, AT FILE/PAGE 1997-0399155 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 20.00 FEET WIDE SEWER EASEMENT LYING 10.00 FEET EITHER SIDE OF THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22; **THENCE** SOUTHERLY ALONG THE EASTERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22 AND PARCEL 3 OF SAID DEED, SOUTH 00°35'27" EAST 82.19 FEET TO THE DISPUTED FENCELINE, **THENCE** LEAVING SAID EASTERLY LINE AND SAID DEED LINE WESTERLY ALONG SAID DISPUTED FENCELINE, NORTH 87°32'52" WEST 69.04 FEET TO THE **TRUE POINT OF BEGINNING**; **THENCE** LEAVING SAID DISPUTED FENCELINE, NORTH 35°03'36" WEST 96.46 FEET TO THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22, SAID POINT BEARS SOUTH 89°52'33" WEST 123.54 FEET FROM THE **POINT OF BEGINNING**.

THE SIDELINES OF THE AFOREMENTIONED STRIP OF LAND ARE TO BE PROLONGED OR SHORTENED SO AS TO TERMINATE ON THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22 AND THE NORTH LINE OF PARCEL 3 IN SAID DEED AND ON THE SOUTH ON THE DISPUTED FENCELINE.

CONTAINING AN AREA OF 0.044 ACRES.



By: *C. John Eardensohn*
C. John Eardensohn, LS 5278
(My license expires 12-31-2003)

Date: 10/16/01

EXHIBIT B

R-295617

P.O.B. SE CORNER OF SW 1/4 OF SE 1/4 OF SW 1/4, SEC. 15, T. 14 S., R. 3 W., S.B.M.

EXHIBIT 'B'

20' WIDE SEWER EASEMENT (SEE CITY DWG. 18977-B)

FOUND 3/4" IRON PIPE WITH DISK MARKED CITY ENGINEER PER R.O.S. MAP 14492 (POINT # 560-B NAD 83 COORDINATES N 1921,863.14 E 6,275,697.95)

PARCEL 4
PM 12337

FOUND 2" IRON PIPE WITH CAP MARKED 56-2.85 1988 PER R.O.S. 14492 (POINT # 557, NAD 83 COORDINATES N 1,924,386.58, E 6,270,382.75 COMBINED GRID FACTOR OF 0.9999664 AND A CONVERGENCE OF -00'31"18.3")

LINE TABLE		
LINE	LENGTH	BEARING
L1	122.17'	N35°03'36"W
L2	161.25'	N84°59'03"W

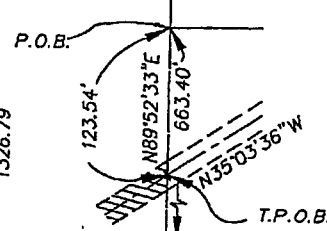
CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	400.00'	675.00'	33°57'11"

- LEGEND:** SCALE: 1" = 200'
- INDICATES SEWER EASEMENT ACQUIRED AREA= 0.314 ACRE
 - P.O.B. INDICATES POINT OF BEGINNING
 - T.P.O.B. INDICATES TRUE POINT OF BEGINNING
 - INDICATES SURVEY MONUMENT
 - (R) INDICATES RADIAL BEARING

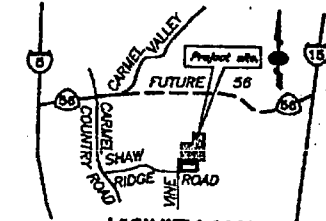
ASSESSOR'S PARCEL NUMBER:
305-040-20

REFERENCE DRAWING:
R.O.S. 14492, 13224, 11838, 13030
CITY DWG. 30131-D & T.M. 96-0625
P.M. NO. 12337

BASIS OF BEARINGS:
THE BASIS OF BEARING FOR THIS PLAT IS THE LINE BETWEEN POINT NO. 557 AND POINT NO. 560-B PER RECORD OF SURVEY MAP NO. 14492, I.E. N64°36'13"W
DISTANCES SHOWN HEREON ARE GROUND.



DETAIL A
NO SCALE



VICINITY MAP
NO SCALE

Latitude 33
Planning and Engineering
4180 La Jolla Village Dr., Ste. 330
La Jolla, CA 92037
619-662-0033 Fax 619-662-0766
241PLT-SWRA.dwg 11-28-00 8:33:47 am EST



20.00' WIDE SEWER EASEMENT (TYP.) SEE CITY DWG. NO.19021-B

W 1/2 SW 1/4 SECTION 16

N00°40'38"W 183.06'

Clifford John Eardensohn II
C. JOHN EARDENSOHN L.S. 5278
REGISTRATION EXPIRES 12-31-2003
8-17-00 DATE

**SEWER EASEMENT
IN PARCEL 4
OF PARCEL MAP 12337**



DESCRIPTION	BY	APPROVED	DATE	T.M. NO.
ORIGINAL	LAT33			96-0625
	<i>[Signature]</i>			W.O. NO. 980733
				1924-6275
				CCS '83 COORDINATES
				284-1715
				LAMBERT COORDINATES
				19022-B

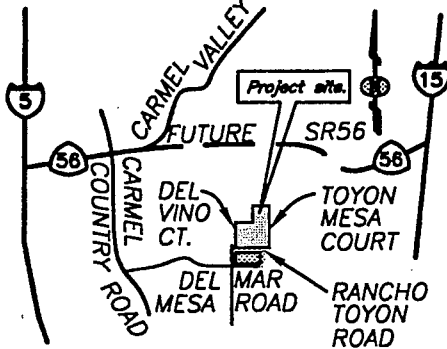
CITY OF SAN DIEGO, CALIFORNIA
PLANNING AND DEVELOPMENT REVIEW DEPARTMENT
SHEET 1 OF 1 SHEET
[Signature]
FOR CITY ENGINEER
1-03-00
DATE

R-295617

SEWER EASEMENT WITHIN DISPUTED PROPERTY LIMITS

LEGEND:

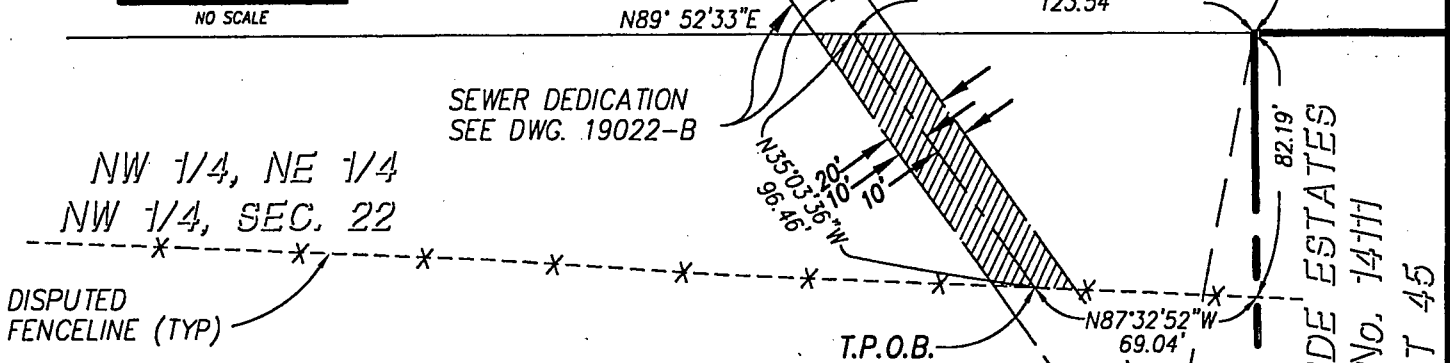
-  INDICATES DISPUTED SEWER EASEMENT AREA = 0.044 ACRE
- P.O.B. INDICATES POINT OF BEGINNING
- T.P.O.B. INDICATES TRUE POINT OF BEGINNING
-  INDICATES SUBDIVISION BOUNDARY MESA VERDE ESTATES, MAP No. 14111



VICINITY MAP
NO SCALE

SW 1/4, SE 1/4
SW 1/4, SEC. 15

P.O.B., NE CORNER, NW 1/4,
NE 1/4, NW 1/4, SEC 22
T. 14 S., R. 3 W., S.B.B.M.
123.54'



APN 308-020-43

ASSESSOR'S PARCEL NUMBER:

308-020-43

REFERENCE DRAWING:

R.O.S. 14492, R.O.S. 13224,
R.O.S. 11838, R.O.S. 13030,
CITY DWG. 30131-D & T.M. 96-0625

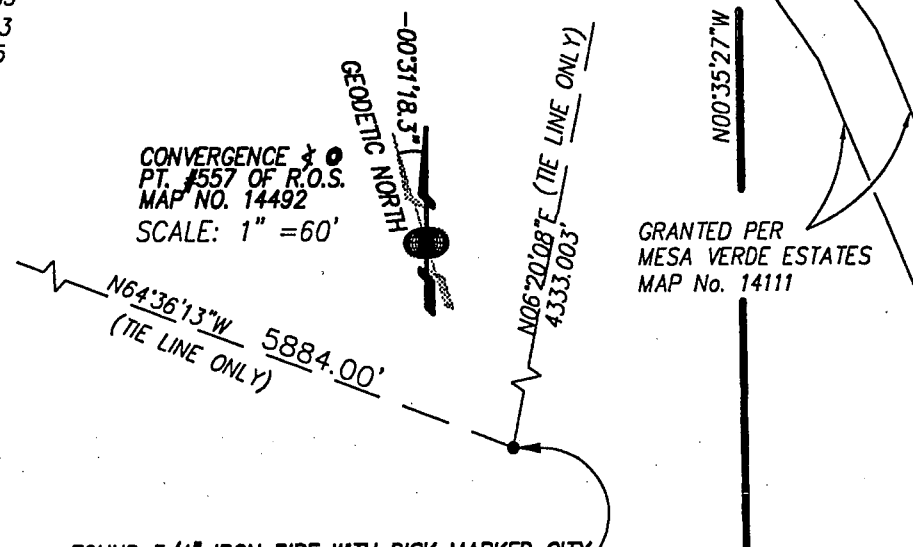
BASIS OF BEARINGS:

THE BASIS OF BEARING FOR THIS PLAT IS
THE LINE BETWEEN POINT NO. 557 AND
POINT NO. 560-B PER RECORD OF SURVEY
MAP NO. 14492, I.E. N64°36'13"W

FOUND 2" IRON PIPE WITH CAP MARKED 56-2.85
1988 PER R.O.S. 14492 (POINT # 557, NAD 83
COORDINATES N 1,924,386.58, E 6,270,382.75
COMBINED GRID FACTOR OF 0.9999664
AND A CONVERGENCE OF 00°31'18.3")

CONVERGENCE δ
PT. #557 OF R.O.S.
MAP NO. 14492
SCALE: 1" = 60'

SEE GRANT DEED RECORDED
AUGUST 19, 1997 AS FILE/PAGE
NO. 1997-0399155 OF O.R.



FOUND 3/4" IRON PIPE WITH DISK MARKED CITY
ENGINEER PER R.O.S. MAP 14492 (POINT # 560-B NAD 83
COORDINATES N,1921,863.13, E 6,275,697.95)

Latitude 33

Planning and Engineering



4939 Paramount Drive, 2nd Floor
San Diego, CA 92123
858-751-0633 Fax 858-751-0634

R295617