

(R-2003-877)

RESOLUTION NUMBER R- 297776

ADOPTED ON MAR 25 2003

A RESOLUTION DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN RIGHTS-OF-WAY OVER THE PROPERTY DESCRIBED HEREIN FOR THE SEWER GROUP 619 PROJECT DESCRIBED HEREIN FOR THE REPLACEMENT AND REHABILITATION OF CURRENTLY EXISTING UNDERSIZED AND OUTDATED CONCRETE SEWER PIPES IN ORDER TO PROVIDE SAFE AND RELIABLE SEWER INFRASTRUCTURE FOR THE COMMUNITY; THAT SAID PROJECT WILL NECESSARILY REQUIRE THE ACQUISITION OF ONE TEMPORARY CONSTRUCTION PERMIT ON EACH OF SAID REAL PROPERTIES LOCATED AT 3965 BANDINI STREET AND 3852 ALAMEDA PLACE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY REQUIRE THOSE ACQUISITIONS; THAT THE PROPOSED PROJECT IS PLANNED IN A MANNER THAT WILL BE MOST COMPATIBLE WITH THE GREATEST PUBLIC GOOD AND THE LEAST PRIVATE INJURY; AND DECLARING THAT THE OFFER TO PURCHASE THE PROPERTY REQUIRED BY GOVERNMENT CODE 7267.2 HAS BEEN MADE TO THE OWNERS OF RECORD OF THE PROPERTY AND REJECTED; AND DECLARING THE INTENTION OF THE CITY OF SAN DIEGO TO ACQUIRE SAID PROPERTY INTERESTS; 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, 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 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 matters referred to in California Code of Civil Procedure section 1240.030; and

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

Section 1. The public interest, convenience and necessity of the City of San Diego, and the inhabitants thereof, require the construction, operation and maintenance of the Sewer Group 619 Project [Project]. That the Project is within the Middletown and Mission Hills Communities of the City of San Diego and within the Uptown Community Planning Area and enables the City to provide these communities with a safe and reliable sewer infrastructure and to meet the mandate of the California Department of Health that all currently existing concrete sewer mains in use be replaced; that the Project seeks to replace 9800 linear feet of concrete sewer mains in this area which were built in the early 1900's and which are quickly approaching the end of their useful life; that the concrete sewer mains sought to be replaced have experienced problems with clogs and roots that have caused sewer back-ups into private homes and smaller sewer spills; that the existing concrete sewer mains are 8 inch diameter pipes and thus undersized for the communities that they serve and will be replaced with new, 10 inch diameter, PVC pipe; that the Project involves the replacement and rehabilitation of approximately 1644 linear feet of existing concrete sewer line within a canyon area extending from Sheridan Avenue Southerly to California Street [Canyon Area]; that without the Project the communities within the Uptown Community Planning Area would continue to rely on a deteriorating and undersized sewer system which is susceptible to failure and sewage spills.

Section 2. That the public interest, convenience and necessity of the City, and the inhabitants thereof, require the acquisition and taking of temporary construction areas, including all incidents and appurtenances thereto, together with the temporary rights of ingress and egress over, along, and across the land from the real property described hereafter for the completion of the Project within the Canyon Area; the real property lying within the City of San Diego, County of San Diego, State of California, as more particularly described below.

Section 3. That the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury because the location and alignment of the Project is determined by the existing sewer line within the Canyon Area thereby reducing the need for the acquisition and disturbance of additional property rights; that private injury is further minimized because the sewer line runs beneath undeveloped portions of private land without structures or private development; that the interest sought to be acquired is the temporary use of the land to enable the City to go onto the land to replace and rehabilitate the aged sewer main that runs through it without the need of acquiring further permanent rights; that the areas of land where the temporary construction area permits are located are at the foot of a slope within the Canyon Area; that alternatives were evaluated for the purpose of identifying the most preferred method of aligning the Project but were rejected because of their lack of the same level of safety and reliability. Design of the Project has also minimized private injury by following topographic contours, keeping the width of the permanent easement (15 feet) to the minimum needed to operate and maintain the sewer system. In order to further minimize private injury, the City is obligated and committed to replacing all disturbed areas of land to their original status and avoiding adverse environmental and aesthetic impacts on private property.

Section 4. That the taking of the interests to the real property more particularly described hereafter is necessary for the Project and for municipal purposes, namely, the provision of a safe, reliable public sewer system to handle wastewater disposal for the communities within the Uptown Community Planning Area. Replacement, rehabilitation and relocation of this sewer line over the subject real property is an important element of providing an adequate, safe and reliable sewer system for both existing and future residents of the communities within the Uptown Community Planning Area.

Section 5. That the real property from which a temporary construction area is sought is located at 3965 Bandini Street, San Diego, California, and is more particularly described as follows:

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EXHIBIT "A"

TEMPORARY CONSTRUCTION AREA

APN : 443-792-14

PAGE 1 OF 1

A Portion of Lot 9, of Rodefer Hills, in the City of San Diego, the County of San Diego, the State of California, as shown on Map 2993, recorded in the Office of the County Recorder of San Diego County, on May 29, 1953, being a strip of land 30.00 feet wide, the centerline of which is described as follows:

Commencing at the Northwest corner of Lot 9; Thence South 54°12'10" East 54.99 feet along said lot line to the **TRUE POINT OF BEGINNING**; Thence South 28°52'10" West, 25.41 feet; Thence South 20°46'47" West, 129.46 feet; Thence South 17°17'13" West, 131.71 feet; Thence South 15°07'42" West, 47.05 feet to an intersection with the Northwesterly line of Alameda place as dedicated per said Map 2993.

The sidelines to terminate:

Northerly at an intersection with the Northeasterly line of said Lot 9 and Southerly at an intersection with the Northwesterly line of Alameda Place.

Said parcel contains 10,007.47 Sq. ft. (0.2297 acres).

See City of San Diego Drawing No. 19158 - B



Lester E. Carter Jr.

2-25-2000

Date

Lester E. Carter Jr., PLS 6148
Sr. Land Surveyor, Field Engineering
My Registration Expires 3/31/02

file : 619adde.lgl W.O. 172531 02/25/00-dgb

That the real property from which a temporary construction area is sought is located at
3852 Alameda Place, San Diego, California, and is more particularly described as follows:

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EXHIBIT "A"

TEMPORARY CONSTRUCTION AREA

APN : 443-783-05

PAGE 1 OF 1

A portion of Lot 10, of Rodefer Hills, in the City of San Diego, the County of San Diego, the State of California, as shown on Map 2993, recorded in the Office of the County Recorder of San Diego County, on May 29, 1953, being a strip of land 30.00 feet wide, the centerline of which is described as follows:

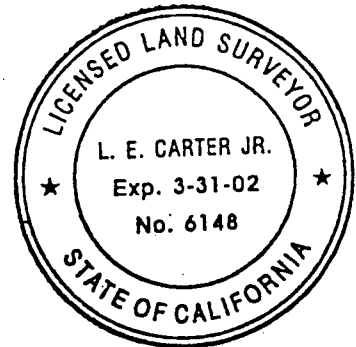
Commencing at the Northwest corner of Lot 9; Thence South $54^{\circ}12'10''$ East 54.99 feet along said lot line to the **TRUE POINT OF BEGINNING**; Thence North $28^{\circ}52'10''$ East 100.50 feet; thence North $17^{\circ}54'58''$ East 131.45 feet; Thence North $09^{\circ}09'57''$ East 139.97 feet; Thence North $42^{\circ}13'28''$ East 106.96 feet to an intersection with the Northeasterly line of Lot 10.

The sidelines to terminate:

Northerly at an intersection with the Northeasterly line of said Lot 10 and Southerly at an intersection with the Northeasterly line of said Lot 9.

Said parcel contains 14,234.51 Sq. ft. (0.3268 acres).

See City of San Diego Drawing No. 19159 - B



A handwritten signature in black ink, appearing to read "Lester E. Carter Jr.", written over a horizontal line.

2-25-2000

Date

Lester E. Carter Jr., PLS 6148
Sr. Land Surveyor, Field Engineering
My Registration Expires 3/31/02

file : 619adde.lgl W.O. 172531 02/25/00-dgb

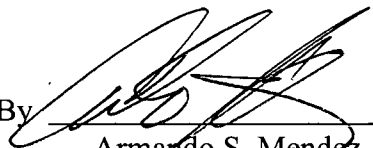
Section 6. That the acquisitions sought herein are for a public use authorized by the following laws: Article 1, Section 19, of the Constitution of the State of California; California Code of Civil Procedure sections 1240.010-050, 1240.110-120, and 1255.410; The Improvement Act of 1911; California Streets and Highways Code sections 5023, 5023.1, 5100, 5101, and 5102; California Government Code sections 37350.5, 38900, and 40404; and Charter of the City of San Diego, Section 220.

Section 7. That 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.

Section 8. That the City Attorney's Office 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 property described herein, to condemn, acquire and obtain prejudgment possession of the property for the use of the City.

APPROVED: CASEY GWINN, City Attorney

By


Armando S. Mendez,
Deputy City Attorney

ASM:kat:ccm:Civ.
1/7/03
Or.Dept:REA
Aud.Cert:2300645
R-2003-877
Form=sewer.res

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2300645

ORIGINATING
DEPT. NO.: 773

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 \$ 115,000.00 Funds 41506
 Purpose Authorizing the expenditure of funds for the acquisition of property rights, condemnation, labor, title, escrow, and miscellaneous costs, for Sewer Group 619 Project.
 Date December 05, 2002 *Paul B. Owens*
 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	41506	773	960	4278	172539				\$115,000.00
TOTAL AMOUNT										\$115,000.00

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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