

RESOLUTION NUMBER R- **298608**

ADOPTED ON **NOV 18 2003**

A RESOLUTION OF THE CITY OF SAN DIEGO DETERMINING AND DECLARING THAT THE PUBLIC INTEREST, CONVENIENCE AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY DESCRIBED HEREIN FOR THE SKYLINE HILLS BRANCH LIBRARY RENOVATION AND EXPANSION 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 OF SAN DIEGO.

WHEREAS, the Council of The City of San Diego has provided notice to each person whose property is sought to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice, as required under Section 1245.235, California Code of Civil Procedure, and also has provided each person with a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030, California Code of Civil Procedure; NOW, THEREFORE,

BE IT RESOLVED, THAT THE COUNCIL OF THE CITY OF SAN DIEGO, HAS FOUND AND DETERMINED EACH OF THE FOLLOWING, by a vote of two-thirds or more of its members:

Section 1. That the public interest, convenience and necessity of the City of San Diego, and the inhabitants thereof ["City"], require the renovation, construction, operation, and maintenance of the Skyline Hills Branch Library Renovation and Expansion Project which will enable the City to provide the Skyline service area communities with a larger modern library facility, all in the City of San Diego, County of San Diego, State of California, as more particularly described herein.

That the real property interests sought to be acquired through eminent domain are required for the Skyline Hills Branch Library Renovation and Expansion Project ["Project"] which consists of renovating the existing 4,400 square foot Skyline Hills Branch Library building on its 19,650 square foot lot, located at 480 Meadowbrook Drive in the City of San Diego, as well as the construction and maintenance of a 15,000 square foot library addition to the existing building and a new larger dedicated parking lot. The construction of the expansion Project is necessary as the existing Skyline Hills Branch library is an undersized facility which is nearly 40 years old and does not adequately serve the Skyline Hills community service area. The Project will provide a computer lab, community meeting space, special areas designed for children and teens, and expanded general seating and collection space, with additional dedicated parking as required for a facility of this size.

Further, that the Project is required as part of the City of San Diego's Engineering and Capital Projects on-going efforts in its citywide Library System Improvements Program to provide modern adequate public library facilities to the City inhabitants, whose funding was identified in the financing plan previously approved by the San Diego City Council on November 8, 2002, as detailed in City Manager's Report No 02-264.

That all required environmental reviews regarding the renovation and construction of the Project and the acquisition of the subject property sought herein for the Project, were completed as pertained to the proposed Project in Mitigated Negative Declaration Project No. 14584. Further, that the proposed library renovation/expansion Project is consistent with the Skyline/Paradise Hills Community Plan and the City's General Plan Guidelines. Accordingly, that the Project is found to be in the public interest and necessity.

Section 2. That the proposed 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 current Skyline Branch Library site is not large enough to accommodate a 15,000 square foot addition to the existing facility and to provide the required off-street parking for a facility this size. That other sites were considered for the Project throughout the community but were rejected due to

their size, financial, and/or building constraints as well as environmental contamination concerns.

Section 3. That the public interest, convenience and necessity of the City require the acquisition and taking of fee simple title to the subject property for the construction and operation of the Project. That the subject property is owned by the Pacific Southwest Land Company and contains a total gross area of 3.21 acres on a vacant parcel located immediately adjacent to the current Skyline Hills Branch Library, said real property lying within the City of San Diego, County of San Diego, State of California, and that the property is necessary for the construction and operation of the Project. That the 3.21 acre vacant parcel, as described in detail below, is of the size and location to accommodate the Project, provide adequate dedicated off-street parking for the community, and for any expansion needed for future service needs of the community.

That the construction of the proposed Project along the frontage portion of the subject property, adjacent to the existing library renovation site, will result in the remainder portion of the commercial zoned parcel being of little market value due to its lack of street frontage and public access. That the remainder or remnant portion of the subject parcel which is not being used for construction or operation of the Project is being acquired pursuant to California Code of Civil Procedure section 1240.410. That the owners of the subject property have rejected the reasonable, practicable, and economically sound means proposed by the City to prevent the remainder of the property from becoming a remnant with little market value after the construction of the Project. Accordingly, that the entire subject property is necessary for the Project as designed, for municipal purposes, namely the renovation and expansion of the Skyline Hills Branch Library.

Section 4. That the parcel of property sought to be condemned in fee simple is described as follows [Subject Property]:

(Assessor's Parcel No. 586-102-16)

PARCEL 3 OF SURVEY MAP NO. 6931, FILED WITH SAN DIEGO COUNTY RECORDER'S OFFICE, BEING A PORTION OF LOT 1 OF HIGHLAND PARK SHOPPING VILLAGE RESUBDIVISION NO. 2., MAP NO. 5643 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED WITH THE SAN DIEGO COUNTY RECORDER'S OFFICE.

Section 5. That the City of San Diego has the power of eminent domain to acquire the Subject Property for this public use pursuant to, *inter alia*, Article I, Section 19, of the Constitution of the State of California; Section 220, Charter of the City of San Diego; Sections 1240.010 – 1240.050 (general power to condemn for public use), 1240.110 (types of interests to be condemned), 1240.410 (condemnation of remnant), and 1255.410 (prejudgment possession of property) of the California Code of Civil Procedure; Sections 37350.5 (city's power of eminent domain), 37353 (condemnation for off-street parking), 38002 (condemnation for library as improvement), 38010 (condemnation for improvements), 38011 (condemnation for improvements), and 39732 (condemnation for libraries) of the California Government Code.

Section 6. That an offer to acquire the Subject Property, pursuant to California Government Code Section 7267.2, at the appraised fair market value has been made to the owners of record of the Subject Property to be acquired and has been rejected.

Section 7. That in connection with this action, the Council has reviewed and considered the information contained in Mitigated Negative Declaration ["MND"] (Project No. 14584), dated November 4, 2003, and the accompanying Mitigation, Monitoring and Reporting Program for the Project.

Section 8. 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 Subject Property for the purpose of condemning and acquiring the certain real property in fee simple for the use of the City of San Diego and to take prejudgment possession thereof pursuant to California Code of Civil Procedure Section 1255.410.

APPROVED: CASEY GWINN, City Attorney

By *Lisa D. O'Neal*

Deputy City Attorney
Lisa D. O'Neal

LON:aml:Civ
November 4, 2003
OR Dept: READ
R-2004-389
Aud.Cert: 240048

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

CERTIFICATE OF UNALLOTTED BALANCE

AC 2400489 #

ORIGINATING DEPT. NO.: 070

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: \$2,000,000.00 Fund: 30244

Purpose: Authorizing the expenditure of an amount not to exceed \$2,000,000 for the purchase and acquisition of required property rights and land for the Skyline Hills Library.

Date: November 4, 2003

By: *Heather Biggs*
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	30244	30244	106	4638	351070		102216		\$2,000,000.00
TOTAL AMOUNT										\$2,000,000.00

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										

FUND OVERRIDE

AC 2400489

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