

RESOLUTION NUMBER R- 309866

DATE OF FINAL PASSAGE JUL 21 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE ACQUISITION OF REAL PROPERTY INTERESTS FOR THE CONSTRUCTION OF THE LA JOLLA COUNTRY CLUB RESERVOIR AND PUMP STATION PROJECT; AUTHORIZING THE CITY ATTORNEY TO COMMENCE PROCEEDINGS IN EMINENT DOMAIN AND TO OBTAIN AN ORDER FOR IMMEDIATE POSSESSION; AND AUTHORIZING EXPENDITURE OF FUNDS FOR THE REAL PROPERTY INTERESTS TO BE ACQUIRED.

WHEREAS, on January 21, 2015, the City of San Diego, through its Director of Development Services Department as designated by the City Manager, approved a Site Development Permit and Coastal Development Permit to construct the Jolla Country Club Reservoir and Pump Station Project (Project) which is part of the City of San Diego's Public Utilities Department's Capital Improvement Program; and

WHEREAS, the Project consists of construction of a new 880,000 gallon concrete reservoir almost entirely within the existing reservoir footprint, replacement of the existing antiquated pump station with three new pumps, and installation of new valves, pipes and drains; and

WHEREAS, on January 21, 2015, the Director of the Planning Department as designated by the City Manager, adopted a Mitigated Negative Declaration for this Project in compliance with the California Environmental Quality Act of 1970 (CEQA) (Pub. Res. Code Section 21000 et seq.), as amended, and the State CEQA Guidelines thereto (California Code of Regulations, Title 14, Chapter 3, Section 15000 et seq.) and the time to appeal that action has expired; and

WHEREAS, the acquisition of the property interests set forth in Exhibit 1 is part of a series of subsequent discretionary actions necessary to implement the Project and is not considered a separate project under CEQA; and

WHEREAS the existing reservoir, built in 1927, and the existing pump station, built in 1985, have outlived their useful life and need to be replaced and upgraded to meet the needs of the community; and

WHEREAS, the Project will provide 76% more capacity than the existing reservoir and more than a 30% increase in pumping capacity to meet the future growth demands for domestic water supply, backup storage supply and emergency fire flow protections benefitting the La Jolla community; and

WHEREAS, the City of San Diego already has an easement over the area to be acquired to maintain and operate the existing reservoir and pump station; and

WHEREAS, the Project requires fee acquisition of a portion of APN 352-311-10 more specifically described in Exhibit 1 attached hereto (Acquisition Area) to provide for the reservoir subdrain/leak detection manholes, drainage piping, water supply and bypass piping, emergency isolation shutoff valves, pressure regulation valves, electrical equipment systems for power and monitoring/controls, altitude valve vaults, an emergency backup power generator, and landscaping/irrigation systems; and

WHEREAS, the City obtained a fair market value appraisal of the Acquisition Area and determined that the total probable compensation to be paid for acquisition of the real property interests sought is \$46,100.00; and

WHEREAS, the City negotiated with the property owner and made an offer to purchase the Acquisition Area necessary for the Project at an amount consistent with the appraised fair

market value of the property in compliance with California Government Code section 7267.2(a), and the negotiations with the property owner have not been successful as of the date of this Resolution; and

WHEREAS, funds are available to acquire the necessary real property interests sought for the Project from CIP A-BL.0001, Annual Allocation Standpipe and Reservoir Rehabilitations (B11024), Fund 700010 (Water Utilities CIP Funding Source); and

WHEREAS, the City is vested with the power of eminent domain by Article I, Section 19 of the California Constitution, California Government Code section 37350.5, and San Diego Charter section 220, to acquire real property interests necessary for a public purpose; and

WHEREAS, the acquisition of the real property interests proposed is the least amount of real property necessary to complete the Project and is limited to real property already encumbered by an easement in favor of the City of San Diego; and

WHEREAS, on June 30, 2015, the City mailed a notice of hearing, and of its intent to adopt this Resolution of Necessity, to the record owners of the Acquisition Area, and all other persons who may have an ownership interest in the property interests sought; which notice of hearing advised said persons of their right to appear and be heard on the matters referred to therein, on the date and at the time of the place stated therein, and that a waiver of their right to appear and be heard will result upon their failure to file a written request to appear and be heard within 15 days after the date the City mailed the notice, all in compliance with California Code of Civil Procedure section 1245.235; and

WHEREAS, the hearing set out in said notice of hearing was held on July 21, 2015, at the time and place stated in the notice, and all interested parties were given an opportunity to appear and be heard on the following matters: (a) whether the public interest and necessity

require the Project; (b) whether the Project is planned or located in a manner which is most compatible with the greatest public good and the least private injury; (c) whether the property interests proposed to be acquired are necessary for the Project; (d) whether an offer meeting the requirements of California Government Code section 7267.2 has been given; and (e) whether all other prerequisites for the exercise of eminent domain to acquire the property rights have been met; and

WHEREAS, the City Council, as a result of said hearing, has determined that the public health, safety and welfare require the City to acquire the property interests described in Exhibit 1 for the Project; and

WHEREAS, under Charter section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the public interest and necessity require acquisition of the property interests as set forth in Exhibit 1 consisting of a portion of property located on APN 352-311-10 to implement the Project.

BE IT FURTHER RESOLVED, that the Project is planned or located in a manner most compatible with the public good and least private injury.

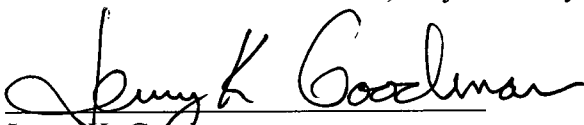
BE IT FURTHER RESOLVED, that the property interests proposed to be acquired are necessary for the Project and that such use is a public use authorized by law (inter alia, Charter section 220, California Code of Civil Procedure sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.110, 1240.120, 1240.140, 1240.510, 1240.610 and 1255.410; California Government Code section 5023.1).

BE IT FURTHER RESOLVED, that an offer to acquire the real property interests, pursuant to California Government Code section 7267.2, at the appraised fair market value, has been made to each party claiming an ownership interest(s) in the property interests sought.

BE IT FURTHER RESOLVED, that the City Attorney of the City of San Diego is hereby authorized and directed to commence an action in the Superior Court of the State of California, in and for the County of San Diego, in the name of and on behalf of the City of San Diego, against all claimants with any interest(s) in the real property interests sought, and to seek immediate possession of the real property interests sought pursuant to California Code of Civil Procedure section 1255.410.

BE IT FURTHER RESOLVED, that the Chief Financial Officer is authorized to expend funds in the amount of \$46,100.00 from CIP A-BL.0001, Annual Allocation Standpipe and Reservoir Rehabilitations (B11024), Fund 700010 (Water Utilities CIP Funding Source) to acquire the property interests found necessary for the Project, and for deposit into the State Treasury's State Condemnation Fund, as necessary, to obtain possession of the Acquisition Area. This is the probable amount of compensation to be paid by the City for the necessary real property interests to be acquired.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Jenny K. Goodman  
Deputy City Attorney

JKG:mc  
06/29/15  
Or.Dept:READ  
Doc. No. 1052694

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUL 21 2015.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Passed by the Council of The City of San Diego on JUL 21 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Date of final passage JUL 21 2015.


**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California

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