

RESOLUTION NO. 201037

ADOPTED October 15, 1970

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, ORDERING CHANGES IN THE BOUNDARIES OF AN IMPROVEMENT DISTRICT PROPOSED TO BE FORMED OF A PORTION OF THE CITY TO BE NAMED "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT" WHICH IN THE OPINION OF THE COUNCIL WILL BE BENEFITED BY THE ACQUISITION, CONSTRUCTION, COMPLETION AND FINANCING OF CERTAIN IMPROVEMENTS, DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE FORMATION OF SUCH IMPROVEMENT DISTRICT AND THE ISSUANCE OF BONDS WHICH SHALL BE SPECIAL OBLIGATIONS OF AND BE ISSUED ON BEHALF OF SUCH IMPROVEMENT DISTRICT AND FORMING SUCH IMPROVEMENT DISTRICT TO BE NAMED AS AFORESAID.

WHEREAS, on April 9, 1970, the Council of The City of San Diego adopted Resolution No. 199489 declaring the necessity for and stating its intention to form an improvement district within The City of San Diego to be named "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT" and to proceed under the San Diego Utility Improvement Districts Procedural Ordinance as set forth in Chapter VI, Article 1, Divisions 9 through 17, of the San Diego Municipal Code and to issue bonds which shall be special obligations of and be issued on behalf of such improvement district and fixing the time and place of hearing and giving notice of such hearing; and

WHEREAS, the City Clerk reported to this Council that said Resolution No. 199489 together with the general

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description of the proposed improvement (Document No. 731286) and a map showing the exterior boundaries of the proposed improvement district with relation to the territory immediately contiguous thereto and to the proposed improvement (Document Nos. 731287A, B and C) were on file in his office and were available for inspection by any person or persons interested; and

WHEREAS, said Resolution No. 199489 fixed May 7, 1970 at the hour of 9:30 A.M. on said day as the time, and the Council Chambers, City Administration Building, 202 "C" Street, San Diego, California, as the place for a hearing by the Council on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement, the estimated cost and the amount of bonds to be issued; and stated that at said time and place any person interested will be heard; and that any holder of title to taxable land within the proposed improvement district may file with the City Clerk at any time prior to the time set for the hearing thereon written protest to the formation of the proposed improvement district; and

WHEREAS, said Resolution No. 199489 fixed the same date, time and place referred to above, to wit, May 7, 1970, at the hour of 9:30 A.M. on said day at the Council Chambers, City Administration Building, 202 "C" Street, San Diego, California, as the time and place for holding of a special hearing pursuant to Section 17 of Article XIII of the California Constitution and Section 2804 of the

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Streets and Highways Code and stated that at the same time and place any person interested will be heard on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement, the estimated cost, the amount of bonds to be issued and whether the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 and the debt limitation and majority protest provisions thereof shall apply; and

WHEREAS, said Resolution No. 199489 ordered and directed the City Clerk to cause notice of said hearings to be given by publishing a copy of said resolution once at least ten (10) days prior to the time for said hearings above stated in the City Official Newspaper, and the City Clerk has filed a certificate of publication with this Council showing that such publication was made. Said notice was also ordered and directed to be given by posting a copy of this resolution in three (3) public places within the proposed improvement district at least fifteen (15) days before the time fixed for said hearings, and the City Clerk has filed his affidavit with this Council that said postings were made; and

WHEREAS, said Resolution No. 199489 ordered and directed the City Clerk to cause notice of said hearings to be given by mailing, postage prepaid, a copy of said resolution to each holder of title to taxable land within the proposed improvement district as such ownership is shown on the last equalized county assessment roll, at his address as shown upon the roll, and to any person,

whether owner in fee or having a lien upon, or legal or equitable interest in, any land within the proposed improvement district, whose name and address and a designation of the land in which he is interested is on file with the City Clerk, said mailing to be completed not less than fifteen (15) days prior to the date of the hearings fixed therein, and the City Clerk has filed his affidavit with this Council that said mailings were made; and

WHEREAS, at the time and place fixed in said Resolution No. 199489, a full and fair public hearing was held, and all persons desiring to be heard on the questions before this Council were heard, and evidence was presented to this Council on said questions before it, and this Council was fully advised in the premises; and

WHEREAS, said hearing was adjourned to June 9, 1970, and on said date the Council of The City of San Diego adopted Resolution No. 199983 declaring its intention to order changes in the boundaries of said proposed improvement district within The City of San Diego to be named "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT", but not so as to include any land which will not, in its judgment, be benefited by the proposed improvement and fixing the time and place of hearing on such changes and giving notice of such hearing; and

WHEREAS, the City Clerk has filed with the Council his certificate that said Resolution No. 199983 together with the general description of the proposed improvement

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(which, as stated aforesaid, was on file in the office of the City Clerk as Document No. 731286) and a map showing the exterior boundaries of the proposed improvement district, as the same has been proposed to be changed, with relation to the territory immediately contiguous thereto and to the proposed improvement (which is on file with the City Clerk as Document Nos. 731827A and 732223) were on file in his office and were available for inspection by any person or persons interested; and

WHEREAS, said Resolution No. 199983 fixed June 30, 1970, at the hour of 9:30 A.M. on said day as the time, and the Council Chambers, City Administration Building, 202 "C" Street, San Diego, California, as the place for a hearing by the Council on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement, the estimated cost and the amount of bonds to be issued; and stated that at said time and place any person interested will be heard; and that any holder of title to taxable land within the proposed improvement district may file with the City Clerk at any time prior to the time set for the hearing thereon written protest to the formation of the proposed improvement district; and

WHEREAS, said Resolution No. 199983 fixed the same date, time and place referred to above, to wit, June 30, 1970, at the hour of 9:30 A.M. on said day at the Council Chambers, City Administration Building, 202 "C" Street, San Diego, California, as the time and place for holding of a special hearing pursuant to Section 17 of Article XIII

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of the California Constitution and Section 2804 of the Streets and Highways Code and stated that at the same time and place any person interested will be heard on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement, the estimated cost, the amount of bonds to be issued and whether the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 and the debt limitation and majority protest provisions thereof shall apply; and

WHEREAS, said Resolution No. 199983 ordered and directed the City Clerk to cause notice of said hearings to be given by publishing a copy of this resolution once at least ten (10) days prior to the time for said hearings above stated in the City Official Newspaper, and the City Clerk has filed a certificate of publication with this Council showing that such publication was made. Said notice was also ordered and directed to be given by posting a copy of said resolution in three (3) public places within the proposed improvement district at least fifteen (15) days before the time fixed for said hearings, and the City Clerk has filed his affidavit with this Council that said postings were made; and

WHEREAS, said Resolution No. 199983 ordered and directed the City Clerk to cause notice of said hearings to be given by mailing, postage prepaid, a copy of said resolution to each holder of title to taxable land within the proposed improvement district as such ownership is shown on the last equalized county assessment roll, at

his address as shown upon the roll, and to any person, whether owner in fee or having a lien upon, or legal or equitable interest in, any land within the proposed improvement district, whose name and address and a designation of the land in which he is interested is on file with the City Clerk, said mailing to be completed not less than fifteen (15) days prior to the date of the hearings fixed therein, and the City Clerk has filed his affidavit with this Council that said mailings were made; and

WHEREAS, at the time and place fixed in said Resolution No. 199983, a full and fair public hearing was held, was continued to July 21, 1970, at which time a further full and fair public hearing was held, was continued to July 28, 1970, at which time a further full and fair public hearing was held, and was continued to July 30, 1970, at which time a further full and fair public hearing was held, and all persons desiring to be heard on the questions before this Council were heard, and evidence was presented to this Council on said questions before it, and this Council was fully advised in the premises; and

WHEREAS, on July 30, 1970, the Council of the City of San Diego adopted Resolution No. 200431 and Resolution No. 200432 declaring that the hearings on said Resolutions Nos. 199489 and 199983 were concluded; and

WHEREAS, in said Resolution No. 200431, the Council of the City of San Diego ordered changes in the boundaries of said proposed improvement district and stated

that such boundaries do not include any territory which will not, in the judgment of the Council, be benefited by the proposed improvement, and said Council resolved, determined and ordered that, as a result of said hearings and upon the evidence presented, it is necessary to form an improvement district within the City and to proceed under the San Diego Utility Improvement Districts Procedural Ordinance to issue bonds which shall be special obligations of and be issued on behalf of such improvement district for the purpose of acquiring, constructing, completing and financing works, improvements and facilities for the collection, treatment and disposal of sewage, including interceptor and trunk sewers, pumping plants, appurtenances and appurtenant works; and

WHEREAS, in said Resolution No. 200432, the Council of the City of San Diego resolved, determined and ordered that, as a result of said hearings and upon the evidence presented, the public convenience and necessity require the acquiring, constructing, completing and financing of the improvements and acquisitions described in said Resolutions Nos. 199489 and 199983 and the documents referred to therein, and that this finding and determination, made pursuant to Section 17 of Article XIII of the California Constitution, makes inapplicable the debt limitation and majority protest provisions referred to in said Section 17, including, without limitation, Section 2804 of the Streets and Highways Code; and

WHEREAS, in said Resolution No. 200432, the Council of the City of San Diego resolved, determined and ordered that, the estimated cost of the accomplishment of such purposes and the amount of the proposed bonds to be issued therefor, including incidental expenses (including, without limitation, engineering, appraisal, legal fees, land and rights of way acquisition, reserve funds and expenses of financing the district and expenses of all proceedings for the authorization, issuance and sale of the bonds) is \$15,000,000; and

WHEREAS, in said Resolution No. 200431, the Council of the City of San Diego resolved, determined and ordered that, as a result of said hearings and upon the evidence presented, it is determined that a portion of the City will be benefited by the accomplishment of the purpose set forth in Section 3 of said Resolution No. 200431; that the exterior boundaries of said portion (as changed in accordance with Section 3 of said Resolution No. 200431) are set forth on a map on file with the City Clerk (Document No. 733100), which map shall govern for all details as to the extent of the improvement district; and that such portion of the City set forth on said map shall hereupon constitute and be known as "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT"; and

WHEREAS, on August 25, 1970, the Council of the City of San Diego adopted resolutions for the issuance and sale of the Bonds so authorized, numbered and titled as follows:

"RESOLUTION NO. 200624

"RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, PROVIDING FOR THE ISSUANCE OF \$9,500,000 OF BONDS WHICH SHALL BE SPECIAL OBLIGATIONS OF AND BE ISSUED ON BEHALF OF THAT CERTAIN IMPROVEMENT DISTRICT WITHIN THE CITY NAMED "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT"

"RESOLUTION NO. 200625

"RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, PROVIDING FOR THE SALE OF \$9,500,000 BONDS ON BEHALF OF CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT AND DIRECTING THE CITY CLERK TO PUBLISH NOTICE INVITING SEALED BIDS FOR SAID BONDS"

; and

WHEREAS, additional information had come to the attention of this Council which made it necessary and desirable to change the boundaries of said proposed improvement district; and

WHEREAS, on September 24, 1970, the Council of the City of San Diego adopted Resolution No. 200854 stating that, except for the statement that at the conclusion of the hearing on July 30, 1970, the Council had been fully advised in the premises, the facts, findings and determinations set forth in the above recitals, including, without limitation, the facts set forth in the affidavits and certificates referred to therein, were true and correct, and were thereby affirmed, and that all proceedings had been taken in accordance with the San Diego Utility Improvement Districts Procedural Ordinance, other applicable laws

and provisions of the Constitutions of the United States and of the State of California; and

WHEREAS, said Resolution No. 200854 stated that it is deemed necessary to form an improvement district within the City to be named CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT and to issue bonds which shall be special obligations of and be issued on behalf of such improvement district for the purpose of acquiring, constructing, completing and financing works, improvements and facilities for the collection, treatment and disposal of sewage, including interceptor and trunk sewers, pumping plants, appurtenances and appurtenant works; but, that, as a result of additional information presented to it, the Council hereby declares its intention to order changes in the boundaries of said proposed improvement district, but not so as to include any territory which will not, in its judgment, be benefited by the proposed improvement; and

WHEREAS, in said Resolution No. 200854, in pursuance of the intent to form such improvement district, the Council rescinded Resolutions Nos. 200624 and 200625, and repealed that part of Section 7 of Resolution No. 200431 and that part of Section 6 of Resolution No. 200432 which read as follows:

" . . . which map shall govern for all details as to the extent of the improvement district; and that such portion of the City set forth on said map shall hereupon constitute and be known as "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT."

; and

WHEREAS, in said Resolution No. 200854, the Council of the City of San Diego stated that the purpose as originally proposed is unchanged; and

WHEREAS, in said Resolution No. 200854, the Council of the City of San Diego stated that the estimated cost and debt as originally proposed, i.e.: ". . . the estimated cost of the accomplishment of such purposes and the amount of bonds to be issued therefor, including incidental expenses (including, without limitation, engineering, appraisal, legal fees, land and rights of way acquisition, reserve funds and expenses of financing the district and expenses of all proceedings for the authorization, issuance and sale of the bonds) is \$15,000,000. . . ." is unchanged and said sum is also the amount of bonded indebtedness to be incurred by the issuance of bonds on behalf of such proposed improvement district; and

WHEREAS, in said Resolution No. 200854, the Council of the City of San Diego stated that "the bonds shall not be general obligations of the City, nor shall the credit of the City or the property or revenue of any public utility owned by the City be pledged for the payment thereof; and that the bonds shall be special obligations of and be issued on behalf of the improvement district; and that taxes for the payment of the interest on the bonds and the principal thereof shall be levied exclusively upon the taxable land in the improvement district."; and

WHEREAS, in said Resolution No. 200854, the Council of the City of San Diego stated that "the maximum interest rate which the bonds may bear, shall be 8% per year payable semiannually, except that interest for the first year may be payable at the end of said year or at such time prior to the end of that year as may be determined in the resolution providing for the issuance of the bonds."; and

WHEREAS, in said Resolution No. 200854, the Council of the City of San Diego stated that "the general description of the proposed improvement (which is on file in the office of the City Clerk as Document No. 731286) and a map showing the exterior boundaries of the proposed improvement district as changed on July 30, 1970, with relation to the territory immediately contiguous thereto and to the proposed improvement (which is on file with the City Clerk as Document Nos. 731287A and 733100) are available for inspection by any person or persons interested."; and

WHEREAS, in said Resolution No. 200854, the Council of the City of San Diego stated that "this resolution (which is on file with the City Clerk as Resolution No. 200854) together with the general description of the proposed improvement (which, as stated aforesaid, is on file in the office of the City Clerk as Document No. 731286) and a map showing the exterior boundaries of the proposed improvement district, as the same has been proposed to be changed, with relation to the territory immediately contiguous thereto

and to the proposed improvement (which is on file with the City Clerk as Document Nos. 731287A and 733481) are available for inspection by any person or persons interested."; and

WHEREAS, said Resolution No. 200854 fixed October 15, 1970, at the hour of 9:30 A.M. on said day as the time, and the Council Chambers, City Administration Building, 202 "C" Street, San Diego, California, as the place for a hearing by the Council on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement, the estimated cost and the amount of bonds to be issued; and stated that at said time and place any person interested will be heard; and that any holder of title to taxable land within the proposed improvement district may file with the City Clerk at any time prior to the time set for the hearing thereon written protest to the formation of the proposed improvement district; and

WHEREAS, said Resolution No. 200854 fixed the same date, time and place referred to above, to wit, October 15, 1970, at the hour of 9:30 A.M. on said day at the Council Chambers, City Administration Building, 202 "C" Street, San Diego, California, as the time and place for holding of a special hearing pursuant to Section 17 of Article XIII of the California Constitution and Section 2804 of the Streets and Highways Code and stated that at the same time and place any person interested will be heard on the

questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement, the estimated cost, the amount of bonds to be issued and whether the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 and the debt limitation and majority protest provisions thereof shall apply; and

WHEREAS, said Resolution No. 200854 ordered and directed the City Clerk to cause notice of said hearings to be given by publishing a copy of said resolution once at least ten (10) days prior to the time for said hearings above stated in the City Official Newspaper, and the City Clerk has filed a certificate of publication with this Council showing that such publication was made. Said notice was also ordered and directed to be given by posting a copy of said resolution in three (3) public places within the proposed improvement district at least fifteen (15) days before the time fixed for said hearings, and the City Clerk has filed his affidavit with this Council that said postings were made; and

WHEREAS, said Resolution No. 200854 ordered and directed the City Clerk to cause notice of said hearings to be given by mailing, postage prepaid, a copy of said resolution to each holder of title to taxable land within the proposed improvement district as such ownership is shown on the last equalized county assessment roll, at his address as shown upon the roll, and to any person, whether owner in fee or having a lien upon, or legal or

equitable interest in, any land within the proposed improvement district, whose name and address and a designation of the land in which he is interested is on file with the City Clerk, said mailing to be completed not less than fifteen (15) days prior to the date of the hearings fixed therein, and the City Clerk has filed his affidavit with this Council that said mailings were made; and

WHEREAS, at the time and place fixed in said Resolution No. 200854, a full and fair public hearing was held, and all persons desiring to be heard on the questions before this Council were heard, and evidence was presented to this Council on said questions before it, and this Council is fully advised in the premises; and

WHEREAS, the City Clerk has filed with this Council his certificate showing that there do not remain on file protests representing one-half of the value of the taxable land within the proposed improvement district, as shown by the last equalized assessment roll of the County;

NOW, THEREFORE, the Council of The City of San Diego DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

Section 1. That the facts set forth in the above recitals, including, without limitation, the facts set forth in the affidavits and certificates referred to therein, are true and correct, and that all proceedings have been taken in accordance with said Resolution

No. 200854, the San Diego Utility Improvement Districts Procedural Ordinance, other applicable laws and provisions of the Constitutions of the United States and of the State of California.

Section 2. That the hearing on said Resolution No. 200854 is hereby concluded.

Section 3. That, as a result of said hearings and upon the evidence presented, the Council hereby orders changes in the boundaries of said proposed improvement district as follows:

(a) Exclude the property known as MIRA MESA VERDE SUBDIVISIONS NOS. 1, 2, 3 and 4.

(b) Include the property known as NORTH MIRAMAR ANNEXATION, except for Parcel 11, Book 316, Page 5.

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Such boundaries do not include any territory which will not, in the judgment of the Council, be benefited by the proposed improvement.

Section 4. That, as a result of said hearing and upon the evidence presented, it is necessary to form an improvement district within the City and to proceed under the San Diego Utility Improvement Districts Procedural Ordinance to issue bonds which shall be special obligations of and be issued on behalf of such improvement district for the purpose of acquiring, constructing, completing and financing works, improvements and facilities for the collection, treatment and disposal of sewage, including interceptor and trunk sewers, pumping plants, appurtenances and appurtenant works.

Section 5. That, as a result of said hearing and upon the evidence presented, the public convenience and necessity require the acquiring, constructing, completing and financing of the improvements and acquisitions described in said Resolution No. 200854 and the documents referred to therein, and that this finding and determination, made pursuant to Section 17 of Article XIII of the California Constitution, makes inapplicable the debt limitation and majority protest provisions referred to in said Section 17, including, without limitation, Section 2804 of the Streets and Highways Code.

Section 6. That the estimated cost of the accomplishment of such purposes and the amount of the proposed

bonds to be issued therefor, including incidental expenses (including without limitation, engineering, appraisal, legal fees, land and rights of way acquisition, reserve funds and expenses of financing the district and expenses of all proceedings for the authorization, issuance and sale of the bonds) is \$15,000,000.

Section 7. That, as a result of said hearing, and upon the evidence presented, it is determined that a portion of the City will be benefited by the accomplishment of the purpose set forth in Section 4 hereof; that the exterior boundaries of said portion (as changed in accordance with Section 3 hereof) are set forth on a map on file with the City Clerk (Document No. 733736), which map shall govern for all details as to the extent of the improvement district; and that such portion of the City set forth on said map shall hereupon constitute and be known as "CITY OF SAN DIEGO PENASQUITOS SEWER DISTRICT."

APPROVED: JOHN W. WITT, City Attorney

By *Clifton E. Reed* (For)
Clifton E. Reed, Deputy

Passed and adopted by the Council of The City of San Diego on October 15, 1970,
 by the following vote:

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 m/s SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Schaefer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Frank Curran	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

FRANK CURRAN
 Mayor of The City of San Diego, California.

(Seal)

JOHN LOCKWOOD
 City Clerk of The City of San Diego, California.

By Stella Theodoros, Deputy. *KL*

Office of the City Clerk, San Diego, California

Resolution Number 201037 Adopted October 15, 1970

FORM CC-1276 (1-69)

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