

RESOLUTION NO R-254672

JUL 21 1981

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE CONSTRUCTION OF CERTAIN PUBLIC IMPROVEMENTS WITHIN THE CITY; DESCRIBING THE DISTRICT TO BE BENEFITED BY THE IMPROVEMENTS AND TO BE ASSESSED TO PAY THE COST AND EXPENSE THEREOF; DETERMINING AND DECLARING THAT BONDS SHALL BE ISSUED TO REPRESENT UNPAID ASSESSMENTS; PROVIDING FOR THE USE OF ANY SURPLUS AMOUNT REMAINING IN THE IMPROVEMENT FUND AFTER COMPLETION OF THE IMPROVEMENTS; AND REFERRING THE PROPOSED IMPROVEMENTS TO THE ENGINEER OF WORK TO MAKE AND FILE A WRITTEN REPORT.

(Assessment District No. 3970 -
Carroll Canyon Centre)

WHEREAS, on December 8, 1980, the Council adopted Resolution No. R-253232 accepting and approving a Petition, on file in the office of the City Clerk as Document No. D-02227-1, for the construction of certain public improvements in the City; and

WHEREAS, in response to the Petition, the Council proposes to take proceedings under the Municipal Improvement Act of 1913 (Division 12 of the Streets and Highways Code) for the acquisition and construction of the public improvements referenced in the Petition, to be financed by bonds to be issued pursuant to proceedings taken under the Improvement Bond Act of 1915 (Division 10 of the Streets and Highways Code); and

WHEREAS, a map of the assessment district, designated "Plat No. 3970," entitled "Proposed Boundaries of Assessment

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District No. 3970 - Carroll Canyon Centre, City of San Diego, County of San Diego, California," showing the exterior boundaries of the proposed assessment district has been presented to the Council; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

Section 1. The Council hereby initiates proceedings for the formation of proposed Assessment District No. 3970 - Carroll Canyon Centre pursuant to the Municipal Improvement Act of 1913.

Section 2. The public interest, convenience, and necessity require and the Council hereby declares its intention to order the construction of certain public improvements in, to, and related to public streets, easements, rights-of-way, and other public places within the City, such proposed improvements being described as follows, to wit: Clearing, grading, construction of the roadways Maya Linda, Via Pasar, Carroll Centre Road, Kearney Villa Road, and the realignment of Black Mountain Road, complete with paving, curbs, sidewalks, pedestrian ramps, cross-gutters, and driveways, including slope planting; landscaping, and irrigation systems, the installation of sewerage, water, and storm drainage facilities, fire hydrants, street lighting, traffic signal systems, underground electric, gas, telephone, and cable T.V. distribution facilities, service connections, and appurtenances and

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appurtenant work, in and adjacent to proposed Carroll Canyon Centre subdivision.

Section 3. The Council hereby makes the cost and expense of the improvements to be borne by the benefited properties chargeable upon a district, which district the Council hereby declares to be the district benefited by the improvements and to be assessed to pay the cost and expense thereof. The Council hereby declares that all lots and parcels of land belonging to the United States, or to the State of California, or to any county, city, public agent, mandatory of the government, school board, educational, penal or reform institution or institution for the feeble-minded or the insane, and in use in the performance of any public function shall be and are hereby omitted from the assessment hereafter to be made to cover the costs and expenses of the improvements. The district is described by a map of the assessment district, designated "Plat No. 3970," entitled "Proposed Boundaries of Assessment District No. 3970 - Carroll Canyon Centre, City of San Diego, County of San Diego, California," consisting of two sheets, which indicates by a boundary line the extent of the territory included in the proposed district and which shall govern for all details as to the extent of the assessment district. The map is hereby approved, and reference is hereby made to the map for a description of the district. The City Clerk is hereby directed to endorse his certificate, on the original and a copy of the

map of the assessment district, evidencing the adoption of this resolution, to file the original of the map in the Office of the City Clerk, and to file the copy with the County Recorder of the County of San Diego in the manner as provided by law.

Section 4. The Council hereby determines and declares, and notice is hereby given, that serial bonds shall be issued under the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code, to represent and be secured by assessments remaining unpaid for 30 days after the date of recordation of the assessment. The last installment of said bonds shall mature a maximum of 15 years from the second day of July next succeeding the first 10 months after their date (the exact maturities to be determined in the agreement for the purchase and sale of the bonds as hereinafter referred to). The bonds shall bear interest at a rate to be determined upon the sale thereof, which rate shall not exceed the rate allowed by law at the time of the issuance of the bonds, payable semi-annually, which rate shall not be exceeded in the issuance of the bonds. The provisions of Division 10 of the Streets and Highways Code shall apply to said bonds, except the provisions thereof which require the City or any official or body thereof to levy a special tax, as referred to in Part 13 of said Division 10 or otherwise, which provisions shall not apply to said bonds or any proceedings related thereto. Pursuant to the provisions of Part 14 of Division 10 of the Streets and Highways

Code, the Council hereby covenants for the benefit of the bondholders to commence, within 90 days following the date upon which any assessment or reassessment which secures the bonds to be issued, or installment thereof, or of any interest thereon, becomes delinquent, and diligently prosecute to completion, a foreclosure action regarding such delinquency. The Council hereby declares its intention to sell the bonds to such purchaser and upon such terms and conditions as shall be approved by the owners of more than one-half of the area of the land included within the assessment district; provided, that agreement for the purchase and sale of the bonds shall not become effective until the particular terms and conditions thereof have been finally approved by resolution of the Council. The City Treasurer is hereby directed to negotiate with the property owners and the prospective purchaser approved by them for the purchase and sale of the bonds.

Section 5. The Council hereby declares its intention to have the alternative procedures for collecting assessments and advance retirement of bonds, as set forth in Part 11.1 of Division 10 of the Streets and Highway Code, apply in these proceedings.

Section 6. The Council hereby declares its intention to enter into agreements, if required, pursuant to the provisions of Section 10110 of the Streets and Highways Code with the San Diego Gas and Electric Company, The Pacific Telephone

and Telegraph Company, and the serving cable television company with respect to the installation and/or acquisition of works, appliances, and improvements for the purpose of furnishing, respectively, electricity and electric service, telephone service and cable television service to and for the subject property.

Section 7. All moneys received from payments on assessments during the cash collection period and received from the sale of the bonds referred to in this resolution shall be deposited in a separate fund to be known as the "Assessment District No. 3970 - Carroll Canyon Centre Improvement Fund," which moneys shall be available to pay the cost of the improvements referred to in this resolution. All moneys in said fund may, and upon direction of this Council shall, be invested in any lawful investments maturing not later than the date on which such moneys are required for disbursement. All interest earned on such investments shall be credited to said fund. The moneys in said fund shall be applied exclusively for the purpose of paying the cost of the improvements referred to in this resolution, including payment of the incidental expenses and other expenses authorized in these proceedings; provided, however, that after completion of the improvements and the payment of all claims from the improvement fund, the surplus, if any, remaining in the improvement fund shall be as applied as a credit upon the assessment and any supplemental assessment, in

the manner provided in Sections 10427.1 and 10427.2, Streets and Highways Code. If any surplus results for the reasons stated in Section 10427.5, Streets and Highways Code, such surplus shall be disposed of as provided in said Section 10427.5.

Section 8. There is hereby created and established a separate fund to be known as the "Assessment District No. 3970 - Carroll Canyon Centre Improvement Bond Reserve Fund," which fund shall be kept by the Treasurer of the City and which shall constitute a trust fund for the benefit of the holders of the bonds. There shall be deposited in said fund an amount equal to not more than 15% of the total proceeds of the bond issue (the exact amount to be established in the resolution awarding the bonds), and all money in said fund shall be applied as provided in Part 16 of said Improvement Bond Act of 1915; provided that if at any time the amount in said fund (including the investment income thereof) shall exceed an amount equal to 15% of the principal amount of the bonds less the discount specified therefor, such excess shall be credited upon the unpaid assessments in the manner provided in Section 10427.1 of the Streets and Highways Code or shall be applied to the advance retirement of the bonds in the manner provided in the Improvement Bond Act of 1915. Whenever the balance in said fund is sufficient to retire all outstanding bonds, such balance shall be credited upon the unpaid assessments in the manner set forth in Section 10427.1 of the Streets and Highways Code.

Section 9. The Council acknowledges that the City and Conrock Co., the present owner of the property to be assessed in these proceedings, entered into an agreement dated June 16, 1980, approved by Council Resolution No. R-252060, which contemplated the construction by Conrock Co. of certain improvements that are included within the improvements referred to in Section 2 of this resolution, and which contemplated the contribution by the City of a total amount not to exceed \$473,076 towards the cost of such improvements. The Council declares that prior to ordering the work or confirming the assessment in these proceedings the City and Conrock Co. shall have entered into an agreement, subject to approval by resolution of the Council, amending said agreement of June 16, 1980, to provide generally that performance of the work pursuant to these proceedings and the levying of the assessment against Conrock Co.'s property to pay for the cost thereof shall discharge Conrock from its construction obligations under said agreement, and the contribution by the City of not more than \$473,076 toward the cost of the improvements constructed pursuant to these proceedings shall satisfy the City's obligation under said agreement to contribute not more than that amount to Conrock Co. In this connection, and subject to the foregoing, the Council hereby declares its intention to order the contribution of not more than \$473,076 toward the cost of the improvements referred to in Section 2 of this resolution.

Section 10. A final subdivision map for Carroll Canyon Centre shall be recorded prior to the recordation of any assessment in these proceedings.

Section 11. The proposed improvements hereinbefore described are hereby referred to the Engineer of Work, and the Engineer of Work is hereby directed to make and file with the City Clerk a report in writing containing all of the matters required by the Municipal Improvement Act of 1913.

Section 12. The proposed improvements and proceedings therefor are to be under and pursuant to the Municipal Improvement Act of 1913.

Section 13. All resolutions, or parts thereof, heretofore adopted in conflict herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

Section 14. If any section, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no way affect any remaining provisions of this resolution.

APPROVED: JOHN W. WITT
City Attorney

By: Jana Sammartino Gardner
Deputy

JUL 21 1981

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By Raymond L. Ponceau Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number R-254672 Adopted JUL 21 1981