

RESOLUTION NO. R-262316

JAN 14 1985

RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO, CALIFORNIA, RECEIVING PETITION,
APPROVING AGREEMENTS AND INITIATING PRO-
CEEDINGS FOR SPECIAL ASSESSMENT DISTRICT

(Via de la Valle Sewer Assessment District)

WHEREAS, the CITY COUNCIL of the CITY OF SAN DIEGO, CALIFORNIA, has been presented an executed Petition requesting the construction of certain public improvements, together with appurtenances and appurtenant work in connection therewith, said improvements to be constructed pursuant to the terms and provisions of the "Municipal Improvement Act of 1913", being Division 12 of the Streets and Highways Code of the State of California, with bonds to issue pursuant to the terms and provisions of the City of San Diego Improvement District Procedural Ordinance of 1982 (Division 23, San Diego Municipal Code), and applicable Sections of the "Improvement Bond Act of 1915", being Division 10 of the Streets and Highways Code of the State of California, in a special assessment district known and designated as

VIA DE LA VALLE ASSESSMENT DISTRICT

(hereinafter referred to as the "Assessment District"); and,

WHEREAS, certain agreements for design engineering and bond counsel services have been presented to this City Council, and said agreements are now ready for approval and execution; and,

WHEREAS, a proposed letter containing certain understandings between the owners of property proposed to be included within the special Assessment District and the City, a copy of which is attached hereto as Exhibit "A", has also been presented to this City Council, and said letter is now ready for approval and execution; and,

WHEREAS, at this time this legislative body is desirous to proceed with the initiation of proceedings for the Assessment District.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the Petition as submitted by property owners for the Assessment District is hereby accepted, and said Petition shall remain on file in the Office of the City Clerk and be open for public inspection, and is identified as Document No. D2251-1.

SECTION 3. That the Agreement for design engineering in an amount not to exceed \$110,000.00, as submitted by LOWRY & ASSOCIATES, is hereby approved, and execution is authorized by the City Manager. A copy of said Agreement shall be on file in the Office of the City Clerk and remain open for public inspection; said Agreement to be identified as Document No. D2251-2

SECTION 4. That the Agreement for bond counsel services as submitted by F. MACKENZIE BROWN, INC. is hereby approved, and execution is authorized by the City Manager. Said Agreement provides that in the event the proceedings are terminated or abandoned prior to completion, said Counsel shall be paid a reasonable fee for services rendered to date based upon an hourly rate of \$90.00 per hour, not to exceed \$2,500.00. A copy of said Agreement shall be on file in the Office of the City Clerk and remain open for public inspection; said Agreement to be identified as Document No. D2251-3.

SECTION 5. That the City Manager be and he is hereby authorized and empowered to negotiate, for and on behalf of said City, an agreement with the TWENTY-SECOND AGRICULTURAL DISTRICT ASSOCIATION relative to the Association participating in the engineering design of the proposed Via de la Valle sewer system for the purpose of providing capacity for the Association in said sewer system.

SECTION 6. That the City acknowledges receipt of an advance deposit of \$135,900.00 for the purpose of paying preliminary expenses. Any additional property owner deposits submitted for paying for preliminary expenses shall be deposited with the City Treasurer. This City Council does hereby authorize the expenditure of said

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00300

monies, including any accrued interest thereon, to pay the costs and expenses of all preliminary consulting and incidental services. The monies so deposited and expended will be subject to the following conditions:

A. If the proceedings are not successful and are abandoned prior to any successful sale of bonds, the City will refund any surplus. The City will refund any surplus in direct proportion to the contributions made by the respective property owners.

B. Upon completion of the proceedings and the successful sale of bonds property owners will have the following options:

1. Monies advanced shall be reimbursed in cash:

2. Monies advanced shall be applied as a credit upon

their assessments:

3. Any combination of the above.

C. If additional funds are required, the City shall make demand upon property owners and property owners shall, within five (5) working days, deposit said funds with the City. In the event all or any portion of said additional funds are not timely received, City may, at its sole discretion, suspend any further action pertaining to the formation of the subject Assessment District until receipt of all requested funds.

SECTION 7. That the letter containing the understandings between the owners of properties located within the proposed special Assessment District and the City, which is attached hereto as Exhibit "A", is hereby approved, and execution by the City Engineer is authorized.

APPROVED:

JOHN W. WITT, City Attorney

By: 

Deputy

JKR:mem
R-85-1204
12/28/84
Aud.Cert:85585

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00301

Property Owners within the
Proposed Via de la Valle
Assessment District

RE: LETTER OF UNDERSTANDING PERTAINING TO PROPOSED
VIA DE LA VALLE ASSESSMENT DISTRICT

Dear Property Owners:

The purpose of this letter is to memorialize the understanding between the City of San Diego and the owners of property within the proposed Via de la Valle Assessment District pertaining to the formation of this special assessment district. It is understood by and between the City of San Diego and the property owners as follows:

1. The property owners have deposited with the City Treasurer the combined sum of \$135,900.00 to be utilized for paying for preliminary expenses relating to the formation of the special assessment district. Such preliminary expenses shall be limited to the costs of design engineering, bond counsel services, assessment engineering services, City staff services, and other specifically authorized expenditures pertaining to the formation of the Assessment District.
2. In the event that the Assessment District is not ultimately formed, the property owners shall have the right to utilize the construction plans and specifications which are to be prepared for the public improvements proposed to be constructed and financed through the Assessment District proceedings.
3. The City agrees to proceed with the formation of the Assessment District in accordance with applicable State law and City Ordinances.
4. The City intends to make a contribution to the Assessment District in an amount to be based upon the City's proportionate share of the cost of the public improvements to be constructed.
5. The City Manager has, by the adoption of Resolution No. R- **262316**, been authorized and empowered to negotiate, for and on behalf of the City, an agreement with the TWENTY-SECOND AGRICULTURAL DISTRICT ASSOCIATION relative to the Association participating in the engineering design of the proposed sewer system for the purpose of providing capacity for the Association in said sewer system.
6. The City has agreed to place the property owners' deposits to cover the costs of preliminary expenses in an interest-bearing account. The City has, by the adoption of Resolution No. R- **262316**, agreed to refund any surplus deposits in the event the formation proceedings are not successful. Such refund shall include the principal amount of any remaining deposit and any remaining interest which may have been earned on such deposits.

EXHIBIT "A"

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Property Owners within the
Proposed Via de la Valle
Assessment District

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7. In order to make the Assessment District improvements operational, it is necessary to construct an 18" gravity sewer line along El Camino Real from Via de la Valle South to the pump station at the intersection of El Camino Real and San Dieguito Road. Watt Industries currently has an obligation to the City to construct this sewer line. In negotiating the formal agreement for this construction, Watt Industries has orally agreed to complete construction of the sewer line by September, 1985, or to forego any right to reimbursement for the line.

The foregoing understandings are not intended to constitute a binding contractual agreement between the City and the property owners, but to merely reflect the understanding of the parties pertaining to the specific issues discussed above.

Very truly yours,

James E. Casey
City Engineer

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00303

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATION OF UNALLOTTED BALANCE AC _____

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 \$ _____ Fund _____

Purpose _____

Auditor and Comptroller

Date _____, 19____

By _____

ACCOUNTING DATA										
ACCTG LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

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 moneys 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 \$ 110,000.00

De Ryan

Auditor and Comptroller

Dated December 28, 1984

BY *John Traumm*

PURPOSE Construction of the Via De La Valle Sewer Assessment District

VENDOR LOWRY & ASSOCIATES

ACCOUNTING DATA										
ACCTG LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/EQUIP	FACILITY	AMOUNT
1		79350			9544					\$110,000.00
TOTAL AMOUNT										\$110,000.00

FUND OVERRIDE

041074

Passed and adopted by the Council of The City of San Diego on JAN 14 1985,
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<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"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Raymond R. Portecor*, Deputy.

Office of the City Clerk, San Diego, California

Resolution R-262316 Adopted JAN 14 1985
Number Adopted

RECEIVED
CITY CLERK'S OFFICE
1984 JAN -7 PM 12:18
SAN DIEGO, CALIF.

JAN 11 1984

JAN 14 1984

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