

RESOLUTION NUMBER R- 272733

ADOPTED ON JAN 23 1989

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, DECLARING INTENTION TO ORDER THE ACQUISITION OF CERTAIN IMPROVEMENTS IN A PROPOSED ASSESSMENT DISTRICT; DECLARING THE WORK TO BE OF MORE THAN LOCAL OR ORDINARY BENEFIT; DESCRIBING THE DISTRICT TO BE ASSESSED TO PAY THE COSTS AND EXPENSES THEREOF; AND PROVIDING FOR THE ISSUANCE OF BONDS.

(Assessment District No. 4011 [De La Fuente Business Park, Phase I])

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

Section 1. The public interest and convenience require, and it is the intention of this body, pursuant to the provisions of Division 12 of the Streets and Highways Code of the State of California (the "Municipal Improvement Act 1913"), to order the construction of certain public improvements, together with appurtenances and appurtenant work, in a special assessment district known and designated as ASSESSMENT DISTRICT NO. 4011 (DE LA FUENTE BUSINESS PARK, PHASE I) (hereinafter referred to as the "Assessment District").

DESCRIPTION OF IMPROVEMENTS

A. The acquisition of certain public improvements, consisting of street improvements, including grading, pavement, curb, gutter, sidewalk, drainage facilities, sewer mains, water mains, fire hydrants, and street lights, together with appurtenances and appurtenant work, to serve and benefit properties within the boundaries of the Assessment District.

B. Said streets, rights-of-way and easements shall be shown upon the plans herein referred to and to be filed with these proceedings.

C. All of said work and improvements are to be constructed at the places and in the particular locations, of the forms, sizes, dimensions and materials, and at the lines, grades and elevations as shown and delineated upon the plans, profiles and specifications to be made therefor, as hereinafter provided.

D. The description of the improvements and the termini of the work contained in this resolution are general in nature. All items of work do not necessarily extend for the full length of the description thereof. The plans and profiles of the work as contained in the Engineer's "Report" shall be controlling as to the correct and detailed description thereof.

E. Whenever any public way is herein referred to as running between two public ways, or from or to any public way, the intersections of the public ways referred to are included to the extent that work shall be shown on the plans to be done therein.

F. Notice is hereby given of the fact that in many cases said work and improvement will bring the finished work to a grade different from that formerly existing, and that to said extent, said grades are hereby changed and said work will be done to said changed grades.

DESCRIPTION OF ASSESSMENT DISTRICT

Section 2. That said improvements and work are of direct benefit to the properties and land within the Assessment District, and this legislative body hereby makes the expenses of said work and improvement chargeable upon a district, which said Assessment District is hereby declared to be the Assessment District benefited by said work and improvements and to be assessed to pay the costs and expenses thereof, including incidental expenses and costs and which is described as follows:

All that certain territory in the District included within the exterior boundary lines shown on the plat exhibiting the property affected or benefitted by or to be assessed to pay the costs and expenses of said work and improvements in the Assessment District, said map titled and identified as "PROPOSED BOUNDARIES OF ASSESSMENT DISTRICT NO. 4011 (DE LA FUENTE BUSINESS PARK, PHASE I)," and which map was heretofore approved and which said or diagram is on file with the transcript of these proceedings, excepting therefrom the area shown within and delineated upon said map or plat hereinabove referred to, the area of all public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, and all easements and rights-of-way therein contained belonging to the public. For all particulars as to the boundaries of the Assessment District, reference is hereby made to said boundary map heretofore previously approved, and for a complete description of said Assessment District, the said plat and proposed boundary map on file shall govern.

REPORT OF ENGINEER

Section 3. That this proposed improvement is hereby referred to WILLDAN ASSOCIATES, who is hereby directed to make and file the report in writing containing the following:

A. Plans and specifications of the proposed improvements.

B. An estimate of the cost of the proposed works of improvement, including the cost of the incidental expenses in connection therewith.

C. A diagram showing the Assessment District above referred to, which shall also show the boundaries and dimensions of the respective subdivisions of land within said Assessment District, as the same existed at the time of the passage of the resolution of intention, each of which subdivisions shall be given a separate number upon said diagram.

D. A proposed assessment of the total amount of the assessable costs and expenses of the proposed improvement upon the several divisions of land in proportion to the estimated benefits to be received by such subdivisions, respectively, from said improvement. Said assessment shall refer to such subdivisions upon said diagram by the respective numbers thereof.

E. The description of the works of improvement to be constructed under these proceedings, and acquisition, where necessary.

When any portion or percentage of the cost and expenses of the improvements is to be paid from sources other than assessments, the amount of such portion or percentage shall first

be deducted from the total estimated costs and expenses of said work and improvements, and said assessment shall include only the remainder of the estimated costs and expenses. Said assessment shall refer to said subdivisions by their respective numbers as assigned pursuant to subsection D. of this section.

BONDS

Section 4. Notice is hereby given that serial bonds to represent the unpaid assessments, and bear interest at the rate of not to exceed the current legal maximum rate of twelve percent (12%) per annum, will be issued hereunder in the manner provided in the "Improvement Bond Act of 1915," being Division 10 of the Streets and Highways Code of the State of California, the last installment of which bonds shall mature a maximum of and not to exceed twenty-four (24) years from the second day of September next succeeding twelve (12) months from their date. The provisions of Part 11.1 of said Act, providing an alternative procedure for the advance payment of assessments and the calling of bonds shall apply.

The principal amount of the bonds maturing each year shall be other than an amount equal to an even annual proportion of the aggregate principal of the bonds, and the amount of principal maturing in each year, plus the amount of interest payable in that year, will be generally an aggregate amount that is equal each year, except for the first year's adjustment.

Pursuant to the provisions of the Streets and Highways Code of the State of California, specifically Section 10603, the Treasurer is hereby designated as the officer to collect and

receive the assessments during the cash collection period. Said bonds further shall be serviced by the Treasurer or designated Paying Agent.

"MUNICIPAL IMPROVEMENT ACT OF 1913"

Section 5. That except as herein otherwise provided for the issuance of bonds, all of said improvements shall be made and ordered pursuant to the provisions of the "Municipal Improvement Act of 1913," being Division 12 of the Streets and Highways Code of the State of California.

SURPLUS FUNDS

Section 6. That if any excess shall be realized from the assessment, it shall be used, in such amounts as the legislative body may determine, in accordance with the provisions of law for one or more of the following purposes:

A. Transfer to the general fund; provided that the amount of any such transfer shall not exceed the lesser of One Thousand Dollars (\$1,000.00) or five percent (5%) of the total from the Improvement Fund.

B. As a credit upon the assessment and any supplemental assessment.

C. For the maintenance of the improvement.

SPECIAL FUND

Section 7. The legislative body hereby establishes a special improvement fund identified and designated by the name of this Assessment District, and into said Fund monies may be transferred at any time to expedite the making of the improvements herein authorized, and any such advancement of funds is a loan and shall

be repaid out of the proceeds of the sale of bonds as authorized by law.

PROCEEDINGS INQUIRIES

Section 8. For any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below:

THOMAS O. MEADE
STREET SUPERINTENDENT
CITY OF SAN DIEGO
CITY OPERATIONS BUILDING
1222 FIRST AVENUE, MS.#407
SAN DIEGO, CA 92101
TELEPHONE: (619) 236-7056

PUBLIC PROPERTY

Section 9. All public property in the use and performance of a public function shall be omitted from the assessment in these proceedings unless expressly provided and listed herein.

ACQUISITION

Section 10. That the public interest, convenience and the statute authorizes the acquisition of those improvements as described in this resolution, and said improvements are in existence and have been installed in place prior to the date of adoption of this resolution. For a general description of the works of improvement, reference is made to the previously approved Acquisition/Financing Agreement, Document No. D2265-6, as approved by this legislative body, a copy of which is on file with the transcript of these proceedings.

NO CITY LIABILITY

Section 11. It is hereby further determined and declared that the City will not obligate itself to advance any available

funds from the City Treasury to cure any deficiency or delinquency which may occur in the bond redemption fund by failure of property owners to pay annual special assessments. This determination shall be clearly set forth and stated in the title of the bonds to be issued pursuant to these proceedings as authorized and required by Section 8769 of the Streets and Highways Code of the State of California.

PETITION

Section 12. That a petition signed by property owners representing more than sixty percent (60%) in area of the property subject to assessment for said improvement has been signed and filed with the legislative body, and said written petition expressly contains a waiver of any of the proceedings and limitations as set forth under Division 4 of the Streets and Highways Code of the State of California, the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931."

UTILITY IMPROVEMENTS

Section 13. This legislative body further proposes to enter into certain agreements with various utility companies, setting forth certain terms and conditions relating to the bidding and award of certain construction contracts, as well as the ownership, management and control of certain utility improvements, with the following listed utility companies:

San Diego Gas & Electric Co.

Pacific Bell

Upon execution of said agreements, a copy shall be kept on file with the transcript of these proceedings.

ANNUAL ADMINISTRATIVE ASSESSMENT

Section 14. It is hereby declared that this legislative body proposes to levy an annual assessment pursuant to Section 10204 of the Streets and Highways Code of the State of California, said annual assessment to pay costs incurred by the City and not otherwise reimbursed which result from the administration and collection of assessments or from the administration or registration of any associated bonds and reserve of other related funds.

APPROVED: John W. Witt, City Attorney

By



John K. Riess
Deputy City Attorney

JKR:wk
01/12/89
Or.Dept:E&D
R-89-1369
Form=r.intent

JAN 23 1989

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

| Council Members | Yeas | Nays | Not Present | Ineligible |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ron Roberts | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Gloria McColl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| H. Wes Pratt | <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"/> |
| J. Bruce Henderson | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bob Filner | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By..... *Ellen Board* , Deputy.

Office of the City Clerk, San Diego, California

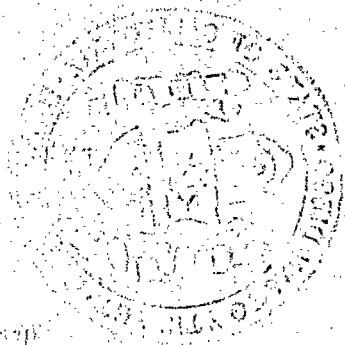
Resolution Number **R-272733** Adopted **JAN 23 1989**

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