

RESOLUTION NUMBER R- **273086**

ADOPTED ON MAR 20 1989

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE ACQUISITION OF CERTAIN RIGHTS-OF-WAY AND CONSTRUCTION OF CERTAIN STREET WORK WITHIN SAID CITY; DESCRIBING THE PROPOSED ACQUISITIONS AND IMPROVEMENTS; DIRECTING THE SUPERINTENDENT OF STREETS TO MAKE AND FILE A WRITTEN REPORT WITH THE CITY CLERK; SPECIFYING THE EXTERIOR BOUNDARIES OF THE DISTRICT TO BE BENEFITTED BY SAID ACQUISITIONS AND IMPROVEMENTS AND TO BE ASSESSED TO PAY THE COSTS AND EXPENSE THEREOF; EXCLUDING CERTAIN RAILROAD RIGHTS-OF-WAY FROM THE DISTRICT; PROVIDING FOR A CITY CONTRIBUTION TO THE COST OF THE ACQUISITION AND IMPROVEMENT WORK; DETERMINING THAT BONDS SHALL BE ISSUED TO REPRESENT ASSESSMENTS TO BE LEVIED; DETERMINING NO CITY OBLIGATION TO CURE DEFICIENCIES; PROVIDING FOR COLLECTION AND ADVANCE PAYMENT OF ASSESSMENTS; PROVIDING FOR DISPOSAL OF ANY SURPLUS REMAINING IN THE IMPROVEMENT FUND AFTER COMPLETION OF THE IMPROVEMENTS; DETERMINING NO CONSTRUCTION CONTRACTS FOR ANY IMPROVEMENTS SHALL BE TAKEN BY OWNERS; ORDERING A HEARING ON THE MAJORITY PROTEST ACT OF 1931; AND MAKING CERTAIN OTHER FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH.

Assessment District No. 4029

Sorrento Valley Road-Sorrento Valley Boulevard to I-805

WHEREAS, this City Council of The City of San Diego proposes, as hereinafter more particularly set forth, to take proceedings under the Municipal Act of 1913 (Division 12, Chapter 7, of the California Streets and Highways Code) for the acquisition and construction of certain street improvement work in said city; NOW, THEREFORE,

The City Council of The City of San Diego, County of San Diego, California DOES HEREBY FIND, RESOLVE DETERMINE AND ORDER as follows:

1. Acquisition and Construction of Project. The public interest and convenience require and it is the intention of the City Council of The City of San Diego to order the acquisition and construction of certain improvement work, together with all easements, rights-of-way, and lands necessary therefor, described in Exhibit A, attached hereto and incorporated herein (the "Project").

2. Proceedings Pursuant to Municipal Improvement Act of 1913. The project is to be done and the proceedings therefore are to be under and pursuant to the Municipal Improvement Act of 1913.

3. Report of Superintendent of Streets. The Superintendent of Streets, City of San Diego, is hereby directed to procure the required information and prepare and present to this Council the written report of the project required by the Municipal Improvement Act of 1913, as set forth in sections 10203 and 10204 of the Streets and Highways Code.

4. Formation of Assessment District. This Council hereby makes the expense of the project chargeable upon a district, which district this Council declares to be the district benefited by the project and to be assessed to pay the cost and expense thereof (hereinafter referred to as "Assessment District No. 4029"). For a general description of the area to be included in Assessment District No. 4029, reference is hereby made to a map

entitled "Proposed Boundaries, Assessment District No. 4029," which map or plat indicates by a general boundary line the extent of the territory included in said Assessment District No. 4029 and shall govern for all details as to the extent of said Assessment District (the "Boundary Map"). A copy of the Boundary Map is on file in the Office of the Street Superintendent.

5. Exclusion of Railroad Right-of-way. This Council hereby determines that the railroad right-of-way shown on the boundary map will not benefit from the project and therefore, pursuant to Streets and Highways Code section 5300, said right-of-way shall not be included within Assessment District No. 4029.

6. Filing of Boundary Map. The City Clerk is directed to file a copy of the boundary map with the County Recorder in accordance with the provisions of section 3111 of the Streets and Highways Code, not later than fifteen (15) days after the adoption of this Resolution of Intention.

7. City Contributions. It is the intention of this Council to contribute \$739,025 to the cost and expenses of the project from the Capital Improvement Program Fund of the City.

8. Issuance of Bonds. Serial Bonds bearing interest at a rate not to exceed 12% per annum shall be issued to represent each assessment remaining unpaid for thirty (30) days after the date of recordation of the Notice of Assessment. The last installment of said bonds shall mature a maximum of fifteen (15) years from the 2nd day of September next succeeding twelve (12) months from their date. Said bonds are as authorized under the Municipal Improvement Act of 1913, and are to be issued pursuant

to and as provided in the Improvement Bond Act of 1915 (Division 10 of the California Streets and Highways Code). The principal amount of bonds maturing each year shall be such that the amount of principal maturing each year plus the amount of interest payable in that year will be an aggregate amount that is equal each year, except for the monies falling due on the first series of the bonds which shall be adjusted to reflect the amount of interest earned from the date when the bonds bear interest to the date when the first interest is payable on the bonds.

9. No City Obligation to Cure Deficiencies. In the event of any deficiency in the Bond Redemption Fund to be established hereinafter, it is the intention of this Council that the City will not be obligated to advance available funds from the City treasury to cure any such deficiency.

10. Redemption and Redemption Premium. In accordance with the provisions of section 8651.5 of the Streets and Highways Code, each bond, or any portion of the bond in a fixed amount or any integral multiple of the fixed amount, shall be subject to redemption in advance of its maturity on any interest payment date upon payment to the registered owner of the principal and accrued interest to the date of redemption together with a redemption premium equal to three percent (3%) of the principal amount of the bond being redeemed.

11. Collection and Advance Payment of Assessments. It is the intention of this Council that collection of assessments, advance retirement of bonds, and advance payment of assessments shall be conducted and accomplished in accordance with the

alternative procedure specified by section 8760 and following of the Streets and Highways Code.

12. Annual Assessment for Administrative Costs. This Council hereby makes the following costs incurred by the City, and not otherwise reimbursed, chargeable on Assessment District No. 4029 in an annual amount not to exceed two percent (2%) of the annual assessment on that District, referred to more particularly in the Report of the Superintendent of Streets:

(a) Costs resulting from the administration and collection of assessments;

(b) Costs resulting from the administration and registration of the bonds referred to in Section 8; and

(c) Costs resulting from the administration of the reserve fund and redemption fund established for the bonds.

13. Disposition of Surplus. Pursuant to section 10427 of the Streets and Highways Code, after completion of the project and the payment of all claims from the Improvement Fund to be established hereinafter, the City Council shall determine the amount of the surplus, if any, remaining in the Improvement Fund by reason of the assessment and any supplemental assessment levied for the project. Any such surplus shall be used, in such amounts as the City Council may determine, for one or more of the following purposes:

(a) For transfer to the general fund of the City, provided that the amount of any such transfer shall not exceed the lesser of One Thousand Dollars (\$1,000) or five percent (5%) of the total amount expended from the Improvement Fund;

(b) As a credit upon the assessment and any supplemental assessment, in the manner provided in section 10427.1; or

(c) For the maintenance of the Project.

14. No Contracts by Owners. In accordance with the provisions of section 20485 of the California Public Contract Code, it is the opinion of this Council that the public interest will not be served by allowing the property owners within Assessment District No. 4029 to take a contract or contracts for the construction of any improvements describe in Exhibit A, attached hereto and incorporated herein.

15. Hearing on Majority Protest Act of 1931. A hearing on whether public necessity and convenience require the project and whether the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 and section 19, article XVI of the California Constitution shall apply to the project, shall be held by this Council on the same date and at the same time and place as the hearing on the written report of the Superintendent of Streets, and that notice of said hearing shall be given by the City Clerk by publication and by posting, said publication and posting to be done in the same manner and at the same time as the publication and <sup>+</sup>posing of notice for the hearing on the above-referenced written report. The City Clerk may incorporate notice of such hearing into the notice of hearing on such report.

16. Repeal of Inconsistent Resolution. Any resolution of the City, and any part of such resolution, inconsistent with this

resolution, is hereby repealed to the extent of such inconsistency.

17. Effective Date. This resolution shall become effective upon the date of its adoption.

APPROVED: John W. Witt, City Attorney

By   
John K. Riess  
Deputy City Attorney

JKR:sko  
03/07/89  
03/10/89 COR.COPY  
Or.Dept:E&D  
R-89-1713  
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MAR 20 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

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

(Seal)

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

By Mayfield L. Melmon, Deputy.

Office of the City Clerk, San Diego, California

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