

(R-92-1200)

RESOLUTION NUMBER R- 279845

ADOPTED ON APR 27 1992

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, DECLARING INTENTION TO ORDER THE ACQUISITION AND CONSTRUCTION OF CERTAIN IMPROVEMENTS TOGETHER WITH APPURTENANCES IN A PROPOSED ASSESSMENT DISTRICT PURSUANT TO THE PROVISIONS OF THE MUNICIPAL IMPROVEMENT ACT OF 1913; 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. 4070 [Black Mountain Road])

WHEREAS, the Council of The City of San Diego (the "Council") is considering the formation of an assessment district, pursuant to the Improvement Bond Act of 1913 (the "Act"), being Division 10 (commencing with Section 10000) of the California Streets and Highways Code, for the construction of certain public improvements together with appurtenances and appurtenant work in connection therewith, if necessary; and

WHEREAS, The City of San Diego (the "City") desires to declare its intention to order the construction and acquisition of such improvements, to declare the work to be of more than local or ordinary benefit, to describe the lands to be assessed to pay the costs and expenses of such improvements, and to provide for the issuance of bonds; NOW, THEREFORE,

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

DESCRIPTION OF IMPROVEMENTS

1. The public interest and convenience require, and it is the intention of the Council, pursuant to the provisions of the Act, to levy an assessment to maintain, repair or improve certain facilities and to order the acquisition and/or construction of certain improvements in a special assessment district designated as ASSESSMENT DISTRICT NO. 4070 (BLACK MOUNTAIN ROAD) (hereinafter referred to as the "Assessment District").

The improvements to be installed and financed under these proceedings are generally described as follows:

The construction and/or acquisition of certain landscape improvements, street improvements, including grading, paving, curbs, gutters, sidewalks, traffic signalization, and certain utilities and sewer, water line and flood control improvements, including acquisition of rights-of-way where necessary, together with appurtenances and appurtenant work, to serve and benefit properties located within the boundaries of the Assessment District in the City of San Diego (hereinafter referred to as the "Improvements").

For further particulars, reference is hereby made to the Map of the Assessment District entitled "PROPOSED BOUNDARIES OF ASSESSMENT DISTRICT NO. 4070 (BLACK MOUNTAIN ROAD)," and which map was heretofore approved and which said diagram is on file with a transcript of these proceedings, and to the following additional provisions:

(a) The streets, right-of-way and easements shall be shown upon the construction plans herein referred to and to be filed with these proceedings.

(b) All of the Improvements and work 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.

(c) The description of the Improvements and the extent thereof as 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 to be contained in the Engineer's Report and on such detailed plans as may be prepared subsequent to the filing of such report shall be controlling as to the correct and detailed description thereof.

(d) 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.

(e) Notice is hereby given that in many cases the Improvements and work to be constructed will bring the finished work to a grade different from that which formerly existed, and to that extent, such grades are hereby changed and the work done to the changed grades, as more particularly described in Section 9 hereof.

DESCRIPTION OF ASSESSMENT DISTRICT

2. The improvements and work are of direct and special benefit to the properties and land within the Assessment District, and the City hereby makes the expenses of said improvements and work chargeable upon those properties, which properties are hereby declared to constitute the Assessment District benefitted by such improvements and work and to be assessed to pay the costs and expenses thereof, including incidental costs and expenses, described as follows:

All that certain territory included within the exterior boundary lines shown on the plat exhibiting the property as well as all of the real property developed or undeveloped adjacent to said exterior boundary line and commonly known as Mesa Ridge both of which are affected or benefitted by or to be assessed to pay the costs and expenses of said improvements and work in the Assessment District, the map titled and identified as "PROPOSED BOUNDARIES OF ASSESSMENT DISTRICT NO. 4070 (BLACK MOUNTAIN ROAD) and such boundary map heretofore approved and on file with a transcript of these proceedings, excepting therefrom 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 the map and for a complete description of the Assessment District, the boundary map heretofore previously approved and on file in with office of the City Clerk shall govern.

REPORT OF ENGINEER

3. Pursuant to Section 10203 of the Act, the Council hereby refers the proposed improvements to the Engineer for the Assessment District, DUDEK AND ASSOCIATES, previously designated by Resolution No. R-278679 who is hereby directed to make and file a report in writing in the form described in Section 10204 of the Act, containing the following:

(a) Plans and specifications of the proposed improvements to be constructed under these proceedings;

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement;

(c) An estimate of the cost of the proposed improvements and work, and of the cost of lands, rights-of-way, easements and incidental expenses as enumerated in the report in connection therewith;

(d) A diagram showing the exterior boundaries of the Assessment District which shall also show the dimensions of each parcel of land within the Assessment District, as the same existed at the time of the passage of this Resolution of Intention, each of which subdivision shall be given a separate number upon said diagram;

(e) A proposed assessment of the total amount of the cost and expenses of the proposed improvements, including, but not limited to, environmental impact reports, feasibility studies, engineering plans, costs estimates and

legal expenses, upon the several subdivisions of land in the Assessment District in proportion to be estimated benefits to be received by each such subdivision, respectively, from the improvements. The assessment shall refer to such subdivisions upon the diagram by the respective numbers thereof;

(f) A proposed maximum annual assessment shall be assessed upon each of the parcels of land which has received benefit upon which there is an unpaid assessments in the Assessment District to pay costs incurred by the City, and not otherwise reimbursed, which result from the administration and collection of any bonds issued or funds administered under the proceedings, as provided in section 10204(f) of the Act; such costs shall be in addition to any costs collected pursuant to Sections 8682 and 8682.1 of the Bond Law (as defined in Section 4 hereof); and

(g) When any portion or percentage of the costs 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 for the total estimated costs and expenses of the work and improvements and the assessments shall include only the remainder of the estimated costs and expenses.

BONDS

4. Notice is hereby given that serial bonds to represent 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 Act of 1915 (the "Bond Law") being Division 10 commencing with Section 8500 of the California Streets and Highways Code. The last installment of which bonds shall mature a maximum of and not to exceed thirty (30) years from the second day of September next succeeding twelve (12) months from their date. The provisions of Part 11.1 of the Bond Law (commencing with Section 8760), 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 amount of the bonds; the amount of principal maturing in each year plus the amount of interest payable in the year, will be as provided in the resolution authorizing issuance of the bonds.

Pursuant to the provisions of the California Streets and Highways Code, section 10603, the Treasurer is hereby designated as the office to collect and receive assessments during the cash collection period. Said bonds shall be further serviced by the Treasurer or designated Paying Agent.

#### AUTHORITY FOR PROCEEDINGS

5. Except as herein otherwise provided for the issuance of bonds, all of the improvements shall be made and ordered pursuant to the provisions of the Act.

#### SURPLUS FUNDS

6. If any excess shall be realized from the assessment after completion of the improvements and payment or provision for the payment of all costs and expenses in connection with the

Assessment District, such excess shall be used in such amounts as this City Council may determine, in accordance with Sections 10427 and 10427.1 of the Act.

SPECIAL FUND

7. The City Council hereby establishes a special fund designated as IMPROVEMENT FUND - ASSESSMENT DISTRICT NO. 4070 (BLACK MOUNTAIN ROAD) (the "Improvement Fund") into which moneys may be transferred at any time to expedite the making of the acquisition herein authorized; such moneys are a loan and shall be repaid out of the proceeds of the sale of bonds as authorized by law.

CONTRACT FOR SERVICES

8. The Council hereby finds, and notice is hereby given that in compliance with all applicable notice requirements, and procurement regulations, procedures and practices of The City of San Diego, the property owner has solicited and received sealed bids for the construction of the improvements. The Council also finds that the public interest has been served by following this procedure. The office of the City Clerk is hereby directed to publish the Notice of Award as provided in Section 20484 of Public Contract Code of the State of California.

GRADES

9. Notice is hereby given that the grade to which the work shall be done shall be as shown on the plans and profiles therefor, which grade may vary from the existing grades. With the written consent of the property owner, work may be done on private property to eliminate any disparity in level or size between the improvement and private property, if the engineer of



work determines that it is more economical to do such work on private property than to adjust the work on public property as provided in Section 10100.1 of the Act, such work shall be assessed to the parcel of land on which such work was done. The work herein contemplated shall be done to the grades indicated on the plans and specifications. Any objections or protests to the proposed grade shall be made at the public hearing to be conducted under these proceedings.

PUBLIC INQUIRIES

10. For any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below at the department indicated:

STEVEN W. WALLACE, STREET SUPERINTENDENT  
CITY OF SAN DIEGO  
DEPARTMENT OF ENGINEERING & DEVELOPMENT  
CITY OPERATIONS BUILDING  
1222 FIRST AVENUE - M.S. 507  
SAN DIEGO, CALIFORNIA 92101  
TELEPHONE: (619) 236-7056

PUBLIC PROPERTY

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

AVAILABLE FUNDS

12. Pursuant to Section 8769 of the Bond Law, this Council hereby determines, and notice is hereby given that the City has made the election not to obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the bond redemption fund.

ACQUISITION OF RIGHT-OF-WAY

13. The public interest, convenience and necessity may require that certain land, rights-of-way or easements be obtained in order to allow the works of improvement proposed for this Assessment District to be accomplished. For a general description of the location and extent of the easements or land necessary to be acquired, if any, reference is hereby made to the Report of Engineer described in Section 3 hereof or to maps on file with the transcript of these proceedings.

BOND REDEMPTION

14. The Council further elects to provide that the bonds herein authorized, upon redemption prior to maturity, shall provide a premium not to exceed five percent (5%) on the unmatured principal and may provide for a reduction of the redemption premium to an amount equal to not less than three percent (3%) of the principal for the first five (5) years of the term of the bonds or any amount including zero, after the first five (5) years of the term of the bonds or both, such provisions to be determined and specified in the resolution authorizing issuance of the bonds, and such language shall be added to the redemption clause in the bond form and the City shall require the property owner to pay the premium in order to discharge the obligation of the lien prior to maturity.

DIVISION 4 PROCEEDINGS

15. It is the intention of this Council to fully comply with the proceedings and provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (the "1931 Act"), being Division 4 (commencing with Section 2800) of

the California Streets and Highways Code. A Petition and Waiver has been signed by the property owners and filed with the legislative body pursuant to Section 2804(3) of the 1931 Act. The Petition and Waiver was accepted and approved by Resolution Number R-278679 of the Council. No further proceedings under the 1913 Act are required. The Petition and Waiver is on file with the transcript of these proceedings and open for inspection by the public.

#### ANNUAL ADMINISTRATIVE ASSESSMENT

16. It is hereby declared that this legislative body proposes to levy an annual assessment pursuant to Section 10204 of the California Streets and Highways Code, 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.

#### ACQUISITION

17. It is further determined to be in the public interest and convenience and in order to expedite the installation of the Improvements to allow the acquisition of authorized public improvements, with said improvements to be financed through the sale of bonds subject to final certification as to prices and quantities by the City.

#### WORK ON PRIVATE PROPERTY

18. It is hereby further determined to be in the best public interest and convenience and more economical to do certain work on private property to eliminate any disparity in level or size between the improvements and the private property. The

actual cost of such work is to be added to the assessment on the lot in which the work is done and no work of this nature is to be performed until the written consent of the property owner is first obtained.

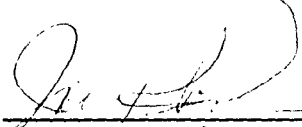
19. The Council hereby determines and notice is given that, in addition to any other rights to refund the bonds used hereunder reserved by this Council, the bonds may be refunded on or after September 2, 1998 upon determination by resolution of the City Council to do so, provided, there will be a reduction in the interest cost to maturity by reason of the refunding of such bonds, and that the refunding bonds shall bear interest at a rate not to exceed the maximum rate permitted by law and shall have a maximum number of years to maturity not in excess of the terms of such bonds, and any adjustment to assessments resulting from the issuance of the refunding of such bonds will be done on a pro rata basis.

20. This resolution shall take effect immediately upon its adoption.

21. The City Clerk shall certify the passage and adoption of this Resolution and enter it into the book of original resolutions.

APPROVED: JOHN W. WITT, City Attorney

By

  
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John K. Riess  
Deputy City Attorney

JKR:skh:pev  
04/21/92  
Or.Dept:E&D  
R-92-1200

Passed and adopted by the Council of The City of San Diego on ..... APR 27 1992  
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"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<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 *Linda Sugano* Deputy.

Office of the City Clerk, San Diego, California

Resolution *R-279845* Adopted APR 27 1992  
Number .....

RECEIVED  
92 APR 22 PM 4:17  
CITY CLERK'S OFFICE  
SAN DIEGO, CA