

RESOLUTION NUMBER R- 291163

ADOPTED ON JAN 11 1999

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, APPROVING THE REPORT OF THE ASSESSMENT ENGINEER AND CONFIRMING REASSESSMENTS WITHIN REASSESSMENT DISTRICT NO. 1999-1.

WHEREAS, the Council of The City of San Diego, California, did previously undertake proceedings and confirmed assessments in certain assessment districts 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, said special assessment districts known and designated as:

- A. Assessment District No. 4007 (First San Diego River Improvement Project);
- B. Assessment District No. 4010 (Otay International Center);
- C. Assessment District No. 4013 (Calle Cristobal/Camino Santa Fe);
- D. Assessment District No. 4019 (Otay International Center, Phase 2);
- E. Assessment District No. 4025 (Mission Valley Heights);
- F. Assessment District No. 4029 (Sorrento Valley Road - Sorrento Valley Boulevard to I-805); and
- G. Assessment District No. 4070 (Black Mountain Road)

(hereinafter referred to collectively as the "Assessment Districts"); and

WHEREAS, improvement bonds representing the unpaid assessments within said Assessment Districts (collectively, the "Improvement Bonds") were issued and sold 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; and

WHEREAS, at this time, as a result of favorable interest rate conditions within the municipal bond market, this legislative body has initiated proceedings to reassess the parcels within the Assessment Districts and to refund all outstanding Improvement Bonds pursuant to the "Refunding Act of 1984 for 1915 Improvement Act Bonds", being Division 11.5 of the Streets and Highways Code of the State of California (the "Refunding Act"), said refunding bonds and district to be designated as Reassessment District No. 1999-1 (the "Reassessment District"); and

WHEREAS, this legislative body has previously ordered the preparation of a Reassessment Engineer's Report pursuant to the Refunding Act, said Report to generally contain the following:

- A. A schedule setting forth the unpaid principal and interest on the Improvement Bonds of the Assessment Districts to be refunded and the total amounts thereof;
- B. The total estimated principal amount of the reassessment and of the refunding bonds and the maximum interest rate thereon, together with an estimate of costs of the reassessment and of issuing the refunding bonds, including all costs of issuing the refunding bonds;

- C. The Auditor's Record showing the schedule of the principal installments and interest on all unpaid original assessments for the Assessment Districts and the total amounts thereof;
- D. The estimated amount of each reassessment, identified by reassessment number corresponding to the reassessment number on the reassessment diagram prepared for the Reassessment District, together with a proposed Auditor's Record for the reassessment;
- E. A reassessment diagram showing the Reassessment District and the boundaries and dimensions of the subdivision of land within the Reassessment District; and

WHEREAS, this legislative body has now received and considered the Reassessment Engineer's Report and is ready to proceed to make certain findings and approve the Reassessment Engineer's Report; NOW, THEREFORE,

BE IT RESOLVED, that the Council of The City of San Diego does determine and order, as follows:

Section 1. The above recitals are all true and correct.

Section 2. The Reassessment Engineer's Report as presented to this Council is hereby approved, and it is hereby determined by this Council that if the refunding bonds proposed to be issued for the Reassessment District are issued and sold with an underwriter's discount and at interest rates not to exceed those set forth in the Reassessment Engineer's Report, the following conditions will be satisfied:

- A. Each estimated annual installment of principal and interest on the reassessment will be less than the corresponding annual installment of principal and interest on the portion of the original assessment being superseded and supplanted by the same percentage for all subdivisions of land within the Assessment Districts;
- B. The number of years to maturity of all refunding bonds will be no more than the number of years to the last maturity of the Improvement Bonds; and
- C. The principal amount of the reassessment on each subdivision of land within the Reassessment District will be less than the corresponding unpaid principal amount of the portion of the original assessment being superseded and supplanted by the same percentage for each subdivision of land within the Assessment Districts; and
- D. The reassessments, as set forth in the Reassessment Engineer's Report, shall not be deemed to be an assessment within the meaning of, and may be ordered without compliance with the procedural requirements of, Article XIID of the Constitution of the State of California.

Based upon the foregoing determinations, this Council hereby approves and confirms the reassessments for the refunding bonds and the contributions from the existing funds of the Assessment Districts, all as set forth in the Reassessment Engineer's Report, and a copy of this Resolution shall be entered upon the minutes of this meeting of the legislative body. The reassessments and the Reassessment Engineer's Report may be adjusted and finalized upon the establishment of the final pricing for the sale of the refunding bonds provided that such principal amount of the reassessment on each subdivision of land within the Reassessment District will be less than the corresponding unpaid principal amount of the portion of the original assessment

being superseded and supplanted by the same percentage for each subdivision of land within the Assessment Districts.

Section 3. This Council hereby authorizes the issuance and sale of refunding bonds to represent all unpaid reassessments and said refunding bonds shall bear interest at a rate or rates not to exceed the interest rates set forth in the Reassessment Engineer's Report for such refunding bonds, and shall be issued in the manner as provided by the Refunding Act. The last maturity of said refunding bonds shall not exceed the number of years to the last maturity of the Improvement Bonds.

Section 4. The final reassessment, together with the reassessment diagram, as shall be set forth in the final Reassessment Engineer's Report, shall be recorded in the Office of the Superintendent of Streets upon (a) the running of the limitations period specified in Section 9707 of the Refunding Act without the filing of an action to challenge the validity of the reassessment and refunding proceedings and/or the issuance of the refunding bonds and (b) the execution of a bond purchase agreement with a purchase price and at interest rates not to exceed those set forth in the Reassessment Engineer's Report. Immediately thereafter a copy of the reassessment diagram shall be filed in the Office of the County Recorder and a Notice of Reassessment, referencing said diagram, shall be recorded in the Office of the County Recorder, all pursuant to the provisions of Division 4.5 of the Streets and Highways Code of the State of California, and specifically Section 3114. Upon the recordation, the reassessments shall

become liens upon the various parcels of property and land assessed as shown on the reassessment diagram.

From and after the date of such recordation and filing, the assessments originally levied shall be superseded and supplanted. The lien of the original assessments is not superseded and supplanted as to any unpaid installments of the assessments originally levied which are now delinquent and the penalties and interest, if any, thereon. Amounts, if any, received from the payment of delinquent assessments and the penalties and interest thereon, excluding attorney's fees and costs and post-judgment interest, if any, shall be deposited into the redemption fund for the refunding bonds.

Section 5. This Council hereby determines and declares that the City will not obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the bond redemption fund for the refunding bonds.

Section 6. A copy of this Resolution confirming the reassessments, which reassessments shall constitute the security for the refunding bonds, shall be filed in the Office of the Treasurer, and the Treasurer shall keep the record showing the several installments of principal and interest on the reassessments which are to be collected each year during the term of said refunding bonds. An annual portion of each reassessment, together with annual interest on said reassessment, shall be payable in the same manner and at the same time and in the same installment as the general property taxes of the County and shall be payable and become delinquent at the same time and in the same proportionate amount. Each year the annual installments shall be submitted to the County Auditor for purposes of collection, and the County Auditor shall, at the close of the tax collecting season, promptly render to the Treasurer a detailed report showing the amount of such installments, interest, penalties and percentages so collected.

Section 7. This resolution shall become effective upon its adoption.

APPROVED: CASEY GWINN, City Attorney

By 
Jacqueline Mittelstadt
Deputy City Attorney

JM:pev

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Or. Dept: Fin. & Tech. Svcs.

Aud. Cert: N/A

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