

RESOLUTION NUMBER R- 297755

ADOPTED ON MAR 24 2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO OF INTENTION TO ORDER IMPROVEMENTS IN A PROPOSED ASSESSMENT DISTRICT, ACCEPTING PETITION OF PROPERTY OWNERS, APPROVING A PROPOSED BOUNDARY MAP, AND APPOINTING THE ENGINEER OF WORK.

WHEREAS, under the authority of the Municipal Improvement Act of 1913, Sections 10000 *et seq.* of the California Streets and Highways Code [1913 Act], the City Council [City Council] of the City of San Diego [City] intends to order the acquisition of the public improvements described in Exhibit A attached hereto and by this reference incorporated herein [Improvements], all of which are situated within or are of benefit to the proposed Assessment District No. 4096 (Piper Ranch), City of San Diego, County of San Diego, State of California [Assessment District]; and

WHEREAS, the City Council finds that the land specially benefitted by the Improvements is shown within the boundaries of the map entitled, "Proposed Boundaries of Assessment District No. 4096 (Piper Ranch), City of San Diego, County of San Diego, State of California," a copy of which map is on file with the City Clerk of the City and presented to this meeting. The land within the exterior boundaries shown on the map shall be designated "Assessment District No. 4096 (Piper Ranch), City of San Diego, County of San Diego, State of California," and

WHEREAS, pursuant to Section 2804(3) of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, Sections 2800 *et seq.* of the California Streets and

Highways Code [1931 Act], there has been filed with the City Clerk of the City an executed petition, dated March 5, 2003 [Petition], of Piper Ranch LLC [Property Owner], requesting the initiation of assessment proceedings pursuant to the 1913 Act for the purpose of financing the Improvements, which Petition is attached hereto as Exhibit B; and

WHEREAS, it has been certified that the Petition contains the signatures of more than 60% of the owners of the assessable area of land to be subject to assessment for the Improvements and that the Petition otherwise meets the requirements of Section 2804 of the 1931 Act, as represented by the Certificate Regarding Petition attached hereto as Exhibit C [Certificate Regarding Petition]; and

WHEREAS, the City Council desires to appoint an Engineer of Work for the Assessment District; and

WHEREAS, it is proposed that the Improvements be acquired by the City from the Property Owner pursuant to a Purchase and Finance Agreement [Purchase and Finance Agreement], the form of which has been presented to this meeting; and

WHEREAS, the City Council desires to authorize the execution and delivery of the Purchase and Finance Agreement; and

WHEREAS, pursuant to Article XIID, Section 4 of the California Constitution, publicly owned properties which receive special benefit from the improvements must be assessed a proportionate share of the costs thereof; NOW, THEREFORE,

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

1. That the above recitals are true and correct, and the City Council so finds and determines.

2. That the City Council hereby accepts the Petition and, based on the Certificate Regarding Petition, finds that it has been signed by owners owning land constituting more than 60% of all assessable land within the boundaries of the proposed Assessment District. The Petition has been filed in the office of the City Clerk and shall remain open to public inspection. The Petition meets the requirements of Section 2804 of the California Streets and Highways Code and further proceedings and limitations under the provisions of the 1931 Act shall not be applicable to these proceedings.

3. That the proposed boundary map of the Assessment District is hereby approved and adopted. Pursuant to Section 3111 of the California Streets and Highways Code, the City Clerk is directed to file a copy of the map in the office of the County Recorder of the County of San Diego within fifteen days of the adoption of this Resolution.

4. That the firm of NBS Government Finance Group, Temecula, California, is hereby appointed Engineer of Work for the Assessment District [Engineer of Work].

5. That the City Council intends to levy a special assessment upon the land within the proposed Assessment District in accordance with the special benefit to be received by each parcel of land, respectively, from the Improvements.

6. That where any disparity occurs in level or size between the improvements and private property, the City Council determines that it is in the public interest and more economical to eliminate the disparity by doing work on the private property instead of adjusting the work on public property. Accordingly, work may be done on private property for this purpose as provided by law.

7. That the City Council intends, pursuant to subparagraph (f) of Section 10204 of the California Streets and Highways Code, to provide for an annual assessment upon each of the

parcels of land in the proposed Assessment District to pay various costs and expenses incurred from time to time by the City and not otherwise reimbursed to the City which result from the administration and collection of assessment installments or from the administration or registration of the improvement bonds and the various funds and accounts pertaining thereto.

8. That the City Council determines that a portion of the cost of the Improvements shall be paid by developer contributions, and that the balance of the cost shall be specially assessed.

9. That the Purchase and Finance Agreement, a copy of which is on file in the Office of the City Clerk as Document No. RR-297755 and submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The Deputy City Manager of the City, and his or her respective specified designees [Authorized Officers] are, and each of them is, hereby authorized and directed, for and in the name of the City, to execute and deliver the Purchase and Finance Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve as being in the best interests of the City, and as approved as to form by the City Attorney or his specified designee, such requirement or approval to be conclusively evidenced by the execution of the Purchase and Finance Agreement by such Authorized Officer.

10. That bonds representing unpaid assessments, and bearing interest at a rate not to exceed the maximum rate prescribed by law, will be issued in the manner provided by the Improvement Bond Act of 1915, Sections 8500 *et seq.* of the California Streets and Highways Code [1915 Act], and the last installment of the bonds shall mature not to exceed twenty-nine years from the second day of September next succeeding 12 months from their date.

Corrected 3/27/03

11. That the procedure for the collection of assessments and advance retirement of bonds under the 1915 Act shall be as provided in Part 11.1, Division 10, of the California Streets and Highways Code.

12. 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. A determination not to obligate itself shall not prevent the City from, in its sole discretion, so advancing funds.

13. That the City Council finds that the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, Sections 2800 *et seq.* of the California Streets and Highways Code, does not apply to these proceedings.

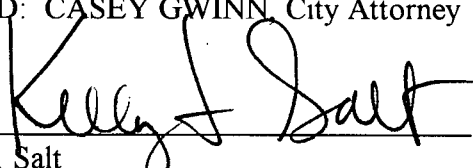
14. That the City Council hereby directs NBS Government Finance Group, as Engineer of Work, to prepare the report containing the matters required by Section 10204 of the California Streets and Highways Code, as supplemented by Section 4 of Article XIID of the California Constitution.

15. That the amount of any surplus remaining in the improvement fund after completion of the Improvements and payment of all claims shall be distributed in accordance with the provisions of Section 10427.1 of the California Streets and Highways Code.

16. That this Resolution shall take effect immediately upon its adoption.

APPROVED: CASEY GWINN, City Attorney

By

  
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Kelly J. Salt  
Deputy City Attorney

KJS:pev  
03/06/03  
03/13/03 Cor.Copy  
Or.Dept.Fin.Svcs

## **EXHIBIT A**

### **DESCRIPTION OF IMPROVEMENTS**

The improvements proposed to be acquired in Assessment District No. 4096 (Piper Ranch) are briefly described as follows:

The improvements proposed to be financed include the architecture, engineering and construction of road, sewer and storm drain facilities. Roads (Piper Ranch Road, Aviator Road, Air Wing Road, Approach Road and Dead Stick Road) include curb and gutter, sidewalk, pedestrian ramps, berms, monuments and street lights. Sewer mainlines, including manholes, lot laterals and cleanouts, are to be located in Otay Mesa Road, Piper Ranch Road, Air Wing Road and along the assessment district's western boundary. Storm drain facilities consist of reinforced concrete pipe, cleanouts, curb inlets and concrete lined drainage channel.

**EXHIBIT B**

**PETITION FOR SPECIAL ASSESSMENT PROCEEDINGS**

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**EXHIBIT C**  
**CERTIFICATE REGARDING PETITION**

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