

RESOLUTION NUMBER R- 297952

ADOPTED ON MAY 13 2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO OVERRULING PROTESTS, APPROVING ENGINEER'S REPORT, LEVYING ASSESSMENTS, ORDERING ACQUISITION OF IMPROVEMENTS AND DETERMINING ASSESSMENTS REMAINING UNPAID IN AND FOR CITY OF SAN DIEGO ASSESSMENT DISTRICT NO. 4096 (PIPER RANCH).

WHEREAS, the City Council [Council] of the City of San Diego [City] has taken a series of actions preliminary to ordering the acquisition of certain public improvements described in Exhibit A attached hereto [Improvements] in City of San Diego Assessment District No. 4096 (Piper Ranch) [Assessment District]; and

WHEREAS, on March 24, 2003, the Council adopted Resolution No. R-297755 [Resolution of Intention], pursuant to which the proposed boundary map for the Assessment District was approved and adopted; and

WHEREAS, a copy of said boundary map of the Assessment District was filed on March 26, 2003, in Book 37 at Page 24 of the Book of Maps of Assessment and Community Facilities Districts in the office of the County Recorder of the County of San Diego, as Instrument No. 2003-0335647; and

WHEREAS, in accordance with the Resolution of Intention, NBS Government Finance Group, as Engineer of Work for the Assessment District, filed with the City Clerk of the City [City Clerk] on March 24, 2003, a 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, which report was duly presented to the Council for consideration; and

WHEREAS, the Council, by Resolution No. R-297756, adopted on March 24, 2003 [Resolution of Preliminary Approval], preliminarily approved said report, and fixed 10:00 o'clock A.M. or as soon thereafter as the matter may be heard, on May 13, 2003, in the Council Chambers at 202 C Street, San Diego, California, as the time and place for a public hearing of protests to the proposed Improvements, the proposed levy of assessments, the amounts of individual assessments and related matters as set forth in said report; and

WHEREAS, the Council provided for the giving of notice of said public hearing of protests and of the property owner ballot procedure required by Article XIID of the California Constitution (together with the property owner ballots); and

WHEREAS, the City Clerk has filed a certificate setting forth the time and manner of the compliance with the requirements of law for mailing notices of the adoption of the Resolution of Intention and of the filing of said report and the preliminary approval thereof and of the time and place for said public hearing thereon and notice of the property owner ballot procedure required by Article XIID of the California Constitution (together with the property owner ballots); and

WHEREAS, the Council hereby finds that notice of the adoption of the Resolution of Intention and of the filing of said report and the preliminary approval thereof and of the time and place for said public hearing thereon and notice of the property owner ballot procedure required by Article XIID of the California Constitution (together with the property owner ballots) has been mailed in the time, form and manner required by law; and

WHEREAS, on May 13, 2003, at the time and place as previously notified, the Council held the public hearing of protests, and duly heard all interested parties desiring to be heard; and

WHEREAS, in accordance with the Resolution of Preliminary Approval and Article XIID of the California Constitution, property owner ballots were provided to all of the property owners in the Assessment District and, at the close of the public hearing, the City Council found and determined that property owner ballots cast against the levy of said assessments did not exceed the property owner ballots cast in favor of the levy of said assessments; and

WHEREAS, the sole owner of the property within the Assessment District has filed with the City Clerk a Consent and Waiver waiving, among other things, its entitlement to pay the assessments in cash within thirty days after the date on which the assessments were levied; and

WHEREAS, the Engineer of Work has prepared a final engineer's report [Engineer's Report] as directed by the Council, a copy of which is on file with the City Clerk; and

WHEREAS, the Deputy City Manager, or his or her designee, has filed with the City Clerk a list of all payments received on account of assessments levied in the Assessment District and all assessments or portions of assessments remaining unpaid, a copy of which Paid and Unpaid List [Paid and Unpaid List] is attached hereto as Exhibit B; and

WHEREAS, the City shall issue limited obligation improvement bonds under the provisions of the Improvement Bond Act of 1915, Sections 8500 *et seq.* of the California Streets and Highways Code, upon the security of the assessments shown as unpaid on the Paid and Unpaid List; NOW, THEREFORE,

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

1. The above recitals are true and correct, and the Council so finds and determines.
2. The Council hereby overrules any and all objections and protests to the assessments made at the hearing of protests. The Council hereby finds and determines that

property owner ballots cast against the levy of the assessments did not exceed the property owner ballots cast in favor of the levy of the assessments.

3. The Council hereby approves the Engineer's Report and each component part of it, including each exhibit incorporated by reference therein.

4. The Council finds that the Engineer of Work, in the Engineer's Report, has fairly and properly apportioned the cost of the Improvements to each parcel of land in the Assessment District in proportion to the estimated benefits to be received by each parcel, respectively, from the Improvements. The Council hereby confirms and levies each individual assessment as stated in the Engineer's Report.

5. The Council hereby orders the acquisition of the Improvements as detailed in the Engineer's Report.

6. Bonds representing unpaid assessments, and bearing interest at a rate not to exceed the maximum rate permitted by law, shall 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 29 years from the second day of September next succeeding twelve months from their date.

7. The Council hereby finds and determines that the sole owner of the parcels assessed in these proceedings has executed and filed with the City Clerk a Consent and Waiver, by which the entitlement otherwise given to such owner to pay all or any part of the subject assessment or assessments in cash has been waived. Accordingly, the Council hereby authorizes and directs the Deputy City Manager, or his or her designee, to proceed forthwith, without the necessity of the thirty day cash payment period otherwise required, to provide for issuance, sale

and delivery of said limited obligation improvement bonds in a principal amount no greater than the assessments levied.

8. The City Clerk shall forthwith deliver to the Superintendent of Streets of the City [Superintendent of Streets] said assessment, together with the diagram attached thereto and made a part thereof, as confirmed, with the City Clerk's certificate of such confirmation attached and the date thereof. The Superintendent of Streets shall then immediately record said diagram and assessment in the office of the Superintendent of Streets in a suitable book to be kept for that purpose and attach thereto the Superintendent of Streets' certificate of the date of such recording.

9. The City Clerk, upon the recording of the diagram and assessment in the office of the Superintendent of Streets, is hereby directed to mail or cause to be mailed to each owner of real property within the Assessment District at his last known address, as the same appears on the tax rolls of the County of San Diego or is on file with the City Clerk, or to both addresses if said address is not the same, or to general delivery when no address so appears, a statement containing a designation by street number or other description of the property assessed sufficient to enable the owner to identify the same, the amount of the assessment, that the sole property owner within the Assessment District has waived its entitlement to pay all or any portion of the assessments levied upon its property in cash within thirty days after the date of said recordation, and a statement of the fact that bonds will be issued on unpaid assessments pursuant to the 1915 Act.

10. The City Clerk is hereby ordered and directed to give notice by publishing a copy of a notice of recording of assessment in the San Diego Daily Transcript, once a week for two successive weeks, giving notice that said assessment has been recorded in the office of the Superintendent of Streets, that the sole property owner within the Assessment District has waived its entitlement to pay all or any portion of the assessments on its property in cash within 30 days


after the date of recording the assessment and of the fact that bonds will be issued upon unpaid assessments.

11. Upon confirmation of the assessment and diagram, a certified copy of the assessment diagram shall be immediately filed in the office of the County Recorder of the County of San Diego [County Recorder]. Immediately thereafter, a copy of the Notice of Assessment shall be completed and recorded in the office of the County Recorder in the manner and form as set forth by law and, specifically, Section 3114 of the California Streets and Highways Code, whereupon said assessment shall become a lien upon the land on which it is levied, pursuant to the Municipal Improvement Act of 1913, Sections 10000 *et seq.* of the California Streets and Highways Code.

12. The City Clerk shall transmit a copy of this Resolution, together with the Paid and Unpaid List, to the County Auditor/Controller of the County of San Diego. The County Auditor/Controller is requested to comply with the provisions of Section 8682 of the Streets and Highways Code in the collection of installments of the assessments on the assessment roll for taxes.

12. This Resolution shall take effect immediately upon its adoption.

APPROVED: CASEY GWINN, City Attorney

By 
Kelly J. Salt
Deputy City Attorney

KJS:pev
4/11/03
4/28/03 Cor. Copy
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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

**PAID AND UNPAID LIST
OF ASSESSMENTS**

**City of San Diego
Assessment District No. 4096 (Piper Ranch)**

<u>Assessment No.</u>	<u>Assessment Amount</u>	<u>Cash Paid</u>	<u>Amount Credited</u>	<u>Unpaid Balance</u>
1	\$ 169,815.25	\$0	\$0	\$ 169,815.25
2	170,668.60	0	0	170,668.60
3	173,228.62	0	0	173,228.62
4	172,375.28	0	0	172,375.28
5	172,375.28	0	0	172,375.28
6	171,521.94	0	0	171,521.94
7	157,015.11	0	0	157,015.11
8	153,601.74	0	0	153,601.74
9	185,175.43	0	0	185,175.43
10	157,015.11	0	0	157,015.11
11	175,788.65	0	0	175,788.65
12	176,642.00	0	0	176,642.00
13	176,642.00	0	0	176,642.00
14	177,495.34	0	0	177,495.34
15	172,375.28	0	0	172,375.28
16	207,362.34	0	0	207,362.34
17	470,191.98	0	0	470,191.98
18	376,324.25	0	0	376,324.25
19	366,937.48	0	0	366,937.48
20	366,937.48	0	0	366,937.48
21	366,937.48	0	0	366,937.48
22	366,937.48	0	0	366,937.48
23	376,324.25	0	0	376,324.25
24	475,311.65	0	0	475,311.63
Total	5,935,000.00	0	0	5,935,000.00