

RESOLUTION NUMBER R- 298078

ADOPTED ON JUN 10 2003

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, APPROVING THE REPORT OF THE ASSESSMENT ENGINEER; DECLARING THE RESULTS OF REASSESSMENT BALLOT TABULATION; DETERMINING THAT A MAJORITY PROTEST TO THE LEVY OF REASSESSMENTS DOES NOT EXIST AND CONFIRMING REASSESSMENTS WITHIN REASSESSMENT DISTRICT NO. 2003-1.

WHEREAS, the City Council of the City of San Diego, California [Council], 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 [Improvement Act], such special assessment districts known and designated as:

1. Assessment District No. 4011 (De La Fuente Business Park – Phase I),
2. Assessment District No. 4021 (De La Fuente Business Park – Phase II), and
3. Assessment District No. 4036 (International Business Center)

[collectively, the Assessment Districts]; and

WHEREAS, improvement bonds representing the unpaid assessments within such 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, as a result of favorable interest rate conditions within the municipal bond market and at the request of certain of the owners of properties within the Assessment Districts

subject to assessment liens, this legislative body initiated proceedings to establish a reassessment district to be designated as Reassessment District No. 2003-1 [Reassessment District], to reassess the parcels within the Assessment Districts and to issue refunding bonds secured by such reassessments 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 [Refunding Act] to refund all outstanding Improvement Bonds; and

WHEREAS, this legislative body has previously ordered the preparation of an Engineer's Report [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 subdivisions of land within the Reassessment District; and

WHEREAS, such Report was prepared and filed with the Council and preliminarily approved by the Council; and

WHEREAS, following the receipt of the Report, the Council declared its intention to proceed with the reassessment and refunding pursuant to the Refunding Act and ordered that a public hearing be held pertaining to the proposed reassessment and refunding and that reassessment ballot proceedings be initiated pursuant to the provisions of the Refunding Act, Article XIID of the Constitution [Article XIID] of the State of California and the Omnibus Proposition 218 Implementation Act (Government Code section 53750 and following) [Implementation Act and, together with the Refunding Act and Article XIID, the Reassessment Law]; and

WHEREAS, notices of such hearing accompanied by reassessment ballot materials were regularly mailed in the time, form and manner required by the Reassessment Law and as evidenced by a certificate on file with the transcript of these proceedings, a full hearing has been given, and at this time all reassessment ballots submitted pursuant to the Assessment Law have been tabulated by the City Clerk of the City, acting as the tabulation official appointed by the City [Tabulation Official], all in the manner provided by the Reassessment Law; and

WHEREAS, the Tabulation Official has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Reassessment Ballots Submitted [Certificate of the Tabulation Official], a copy of which is attached as Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation of the reassessment ballots; and

WHEREAS, at this time based upon the Certificate of Tabulation Official the Council determines that the reassessment ballots received by the City in support of the proposed reassessment and weighted as required by the Reassessment Law meet or exceed the reassessment

ballots received in opposition to the reassessment and similarly weighted and, therefore, a majority protest pursuant to the Reassessment Law does not exist; and

WHEREAS, this legislative body is ready to proceed to make certain findings, approve the Engineer's Report and confirm the levy of reassessments within the Reassessment District:

NOW, THEREFORE,

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

1. The above recitals are all true and correct.
2. The reassessment ballots submitted pursuant to the Reassessment Law in support of the reassessment and weighted as required by the Reassessment Law meet or exceed the reassessment ballots submitted in opposition to the reassessment and similarly weighted and it is therefore determined that a majority protest pursuant to Assessment Law does not exist.
3. The Engineer's Report as presented to the Council is hereby approved. Based upon the reassessment ballot tabulation, the 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 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 Engineer's Report may be adjusted and finalized upon the establishment of the final pricing for the sale of the refunding bonds.
4. The 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 upon which the reassessments set forth in the Engineer's Report were based, and shall be issued in the manner as provided by the Reassessment Law.

5. The final reassessment, together with the reassessment diagram, as shall be set forth in a final Engineer's Report to be prepared following the pricing of the refunding bonds and the execution of a bond purchase agreement for the sale of the refunding bonds, is hereby ordered to be recorded in the Office of the Superintendent of Streets upon (a) the running of the limitations period specified in Section 9707 of the Reassessment Law 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 that do not to exceed those upon which the Engineer's Report is based. 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 of the County of San Diego [County], 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.

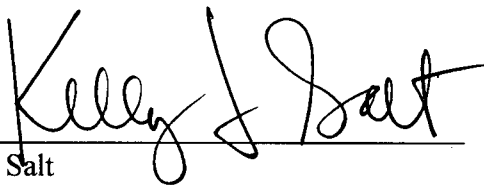
From and after the date of such recordation and filing, the assessments originally levied shall be superseded and supplanted. The lien of the original assessments shall not, however, be superseded and supplanted as to any unpaid installments of the assessments originally levied which are now delinquent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

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

7. 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 reassessment 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 reassessment installments, interest, penalties and percentages so collected.

8. This resolution shall become effective upon its adoption.

APPROVED: CASEY GWINN, City Attorney

By 
Kelly J. Salt
Deputy City Attorney

KJS:pev
5/21/03
Or.Dept:Fin.Svcs
Aud.Cert:N/A
R-2003-1400
Form=r&t.frm

**CERTIFICATE OF CITY CLERK
AND STATEMENT OF REASSESSMENT BALLOTS SUBMITTED**

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO) ss.
 CITY OF SAN DIEGO)

The undersigned, the duly appointed City Clerk of the City of San Diego (the "City"), the tabulation official appointed by the City Council, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted in the assessment ballot proceedings pertaining to Reassessment District No. 2003-01.

I FURTHER CERTIFY that this Statement of Reassessment Ballots Submitted shows the reassessment ballots submitted in favor of the reassessment and the reassessment ballots submitted in opposition to the reassessment, each total weighted according to the financial obligation of the affected properties for which the reassessment ballots were submitted.

Reassessment ballots received in favor of the proposed reassessment:	66 Ballots \$ 4,784,258.30
Reassessment ballots received in opposition to the proposed reassessment:	0 Ballots \$ 0

This certification is executed this 10th day of June, 2003 in San Diego, California.

City Clerk
City of San Diego

By: Magdalena Lujan
 Title: Deputy City Clerk