

RESOLUTION NUMBER R- 302583

DATE OF FINAL PASSAGE MAY 07 2007

RESOLUTION JOINING THE STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM AND AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT SPECIAL ASSESSMENT PROCEEDINGS AND LEVY ASSESSMENTS WITHIN THE TERRITORY OF THE SAN DIEGO AND AUTHORIZING RELATED ACTIONS.

WHEREAS, the California Statewide Communities Development Authority [Authority] is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of San Diego [City]; and

WHEREAS, the Authority has established the Statewide Community Infrastructure Program [SCIP] to allow the financing of certain development impact fees [Fees] levied in accordance with the Mitigation Fee Act (California Government Code Sections 66000 and following) and other authority providing for the levy of fees on new development to pay for public capital improvements [collectively, the "Fee Act"] through the levy of special assessments pursuant to the Municipal Improvement Act of 1913 (Streets and Highways Code Sections 10000 and following) [1913 Act] and the issuance of improvement bonds [Local Obligations] under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) [1915 Act]; and

WHEREAS, the City desires to allow the owners of property being developed within its jurisdiction to participate in SCIP and to allow the Authority to conduct assessment proceedings under the 1913 Act and issue Local Obligations under the 1915 Act to finance Fees levied on such properties provided that such property owners voluntarily agree to participate and consent to the levy of such assessments; and

WHEREAS, in each year in which eligible property owners within the jurisdiction of the elect to participate in SCIP, the Authority will conduct assessment proceedings under the 1913 Act and issue Local Obligations under the 1915 Act to finance Fees payable by such property owners and, at the conclusion of such proceedings, will levy special assessments on such property within the territory of the City;

WHEREAS, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by the Authority in connection with such assessment proceedings, a copy of which is attached hereto as Exhibit A (the "ROI") and the territory within which assessment may be levied for SCIP (provided that the owner of any property subject to assessment consents to such assessment) shall be coterminous with the official boundaries of the City of record at the time of adoption of each such Resolution of Intention [Proposed Boundaries], and reference is hereby made to such boundaries for the plat or map required to be included in this Resolution pursuant to Section 10104 of the Streets and Highways Code; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Local Obligations or any other bonds issued in connection with SCIP; and

WHEREAS, pursuant to Government Code Section 6586.5, notice was published at least five days prior to the adoption of this resolution of a public hearing, which was duly conducted by the Council of the City of San Diego concerning the significant public benefits of SCIP and the financing of the public capital improvements to be paid for with the proceeds of the Fees;

Section 1. The City hereby consents to the conduct of special assessment proceedings by the Authority in connection with SCIP pursuant to the 1913 Act and the issuance of Local Obligations under the 1915 Act on any property within the Proposed Boundaries; provided, that

(1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI; and

(2) The legal owner(s) of such property execute a written consent to the levy of assessment in connection with SCIP by the Authority and execute an assessment ballot in favor of such assessment in compliance with the requirements of Article XIII D of the State Constitution.

Section 2. The City hereby finds and declares that the issuance of bonds by the Authority in connection with SCIP will provide significant public benefits, including without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs and the more efficient delivery of local agency services to residential and commercial development.

Section 3. The Authority has prepared and will update from time to time the SCIP Manual of Procedures [Manual] and the City will handle Fee revenues for properties participating in SCIP in accordance with the procedures set forth therein.

Section 4. The appropriate officials and staff of the City are hereby authorized and directed to make SCIP applications available to all property owners who are subject to Fees for new development within the and to inform such owners of their option to participate in SCIP; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The staff persons listed on Exhibit B, and any other staff persons

chosen by the [Mayor or his designee] from time to time, are hereby designated as the contact persons for the Authority in connection with the SCIP program.

Section 5. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates requisitions and related documents as are reasonably required by the Authority in accordance with the Manual to implement SCIP for property owners who elect to participate in SCIP and to evidence compliance with the requirements of federal and state law in connection with the issuance by the Authority of the Local Obligation and any other bonds for SCIP. To that end, and pursuant to Treasury Regulations Section 1.150-2, the staff persons listed on Exhibit B, or other staff person acting in the same capacity for the City with respect to SCIP, are hereby authorized and designated to declare the official intent of the City with respect to the public capital improvements to be paid or reimbursed through participation in SCIP.

Section 6. This Resolution shall take effect immediately upon its adoption and approval by the Mayor. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of the Authority.

BE IT FURTHER RESOLVED, that this activity is not a "project" and is therefore not subject to CEQA pursuant to State Guidelines Section 15060(c)(3).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



David E. Miller
Deputy City Attorney

DEM:cfq
01/23/07
Or.Dept:Planning
R-2007-738
MMS#4317

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 01 2007.

ELIZABETH S. MALAND
City Clerk

By Jara Richardson
Deputy City Clerk

Approved: 5.7.07
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Exhibit A
Form of Resolution of Intention

RESOLUTION NO. _____

RESOLUTION OF INTENTION OF THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO FINANCE THE PAYMENT OF DEVELOPMENT IMPACT FEES FOR PUBLIC IMPROVEMENTS IN THE PROPOSED ASSESSMENT DISTRICT NO. _____ (COUNTY OF _____, CALIFORNIA), APPROVING A PROPOSED BOUNDARY MAP, MAKING CERTAIN DECLARATIONS, FINDINGS AND DETERMINATIONS CONCERNING RELATED MATTERS, AND AUTHORIZING RELATED ACTIONS IN CONNECTION THEREWITH.

WHEREAS, under the authority of the Municipal Improvement Act of 1913 (the "1913 Act"), being Division 12 (commencing with Sections 10000 and following) of the California Streets and Highways Code, the Commission (the "Commission") of the California Statewide Communities Development Authority (the "Authority") intends to finance, through its Statewide Community Infrastructure Program, the payment of certain development impact fees for public improvements as described in Exhibit A attached hereto and by this reference incorporated herein (the "Fees"), all of which are of benefit to the proposed Assessment District No. _____ (County of _____, California) (the "Assessment District"); and

WHEREAS, the Commission finds that the land specially benefited by the Fees is shown within the boundaries of the map entitled "Proposed Boundaries of Assessment District No. _____ (County of _____, California)," a copy of which map is on file with the Secretary and presented to this Commission meeting, and determines that the land within the exterior boundaries shown on the map shall be designated "Assessment District No. _____ (County of _____, California)";

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NOW, THEREFORE, BE IT RESOLVED that the Commission of the California Statewide Communities Development Authority hereby finds, determines and resolves as follows:

1. The above recitals are true and correct, and the Commission so finds and determines.
2. Pursuant to Section 2961 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, the Commission hereby declares its intent to comply with the requirements of the 1931 Act by complying with Part 7.5 thereof.
3. The Commission has or will designate a California registered, professional engineer as Engineer of Work for this project, and hereby directs said firm to prepare the report containing the matters required by Sections 2961(b) and 10204 of the Streets and Highways Code, as supplemented by Section 4 of Article XIID of the California Constitution.
4. 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 Secretary of the Authority is directed to file a copy of the map in the office of the County Recorder of the County of _____ within fifteen (15) days of the adoption of this resolution.
5. The Commission determines that the cost of the Fees shall be specially assessed against the lots, pieces or parcels of land within the Assessment District benefiting from the payment of the Fees. The Commission intends to levy a special assessment upon such lots, pieces or parcels in accordance with the special benefit to be received by each such lot, piece or parcel of land, respectively, from the payment of the Fees.
6. The Commission 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 Authority and not otherwise reimbursed to the Authority 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.
7. Bonds representing unpaid assessments, and bearing interest at a rate not to exceed twelve percent (12%) per annum, will be issued in the manner provided by the Improvement Bond Act of 1915 (Division 10, Streets and Highways Code), and the last installment of the bonds shall mature not to

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exceed thirty (30) years from the second day of September next succeeding twelve (12) months from their date.

8. The procedure for the collection of assessments and advance retirement of bonds under the Improvement Bond Act of 1915 shall be as provided in Part 11.1, Division 10, of the Streets and Highways Code of the State of California.
9. Neither the Authority nor any member agency thereof will obligate itself to advance available funds from its or their own funds or otherwise to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the Authority or any such member agency from, in its sole discretion, so advancing funds.
10. The amount of any surplus remaining in the improvement fund after the financing of the Fees shall be distributed in accordance with the provisions of Section 10427.1 of the Streets and Highways Code.
11. To the extent any Fees are paid to the Authority in cash with respect to property within the proposed Assessment District prior to the date of issuance of the bonds, the amounts so paid shall be reimbursed from the proceeds of the bonds to the property owner or developer that made the payment.

PASSED AND ADOPTED this ____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

Member

ATTEST:

Member

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DESCRIPTION OF WORK

The payment of development impact fees levied by the [City/County] of _____ upon parcels within the District, which are authorized to be financed pursuant to the Municipal Improvement Act of 1913 and as to which the owners of the applicable parcels have applied for participation in SCIP.

CERTIFICATION OF RESOLUTION

I, the undersigned, a duly appointed and qualified Member of the Commission of the California Statewide Communities Development Authority, DO HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Commission of said Authority duly and regularly held at the regular meeting place thereof on the ____ day of _____, 20__, of which meeting all of the Members of said Commission had due notice and at which a majority thereof were present.

An agenda of said meeting was posted at least 72 hours before said meeting at _____, a location freely accessible to members of the public, and a brief description of said resolution appeared on said agenda.

I have carefully compared the foregoing with the original minutes of said meeting on file and of record in my office, and the foregoing is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes.

Said resolution has not been amended, modified or rescinded since the date of its adoption and the same is now in full force and effect.

Dated: _____

Member

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Exhibit B

Authorized and Designated Officials

Charlene M. Gabriel, Facilities Financing Manager
City Planning and Community Investment Department
City of San Diego
1010 Second Avenue, Suite 600, M.S. 606F
San Diego, CA 92101-4998

Pamela E. Bernasconi, Supervising Project Manager
City Planning and Community Investment Department
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1010 Second Avenue, Suite 600, M.S. 606F
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