

(A)
(1st hearing)

RESOLUTION NUMBER. R - 302706

DATE OF FINAL PASSAGE JUN 06 2007

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO MAKING FINDINGS ON A PETITION REQUESTING INITIATION OF PROCEEDINGS TO FORM AN ASSESSMENT DISTRICT AND MAKING APPOINTMENTS THEREIN

CITY OF SAN DIEGO
LA JOLLA MESA VISTA UNDERGROUNDING
ASSESSMENT DISTRICT NO. 4098

WHEREAS, the COUNCIL [the "Council"] of the CITY OF SAN DIEGO, CALIFORNIA, has been presented with an executed petition [the "Petition"] submitted by the owners of certain real property located in the City of San Diego [the "City"] requesting that the Council initiate proceedings to form an assessment district for the purpose of funding the conversion of certain overhead electric and communications facilities to underground locations; and

WHEREAS, this Council desires to make certain findings regarding such Petition, to direct that proceedings to consider the formation of the Assessment District be initiated and to make certain appointments related to such proceedings; NOW, THEREFORE,

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

- 1. That the above recitations are true and correct.
- 2. That this Council hereby finds as to the Petition as follows:
 - A. The Petition has been executed by the owners, or the representatives of such owners legally authorized to execute such Petition for and on behalf of such owners, of parcels constituting more than seventy seven percent (77%) of all assessable land within the boundaries of the proposed

Assessment District and the petition therefore satisfies the requirements of Council Policy No. 800-03 that a petition for underground utility projects be executed by property owners representing 75% of all such assessable land.

- B. The Petition contains an express waiver of statutory proceedings required pursuant to the "Special Assessment Investigation, Limitation and Majority Protest Act of 1931" [Division 4 of the Streets and Highways Code of the State of California] [the "1931 Act"], therefore, no further proceedings or limitations under the 1931 Act shall be applicable to these proceedings; and
- C. The Petition also meets all of the requirements of Chapter 28 [commencing with Streets & Highways Code Section 5896.1] of Part 3, Division 7 of the Streets and Highways Code of the State of California related to proceedings to be taken for the conversion of existing electric and communication facilities to underground locations in that such petition has been signed by not less than five (5) owners of property of the assessable land within the boundaries of the proposed Assessment District owning lands constituting more than one-half of the area of all assessable lands within the proposed Assessment District and such petition contains the matters required by Streets and Highways Code Sections 2804 and 2804.5.

3. That this Council hereby accepts the Petition and authorizes the initiation of proceedings pursuant to the "Municipal Improvement Act of 1913", being Division 12 of the

Streets and Highways Code of the State of California [the "Improvement Act"], the San Diego Improvement District Procedural Ordinance, being Chapter 6, Article 1, Division 23 of the San Diego Municipal Code [the "Procedural Ordinance"], Article XIID of the Constitution of the State of California ["Article XIID"] and the Proposition 218 Omnibus Implementation Act [Government Code Section 53750 and following] [the "Implementation Act" and, together with the Improvement Act, the Procedural Ordinance and Article XIID, the "Assessment District Law"] to consider the formation of the Assessment District. Such proceedings shall be undertaken without further compliance with the provisions of the 1931 Act. This action shall be deemed "final" within the meaning of Streets and Highways Code Section 3012.

4. That the City Engineer is hereby appointed to perform all of the duties and functions of the Superintendent of Streets, as such duties are specified in the Assessment District Law, for these proceedings and that the place for recordation of the assessment roll and diagram shall be in the Office of the Superintendent of Streets.

5. That Bureau Veritas North America, Inc. is hereby appointed to perform all of the duties and functions of the Assessment Engineer as such duties are specified in the Assessment District Law, for these proceedings.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Mark D. Blake
Chief Deputy City Attorney

MDB:jdf
05/22/07
Or.Dept:Debt Mgmt.
R-2007-1161

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUNE 5, 2007

ELIZABETH S. MALAND
City Clerk

By Jana Richard
Deputy City Clerk

Approved: 6-6-07
(date)

Jerry Sanders
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor