

RESOLUTION NUMBER. R - 302708

DATE OF FINAL PASSAGE JUN 06 2007

(1st hearing)

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO  
DECLARING INTENTION TO ORDER THE CONVERSION OF  
CERTAIN OVERHEAD ELECTRIC AND COMMUNICATIONS  
FACILITIES TO UNDERGROUND LOCATIONS IN A PROPOSED  
ASSESSMENT DISTRICT; DECLARING THE IMPROVEMENTS TO BE  
OF SPECIAL BENEFIT; AND DESCRIBING THE DISTRICT TO BE  
ASSESSED TO PAY THE COSTS AND EXPENSES THEREOF AND  
TAKING OTHER ACTIONS IN CONNECTION THEREWITH

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

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

1. Improvements. That the public interest and convenience require, and it is the intention of this body, pursuant to the provisions of Division 12 of the Streets and Highways Code of the State of California [the "Municipal Improvement Act 1913"] [the "Improvement Act"], to order the conversion of certain overhead electric and communications facilities to underground locations, together with appurtenances and appurtenant work, in a special assessment district known and designated as City of San Diego La Jolla Mesa Vista Undergrounding Assessment District No. 4098 [the "Assessment District"].

That the improvements the construction of which is proposed to be funded through the levy of assessments on properties within the Assessment District are described as the conversion of overhead electric and communications facilities located on portions of Candlelight Drive, Moonlight Lane and Lamplight Drive, and appurtenances and appurtenant work, all necessary for and to specially benefit properties within the boundaries of the Assessment District [collectively, the "Improvements"]. The description of the Improvements contained in this Resolution is general in nature and the plans and profiles

of the Improvements as contained in the Engineer's Report [defined below] shall be controlling as to the correct and detailed description thereof.

That all of the Improvements are to be installed at the places and in the particular locations, and to the sizes, dimensions and materials, to the lines, grades and elevations as will be shown and delineated upon the plans, profiles and specifications, all to be made a part of the Engineer's Report.

That all rights-of-way and easements required for the Improvements shall be shown upon the plans referred to herein and to be filed with these proceedings.

2. Description Of Assessment District. That the Improvements confer special benefit on the properties within the Assessment District. This Council hereby determines that the expenses of the construction of such Improvements which reflect the special benefit to be conferred on the properties within the Assessment District from such Improvements are chargeable upon such properties. Such properties are described as follows:

All of that certain territory in the proposed Assessment District included within the exterior boundary lines shown on the map exhibiting the property specially benefited and proposed to be assessed to pay the expenses of the acquisition or construction of the Improvements described above, such map entitled "Proposed Boundaries of City of San Diego La Jolla Mesa Vista Undergrounding Assessment District No. 4098", and which map was previously approved by this Council and is on file with the transcript of these proceedings. For all particulars as to the boundaries of the Assessment District, reference is hereby made to such boundary map.

3. Report of the Assessment Engineer. That the proposed Improvements are hereby referred to Bureau Veritas North America, Inc. [the "Assessment Engineer"], who is hereby directed to make and file a

report as required by 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 XIIIID of the Constitution of the State of California and the Omnibus Proposition 218 Implementation Act [Government Code Section 53750] [collectively, the "Assessment District Law"], such report to be in writing and contain the following:

- A. A description of the Improvements;
- B. Plans and specifications of the Improvements sufficient to show or describe the general nature, location and extent of the Improvements;
- C. An estimate of the cost of the construction of the Improvements, including the cost of the incidental expenses, in connection therewith;
- D. A diagram showing, as the same existed at the time of passage of this Resolution, the following:
  - 1. the exterior boundaries of the Assessment District;
  - 2. the lines and dimensions of each parcel of land within the Assessment District; provided, however, such diagram may refer to the county assessor's maps for a detailed description of such lines and dimensions, in which case such maps shall govern for all details concerning such lines and dimensions;and
- E. The proposed assessment of the total amount of the costs and expenses of the proposed Improvements upon the several divisions of land in the Assessment District in proportion to the estimated special benefits to be conferred on such subdivisions, respectively, by such Improvements. Such assessment shall refer to such

subdivisions upon such diagram by the respective numbers thereof.

That when any portion or percentage of the assessable costs and expenses of the construction of the Improvements is to be paid from sources other than assessments, the amount of such portion or percentage shall first be deducted from the total estimated costs and expenses of such construction, and such assessment shall include only the remainder of the estimated costs and expenses

4. Improvement Fund. That this City Council hereby establishes a Special Improvement Fund identified and designated by the name of this Assessment District, and into such Fund monies may be transferred at any time to expedite the construction of the Improvements, and any such advancement of funds is a loan and shall be repaid out of the proceeds of the assessment as authorized by law. If the Assessment District is formed and assessments are levied therein, the proceeds of such assessments received by the City shall be deposited in such Improvement Fund.

5. Grades. That notice is hereby given that the grade to which the work shall be done is to be shown on the plans and profiles therefore, which grade may vary from the existing grades. The work herein contemplated shall be done to the grades as indicated on the plans and specifications, to which reference is made for a description of the grade at which the work is to be done. Any objections or protests to the proposed grade shall be made at the public hearing to be conducted under these proceedings.

6. Private Contract. That notice is hereby given that the public interest will not be served by allowing the owners of assessable lands to enter into a contract for the installation of the Improvements as otherwise permitted in Public Contract Code Section 20485.

7. Collection of Assessments. That this City Council does not intend to issue limited obligation improvement bonds upon the security of the unpaid assessments but intends instead to collect such unpaid

assessments in a single installment to be placed on the 2007-2008 secured property tax roll of the County of San Diego, as authorized pursuant to Section 61.2361 of the San Diego Municipal Code.

That in the event that the timing of the formation of the Assessment District is such that the City is unable to place the unpaid assessments on the 2007-2008 secured property tax roll, the City intends to hand bill the property owners to collect the unpaid assessments in two equal installments to be due on November 1, 2007 and February 1, 2008 and deemed delinquent if not paid by December 10, 2007 and April 10, 2008, respectively. Any assessments which are hand billed and are not timely paid shall be placed on the 2008-2009 secured property tax roll of the County of San Diego for collection.

8. Surplus. That the amount of any surplus remaining in the Special Improvement Fund after completion of the construction of the Improvements and payment of all claims shall be distributed in accordance with the provisions of Streets & Highways Code Section 10427.1.

9. Proceedings Inquiries. That for any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below:

Chuck Wilcox  
Special Districts Supervisor  
202 "C" Street, 7<sup>th</sup> Floor  
San Diego, California 92101  
(619) 533-4519

APPROVED MICHAEL J. AGUIRRE, City Attorney

By

  
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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 *Kara Richard*  
Deputy City Clerk

Approved: 6.6.07  
(date)

*JSL*  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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JERRY SANDERS, Mayor