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hearing)

RESOLUTION NUMBER. R - 302709

DATE OF FINAL PASSAGE JUN 06 2007

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO PRELIMINARY APPROVING THE REPORT OF THE ASSESSMENT ENGINEER RELATED TO AN ASSESSMENT DISTRICT, SETTING THE TIME AND PLACE FOR A PUBLIC HEARING AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES FOR SUCH ASSESSMENT DISTRICT

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, was 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 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"], to form an assessment district for the purpose of funding the conversion of certain overhead electric and communications facilities to underground locations, such assessment district to be known and designated as City of San Diego La Jolla Mesa Vista Undergrounding Assessment District No. 4098 [the "Assessment District"]; and

WHEREAS, in response to the Petition, the Council adopted (a) a Resolution making certain findings with regard to the adequacy of the Petition and authorizing the initiation of proceedings pursuant to 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 and Article XIID, the "Assessment District Law"] to consider the formation of the Assessment District, (b) a Resolution adopting a map showing the proposed boundaries of the Assessment District [the "Boundary Map"] as reflected in the Petition, and (c) a Resolution [the "Resolution of Intention"] declaring the intention of the Council to order the conversion of the overhead electric and communications facilities to underground locations [defined therein as the "Improvements"], describing the properties which will specially benefit from the Improvements by reference to the Boundary Map and directing Bureau Veritas North America, Inc. [the "Assessment Engineer"] to make and file a report [the "Assessment Engineer's Report"] as required by the Assessment District Law and taking certain other actions with respect to the proceedings to consider the formation of the Assessment District; and

WHEREAS, the Assessment Engineer's Report has been prepared by the Assessment Engineer and filed with this Council as provided for in and required by the Assessment District Law and the Resolution of Intention and the Assessment Engineer's Report has been presented to this Council for its consideration; and,

WHEREAS, this Council desires to preliminarily approve the Assessment Engineer's Report, to set the time and place for hearing on the protests to the proposed conversion of the overhead electric and communications facilities to underground locations and the assessment proposed to be levied on the parcels within the boundaries of the Assessment District, and to direct the City Clerk to give notice of such public hearing as required pursuant to the Assessment District Law; and; NOW, THEREFORE,

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

1. Recitals. That the foregoing recitals are true and correct.

2. Assessment Engineer's Report. That the Assessment Engineer's Report contains the following:

A. The plans and specifications for the Improvements proposed to be constructed;

B. The Assessment Engineer's estimate of the itemized and total costs and expenses of the construction of the Improvements and of the incidental expenses in connection therewith;

C. The diagram showing the Assessment District and also the boundaries and dimensions of the respective subdivisions of land within such Assessment District that will specially benefit from the Improvements, each of which subdivisions have been given a separate number upon such diagram; and

D. The proposed assessment of the total amount of the cost and expenses of the Improvements to be constructed and of the incidental expenses in connection therewith in proportion to the estimated special benefits to be conferred on such subdivisions, respectively, by such Improvements.

That this Council finds that the Assessment Engineer's Report contains the information as required by the Assessment District Law and, therefore, is in proper form and does not require modification and such Report is hereby preliminarily approved.

3. Public Hearing. That the time of 2:00 p.m. on July 23, 2007 and the Council Chambers located in the City Administration Building, 12th Floor, 202 C Street, San Diego, California, are appointed as the time and place for hearing protests to the proposed construction of the Improvements and the assessment proposed to be levied on the land within the Assessment District. Any and all persons having objections to the proposed construction of the Improvements

or the assessment proposed to be levied on the land within the Assessment District, or any parcel thereof, or the extent of the Assessment District may appear and show cause why the construction of the Improvements should not be accomplished or the assessment should not be levied as proposed in accordance with the Resolution of Intention, the Assessment Engineer's Report and the Assessment District Law.

4. Assessment Ballot Proceeding. That pursuant to the provisions of the Assessment District Law, the record owner of each parcel proposed to be assessed has the right to submit an assessment ballot in favor of or in opposition to the assessment proposed to be levied on such parcel.

That Assessment ballots will be mailed to the record owner of each parcel located within the assessment district and proposed to be subject to an assessment. Each such owner may complete such assessment ballot and thereby indicate such owner's support for or opposition to the proposed assessment. All such assessment ballots must be received by the City Clerk at or before the time set for the close of the public hearing. An assessment ballot received after the close of the public hearing will not be tabulated even though the postmark on the envelope transmitting the assessment ballot is dated on or before the date of the public hearing.

That at the conclusion of the public hearing, the Council shall cause the tabulation, pursuant to Government Code section 53753, of the assessment ballots timely received. If a majority protest, as described below, exists the Council shall not impose an assessment within the Assessment District. A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in favor of such assessment. In tabulating the assessment ballots, each

assessment ballot shall be weighted by the amount of the proposed assessment to be imposed upon the identified parcel for which such assessment ballot was submitted.

That for purposes of tabulating the assessment ballots for these proceedings as required pursuant to the Assessment District Law, the Council hereby designates the City Clerk to act as the tabulation official to tabulate the assessment ballots submitted.

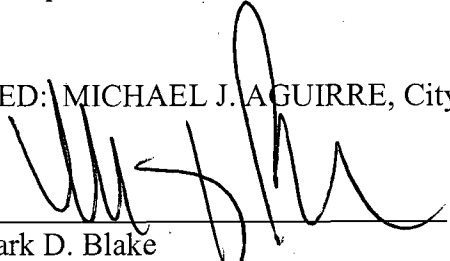
5. Notice. That the City Clerk is directed to give notice of the public hearing as follows:

A. At least forty-five (45) days before the date set forth for hearing protests, the City Clerk shall, pursuant to Government Code Section 53753, mail or cause to be mailed, postage prepaid, notice of the public hearing and of the adoption of the Resolution of Intention and the filing and preliminary approval of the Assessment Engineer's Report to all persons owning real property proposed to be assessed whose names and addresses appear on the last equalized assessment roll for taxes of the County of San Diego, or who are known to the City Clerk. The form of such notice shall conform in all respects with the requirements of Government Code Section 53753(b) and, pursuant to Government Code Section 53753(c), each such notice shall contain an assessment ballot whereon the record owner may indicate his or her support or opposition to the proposed assessment.

B. Upon the completion of the mailing of such notices, the City Clerk shall file with the Council a certificate setting forth the time and manner of compliance with the requirements of this resolution for mailing notices.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Mark D. Blake
Chief Deputy City Attorney

MDB:jdf
05/22/07
Or.Dept:Debt Mgmt.
R-2007-1162

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 

Deputy City Clerk

Approved: 6.6.07

(date)



JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor