

RESOLUTION NUMBER R-310018

DATE OF FINAL PASSAGE OCTOBER 6, 2015

A RESOLUTION DENYING AN APPEAL AND UPHOLDING
THE ENVIRONMENTAL DETERMINATION FOR FISCAL
YEAR 2003 UNDERGROUND UTILITY DISTRICTS
(PROJECT NO. 4833).

WHEREAS, in 2003, the Council of the City of San Diego, as part of the City's continuing effort to remove poles, overhead wires and associated structures and install underground the wires and facilities for supplying electric, communication, community antenna television or similar or associated service within certain areas of the city, established the Fiscal Year (FY) 2003 Underground Utility Districts (Project) via adoption of Resolutions R-297711 and R-297712; and

WHEREAS, the Environmental Analysis Section of the Development Services Department determined the Project to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15302 Replacement or Reconstruction and issued environmental determination PTS No. 4833, dated August 7, 2002 (Environmental Determination); and

WHEREAS, all undergrounding work in the various undergrounding utilities districts has been completed and the sole remaining work for the Project consists of street resurfacing and construction of ADA-mandated curb ramps in the Eastern (Mid-City) and Southeastern San Diego community planning areas, which work is covered by the Environmental Determination or three other previously certified environmental documents: MND No. 23247 (FY 2004), MND Nos. 63220 and 65157 (FY 2005), and MND No. 84358 (FY 2006); and

WHEREAS, the time in which an appeal or legal challenge to the Environmental Determination can be raised has long passed; and

WHEREAS, a Notice of Right to Appeal Environmental Determination for the Project was posted July 10, 2015, which notice was not required and posted in error; and

WHEREAS, on July 23, 2015, Michael Oldstone and Patrick Shea timely filed an appeal (Appeal) in response to the July 10, 2015 notice, stating that the categorical exemption for the Project is not supported because the project description did not mention the installation of new poles, “replacement and reconstruction” does not cover the installation of new poles, the project conflicts with applicable land use plans, policies and regulations, and the project degrades the existing visual character of the neighborhood; and

WHEREAS, the Appeal was heard before the City Council on October 6, 2015; and

WHEREAS, the Project involved trenching approximately three feet deep and one foot wide in the public right-of-way, installing conduit and substructures such as transformers on concrete pads, making individual connections with customers, removing existing overhead lines and poles and installing streetlights, which work has almost entirely been completed, and the only work remaining to be performed is street resurfacing and construction of ADA-mandated curb ramps in the Eastern (Mid-City) and Southeastern San Diego community planning areas, which will not involve installation of new poles; and

WHEREAS, the Project does not have a significant effect on the environment; and

WHEREAS, the Project is exempt under CEQA Guidelines Section 15302; and

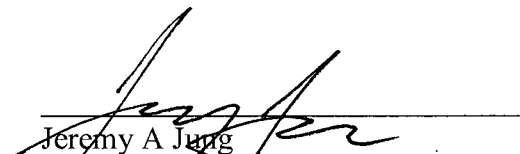
WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Appeal is hereby denied and the Environmental Determination is upheld.

BE IT FURTHER RESOLVED, that the filing fee for the Appeal shall be returned to the appellants.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Jeremy A Jung
Deputy City Attorney

JAJ:cw
09/23/15
10/06/15 REV.
Or.Dept: Planning
CC No.: N/A
Doc. No.: 1116298_2

Passed by the Council of The City of San Diego on OCT 06 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 06 2015

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By *Hy Brady*, Deputy

Office of the City Clerk, San Diego, California
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