

# 104  
06/14/2022

(R-2022-535)

RESOLUTION NUMBER R- 314160

DATE OF FINAL PASSAGE JUN 14 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO RESCINDING RESOLUTION NOS. R-312242 AND R-312243, ADOPTED MARCH 7, 2019, AND R-312244, ADOPTED MARCH 5, 2019, RELATED TO PROJECT NO. 463483, WHICH INCLUDES UNDERGROUND UTILITY DISTRICTS FOR SAMPSON STREET (UU602), REDWOOD STREET, (UU611), HILLTOP DRIVE PH II (UU616), FAIRMOUNT AVENUE (UU628), AND FOR THE NEIGHBORHOODS OF NORMAL HEIGHTS (3DD), JAMACHA-LOMITA (4Y1), BAY PARK (6H1) AND EGGER HIGHLANDS (8R1).

WHEREAS, on March 5, 2019, the Council of the City of San Diego (Council) voted to approve R-312244, adopting the California Environmental Quality Act (CEQA) Mitigated Negative Declaration (MND) for the creation of eight Underground Utility Districts (Districts). The Council also approved Resolutions R-312242 and R-312243, establishing the eight new Districts covered by the MND; and

WHEREAS, a resident sued the City in Superior Court contending that the CEQA review of the MND was insufficient and, on February 7, 2020, the San Diego Superior Court upheld the City's MND, which the plaintiff later appealed to the Fourth District Court of Appeal; and

WHEREAS, on October 8, 2021, the Court of Appeals affirmed the trial court's decision in part and reversed in part, concluding that the City's greenhouse gas emissions determination was inadequate, requiring rescission of the resolutions approving the MND and creating the Districts; and

WHEREAS, on March 25, 2022, the Superior Court issued a Peremptory Writ directing the City to immediately rescind R-312244 adopting the MND; R-312243 establishing Districts UU602 Sampson Street, UU61 Redwood Street, UU616 Hilltop Drive Ph II, and UU628 Fairmount Avenue Underground Utility Districts; and R-312242 establishing UU908 Block

3DD, UU789 Block 4Y1, UU875 Block 6H1, and UU668 Block 8R1 Underground Utility Districts; and

WHEREAS, to comply with the Writ issued by the court, the Council is required to adopt this resolution rescinding Resolutions R-312242, R-312243, and R-312244 to provide proof of compliance with the Writ no later than June 24, 2022; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this is a matter where the Council has acted as a quasi-judicial body, 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 Council of the City of San Diego, that the Council rescinds the certification of the Mitigated Negative Declaration approved by the Council through Resolution No. R-312244; rescinds establishing UU602 Sampson Street, UU61 Redwood Street, UU616 Hilltop Drive Ph II, and UU628 Fairmount Avenue Underground Utility Districts, approved by the Council through Resolution No. R-312243; and rescinds establishing UU908 Block 3DD, UU789 Block 4Y1, UU875 Block 6H1, and UU668 Block 8R1 Underground Utility Districts, approved by the Council through Resolution No. R-312242.

APPROVED: MARA W. ELLIOTT, City Attorney

By           /s/ Ryan P. Gerrity            
Ryan P. Gerrity  
Deputy City Attorney

RPG:cw  
05/27/22  
Or.Dept: Transportation  
CC No.: N/A  
Doc. No.: 2992120

Passed by the Council of The City of San Diego on JUN 14 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<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"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 14 2022.

**(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:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

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

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 314160