

000807

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)

N/A

TO:
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):

Department of Finance – Debt Management Department

3. DATE:
July 3, 2007

4. SUBJECT:
Public Hearing for Establishment of Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District)

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)

Elizabeth Kelly, 236-6932 MS 7B

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)

Chuck Wilcox, 533-4519 MS 7B

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND-			
DEPT.			
ORGANIZATION			
OBJECT ACCOUNT			
JOB ORDER			
C.I.P. NUMBER			
AMOUNT			

9. ADDITIONAL INFORMATION / ESTIMATED COST:

If property owners support the formation of an assessment district by ballot at the Public Hearing, the City Council may form the proposed assessment district. Total project costs are estimated to be \$1,070,412. After contribution of \$380,000 through the Undergrounding Surcharge Program, remaining costs of \$690,412 will be assessed to property owners within the proposed assessment district.

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>Elizabeth Kelly for Jackson Council</i>	7/2/07	8			
2	EAS	<i>Mary Heuman</i>	7/5/07	9	COO	<i>[Signature]</i>	7/6/07
3	EOC/PURCHASING	NOT REQUIRED		10	CITY ATTORNEY	<i>[Signature]</i>	7/10/07
4	LIAISON OFFICE	<i>[Signature]</i>	7/6/07	11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	7/11/07
5	AUDITOR	<i>[Signature]</i>	7/2/07	DOCKET COORD: <i>[Signature]</i> COUNCIL LIAISON: <i>[Signature]</i>			
6	E & C P	<i>[Signature]</i>	7/6/07	COUNCIL PRESIDENT <input checked="" type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/>			
7	DCO	<i>[Signature]</i>	7/9/07	REFER TO: _____ COUNCIL DATE: 7/23/07			

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Declaring the results of an assessment ballot tabulation, determining that a majority protest to the levy of assessments does not exist, confirming the assessments within Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District), and approving the Engineer's Report; or,
2. Declaring the results of an assessment ballot tabulation, determining the existence of a majority protest to the levy of assessments, and ordering the abandonment of proceedings to form Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District); or,
3. Declaring the results of an assessment ballot tabulation, determining that a majority protest to the levy of assessments does not exist, and ordering the abandonment of proceedings to form Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District).

Note: Only one of the Resolutions above will apply, depending on the outcome of the ballot process and any discretionary actions exercised by the City Council.

11A. STAFF RECOMMENDATIONS:
Adopt the applicable Resolution.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): District 2

COMMUNITY AREA(S): La Jolla

ENVIRONMENTAL IMPACT: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15302(d), and Public Utilities Commission General Order 131-D, dated August 11, 1995.

HOUSING IMPACT: None.

OTHER ISSUES: None.

DATE ISSUED: July 3, 2007 REPORT NO:
 ATTENTION: Council President and City Council
 ORIGINATING DEPARTMENT: Department of Finance - Debt Management
 SUBJECT: Establishment of Assessment District No. 4098 (La Jolla
 Mesa Vista Underground Utility Assessment District)
 COUNCIL DISTRICT(S): 2
 STAFF CONTACT: Elizabeth Kelly (619-236-6932)/Chuck Wilcox (619-533-4519)

REQUESTED ACTIONS:

Adopt one of three resolutions included with this item, depending on the outcome of the ballot and public hearing process regarding the establishment of Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District).

STAFF RECOMMENDATION:

Adopt one of three resolutions included with this item, depending on the outcome of the assessment ballot and public hearing process regarding the establishment of Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District). If, upon conclusion of the assessment ballot process, there is a majority protest, adopt the resolution declaring a majority protest and abandoning the proceedings to form the assessment district. If there is a lack of majority protest the City Council may use its discretion to either adopt the resolution declaring that a majority protest does not exist, approving the formation of the district and confirming the assessments, or the City Council may adopt the resolution declaring that a majority protest does not exist, and ordering the abandonment of the proceedings to form the district.

EXECUTIVE SUMMARY (Also See Report to City Council No. 07-094, Attachment 1)

Certain property owners within the La Jolla Mesa Vista ("LJMV") neighborhood expressed interest in forming a special assessment district (the "LJMV District") under the Municipal Improvement Act of 1913 (the "1913 Act"), wherein they would pay for the cost to underground their utilities by means of special assessments. In May 2006, a petition signed in favor of property owners representing 77% of the land area proposed to be assessed was filed with the City requesting that the City initiate formation proceedings under the 1913 Act on behalf of such property owners. The petition results exceed the 75% level required by Council Policy 800-03. If an Assessment District is formed, the City may levy assessments that can be utilized to directly fund the undergrounding of overhead utility lines. Pursuant to the 1913 Act, the San Diego Improvement District Procedural Ordinance, and other applicable provisions of state law, the assessments that are levied upon each parcel must be based upon the direct and special benefit received by the property.

As required by the 1913 Act and other applicable provisions of state law, the City hired a registered professional engineer certified by the State of California, Bureau Veritas North America, Inc., to prepare the Preliminary Engineer's Report for the proposed LJMV District. The Preliminary Engineer's Report contains the plans and specifications for the improvements, an estimate of the costs of the improvements and incidental expenses (i.e., design costs and district formation costs), a diagram of the boundaries of the proposed LJMV District, and the apportionment of the total assessment to the parcels within the district, based on the special benefit each parcel would receive from the improvements. Since the time that the Preliminary Engineer's Report was submitted, Bureau Veritas North America, Inc. determined that two parcels that will be receiving the full benefit were previously proposed to be assessed at the cost of a reduced benefit. The two property owners whose property would be assessed an increased amount have been notified, have been mailed new assessment ballots with the higher assessment amount, and have signed waivers under which they have waived the minimum 45 day notice of the proposed increase in the assessment as required pursuant to Proposition 218. The assessments for the remaining 54 of the 56 properties included in the LJMV District will decrease and, therefore, a re-mailing of those assessment ballots is not required. The new assessment amounts are reflected in the Final Engineer's Report, submitted herewith (Attachment 3).

On June 5, 2007, the City Council adopted four resolutions relating to the formation of the proposed LJMV District. Through the adoption of such resolutions the City Council: (1) accepted the petition from property owners in the LJMV neighborhood to initiate special assessment proceedings; (2) approved the boundary map for the proposed district; (3) declared the intention to underground utilities in the proposed district; and (4) preliminarily approved the Engineer's Report. The actions also established the date of the public hearing as July 23, 2007 and provided for the mailing of a Notice of Public Hearing and Assessment Ballot to affected property owners. (See Attachment 2, Notice of Public Hearing and sample Assessment Ballot.)

At the July 23, 2007 public hearing, the City Council will receive public testimony and will then declare the public hearing closed, at which time the City Clerk would tabulate the returned assessment ballots. The proceedings will be terminated by assessment ballot protest from property owners representing more than fifty percent (50%) of the total proposed assessments on those parcels for which assessment ballots have been returned. If there is no majority protest, the City Council may adopt the resolution establishing the assessment district. However, even if there is no majority protest, the City Council retains final discretion in authorizing formation of the district.

FISCAL CONSIDERATIONS:

The estimated total project cost is \$1,070,412. In accordance with City Council Policy 600-08, the City Council has previously allocated \$380,000 towards the project. The 56 LJMV property owners within the proposed district will bear the remaining costs of the project, estimated at \$690,412. These costs will be apportioned to each property pursuant to the benefit apportionment methodology contained in the Engineer's Report. Based on the Engineer's Report, the average assessment per parcel would be approximately \$12,400.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Cost sharing allocations (R-300051, January 11, 2005 and R-300572, June 21, 2005). Acceptance of Petition to Form LJMV District (R-302706, June 6, 2007); Adopting Map of Proposed Boundaries of LJMV District (R-302707, June 6, 2007); Resolution of Intention to Underground Utilities in Proposed LJMV District (R-302708, June 6, 2007); and Resolution Preliminarily Approving Engineer's Report (R-302709, June 6, 2007).

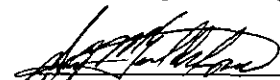
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

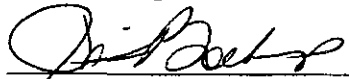
On January 4, 2006 and January 25, 2007, the Underground Program Manager and Debt Management, respectively, sent letters providing information regarding the project and the proceedings to all affected property owners. The Underground Program Manager also later met with the community at two different locales and times to provide information and answer questions. On May 25, 2007 and July 10, 2007, Debt Management sent additional informational letters to the LJMV property owners. (Attachment 4)

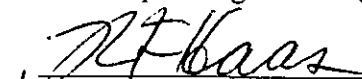
KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Property owners within the proposed LJMV District. Business entities involved include Bureau Veritas North America, Inc. (Assessment Engineer) and Best, Best and Krieger LLP (Outside Legal Counsel).


Lakshmi Kommi
Debt Management Director


Jay M. Goldstone
Chief Operating Officer (Interim)/Chief Financial Officer


Patti Boekamp
Engineering & Capital Projects Director


R.F. Haas
Deputy Chief of Public Works

- Attachments: 1. Report to City Council No. 07-094
2. Notice of Public Hearing and Sample Assessment Ballot
3. Final Engineer's Report
4. Letters to Property Owners from Debt Management, dated May 25, 2007 and July 10, 2007

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Attachment 1

Report to City Council No. 07-094

RECEIVED
CITY CLERK
JUL 11 2007

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THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: May 30, 2007 REPORT NO. 07-094
ATTENTION: Council President and City Council
Docket of June 5, 2007
SUBJECT: Formation of Proposed 1913 Act Assessment District for Undergrounding
Utilities in the La Jolla Mesa Vista Neighborhood
REFERENCE: None

REQUESTED ACTIONS:

In accordance with Council Policy 800-03, "Public Infrastructure Financing Assessment Districts and Community Facilities," a property owner petition containing a sufficient number of signatures was filed with the City to initiate assessment district proceedings for formation of the proposed La Jolla Mesa Vista Undergrounding Utilities Assessment District. The City Council is requested to adopt the resolutions that would begin the legislative action required to form the proposed district.

STAFF RECOMMENDATION:

Consider the resolutions to initiate the proceedings to form the proposed La Jolla Mesa Vista Undergrounding Utilities Assessment District; by approving the resolutions, a public hearing date would be set for July 23, 2007 on formation of the proposed district, and an assessment ballot procedure would be commenced.

SUMMARY:

I. BACKGROUND

Certain property owners within the La Jolla Mesa Vista [LJMV] neighborhood have expressed interest in forming a special assessment district (the "LJMV District") under the Municipal Improvement Act of 1913 [1913 Act], where they would pay for the cost to underground their utilities by means of special assessments.

In May 2006, at the request of district proponents, and with information provided by the various utility companies, City staff assisted in formulating a petition (the "Petition") to be circulated among the affected property owners requesting that district formation proceedings under the Municipal Improvement Act of 1913 be initiated on their behalf. The Petition contained a cost estimate for the project and a boundary map of the proposed LJMV District. The Petition was

signed in favor of initiating formation proceedings by property owners representing 77% of the land area proposed to be assessed, which exceeds the 75% level required pursuant to Council Policy 800-03 (Attachment 1).

In addition to the 1913 Act district formation proceedings, in some cases, provisions of the Improvement Bond Act of 1915 are also used for the issuance of improvement bonds to finance repayment of the cost of the facilities over a number of years. The Petition did not contemplate the issuance of bonds, but instead provided for the assessments to be paid in not more than two installments to be either included on property tax bills or billed manually. The issuance of bonds in this case would not be feasible or cost effective, given the significant additional costs that would be incurred by property owners to issue the bonds and provide for on-going district administration expenses, relative to the costs of this project.

II. DISCUSSION:

Council Policy 600-08 "Underground Conversion of Utility Lines By Utility Company" established in 1968 and last amended by resolution on May 28, 2002, provides policy direction on the underground conversion of utility lines and associated facilities. Since 1967, most underground conversions in the State are performed under the direction of California Public Utility Commission (CPUC) Rule 20. The most used and preferred portion of Rule 20 is referred to as the "20A Program." Under the 20A Program, undergrounding is paid for and performed by the local electrical utility, which, for the City, is San Diego Gas & Electric Company (SDG&E). SDG&E is then reimbursed by CPUC approved expenses as part of their periodic electricity ratemaking case. Thus, the cost recovery for SDG&E is embedded within the electricity rates that it charges to all the customers that it serves. However, most residential streets do not qualify for Rule 20A undergrounding.

While the 20A Program remains intact for major roads, an electric surcharge (commonly referred to as the "Surcharge Program") is used for residential areas that do not meet Rule 20A criteria. The Surcharge Program has more than quadrupled the pace of undergrounding within the City of San Diego. The City's Master Plan for undergrounding currently estimates that the complete undergrounding of all residential areas will take approximately 50 years.

According to the most recent Master Plan, funding will not be allocated for the LJMV neighborhood until 2028, and the project is not scheduled to start until 2031.

In an effort to accelerate the undergrounding process within their neighborhood, certain LJMV property owners approached the City to explore the potential for establishing the LJMV District to generate funding for the project well in advance of the time frame provided in the Master Plan. The 1913 Act provides for a local agency to form an Assessment District to finance certain infrastructure, including the undergrounding of overhead utility lines, upon a successful petition signed by owners of property who want the improvement. If an Assessment District is formed, the City may levy assessments that can be utilized to directly fund the public improvements. Pursuant to the 1913 Act, the San Diego Improvement District Procedural Ordinance (Chapter 6, Article 1, Division 23 of the San Diego Municipal Code), and other applicable provisions of state

law, the assessments that are levied upon each parcel must be based upon the direct and special benefit received by the property.

The City has hired a registered professional engineer certified by the State of California, Bureau Veritas North America, Inc. (the "Assessment Engineer"), to prepare the Preliminary Engineer's Report (Engineer's Report) (Attachment 2), as required by the 1913 Act, Article XIID of the California Constitution and Proposition 218. Bureau Veritas was selected from an as-needed list of Assessment Engineers established through a request for proposals process.

The Engineer's Report contains the plans and specifications for the improvements, an estimate of the costs of the improvements and incidental expenses (i.e., design costs and district formation costs), a diagram of the boundaries of the proposed LJMV District, and the apportionment of the total assessment to the parcels within the district, based on the special benefit each parcel would receive from the improvements.

Formation and Levy Process

Adoption of the proposed resolutions would begin the formal legislative proceedings for formation of the proposed LJMV District and provide for a public hearing on July 23, 2007, regarding the proposed levy of assessments and related matters contained in the Preliminary Engineer's Report. Also, upon adoption of the proposed resolutions, ballots related to the proposed levy of assessment would be mailed to each property owner. At the public hearing, the City Council would receive public testimony and the City Clerk would count the returned ballots. The proceedings would be terminated by ballot protest from property owners representing more than fifty percent (50%) of the total proposed assessments on those parcels for which ballots have been returned. If there is no majority protest, the City Council may adopt a resolution confirming the proposed assessments. Notwithstanding the ballot results, the City Council retains final discretion in authorizing formation of the district.

Upon adoption of the proposed resolutions, the following schedule would be put in place to proceed with the formation of the proposed LJMV District:

- June 5, 2007: City Council adopts Resolutions accepting the property owner Petition, approving the boundary map of the proposed district, declaring its intention to order the conversion of overhead utilities through formation of an Assessment District, preliminarily approves the Engineer's Report, and established the date of the public hearing on the Assessment District as July 23, 2007.
- June 2007: After City Council adoption of the Resolutions, Notice of Public Hearing and assessment ballots mailed to property owners. The Notice would include the estimated total assessment amount, the amount chargeable to each parcel, the basis for the assessment, information regarding the public hearing, and a summary of the procedures for the completion, return, and tabulation of the assessment ballots.
- July 23, 2007: The Public Hearing would be held July 23, 2007, which is not less than 45 days after the Notice of Public Hearing is mailed, as required by the Government

Code; returned ballots are tabulated by City Clerk. City Council makes final decision on whether to form the LJMV District.

- July 2007: City records Notice of Assessment with County Recorder's Office.
- August 2007: Levy one-time assessment on FY 07/08 County Property Tax Bills or bill manually, with installments due by December 10, 2007 and April 10, 2008.
- December 2007: Post first installment assessment collections to District Improvement Fund.
- December 2007: Reimburse district proponent the funds advanced to pay for formation costs.
- April 2008: Post second installment assessment collections to District Improvement Fund.
- May 2008: Construction of underground improvements begins; estimated completion in April 2009.

Underground Utility District

If the proposed resolutions are adopted to initiate district formation proceedings, it is anticipated Engineering & Capital Projects Department staff would return to City Council with a proposed action to provide for the establishment of an Underground Utility District, the boundaries of which will be contiguous with the proposed Assessment District. The formation of this Underground Utility District would require, by Ordinance, that all individual property owners within the Underground Utility District be wholly responsible for any and all trenching and other related work, including any necessary permits, to convert their individual property to receive electrical, telecommunication and cable television from an underground service.

The expense to convert their private property from the property line to any structures is in addition to the proposed special assessments utilized to finance the underground facilities within the public right-of-way. The estimated cost of this conversion is approximately \$2,000, but may vary among the different parcels within the proposed district. The May 2006 Petition specified that each individual property owner would be responsible for these costs, and that such costs were in addition to the costs to underground facilities within the public right-of-way. The Petition also stated that if all property owners within the proposed district did not convert, the removal of the overhead utilities in the public right-of-way could be delayed.

The establishment of the proposed Underground Utility District would ensure that ALL properties would be required to be configured to accept service from the new undergrounded utilities in order to avoid delays of removing the overhead system that may otherwise still need to remain in order to provide service to only a few customers.

III. FISCAL CONSIDERATIONS:

The estimated total project cost is \$1,070,412, including costs of formation of the district. In accordance with City Council Policy 600-08, the City Council has previously allocated \$280,000

towards the project, including District Formation Costs, as part of its Fiscal Year 2005 Undergrounding of Utilities Annual Allocation (Resolution No. 300051, January 11, 2005) and an additional \$100,000 as part of its Fiscal Year 2006 Undergrounding of Utilities Annual Allocation (Resolution No. 300572, June 21, 2005). The 56 LJMV property owners within the proposed district will bear the remaining costs of the project, estimated at \$690,412. These costs will be apportioned to each property pursuant to the benefit apportionment methodology contained in the Engineer's Report for the proposed district. Based on the Engineer's Report, the average assessment per parcel would be approximately \$12,300. Collections of the assessments will be deposited in a separate Improvement Fund to be established in the name of the District. These funds, in conjunction with the City contributions, will be used to pay the costs of the project. The table below provides a summary of the project costs:

	<u>Estimated Costs</u>
Project Construction Cost	987,912
Design Cost	12,500
Assessment District Formation Costs*	<u>70,000</u>
Total Estimated Project Cost	\$1,070,412
Breakdown of Funding Sources:	
City Contribution - FY 2005 Council Allocation	280,000
City Contribution - FY 2006 Council Allocation	<u>100,000</u>
Total City Contribution	\$380,000
La Jolla Mesa Vista Assessment District	<u>\$690,412</u>
Total Estimated Project Cost	\$1,070,412

* Includes Assessment Engineer costs (\$26,500); outside legal counsel (\$15,000); and City staff costs - City Engineering & Capital Projects, Debt Management Department, and City Attorney's Office (\$25,000); and a contingency (\$3,500).

Certain district formation costs have been advanced by the La Jolla Mesa Vista Homeowner's Association [HOA] on behalf of the property owners within the proposed district, pursuant to a Deposit and Reimbursement Agreement between the HOA and the City. In addition, cost sharing funds from the Fiscal Year 2005 and Fiscal Year 2006 Undergrounding Surcharge Allocations, referenced above, may be used to fund up to 75% of the district formation costs, pursuant to Council Policy 600-08. To date, \$14,146 advanced by property owners and \$42,438 of surcharge allocations have been deposited to fund formation costs. If the district is formed, the formation costs advanced by the HOA will be borne by the district and recovered through the special assessments placed on the properties, and subsequently reimbursed to the HOA. If the district is not formed, any unspent funds from the HOA advance would be refunded. Unspent funds from the surcharge allocations would be returned to the Undergrounding Surcharge Fund.

It is staff's understanding that certain programs (the Homeowner and Renter Assistance Program and the Property Tax Postponement for Senior Citizens, Blind or Disabled Citizens) offered by the State of California for assistance of up to \$472 or postponement of the assessment may be

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available to property owners if specific eligibility criteria, including financial hardship, are met. The Notice of Public Hearing will advise property owners that they may contact the California State Controller's Office and the State Franchise Tax Board to obtain information and eligibility requirements for such programs.

IV. PREVIOUS COUNCIL ACTIONS:

1. Allocation of Underground Conversion Projects for Fiscal Year 2005, Resolution 300051, January 11, 2005, Managers Report 05-001, provided for \$280,000 in cost sharing for the LJMV project.
2. Allocation of Underground Conversion Projects for Fiscal Year 2006, Resolution 300572, June 21, 2005, Managers Report 05-149, provided for \$100,000 in cost sharing for the LJMV project

V. COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

LJMV property owner representatives have worked with Engineering & Capital Projects / Undergrounding Program staff to coordinate with the various utilities to define the project and estimate the costs. At the request of district proponents, Debt Management staff and the City Attorney's Office helped formulate the Petition that was circulated by a primary district proponent.

In addition, on January 4, 2006 and January 25, 2007, the Underground Program Manager and the Debt Management Department, respectively, sent letters to the LJMV property owners providing information regarding the project and the proceedings being undertaken by the City to consider the formation of the district and the levy of assessments on properties for the purpose of undergrounding the overhead utility lines (Attachments 3 and 4).

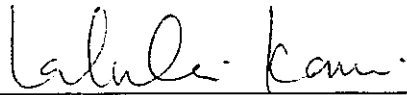
At the point the Petition was prepared and distributed to the community, the Underground Program Manager met with the community at two different locales and times, both at resident's homes, one during the day and one in the evening, to provide information and answer questions regarding the underground process and information regarding the assessment district formation process.

It is also anticipated that the Debt Management Department is expected to send another letter to the LJMV property owners in late May, which would include updated information regarding the project and the proceedings. As described above, and as required by the 1913 Act, if the proposed resolutions are adopted, the Notice of Public Hearing would be mailed to the LJMV property owners at least 45 days prior to the public hearing.

VI. KEY STAKEHOLDERS & PROJECTED IMPACTS:

Property owners within the proposed La Jolla Mesa Vista Underground Utility Assessment District.

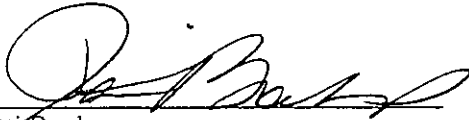
Business entities involved in the formation of the district include Bureau Veritas North America, Inc. (Assessment Engineer) and Best, Best and Krieger LLP (Outside Legal Counsel).



Lakshmi Kommi
Debt Management Director



Jay M. Goldstone
Chief Financial Officer



Patti Boekamp
Engineering & Capital Projects Director



R. F. Haas
Deputy Chief of Public Works

Attachments:

1. Petition for Special Assessment Proceedings
2. Preliminary Engineer's Report
3. Letter to Property Owners from Engineering & Capital Projects, dated January 4, 2006
4. Letter to Property Owners from Debt Management Department, dated January 25, 2007
5. Map of the Proposed Boundaries of City of San Diego La Jolla Mesa Vista Undergrounding Assessment District No. 4098

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Attachment 2

Notice of Public Hearing and sample Assessment Ballot

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NOTICE OF PUBLIC HEARING

**CITY OF SAN DIEGO
LA JOLLA MESA VISTA UNDERGROUND UTILITY
ASSESSMENT DISTRICT NO. 4098**

RESOLUTION OF INTENTION AND REPORT

NOTICE IS HEREBY GIVEN that the City Council of the City of San Diego (the "City"), California, did, on June 5, 2007 adopt its Resolution of Intention, receive and file a Preliminary Engineer's Report (the "Report") of the Assessment Engineer, and authorize a time and place for a public hearing to form a special assessment district designated as Assessment District No. 4098 (hereinafter referred to as the "Assessment District").

The Preliminary Engineer's Report, consisting of the plans, specifications, maps, descriptions, an estimate of the cost of the construction of the public improvements, a diagram, and the proposed assessments, has been prepared and preliminarily approved. For all particulars as to these proceedings and any individual assessment, reference is made to the Report as preliminarily approved and on file with the transcript of these proceedings in the office of the City Clerk, and will be made available for public inspection during normal business hours. The City Clerk's office is located at:

202 "C" St., 2nd Floor
San Diego, CA 92101

DESCRIPTION OF IMPROVEMENTS PROPOSED TO BE CONSTRUCTED

The improvements proposed to be constructed and funded (the "Improvements") under these proceedings for this Assessment District generally consist of the conversion of existing overhead electrical and communication facilities to underground locations within a portion of the area generally described as La Jolla Mesa Vista, specifically along Candlelight Drive, Moonlight Lane, and Lamplight Drive.

BOUNDARIES OF ASSESSMENT DISTRICT

All record owners of real property that specially benefit from the improvements are included within the exterior boundary lines shown on a map exhibiting the property specially benefited and proposed to be assessed to pay the costs and expenses of construction of the improvements described above. The map is entitled PROPOSED BOUNDARIES OF CITY OF SAN DIEGO LA JOLLA MESA VISTA UNDERGROUNDING ASSESSMENT DISTRICT NO. 4098 and was previously approved by the City Council and is on file in the Office of the City Clerk. The map generally includes a portion of the area known as La Jolla Mesa Vista, specifically along Candlelight Drive, Moonlight Lane, and Lamplight Drive. For all particulars as to the boundaries of the Assessment District, reference is hereby made to the boundary map.

COST OF IMPROVEMENTS

The cost of the improvements to be assessed to the property within the boundaries of the Assessment District, including incidentals and contingencies is estimated to be:

\$690,412.00

PROPOSED ASSESSMENTS

The amount of the assessments proposed to be chargeable to the entire Assessment District is equal to the Cost of the Improvements set forth in the preceding paragraph. The amount of the assessment proposed to be charged against the property that you own within the Assessment District is shown on the enclosed assessment ballot.

The assessments are proposed to be levied to fund the reasonable cost of the proportional special benefit conferred on each parcel assessed from the improvements proposed to be constructed. The amount of each proposed assessment was calculated based upon the proportional special benefit received by each parcel. In general, each parcel was determined to receive the same special benefit, with the exception of three parcels which receive a reduced special benefit. The exact method and formula of spreading the assessment is set forth in the Assessment Engineer's Report for the Assessment District, a copy of which is on file in the Office of the City Clerk and available for inspection.

The assessment shown is the maximum amount that can be assessed.

The expense to convert private property from the property line to any structures is in addition to the proposed special assessments utilized to finance the underground facilities within the public right-of-way.

PROCEEDINGS

The proceedings for the formation of the Assessment District and the levy of assessments are being undertaken pursuant to an Ordinance of the City, the "Municipal Improvement Act of 1913" (Division 12 of the Streets and Highways Code of the State of California), Article XIID of the Constitution of the State of California, and the Proposition 218 Omnibus Implementation Act.

If the City Council approves the formation of the Assessment District and the levy of assessments, a thirty (30) day cash collection period will follow. During the cash collection period, assessments may be paid in full or in part. Any assessment which has not been paid will be placed on the 2007-2008 Property Tax roll for collection.

Certain programs, such as the Homeowner and Renter Assistance Program and the Property Tax Postponement for Senior Citizens, Blind or Disabled Citizens, offered by the State of California, may be available to property owners if specific eligibility criteria, including financial hardship, are met. Property owners may contact the California State Controller's Office and the State Franchise Tax Board to obtain information and eligibility requirements for such programs.

PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING REGARDING THE FORMATION OF ASSESSMENT DISTRICT NO. 4098 AND THE LEVY OF ASSESSMENTS THEREIN IS SCHEDULED TO BE HELD AT THE CITY COUNCIL CHAMBERS, 202 "C" STREET, 12TH FLOOR, SAN DIEGO, CA 92101 ON THE FOLLOWING DATE AND TIME:

JULY 23, 2007 at 2:00 P.M.

AT THAT TIME, THE LEGISLATIVE BODY WILL CONSIDER AND FINALLY DETERMINE WHETHER THE PUBLIC INTEREST AND CONVENIENCE REQUIRE THE CONSTRUCTION OF THE IMPROVEMENTS, FINALLY ACT ON THE ASSESSMENT ENGINEER'S REPORT, HEAR ALL TESTIMONY RELATING TO THE PROCEEDINGS, THE PROPOSED IMPROVEMENTS OR THE EXTENT OF THE ASSESSMENT DISTRICT, AND DETERMINE WHETHER ASSESSMENT BALLOTS SUBMITTED IN OPPOSITION TO THE ASSESSMENTS WITHIN THE ASSESSMENT DISTRICT EXCEED ASSESSMENT BALLOTS SUBMITTED IN FAVOR OF THE ASSESSMENTS.

000825

CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA
LA JOLLA MESA VISTA UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 4098
ASSESSMENT BALLOT

This Assessment Ballot is for the use of the record owner of the parcel identified below, which is located within the proposed City of San Diego La Jolla Mesa Vista Underground Utility Assessment District No. 4098. Please advise the City Clerk of the City of San Diego at (619) 533-4000 if the name set forth below is incorrect or if you are no longer the record owner of this parcel.

This Assessment Ballot may be used to express either support for or opposition to the levy of the proposed assessment on the parcel identified below. In order to be counted, this Assessment Ballot must be signed below by the record owner or by an authorized agent of the record owner. The Assessment Ballot must then be delivered to the City Clerk, either by mail or in person, as follows.

Mail Delivery. If by mail, provide stamps for first class postage, and place in the mail addressed to City Clerk, Hearings Section, City of San Diego, 202 "C" St., 2nd Floor, San Diego, California 92101. Please make sure you allow sufficient time for the postal service to deliver the ballot to the City Clerk not later than the close of the public hearing for the assessment district, scheduled to be held at 2:00 p.m. on July 23, 2007. If you do not allow sufficient time for mailing you run the risk that the Assessment Ballot may not be received in time to be counted.

Personal Delivery. If in person, to the City Clerk at any time prior to the close of the public hearing for the assessment district, scheduled to be held at 2:00 p.m. on July 23, 2007 at the City Clerk's office, 202 "C" St., 2nd Floor, San Diego, CA 92101, California or at the public hearing itself on that date at the City Council Chambers.

However delivered, the Assessment Ballot must be received by the City Clerk prior to the close of the public hearing in order to be counted.

TO CAST THIS BALLOT, RETURN EITHER THIS ENTIRE PAGE OR THE PORTION BELOW THIS LINE

ASSESSMENT BALLOT

Assessor's Parcel Number: 357660 00-00
Property Address: 1234 Candlelight Dr
Record Owner Name: _____
Property Owner Name: _____
Votes Cast (Assessment Amount): \$12,553.98

Shall the City Council of the City of San Diego establish the proposed Underground Utility Assessment District No. 4098, levy an assessment not to exceed the amount set forth above on the parcel identified, and proceed with the proposed public improvement project?

YES

NO

The undersigned hereby declares under penalty of perjury that I am the record owner of the above assessor's parcel for which this Assessment ballot is cast, or, if not the record owner, I am the duly authorized agent of the record owner for the purpose of casting this Assessment Ballot on behalf of the record owner.

Date: _____, 2007

Record Owner/Agent Signature

Printed Name of Record Owner/Agent

Address

000826

Phone Number _____

SAMPLE

000827

Attachment 3

Final Engineer's Report

000829

**MODIFIED ENGINEER'S REPORT
FOR
LA JOLLA MESA VISTA UNDERGROUND UTILITY
ASSESSMENT DISTRICT NO. 4098**

**CITY OF SAN DIEGO
COUNTY OF SAN DIEGO, CALIFORNIA**

Prepared by:

Bureau Veritas North America, Inc.

San Diego, California 92127

July 23, 2007

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000833

AGENCY: CITY OF SAN DIEGO

PROJECT: LA JOLLA MESA VISTA UNDERGROUND UTILITY ASSESSMENT
DISTRICT NO. 4098

TO: CITY COUNCIL

**ENGINEER'S "REPORT" PURSUANT TO THE
PROVISIONS OF SECTION 10204
OF THE STREETS AND HIGHWAYS CODE**

Pursuant to the provisions of Article XIID of the State Constitution and Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", of the San Diego Municipal Code, and the Resolution of Intention, adopted by the City Council of the CITY OF SAN DIEGO, State of California, in connection with the proceedings for *La Jolla Mesa Vista Underground Utility Assessment District No. 4098* (hereinafter referred to as the "Assessment District"), I, K. Dennis Klingelhofer, P.E., a Registered Professional Engineer and authorized representative of Bureau Veritas North America, Inc., the duly appointed Engineer of Work, herewith submits the "Report" for the Assessment District, consisting of six (6) parts as stated below.

PART I

This part contains the plans and specifications which describe the general nature, location and extent for the proposed improvements, and are filed herewith and made a part hereof. Said plans and specifications are on file in the Office of the Superintendent of Streets.

PART II

This part contains an estimate of the cost of the proposed improvements, including capitalized interest, if any, incidental costs and expenses in connection therewith as set forth herein and attached hereto.

PART III

This part consists of a proposed assessment of the total amount of the costs and expenses of the proposed improvements upon the several subdivisions of land within the Assessment District, in proportion to the estimated special benefits to be received by such subdivisions from said improvements, which is set forth upon the assessment roll filed herewith and made a part hereof.

PART IV

This part contains a map showing the boundaries of the Assessment District, and a diagram showing the Assessment District, the boundaries and the dimensions of the subdivisions of land within said Assessment District, as the same existed at the time of the passage of the Resolution of Intention, is filed herewith and made a part hereof, and part of the assessment.


PART V

This part shall consist of the following information:

- A. Description of Facilities
- B. Right-of-Way Certificate
- C. Environmental Certificate

This report is submitted on the 6th day of July, 2007.

BUREAU VERITAS NORTH AMERICA, INC.


K. DENNIS KLINGELHOFER, P.E.
ENGINEER OF WORK
CITY OF SAN DIEGO
STATE OF CALIFORNIA

**City Of San Diego – La Jolla Mesa Vista Underground Utility A. D.
Modified Engineer's Report – July 23, 2007**

Part I - Plans and Specifications

The plans and specifications to construct the utility undergrounding improvements and any ancillary improvements thereof, for the area generally described as "La Jolla Mesa Vista Underground Assessment District" dated November 6, 2006, as prepared by the various utility companies and are on file in the office of the Superintendent of Streets.

Part II - Cost Estimate

Table 1 below shows the estimated costs for the improvements based upon the plans and specifications which have been prepared for the construction of the improvements and includes the costs of district formation.

**Table 1
Estimated Costs**

	Estimated Costs		
	Preliminary	Confirmed	Modified
Construction Costs			
SDG&E Conversion Costs	\$654,455		
Time Warner Joint Trench Costs to SDG&E	\$29,594		
SBC Joint Trench Costs to SDG&E	\$90,658		
Time Warner Cable & Splicing	\$55,648		
Street Lights (5)	\$30,000		
Slurry Sealing of Streets	\$16,090		
Sub-total	\$876,445	0	0
Construction Contingency	\$111,467		
Total Estimated Construction Costs	\$987,912		
Incidental Expenses			
Design Costs	\$12,500		
Assessment District Formation Costs			
Assessment Engineer	\$26,500		
Outside Legal Counsel	\$15,000		
City Engineering Department	\$5,000		
City Debt Management Department	\$15,000		
City Attorney	\$5,000		
Contingencies	\$3,500		
Total Incidental Expenses	\$82,500		
Less City Contribution through FY 2005 Council Allocation	(\$280,000)		
Less City Contribution through FY 2006 Council Allocation	(\$100,000)		
Total Amount to Assessment	\$690,412		

Part III - Assessment and Method of Assessment Spread

WHEREAS, on June 6, 2007 the City Council of the CITY OF SAN DIEGO, State of California, did, pursuant to the provisions of Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", of the San Diego Municipal Code, adopt its Resolution of Intention No. R-302708, for the installation and construction of certain public improvements, together with appurtenances and appurtenant work in connection therewith, in a special assessment district known and designated as:

LA JOLLA MESA VISTA

UNDERGROUND UTILITY-ASSESSMENT DISTRICT NO. 4098

(hereinafter referred to as the "Assessment District" or "District"); and

WHEREAS, said Resolution of Intention, as required by law, did direct the Engineer of Work to make and file a "Report", consisting of the following as required by Section 61.2325 of the Code:

- a. Plans;
- b. Specifications;
- c. Cost Estimates
- d. Assessment Diagram showing the Assessment District and the subdivisions of land therein;
- e. A proposed assessment of the costs and expenses of the works of improvement levied upon the parcels within the boundaries of the Assessment District;

For particulars, reference is made to the Resolution of Intention as previously adopted.

NOW, THEREFORE, I, K. Dennis Klingelhofer, the authorized representative of BUREAU VERITAS NORTH AMERICA, INC., pursuant to Article XIID of the California Constitution and Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", do hereby submit the following:

1. Pursuant to the provisions of law and the Resolution of Intention, I have assessed the costs and expenses of the works of improvement to be performed in the Assessment District upon the parcels of land in the Assessment District specially benefited thereby in direct proportion and relation to the estimated special benefits to be received by each of said parcels. For particulars as to the identification of said parcels, reference is made to the Assessment Diagram, a copy of which is attached hereto and incorporated herein.
2. As required by law, a Diagram is hereto attached, showing the Assessment District, as well as the boundaries and dimensions of the respective parcels and subdivisions of land within said District as the same existed at the time of the passage of said Resolution of Intention, each of which subdivisions of land or parcels or lots respectively have been given a separate number upon said Diagram and in said Assessment Roll.

**City Of San Diego – La Jolla Mesa Vista Underground Utility A. D.
Modified Engineer's Report – July 23, 2007**

3. The subdivisions and parcels of land, the numbers therein as shown on the respective Assessment Diagram as attached hereto, correspond with the numbers as appearing on the Assessment Roll as contained herein.
4. By virtue of the authority contained in Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", and by further direction and order of the legislative body, I hereby recommend the following Assessment to cover the costs and expenses of the works of improvement for the Assessment District based on the costs and expenses as set forth below:

	As Preliminary Approved	As Confirmed and Recorded	As Modified after Recordation
Estimated Construction Costs	\$987,912		
Estimated Incidental Expenses	\$82,500		
Less City Contributions	(\$380,000)		
Total to Assessment	\$690,412		

For particulars as to the individual assessments and their descriptions, reference is made to Appendix "A" attached hereto.

5. The Total to Assessment has been spread to each parcel of land within the Assessment District based upon the Method of Assessment as set forth in this report to each parcel specifically benefited by the improvements to be constructed.

Dated: July 6, 2007

BUREAU VERITAS NORTH AMERICA, INC.



K. DENNIS KLINGELHOFER, P.E.
R.C.E. No. 50255
ASSESSMENT ENGINEER
CITY OF SAN DIEGO
STATE OF CALIFORNIA

METHOD OF ASSESSMENT

Since the improvements are to be funded by the levying of assessments, Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", and Article XIID of the State Constitution require that assessments must be based on the estimated special benefit that the properties receive from the works of improvement. In addition, Article XIID, Section 4 of the State Constitution requires that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. Section 4 provides that only special benefits are assessable and the local agency levying the assessment must separate the general benefits from the special benefits. It also requires that publicly owned property which specially benefit from the improvements be assessed. Neither the Act nor the State Constitution specifies the method or formula that should be used to apportion the costs to properties in any special assessment district proceedings.

The responsibility for recommending an apportionment of the costs to properties which specially benefit from the improvements rests with the Assessment Engineer, who is appointed for the purpose of making an analysis of the facts and determining the correct apportionment of the assessment obligation. In order to apportion the assessments to each parcel in direct proportion with the special benefit which it will receive from the improvements, an analysis has been completed and is used as the basis for apportioning costs to each property within the Assessment District.

Based upon an analysis of the special and direct benefit to be received by each parcel from the construction of the works of improvement, the Assessment Engineer recommends the apportionment of costs as outlined below. The final authority and action rests with the City Council after hearing all testimony and evidence presented at a public hearing and tabulating the assessment ballots previously mailed to all record owners of property within the Assessment District.

Upon the conclusion of the public hearing, the City Council must make the final determination whether or not the assessment spread has been made in direct proportion to the estimated special benefits received by each parcel within the Assessment District. Ballot tabulation will be finalized at that time and, if a majority of the ballots submitted, weighted by assessment amount, are in opposition to the Assessment District, then the District must be abandoned. If this is not the case, then the City Council may form the Assessment District and levy the special assessment against the parcels therein.

The following sections set forth the methodology used to apportion the costs of the improvements to each parcel.

Special Benefit

In further making the analysis, it is necessary that the properties receive a special and direct benefit distinguished from general benefits conferred on real property located in the District or to the public at large.

The proposed improvements (the undergrounding of power, telephone and cable facilities) are all located along local residential streets. The undergrounding will provide a higher level of service to all properties being undergrounded because the facilities will be upgraded and the undergrounding will reduce the threat of interrupted service due to downed power lines either by wind, rain or fire. In addition, if the overhead utility lines are undergrounded, they will not

**City Of San Diego – La Jolla Mesa Vista Underground Utility A. D.
Modified Engineer's Report – July 23, 2007**

present a hazardous situation of restricting or slowing access to emergency personnel in the event the utility lines are downed.

The removal of the existing poles and overhead wires will also remove physical and visual impediments, thus improving the aesthetic environment of all parcels that are adjacent to these facilities. By undergrounding the existing overhead facilities, the proposed improvements will increase the desirability and will specifically enhance the value of the properties within the Assessment District. Therefore, 100% of the proposed improvements are of direct and special benefit to the properties within the boundaries of the Assessment District.

All general benefits, if any, to the surrounding community and the public in general from the undergrounding of these local overhead utilities are intangible and are not quantifiable.

Method of Apportionment

Based upon the findings described above, the special benefits received by the properties within the boundaries of the District are:

- 1) Improved Safety and Reliability from Upgraded Utility System
- 2) Aesthetic Enhancement of the Neighborhood Area

The two special benefits described above are estimated to be of equal benefit to the parcels located within the District boundaries. Therefore the total cost of the undergrounding will be spread 50% to those properties who benefit from the conversion to a more safe and reliable upgraded utility system and the other 50% of the costs spread to the properties that receive the aesthetic enhancement benefit to the neighborhood area. The method of spread for each special benefit is described below:

- **Improved Safety and Reliability**

There are fifty six (56) parcels which have the safety and reliability of their utility system improved by the undergrounding of the existing overhead utilities. Fifty five (55) parcels receive a direct safety and reliability benefit (their overhead utility service will be converted to an underground utility system) and will be assigned a safety and reliability benefit factor ("BF") of (1.00 BF). One (1) parcel (Assessor's Parcel Number 357-660-01) receives an indirect safety and reliability benefit since they will still have an overhead service adjacent to their property, although they will be served by the newly undergrounded system. This parcel will be assigned a safety and reliability benefit factor of one-half (0.50 BF). Therefore the estimated total cost for the upgraded utility system which provides improved safety and reliability, \$345,206 (50% of the total project cost) will be spread to each parcel based upon their pro-rata share of safety and reliability benefit units. There are fifty five and one-half (55.50) benefit units within the District resulting in an assessment of \$6,219.93 per benefit unit. Parcels which receive a direct safety and reliability benefit will be assessed \$6,219.93 per parcel and parcels which receive an indirect safety and reliability benefit will be assessed \$3,109.96 per parcel.

**City Of San Diego – La Jolla Mesa Vista Underground Utility A. D.
Modified Engineer's Report – July 23, 2007**

- Aesthetic Enhancement Benefit

There are fifty six (56) parcels which will receive an aesthetic enhancement benefit from the removal of utility poles and overhead utility lines. Fifty five (55) parcels receive a direct aesthetic enhancement benefit (obstructions removed directly adjacent to their property lines) and will be assigned an aesthetic benefit factor ("BF") of (1.00 BF). One (1) parcel (Assessor's Parcel Number 357-660-01) receives an indirect aesthetic enhancement benefit (minor obstructions remaining adjacent to their property lines) and will be assigned an aesthetic benefit factor of one-half (0.50 BF). Therefore the estimated total cost for the aesthetic enhancement, \$345,206 (50% of the total project cost) will be spread to each parcel based upon their pro-rata share of aesthetic enhancement benefit units. There are fifty five and one-half (55.50) benefit units within the District resulting in an assessment of \$6,219.93 per aesthetic enhancement benefit unit. Parcels which receive a direct aesthetic enhancement benefit will be assessed \$6,219.93 per parcel and parcels which receive an indirect aesthetic enhancement benefit will be assessed \$3,109.96 per parcel.

For particulars as to the assessment roll, reference is made to Appendix "A". A detailed itemization of improvement costs may be found in Part II of this report.

In conclusion, it is my opinion that the assessments for the referenced Assessment District have been spread in direct accordance with the estimated special benefits that each parcel receives from the works of improvement.

Dated: July 6, 2007

BUREAU VERITAS NORTH AMERICA, INC



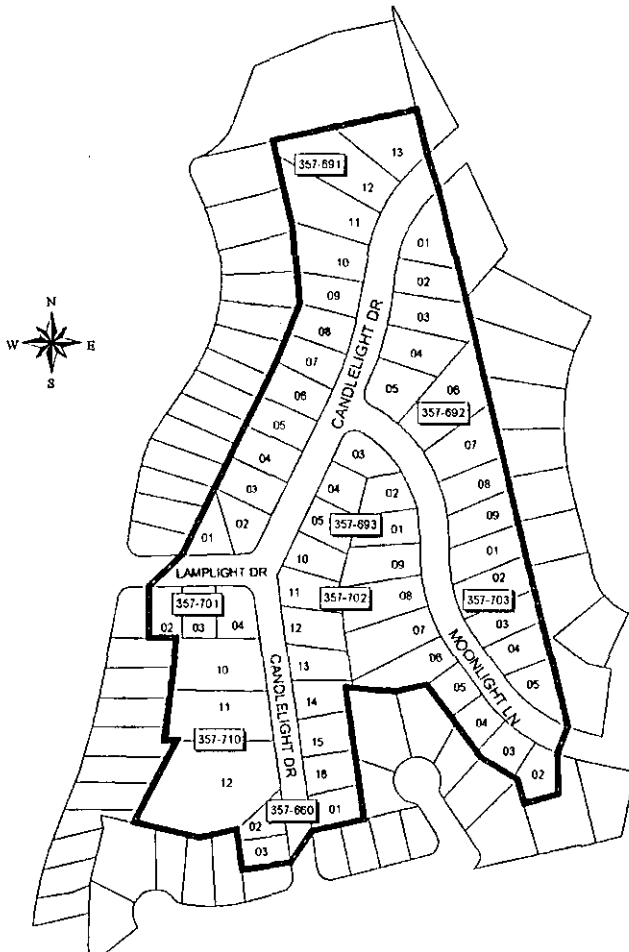
K. DENNIS KLINGELHOFER, P.E.
R.C.E. No. 50255
ASSESSMENT ENGINEER
CITY OF SAN DIEGO
STATE OF CALIFORNIA

Part IV - Boundary Map and Diagram of Assessment

A reduced copy of the Boundary Map and Assessment Diagram is attached hereto. Full-sized copies of the Boundary Map and Assessment Diagram are on file in the Office of the City Clerk, of the City of San Diego.

As required by the Act, the Assessment Diagram shows the exterior boundaries of the assessment district and the assessment number assigned to each parcel of land corresponding to its number as it appears in the Assessment Roll shown on page A-4 in the Appendix of this Report. The Assessor's parcel number is also shown for each parcel as they existed at the time of the passage of the Resolution of Intention and reference is hereby made to the Assessor's Parcel Maps of the County of San Diego for the boundaries and dimensions of each parcel of land.

PROPOSED BOUNDARIES OF
CITY OF SAN DIEGO
LA JOLLA MESA VISTA UNDERGROUNDING
ASSESSMENT DISTRICT NO. 4098
CITY OF SAN DIEGO
COUNTY OF SAN DIEGO, CALIFORNIA



Filed in the office of the City Clerk of the City of San Diego this ____ day of _____, 2007.

By: _____
City Clerk
City of San Diego
State of California

I hereby certify that the within map showing proposed boundaries of Assessment District No. 4098 (La Jolla Mesa Vista Underground Utility Assessment District), City of San Diego, County of San Diego, State of California, was approved by the City Council of the City of San Diego, at a meeting thereof, held on the ____ day of _____, 2007, by its Resolution No. ____.

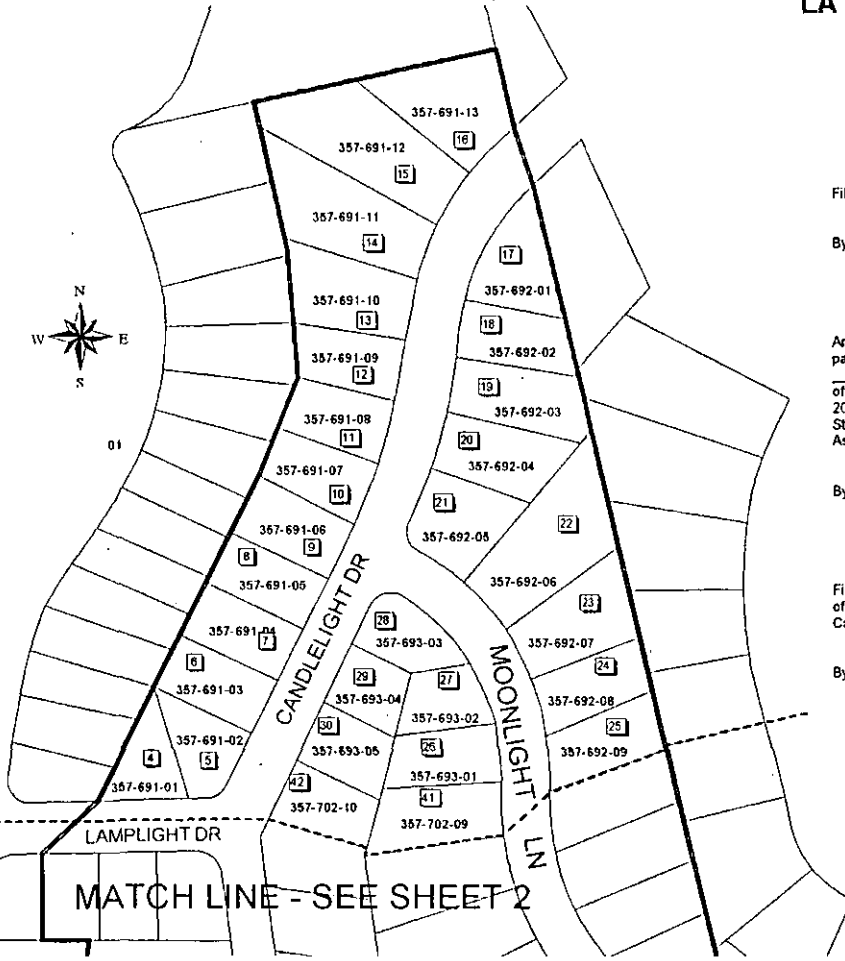
By: _____
City Clerk
City of San Diego
State of California

Filed this ____ day of _____, 2007, at the hour of ____ o'clock ____ m., in Book ____ of Maps of Assessment Districts at Page ____ in the Office of the County Recorder in the County of San Diego, State of California.

By: _____
County Recorder,
County of San Diego
State of California

 District Boundary

**ASSESSMENT DIAGRAM
LA JOLLA MESA VISTA UNDERGROUND UTILITY
ASSESSMENT DISTRICT NO. 4098
CITY OF SAN DIEGO
COUNTY OF SAN DIEGO, CALIFORNIA**



Filed in the office of the City Clerk of the City of San Diego this ___ day of ___, 2007.

By: _____
City Clerk
City of San Diego
State of California

An Assessment was levied by the City Council of the City of San Diego on the lots, places and parcels of land shown on this Assessment Diagram, the Assessment was levied on the ___ day of ___, 2007. The Assessment Diagram and an Assessment Roll were recorded in the office of the Superintendent of Streets of the City of San Diego on the ___ day of ___, 2007. Reference is made to the Assessment Roll recorded in the office of the Superintendent of Streets for the exact amount of each Assessment levied against each parcel of land shown on this Assessment Diagram.

By: _____
City Clerk
City of San Diego
State of California

Filed this ___ day of ___, 2007, at the hour of ___ o'clock ___ m., in Book ___, Page ___ of Maps of Assessment Districts in the Office of the County Recorder of the County of San Diego, State of California.

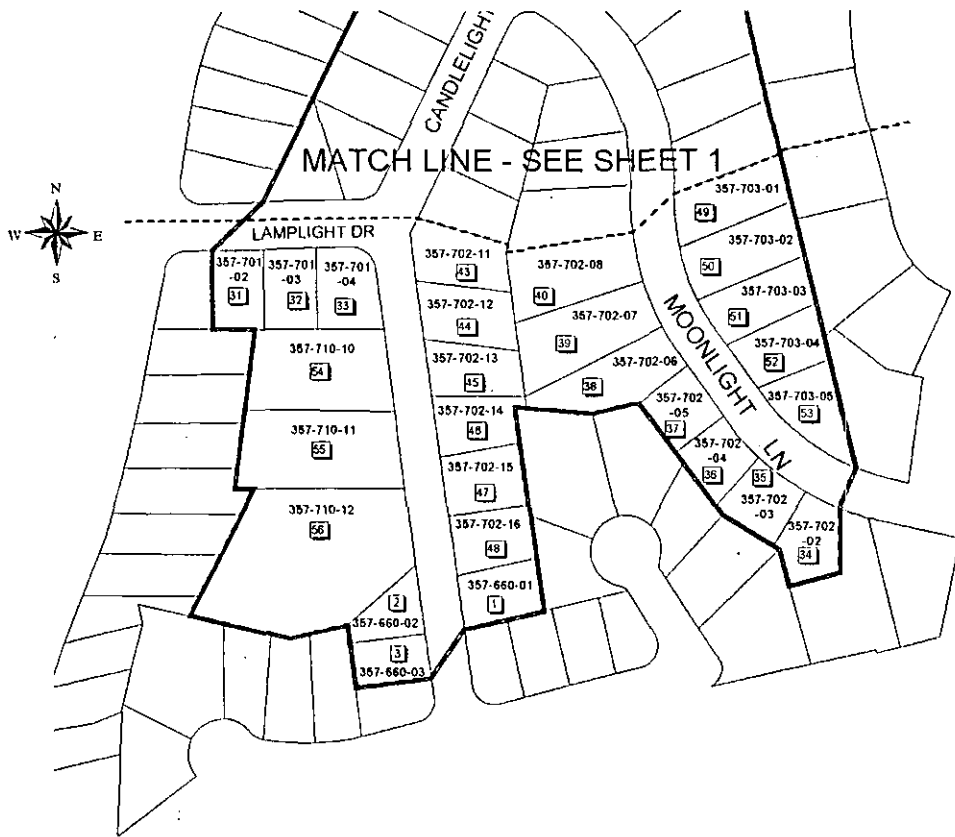
By: _____
County Recorder,
County of San Diego
State of California

357-692-07 Assessor's Parcel Number

 Assessment Number

 District Boundary

**ASSESSMENT DIAGRAM
LA JOLLA MESA VISTA UNDERGROUND UTILITY
ASSESSMENT DISTRICT NO. 4098
CITY OF SAN DIEGO
COUNTY OF SAN DIEGO, CALIFORNIA**



357-692-07 Assessor's Parcel Number
[23] Assessment Number
District Boundary

Part V - Description of Facilities

Section 61.2305 of the Code provides for the legislative body to finance certain capital facilities and services within or along its streets or any public way or easement. The following is a list of proposed improvements as allowed under the Code to be constructed, installed, maintained, repaired or improved. For the general location of the improvements to be constructed reference is hereby made to the Plans and Specifications described in Part I of this report.

The improvements to be constructed shall include:

1. Removal of 17 existing power and telephone poles located on those portions of Candlelight Drive, Moonlight Lane, and Lamplight Drive located within the boundaries of the assessment district.
2. Removal of all overhead service drops for both electric, telephone and cable service.
3. Construction of approximately 3,467 linear feet each of mainline underground power, telephone, and cable conduit, with appurtenant vaults, manholes and pullboxes.
4. Construction of required service conduit and appurtenances to private property lines for 55 lots within the District.
5. Installation of new street lights.
6. Slurry sealing of streets after construction is completed.

The improvements will be designed and constructed by SDG&E (electric), SBC California (telephone) and Time Warner Cable (cable). The City of San Diego will inspect the work for conformance to applicable City standards and specifications. Once completed, the improvements will become the property and responsibility of each utility respectively.

Each property owner within the Assessment District will be responsible for arranging for, and paying for, the work necessary on his or her property to connect the underground utility facilities constructed within the public right-of-way or easements to the points of connection on private property. Conversion of the individual service connections on private property is the responsibility of the property owner and is not included in the work to be funded by the Assessment District.

000847

APPENDIX

RIGHT-OF-WAY CERTIFICATE

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF SAN DIEGO

The undersigned hereby CERTIFIES UNDER PENALTY OF PERJURY that the following is all true and correct.

That at all times herein mentioned, the undersigned was, and now is, the authorized representative of the duly appointed SUPERINTENDENT OF STREETS of the CITY OF SAN DIEGO, CALIFORNIA.

That there have now been instituted proceedings under the provisions of Article XIID of the California Constitution, Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", for the construction of certain public improvements in a special assessment district known and designated as *LA JOLLA MESA VISTA UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 4098* (hereinafter referred to as the "Assessment District").

THE UNDERSIGNED STATES AND CERTIFIES AS FOLLOWS:

It is acknowledged that the proposed Works of Improvement must be constructed within public rights-of-way, land, or easements owned by or licensed to the CITY OF SAN DIEGO, County of SAN DIEGO, State of California, at the time of the construction of the Works of Improvement, and the undersigned hereby further certifies that all rights-of-way necessary for the Works of Improvements will be obtained and in possession of the City, County, or State prior to the commencement of any construction by the City of San Diego.

EXECUTED this ____ day of _____, 2007, at City of San Diego, California.

City Engineer or Designee
City Of San Diego
State Of California

By: _____

CERTIFICATION OF COMPLETION OF ENVIRONMENTAL PROCEEDINGS

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF SAN DIEGO

The undersigned, under penalty of perjury, CERTIFIES as follows:

1. That I am the person authorized to prepare and process all environmental documentation as needed as it relates to the formation of the special assessment district being formed pursuant to the provisions of Division 23 "San Diego Improvement District Procedural Ordinance" of Article 1 "Public Improvement and Assessment Proceedings", Chapter 6 "Public Works and Property", said special assessment district known and designated as *LA JOLLA MESA VISTA UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 4098* (hereinafter referred to as the "Assessment District").

2. The specific environmental proceedings relating to this Assessment District that have been completed are as follows:

CEQA compliance review, as follows:

This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15302(d), and Public Utilities Commission General Order 131-D, dated August 11, 1995

3. I do hereby certify that all environmental evaluation proceedings necessary for the formation of the Assessment District have been completed to my satisfaction, and that no further environmental proceedings are necessary.

EXECUTED this _____ day of _____, 2007 at San Diego, California.

CITY OF SAN DIEGO
STATE OF CALIFORNIA

CERTIFICATES

I, _____, as CITY CLERK of the CITY OF SAN DIEGO, CALIFORNIA do hereby certify that the foregoing Assessment, together with the Diagram attached thereto, was filed in my office on the _____ day of _____, 2007.

CITY CLERK
CITY OF SAN DIEGO
STATE OF CALIFORNIA

I, _____, as CITY CLERK of the CITY OF SAN DIEGO, CALIFORNIA do hereby certify that the foregoing Assessment, together with the Diagram attached thereto, was preliminarily approved by the City Council of the CITY OF SAN DIEGO, CALIFORNIA, on the _____ day of _____, 2007.

CITY CLERK
CITY OF SAN DIEGO
STATE OF CALIFORNIA

I, _____, as CITY CLERK of the CITY OF SAN DIEGO, CALIFORNIA do hereby certify that the foregoing Assessment, together with the Diagram attached thereto, was approved and confirmed by the City Council of said City on the _____ day of _____, 2007.

CITY CLERK
CITY OF SAN DIEGO
STATE OF CALIFORNIA

I, _____, as SUPERINTENDENT OF STREETS of the CITY OF SAN DIEGO, CALIFORNIA do hereby certify that the foregoing Assessment, together with the Diagram attached thereto, was recorded in my office on the _____ day of _____, 2007.

SUPERINTENDENT OF STREETS
CITY OF SAN DIEGO
STATE OF CALIFORNIA

000852

**CITY OF SAN DIEGO
LA JOLLA MESA VISTA UNDERGROUND UTILITY ASSESSMENT DISTRICT**

Assessor's Parcel Number	Assessmt. Number	Property Owner	Property Address	Improved Safety & Reliability Utility System Benefit		Aesthetic Enhancement Benefit		Total Assessment
				Benefit Units	Amount	Benefit Units	Amount	Amount
357 660 01 00	1	KEVIN & STEPHANIE S WHITLOCK	5385 CANDLELIGHT DR	0.50	\$ 3,109.96	0.50	\$ 3,109.96	\$ 6,219.93
357 660 02 00	2	ROBERT P & SILVIA A METZGER	5392 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 660 03 00	3	MARIAN B ASHENHURST	5382 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 01 00	4	SASSO URSULA R REVOCABLE TRUST	838 LAMPLIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 02 00	5	CAROL CONTI	5506 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 03 00	6	BETTYE V FARAR	5512 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 04 00	7	DAVID L & KATHERINE L TELFORD	5518 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 05 00	8	LUIS D JR & LISA K FRANCO	5524 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 06 00	9	DONALD J & EDNA M VINE	5530 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 07 00	10	RICHARD A BROWER	5536 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 08 00	11	JOHN A WHALEN JR. & SAUNDRA L.	5542 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 09 00	12	CAROL V FULK	5548 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 10 00	13	JOHN P & HILDA M ARCHIBALD	5554 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 11 00	14	STARSIK	5560 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 12 00	15	FOSTER FAMILY TRUST 12-06-02	5566 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 691 13 00	16	LAURA OSWALD	5572 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 01 00	17	WU FAMILY TRUST	5565 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 02 00	18	SCHLOTTER LIVING TRUST 10-09-0	5551 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 03 00	19	HAAS STEPHEN M REVOCABLE TRUST	5545 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 04 00	20	PETERSON NORMA R 2001 LIVING TRUST	5539 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 05 00	21	HEDIN LIVING TRUST 05-13-91	5561 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 06 00	22	MITTMAN FAMILY TRUST 02-09-04	5547 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 07 00	23	BLUESTEIN FAMILY TRUST	5533 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 08 00	24	BOLAND FAMILY REVOCABLE TRUST	5519 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 692 09 00	25	DANIEL F & CYNTHIA K RYAN	5505 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 693 01 00	26	DIANA M JOHNSON	5510 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 693 02 00	27	D REED JR & NOELLE J MAYNE	5526 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 693 03 00	28	WILSON SURVIVORS TRUST 05-31-00	5560 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 693 04 00	29	BETTY J VORHIES	5515 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 693 05 00	30	RICHARD A CARDENAS	5509 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 701 02 00	31	LAILA SALEM	821 LAMPLIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 701 03 00	32	SAGMAN ARCHER LIVING TRUST	833 LAMPLIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 701 04 00	33	INGEBORG M EHRICKE	845 LAMPLIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 02 00	34	WEGRZYN FAMILY TRUST 06-27-00	5402 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 03 00	35	WEGRZYN FAMILY TRUST 06-27-00	5404 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86

000853

CITY OF SAN DIEGO
LA JOLLA MESA VISTA UNDERGROUND UTILITY ASSESSMENT DISTRICT

Assessor's Parcel Number	Assessmt. Number	Property Owner	Property Address	Improved Safety & Reliability Utility System Benefit		Aesthetic Enhancement Benefit		Total Assessment
				Benefit Units	Amount	Benefit Units	Amount	Amount
357 702 04 00	36	WEGRZYN FAMILY TRUST 06-27-00	5416 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 05 00	37	TIFFANY E TORGAN	5428 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 06 00	38	ROBERT D & JUDITH A STEEL	5440 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 07 00	39	RIPPIER STEPHANIE M FAMILY TRUST	MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 08 00	40	MUSHKOR MOUSA H	5464 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 09 00	41	WISNIEWSKI FAMILY TRUST	5476 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 10 00	42	BORUN GEORGE & BERNYS TRUST	5503 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 11 00	43	COURIS FAMILY TRUST	5473 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 12 00	44	ROBERT B KILLION	5459 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 13 00	45	NEMATI-POUSTI FAMILY TRUST	5445 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 14 00	46	NEMATI-POUSTI FAMILY TRUST	5431 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 15 00	47	THOMAS D JACKSON	5417 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 702 16 00	48	WALTER WEST	5403 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 703 01 00	49	BEHM FAMILY TRUST 04-25-98	5469 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 703 02 00	50	BRYCE P & SIMONE F GOLDMAN	5459 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 703 03 00	51	KINSEY ROSE M TRUST 04-07-99	5441 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 703 04 00	52	WILLIAMS FAMILY TRUST	5431 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 703 05 00	53	KEVIN D FIALKO	5409 MOONLIGHT LN	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 710 10 00	54	MOHAMMAD S ERFANI	5446 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 710 11 00	55	KURT B BLUM	5432 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
357 710 12 00	56	COREY RUDL	5416 CANDLELIGHT DR	1.00	\$ 6,219.93	1.00	\$ 6,219.93	\$ 12,439.86
				55.50	\$ 345,206.00	55.50	\$ 345,206.00	\$ 690,412.00

000855

Attachment 4

Letters to Property Owners from Debt Management
Department, dated May 25, 2007 and July 10, 2007



000857

THE CITY OF SAN DIEGO

May 25, 2007

Dear Property Owner:

Subject: Proposed La Jolla Mesa Vista Underground Utility Assessment District

This letter is to provide updated information to property owners within the boundaries of the proposed La Jolla Mesa Vista Underground Utility Assessment District [the "District"] regarding the proceedings being undertaken by the City to consider the formation of the District and the levy of assessments on properties within the District for the purpose of undergrounding the overhead utility lines and replacing certain street lights.

As referenced in a previous letter dated January 25, 2007, the proceedings were initiated pursuant to the City's receipt of a petition to form the District, signed by the owners of more than seventy-five percent (75%) of the land area anticipated to be subject to the special assessment.

The initial formal legislative action, which is City Council consideration of the Resolution of Intention and related items, has been docketed for the **City Council meeting of June 5, 2007**. This action asks the Council to consider adoption of resolutions to accept the property owner petition, approve the boundary map of the proposed District, declare the intention to order the conversion of overhead utilities through formation of an Assessment District, preliminarily approve the Assessment Engineer's Report and to set the date for a public hearing on the Assessment District.

The Agenda and backup materials for the **June 5, 2007 City Council meeting** is anticipated to be available on the City's website by Wednesday, May 30, 2007. It can be accessed using the following link:

<http://clerkdoc.sannet.gov/Website/city-docket>

In addition, hard copies of the materials are available at the Office of the City Clerk, 202 C Street, Second Floor, San Diego, CA 92101.

Should the City Council approve the Resolution of Intention and related items, a **Public Hearing** will take place on **July 23, 2007 at 2:00 p.m.** At least 45 days prior to then, a Notice of Public Hearing and assessment ballots will be mailed to all owners of property proposed to be assessed. The Notice will contain the estimated total assessment amount chargeable to the District, the amount chargeable to each record owner's parcel, the basis for the assessment, information regarding the public hearing, a summary of the procedures for the completion, return, and tabulation of the assessment ballots, and other information.



Debt Management

202 C Street, MS 7B • San Diego, CA 92101
Tel (619) 235-5840 Fax (619) 235-5835

000858

May 25, 2007

Page 2

Should the ballot process be successful, the City Council, in its discretion, may adopt the appropriate resolutions forming the District and authorizing the levy of the assessments. The entire assessment lien amount attributable to each property would then be included on property tax bills for the succeeding 2007-2008 tax year.

If you should have any questions, please call the Debt Management Department at (619) 235-5840.

Debt Management

202 C Street, MS 7B • San Diego, CA 92101
Tel (619) 235-5840 Fax (619) 235-5835



000859

THE CITY OF SAN DIEGO

July 10, 2007

Dear Property Owner:

Subject: Proposed La Jolla Mesa Vista Undergrounding Assessment District No. 4098

This letter is to provide updated information to property owners within the boundaries of the proposed La Jolla Mesa Vista Undergrounding Utility Assessment District No. 4098 [the "LJMV District"] regarding the proceedings being undertaken by the City of San Diego.

On June 5, 2007, the City Council adopted four resolutions relating to the formation of the proposed LJMV District. Through the adoption of such resolutions the City Council: (1) accepted the petition from property owners in the LJMV neighborhood to initiate special assessment proceedings; (2) approved the boundary map for the proposed district; (3) declared the intention to underground utilities in the proposed district; and (4) preliminarily approved the Preliminary Engineer's Report.

On June 8, 2007, public hearing notices and ballots were mailed to each property owner, stating the estimated amount of the proposed assessments, as stated in the Preliminary Engineer's Report. The City's assessment engineer has since determined that two of the parcels (APNs 357-691-12-00 and 357-691-13-00) which were determined to receive one-half of the Aesthetic Enhancement Benefit, will in fact be receiving the full Aesthetic Enhancement Benefit. Therefore, if the LJMV District is formed, these two parcels will be assessed the increased assessment amount. The owners of these two parcels have been notified of the change to their assessment. In addition, each such property owner has signed a waiver of the 45-day requirement for the noticed public hearing and each has been mailed a revised assessment ballot. Waivers are not required from the property owners of the remaining 54 parcels, since the assessment of these parcels will not be increased.

Because the total assessed amount for all 56 properties remains at \$690,412.00, and the two previously reduced assessments are now full assessments, the assessments for all parcels will be re-calculated. This will result in a slight assessment reduction on 54 parcels and an increased assessment to the two parcels stated above. Should the results of the assessment ballot tabulation reveal that a majority protest to the proposed assessment has not been filed and the City Council subsequently approve the formation of the proposed district following the public hearing on July 23, 2007, a notice will be mailed to each property owner containing a designation of the property assessed and the amount of the final confirmed assessments.

If you should have any questions, please call the Debt Management Department at (619) 235-5840.



Debt Management

202 C Street, MS 7B • San Diego, CA 92101
Tel (619) 235-5840 Fax (619) 235-5835

000861

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

WAIVER OF NOTICE PERIOD PERTAINING TO PROPOSED
INCREASE OF ASSESSMENTS

The undersigned hereby certifies as follows:

1. The undersigned is the owner (the "Owner") of the property located at 5572 Candlelight Drive and further identified as Assessor's Parcel Number 357-691-13 ("Owner's Parcel") in the City of San Diego (the "City") or the representative of such Owner and is legally authorized to provide the certifications and waiver contained herein on behalf of such Owner.

2. The Owner understands and acknowledges that:

A. The City Council of the City of San Diego (the "City") was presented with a petition (the "Petition") executed and submitted by the owners of certain real property located in that area of the City of San Diego (the "City") commonly known as La Jolla Mesa Vista requesting that the City Council initiate proceedings to form an assessment district for the purpose of financing the conversion of certain overhead electric and communications facilities to underground locations (the "Utility Undergrounding").

B. In response to the Petition, the City Council authorized 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 XIII D of the Constitution of the State of California ("Article XIII D") 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 XIII D, the "Assessment District Law") to consider the formation of such an assessment district to be known and designated as La Jolla Mesa Undergrounding Assessment District No. 4098 (the "Assessment District") to finance the Utility Undergrounding.

C. Owner's Parcel is included within the boundaries of the proposed Assessment District.

D. The City retained the services of Bureau Veritas North America, Inc. (the "Assessment Engineer") as required by the Assessment Law to prepare a report which, among other information, identified the parcels which will receive a special benefit from the Utility Undergrounding and the proportionate special benefit to be derived from each parcel in relationship to the entire cost of the Utility Undergrounding. The Assessment Engineer prepared a Preliminary Engineer's Report in which the Assessment Engineer concluded that the Owner's Parcel would receive a special benefit from the Utility Undergrounding which special benefit

000862

included (a) the improvement of the safety and reliability of the utility system ("Improved Safety and Reliability Benefit") and (b) aesthetic enhancement (the "Aesthetic Enhancement Benefit") from the removal of the existing poles and overhead utility lines directly adjacent to the property lines of Owner's Parcel. As a result of the Assessment Engineer's determination of the special benefit to be received by the Owner's Parcel from the Utility Undergrounding, the Assessment Engineer recommended that the Owner's Parcel be assessed \$6,219.93 for the Improvement Safety and Reliability Benefit and \$3,167.03 for the Aesthetic Enhancement Benefit for a total assessment of \$9,386.96. The amount of the Aesthetic Enhancement Benefit was only 50% of the Aesthetic Enhancement Benefit proposed by the Assessment Engineer to be assessed to 53 of the 56 parcels within the Assessment District because the Assessment Engineer's initial determination was that minor obstructions would remain adjacent to Owner's Parcel following the Utility Undergrounding and, therefore, Owner's Parcel would not receive the same level of Aesthetic Enhancement Benefit as those parcels which would have no remaining obstructions adjacent to those parcels.

E. The City Council received the Preliminary Engineer's Report on June 5, 2007 and set a public hearing to be held at 2 pm on July 23, 2007 (the "Public Hearing Date") at which time the City Council would, among other things, consider and finally determine whether the public interest and convenience require the Utility Undergrounding and hear all testimony relating to the proceedings, the proposed Utility Undergrounding or the extent of the assessment district. The City Council also ordered that at least 45 days before the Public Hearing Date notice of such public hearing ("Notice of Public Hearing") be mailed to all persons owning property proposed to be assessed for the cost of the Utility Undergrounding and that such notice contain an assessment ballot whereon the record owner of each property proposed to be assessed could indicate his or her support for or opposition to the proposed assessment on such owner's property.

F. Owner received notice of the public hearing and an assessment ballot for Owner's Parcel reflecting a proposed assessment of \$9,386.96.

G. The City has informed Owner that subsequent to mailing the Notice of Public Hearing and assessment ballot to Owner the City requested that the Assessment Engineer review its determination of the Aesthetic Enhancement Benefit for Owner's Parcel. The Assessment Engineer subsequently viewed the Owner's Parcel and consulted with San Diego Gas & Electric. The Assessment Engineer determined that no obstructions would remain adjacent to Owner's Parcel following the Utility Undergrounding and that Owner's Parcel will receive the full Aesthetic Enhancement Benefit. The Assessment Engineer has, therefore, recommended that the Aesthetic Enhancement Benefit for Owner's Parcel be increased from \$3,167.03 to \$6,219.94 and that the overall assessment for Owner's Parcel be increased from \$9,386.96 to \$12,439.86 (the "Increased Assessment").

H. The City has provided to the Owner an amended Notice of Public Hearing and assessment ballot (the "Amended Notice and Assessment Ballot") which reflects the Increased Assessment. Such amended Notice of Public Hearing and assessment ballot was not mailed to Owner at least 45 days prior to the scheduled Public Hearing Date.

000863

I. The Assessment District Law contains certain procedures and requirements which apply whenever a public agency such as the City considers the levy of assessments on real property. One of the requirements of the Assessment District Law is that the City hold the public hearing upon the proposed assessments not less than 45 days after mailing notice of the proposed assessments to the record owners of the parcels proposed to be assessed.

J. In order to comply with the requirement of the Assessment District Law that the Amended Notice and Assessment Ballot be mailed to Owner at least 45 days prior to the public hearing on the proposed assessment on the Owner's Parcel, it would be necessary for the City to continue the Public Hearing Date to a date which would be at least 45 days after the Amended Notice and Assessment Ballot was mailed to the Owner. Such a continuance would result in a delay in the final decision whether to form the Assessment District and to levy assessments therein to finance the Utility Undergrounding.

3. Although the Amended Notice and Assessment Ballot was provided to Owner less than 45 days prior to the Public Hearing Date, Owner has had sufficient time to review the Amended Notice and Assessment Ballot, to undertake such research and to make such inquiries as Owner deems necessary in order for Owner to make an informed decision on whether to support or oppose the levy of the Revised Assessment on Owner's Parcel. Additionally, Owner desires that the public hearing take place on the Public Hearing Date as currently scheduled.

4. Owner hereby expressly waives Owner's right under the Assessment District Law that the public hearing upon the Revised Assessment proposed to be levied on Owner's Parcel be held not less than 45 days after the Amended Notice and Assessment Ballot was provided to Owner. Owner represents and warrants that Owner has knowingly, intelligently and voluntarily waived such right for and on behalf of Owner, Owner's successors, heirs, assigns and/or transferees. In making the waiver set forth in this paragraph, Owner understands and acknowledges that the City shall be relying upon such waiver in making the determination to conduct the public hearing on the Public Hearing Date as currently scheduled.

This Waiver of Notice Period Pertaining to Proposed Increase Of Assessments is executed July 6, 2007 at San Diego, California.

(Handwritten Signature)

Signature

Laura M. Oswald

Type or Print Name

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

WAIVER OF NOTICE PERIOD PERTAINING TO PROPOSED
INCREASE OF ASSESSMENTS

The undersigned hereby certifies as follows:

1. The undersigned is the owner (the "Owner") of the property located at 5566 Candlelight Drive and further identified as Assessor's Parcel Number 357-691-12 ("Owner's Parcel") in the City of San Diego (the "City") or the representative of such Owner and is legally authorized to provide the certifications and waiver contained herein on behalf of such Owner.

2. The Owner understands and acknowledges that:

A. The City Council of the City of San Diego (the "City") was presented with a petition (the "Petition") executed and submitted by the owners of certain real property located in that area of the City of San Diego (the "City") commonly known as La Jolla Mesa Vista requesting that the City Council initiate proceedings to form an assessment district for the purpose of financing the conversion of certain overhead electric and communications facilities to underground locations (the "Utility Undergrounding").

B. In response to the Petition, the City Council authorized 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 I, Division 23 of the San Diego Municipal Code (the "Procedural Ordinance"), Article XIII D of the Constitution of the State of California ("Article XIII D") 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 XIII D, the "Assessment District Law") to consider the formation of such an assessment district to be known and designated as La Jolla Vista Mesa Undergrounding Assessment District No. 4098 (the "Assessment District") to finance the Utility Undergrounding.

C. Owner's Parcel is included within the boundaries of the proposed Assessment District.

D. The City retained the services of Bureau Veritas North America, Inc. (the "Assessment Engineer") as required by the Assessment Law to prepare a report which, among other information, identified the parcels which will receive a special benefit from the Utility Undergrounding and the proportionate special benefit to be derived from each parcel in relationship to the entire cost of the Utility Undergrounding. The Assessment Engineer prepared a Preliminary Engineer's Report in which the Assessment Engineer concluded that the Owner's Parcel would receive a special benefit from the Utility Undergrounding which special benefit

included (a) the improvement of the safety and reliability of the utility system ("Improved Safety and Reliability Benefit") and (b) aesthetic enhancement (the "Aesthetic Enhancement Benefit") from the removal of the existing poles and overhead utility lines directly adjacent to the property lines of Owner's Parcel. As a result of the Assessment Engineer's determination of the special benefit to be received by the Owner's Parcel from the Utility Undergrounding, the Assessment Engineer recommended that the Owner's Parcel be assessed \$6,219.93 for the Improvement Safety and Reliability Benefit and \$3,167.03 for the Aesthetic Enhancement Benefit for a total assessment of \$9,386.96. The amount of the Aesthetic Enhancement Benefit was only 50% of the Aesthetic Enhancement Benefit proposed by the Assessment Engineer to be assessed to 53 of the 56 parcels within the Assessment District because the Assessment Engineer's initial determination was that minor obstructions would remain adjacent to Owner's Parcel following the Utility Undergrounding and, therefore, Owner's Parcel would not receive the same level of Aesthetic Enhancement Benefit as those parcels which would have no remaining obstructions adjacent to those parcels.

E. The City Council received the Preliminary Engineer's Report on June 5, 2007 and set a public hearing to be held at 2 pm on July 23, 2007 (the "Public Hearing Date") at which time the City Council would, among other things, consider and finally determine whether the public interest and convenience require the Utility Undergrounding and hear all testimony relating to the proceedings, the proposed Utility Undergrounding or the extent of the assessment district. The City Council also ordered that at least 45 days before the Public Hearing Date notice of such public hearing ("Notice of Public Hearing") be mailed to all persons owning property proposed to be assessed for the cost of the Utility Undergrounding and that such notice contain an assessment ballot wherein the record owner of each property proposed to be assessed could indicate his or her support for or opposition to the proposed assessment on such owner's property.

F. Owner received notice of the public hearing and an assessment ballot for Owner's Parcel reflecting a proposed assessment of \$9,386.96.

G. The City has informed Owner that subsequent to mailing the Notice of Public Hearing and assessment ballot to Owner the City requested that the Assessment Engineer review its determination of the Aesthetic Enhancement Benefit for Owner's Parcel. The Assessment Engineer subsequently viewed the Owner's Parcel and consulted with San Diego Gas & Electric. The Assessment Engineer determined that no obstructions would remain adjacent to Owner's Parcel following the Utility Undergrounding and that Owner's Parcel will receive the full Aesthetic Enhancement Benefit. The Assessment Engineer has, therefore, recommended that the Aesthetic Enhancement Benefit for Owner's Parcel be increased from \$3,167.03 to \$6,219.94 and that the overall assessment for Owner's Parcel be increased from \$9,386.96 to \$12,439.86 (the "Increased Assessment").

H. The City has provided to the Owner an amended Notice of Public Hearing and assessment ballot (the "Amended Notice and Assessment Ballot") which reflects the Increased Assessment. Such amended Notice of Public Hearing and assessment ballot was not mailed to Owner at least 45 days prior to the scheduled Public Hearing Date.

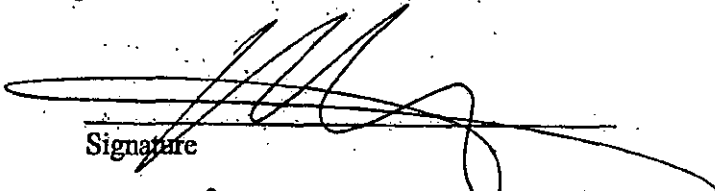
I. The Assessment District Law contains certain procedures and requirements which apply whenever a public agency such as the City considers the levy of assessments on real property. One of the requirements of the Assessment District Law is that the City hold the public hearing upon the proposed assessments not less than 45 days after mailing notice of the proposed assessments to the record owners of the parcels proposed to be assessed.

J. In order to comply with the requirement of the Assessment District Law that the Amended Notice and Assessment Ballot be mailed to Owner at least 45 days prior to the public hearing on the proposed assessment on the Owner's Parcel, it would be necessary for the City to continue the Public Hearing Date to a date which would be at least 45 days after the Amended Notice and Assessment Ballot was mailed to the Owner. Such a continuance would result in a delay in the final decision whether to form the Assessment District and to levy assessments therein to finance the Utility Undergrounding.

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4. Owner hereby expressly waives Owner's right under the Assessment District Law that the public hearing upon the Revised Assessment proposed to be levied on Owner's Parcel be held not less than 45 days after the Amended Notice and Assessment Ballot was provided to Owner. Owner represents and warrants that Owner has knowingly, intelligently and voluntarily waived such right for and on behalf of Owner, Owner's successors, heirs, assigns and/or transferees. In making the waiver set forth in this paragraph, Owner understands and acknowledges that the City shall be relying upon such waiver in making the determination to conduct the public hearing on the Public Hearing Date as currently scheduled.

This Waiver of Notice Period Pertaining to Proposed Increase Of Assessments is executed July 9, 2007 at San Diego, California.


Signature

Robert A Foster
Type or Print Name

000869

NOTICE OF EXEMPTION

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

 OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

FROM: CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 501

PROJECT NO.: 128074
PROJECT TITLE: **LA Ja Jolla Mesa Vista 20B**

PROJECT LOCATION-SPECIFIC: The proposed project would affect Lamplight Drive, Moonlight Lane, and Candlelight Drive all of which would be located in the developed public right of way. The proposed project is located in the La Jolla Community Plan.

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF PROJECT: The scope of work includes trenching approximately five feet deep and two and one half foot wide along one side of each right-of-way, installing conduit and substructures such as transformers on concrete pads, installing cable through the conduits, making individual connections with customers, removing existing overhead lines and poles and installing streetlights.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Engineering and Capital Projects, contact Nathan Bruner (619) 533-3777

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 15268)
- DECLARED EMERGENCY [SEC. 15269 (A)]
- EMERGENCY PROJECT [SEC. 15269 (B) AND (C)]
- CATEGORICAL EXEMPTION: 15302(D) Replacement or Reconstruction
- OTHER:

REASONS WHY PROJECT IS EXEMPT: The project is located in the developed public right of way, and is neither within or adjacent to Environmentally Sensitive Lands including sites of historic significance.

CONTACT PERSON: Jeffrey Szymanski

TELEPHONE: (619) 446-5324

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
 YES / NO

Maria Hernandez, Senior Planner
SIGNATURE TITLE

5/21/07
DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING: _____

000871

DETERMINATION OF ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project Nos.: 128074

Date: 5/15/07

Action/Permit(s): Council Approval

Description of Activity: La Jolla Mesa Vista 20B: The scope of work includes trenching approximately five feet deep and two and one half foot wide along one side of each right-of-way, installing conduit and substructures such as transformers on concrete pads, installing cable through the conduits, making individual connections with customers, removing existing overhead lines and poles and installing streetlights. The project is located in the developed public right of way, and is neither within or adjacent to Environmentally Sensitive Lands including sites of historic significance.

Location of Activity: The proposed project would affect Lamplight Drive, Moonlight Lane, and Candlelight Drive all of which would be located in the developed public right of way. The proposed project is located in the La Jolla Community Plan in the City and County of San Diego.

(CHECK BOXES BELOW)

- 1. [] This activity is EXEMPT FROM CEQA pursuant to:
[] Section 15060(b) (3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
2. [X] This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

ARTICLE 19 of GUIDELINES CATEGORICAL EXEMPTIONS (Incomplete list)

Table with 2 columns: Section, Short Name. Includes items like Existing Facilities, Replacement or Reconstruction, New Construction or Conversion of Small Structures, etc.

ARTICLE 18 of GUIDELINES STATUTORY EXEMPTIONS (Incomplete list)

Table with 2 columns: Section, Short Name. Includes items like Ongoing Project, Feasibility and Planning Studies, Adoption of Coastal Plans and Programs, etc.

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Myra Herrmann, Senior Planner Environmental Analysis Section

Distribution: Exemption File EAS Project file,

Nathan Bruner, ECP-Undergrounding (MS 612)

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

A RESOLUTION DECLARING THE RESULTS OF THE ASSESSMENT BALLOT TABULATION, CONFIRMING THE ASSESSMENT, ORDERING THE CONSTRUCTION OF IMPROVEMENTS, TOGETHER WITH APPURTENANCES, AND APPROVING THE ENGINEER'S REPORT

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

WHEREAS, the City Council of the City of San Diego, California, was presented with an executed petition [Petition] submitted by the owners of certain real property located in the City of San Diego [City] requesting that the City Council initiate proceedings to form an assessment district for the purpose of financing the conversion of certain overhead electric and communications facilities to underground locations; and

WHEREAS, in response to the Petition, the City Council authorized 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 [Improvement Act], the San Diego Improvement District Procedural Ordinance, being Chapter 6, Article 1, Division 23 of the San Diego Municipal Code [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) [Implementation Act] and, together with the Improvement Act, the Procedural Ordinance and Article XIID, [Assessment District Law] to consider the formation of an assessment district to be known and designated as La Jolla Vista Mesa Undergrounding Assessment District No. 4098 [Assessment District]; and

WHEREAS, on June 5, 2007 the City Council adopted Resolution No. R-302707 approving a map showing the proposed boundaries of the Assessment District [Boundary Map]

as reflected in the Petition and Resolution No. R-302708 [Resolution of Intention] declaring the intention of the City 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. [Assessment Engineer] to make and file a report [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, pursuant to such Resolution of Intention, a report of the Assessment Engineer [Engineer's Report], as therein ordered and as required by the Assessment District Law, was presented to the City Council at its meeting of June 5, 2007, considered and preliminarily approved by the City Council by the adoption of Resolution No. R-302709; and

WHEREAS, Resolution Nos. R-302707, R-302708 and R-302709 were executed by the Mayor of the City on June 6, 2007 and became effective on such date; and

WHEREAS, by adoption of Resolution No. R-302709, the City Council also (a) set the time and place for conducting a public hearing for the purpose of hearing protests to the proposed construction of the Improvements and the assessment proposed to be levied on land within the Assessment District and (b) ordered that the record owner of each parcel proposed to be assessed have the right to submit an assessment ballot in favor of or in opposition to the assessment proposed to be levied on such parcel; and

WHEREAS, the original notices of such hearing accompanied by assessment ballot materials were regularly mailed in the time, form and manner required by the Assessment

District Law and as evidenced by a certificate on file with the transcript of these proceedings;
and

WHEREAS, subsequent to the mailing of such notices and assessment ballot materials, the Assessment Engineer was asked to review the proposed assessments for the parcels located at 5566 and 5572 Candlelight Drive (further identified as Assessor's Parcel Nos. 357-691-12 and 357-691-13, respectively) [5566 and 5572 Candlelight Drive Parcels] and the Assessment Engineer determined that the assessments for each of these parcels should be increased from \$9,386.96 to \$12,439.86 and that the assessments for the other parcels within the Assessment District should be proportionately reduced; and

WHEREAS, revised notices and assessment ballot materials reflecting the increased assessments were mailed to the owners of the 5566 and 5572 Candlelight Drive Parcels, however, such mailings did not occur more than 45 days prior to the scheduled date of the public hearing; and

WHEREAS, the owners of the 5566 and 5572 Candlelight Drive Parcels have each provided a written waiver of such owners' right under the Assessment District Law that the public hearing to consider the increased assessments on such parcels as described above take place not less than 45 days after the mailing of the revised notice and assessment ballot materials; and

WHEREAS, at the time and place fixed for such public hearing, the Assessment Engineer submitted the final Engineer's Report, which was prepared and contained all the matters and items called for pursuant to the provisions of the Assessment District Law, including the following:

- A. Plans and specifications of the Improvements;

- B. An estimate of the cost of the construction of the Improvements, including the cost of the incidental expenses, in connection therewith, including that portion of such costs and expenses representing the special benefit to be conferred by such Improvements on the parcels within the Assessment District;
- C. A diagram showing the Assessment District, which also shows the boundaries and dimensions of the respective subdivisions of land within such Assessment District, as the same existed at the time of the passage of the Resolution of Intention, with each of which subdivisions given a separate number upon such diagram;
- D. The proposed assessment of the assessable costs and expenses of the construction of the 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 proposed assessments reflect the adjustment due to the recommended increase in the assessments for the 5566 and 5572 Candlelight Drive Parcels and the corresponding proportionate decrease in the assessments for the other parcels within the Assessment District. Such assessment refers to such subdivisions upon such diagram by the respective numbers thereof; and
- E. A description of the Improvements;

The final Engineer's Report has been made a part of the record of these proceedings and is on file in the office of the City Clerk of the City [City Clerk]; and

WHEREAS, at this time a full hearing has been given, and all assessment ballots submitted and received pursuant to the Assessment District Law prior to the close of such public

hearing have been tabulated by the City Clerk of the City, acting as the tabulation official appointed by the City, all in the manner provided by the Assessment District Law; and

WHEREAS, the City Clerk has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Assessment Ballots Submitted [Certificate of the Tabulation Official], a copy of which is attached as Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation of the assessment ballots; and

WHEREAS, at this time based upon the Certificate of Tabulation Official this City Council determines that the assessment ballots received by the City in opposition to the proposed assessment and weighted as required by the Assessment District Law do not exceed the assessment ballots received in favor of the assessment and similarly weighted and, therefore, a majority protest pursuant to the Assessment District Law does not exist; and

WHEREAS, this legislative body is now satisfied with the assessment and all matters contained in the Engineer's Report as submitted; NOW THEREFORE,

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

1. Recitals. The above recitals are all true and correct.
2. Assessment Ballot Tabulation. The assessment ballots submitted pursuant to the Assessment District Law in opposition to the assessment and weighted as required by the Assessment District Law do not exceed the assessment ballots submitted in favor of the assessment and similarly weighted. It is therefore determined that a majority protest pursuant to Assessment District Law to the levy of assessments within the Assessment District does not exist.
3. Special Benefits Received. Based upon the Engineer's Report and the testimony and other evidence received at the public hearing, it is hereby determined that:

- A. The Engineer's Report identifies all properties within the boundaries of the Assessment District that receive a special benefit from the Improvements;
- B. The proportionate special benefit derived by each parcel proposed to be assessed has been determined in relationship to the entirety of the cost of construction of the Improvements;
- C. No assessment is proposed to be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit to be conferred on such parcel from the Improvements;
- D. Only special benefits have been assessed; and
- E. There are no parcels within the Assessment District which are owned or used by any agency as such term is defined in Article XIID, the State of California or the United States.

4. Public Interest and Convenience. The public interest and convenience require the construction of the Improvements, and therefore it is hereby ordered that the Improvements be constructed, as set forth in the Resolution of Intention previously adopted and as set forth in the Engineer's Report presented and considered, and as now approved.

5. Engineer's Report. The Engineer's Report, as now submitted, is hereby approved and such Report shall stand as the report as required by the Assessment District Law for all future proceedings for this Assessment District.

6. Confirmation of Assessments. The assessments, as now filed in the Engineer's Report and diagram for the Improvements to be constructed, together with appurtenances and appurtenant work in connection therewith, are hereby confirmed.

The final assessments represent the costs and expenses to finance that portion of the cost of construction of the Improvements representing the special benefit conferred by the Improvements on the parcels within the Assessment District, as authorized for these proceedings.

7. Recordation of Assessment. The City Clerk shall forthwith deliver to the Superintendent of Streets the assessment, together with the diagram attached thereto and made a part thereof, as confirmed, with his certificate of such confirmation attached and the date thereof; and that such Superintendent of Streets shall then immediately record such diagram and assessment in his Office in a suitable book to be kept for that purpose and attach thereto his certificate of the date of such recording.

8. County Recorder Notice. Upon confirmation of the assessments and recordation of the assessment roll and diagram, a certified copy of the assessment diagram shall be immediately filed in the Office of the County Recorder. Immediately thereafter, a copy of the notice of assessment shall be recorded in the Office of the County Recorder in the manner and form as set forth by law and specifically Section 3114 of the Streets and Highways Code of the State of California.

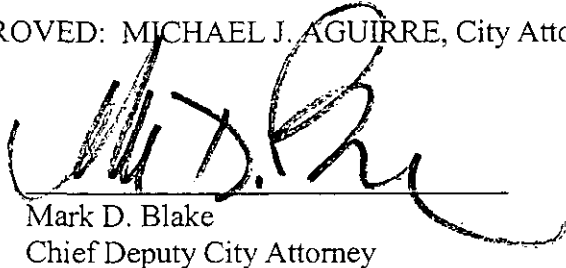
9. Mailed Notice. Upon recordation of the diagram and assessment, a notice shall be mailed to each owner of real property within the Assessment District at his last known address, as such address appears on the last equalized tax rolls of the County, such notice to set forth a statement containing a designation of the property assessed, as well as the amount of the final confirmed assessments, and further indicating that the assessments are now due and payable and will be collected in a single installment to be placed on the 2007-2008 secured property tax roll of the County of San Diego, as authorized by Section 61.2361 of the San Diego Municipal Code.

10. Publication. Notice shall also be given by publication in a newspaper of general circulation, such notice setting forth the amount of the final assessments and indicating that such assessments are now due and payable, and further indicating that the assessments will be collected in a single installment to be placed on the 2007-2008 secured property tax roll of the County of San Diego.

11. Assessment Collection. The assessments shall be collected pursuant to Section 61.2361 of the San Diego Municipal Code. City representatives shall take all actions as directed by such Section 61.2361(b)(1) and (2). The County Auditor is hereby authorized and directed to collect the assessments in accordance with the provisions of such Section 61.2361.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:



Mark D. Blake
Chief Deputy City Attorney

MDB:jdf
07/11/07
Or.Dept: Debt Management
R-2008-47

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

000883

Exhibit A

CERTIFICATE OF TABULATION OFFICIAL
AND STATEMENT OF ASSESSMENT BALLOTS SUBMITTED

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF SAN DIEGO)

The undersigned, the City Clerk and duly authorized tabulation official appointed by the City Council of the City of San Diego, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted in the assessment ballot proceedings pertaining to La Jolla Mesa Vista Undergrounding Assessment District No. 4098.

I FURTHER CERTIFY that this Statement of Assessment Ballots Received shows the assessment ballots submitted in favor of the assessment and the assessment ballots submitted in opposition to the assessment, each total weighted according to the financial obligation of the affected properties for which the assessment ballots were submitted.

Total assessment ballots distributed	
Total assessment ballots received	
Assessment ballots received <u>in favor</u> of the proposed assessment:	
Weighted value of assessment ballots received <u>in favor</u> of the proposed assessment	
Assessment ballots received <u>in opposition</u> to the proposed assessment:	
Weighted value of assessment ballots received <u>in opposition</u> to the proposed assessment	

This certification is executed this _____ day of _____, 2007 in San Diego, California.

City Clerk
City of San Diego

By: _____
Title: _____

000885

(R-2008-48)

(B)

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

A RESOLUTION DECLARING THE RESULTS OF THE ASSESSMENT BALLOT TABULATION, DETERMINING THE EXISTENCE OF A MAJORITY PROTEST TO THE LEVY OF ASSESSMENTS AND ORDERING THE ABANDONMENT OF PROCEEDINGS TO FORM AN ASSESSMENT DISTRICT AND LEVY ASSESSMENTS THEREIN

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

WHEREAS, the City Council of the City of San Diego, California, was presented with an executed petition [Petition] submitted by the owners of certain real property located in the City of San Diego [City] requesting that the City Council initiate proceedings to form an assessment district for the purpose of financing the conversion of certain overhead electric and communications facilities to underground locations; and

WHEREAS, in response to the Petition, the City Council authorized 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 [Improvement Act] the San Diego Improvement District Procedural Ordinance, being Chapter 6, Article 1, Division 23 of the San Diego Municipal Code [Procedural Ordinance], Article XIIID of the Constitution of the State of California [Article XIIID] and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) [Implementation Act] and, together with the Improvement Act, the Procedural Ordinance and Article XIIID, the [Assessment District Law] to consider the formation of an assessment district to be known and designated as La Jolla Vista Mesa Undergrounding Assessment District No. 4098 [Assessment District]; and

WHEREAS, on June 5, 2007 the City Council adopted Resolution No. R-302707 approving a map showing the proposed boundaries of the Assessment District [Boundary Map] as reflected in the Petition and Resolution No. R-302708 [Resolution of Intention] declaring the intention of the City 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. [Assessment Engineer] to make and file a report [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, pursuant to such Resolution of Intention, a report of the Assessment Engineer [Engineer's Report], as therein ordered and as required by the Assessment District Law, was presented to the City Council at its meeting of June 5, 2007, considered and preliminarily approved by the City Council by the adoption of Resolution No. R-302709; and

WHEREAS, by adoption of Resolution No. R-302709, the City Council also (a) set the time and place for conducting a public hearing for the purpose of hearing protests to the proposed construction of the Improvements and the assessment proposed to be levied on land within the Assessment District and (b) ordered that the record owner of each parcel proposed to be assessed have the right to submit an assessment ballot in favor of or in opposition to the assessment proposed to be levied on such parcel; and

WHEREAS, Resolution Nos. R-302707, R-302708 and R-302709 were executed by the Mayor of the City on June 6, 2007 and became effective on such date; and

WHEREAS, the original notices of such hearing accompanied by assessment ballot materials were regularly mailed in the time, form and manner required by the Assessment District Law and as evidenced by a certificate on file with the transcript of these proceedings; and

WHEREAS, subsequent to the mailing of such notices and assessment ballot materials, the Assessment Engineer was asked to review the proposed assessments for the parcels located at 5566 and 5572 Candlelight Drive (further identified as Assessor's Parcel Nos. 357-691-12 and 357-691-13, respectively) [5566 and 5572 Candlelight Drive Parcels] and the Assessment Engineer determined that the assessments for each of these parcels should be increased from \$9,386.96 to \$12,439.86 and that the assessments for the other parcels within the Assessment District should be proportionately reduced; and

WHEREAS, revised notices and assessment ballot materials reflecting the increased assessments were mailed to the owners of the 5566 and 5572 Candlelight Drive Parcels, however, such mailings did not occur more than 45 days prior to the scheduled date of the public hearing; and

WHEREAS, the owners of the 5566 and 5572 Candlelight Drive Parcels have each provided a written waiver of such owners' right under the Assessment District Law that the public hearing to consider the increased assessments on such parcels as described above take place not less than 45 days after the mailing of the revised notice and assessment ballot materials; and

WHEREAS, at this time a full hearing has been given, and all assessment ballots submitted and received pursuant to the Assessment District Law prior to the close of such public

hearing have been tabulated by the City Clerk of the City, acting as the tabulation official appointed by the City, all in the manner provided by the Assessment District Law; and

WHEREAS, the City Clerk has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Assessment Ballots Submitted [Certificate of the Tabulation Official], a copy of which is attached as Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation of the assessment ballots; and

WHEREAS, at this time based upon the Certificate of Tabulation Official this City Council determines that the assessment ballots received by the City in opposition to the proposed assessment and weighted as required by the Assessment District Law exceed the assessment ballots received in favor of the assessment and similarly weighted and, therefore, a majority protest pursuant to the Assessment District Law exists; and

WHEREAS, the Assessment District Law prohibits this City Council from forming the Assessment District and levying the proposed assessment therein; NOW THEREFORE

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

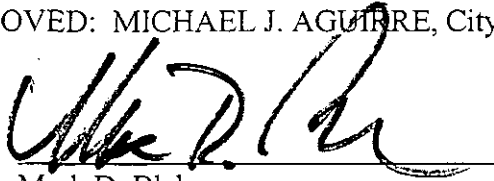
1. Recitals. The above recitals are all true and correct.
2. Assessment Ballot Tabulation. The assessment ballots submitted pursuant to the Assessment District Law in opposition to the assessment and weighted as required by the Assessment District Law exceed the assessment ballots submitted in favor of the assessment and similarly weighted. It is therefore determined that a majority protest pursuant to Assessment District Law to the levy of assessments within the Assessment District does exist.
3. Abandonment of Proceedings. As a result of the existence of a majority protest to the levy of assessments within the proposed Assessment District, this City Council hereby

orders that all proceedings to form the Assessment District and levy assessments therein be abandoned.

4. Recordation of Resolution. The City Clerk is hereby ordered and directed to cause a copy of this resolution to be recorded in the office of the County Recorder of the County of San Diego.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:



Mark D. Blake
Chief Deputy City Attorney

MDB:jdf
07/11/07
Or.Dept: Debt Management
R-2008-48

000890

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Exhibit A

CERTIFICATE OF TABULATION OFFICIAL
AND STATEMENT OF ASSESSMENT BALLOTS SUBMITTED

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF SAN DIEGO)

The undersigned, the City Clerk and duly authorized tabulation official appointed by the City Council of the City of San Diego, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted in the assessment ballot proceedings pertaining to La Jolla Mesa Vista Undergrounding Assessment District No. 4098.

I FURTHER CERTIFY that this Statement of Assessment Ballots Received shows the assessment ballots submitted in favor of the assessment and the assessment ballots submitted in opposition to the assessment, each total weighted according to the financial obligation of the affected properties for which the assessment ballots were submitted.

Total assessment ballots distributed	
Total assessment ballots received	
Assessment ballots received <u>in favor</u> of the proposed assessment:	
Weighted value of assessment ballots received <u>in favor</u> of the proposed assessment	
Assessment ballots received <u>in opposition</u> to the proposed assessment:	
Weighted value of assessment ballots received <u>in opposition</u> to the proposed assessment	

This certification is executed this _____ day of _____, 2007 in San Diego, California.

City Clerk
City of San Diego

By: _____
Title: _____

(C)

000893

RESOLUTION NUMBER R- _____

DATE OF FINAL PASSAGE _____

A RESOLUTION DECLARING THE RESULTS OF THE ASSESSMENT BALLOT TABULATION AND ORDERING THE ABANDONMENT OF PROCEEDINGS TO FORM AN ASSESSMENT DISTRICT AND LEVY ASSESSMENTS THEREIN

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

WHEREAS, the City Council of the City of San Diego, California, was presented with an executed petition [Petition] submitted by the owners of certain real property located in the City of San Diego [City] requesting that the City Council initiate proceedings to form an assessment district for the purpose of financing the conversion of certain overhead electric and communications facilities to underground locations; and

WHEREAS, in response to the Petition, the City Council authorized 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 [Improvement Act], the San Diego Improvement District Procedural Ordinance, being Chapter 6, Article 1, Division 23 of the San Diego Municipal Code [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) [Implementation Act] and, together with the Improvement Act, the Procedural Ordinance and Article XIID, [Assessment District Law] to consider the formation of an assessment district to be known and designated as La Jolla Vista Mesa Undergrounding Assessment District No. 4098 [Assessment District]; and

WHEREAS, on June 5, 2007 the City Council adopted Resolution No. R-302707 approving a map showing the proposed boundaries of the Assessment District [Boundary Map] as reflected in the Petition and Resolution No. R-302708 [Resolution of Intention] declaring the intention of the City 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. [Assessment Engineer] to *make and file a report [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, pursuant to such Resolution of Intention, a report of the Assessment Engineer [Engineer's Report], as therein ordered and as required by the Assessment District Law, was presented to the City Council at its meeting of June 5, 2007, considered and preliminarily approved by the City Council by the adoption of Resolution No. R-302709; and

WHEREAS, Resolution Nos. R-302707, R-302708 and R-302709 were executed by the Mayor of the City on June 6, 2007 and became effective on such date; and

WHEREAS, by adoption of Resolution No. R-302709, the City Council also (a) set the time and place for conducting a public hearing for the purpose of hearing protests to the proposed construction of the Improvements and the assessment proposed to be levied on land within the Assessment District and (b) ordered that the record owner of each parcel proposed to be assessed have the right to submit an assessment ballot in favor of or in opposition to the assessment proposed to be levied on such parcel; and

WHEREAS, the original notices of such hearing accompanied by assessment ballot materials were regularly mailed in the time, form and manner required by the Assessment District Law and as evidenced by a certificate on file with the transcript of these proceedings; and

WHEREAS, subsequent to the mailing of such notices and assessment ballot materials, the Assessment Engineer was asked to review the proposed assessments for the parcels located at 5566 and 5572 Candlelight Drive (further identified as Assessor's Parcel Nos. 357-691-12 and 357-691-13, respectively) [5566 and 5572 Candlelight Drive Parcels] and the Assessment Engineer determined that the assessments for each of these parcels should be increased from \$9,386.96 to \$12,439.86 and that the assessments for the other parcels within the Assessment District should be proportionately reduced; and

WHEREAS, revised notices and assessment ballot materials reflecting the increased assessments were mailed to the owners of the 5566 and 5572 Candlelight Drive Parcels, however, such mailings did not occur more than 45 days prior to the scheduled date of the public hearing; and

WHEREAS, the owners of the 5566 and 5572 Candlelight Drive Parcels have each provided a written waiver of such owners' right under the Assessment District Law that the public hearing to consider the increased assessments on such parcels as described above take place not less than 45 days after the mailing of the revised notice and assessment ballot materials; and

WHEREAS, at this time a full hearing has been given, and all assessment ballots submitted and received pursuant to the Assessment District Law prior to the close of such public

hearing have been tabulated by the City Clerk of the City, acting as the tabulation official appointed by the City, all in the manner provided by the Assessment District Law; and

WHEREAS, the City Clerk has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Assessment Ballots Submitted [Certificate of the Tabulation Official], a copy of which is attached as Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation of the assessment ballots; and

WHEREAS, at this time based upon the Certificate of Tabulation Official this City Council determines that the assessment ballots received by the City in opposition to the proposed assessment and weighted as required by the Assessment District Law do not exceed the assessment ballots received in favor of the assessment and similarly weighted and, therefore, a majority protest pursuant to the Assessment District Law to the levy of assessments within the proposed Assessment District does not exist; and

WHEREAS, notwithstanding the determination that a majority protest to the levy of assessments within the proposed Assessment District does not exist, this legislative body, in the exercise of its legislative discretion, has determined that the formation of the Assessment District would not be in the best interests of the City and desires to order the abandonment of the proceedings to form such Assessment District and to levy assessments therein; NOW THEREFORE,

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

1. Recitals. The above recitals are all true and correct.
2. Assessment Ballot Tabulation. The assessment ballots submitted pursuant to the Assessment District Law in opposition to the assessment and weighted as required by the Assessment District Law do not exceed the assessment ballots submitted in favor of the

assessment and similarly weighted. It is therefore determined that a majority protest pursuant to Assessment District Law to the levy of assessments within the proposed Assessment District does not exist.

3. Abandonment of Proceedings. Notwithstanding the determination that a majority protest to the levy of assessments within the proposed Assessment District does not exist, this City Council had determined that the formation of the Assessment District and the levy of assessments therein would not be in the best interests of the City. Therefore, this City Council, in the exercise of its legislative discretion, hereby orders the abandonment of the proceedings to form the Assessment District and levy assessments therein.

4. Recordation of Resolution. The City Clerk is hereby ordered and directed to cause a copy of this resolution to be recorded in the office of the County Recorder of the County of San Diego.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By:


Mark D. Blake

Chief Deputy City Attorney

MDB:jdf

07/11/07

Or.Dept: Debt Management

R-2008-49

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

Exhibit A

CERTIFICATE OF TABULATION OFFICIAL
AND STATEMENT OF ASSESSMENT BALLOTS SUBMITTED

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF SAN DIEGO)

The undersigned, the City Clerk and duly authorized tabulation official appointed by the City Council of the City of San Diego, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted in the assessment ballot proceedings pertaining to La Jolla Mesa Vista Undergrounding Assessment District No. 4098.

I FURTHER CERTIFY that this Statement of Assessment Ballots Received shows the assessment ballots submitted in favor of the assessment and the assessment ballots submitted in opposition to the assessment; each total weighted according to the financial obligation of the affected properties for which the assessment ballots were submitted.

Total assessment ballots distributed	
Total assessment ballots received	
Assessment ballots received <u>in favor</u> of the proposed assessment:	
Weighted value of assessment ballots received <u>in favor</u> of the proposed assessment	
Assessment ballots received <u>in opposition</u> to the proposed assessment:	
Weighted value of assessment ballots received <u>in opposition</u> to the proposed assessment	

This certification is executed this _____ day of _____, 2007 in San Diego, California.

City Clerk
City of San Diego

By: _____
Title: _____