

A. [Signature]

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2004 OCT 13 PM 5:17

OAKLAND CITY COUNCIL

RESOLUTION NO. 78890 C. M. S.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLAND
GRANTING CONSENT TO THE CITY OF PIEDMONT
TO CONDUCT PROPOSED SPECIAL ASSESSMENT PROCEEDINGS FOR
PROPOSED PIEDMONT HILLS UNDERGROUND ASSESSMENT DISTRICT**

WHEREAS, there has been filed with the City Clerk of the City of Oakland (the "Clerk") a certified copy of a resolution of the City Council of the City of Piedmont (the "City of Piedmont"), adopted on November 3, 2003, and requesting the consent of this City Council (this "Council") to the conduct of special assessment proceedings of the City of Piedmont for an area shown on a proposed boundary map (the "Boundary Map") entitled "Proposed Boundaries of the Piedmont Hills Underground Assessment District, City of Piedmont, County of Alameda, State of California", which map shows the area to be assessed in this proposed assessment district (the "Proposed Assessment District"), and a certified copy of which Boundary Map has also been filed with the Clerk; and

WHEREAS, said resolution requesting consent has attached to it a proposed resolution of intention (the "Proposed Resolution of Intention"), a copy of which Proposed Resolution of Intention is attached hereto as Exhibit A and by this reference incorporated herein, which Proposed Resolution of Intention the City Council of the City of Piedmont proposes to adopt upon receipt of the consent requested from this Council; and

WHEREAS, as set forth in the resolution requesting consent submitted by the City of Piedmont, the request for consent is made pursuant to Section 10103 of the California Streets and Highways Code, which requires the consent of this Council as a condition to the City of Piedmont undertaking special assessment proceedings for the Proposed Assessment District for the reasons that (a) a portion of the proposed undergrounding improvement work will be performed within the City of Oakland and (b) some of the residential parcels proposed to be assessed for proportionate shares of the cost and expense of the undergrounding project are likewise situated within the City of Oakland; and

WHEREAS, this Council wishes to grant the consent requested by the City of Piedmont so as to enable the City of Piedmont to proceed with the Proposed Assessment District, utilizing assessment financing to be implemented by the City of Piedmont through the Proposed Assessment District;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND HEREBY FINDS, DETERMINES AND RESOLVES as follows:

1. Pursuant to Section 10103 of the California Streets and Highways Code, this Council consents to the assumption of jurisdiction by the City of Piedmont with respect to

establishment of the Proposed Assessment District; implementation of the proposed utility undergrounding project, including the portion thereof to be performed within the City of Oakland; and the levy of special assessments upon parcels of land determined by the City Council of the City of Piedmont to be specially benefited by the utility undergrounding project of the Proposed Assessment District, including those parcels situated within the City of Oakland as shown on the Boundary Map.

2. Without limiting the generality of the foregoing, this Council expressly consents to the adoption by the City Council of the City of Piedmont of the Proposed Resolution of Intention in the form attached hereto as Exhibit A.

3. This Council directs the Clerk to provide the City Clerk of the City of Piedmont with a certified copy of this resolution.

* * *

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 16 2004, 20

PASSED BY THE FOLLOWING VOTE:

AYES-~~BROOKS~~, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE 7

~~NOES-0~~

~~ABSENT-0~~

~~ABSTENTION-0~~

Excused - Brooks - 1

ATTEST: *CEDA FLOYD*
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

[PROPOSED RESOLUTION – NOT FOR ADOPTION AT THIS TIME]

RESOLUTION NO. ____

RESOLUTION OF INTENTION

Proposed Piedmont Hills Underground Assessment District

WHEREAS, under the authority of the Municipal Improvement Act of 1913 (Sections 10000 and following, California Streets and Highways Code; hereafter the “1913 Act”), this City Council intends to order public improvements consisting generally of the conversion of existing overhead and above-ground utility facilities to underground facilities, together with appurtenant work and improvements (the “Undergrounding Project”) within or immediately adjacent to the proposed boundaries of an assessment district to be known as the “Piedmont Hills Underground Assessment District, City of Piedmont, County of Alameda, State of California” (the “Proposed Assessment District”); and

WHEREAS, this City Council finds that the land specially benefited by the Undergrounding Project is the land shown within the proposed boundaries shown on the Boundary Map previously approved by this City Council and on file with the City Clerk (the “Boundary Map”);

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS, DETERMINES AND RESOLVES as follows:

1. As authorized by the 1913 Act, including the provisions of Sections 5896.1 through 5896.17, inclusive, of the Streets and Highways Code, as incorporated into the 1913 Act by Section 10102.1 thereof, and Section 53753 of the California Government Code (“Section 53753”), this City Council intends to levy a special assessment upon designated portions of the land within the Proposed Assessment District in accordance with the special benefit to be received by each parcel of land, respectively, from the Undergrounding Project.

2. Where any disparity occurs in level or size between the work and improvements of the Undergrounding Project and private property, this City Council determines that it is in the public interest and more economical to eliminate the disparity by doing work on the private property instead of adjusting the work on public property. Accordingly, work may be done on private property for this purpose with the written consent of the landowner. Without limiting the generality of the foregoing sentence, this City Council intends to include within the authorized Undergrounding Project the work of installing underground on the private property of each requesting landowner the facilities to connect the residential improvements of such landowner to the newly-undergrounded utility improvements, on the conditions that (a) the estimated cost and expense of such parcel-specific work will be added to the assessment levied

against that specific parcel and (b) the owner or owners of the specific parcel will consent thereto.

3. This City Council intends, pursuant to subparagraph (f) of Section 10204 of the 1913 Act, to provide for an annual assessment upon each of the parcels of land in the proposed assessment district to pay various costs and expenses incurred from time to time by the City of Piedmont (the "City") and not otherwise reimbursed to the City which result from the administration and collection of assessment installments or from the administration or registration of the improvement bonds and the various funds and accounts pertaining thereto, subject to the limitation on the amount of such annual assessment as shall be prescribed in the engineer's report to be prepared and considered by this City Council as prescribed by the 1913 Act and Section 53753.

4. Bonds representing unpaid assessments, and bearing interest at a rate not to exceed twelve percent (12%) per annum, will be issued in the manner provided by the Improvement Bond Act of 1915 (Division 10, Streets and Highways Code; hereafter the "1915 Act"), and the last installment of the bonds shall mature not to exceed twenty-four (24) years from the second day of September next succeeding twelve (12) months from their date.

5. The procedure for the collection of assessments and advance retirement of bonds shall be as provided in Part 11.1 of the 1915 Act.

6. Pursuant to Section 8769 of the 1915 Act, the City will not obligate itself to advance available funds from the City treasury to cure any deficiency which may occur in the bond redemption fund. A determination not to obligate itself shall not prevent the City from, in its sole discretion, so advancing funds.

7. This City Council appoints Harris & Associates as Engineer of Work for this project, and directs the preparation of the report containing the matters required by Section 10204 of the 1913 Act, as supplemented by Section 53753.

8. In the opinion of this City Council, the public interest will not be served by allowing owners of assessable lands to enter into a contract for the Undergrounding Project as otherwise permitted in Section 20485 of the Public Contract Code.

9. The amount of any surplus remaining in the improvement fund after completion of the Undergrounding Project and payment of all claims shall be distributed in accordance with the provisions of Section 10427.1 of the Streets and Highways Code.

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