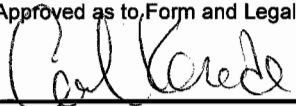


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2008 JUL -2 PM 3:39

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

  
City Attorney

RESOLUTION No. 81477 - C.M.S.

Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION 1) OVERRULING PROTESTS; 2) DETERMINING RESULTS OF ELECTION FOR THE CITY OF OAKLAND UTILITY UNDERGROUND ASSESSMENT DISTRICT NO. 2007-232, PIEDMONT PINES PHASE 1; 3) CONFIRMING ASSESSMENTS AND ADOPTING ENGINEER'S REPORT; 4) ORDERING THE IMPROVEMENTS TO BE MADE; 5) DIRECTING THE CITY CLERK AND THE DIRECTOR OF PUBLIC WORKS TO FILE AND RECORD CERTAIN DOCUMENTS INCLUDING A NOTICE OF ASSESSMENT; 6) DIRECTING MAILING TO PROPERTY OWNERS OF A NOTICE OF ASSESSMENT; AND 7) DESIGNATING THE TREASURY MANAGER TO COLLECT AND RECEIVE MONEY**

**WHEREAS**, on May 6, 2008, the City Council (the "Council") of the City of Oakland (the "City") adopted a resolution of intention (the "Resolution of Intention") to order improvements and to form the City of Oakland Utility Underground Assessment District No. 2007-232, Piedmont Pines Phase 1 (the "Assessment District"), accepting and determining that petitions have been signed by owners owning land constituting more than one-half of the area of all assessable lands within the proposed Assessment District, finding that the improvements to be funded, in part, by the Assessment District are of more than local or ordinary public benefit, and the costs and expenses, including incurred City cost of district creation thereof, are made chargeable upon the Assessment District, providing that the Council intends to levy a special assessment upon the land within the Assessment District, providing that bonds shall be issued to finance a portion of the costs of improvements, appointing Harris & Associates as the Engineer of Work for the Assessment District (the "Engineer of Work") and directing the Engineer of Work to make and file an Engineer's Report (the "Engineer's Report") with the City Clerk; and

**WHEREAS**, the Engineer's Report was duly prepared and filed with the City Clerk, whereupon it was presented to the Council for consideration; and

**WHEREAS**, on May 6, 2008, the Council also adopted a resolution preliminarily accepting and approving the Engineer's Report, calling for a public hearing on the proposed Assessment District and an election for the Assessment District to be held by the Council on July 15, 2008, and designating the Engineer of Work to assist the City Clerk in connection with the mailing and tabulation of the ballots for the election and to answer inquiries regarding the protest proceedings applicable to the Assessment District; and

**WHEREAS**, the Engineer of Work has filed a Certificate of Compliance With Notice Requirements with the City Clerk certifying that a notice of the public hearing and an assessment ballot package was mailed on May 30, 2008, to the record owners of all real property proposed

to be assessed in the Assessment District according to the names and addresses of such owners as the same appear on the last Alameda County Assessment Roll, and the public hearing was duly and regularly held at the appointed time and place; and

**WHEREAS**, all written protests and other written communications received by the City Clerk with respect to the Assessment District were publicly read at the public hearing and all persons desiring to be heard at the public hearing were fully heard; and

**WHEREAS**, at the conclusion of the public hearing, the Engineer of Work, on behalf of the City Clerk, caused the ballots cast in the election with respect to the Assessment District to be tabulated, and the Engineer of Work has completed and filed with the Council a Certificate regarding the results of the election in the form attached hereto as Exhibit A; and

**WHEREAS**, this Council now desires to overrule any protests and declare the results of the election, to retain jurisdiction to order the improvements to be financed, in part, by the Assessment District, to levy the assessments in the Assessment District and to issue bonds secured by the assessments; now, therefore be it

**RESOLVED**, by the City Council of the City of Oakland as follows:

1. That protests, if any, against the Assessment District submitted during or prior to the public hearing were not signed by the owners of a majority or more of the area of the lands within the Assessment District to be assessed for the purposes of the Assessment District.
2. That protests, if any, against the Assessment District are hereby overruled.
3. That the results of the election held within the Assessment District, as reported by the Engineer of Work on behalf of the City Clerk, were that more than a majority of votes cast (weighted according to the proportional financial obligation of each property voting) were in favor of the establishment of the Assessment District and the levy of assessments therein, so it is therefore determined that a majority protest does not exist.
4. The Council hereby confirms the proposed assessment in the amount set forth in the Engineer's Report and declares that the final Engineer's Report, including the plans, specifications, description of the improvements, estimate of the cost of the improvements, assessments, boundary map and diagram described therein, in the form on file with the City Clerk, is hereby finally adopted, accepted, confirmed and approved.
5. The Council hereby orders the work and improvements described in the Resolution of Intention and in the Engineer's Report to be done and made.

6. That the City Clerk shall deliver, or cause to be delivered, to the Director of Public Works, in his capacity as Superintendent of Streets for the City, the assessment (in the form of the final Engineer's Report), together with the assessment diagram referenced therein, as confirmed by this Council with the City Clerk's certificate of such confirmation thereto attached and of the date thereof. The City Clerk shall also record, or cause to be recorded, a certified copy of the assessment diagram in the Office of the Alameda County Recorder.
7. That the Director of Public Works shall record the said assessment diagram and assessment in his office in a suitable book to be kept for that purpose, and append thereto his certificate for the date of such recording, and such recordation shall be and constitute the assessment roll for the Assessment District.
8. The City Clerk shall execute and record, or cause to be recorded, a Notice of Assessment in the office of the Director of Public Works and in the office of the County Recorder of the County of Alameda, such notice to be in substantially the form of Exhibit B attached to this Resolution. From the date of such recording with the Director of Public Works and with the County Recorder of the County of Alameda, all persons shall be deemed to have notice of the contents of such assessment, and each of such assessments shall thereupon be a lien upon the property against which it is made, and unless sooner discharged such liens shall so continue for the period of ten (10) years from the date of such recordation, or in the event bonds are issued to represent said assessments, then such liens shall continue until the expiration of four (4) years after the due date of the last installment upon the bonds.
9. Upon recordation of the diagram and assessment, the Engineer of Work shall mail a notice to each owner of real property within the Assessment District at the owner's last known address, as such address appears on the most recent equalized tax roll of the County of Alameda, such notice to set forth a statement containing a designation of the property assessed, as well as the amount of the final confirmed assessment, and further indicating that bonds will be issued for the Assessment District pursuant to the Improvement Bond Act of 1915.
10. Notice shall also be given by the City Clerk in a publication in a newspaper of general circulation, such notice setting forth the amount of the final assessment and indicating that such assessment is now due and payable, and further indicating that if such assessment is not paid within the allowed thirty (30) day cash collection period, bonds shall be issued as authorized by law.

11. The Treasury Manager of the City is hereby designated to collect and receive the money paid pursuant to the assessment during the cash collection period for the Assessment District, in the manner prescribed by law.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 15 2008 2008

**PASSED BY THE FOLLOWING VOTE:**

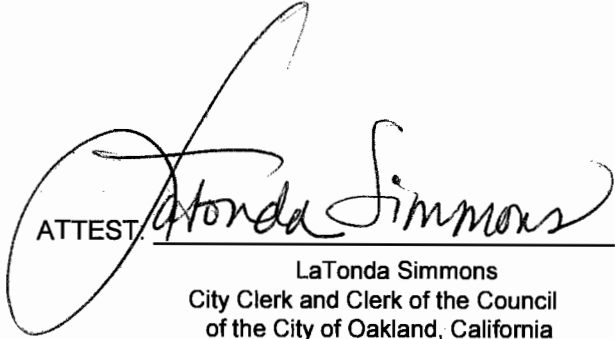
AYES - ~~Brooks~~, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE - 7

NOES - Brooks - 1

ABSENT - 0

ABSTENTION - 0

ATTEST



LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

EXHIBIT A

CERTIFICATE REGARDING  
RESULT OF ASSESSMENT BALLOTS CAST - CITY OF OAKLAND  
UTILITY UNDERGROUND ASSESSMENT DISTRICT NO. 2007-232,  
PIEDMONT PINES PHASE 1

I, the undersigned Engineer of Work for the above-captioned assessment district (the "Assessment District"), on behalf of the City Clerk of the City of Oakland, hereby certify that I have caused to be tabulated all ballots cast in the proceedings for the establishment of the Assessment District, and the levy of special assessments therein, and in accordance with instructions contained in the Assessment Ballot. I hereby certify the result of that count to be as follows:

TOTAL VOTES THAT COULD BE CAST: \_\_\_\_, representing assessments of \$\_\_\_\_\_.

TOTAL VOTES CAST "YES" \_\_\_\_, representing assessments of \$\_\_\_\_\_.

TOTAL VOTES CAST "NO" \_\_\_\_, representing assessments of \$\_\_\_\_\_.

THE VOTES CAST "YES" EQUAL \_\_\_\_% OF THE TOTAL VOTES CAST, weighted by the respective amounts of assessments.

I hereby make the foregoing certification on July 15, 2008.

Harris & Associates

By: \_\_\_\_\_  
Joan E. Cox, P.E.  
Associate, Project Manager

EXHIBIT B

NOTICE OF ASSESSMENT

CITY OF OAKLAND  
UTILITY UNDERGROUND ASSESSMENT DISTRICT NO. 2007-232,  
PIEDMONT PINES PHASE 1

Pursuant to the requirement of Section 3114 of the California Streets and Highways Code, the City Clerk of the City of Oakland, County of Alameda, State of California (hereinafter, the "City"), hereby gives notice that an assessment diagram and assessment were recorded in the Office of the Director of Public Works of the City as provided for in Section 3114 of the California Streets and Highways Code, and relating to the property more particularly described on that certain assessment diagram filed in accordance with Section 3114 of the California Streets and Highways Code, in Book \_\_\_\_\_ of Maps of Assessment and Community Facilities Districts at Page \_\_\_\_\_ in the Office of the County Recorder of the County of Alameda.

Notice is further given that upon the recording of this Notice of Assessment in the Office of the County Recorder of Alameda County, the several assessments assessed on the lots, pieces, and parcels shown on the filed assessment diagram shall become a lien upon the lots or portions of lots assessed, respectively.

In addition to the several assessments assessed on the lots, pieces and parcels shown on the filed assessment diagram, each lot, piece or parcel as shown on the filed assessment diagram which have unpaid assessments shall be additionally assessed annually (i) the amount of \$\_\_\_\_\_ (or such higher amount as may be permitted if Section 8682 of the California Streets and Highways Code is amended to permit a higher amount) to cover certain administrative and collection charges as authorized by the Improvement Bond Act of 1915, and (ii) an amount specified in the assessment proceedings to pay costs of the City with respect to the registration of bonds and compliance with federal arbitrage laws, as permitted under Section 8682.1 of the California Streets and Highways Code.

Reference is made to the assessment diagram and assessment roll for this assessment district recorded in the Office of the Director of Public Works of the City, in his capacity as Superintendent of Streets of the City.

Dated: \_\_\_\_\_, 2008

By: \_\_\_\_\_  
LaTonda Simmons,  
City Clerk and Clerk of the Council,  
City of Oakland,  
County of Alameda,  
State of California