

April 22, 2004

Honorable Mayor and Members of  
the Hermosa Beach City Council

Regular meeting of  
April 27, 2004

**PROPOSED BEACH DRIVE ASSESSMENT DISTRICT NO. 2004-1; ENGINEERS REPORT APPROVAL; AND ADOPTION OF RESOLUTIONS ALLOWING THE PROPERTY OWNERS IN THE PROPOSED DISTRICT TO VOTE ON THE ASSESSMENTS. APPROVE THE CONTRACT FOR FINANCIAL ADVISORY SERVICES IN CONNECTION WITH A PRIVATE PLACEMENT BOND SALE WITH THE FIRM OF NORTHCROSS, HILL AND ACH IN THE AMOUNT OF \$5000.00**

**Recommendation:**

1. Adopt resolution approving report and the fixing time and place of the public hearing for Assessment District No. 2004-1 (Beach Drive);
2. Adopt resolution declaring intent to form an assessment district and making certain findings and determinations in connection therewith, all relating to Assessment District No. 2004-1 (Beach Drive);
3. Approve employing of Northcross, Hill and Ach in the amount of \$5000 for financial advisory services and private placement of bonds; and,
4. Direct the City Manager to sign the Letter Agreement with SCE concerning the exemption for the CIAC/ITCC Tax.

**Background:**

The City Council accepted a petition from the residents in the area in 2001 and directed staff to begin work on the formation of the district with the effected public utilities. The cost estimates were completed in 2003 after a great deal of effort by residents in the area working with SCE. The city, in April of 2003, contracted with David Taussig and Associates, Inc. to complete the assessment diagram, district maps, and cost estimates. These are the items that make up the Engineers Report, which is attached, and before the City Council for approval. The City also contracted with the law firm of Stradling, Yocca, Carlson & Rauth to serve as bond counsel for the proposed assessment district. The cost for the services rendered by these two firms is part of the overall cost of the district. Staff has worked with a committee of property owners over the years to provide information, consider various alternatives and work to lower the cost of the district. The final numbers contained in the engineer's report reflects that effort and this is a direct result of this collaborative process. In August 2003, the City Council heard from two residents in the proposed district and, as a result of the meeting, staff was directed to conduct a straw vote among the property owners in the district to determine if there was still interest in the formation of the district. The result of the straw vote was presented to City Council as its meeting of September 23, 2003 and staff was directed to restart the process and complete the engineer's report. Each property owner was mail a complete copy of the engineer's report along with a letter explaining the rest of the process. The letter invited the property owners to attend an informational meeting on Monday, April 19, 2004 and the City Council meeting on April 27, 2004. Seven property owners attended the informational meeting on April 19, 2004. The questions asked included the method of assessment, what discount and how much if they

paid cash instead of paying over 20 years. Another, question was whether or not another assessment method could be used that took into account ocean views and property value increases. Staff has forwarded these questions to the assessment engineer and he will answer these questions at the City Council meeting. I have also attached a letters from property owners Lawrence Fordiani and Marvin May.

The next steps in the process include approval of the engineer's report and adoption of the attached resolutions. The assessment engineer will distribute the ballots to each of the property owners. The ballots will be tabulated for a final decision at your meeting of 6/22/04. If 50% plus 1 votes in favor of the assessment then the district will proceed. If less than 50% is received then the district will not proceed.

If the district proceeds, bonds will be sold to cover the construction cost and repaid over 20 years by the property owners. The actual bond sale on this district will be a private placement because of the small size of the district. This is the same approach that was used in the Pier Plaza Assessment District that was approved in 1996. This approach saves a great deal of money for the property owners in the district as opposed to the approached used in the Myrtle and Loma districts, by eliminating fees for bond underwriter, bond discount, reserve accounts and other related bond insurance costs. This approach was worked out between staff and the resident committee that has worked on this project. This effort reduced the cost of the district by more than \$197,000. If the property owner chooses to pay the assessment over the 20 years the bond interest charges will be added to the actual assessment amount and included on the annual property tax bill. The interest rate that will be charged will be determined at the bond sale once it is known whether or not the district will proceed.

The cost of the improvements provided by SCE and Verizon are discounted too because they have not included costs associated with payment for the federal tax that they might be subject to without the city signing the request for exemption due to the public benefit of the project. A copy of the letter is attached and is similar to the one that was signed at the direction of the City Council in approving both the Myrtle and Loma districts.

As you recall, in the other two districts staff provided assistance to property owners in the district, in directing them to sources of information concerning deferral of property taxes. In addition, the City Council approved a program that allowed qualifying property owners to receive a grant for the cost of the new hookups. This was done through the CDBG program. If there is the interest in this program again staff will start the process to amend the CDBG grant to offer the program again.

Respectfully submitted,

Stephen R. Burrell  
City Manager

**OFFICIAL BALLOT**

**CITY OF HERMOSA BEACH  
ASSESSMENT DISTRICT NO. 2004-1  
(BEACH DRIVE)**

**SPECIAL ASSESSMENT ELECTION**

**June 22, 2004**

To vote, make a cross (+) on the line after the words "Support the Assessment" or after the words "Opposed to the Assessment." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Hermosa Beach and obtain another.

PROPOSITION: Shall the City of Hermosa Beach be authorized to levy an assessment on your property located in proposed City of Hermosa Beach Assessment District No. 2004-1 (Beach Drive) for the purpose of financing the construction and installation of the undergrounding of power and telephone facilities described in the City of Hermosa Beach Resolution of Intention, Resolution No. \_\_\_\_\_?

SUPPORT THE ASSESSMENT: \_\_\_\_\_

OPPOSED TO THE ASSESSMENT: \_\_\_\_\_

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PROPERTY IDENTIFICATION ASSESSOR'S PARCEL NO(S). \_\_\_\_\_

I declare under penalty of perjury that I am the owner or the owner's representative of the above identified property.

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FOR USE BY CITY:

Weighted Vote \_\_\_\_\_ percent.

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
HERMOSA BEACH, CALIFORNIA APPROVING REPORT AND  
THE FIXING TIME AND PLACE OF THE PUBLIC HEARING  
FOR ASSESSMENT DISTRICT NO. 2004-1 (BEACH DRIVE)**

WHEREAS, by Resolution No. \_\_\_\_\_ (the "Resolution of Intention") in the proceedings for the formation of Assessment District No. 2004-1 (Beach Drive) (the "Assessment District") this City Council ordered a report (the "Report") prepared by David Taussig & Associates, Inc. (the "Assessment Engineer") under and pursuant to the provisions of the Municipal Improvement Act of 1913, and, in particular, Section 10204 of the California Streets and Highways Code; and

WHEREAS, the Assessment Engineer has prepared the Report and filed the same with the City Clerk, and the City Clerk has presented the Report to this City Council for consideration; and

NOW, THEREFORE, the City Council of the City of Hermosa Beach DOES HEREBY FIND, DETERMINE, RESOLVE, AND ORDER as follows:

SECTION 1. The Report is approved, and the City Clerk is directed to endorse the fact and date of such approval on the Report and to file the Report in her office.

SECTION 2. Pursuant to Section 2961 of the Streets and Highways Code and based on the information set forth in the Report, this City Council finds that the total amount of the principal sum of all unpaid special assessments levied against the parcels proposed to be assessed, other than contemplated by the present proceedings, plus the principal amount of the special assessment proposed to be levied in the instant proceedings, do not exceed one-half of the total value of the parcels proposed to be assessed, as computed pursuant to paragraph (2) of subdivision (b) of Section 2961.

SECTION 3. A public hearing shall be held on June 22, 2004 at 7:30 p.m. at said regular meeting place of the City Council to hear and consider protests and objections to the proposed Assessment District and the Report and to receive and count the ballots for and against the proposed Assessment District.

SECTION 4. At least 45 days prior to the public hearing referred to in Section 2 hereof, the City Clerk shall cause a notice of the adoption of the Resolution of Intention, the filing of the Report and the setting of time and place for said public meeting and the public hearing referred to in Section 2 hereof to be mailed, postage prepaid, to all persons owning real property proposed to be assessed and whose names and addresses appear on the last equalized County of Los Angeles assessment roll or the State Board of Equalization assessment roll, as the case may be, or who are known to the City Clerk. Such notice shall conform in all respects to the provisions of Section 54954.6(c) of the California Government Code, Article XIID, Section 4 of the California Constitution and Chapter 38 enacted by the California Legislature in 1997.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Hermosa Beach at a regular meeting held on the 27th day of April, 2004.

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Mayor of the City of Hermosa Beach

ATTEST:

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City Clerk of the City of Hermosa Beach



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA DECLARING ITS INTENT TO FORM AN ASSESSMENT DISTRICT AND MAKING CERTAIN FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH, ALL RELATING TO ASSESSMENT DISTRICT NO. 2004-1 (BEACH DRIVE)**

WHEREAS, this City Council wishes to consider the formation of an assessment district to pay the costs of the acquisition of the Improvements, as hereinafter described, and certain incidental costs and expenses in connection with the formation of the assessment district under and pursuant to the provisions of the Municipal Improvement Act of 1913 being Division 12 (commencing at Section 10000) of the Streets and Highways Code of the State of California (the "Act") and Chapter 28, Part 3 of Division 7 (commencing with Section 5896.1) of the Streets and Highways Code and the issuance of assessment district bonds pursuant to the Improvement Bond Act of 1915 being Division 10 (commencing at Section 8500) of the State and Highways Code; and

WHEREAS, this City Council finds that it is necessary to take proceedings pursuant to the provisions of Part 7.5 of Division 4 (commencing at Section 2960) of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 of the Streets and Highways Code; and

WHEREAS, the proposed assessment district, if it is formed, is to be known and designated as Assessment District No. 2004-1 (Beach Drive) (the "Assessment District"); and

WHEREAS, the proposed boundaries of the Assessment District are shown on a map which indicates by a boundary line the extent of the territory proposed to be included in the Assessment District, which map is designated "Proposed Boundaries of Assessment District No. 2004-1 (Beach Drive)" (the "Map"), has been heretofore approved by this City Council and has been ordered to be filed in the offices of the City Clerk and the County Recorder of the County of Los Angeles; and

WHEREAS, before ordering the construction and installation of the Improvements, the City Council is required, under the Act, to adopt a resolution declaring its intention to do so;

NOW, THEREFORE, the City Council of the City of Hermosa Beach DOES HEREBY FIND, DETERMINE, RESOLVE, AND ORDER as follows:

SECTION 1. The above recitals, and each of them, are true and correct.

SECTION 2. The City Council finds and determines that it is in the best interest of the lands in the City and its residents that where appropriate all electrical and telephone utilities within the City should be placed underground for the safety of all persons and for the beautification of the City.

SECTION 3. Part 7.5 of Division 4 of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 of the Streets and Highways Code of the State of California shall apply to the proceedings hereinafter described.

SECTION 4. The following public Improvements are proposed to be constructed and installed in the area of Beach Drive, Hermosa Avenue and Strand between 21<sup>st</sup> Street and 24<sup>th</sup> Street.

1. Removal of existing power and telephone poles, overhead wires and anchors;
2. Removal of overhead resident service drops;
3. Construction of mainline underground power and telephone conduit, with appurtenant manholes and pullboxes;
4. Street lights;
5. Street repair; and
6. Appurtenances and appurtenant work in connection with the foregoing.

The improvements will be designed by the Southern California Edison Company and GTE. Either Edison or the City will construct the improvements, and the City will inspect the work to ensure conformance to City standards and specifications where applicable.

Once completed, the underground facilities will become the property and responsibility of Southern California Edison Company and GTE.

Each owner of property located within the Assessment District will be responsible for arranging for and paying for work on his property necessary to connect facilities constructed by the public utilities in the public streets to the points of connection on the private property. Conversion of



individual service connections on private property is not included in the work done by the Assessment District.

Failure to convert individual service connections on private property may result in a recommendation to the City Council that the public utilities be directed to discontinue service to that property. Overhead facilities cannot be removed until all overhead service has been discontinued.

SECTION 5. The public interest and necessity require the construction and installation of the Improvements, and the Improvements will be of direct benefit to the properties and land within the Assessment District. The City Council hereby declares its intention to construct, or cause to be constructed, and install, or cause to be installed, the Improvements, to make the expenses thereof chargeable upon the area included within the Assessment District, and to form the Assessment District.

SECTION 6. The City Council further declares its intention to levy a special assessment upon the land within the Assessment District in accordance with the respective special benefit to be received by each parcel of land from the Improvements. There shall be omitted from special assessment all public streets, alleys and places and all land belonging to the United States of America, the State of California, the County of Los Angeles, the City of Hermosa Beach, or any other public agency of the State of California, which land is now in use in the performance of a public function.

SECTION 7. The construction and installation of the Improvements is hereby referred to David Taussig & Associates, Inc. (the "Assessment Engineer"), and the Assessment Engineer is hereby authorized and directed to make and file with the City Clerk a written report with regard thereto, which report shall comply with the requirements of Section 10204 of the Streets and Highways Code. The Director of Public Works is hereby appointed the Engineer of Work and as the acting Superintendent of Streets.

SECTION 8. Following the construction and installation of the Improvements and the payment of all incidental expenses, any surplus remaining in the improvement fund established for the Assessment District shall be used as determined by the City Council as provided in Section 10427 of the Streets and Highways Code.

SECTION 9. Bonds bearing interest at a rate not to exceed 12 percent per annum will be issued in the manner provided in the Improvement Bond Act of 1915 to represent the unpaid assessments. The principal amount of such bonds maturing each year shall not be an amount equal to an even annual proportion of the aggregate principal amount of the bonds, but rather (except as specifically otherwise provided by the City Council in connection with the sale of such bonds), shall be an amount which, when added to the amount of interest payable in each year, will generally be a sum which is approximately equal in each year (with the exception of the first year and any adjustment required with respect thereto). The last installment of such bonds shall mature a maximum of twenty-five (25) years from the second day of September next succeeding twelve months after their date.

SECTION 10. The provisions of Part 11.1 of the Improvement Bond Act of 1915, providing an alternative procedure for the advance payment of assessments and the calling of bonds, shall apply.

SECTION 11. The City Council hereby determines that the City will not obligate itself to advance available funds from its treasury to cure any deficiency which may occur in the bond redemption fund established for the Assessment District.

SECTION 12. It is hereby determined that the bonds proposed to be issued in these proceedings may be refunded. Any adjustment to assessments resulting from such refunding shall be done on a pro rata basis as required pursuant to Section 8571.5 of the Streets and Highways Code. Any such refunding shall be pursuant to the provisions of Division 11.5 (commencing with Section 9500) of the Streets and Highways Code, except that, if, following the filing of the report specified in Section 9523 and any subsequent modifications of the report, the City Council finds that all of the conditions specified in Section 9525 are satisfied and that the adjustments to assessments are on a pro rata basis, the City Council may approve and confirm the report and any, without further proceedings, authorize, issue, and sell the refunding bonds pursuant to Chapter 3 (commencing with Section 9600) of Division 11.5 of the Streets and Highways Code. Any such refunding bonds shall bear interest at the rate of not to exceed twelve percent (12%) per annum, or such higher rate of interest as may be authorized by applicable law at the time of sale of such bonds; and the last installment of such bonds shall mature on such date as will be determined by the City Council in the proceedings for such refunding.

SECTION 13. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Hermosa Beach at a regular meeting held on the 27th day of April, 2004.

\_\_\_\_\_  
Mayor of the City of Hermosa Beach

ATTEST:

\_\_\_\_\_  
City Clerk of the City of Hermosa Beach

STATE OF CALIFORNIA            )  
  ) SS  
COUNTY OF LOS ANGELES        )

I, \_\_\_\_\_, City Clerk of the City of Hermosa Beach, hereby do certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Hermosa Beach held on the 27th day of April, 2004, by the following roll call vote:

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
City Clerk of the City of Hermosa Beach

STATE OF CALIFORNIA            )  
  ) SS  
COUNTY OF LOS ANGELES        )

I, \_\_\_\_\_, City Clerk of the City of Hermosa Beach, hereby do certify that the above and foregoing is a full, true and correct copy of RESOLUTION NO. \_\_\_\_\_ of said City and that the same has not been amended or repealed.

DATED: \_\_\_\_\_, 2004

\_\_\_\_\_  
City Clerk of the City of Hermosa Beach