

June 16, 2004

Honorable Mayor and Members of
The Hermosa Beach City Council

Regular Meeting of
June 22, 2004

**PROJECT NO. CIP 02-106 BEACH DRIVE,
UTILITY UNDERGROUNDING
ASSESSMENT DISTRICT No. 2004-1
PROTEST HEARING AND TABULATION
OF THE BALLOTS**

Purpose:

This report recommends that City Council hear and consider all comments and protests relating to the proposed proceedings such as:

- ?? The improvements proposed to be constructed and installed,
- ?? The extent of the Assessment District,
- ?? The estimate of the cost and expenses,
- ?? The proposed Diagram of Assessment,
- ?? To consider and finally determine whether the public interest and convenience require
The improvements,
- ?? To award the construction improvement contract.

Following the receipt of any comments or protests and the receipt of any additional ballots, it is suggested that the City Council close the public comment portion of this hearing and recess so that staff can tabulate the ballots. Once the tabulation has been completed the City Council will reconvene and hear the results of the ballots.

Recommendation:

It is recommended that the City Council adopt the attached resolution entitled:

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH
MAKING DETERMINATIONS, CONFIRMING ASSESSMENTS AND
PROCEEDINGS, AND ORDERING THE ACQUISITION OF THE IMPROVEMENTS,
DESIGNATING THE CITY TREASURER TO COLLECT AND RECEIVE
ASSESSMENTS AND TO ESTABLISH A SPECIAL FUND FOR ASSESSMENT
DISTRICT NO. 2004-1 (BEACH DRIVE).**

Analysis:

During the public hearing, the City Council shall consider all evidence for and protests against the proposed assessment and shall tabulate the ballots. The City Council shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, (1) there is a majority protest as set forth in Section 2930 of the Streets and Highways Code (the 1931 Act) or (2) ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

After the approval and confirmation of the District, the Assessment Diagram and Notice of Assessment will be recorded at the County of Los Angeles. In addition, the Notice of Assessment with instructions for payment will be mailed to each property owner.

Fiscal Impact:

All construction costs and incidental expenses such as engineering design, contract administration and inspection, special bond counsel, bond servicing, and bond discount/special reserve fund will be repaid by an assessment to the property owners within the District. The total amount to be funded is \$509,376.43 Attachments:

Respectfully submitted,

Stephen R. Burrell
City Manager

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH MAKING DETERMINATIONS, CONFIRMING ASSESSMENTS AND PROCEEDINGS, AND ORDERING THE ACQUISITION OF THE IMPROVEMENTS, DESIGNATING THE CITY TREASURER TO COLLECT AND RECEIVE ASSESSMENTS AND TO ESTABLISH A SPECIAL FUND FOR ASSESSMENT DISTRICT NO. 2004-1 (BEACH DRIVE)

WHEREAS, this City Council has heretofore adopted Resolution No. 04-6339 (the “Resolution of Intention”) declaring its intention to order the acquisition and construction of the improvements described in the Resolution of Intention (the “Improvements”) and to form Assessment District No. 2004-1 (Beach Drive) (the “Assessment District”) under the provisions of the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code, “the Act”); and

WHEREAS, this City Council has heretofore approved a report prepared by David Taussig & Associates, Inc. (the “Assessment Engineer”) under and pursuant to the Act and, in particular, Section 10204 of the California Streets and Highways Code (the “Engineer’s Report”); and

WHEREAS, this City Council fixed June 22, 2004, at the hour of 7:30 o’clock p.m. at the regular meeting place of the City, 1315 Valley Drive, Hermosa Beach, California, as the time and place of hearing protests and objections to the improvements proposed in the Engineer’s Report to be made, the extent of the Assessment District proposed to be created, and/or to the proposed assessment; and

WHEREAS, the City Clerk has caused notice to be given of the passage of the Resolution of Intention, the filing of the Engineer’s Report and the time and place and purpose of said hearing, all as required by the Act and by Section 53753(c) of the California Government Code and Article XIID, Section 4 of the California Constitution (“Article XIID”); and

WHEREAS, the City Clerk has filed with this City Council an affidavit of the Assessment Engineer setting forth the time and manner of the compliance with the requirements of the Act for mailing of said notice; and

WHEREAS, a final Engineer's Report (the "Final Report") has been prepared setting forth the Improvements to be acquired and constructed and the adjusted assessments, if any, and the Final Report has been filed with the City Council and has been available for review by the property owners within the proposed Assessment District; and

WHEREAS, on June 22, 2004 at the time and place stated in the aforesaid notice, a hearing was duly held by this City Council and, during the course of said hearing, the Final Report was duly presented and considered, all written protests and objections received, if any, were duly presented, read, heard and considered and all persons appearing at said hearing and desiring to be heard in the matter of said Final Report were heard, and a full, fair and complete hearing has been conducted; and

WHEREAS, this City Council has received all ballots filed with the City Clerk prior to the conclusion of the hearing, and the Assessment Engineer on behalf of the City Clerk has counted all ballots for and against the formation of the Assessment District as provided in Article XIID; and

WHEREAS, this City Council has considered the assessment proposed in the Final Report and the evidence presented at said hearing; and

WHEREAS, it appears that the City Treasurer is covered by a blanket fidelity bond covering the faithful performance of the duties imposed by law in an amount deemed by this City Council to be adequate; and

WHEREAS, under the provisions of Section 10424 of the California Streets and Highways Code, funds collected by the City Treasurer pursuant to an assessment under the Municipal Improvement Act of 1913 are required to be placed in a special improvement fund designated by the name of the assessment proceeding; and

WHEREAS, there has been presented to this City Council an agreement with Southern California Edison (the "Edison Agreement") meeting the requirements of Section 5896.9 of the Streets and Highways Code;

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

SECTION 1. The public hearing referred to in the recitals hereof has been duly held, and each and every step in the proceedings prior to and including the hearing has been duly and regularly

taken. This City Council is satisfied with the correctness of the Final Report, including the assessment and diagram and the maximum annual assessment for administrative expenses, the proceedings and all matters relating thereto.

SECTION 2. The property within the Assessment District to be assessed as shown in the Final Report will be benefited by the Improvements.

SECTION 3. This City Council overrules and denies any and all protests, objections and appeals made in regard to these proceedings. The City Council further finds and determines that a majority of the ballots received are in favor of the assessment. In tabulating the ballots, the ballots were weighted according to the proportional financial obligation of the affected property.

SECTION 4. This City Council orders the proposed Improvements to be acquired and constructed in accordance with the Final Report and these proceedings.

SECTION 5. The amount of the assessments shown in the Final Report and the proposed maximum annual assessment per parcel for administrative expenses shown are confirmed and are fixed in said amounts.

SECTION 6. The amounts to be assessed against the individual parcels shown on the assessment diagram contained in the Final Report are hereby approved and confirmed; and the City Council is authorized and directed to endorse the fact and date of such approval on the Final Report.

SECTION 7. The assessment diagram and assessment is to be placed on file in the office of the Superintendent of Streets, and the City Clerk is authorized and directed to record, or cause to be recorded, the assessment diagram and assessment in the office of the County Recorder as required by Sections 3114, 10401 and 10402 of the California Streets and Highways Code; and the City Clerk shall record, or cause to be recorded, a Notice of Assessment as required by Section 3114 of said Code.

SECTION 8. The Superintendent of Streets is authorized and directed to give notice of the recordation of the assessment, as provided in Section 10404 of said Code.

SECTION 9. The City Treasurer is designated to receive the assessments paid during the 30 day cash payment period which shall commence on the date of recording the assessment diagram with the County Recorder.

SECTION 10. The Edison Agreement is approved and the City Manager is authorized on behalf of the City to execute the Edison Agreement.

SECTION 11. This Resolution shall take effect immediately upon its adoption.

Mayor of the City of Hermosa Beach

ATTEST:

City Clerk, City of Hermosa Beach

I, _____, City Clerk of the City of Hermosa Beach, certify that the foregoing Resolution was duly adopted at a regular meeting of the City Council of the City of Hermosa Beach held on the 22nd day of June, 2004.

AYES:

NOES:

ABSENT:

City Clerk of the City of Hermosa Beach

CITY CLERK'S CERTIFICATE

I, _____, City Clerk of the City of Hermosa Beach, California, hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at an adjourned meeting of the City Council of said City duly and regularly and legally held at the regular meeting place of the City on June 22, 2004, of which meeting all of the members of said City Council had due notice and at which a majority thereof were present.

At said meeting said resolution was adopted by the following vote:

Ayes: Councilmembers:
Noes: Councilmembers:
Absent: Councilmembers:

I have carefully compared the same with the original minutes of said meeting on file and of record in my office, and the foregoing is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes.

Said resolution has not been amended, modified or rescinded since the date of its adoption, and same is now in full force and effect.

Dated: June 22, 2004

City Clerk of the City of Hermosa Beach

(Seal)

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

AFFIDAVIT OF ASSESSMENT
ENGINEER OF THE CITY OF HERMOSA
BEACH SHOWING COMPLIANCE
WITH SECTIONS 10401 AND 3114 OF THE
STREETS AND HIGHWAYS CODE WITH
REGARD TO

Assessment District No. 2004-1 (Beach Drive)

Our firm, acting as Assessment Engineer for the City of Hermosa Beach (the "City") on the above-referenced Assessment District, does hereby declare as follows;

On _____, 2004, there was filed in the office of the Superintendent of Streets of the City, the assessment and diagram in the proceedings for Assessment District No. 2004-1 (Beach Drive) of the City of Hermosa Beach, which was confirmed and approved by Resolution No. _____ of the City Council of the City on June ____, 2004. Said assessment diagram was so filed pursuant to Section 10401 of the California Streets and Highways Code.

On _____, 2004, we caused to be recorded in the office of the County Recorder of the County of Los Angeles, California, said assessment and diagram as required by Section 3114 of the California Streets and Highways Code. Said assessment and diagram was recorded in the Book of Maps of Assessment Districts, Book ____, Pages ____, County of Los Angeles, California.

On _____, 2004, we caused to be recorded in the office of the County Recorder of the County of Los Angeles, California, Document No. _____, a Notice of Assessment, which Notice was in the words and figures, together with the names of the assessees, is ATTACHED HERETO, marked Exhibit "A", and hereby incorporated herein. Said Notice was recorded pursuant to Section 3114 of the California Streets and Highways Code.

On _____, 2004, we caused to be mailed to those persons assessed as set forth in the Final Engineer's Report the Notice of Recordation of Assessment, Statement of Amount of Assessment and Other Matters Relating to Assessment District No. 2004-1 (Beach Drive).

I declare under penalty of perjury that the foregoing is true and correct.

DATED: _____, 2004

David Taussing & Associates, Inc., Assessment
Engineer for the City of Hermosa Beach

NOTICE OF ASSESSMENT

Pursuant to the requirements of Section 3114 of the Streets and Highways Code, the undersigned City Clerk of the City of Hermosa Beach, State of California, hereby gives notice that a diagram and assessment were recorded in the office of the Superintendent of Streets, as provided for in Section 3114 of the Streets and Highways Code, and relating to the following described real property:

The real property as described in the assessment diagram for Assessment District No. 2004-1 (Beach Drive) on file in Book of Maps of Assessment and Community Facilities Districts, Book _____, Pages _____, in the office of the County Recorder, County of Los Angeles, State of California.

Notice is further given that upon the recording of this notice in the office of the County Recorder, 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, and that annual assessment for administrative costs shall become a lien thereupon at the same time that the property tax becomes a lien each year.

Reference is made to the assessment diagram and assessment roll recorded in the office of the Superintendent of Streets of the City of Hermosa Beach.

Dated: _____, 2004

City Clerk of the City of Hermosa Beach

ATTACHED HERETO ARE THE NAMES OF THE PROPERTY OWNERS ASSESSED.

**NOTICE OF RECORDATION OF ASSESSMENT,
STATEMENT OF AMOUNT OF ASSESSMENT AND OTHER
MATTERS RELATING TO ASSESSMENT DISTRICT NO.
97-2 (LOMA DRIVE UTILITY UNDERGROUNDING)**

Pursuant to the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code), NOTICE IS GIVEN that an assessment on the property described in the material attached to this notice was recorded in the office of the Superintendent of Streets of the City of Hermosa Beach, on the _____ day of June, 2004 and on said date the assessment and diagram was recorded in the Office of the County Recorder, County of Los Angeles, Book of Maps of Assessment and Community Facilities Districts Book _____, Pages _____. The assessment can be paid by the owner of the property in cash on or before 5:00 p.m. on _____, 2004 in full satisfaction of the assessment. If the assessment is paid in cash on or before _____, 2004, the amount of your assessment will be reduced by ____%.

**THE AMOUNT OF YOUR ASSESSMENT FOR THE PROPERTY IS
DESCRIBED ON THE ADDENDUM ATTACHED HERETO.**

PLEASE MAKE PAYMENT OR MAIL CHECK FOR ASSESSMENT TO:
City of Hermosa Beach
c/o City Treasurer
1315 Valley Drive
Hermosa Beach, CA 90254

IF ASSESSMENTS ARE NOT PAID ON OR BEFORE 5:00 p.m. on July _____, 2004 bonds will thereafter be issued upon the unpaid assessments in accordance with the provisions of the Improvement Bond Act of 1915 and Resolution No. _____, the Resolution of Intention.

NOTICE

**NO PAYMENTS ACCEPTED WITHOUT THIS STATEMENT. THIS STATEMENT MUST BE PRESENTED ON PAYMENT.
IF YOU ARE NOT THE OWNER OF THIS PROPERTY, PLEASE NOTIFY US OR FORWARD THIS STATEMENT TO THE PRESENT OWNER.**

Dated: _____, 2004

Superintendent of Streets

ADDENDUM

**Assessment
Parcel**

**Assessment
Amount**