

RESOLUTION NO. 20-0003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH MAKING DETERMINATIONS, CONFIRMING ASSESSMENTS AND PROCEEDINGS AND DESIGNATING THE SUPERINTENDENT OF STREETS TO COLLECT AND RECEIVE ASSESSMENTS AND TO ESTABLISH A SPECIAL FUND FOR CITY OF MANHATTAN BEACH UNDERGROUND UTILITY ASSESSMENT DISTRICT NO. 19-4

**WHEREAS**, this City Council has heretofore adopted Resolution No. 19-0103 (the "Resolution of Intention") declaring its intention to order the construction of the improvements described in the Resolution of Intention (the "Improvements") and to form Underground Utility Assessment District No. 19-4 (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 preliminarily approved a report prepared 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 January 7, 2020, at the hour of 6:00 p.m. at the regular meeting place of the City Council, City Hall, 1400 Highland Avenue, Manhattan Beach, California 90266, 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 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**, a final Engineer's Report (the "Final Report") has been prepared setting forth the Improvements to be acquired and constructed, 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**, 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**, under the provisions of Section 10424 of the California Streets and Highways Code, funds collected by the Director of Public Works acting as the Superintendent of Streets (the "Superintendent of Streets") 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.

**NOW, THEREFORE**, the Council of the City of Manhattan Beach does hereby **RESOLVE**, as follows:

1. **Recitals.** The above recitals, and each of them, are true and correct.
2. **Approval of Final Report.** 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.
3. **Benefit to Property.** The property within the Assessment District to be assessed as shown in the Final Report will be benefited by the Improvements.
4. **Majority of Ballots in Favor.** The City Council overrules and denies any and all protests, objections, and appeals made in regard to these proceedings; and it 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.
5. **Confirmation of Assessments.** 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.
6. **Approval of Assessments.** 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.
7. **Recordation of Documents.** 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 of the County of Los Angeles 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.
8. **Notice of Recordation.** 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.
9. **Compliance with Alternative Proceedings Requirements.** This City Council hereby finds and determines that the information set forth on pages 15 of the

Final Report demonstrates compliance with the requirements of Part 7.5 of Division 4 of the Code, thereby dispensing with any further proceedings pursuant to said Division 4, and this determination and action is final and conclusive as to all persons in accordance with Section 3012 of the Code.

**10. Receipt of Prepaid Assessments.** The Superintendent of Streets is designated to receive the assessments paid during the 30-day cash payment period which shall commence on approximately the date of filing the assessment diagram with the Superintendent of Streets.

**11. Intention to Issue Bonds.** Following receipt of the Certificate re Paid and Unpaid Assessments, this City Council intends to proceed with authorization of the issuance and sale of bonds to be secured by the assessments levied within the Assessment District (the "Bonds"), pursuant to the Improvement Bond Act of 1915 and upon the security of and in a principal amount equal to the unpaid assessments, bearing interest at a rate not to exceed 12% per annum, with the last principal installment of the Bonds to mature not to exceed 20 years from the second day of September next succeeding 12 months from their date.

**12. Designation as Underground Utilities District.** The area within the Assessment District is hereby designated an underground utilities district and this City Council hereby establishes the date which is six months from the date on which the Improvements are completed by the utility companies responsible for such Improvements (the "Utility Companies") as a reasonable date by which all affected property owners must be ready to receive underground service.

**13. Execution of Utility Company Contracts.** The City Manager of the City, or any designees thereof, is authorized to execute any and all contracts with the Utility Companies for the purpose of constructing or funding the Improvements or otherwise carrying out the intentions of this Resolution.

**14. Effective Date of Resolution.** This Resolution shall take effect immediately upon its adoption.

ADOPTED on January 7, 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

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NANCY HERSMAN  
Mayor

ATTEST:

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LIZA TAMURA  
City Clerk