

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

RESOLUTION NO. RES-08-0159

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH ADOPTING ENGINEER'S
REPORT, CONFIRMING THE ASSESSMENTS AND
ORDERING IMPROVEMENTS – ASSESSMENT DISTRICT
NO. 08-01 (THE TOLEDO UTILITY UNDERGROUNDING)

WHEREAS, on September 23, 2008 the City Council (the "Council") of the
City of Long Beach (the "City") adopted Resolution No. RES-08-0116 (the "Resolution of
Intention") expressing its intention to order improvements and to form the proposed City
of Long Beach Assessment District No. 08-01 (The Toledo Utility Undergrounding) (the
"Assessment District"), and referred the proposed improvements to the City Engineer,
acting as the Engineer of Work for the Assessment District; and

WHEREAS, the Council thereby directed the Engineer of Work to make and
file with the City Clerk a report (the "Report") in writing in accordance with and pursuant
to the Long Beach Assessment District Procedural Ordinance, being Division IV of
Chapter 3.52 of the Long Beach Municipal Code and, where applicable, the Municipal
Improvement Act of 1913, being Division 12 of the California Streets and Highways Code
(collectively, the "Act"); and

WHEREAS, the Report was duly made and filed with the City Clerk,
whereupon said City Clerk presented it to the Council for consideration; and

WHEREAS, on September 23, 2008 the Council thereupon duly considered
the Report and adopted Resolution No. RES-08-0117 preliminarily approving the Report,
including the description of the improvements, the estimate of the total cost of the
improvements, the amounts to be assessed and the diagram of the Assessment District
in the Report; and

WHEREAS, in Resolution No. RES-08-0117, the Council found that the

1 Report should stand as the Report for all subsequent proceedings under the Resolution
2 of Intention related to the Assessment District, whereupon the Council appointed a time
3 and place for a public hearing on the Assessment District at which time and place all
4 protests in relation to the Assessment District were heard; and

5 WHEREAS, notice of the public hearing was provided to each owner of
6 property in the Assessment District as required by applicable law, and the public hearing
7 was duly and regularly held on November 11, 2008; and

8 WHEREAS, all persons interested desiring to be heard at the public hearing
9 were given an opportunity to be heard, and all matters and things pertaining to the
10 Assessment District were fully heard and considered by the Council, and the Council has
11 acquired jurisdiction to order the improvements and to confirm the diagram of the
12 Assessment District and the assessment to be levied therein to pay the costs and
13 expenses thereof; and

14 WHEREAS, following the public hearing, the ballots in the election
15 regarding the Assessment District were tabulated, a revised Report dated November 24,
16 2008 (the "Revised Report") was presented to this Council, and this Council has adopted
17 a Resolution overruling any protests and declaring the results of the election to be more
18 than a majority of the ballots cast in the election (weighted according to the proposed
19 financial obligation of each property voting) in favor of the Assessment District and the
20 levy of the assessments therein; and

21 WHEREAS, it is in the best interest of the Assessment District for the
22 Council to retain jurisdiction to order the improvements, levy the assessments and issue
23 bonds secured by the assessments.

24 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
25 follows:

26 Section 1. That the foregoing recitals are true and correct.

27 Section 2. Based upon the Revised Report and the testimony and other
28 evidence received at the public hearing, it is hereby determined that: (a) all properties

1 within the boundaries of the Assessment District receive a special benefit from the
2 improvements identified in the Report; (b) the proportionate special benefit derived by
3 each parcel proposed to be assessed has been determined in relationship to the cost of
4 the improvements; (c) no assessment is proposed to be imposed on any parcel which
5 exceeds the reasonable cost of the proportional special benefit to be conferred on such
6 parcel from the improvements; and (d) only special benefits have been assessed.

7 Section 3. The Council hereby confirms the proposed assessment in the
8 amount set forth in the Revised Report and declares that the Revised Report, including
9 the plans, specifications, description of the improvements, estimate of the cost of the
10 improvements, assessments, boundary map and diagram described therein, in the form
11 on file with the City Clerk, is hereby finally adopted, accepted, confirmed and approved.

12 Section 4. The Council hereby orders the work and improvements
13 described in the Resolution of Intention and in the Revised Report to be done and made.

14 Section 5. That the City Clerk shall deliver, or cause to be delivered, to
15 the City Engineer, in his capacity as Superintendent of Streets for the City, the
16 assessment (in the form of the final Revised Report), together with said diagram thereto
17 attached and made a part thereof, as confirmed by this Council with the City Clerk's
18 certificate of such confirmation thereto attached and of the date thereof. The City Clerk
19 shall also record, or cause to be recorded, a certified copy of the assessment diagram in
20 the Office of the Los Angeles County Recorder.

21 Section 6. That the City Engineer shall record said assessment diagram
22 and assessment in his office in a suitable book to be kept for that purpose, and append
23 thereto his certificate for the date of such recording, and such recordation shall be and
24 constitute the assessment roll for the Assessment District.

25 Section 7. The City Clerk shall execute and record, or cause to be
26 recorded, a Notice of Assessment in the office of the City Engineer and in the office of the
27 County Recorder of the County of Los Angeles, such notice to be in a form provided by
28 Harris & Associates, the firm designated in City Council Resolution No. RES-08-0117, to

1 assist the City Clerk in connection with the Assessment District. From the date of such
2 recording with the City Engineer and with the County Recorder of the County of Los
3 Angeles, all persons shall be deemed to have notice of the contents of such assessment,
4 and each of such assessments shall thereupon be a lien upon the property against which
5 it is made, and unless sooner discharged such liens shall so continue for the period of ten
6 (10) years from the date of such recordation, or in the event bonds are issued to
7 represent said assessments, then such liens shall continue until the expiration of four (4)
8 years after the due date of the last installment upon said bonds.

9 Section 8. Upon recordation of the diagram and assessment, the City
10 Engineer shall cause to be mailed a notice to each owner of real property within the
11 Assessment District at the owner's last known address, as such address appears on the
12 most recent equalized tax roll of Los Angeles County, such notice to set forth a statement
13 containing a designation of the property assessed, as well as the amount of the final
14 confirmed assessment, and further indicating that bonds will be issued pursuant to the
15 Act.

16 Section 9. Notice shall also be given by or on behalf of the City Clerk by
17 publication in a newspaper of general circulation, such notice setting forth the amount of
18 the final assessment and indicating that such assessment is now due and payable, and
19 further indicating that if such assessment is not paid within the allowed thirty (30) day
20 cash collection period, bonds shall be issued as authorized by law.

21 Section 10. The City Treasurer is hereby designated to collect and receive
22 the money paid pursuant to the assessment during the cash collection period for the
23 Assessment District, in the manner prescribed by law.

24 Section 11. The County Auditor is hereby authorized and directed, in
25 accordance with the provisions of Section 8682 of the Streets and Highways Code of the
26 State of California, to enter into his assessment roll on which property taxes will next
27 become due, opposite each lot or parcel of land affected, in a space marked "public
28 improvement assessment" or by other suitable designation, the next and several

1 installments of such assessment coming due during the ensuing fiscal year covered by
2 the assessment roll and that such entry then shall be made each year during the life of
3 the bonds for the proceedings for the above-referenced Assessment District. This
4 authorization is continual until all assessment obligations have been discharged and the
5 bonds terminated.

6 As an alternate, and when determined to be in the best interests for
7 bondholders of the Assessment District, this Council may, by Resolution, designate an
8 official other than the County Auditor and/or other agent, to collect and maintain records
9 of the collection of the assessments, including a procedure other than the normal
10 property tax collection procedure.

11 In accordance with the provisions of Section 8685 of the Streets and
12 Highways Code, if any lot or parcel of land affected by any assessment is not separately
13 assessed on the tax roll so that the installment of the assessment to be collected can be
14 conveniently entered thereon, then the County Auditor shall enter on the roll a description
15 of the lot or parcel affected, with the name of the owners, if known, but otherwise the
16 owners may be described as "unknown owners", and extend the proper installment
17 opposite the same.

18 Section 12. The County Auditor shall, within 90 days after any special
19 assessment installment becomes delinquent, render and submit a detailed report
20 showing the amounts of the installments, interest, penalties and percentages so
21 collected, for the preceding term and installment date, and from what property collected,
22 and further identify any properties which are delinquent and the amount and length of
23 time for such delinquency, and further set forth a statement of percentages retained for
24 the expenses of making such collections. This request is specifically made pursuant to
25 the authorization of Section 8683 of the Streets and Highways Code of the State of
26 California.

27 Section 13. The appropriate officer or officers of the City are hereby
28 authorized to pay any and all fees required by law in connection with the above.

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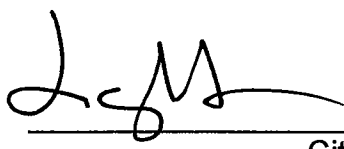
Section 14. This Resolution shall take effect immediately upon its adoption by the Council, and the City Clerk shall certify the vote adopting this Resolution.

I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of December 16, 2008 by the following vote:

Ayes: Councilmembers: DeLong, O'Donnell, Schipske,
Andrews, Reyes Uranga,
Gabelich, Lerch.

Noes: Councilmembers: None.

Absent: Councilmembers: S. Lowenthal.



City Clerk

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