

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH OF INTENTION TO ORDER
5 IMPROVEMENTS AND TO FORM ASSESSMENT DISTRICT
6 NO. 08-01 (THE TOLEDO UTILITY UNDERGROUNDING)
7

8 WHEREAS, the City Engineer of the City of Long Beach (the "City") has
9 received a petition (the "Petition") from owners of land on The Toledo south of Second
10 Street and west of Geneva Walkway in the City requesting that the City Council initiate
11 and conduct proceedings for the formation of an assessment district for the purpose of
12 financing a portion of the costs of the undergrounding of electric, telephone and cable
13 lines as more particularly described in Exhibit A to this Resolution (the "Improvements");
14 and

15 WHEREAS, it appears to the City Council that an assessment district
16 should be formed for such purpose to enhance public safety, improve aesthetics and
17 enhance the reliability of service from the utilities being undergrounded; and

18 WHEREAS, the City Council proposes to accomplish the formation of the
19 assessment district pursuant to the Long Beach Assessment District Procedural
20 Ordinance, being Division IV of Chapter 3.52 of the Long Beach Municipal Code (the
21 "Code") and, where applicable, the Municipal Improvement Act of 1913, being Division 12
22 of the California Streets and Highways Code (the "Act"), and to finance a portion of the
23 costs of the Improvements by means of the issuance of municipal bonds pursuant to the
24 Code and, where applicable, the Improvement Bond Act of 1915, being Division 10 of the
25 California Streets and Highways Code (the "Bond Act"); and

26 WHEREAS, the proposed territory and boundaries of the assessment
27 district are shown on a map (the "Map"), which is on file in the office of the City Clerk; and

28 WHEREAS, the City Council now desires to express its intention to order

1 the Improvements and to form the assessment district;

2 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
3 follows:

4 Section 1. The City Council hereby finds and declares that the public
5 interest and necessity require the construction of the Improvements, as hereinafter
6 described, and the City Council hereby declares its intention to order the Improvements
7 and to form an assessment district covering the real property benefited by the
8 Improvements. The proposed assessment district (the "Assessment District") shall be
9 designated "Assessment District No. 08-01 (The Toledo Utility Undergrounding)."

10 Section 2. The City Council hereby accepts the Petition and, based on a
11 certification by the City Engineer, finds and determines that the Petition generally
12 describes the boundaries of the Assessment District, generally describes the proposed
13 Improvements and requests that proceedings for the Improvements be taken pursuant to
14 the Code, and that the Petition has been signed by the owners of land within the
15 Assessment District on which more than one-half of the proposed assessments are to be
16 levied. The Petition has been filed in the office of the City Engineer and shall remain
17 open to public inspection.

18 Section 3. The Improvements, in the opinion of this City Council, are of
19 more than local or ordinary public benefit, and the cost and expenses thereof are made
20 chargeable upon the Assessment District, the exterior boundaries of which are shown on
21 the Map. The Map, in the form on file with the City Clerk, is hereby approved, and shall
22 govern for all details as to the extent of the Assessment District. The City Clerk is hereby
23 directed to endorse the City Clerk's certificate on the Map evidencing the date and
24 adoption of this Resolution. The City Clerk is hereby directed to retain the Map in the
25 City Clerk's office and, within 15 days after the adoption of this Resolution, file a copy of
26 the Map in the office of the County Recorder of the County of Los Angeles. The City
27 Clerk is hereby authorized to pay any and all fees required by the County Recorder to
28 record the map.

1 Section 4. The City Council intends to levy a special assessment upon
2 the land within the Assessment District, as indicated on the Map referenced in Section 3
3 above, in accordance with the special benefit to be received by each parcel of land,
4 respectively, from the Improvements.

5 Section 5. Where any disparity occurs in level or size between the
6 Improvements and private property, the City Council determines that it is in the public
7 interest and more economical to eliminate the disparity by doing work on the private
8 property instead of adjusting the work on public property. Accordingly, work may be done
9 on private property for this purpose with the written consent of the applicable landowner.

10 Section 6. Notice is hereby given that serial and/or term bonds to
11 represent unpaid assessments to be levied in the Assessment District, and to bear
12 interest at a rate not to exceed the maximum rate provided by law, shall be issued
13 pursuant to the Code and, as applicable, the Bond Act, and that the applicable provisions
14 of Part 11.1 of the Bond Act, providing an alternative procedure for the advance payment
15 of assessments and the calling of bonds, may apply. The last installment of such bonds
16 shall mature not to exceed thirty (30) years from the second day of September next
17 succeeding twelve (12) months from their date.

18 Section 7. The City Council finds and declares that a special reserve
19 fund as provided in Part 16 of the Bond Act (commencing with Section 8880) shall be
20 required, the amount thereof to be fixed and determined upon the sale of bonds for the
21 Assessment District.

22 Section 8. The City Council hereby covenants with the owners of said
23 assessment bonds to be issued that it will commence and thereafter diligently prosecute
24 to completion foreclosure actions regarding delinquent installments of the assessments,
25 as will be more fully specified in the resolution of the City Council authorizing the
26 issuance of said assessment bonds.

27 Section 9. Notice is further given that the City will not obligate itself to
28 advance available funds from the City general fund to cure any deficiency which may

1 occur in the bond redemption fund for the bonds.

2 Section 10. The procedure for the collection of assessments and advance
3 retirement of bonds shall be as provided in Part 11.1 of Division 10 of the Bond Act.

4 Section 11. It is further determined pursuant to California Streets and
5 Highways Code Section 8571.5, that the bonds may be refunded in the manner provided
6 by Division 11.5 of the California Streets and Highways Code if the City Council
7 determines that it is in the public interest or otherwise necessary or appropriate to do so.

8 Section 12. Notice is hereby given that, in the opinion of the City Council
9 the public interest and convenience require, and that it is the intention of the City Council,
10 that administrative expenses shall be added to each annual installment of the unpaid
11 assessments to pay costs incurred by the City and not otherwise reimbursed, which
12 result from the administration of the bonds and reserve or other related funds, all as set
13 forth in Section 10312 of the Act.

14 Section 13. Notice is hereby further given that pursuant to Section 8682.1
15 of the Bond Act, in addition to or as a part of the assessment lien levied against each
16 parcel of land within the Assessment District, each parcel of land shall also be subject to
17 an annual assessment to pay costs incurred by the City which result from the expenses
18 of (i) registration of any bonds and (ii) compliance with federal arbitrage laws. The
19 amounts collected will be based on actual administrative expenses or projected
20 administrative expenses, and no maximum need be stated in the Engineer's Report
21 referenced in Section 15 below. If the City performs any transfer, registration,
22 authentication, payment or other related registration function, the City may be reimbursed
23 for its actual expenses, including a pro rata amount of the salaries of the City employees
24 involved in the performance of these functions. In addition, no public hearing shall be
25 required prior to their levy. These costs are to be distinguished from the costs of
26 reimbursing the City for non-registration administrative expenses, described in Section 12
27 above, for which an annual estimate will be provided in the Engineer's Report.

28 Section 14. Notice is hereby given that this City Council intends to comply

1 with the requirements of the Special Assessment Investigation, Limitation and Majority
2 Protest Act of 1931 ("Division 4") by proceeding under Part 7.5 thereof. The following
3 information shall be included in the Engineer's Report prepared pursuant to Section 15
4 below.

5 A. The total amount, as near as may be determined, of the total
6 principal amount of all unpaid special assessments and special
7 assessments required or proposed to be levied under any completed or
8 pending assessment proceedings, other than that contemplated in these
9 proceedings, which would require an investigation and report under Division
10 4 against the total area proposed to be assessed.

11 B. The total true value, as near as may be determined, of the
12 parcels of land and improvements which are proposed to be assessed.
13 Total true value may be estimated as the full cash value of the parcels as
14 shown upon the last equalized assessment roll of the County of Los
15 Angeles. Alternatively, total true value may be determined by other
16 reasonable means, including, but not limited to, by adjusting the value
17 shown on the last equalized assessment roll to correct for deviations from
18 market value due to Article XIII A of the California Constitution.

19 Section 15. The Improvements are hereby referred to the City Engineer,
20 who is hereby appointed as the Engineer of Work for the Assessment District, and the
21 Engineer of Work is hereby directed to make and file, or cause to be made and filed, with
22 the City Clerk a report (the "Engineer's Report") in writing, presenting the following, as
23 applicable:

24 A. A brief description of the acquisition or installation of any
25 Improvement proposed to be financed, which description may refer to any
26 plans and specifications for the proposed Improvements.

27 B. An estimate of the total cost of the Improvements, an estimate
28 of the amount which would be borne by the City, if any, and the amount to

1 be assessed against the benefited lands within the Assessment District.

2 C. A diagram showing, as they existed at the time of the passage
3 of this Resolution, all of the following: (i) the boundaries of the Assessment
4 District; (ii) reference to County of Los Angeles Assessor's parcel numbers
5 or other identification of parcels within the Assessment District; and (iii) the
6 boundaries and dimensions of the parcels of land or subdivisions of land
7 within the Assessment District.

8 D. A proposed assessment of the total amount of the cost and
9 expenses of the proposed Improvements upon the several parcels or
10 subdivisions of land in the Assessment District in proportion to the
11 estimated special benefits to be received by such parcels or subdivisions,
12 respectively, from the Improvements.

13 E. A proposed maximum assessment upon each of the several
14 subdivisions of land in the Assessment District to pay costs incurred by the
15 City and not otherwise reimbursed which result from the administration and
16 collection of assessments or from the administration of any associated
17 bonds and reserve or other related funds.

18 Section 16. If any excess shall be realized from the assessment it shall be
19 used, in such amounts as the City Council may determine, in accordance with the
20 provisions of law for one or more of the following purposes:

21 A. for transfer to the general fund of the City, provided that the
22 amount of any such transfer shall not exceed the lesser of \$1,000 or five
23 percent (5%) of the total amount expended from the Assessment District
24 improvement fund;

25 B. as a credit upon the assessment and any supplemental
26 assessment in accordance with the provisions of Section 10427.1 of the
27 California Streets and Highways Code;

28 C. for the maintenance of the Improvements or a specified part

1 thereof; or

2 D. to call bonds, thereby reducing outstanding assessments and
3 subsequent assessment installments. In the event that the City Council
4 determines to use all or some portion of the surplus to call bonds prior to
5 maturity, the City shall do each of the following:

6 1. Cause the special reserve fund, if any, to be reduced
7 as necessary pursuant to Section 8887 of the California Streets and
8 Highways Code to assure that the bonds will not become subject to federal
9 income taxation.

10 2. Cause any assessment previously paid in cash to
11 receive a credit in cash pursuant to subdivision (b) of Section 10427.1 of
12 the California Streets and Highways Code for the proportionate share of the
13 surplus as determined pursuant to subdivision (a) of Section 10427.1 of the
14 California Streets and Highways Code.

15 3. Cause the preparation of new auditor's records to
16 reflect the adjusted principal amount of the remaining assessments. All
17 subsequent assessment installments shall be based upon the adjusted
18 principal amount of the assessments as reflected in the revised auditor's
19 record.

20 Section 17. Pursuant to Section 20487 of the California Public Contract
21 Code, in the opinion of the City Council, the public interest will not be served by allowing
22 owners of property in the proposed Assessment District to enter into a contract for the
23 performance of any of the work of the Improvements herein referenced, so that no notice
24 of award of contract shall be published.

25 Section 18. It is hereby acknowledged that, for all purposes of the Code,
26 the Act and the Bond Act, the City Engineer is the Superintendent of Streets for the City.

27 Section 19. The firm of Quint & Thimmig LLP is hereby designated as
28 Bond Counsel to the City with respect to the Assessment District and any bonds to be

1 issued to finance the Improvements. The City Attorney is hereby authorized to execute
2 an agreement with said firm for its services related to the Assessment District and any
3 such bonds, in a form acceptable to the City Attorney.

4 Section 20. The firm of Harris & Associates is hereby requested to assist
5 the City Engineer with the preparation of the Engineer's Report and otherwise in
6 connection with the formation of the Assessment District and the issuance of bonds for
7 the Assessment District. The City Engineer is hereby authorized to execute an
8 agreement with said firm for its services related to the Assessment District and any such
9 bonds, in a form acceptable to the City Engineer.

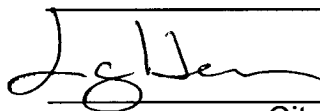
10 Section 21. This resolution shall take effect immediately upon its adoption
11 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

12 I hereby certify that the foregoing resolution was adopted by the City
13 Council of the City of Long Beach at its meeting of September 23, 2008, by the
14 following vote:

15 Ayes: Councilmembers: B. Lowenthal, S. Lowenthal, DeLong,
16 O'Donnell, Schipske, Andrews,
17 Gabelich, Reyes Uranga.

18
19 Noes: Councilmembers: None.

20
21 Absent: Councilmembers: Lerch.

22
23
24 

City Clerk

EXHIBIT A
DESCRIPTION OF WORK

The proposed facilities include the undergrounding of electric, telephone and cable on The Toledo south of Second Street and west of Geneva Walkway.

Improvements:

1. The removal of existing overhead power, telephone and cable wires and poles.
2. Removal of overhead resident service drops.
3. Construction of mainline underground power, telephone and cable conduit, with appurtenant manholes and pullboxes.
4. Construction of service conduit and appurtenances to property line.
5. Installation of new conductor within said conduit and underground structures by the utility companies.
6. Construction of street lighting conversion improvements.

Note: The foregoing improvements do not include any individual service connections on private properties.