

RESOLUTION NO. 08-10

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA CAÑADA FLINTRIDGE, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT TABULATION AND CONFIRMING THE MODIFICATION OF ASSESSMENTS LEVIED ON 2021 AND 2027 TONDOLEA LANE WITHIN ASSESSMENT DISTRICT NO. 04-1 (SEWER PROJECT NOS. 3A & 3B),

WHEREAS, the City Council of the City of La Cañada Flintridge (the "City") previously undertook proceedings pursuant to the provisions of Division 12 of the Streets and Highways Code of the State of California (the "Improvement Act"), to form and did form an assessment district known and designated as Assessment District No. 04-1 (Sanitary Sewer Project Nos. 3A & 3B) (the "Assessment District") for the purpose of financing the construction of sewer improvements, including local gravity flow sewer lines and lateral lines connecting the gravity flow sewer lines to the property lines of the properties within the Assessment District, and appurtenances and appurtenant work, including the slurry sealing of streets within which the sewer lines are installed and the payment of connection fees necessary to provide sewer treatment plant capacity to serve the properties within the Assessment District; and

WHEREAS, an assessment was levied on three parcels then under common ownership located at the northeast corner of Tondolea Lane and Lone Pine Lane and further identified by a single Assessor's Parcel No. 5806-010-012 (the "Original Parcels") for a single sewer connection; and

WHEREAS, subsequent to the formation of the Assessment District, the owner of the Original Parcels sold the parcels located at 2021 Tondolea Lane (further identified as Assessor's Parcel No. 5806-010-026) ("2021 Tondolea Lane") and at 2027 Tondolea Lane (further identified as Assessor's Parcel No. 5806-010-025) ("2027 Tondolea Lane") to separate buyers; and

WHEREAS, the current owners of 2021 Tondolea Lane and 2027 Tondolea Lane (the "Owners") have submitted applications for City Sewer Disposal Permits that would permit such properties to be connected to and served by the City's sewer system; and

WHEREAS, the Engineer's Report prepared as a part of the proceedings for the formation of the Assessment District and approved by the City Council at such time provided that when a request to connect to the sewer system was made for parcel that was not originally assessed for the sewer improvements, a fair share of the Assessment District's costs should be collected as a precondition to providing the sewer connection for such parcel; and

WHEREAS, the Owners have requested that they be permitted to pay off their fair share of the Assessment District's costs for their respective parcels over time by modifying the assessment roll established for the District to reflect the levy of the full amount of the assessment on their respective parcels; and

WHEREAS, the provisions of Chapter 4.5 of the Improvement Act ("Chapter 4.5") provide that the City Council may, upon notice and hearing, make changes in the assessment

levied within the Assessment District; and

WHEREAS, Article XIIID provides that no assessment may be levied or increased unless such levy or increase in assessment complies with the provisions of Article XIIID; and

WHEREAS, each Owner has entered into a Sewer Connection Agreement and Stipulation for Entry of Judgment (each, a "Sewer Agreement") with the City pursuant to which such Owner has knowingly and voluntarily waived each and every right accorded to such Owner under Article XIIID, including but not limited to the right that any public hearing conducted by the City Council to consider the modification of assessment roll to reflect the full amount of the assessment on such Owner's parcel be held not less than 45 days after the notice of such public hearing is mailed to such Owner; and

WHEREAS, on May 5, 2008, this City Council, acting in response to each Owner's request and in reliance on the waiver of each Owner's rights under Article XIIID, adopted Resolution No. 08-07 (a) declaring the intention of the City Council to modify the assessment roll for the Assessment District to reflect the levy of an assessment of \$22,210.19 against 2021 Tondolea Land and an assessment of \$22,210.19 against 2027 Tondolea Lane, (b) ordering that notice of a public hearing originally scheduled to be held on May 19, 2008 be given where persons may appear and show cause why such changes should not be ordered and (c) ordering the initiation of assessment ballot proceedings to enable the owners of the properties at 2021 Tondolea Lane and 2027 Tondolea Lane to express their support for or opposition to the proposed increase in the assessments levied on such properties; and

WHEREAS, notice of the public hearing was given and assessment ballots were mailed to the owners of real property located at 2021 Tondolea Lane and 2027 Tondolea Lane as ordered by Resolution No. 08-07; and

WHEREAS, on May 19, 2008, a full hearing was given and all assessment ballots timely submitted pursuant to the Assessment Law were tabulated by the City Clerk of the City as the tabulation official appointed by the City Council, all in the manner provided by the Assessment Law; and

WHEREAS, the City Clerk has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Assessment Ballots Submitted (the "Certificate of the Tabulation Official"), a copy of which is attached as Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation of the assessment ballots submitted by the Owners of the property located at 2021 Tondolea Lane and 2027 Tondolea Lane.


NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of La Cañada Flintridge, California, as follows:

1. Recitals. The above recitals are all true and correct.
2. Findings Regarding the Tabulation of Assessment Ballots. Based upon the Certificate of Tabulation Official, this City Council determines that the assessment ballots received in favor of the proposed modification of the assessments levied on the properties located at 2021

Tondolea Lane and 2027Tondolea Lane and weighted as required by the Assessment Law exceed the assessment ballots received in opposition to the modification in such assessments and similarly weighted and, therefore, a majority protest to the modifications in the assessments levied on the properties located at 2021 Tondolea Lance and 2027 Tondolea Lane does not exist.

3. Modification of Assessment Roll. The assessment roll for the Assessment District is hereby modified to reflect the levy of an assessment against 2021 Tondolea Lane of \$18,985.07 (representing the full assessment of \$22,210.19 net of principal payments previously made by the Owner of such property of \$3225.12) and an assessment against 2027 Tondolea Lane of \$18,985.07 (representing the full assessment of \$22,210.19 net of principal payments previously made by the Owner of such property of \$3225.12).

PASSED, APPROVED AND APPROVED this 19th day of May, 2008.

  
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Stephen A. Del Guercio, Mayor

Attest:

  
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Sylvia Baca, City Clerk

State of California )  
County of Los Angeles ) ss.  
City of La Cañada Flintridge )

I, Sylvia Baca, City Clerk of the City of La Cañada Flintridge, California, do hereby certify that the foregoing Resolution No. 08-10 was duly adopted by the City Council of the City of La Cañada Flintridge at a Regular Meeting held on the 19<sup>th</sup> day of May 2008, by the following vote:

AYES: COUNCILMEMBERS: Brown, Spence, Voss, Olhasso, Del Guercio  
NOES: COUNCILMEMBERS: None  
ABSENT: COUNCILMEMBERS: None  
ABSTAIN: COUNCILMEMBERS: None

Dated: May 20, 2008

  
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Sylvia Baca, City Clerk

**CERTIFICATE OF TABULATION OFFICIAL  
AND STATEMENT OF ASSESSMENT BALLOTS SUBMITTED**

STATE OF CALIFORNIA                                     )  
COUNTY OF LOS ANGELES                                 ) ss.  
CITY OF LA CAÑADA FLINTRIDGE                         )

The undersigned, the City Clerk and duly authorized tabulation official appointed by the City Council of the City of La Cañada Flintridge, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted in the assessment ballot proceedings pertaining to the properties located at 2021 Tondolea Lane and 2027 Tondolea Lane within Assessment District No. 04-1 (Sewer Project Nos. 3A & 3B).

I FURTHER CERTIFY that this Statement of Assessment Ballots Received shows the assessment ballots submitted in favor of the modification of the assessments levied against 2021 Tondolea Lane and 2027 Tondolea Lane and the assessment ballots submitted in opposition to such modification, each total weighted according to the financial obligation of the affected properties for which the assessment ballots were submitted.

Assessment ballots received <b><u>in favor</u></b> of the proposed modification of assessments	Two (2)
Assessment ballots received <b><u>in opposition</u></b> to the proposed modification of assessments	None

This certification is executed this 20th day of May, 2008 in La Cañada Flintridge, California.

*Sylvia Baca*  
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City Clerk and Tabulation Official