

**RESOLUTION NO. 09-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA CAÑADA FLINTRIDGE, CALIFORNIA, DECLARING INTENTION TO ORDER THE CONSTRUCTION OF CERTAIN IMPROVEMENTS IN PROPOSED ASSESSMENT DISTRICT NO. 09-1 (SANITARY SEWER PROJECT AREAS 5, 6E & 6J); DECLARING THE IMPROVEMENTS TO BE OF SPECIAL BENEFIT; DESCRIBING THE DISTRICT TO BE ASSESSED TO PAY THE COSTS AND EXPENSES THEREOF; PROVIDING FOR THE ISSUANCE OF BONDS AND ADOPTING AN ADDENDUM TO THE 2003 MITIGATED NEGATIVE DECLARATION**

WHEREAS, the City Council of City of La Cañada Flintridge, California (the "City Council") proposes to initiate proceedings for the formation of an Assessment District to be designated Assessment District No. 09-1 (Sanitary Sewer Project Areas 5, 6E & 6J), City of La Cañada Flintridge, County of Los Angeles, State of California (the "Assessment District"), pursuant to the provisions of the Municipal Improvement Act of 1913 (the "Improvement Act"), Division 12 (commencing with Section 10000) of the Streets and Highways Code of the State of California, Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (commencing with Section 53750) of the Government Code of the State of California for the purpose of financing the acquisition or construction of certain public improvements as described hereinbelow (the "Improvements");

WHEREAS, the territory proposed for inclusion in the proposed Assessment District includes parcels of land located within City of La Cañada Flintridge as well as certain other parcels of land located in whole or in part within the City of Glendale ("Glendale") and the City of Pasadena ("Pasadena") that, in the opinion of the City Council, will be specially benefited by the Improvements; and

WHEREAS, a portion of the Improvements is proposed to be located within Glendale and Pasadena; and

WHEREAS, pursuant to Section 10103 of the Improvement Act and Sections 5117 and 5118 of the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, before the City Council may adopt a resolution of intention initiating such proceedings, it must submit the proposed resolution of intention (the "Proposed Resolution of Intention") to and obtain the consent of the City Council of Glendale and Pasadena, respectively, to the formation of the proposed Assessment District and the approval of the Proposed Resolution of Intention and the proposed Improvements; and

WHEREAS, the City Councils of Glendale and Pasadena did adopt resolutions granting their consent to the formation of the Assessment District and approving the Proposed Resolution of Intention and the proposed Improvements.

WHEREAS, in May 2003, the City adopted a Mitigated Negative Declaration (SCH No. 2003051073) analyzing the impacts of implementing a gravity sewer system for Sewer Project Areas 3A, 3B, 4, and 5 ("Project"). Construction of the gravity sewer system was completed in Sewer Project Area 3 (Sewer Assessment District 04-1) in June 2008. Subsequent to the preparation of the 2003 Mitigated Negative Declaration, the City commissioned a study to evaluate and report on various alternative sanitary sewer collection systems and compare these with a conventional sewer collection system. Additionally, Sewer Project Area 6 was created and included pocket areas within the other Sewer Project Areas that had not been served with a new sewage system. The study concluded that all of the approximately 1,800 properties within

Sewer Project Areas 4, 5, and 6 would be better served by a low pressure sewer system than the proposed gravity sewer system. Therefore, City staff intends to implement a low pressure sewer system in areas where residents are amenable to such a system and in areas that have hilly topography, which is less conducive to a gravity sewer system; and

WHEREAS, the changes to the Project would only affect Sewer Project Areas 5, 6E, and 6J (6E and 6J were included in the 2003 Mitigated Negative Declaration as part of what was then called Sewer Project Area 4). The sewage that would be generated by the implementation of the changes to the Project was previously anticipated by the receiving sewer districts. Therefore, City staff and consultants have determined that the installation of a lower pressure sewer system rather than a gravity sewer system would have no impact on the existing trunk line infrastructure or treatment plant capacities. The 2003 Mitigated Negative Declaration did not analyze the impacts associated with the installation and operation of the grinder pumps/wet wells to be located within public easements on the residential properties as part of the changes to the Project. However, the 2003 Mitigated Negative Declaration did analyze impacts associated with the gravity sewer system booster pump stations and deep trenching (up to 20 feet), which would be avoided with the changes to the Project; and

WHEREAS, the changes to the Project are considered a "project" under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) and must be evaluated to determine any possible environmental effects caused by the changes to the Project; and

WHEREAS, under State CEQA Guidelines section 15164, subdivision (b), an addendum to an adopted mitigated negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions in section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred; and

WHEREAS, under State CEQA Guidelines sections 15162 and 15164, City staff and consultants have determined that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred regarding the changes to the Project and that preparation of an addendum to the Mitigated Negative Declaration adopted for the Project is appropriate; and

WHEREAS, City staff and consultants have prepared the Addendum to the Mitigated Negative Declaration ("Addendum") presented at this meeting for the changes to the Project pursuant to CEQA and the State CEQA Guidelines; and

WHEREAS, pursuant to State CEQA Guidelines section 15164, subdivision (c), the Addendum is not required to be circulated for public review and can be included in or attached to the adopted Mitigated Negative Declaration; and

WHEREAS, the City Council has carefully reviewed the Addendum and all other relevant information contained in the record regarding the changes to the Project. The City Council has determined that the changes addressed in the Addendum will not result in new significant environmental effects or substantially increase the severity of previously identified environmental effects of the Project; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA CAÑADA FLINTRIDGE (THE "CITY") AS FOLLOWS:

SECTION 1. The public interest and convenience require, and it is the intention of this body, pursuant to the provisions of Division 12 of the Streets and Highways Code of the State of California (the "Municipal Improvement Act 1913") (the "Improvement Act"), to order the construction of certain public improvements, together with appurtenances and appurtenant work, in the Assessment District.

#### DESCRIPTION OF IMPROVEMENTS

The improvements proposed to be financed through the levy of assessments on properties within the Assessment District are sewer improvements, including mainline low pressure sewer lines and lateral lines connecting such main lines to grinder pump stations and appurtenances to be installed on each of the properties within the Assessment District with the exception of vacant parcels, two (2) odor control facilities and appurtenances and appurtenant work, including the payment of connection fees necessary to convey sewage and to provide sewer treatment plant capacity to serve the properties within the Assessment District with the exception of vacant parcels, all necessary for and to specially benefit properties within the boundaries of the Assessment District (collectively, the "Improvements"). The description of the Improvements contained in this Resolution is general in nature, and the plans and profiles of the Improvements as contained in the Engineer's Report shall be controlling as to the correct and detailed description thereof.

All of the Improvements to be constructed or acquired are to be installed at the places and in the particular locations, and to the sizes, dimensions and materials, to the lines, grades and elevations as shown and delineated upon the plans, profiles and specifications, all to be made a part of the Engineer's Report (defined below).

All rights-of-way and easements required for the Improvements shall be shown upon the plans referred to herein and to be filed with these proceedings.

#### DESCRIPTION OF ASSESSMENT DISTRICT

SECTION 2. The Improvements confer special benefit on the properties within the Assessment District with the exception of vacant parcels. This legislative body hereby determines that the expenses of the construction of such Improvements which reflect the special benefit to be conferred on such properties within the Assessment District from such Improvements are chargeable upon such properties. Such properties are described as follows:

All of that certain territory in the proposed Assessment District included within the exterior boundary lines shown on the map exhibiting the property specially benefited and proposed to be assessed to pay the expenses of the acquisition or construction of the Improvements described above, such map entitled "PROPOSED BOUNDARIES OF ASSESSMENT DISTRICT NO. 09-1 (SANITARY SEWER PROJECT AREAS 5, 6E & 6J), CITY OF LA CAÑADA FLINTRIDGE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA", and which map was previously approved by this legislative body and is on file with the transcript of these proceedings. For all particulars as to the boundaries of the Assessment District, reference is hereby made to such boundary map.

## REPORT OF THE ASSESSMENT ENGINEER

SECTION 3. The proposed Improvements are hereby referred to Koppel & Gruber Public Finance and B&E Engineers (collectively, the "Assessment Engineer"), who are hereby directed to make and file a report as required by the Improvement Act, the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 of the Streets and Highways Code) (the "Investigations Act"), Article XIIID of the Constitution of the State of California and the Omnibus Proposition 218 Implementation Act (Government Code Section 53750) (collectively, the "Assessment Law"), such report to be in writing and contain the following:

- A. A description of the Improvements;
- B. Plans and specifications of the Improvements sufficient to show or describe the general nature, location and extent of the Improvements;
- C. An estimate of the cost of the construction of the Improvements, including the cost of the incidental expenses, in connection therewith;
- D. A diagram showing, as the same existed at the time of passage of this Resolution, the following:
  - 1. the exterior boundaries of the Assessment District;
  - 2. the lines and dimensions of each parcel of land within the Assessment District; provided, however, such diagram may refer to the county assessor's maps for a detailed description of such lines and dimensions, in which case such maps shall govern for all details concerning such lines and dimensions;
- E. The proposed assessment of the total amount of the costs and expenses of the proposed Improvements upon the several divisions of land in the Assessment District in proportion to the estimated special benefits to be conferred on such subdivisions, respectively, by such Improvements. Such assessment shall refer to such subdivisions upon such diagram by the respective numbers thereof;
- F. The total amount, as near as may be determined, of the total principal sum of all unpaid special assessments and special assessments required or proposed to be levied under any completed or pending assessment proceedings, other than that contemplated for the Assessment District, which would require an investigation and report under the Investigations Act, against the total area proposed to be assessed; and
- G. The total true value, as near as may be determined, of the parcels of land and improvements which are proposed to be assessed.

When any portion or percentage of the assessable costs and expenses of the construction of the Improvements is to be paid from sources other than assessments, the amount of such portion or percentage shall first be deducted from the total estimated costs and expenses of such construction, and such assessment shall include only the remainder of the estimated costs and expenses.

## FINANCING OF THE IMPROVEMENTS

SECTION 4. NOTICE IS HEREBY GIVEN that the City proposes to finance cost of the construction of the Improvements, including the cost of the incidental expenses, in connection therewith through (a) a loan from the State of California through the State Revolving Fund Loan Program of the State Resources Control Board to fund all costs eligible to be funded through such loan program (the "State Loan") and/or (b) the issuance of bonds (the "Improvement Bonds") pursuant to the "Improvement Bond Act of 1915" (the "Bond Act"), Division 10 of the Streets and Highways Code of the State of California to fund that portion of such costs that are not funded from the proceeds of the State Loan, if any. The repayment of the State Loan, if any, shall be secured by the unpaid assessments levied within the Assessment District pursuant to the provisions of Chapter 6.1 (Streets and Highways Code Sections 10550 and following) of the Improvement Act. The payment of the debt service on the Improvement Bonds shall likewise be secured by the unpaid assessments levied within the Assessment District pursuant to the provisions of the Improvement Act and the Bond Act.

The provisions of Part 11.1 of the Bond Act, providing an alternative procedure for the advance payment of assessments and the calling of bonds shall apply to the Improvement Bonds.

The principal amount of the Improvement Bonds maturing each year shall be other than an amount equal to an even annual proportion of the aggregate principal of such bonds, and the amount of principal maturing in each year, plus the amount of interest payable in that year, will be generally an aggregate amount that is equal each year, except for the first year's adjustment.

Pursuant to the provisions of the Improvement Act and specifically Streets and Highways Code Section 10603, the Treasurer is hereby designated as the officer to collect and receive the assessments during the cash collection period.

## ASSESSMENT LAW

SECTION 5. Except as may otherwise be provided for in the issuance of the bonds described above, all of the Improvements shall be constructed pursuant to the provisions of the Assessment Law.

## SURPLUS FUNDS

SECTION 6. If any excess shall be realized from the assessment, it shall be used, in such amounts as the legislative body may determine, in accordance with the provisions of law for one or more of the following purposes:

- A. Transfer to the general fund; provided that the amount of any such transfer shall not exceed the lesser of One Thousand Dollars (\$1,000.00) or five percent (5%) of the total from the Improvement Fund;
- B. As a credit upon the assessment and any supplemental assessment;
- C. For the maintenance of the Improvements; or
- D. To call bonds.

## IMPROVEMENT FUND

SECTION 7. The legislative body hereby establishes a special improvement fund identified and designated by the name of this Assessment District, and into such Fund monies may be transferred at any time to expedite the construction of the Improvements, and any such advancement of funds is a loan and shall be repaid out of the proceeds of the sale of bonds as authorized by law.

## GRADES

SECTION 8. Notice is hereby given that the grade to which the work shall be done is to be shown on the plans and profiles therefor, which grade may vary from the existing grades. The work herein contemplated shall be done to the grades as indicated on the plans and specifications, to which reference is made for a description of the grade at which the work is to be done. Any objections or protests to the proposed grade shall be made at the public hearing to be conducted under these proceedings.

## PROCEEDINGS INQUIRIES

SECTION 9. For any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below:

EDWARD HITTI, P.E., DIRECTOR OF PUBLIC WORKS  
CITY OF LA CAÑADA FLINTRIDGE  
1237 FOOTHILL BOULEVARD  
LA CAÑADA FLINTRIDGE, CALIFORNIA 91011-2137  
(818) 790-8882

## PUBLIC PROPERTY

SECTION 10. All public property shall be subject to assessment in these proceedings unless otherwise expressly provided and listed herein.

## ACQUISITION

SECTION 11. The public interest, convenience and necessity requires that certain land, rights-of-way or easements be obtained in order to allow the Improvements as proposed for this Assessment District to be accomplished. The Engineer's Report, upon adoption, shall set forth general description of the location and extent of easements and/or land necessary to be acquired.

## NO CITY LIABILITY

SECTION 12. This legislative body hereby further declares not to obligate itself to advance available funds from the Treasury to cure any deficiency that may occur in the bond redemption fund. This determination is made pursuant to the authority of Section 8769(b) of the Streets and Highways Code of the State of California, and such determination shall further be set forth in the text of the bonds issued pursuant to the Bond Act.

COMBINED IMPROVEMENT ACT/INVESTIGATIONS ACT REPORT

SECTION 13. It is the intention of this legislative body to fully comply with the proceedings and provisions of the Investigations Act and specifically the alternate provisions thereof, being Part 7.5. The Report, as authorized by Streets and Highways Code Section 2961, will be on file with the transcript of these proceedings and open for public inspection.

ANNUAL ADMINISTRATIVE ASSESSMENT

SECTION 14. It is hereby declared that this legislative body proposes to levy an annual assessment pursuant to Section 10204 of the Streets and Highways Code of the State of California, such annual assessment to pay costs incurred by the City and not otherwise reimbursed which result from the administration and collection of assessments or from the administration or registration of any associated bonds and their related funds.

DESIGNATION OF SUPERINTENDENT OF STREETS

SECTION 15. For the purpose of these proceedings, the Director of Public Works of the City is hereby designated as the Superintendent of Streets.

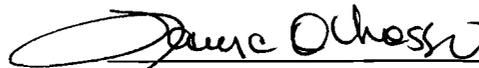
COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

SECTION 16. As the decision-making body for the changes to the Project, the City Council has reviewed and considered the information contained in the Addendum and supporting documentation. The City Council finds that the Addendum contains a complete and accurate reporting of any environmental effects associated with the proposed changes to the Project. The City Council further finds that the Addendum has been completed in compliance with CEQA and the State CEQA Guidelines. The City Council finds that the Addendum reflects the independent judgment of the City Council.

Based on the Addendum and all related information presented to the City Council, the City Council makes the findings contained in Exhibit A attached hereto and incorporated herein by this reference (the "City Council Findings").

Based on the City Council Findings, the City Council approves and adopts the Addendum prepared for the changes to the Project. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City's offices. The custodian for these records is the City Manager or his designee.

PASSED, APPROVED AND ADOPTED this 20<sup>th</sup> day of July, 2009.



Laura Olhasso, Mayor

Attest:



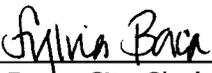
Sylvia Baca, City Clerk

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. 09-24 was duly adopted by the City Council of the City of La Cañada Flintridge at a Regular Meeting held on the 20<sup>th</sup> day of July 2009, by the following vote: \_\_\_\_\_

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

Dated: July 21, 2009

  
\_\_\_\_\_  
Sylvia Baca, City Clerk

## EXHIBIT A

### FINDINGS REGARDING THE ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION

The City Council hereby makes the following findings regarding the Addendum to the Mitigated Negative Declaration for the Project:

- a. All environmental effects of the changes to the Project are less than significant.
- b. The changes to the Project could potentially result in even fewer aesthetic, air quality, biological, cultural resource, geology and soils, hazards/hazardous materials, hydrology and water quality, public services, and traffic impacts than the project studied in the 2003 Mitigated Negative Declaration largely due to the reduced earthwork volumes and shallower excavation depths.
- c. State CEQA Guidelines section 15162 is not triggered by the changes to the Project and therefore preparation of a subsequent EIR or negative declaration is not required, pursuant to the following analysis:

(1) *"Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."* The changes to the Project would only affect Sewer Project Areas 5, 6E, and 6J (6E and 6J were included in the 2003 Mitigated Negative Declaration as part of what was then called Sewer Project Area 4.) The sewage that would be generated by the implementation of the proposed changes to the Project was previously anticipated by the receiving sewer districts. Therefore, City staff and consultants have determined that the installation of a lower pressure sewer system rather than a gravity sewer system would have no impact on the existing trunk line infrastructure or treatment plant capacities. No unmitigated significant effects were previously identified in the adopted Mitigated Negative Declaration. Therefore, pursuant to the above stated condition, there will be no new significant environmental effects nor any increase in any previously identified significant effects and no subsequent EIR or negative declaration is required.

(2) *"Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."* The Addendum was prepared to account for the difference in environmental effects associated with the implementation of a lower pressure sewer system for Sewer Project Area 5, as well as two smaller areas that were previously a part of Sewer Project Area 4 (6E and 6J), compared to the environmental impacts of the gravity sewer system analyzed in the 2003 Mitigated Negative Declaration. The changes to the Project will result in similar or fewer environmental effects than the project previously studied. No unmitigated significant effects were previously identified in the adopted Mitigated Negative Declaration. Therefore, pursuant to the above stated condition, there will be no new significant

environmental effects nor any increase in any previously identified significant effects and no subsequent EIR or negative declaration is required.

(3) *"New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:*

- (a.) *"The project will have one or more significant effects not discussed in the previous EIR or negative declaration."* The Addendum was prepared to account for the difference in environmental effects associated with the implementation of a lower pressure sewer system for Sewer Project Area 5, as well as two smaller areas that were previously a part of Sewer Project Area 4 (6E and 6J), compared to the environmental impacts of the gravity sewer system analyzed in the 2003 Mitigated Negative Declaration. The changes to the Project will result in similar or fewer environmental effects than the project previously studied. There will be no new significant environmental effects nor any increase in any previously identified significant effects and no subsequent EIR or negative declaration is required.
- (b.) *Significant effects previously examined will be substantially more severe than shown in the previous EIR [or negative declaration]."* No unmitigated significant effects were previously identified in the adopted Mitigated Negative Declaration. The changes to the Project will not result in an increase in environmental effects previously found to be less than significant.
- (c.) *Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative."* No unmitigated significant effects were previously identified in the adopted Mitigated Negative Declaration. Mitigation measures were previously identified and adopted to reduce potential effects to a level of less than significant. The changes to the Project will implement the previously identified mitigation measures.
- (d.) *Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR [or negative declaration] would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative."* No unmitigated significant effects were previously identified in the adopted Mitigated Negative Declaration. The mitigation measures described in the adopted Mitigated Negative Declaration are sufficient to reduce all potential effects to a level of less than significant and no additional or modified mitigation measures are required.

d. In light of the above analysis and stated conditions, no subsequent EIR or negative declaration is required.

In addition to the foregoing findings, the City Council further finds that the changes to the Project satisfy the conditions described in State CEQA Guidelines section 15164 and therefore preparation of an addendum to the adopted Mitigated Negative Declaration is appropriate:

*"An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred."* The Addendum was prepared to account for the difference in environmental effects associated with the implementation of a lower pressure sewer system for Sewer Project Area 5, as well as two smaller areas that were previously a part of Sewer Project Area 4 (6E and 6J), compared to the environmental impacts of a gravity sewer system analyzed in the 2003 Mitigated Negative Declaration. The changes to the Project will result in similar or fewer environmental effects than the project previously studied. The City Council finds that the changes to the Project qualify as "minor technical changes or additions" pursuant to the conditions of section 15164. In addition, the City Council finds that, pursuant to the above analysis, none of the conditions described in section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred and therefore such preparation is not required.