

RESOLUTION NO. 20-7260

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH ADOPTING THE ENGINEER'S REPORT, CONFIRMING THE ASSESSMENT AND ORDERING THE WORK AND ACQUISITIONS, AND DIRECTING ACTIONS WITH RESPECT THERETO FOR THE PROPOSED GREENWICH VILLAGE NORTH UNDERGROUND UTILITIES ASSESSMENT DISTRICT

RECITALS

A. On July 23, 2019, the City Council (the "Council") of the City of Hermosa Beach (the "City") adopted its resolution entitled "A Resolution of the City Council of the City of Hermosa Beach of Intention to Make Acquisitions and Improvements for the Proposed Greenwich Village North Underground Utilities Assessment District" (the "Resolution of Intention") under the Municipal Improvement Act of 1913, Division 12 of the Streets and Highways Code of California (the "Act") to initiate proceedings under the Act in and for the City's proposed Greenwich Village North Underground Utilities Assessment District (the "Assessment District") for the making of certain public improvements (the "Improvements") as described in the Resolution of Intention.

B. The Resolution of Intention referred the acquisitions and improvements described therein to NV5, Irvine, California, the person designated therein as the engineer of work (the "Engineer of Work") and directed the Engineer of Work to prepare and file with the City Clerk a report (the "Engineer's Report") pursuant to the Act and containing information set forth in the Resolution of Intention, to which reference is hereby made for further particulars.

C. The Engineer of Work prepared and filed the preliminary form of Engineer's Report with the City Clerk. This Council, with the aid of City staff, reviewed the preliminary Engineer's Report and found that the preliminary Engineer's Report was sufficient for and should stand as the Engineer's Report for all subsequent proceedings for the Assessment District, and the preliminary Engineer's Report was approved under a resolution of this Council adopted on August 11, 2020, entitled "A Resolution of the City Council of the City of Hermosa Beach Preliminarily Approving

Engineer’s Report and Directing Related Actions for the Proposed Greenwich Village North Underground Utilities Assessment District.”

D. Pursuant to the Act, this Council ordered that a public hearing be held before this Council, on Tuesday, October 13, 2020, at the hour of 7:00 o’clock p.m., for the purposes of this Council’s determination whether the public interest, convenience and necessity require the Improvements, determination whether the properties in the Assessment District are specially benefited by the Improvements, tabulation of special assessment ballots and the determination of the existence of any majority protest and this Council’s final action upon the Engineer’s Report and the assessments therein.

E. The hearing was formally opened at the City Council meeting, was held, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the Improvements were fully heard and considered by this Council, and any protests, both written and oral, were duly heard and considered. Thereafter, the hearing was formally closed and all assessment ballots submitted by property owners were received and tabulated. The meeting was conducted via a teleconference as a result of the COVID-19 pandemic and pursuant to Executive Order N-29-20 issued by Governor Gavin Newsom on March 17, 2020. The ballots were opened, announced and tabulated at city hall, with the public and council viewing live via teleconference.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hermosa Beach as follows:

SECTION 1. Recitals. Each of the above recitals is true and correct and is adopted by the City Council.

SECTION 2. No Majority Protest; Protests Overruled. It is hereby determined that, upon the conclusion of the public hearing, and after tabulation of the assessment ballots submitted,

no majority protest against the assessment existed because the assessment ballots submitted in opposition to the assessment did not exceed the ballots submitted in favor of the assessment. In tabulating the ballots, they were weighted according to the proportional financial obligation of the affected properties. This Council hereby overrules the protests, if any, written and oral, against the proposed acquisitions and improvements or the grades at which the work is proposed to be done, as a whole or as to any part, or against the Assessment District or the extent thereof to be assessed for the costs and expenses of the Improvements, as a whole or as to any part thereof, or against the engineer's estimate of costs and expenses, in whole or in part, or against the maps and descriptions, in whole or in part, or against the diagram or the assessment to pay for the costs and expenses of the Improvements, in whole or in part.

SECTION 3. Public Interest. The public interest, convenience and necessity require that the Improvements be made and that the Assessment District be created.

SECTION 4. Assessment District Described. The Assessment District benefited by the Improvements and to be assessed to pay the costs and expenses of the Improvements, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the City Clerk, which is hereby incorporated by reference.

SECTION 5. Engineer's Report Approved. The Engineer's Report, as amended or modified to date, in the form on file in the office of the City Clerk and to which reference is hereby made for further particulars, including the estimates of costs and expenses, the apportionment of assessments and the assessment diagram contained in the Engineer's Report, is hereby approved and confirmed and shall stand as the Engineer's Report for these and all future proceedings for the Assessment District. Final approval of the Engineer's Report is intended to and shall refer and apply to the Engineer's Report, or any portion thereof. The Engineer's Report, as finally approved, shall include any and all modifications ordered by the Council at or after the public hearing on the Assessment District referred to herein.

SECTION 6. Improvements Ordered, Assessment District Formed and Assessments Confirmed. This Council hereby orders that the Improvements described in the Resolution of Intention be made, that the Assessment District be formed, and that the assessment to pay the costs and expenses of the Improvements is hereby confirmed and levied. For further particulars pursuant to the provisions of the Act, reference is hereby made to the Resolution of Intention and the Engineer's Report.

SECTION 7. Benefits Determined. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the public hearing, this Council expressly finds and determines (a) that each of said several subdivisions of land will be specially benefited by the Improvements at least in the amount, if not more than the amount, of the assessment apportioned against those subdivisions of land, respectively, and (b) that there is substantial evidence to support, and the weight of said evidence preponderates in favor of, this finding and determination as to special benefits.

SECTION 8. Recording and Filing Ordered. The City Clerk shall immediately take the following actions:

a. The City Clerk shall deliver to the Public Works Director, being the City official acting as the Superintendent of Streets under the Act, the assessment as contained in the Engineer's Report together with the assessment diagram, as approved and confirmed by this Council, with a certificate of such confirmation and of the date thereof, executed by the City Clerk, attached thereto. The Superintendent of Streets shall record the assessment and diagram in a suitable book to be kept for that purpose, and append thereto a certificate of the date of such recording, and such recordation shall constitute the assessment roll herein.

b. The City Clerk shall cause a copy of the assessment diagram and a notice of assessment, substantially in the form provided in Section 3114 of the Streets and Highways

Code of California, executed by the City Clerk, to be filed and recorded, respectively, in the office of the County Recorder of the County of Los Angeles.

From the date of recording of the notice of assessment, all persons shall be deemed to have notice of the contents of such assessment, and each of such assessments shall thereupon be a lien upon the property against which it is made, and unless sooner discharged such liens shall so continue for the period of 10 years from the date of the recordation, or if bonds are issued to represent the assessments, then such liens shall continue until the expiration of 4 years after the due date of the last installment upon the bonds or of the last installment of principal of the bonds. The appropriate officer or officers of the City are hereby authorized to take all actions and to pay any and all fees required by law in connection with the above.

SECTION 9. Cash Payment Ordered.

a. Cash Payment. Under the Act, this Council hereby directs that the owners of property within the Assessment District shall be given written notice of the confirmation of the assessments and of the recording thereof in the office of the official of the City who is the Superintendent of Streets, and of the opportunity of such owners to pay all or a portion of the assessments in cash for a period of not less than 30 days.

b. Collection Officer. The Finance Director of the City is appointed Collection Officer (the "Collection Officer") for the assessments and the person to whom payment of the assessments shall be made, and that the office of the Collection Officer, at City Hall, 1315 Valley Drive, Hermosa Beach, California, 90254, is designated as the place at which any payments will be made, and the Superintendent of Streets is hereby relieved of all responsibility for collecting assessments.

c. Mailed Notices. The Collection Officer shall cause notices to pay assessments to be mailed under Section 10404 of the Act, which shall state that bonds will be issued under the Improvement Bond Act of 1915, to represent any unpaid assessments. The mailed notice shall be mailed to each owner of real property within the Assessment District at his or her last known address as it appears on the tax rolls of the County Assessor,

or on file in the office of or as known to the City Clerk, or to both addresses if the address is not the same, or to the general delivery when no address so appears.

d. Published Notice. The Collection Officer shall also cause the notice to be published once a week for two successive weeks (with at least five days intervening between the respective publication dates, not counting such dates) in a newspaper published in the County and circulated in the City.

e. Proceeds of Collections. The Collection Officer shall establish a fund, separate and distinct from other funds of the City and designated "City of Hermosa Beach, Greenwich Village North Underground Utilities Assessment District Cash Payment Fund" (the "Cash Payment Fund"), into which the Collection Officer shall deposit all sums received from the cash payments. The Collection Officer may invest amounts in the Cash Payment Fund in lawful investments for the City; provided, however, that the Collection Officer shall be under no obligation to invest any or all of the amounts in the Cash Payment Fund. If this Council issues bonds for the Assessment District, the moneys in the Cash Payment Fund shall be applied to the Improvements and the Cash Payment Fund shall be closed. If this Council determines not to issue bonds to finance the Improvements, the Collection Officer shall return the amounts of cash payments (with any interest thereon) to the persons responsible for paying such cash payments and the Cash Payment Fund shall be closed. The timing of such determinations shall be entirely at the discretion of this Council.

SECTION 10. Effective. This resolution shall be effective immediately. The City Clerk shall certify to the passage and adoption of this Resolution; shall cause the original of the same to be entered among the original resolutions of the City Council; and shall make a minute of the passage and adoption thereof in the minutes of the City Council meeting at which the same is passed and adopted.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Hermosa Beach on this 13th day of October, 2020.

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney