

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF TIBURON ADOPTING
ENGINEER'S REPORT, CONFIRMING THE
ASSESSMENT, ORDERING THE WORK AND ACQUISITIONS
AND DIRECTING ACTIONS WITH RESPECT THERETO**

**TOWN OF TIBURON
Del Mar Valley Utility Undergrounding Supplemental Assessment District**

RESOLVED by the Town Council (the "Council") of the Town of Tiburon (the "Town"), County of Marin, State of California, that:

WHEREAS, on February 1, 2006, this Council adopted Resolution No. 08-2006, A Resolution of the Town Council of the Town of Tiburon of Intention to Make Acquisitions and Improvements, and in it directed the Engineer of Work to make and file a report in writing (the "Supplemental Engineer's Report") in accordance with and pursuant to the Municipal Improvement Act of 1913 (the "Act") in and for the Town's proposed Del Mar Valley Undergrounding Supplemental Assessment District (the "Supplemental Assessment District");

WHEREAS, the Supplemental Engineer's Report was made and filed, and considered by this Council and found to be sufficient in every particular, whereupon it was determined that the report should stand as the Supplemental Engineer's Report for all subsequent proceedings under and pursuant to the Resolution of Intention;

WHEREAS, this Council appointed Town Hall Council Chambers, 1505 Tiburon Blvd., Tiburon, California, on Monday, May 8, 2006, at the hour of 7:30 o'clock p.m., as the place and time for a public hearing to take testimony and for hearing protests in relation to the proposed acquisitions and improvements (the "Improvements"), for tabulation on assessment ballots and final action upon the Supplemental Engineer's Report, notices of which hearing, including assessment ballots, were mailed as required by law; and

WHEREAS, the hearing 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, considered, and all assessment ballots submitted by property owners were received and tabulated;

NOW, THEREFORE, IT IS ORDERED as follows:

1. No Majority Protest; Assessments Approved. 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 finds that a majority of those casting ballots have voted to approve the assessments and the assessments are hereby found to be approved.

2. Public Interest. The public interest, convenience and necessity require that the Improvements be made and that the Supplemental Assessment District be formed.

3. Supplemental Assessment District Described. The Supplemental Assessment District benefited by the Improvements and to be assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the Town Clerk, which map is made a part hereof by reference thereto.

4. Supplemental Engineer's Report Approved. The Supplemental Engineer's Report, in the form on file in the office of the Town Clerk as of the date of this Resolution and to which reference is hereby made for further particulars, including the estimates of costs and expenses, the apportionment of assessments to individual parcels within the Supplemental Assessment District, and the assessment diagram contained in the Supplemental Engineer's Report, is hereby approved and confirmed and shall stand as the Supplemental Engineer's Report for these and all future proceedings for the Supplemental Assessment District. Final approval of the Supplemental Engineer's Report is intended to and shall refer and apply to the Supplemental Engineer's Report on file in the office of the Town Clerk as of the date of this Resolution, as amended and changed to date, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this Council.

5. Benefits Determined. Based on the oral and documentary evidence, including the Supplemental Engineer's Report, offered and received at the public hearing, this Council expressly finds and determines that:

(a) each of the several subdivisions of land in the Supplemental Assessment District will be specially benefited by the Improvements at least in the amount, if not more than the amount, of the assessment apportioned against the subdivisions of land, respectively; and

(b) there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.

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

7. Recording Ordered. The Town Clerk shall immediately take the following actions:

(a) The Town Clerk shall deliver to the official of the Town who is the Superintendent of Streets under the Act the assessment as contained in the Supplemental 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 Town 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 be and constitute the assessment roll herein.

(b) The Town Clerk shall cause a copy of the assessment diagram and a notice of assessment, substantially the form provided in Section 3114 of the Streets and

Highways Code of California, executed by the Town Clerk, to be filed and recorded, respectively, in the office of the County Recorder of the County of Marin.

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 in the event 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 Town are hereby authorized to take all actions and to pay any and all fees required by law in connection with the above.

8. Cash Payment Ordered.

(a) Cash Payment. Under the Act, this Council hereby directs that the owners of property within the Supplemental Assessment District shall be given written notice of the confirmation of the assessments, of the recording thereof in the office of the official of the Town 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 Town 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 Town Hall, 1505 Tiburon Boulevard, Tiburon, CA 94920 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 notice 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 Supplemental Assessment District at his or her last known address as the same appears on the tax rolls of the Town, or on file in the office of or as known to the Clerk of the Council, 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 and circulated in the Town.

(e) Proceeds of Collections. The Collection Officer shall establish a fund, separate and distinct from other funds of the Town and designated "Town of Tiburon, Del Mar Valley Utility Undergrounding Supplemental Assessment District, Cash Payment Fund" (the "Cash Payment Fund"), into which the Collection Officer deposit all sums received from the cash payments. The Collection Officer may invest amounts in the Cash Payment Fund in lawful investments for the Town; 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 Supplemental Assessment District, the moneys in the Cash Payment Fund shall be applied to the Improvements for

the Supplemental Assessment District and the Fund shall be closed. If the 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 Fund shall be closed. The timing of such determinations shall be entirely at the discretion of the Council.

9. Effective Date. This resolution shall be effective upon the date of its adoption.

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PASSED AND ADOPTED at the regular meeting of the Town Council of the Town of Tiburon, State of California, on this _____ day of _____, 2006, by the following vote to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

PAUL SMITH, MAYOR,
TOWN OF TIBURON

ATTEST:

DIANE CRANE IACOPI, TOWN CLERK