

RESOLUTION NO. 2013-232

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA REVISING COUNCIL POLICY NO. 505-01:  
FORMATION OF ASSESSMENT DISTRICTS WITH CITY  
PARTICIPATION FOR CONSTRUCTION OF INFILL STREET  
IMPROVEMENTS

WHEREAS, the original version of Council Policy No. 505-01, Participation by the City of Chula Vista in 1911 Block Act Program Proceedings, was adopted by Resolution No. 11373 on August 30, 1983; and

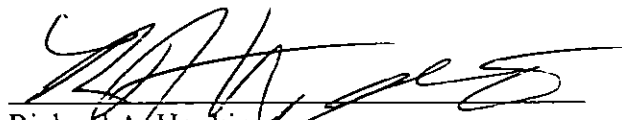
WHEREAS, this policy required the City to pay for all design, inspection and administrative costs, as well as costs to relocate existing utilities, resurface the existing paved roadway, and construct improvements along the side of corner properties. The property owners would be responsible to pay other construction costs; and

WHEREAS, on January 27, 2004, Council subsequently adopted Resolution No. 2004-031, which replaced the existing Council Policy to account for funding provided by the Western Chula Vista Infrastructure Financing Program. The new policy included the payment of additional construction costs by the City for properties within the Castle Park area and allowed for the use of the Assessment District process outlined in the Municipal Improvement Act of 1913; and

WHEREAS, the funds in the Chula Vista Infrastructure Financing program have been exhausted and the City needs to revert back to the previous level of funding by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista does hereby revise Council Policy No. 505-01: Formation of Assessment Districts with City participation for Construction of Infill Street Improvements (Exhibit A).

Presented by

  
Richard A. Hopkins  
Director of Public Works

Approved as to form by


  
Glen R. Googins  
City Attorney

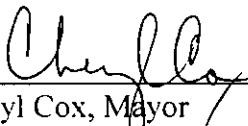
Exhibit A: Revised Council Policy No. 505-01

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 5th day of November 2013 by the following vote:

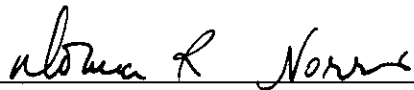
AYES: Councilmembers: Aguilar, Bensoussan, Ramirez, Salas and Cox

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

  
\_\_\_\_\_  
Cheryl Cox, Mayor

ATTEST:

  
\_\_\_\_\_  
Donna R. Norris, CMC, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO    )  
CITY OF CHULA VISTA     )

I, Donna R. Norris, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2013-232 was duly passed, approved, and adopted by the City Council at a special meeting of the Chula Vista City Council held on the 5th day of November 2013.

Executed this 5th day of November 2013.

  
\_\_\_\_\_  
Donna R. Norris, CMC, City Clerk

**COUNCIL POLICY  
 CITY OF CHULA VISTA**

<b>SUBJECT: FORMATION OF ASSESSMENT DISTRICTS WITH CITY PARTICIPATION FOR CONSTRUCTION OF INFILL STREET IMPROVEMENTS</b>	<b>POLICY NUMBER</b> 505-01	<b>EFFECTIVE DATE</b>	<b>PAGE</b> 1 OF 5
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**ADOPTED BY:** Resolution No. 11373 (8/30/33)

**DATED:**

**AMENDED BY:** Resolution No. 2004-031 (1/27/04);

**BACKGROUND**

There are many properties within the western area of the City of Chula Vista (particularly in the Montgomery area) that do not have full street improvements. Council adopted Council Policy No. 505-01 by Resolution No. 11373 on August 30, 1983 to provide guidelines for the City's financial participation in Assessment District formation under the 1911 Block Act Program. These guidelines addressed certain financial issues, however, over time questions arose regarding district administration that were not addressed by this policy. These issues include the acquisition of right-of-way and the application of deferral payments and agreements made for the construction of street improvements.

Additionally, changes in assessment law since 1983 have affected the establishment of these districts. The process of forming Assessment Districts under the 1911 Block Act has become more cumbersome since the passage of Proposition 218. The 1983 policy stated that there would be no City contribution towards the construction of improvements adjacent to undeveloped or commercial/industrial lots. The necessity of treating all properties in a district in accordance with Proposition 218 requires reconsideration of these issues.

These issues were addressed as part of the policy revision approved by Council on January 27, 2004 by Resolution No. 2004-031. This revision was also necessitated by the adoption of a new program for the financing of infill street improvements in the Montgomery area called the CDBG Street Rehabilitation Program. Under this program, the City financed all construction and design costs for infill street improvements except for the construction of driveway aprons. All the funds for this program have been used, and it is anticipated that similar funding will not be available in the near future. Therefore, the policy needs to be revised in order to reflect the previous financing methodology.

**PURPOSE**

To revise the existing City policy on establishment of Assessment Districts for the construction of infill street improvements.

**POLICY**

The City Council establishes the following policy for City participation in the establishment of Assessment Districts for the construction of infill street improvements:

1. General Procedure:

- a. Assessment Districts for the construction of infill street improvements will be formed with the participation of the City using either the Improvement Act of 1911 as enacted and amended in the California Streets and Highways Code (particularly Chapter 27 thereof, commonly referred to as "The Block Act") or the Municipal Improvement Act of 1913 (Division 12 of the California Streets and Highways Code) as amended by City ordinances. The assessment balloting process shall be conducted in accordance with Chapter XIID of the California Constitution (Proposition 218) or applicable State law.

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- b. Where a minimal number of property owners in a block have infill street improvements and it would be impractical to form an Assessment District, Council may authorize the City to enter into a reimbursement agreement with an individual property owner for the financing of the property owner's share of construction costs in accordance with Chula Vista Municipal Code Chapter 15.50. Said agreement shall be for a maximum term of ten years.

**2 District Composition:**

- a. A District is comprised of both sides of a public street between two intersections, where both sides of the public street do not have full improvements (including curbs, gutters and sidewalks). A public street shall be defined as right-of-way dedicated to and accepted by the City as a public roadway, or dedicated to another public agency as a public roadway and acquired by the City, which provides primary access to adjoining properties.
- b. Where full improvements have already been constructed on one side of a public street, a District will be comprised of that side of such public street between intersections on which full improvements have not been constructed.
- c. At the option of Council and if property owners indicate such an interest, the District may include additional contiguous blocks in the District in conformance with 2a. and 2b. above.
- d. City participation in District formation in areas with a primary land use designation as commercial and/or industrial shall be limited to the overlay or reconstruction of existing roadway travel areas, with the exception of occasional commercial properties (such as corner lots) located in areas primarily classified as residential. In the latter instance, such commercial properties shall be treated in the same way as adjoining residential properties.
- e. The City shall not participate in the formation of a District for a block which is primarily undeveloped. Where isolated undeveloped properties are located in a block which is otherwise developed, the City will provide the same benefits provided to developed lots if agreement can be reached with the owner of such undeveloped property which will include the location and width of driveways. If agreement is not reached, the City shall construct pavement to the width where the curb and gutter would have been constructed, but install an asphalt berm in place of curb, gutter and sidewalk.
- f. The City shall not participate in District formation for improvements to private streets.
- g. The City's financial participation in District formation for improvements to public alleys shall be limited to utility relocation, replacement of existing improvements and all engineering, inspection and administrative services. Public alleys are defined as right-of-way dedicated to or accepted by the City as a public roadway, or dedicated to another public agency and acquired by the City, which generally provides secondary access to the adjoining properties.

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along the sides or rear of such properties.

3. Right of Way Issues:

- a. It is desirable for the City to have the standard 56 feet width right of way for construction of full street improvements on both sides of a two-way street; however, at the sole discretion of the City Manager (or designee), the acceptable right of way width for construction of street improvements may be reduced on a project-by-project basis to a minimum of 46 feet.
- b. If existing street right is less than 46 feet, right of way acquisition will be required. Property owners within the proposed District boundaries must unanimously agree to dedicate sufficient right of way to meet this requirement to the City at no cost to the City in order for District formation to proceed. The City will not pay for right of way acquisition or undertake condemnation proceedings under this policy.

4. Deferrals

In accordance with Municipal Code Sections 12.24.040 through 12.24.130, property owners who construct improvements on their properties above a specific value are required to construct infill street improvements. They may apply for a deferral on constructing such improvements based on the existing conditions of the surrounding area. If the deferral application is approved, the property owner must sign an agreement with the City, which is secured through a lien on the property, by payment of a cash deposit or other method approved by Council on an individual basis.

- a. If the deferral is secured by a lien, the lien or portion of the lien associated with the deferral of construction of infill street improvements to be installed and financed through an Assessment District will be released after formation of such District including such property has been accepted as complete by the City Council and/ or City Manager. This property will be assessed for the special benefit received by such property from the improvements to be financed through the new District in accordance with applicable sections of the California Streets and Highways Code.
- b. If the deferral is secured by a cash bond covering the cost of curb, gutter and sidewalk, such bond plus the interest that has or should have accumulated since the date of payment will be applied as a credit to be subtracted from the portion of District costs allocated to the property. This will only apply to the amount paid to cover the cost of the portion of the public street or public alley to be installed and financed through the District.
- c. After formation of the District and construction of all facilities is complete, it will be determined if the current owners of the properties with cash bond deferrals are eligible to receive refunds. The portion of the cash bond associated with infill improvements for the

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<p>street or alley installed and financed through the District will be determined and added to the interest which the City has or would have earned on this amount from the quarter when the deposit was made to the quarter when the construction contract was awarded. The amount payable by the property owner under the District will be subtracted from the cash bond plus interest. If the resulting difference is positive, such difference shall be refunded to the property owners.</p> <p>d. Should the provisions of Section 4, <u>Deferrals</u>, conflict with the provisions of a Deferral Agreement properly executed by the City designee and the property owner prior to approval of this Council Policy, the Deferral Agreement will govern.</p> <p>5. <u>Customary Financial Participation in Assessment District Financing</u> The following shall be the policy for City and property owner participation for areas that qualify for City participation in Assessment District formation:</p> <p>a. The City will pay for the following costs for non-corner lots through the City's Capital Improvement Program:</p> <ol style="list-style-type: none"> <li>i. All engineering, inspection and administrative services necessary to form the Assessment District and design and construct the improvements;</li> <li>ii. Relocation of all public improvements found to be in conflict with the proposed street improvement construction. Such conflicting improvements shall include, but not be limited to: street lights, traffic signal standards, drainage structures, fire hydrants, other utilities, etc.;</li> <li>iii. Resurfacing and/ or reconstruction of the existing paved roadway where needed;</li> <li>iv. -Replacement of private improvements outside the existing public road right-of-way</li> </ol> <p>b. The property owner will pay for the following costs for non-corner lots:</p> <ol style="list-style-type: none"> <li>i. All construction costs not itemized in 6a. above including, but not limited to, curb, gutter and sidewalk, driveway aprons, and additional paved surfaces;</li> <li>ii. Repair or replacement and relocation of existing private improvements encroaching on the existing road right-of-way</li> </ol> <p>c. For corner properties where both sides of the property are missing full street improvements, the following improvements will be paid by the City in addition to the items listed in 6a. above. Note that the front lot line shall be defined as the shorter of the two adjacent street lot lines and the side lot line shall be defined as the longer of the two.</p> <ol style="list-style-type: none"> <li>i. Curb, gutter and sidewalk, pedestrian ramp and pavement located between the curb return at the front lot line and the curb return at the side lot line</li> <li>ii. Curb, gutter and sidewalk and pavement located along half the parcel's side lot length</li> </ol> <p>d. For dual frontage lots where both sides of the property are missing full street improvements, the following improvements will be paid by the City in addition to the items listed in 6a</p>			

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<p>above. The property owner is responsible for paying costs itemized in 6b. for the front side. Dual frontage lots are defined as lots having frontage on two parallel or approximately parallel streets, one of which may be a public alley.</p> <ul style="list-style-type: none"> <li>i. Install pavement (if non-existent) for the roadway adjacent to the parcel's entire rear lot line;</li> <li>ii. Resurface and/ or reconstruct the roadway adjacent to the parcel's entire rear lot frontage if needed.</li> </ul> <p>6. <u>Property Owner Financing</u> At the discretion of Council, City may offer financing of the property owners' share at a maximum of seven percent interest for a maximum period of ten years, for Assessment Districts formed under either the 1911 Block Act or the Municipal Improvement Act of 1913. Based on the amount to be financed in a particular District and the prevailing interest rate offered by lending institutions and City rate of return on investment, the City may decide to offer, with Council approval, a lower interest rate and/ or a shorter maximum repayment period.</p>			
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