

Resolution No.

Resolution Authorizing Expenditure of City Funds
To Complete Work On Piedmont Hills Underground Utility District

Whereas, the City has entered into a Contract with Valley Utility for construction work relating to the Piedmont Hills Underground Utility District (“District”); and

Whereas, unanticipated additional costs relating to such construction work have arisen, including costs relating to excavation of rock; and

Whereas, City has used all of the monies raised through the issuance of bonds for such construction work; and

Whereas, City has attempted to locate additional sources of funds to cover such additional construction costs, including donations from homeowners within the District; and

Whereas, it has become clear that in order to complete the construction work so that the overhead utility lines can be finally removed and transferred underground and the supporting poles removed, it will be necessary for the City Council to appropriate City funds to pay for the construction work pursuant to its Contract with Valley Utility; and

Whereas, the City Council recognizes that there is a clear and important public purpose in completing the construction work in the District to allow the undergrounding of utility lines as originally planned; and

Whereas, there is a specific and important public purpose in providing additional safety to the residents of Piedmont by removing the danger of having overhead live utility lines and poles falling across and blocking the public streets and sidewalks during a major earthquake, firestorm, major rainstorms and flooding or other calamitous events, which blockage of public streets and sidewalks can endanger human lives by preventing or impeding the ability of people to escape those dangerous circumstances; and

Whereas, there is an important public purpose in improving the beauty and appearance of the City by removal of unsightly utility poles and lines; and

Whereas, the City Council also realizes that there is an important public purpose served in appropriating the necessary funds to complete the construction work for the District in order to avoid exposing the City and its taxpayers to potentially valid legal claims from homeowners in the District, as well as potentially valid legal claims by Valley Utility, which could between them well exceed \$6,000,000, far in excess of the appropriation needed to complete such construction work; and

Whereas, the City Council also recognizes that appropriating the necessary funds now to complete the construction will serve an important public purpose of saving the taxpayers

substantial additional expenses which would probably occur if Valley Utility were to permanently cease work on the project due to lack of funding and the City were required to find a new contractor at a future date, probably at a cost far in excess of the amounts which are proposed for Valley Utility to complete the work now; and

Whereas, the City Council also acknowledges that such an appropriation by the City is contrary to the adopted policy of the City regarding undergrounding utilities, specifically that *“No General Fund monies shall be used to assist in the formation of a private undergrounding district except direct costs associated with the assessment of city owned property located within a private undergrounding district and indirect costs for staff time required to process undergrounding applications”* but still believes that the specific and important public purpose of completing a partially constructed project in the public streets requires a deviation from the existing policy; and

Whereas the City Council is committed to a full public review of the existing underground utility policy, the process for development of plans and bid specifications for further undergrounding projects, and the process for estimating costs related to such projects and is committed to avoiding the risk of any such appropriations in the future; and

Whereas the City Council has directed staff to prepare a report on these matters by April 2010 so that the City Council and the public can engage in appropriate measures to avoid risk to the City in the future; and

Whereas, while it is recognized that the completion of such construction work will benefit the individual homeowners in the District, this in no way diminishes the public purpose of the benefits that completion of such construction work will provide to all residents of Piedmont, most particularly the public safety benefits and substantial savings in expenditure of taxpayer’s funds that will be provided.

RESOLVED: That the Piedmont City Council finds that for the reasons set forth heretofore that the appropriation and expenditure of City funds for completion of the construction work on the Piedmont Hills Underground Utility District serves an important public purpose;

RESOLVED FURTHER: That the City Council hereby appropriates and authorizes the expenditure of up to \$_____ to be paid to Valley Utility to provide for completion of all construction work for the Piedmont Hills Underground Utility District.