

ORDINANCE NO. 2009-01

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE SALTON
COMMUNITY SERVICES DISTRICT, CALIFORNIA, DECLARING THE
RESULTS OF THE SEWER MAINTENANCE STANDBY CHARGE,
APPROVING THE ASSESSMENT ENGINEER'S REPORT, AND
DIRECTING THE LEVY OF THE STANDBY CHARGE**

WHEREAS, the BOARD OF DIRECTORS (the "Board) of the SALTON COMMUNITY SERVICES DISTRICT (the "District"), CALIFORNIA, initiated proceedings pursuant to California Health and Safety Code section 5471, California Government Code section 53753, and California constitution Article XIII D, section 4 (collectively the "Standby Charge Law") to prescribe and collect a sewer maintenance standby charge (the "Standby Charge") within that portion of the District's sewer service area commonly known as Salton City and Desert Shores (the "Sewer Service Area") as more particularly described in the diagram attached hereto as Exhibit A and by this reference incorporated herein as a part of this record; and

WHEREAS, the Board of Directors initiated such proceedings and declared its intention to prescribe and collect such Standby Charge on certain undeveloped properties within the Sewer Service Area for the purpose of funding the certain costs of maintenance, repairs, and replacement of facilities ("Maintenance") of the District sewer system (the "Sewer Improvements") which are necessary to make available sewer service to the identified properties within the Sewer Service Area; and

WHEREAS, on April 21, 2009, there was presented to the Board a report prepared by Koppel & Gruber Public Finance (the "Engineer") entitled Salton Community Services District Wastewater System Maintenance Standby Charge Engineer's Report (the "Engineer's Report") containing:

- A. A description of the Maintenance of the Sewer Improvements to be funded from the proceeds of the proposed Standby Charge.
- B. An estimate of the costs of the Maintenance of the Sewer Improvements proposed to be financed from the proceeds of the Standby Charge.
- C. The proposed Standby Charge to finance the total amount of the costs and expenses for the proposed Maintenance of the Sewer Improvements to be prescribed and collected from the properties subject to such Standby Charge in proportion to the special benefits to be received by such parcels from such Maintenance of the Sewer Improvements.
- D. A diagram showing the Sewer Service Area to be subject to the Standby Charge.

E. The proposed method and formula of assessing the costs and expenses of the Maintenance of the Sewer Improvements to the properties which will specially benefit from such Maintenance of the Sewer Improvements; and

WHEREAS, on April 21, 2009, the Board of Directors adopted Resolution No. 2009-4-1 preliminarily approving the Engineer's Report, declaring its intention to prescribe and collect the Standby Charges as proposed in the Engineer's Report, and further declaring its intention to have such Standby Charges collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, its general taxes; and

WHEREAS, at the time and place fixed for such public hearing, the Engineer submitted the final Engineer's Report, which has been made a part of the record of these proceedings and is on file in the office of the Secretary of the District; and

WHEREAS, by the adoption of Resolution No. 2009-4-1, the Board of Directors also (a) set the time and place for conducting a public hearing for the purpose of hearing protests to the proposed Standby Charge; and (b) ordered that the record owner of each parcel proposed to be assessed receive notice of the public hearing (the "Notice") and have the right to submit a ballot ("Standby Charge Ballot") in favor of or in opposition to the Standby Charge proposed to be levied on such parcel; and

WHEREAS, Notices of such hearing accompanied by Standby Charge Ballot materials were regularly mailed in the time, form, and manner required by the Standby Charge Law and as evidenced by a certificate on file with the transcript of these proceedings; and,

WHEREAS, the Board of Directors did conduct the public hearing at the time and place as specified in the Notice and did hear and consider all objections and protests, if any, to the proposed Standby Charge; and

WHEREAS, following the close of the public hearing, the Standby Charge Ballots timely received were tabulated in accordance with the Sewer Standby Charge Law; and

WHEREAS, the District Secretary has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Standby Charge Ballots Submitted (the "Certificate of the Tabulation Official"), a copy of which is attached hereto as Exhibit B and by this reference incorporated herein and made a part of this record, which reflects the results of the tabulation of the Standby Charge Ballots; and

WHEREAS, at this time, based upon the Certificate of Tabulation Official, this Board of Directors determines that the Standby Charge Ballots received by the District in favor of the proposed Standby Charge and weighted as required by the Standby Charge Law exceed the Standby Charge Ballots received in opposition to the Standby Charge and similarly weighted and, therefore, a majority protest pursuant to the Standby Charge Law does not exist; and

WHEREAS, this Board of Directors is now satisfied with the Standby Charge and all matters contained in the final Engineer's Report as submitted, a copy of which is attached hereto as Exhibit C and by this reference incorporated herein and made a part of this record; and

WHEREAS, the Board of Directors finds the Standby Charge as exempt from the California Environmental Quality Act (Public Resources Code Section 21000 and following) ("CEQA") pursuant to section 15723 of the State CEQA guidelines because it constitutes a rate or other charges for the purpose of operating and maintaining the Sewer Improvements;

NOW, THEREFORE, the Board of Directors of the Salton Community Services District, California, ordains as follows:

1. **Recitals.** The Board of Directors hereby finds and determines that the above recitals are all true and correct.

2. **Engineer's Report.** The Board of Directors hereby approves the final Engineer's Report as submitted by the Engineer.

3. **Standby Charge Ballot Tabulation.** The Standby Charge Ballots submitted in favor of the Standby Charges and weighted as required by the Standby Charge Law exceed the Standby Charge Ballots submitted in opposition to the Standby Charges and similarly weighted and it is therefore determined that a majority protest pursuant to Standby Charge Law does not exist.

4. **Confirmation Of Standby Charges and Special Benefits Received.** Based upon the Engineer's Report and the testimony and other evidence received at the public hearing, it is hereby determined that:

A. The Engineer's Report identifies all properties within the boundaries of the Sewer Service Area that receive a special benefit from the Maintenance of the Sewer Improvements.

B. The proportionate special benefit to be derived by each identified parcel within the Sewer Service Area from the Maintenance of the Sewer Improvements has been determined in relationship to the entirety of the Maintenance costs of the Sewer Improvements.

C. The proportionate special benefit derived by each parcel proposed to be assessed has been determined in relationship to the entirety of the cost of the Maintenance of the Sewer Improvements.

D. No Standby Charge is proposed to be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit to be conferred on such parcel from the Maintenance of the Sewer Improvements.

E. Only special benefits have been assessed by the Standby Charges.

F. There are no parcels within the Sewer Service Area which are owned or used by any agency, as such term is defined in California Constitution article XIII D, the State of California, or the United States.

G. The Standby Charges, as now filed in the Engineer's Report and diagram of the Sewer Service Area, are hereby confirmed. The Standby Charges contained in the Engineer's Report are hereby levied and approved.

H. Beginning July 1, 2010, and each July thereafter, the Standby Charges may be annually increased by the greater of (i) the Annual Consumer Price Index for All Urban Consumers ("CPI") in the San Diego County Area, as determined by the U.S. Bureau of Labor Statistics, or (ii) five percent (5%) (the "Assessment Range Formula").

5. **Notice of Exemption.** The Board of Directors finds the Standby Charge as exempt from CEQA and hereby directs staff to file, or cause to be filed, a Notice of Exemption pursuant to the State CEQA Guidelines with the County Clerk of the County of Imperial within five (5) working days of the date of adoption of this resolution.

6. **Publication.** This ordinance shall be published before the expiration of 15 days after its passage in accordance with California Government Code section 25124.

Introduced at an adjourned regular meeting of the Board of Directors of the Salton Community Services District, Salton City, California, on June 17, 2008, @ 1:00 p.m.

Enacted at an adjourned regular meeting of the Board of Directors of the Salton Community Services District, Salton City, California, held on the 23rd day of June, 2009, @ 1:30 p.m. by the following vote:

AYES: Ms. Shirley Palmer, Mr. Robert Butler, Mr. Darryel Neal & Dr. Jerry Medders.

NOES: Mr. James Barrett

ABSENT:

ABSTAIN:

Dr. Jerry Medders, President of the
Board of Directors

ATTEST:

Rosa Reagles, Secretary of the Board of Directors

Exhibit A
Diagram of Sewer Service Area

Exhibit B

**CERTIFICATE OF TABULATION OFFICIAL
AND STATEMENT OF STANDBY CHARGE BALLOTS SUBMITTED**

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO) ss.
 SALTON COMMUNITY SERVICES DISTRICT)

I HEREBY CERTIFY as the duly authorized tabulation official appointed by the Board of Directors of the Salton Community Services District, DOES HEREBY CERTIFY that pursuant to the provisions of article XIII D of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), that I did tabulate the standby charge ballots timely submitted in the standby charge ballot proceedings pertaining to Salton Community Services District Sewer Maintenance Standby Charges (the “Standby Charges”).

I FURTHER CERTIFY that this Statement of Standby Charge Ballots Received shows the ballots submitted in favor of the Standby Charges and the Standby Charge ballots submitted in opposition to the Standby Charges, each total weighted according to the financial obligation of the affected properties for which the Standby Charge ballots were submitted.

Total assessment ballots distributed	
Total assessment ballots received	
Assessment ballots received <u>in favor</u> of the proposed assessment:	
Weighted value of assessment ballots received <u>in favor</u> of the proposed assessment	
Assessment ballots received <u>in opposition</u> to the proposed assessment:	
Weighted value of assessment ballots received <u>in opposition</u> to the proposed assessment	

This certification is executed this _____ day of _____, 2009 in Salton City, California.

 Rosa Reagles
 Secretary
 Salton Community Services District

Exhibit C
Engineer's Report