

**MEETING DATE:** 05/07/2012

**AGENDA ITEM:** Introduction of an Ordinance Amending Chapter 15.01, Benefit Assessment District, of the Culver City Municipal Code by Amending Sections 15.01.025 Through 15.01.105 and Adding a New Section 15.01.110 Relating to Benefit Assessment Districts.

**ATTACHMENTS**

|   |           | <u><b>Pages</b></u> |
|---|-----------|---------------------|
| 1 | Ordinance | 1-32                |

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1                   C. An assessment levied pursuant to this Chapter is not subject to  
2 the Special Assessment Investigation, Limitation and Majority Protest Act of  
3 1931 (Cal. Sts. & High. Code Div. 4 (commencing with § 2800)).

4                   **§15.01.045 DEFINITIONS.**

5                   The definitions contained in this Section govern the construction of this  
6 Chapter unless the context otherwise requires. The definition of a word or  
7 phrase applies to any variants thereof.

8                   **BENEFIT ASSESSMENT DISTRICT.** An assessment district formed  
9 pursuant to this Chapter.

10                  **CLERK.** The City Clerk of the City of Culver City.

11                  **ENGINEER.** The City Engineer of the City of Culver City or any other  
12 person designated by the City Council as the engineer for the purposes of  
13 this Chapter, including any officer, board, or employee of the City or any  
14 private person or firm officially employed by the City as engineer for the  
15 purposes of this Chapter.

16                  **FISCAL YEAR.** The twelve-month period commencing on July 1 and  
17 ending on the following June 30.

18                  **IMPROVEMENT.** The acquisition, installation, construction,  
19 operation, maintenance, or servicing or incidental expenses of any public  
20 works which the City is otherwise authorized to construct, install, maintain, or  
21 service, ~~including all improvements as defined by Cal. Sts. & High. Code §§~~  
22 ~~5101 and 22525.~~ the whole or any portion, either in length or in width, of any  
23 one or more of the streets, places, public ways, or property, easements, or  
24 rights-of-way, open or dedicated to public use, and any property for which an  
25 order for possession prior to judgment has been obtained, to be improved by  
26 or have constructed therein, over, or thereon, either singly or in any  
27 combination thereof, any of the following:  
28

1                   (a) The grading or regrading, the paving or repaving, or the  
2 graveling or regravelling thereof.

3                   (b) The construction or reconstruction of sidewalks,  
4 crosswalks, steps, safety zones, platforms, seats, statuary, fountains,  
5 and other ornamental structures, parks and parkways, recreation  
6 areas, including all structures, buildings, and other facilities necessary  
7 to make parks and parkways and recreation areas useful for the  
8 purposes for which intended, culverts, bridges, walls, curbs, gutters,  
9 tunnels, subways, or viaducts.

10                  (c) Sanitary sewers or instrumentalities of sanitation,  
11 together with the necessary outlets, cesspools, manholes, catch  
12 basins, flush tanks, septic tanks, disposal plants, connecting sewers,  
13 ditches, drains, conduits, tunnels, channels, or other appurtenances.

14                  (d) Drains, tunnels, sewers, conduits, culverts, and channels  
15 for drainage and/or stormwater and flood control purposes, together  
16 with necessary outlets, cesspools, manholes, catch basins, flush  
17 tanks, septic tanks, disposal plants, connecting sewers, ditches,  
18 drains, conduits, channels, and appurtenances, including systems  
19 designed to remove trash or other contaminants from storm water.

20                  (e) Poles, posts, wires, pipes, conduits, tunnels, lamps, and  
21 other suitable or necessary appliances for the purpose of lighting the  
22 streets, places, or public ways of the City or property or rights-of-way  
23 owned by the City, or for the purpose of furnishing electricity and  
24 electric service, telephone service or similar utility service to property  
25 within the City.

26                  (f) The conversion of existing overhead electric and  
27 communication facilities to underground locations.

1                   (g) Pipes, hydrants, and appliances for fire protection.

2                   (h) Wells, pumps, dams, reservoirs, storage tanks, channels,  
3 tunnels, conduits, pipes, hydrants, meters, or other appurtenances for  
4 supplying or distributing a domestic water supply.

5                   (i) Mains, services, pipes, fittings, valves, regulators,  
6 governors, meters, drips, drains, tanks, ditches, tunnels, conduits,  
7 channels, or other appurtenances for supplying or distributing a  
8 domestic or industrial gas supply.

9                   (j) Retaining walls, embankments, buildings, and any other  
10 structures or facilities necessary or suitable in connection with any of  
11 the work mentioned in this Section.

12                   (k) The installation, replacement or planting of landscaping,  
13 trees, shrubs, or other ornamental vegetation.

14                   (l) Compaction of land, change of grade or contours,  
15 construction of caissons, retaining walls, drains, and other structures  
16 suitable for the purpose of stabilizing land.

17                   (m) The installation or construction of public lighting facilities,  
18 including, but not limited to street lighting and traffic signals.

19                   (n) The installation or construction of any facilities which are  
20 appurtenant to any of the foregoing or which are necessary or  
21 convenient for the maintenance or servicing thereof, including, but not  
22 limited to, clearing, removal of debris, the installation or construction of  
23 water, stormwater, irrigation, drainage, or electrical facilities.

24                   (o) The installation of park or recreational improvements,  
25 including, but not limited to, all of the following:

1                                   (1) Land preparation, such as grading, leveling,  
2 cutting and filling, sod, landscaping, irrigation systems, sidewalks, and  
3 drainage.

4                                   (2) Lights, playground equipment, play courts, and  
5 public restrooms.

6                                   (p) The acquisition, construction, maintenance or servicing  
7 of any community center, municipal auditorium or hall, or similar public  
8 facility for the indoor presentation of performances, shows, stage  
9 productions, fairs, conventions, exhibitions, pageants, meetings,  
10 parties, or other group events, activities, or functions, whether those  
11 events, activities, or functions are public or private.

12                                  (q) All other work that may be deemed necessary to  
13 maintain, service and improve the whole or any portion of those  
14 streets, places, public ways, property, parks, easements, or rights-of-  
15 way owned by the City including for the security of public property such  
16 as security cameras or other equipment and security patrols for the  
17 deterrence of damage to public property.

18                                  (r) All other work auxiliary to any of the above, which may be  
19 required to carry out the above.

20                                  (s) The acquisition of land or right-of-ways for any of the  
21 improvements above.

22                                  **INCIDENTAL EXPENSES.** Expenses incurred in conjunction with  
23 benefit assessment districts, ~~and include~~ including:

24                                   1. The cost of preparation of the engineer's report, including  
25 plans, specifications, estimates, diagram and assessment.

26                                   2. The cost of printing, advertising, and the giving of  
27 published, posted, and mailed notices.  
28

1                   3.     Compensation payable to the eCounty for collection of  
2 assessments.

3                   4.     Compensation of any engineer, consultant or attorney  
4 employed to render services in proceedings pursuant to this part  
5 Chapter, as well as City staff time and any expenses.

6                   5.     Any other expenses incidental to the construction or  
7 installation of the improvements or to the maintenance and servicing thereof.

8                   6.     Any expenses incidental to the issuance of bonds or  
9 notes pursuant to Section 15.01.095.

10                  7.     Costs associated with any ballot proceedings held for the  
11 approval of a new or increased assessment.

12                  **INCLUDING.** Including without limitation, unless otherwise expressly  
13 limited.

14                  **MAINTAINENCE.** "Maintain" or "maintenance" means the furnishing  
15 of services and materials for the ordinary and usual maintenance, operation,  
16 and servicing of any improvement, including:

17                         (a) Repair, removal, rehabilitation or replacement of all or any  
18 part of any improvement.

19                         (b) Providing for the life, growth, health, and beauty of  
20 landscaping, including cultivation, irrigation, trimming, spraying,  
21 fertilizing, or treating for disease or injury.

22                         (c) The removal of trimmings, rubbish, debris, and other solid  
23 waste.

24                         (d) The cleaning, sandblasting, and painting of walls and other  
25 improvements to remove or cover graffiti.

26                  **NOTICE.** Any resolution, order, or other instrument authorized or  
27 required by this Chapter to be published, posted, or mailed subject to the  
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1 requirements of the Proposition 218 Omnibus Implementation Act beginning  
2 with Gov't Code § 53750 and Article XIID of the California State Constitution.

3 **PROPERTY OWNER.** Any person shown as the owner of land on the  
4 last equalized eCounty assessment roll; provided when such person is no  
5 longer the owner, then any person entitled to be shown as owner on the next  
6 eCounty assessment roll if such person is known to the City. Where land is  
7 subject to a recorded written agreement of sale, any person shown therein as  
8 purchaser shall be considered as a property owner if such person is known to  
9 the City.

10 **PUBLIC AGENCY.** The State or Federal governments, city, city and  
11 eCounty, eCounty, or other public corporation or body formed pursuant to  
12 charter, general law, or special act, for the performance of governmental or  
13 proprietary functions within limited boundaries, and any department, board,  
14 commission, independent agency, or instrumentality of any of the foregoing.

15 **PUBLIC PLACES.** Any publicly owned property, right-of-way, or  
16 leasehold interest either in use in the performance of a public function or to  
17 be used in the performance of a public function, upon which the installation of  
18 the improvements herein will take place, including any public building, street,  
19 highway, road, alley, lane, boulevard, ~~part~~ park, or parkway.

20 **PUBLIC UTILITY.** Any public utility subject to the jurisdiction of and  
21 regulated by the Public  
22 Utilities Commission.

23 **SERVICES.** ~~Obtaining, furnishing, operating, and maintaining~~  
24 ~~equipment and qualified personnel for paramedic rescue, emergency~~  
25 ~~medical, hazardous material emergency response, ambulance services and~~  
26 ~~any other paramedic services relating to the protection of lives and~~

1 property. "Service" or "servicing" includes the cost of maintaining any facility  
2 used to provide any service and the furnishing of:

3 (a) Electric current or energy, gas, or other illuminating agent  
4 for any public lighting facilities or for the lighting or operation of any  
5 other improvements.

6 (b) Water for the irrigation of any landscaping, the operation  
7 of any fountains, or the maintenance of any other improvements.

8 (c) Other utility services as applicable.

9 **TREASURER.** The City Treasurer of the City of Culver City.

10 **ZONE.** All territory within an assessment district which will receive  
11 substantially the same degree of benefit from the improvements.

12 **§15.01.050 NOTICE.**

13 A. The Clerk shall give notice or cause the same to be given  
14 in accordance with this Chapter.

15 B. Published notice shall be made one time pursuant to Cal.  
16 Gov't Code § 6061.

17 ~~C. A mailed notice of hearing shall not be required upon the~~  
18 ~~formation of a new benefit assessment district, or annexation,~~  
19 ~~detachment, dissolution or consolidation of an existing district, as~~  
20 ~~provided in this Chapter if the Clerk publishes a notice thereof in~~  
21 ~~accordance with Cal. Gov't Code § 6066.~~

22 ~~CD.~~ Publication of notice of hearing shall be completed at  
23 least ten (10) days prior to the date of hearing specified therein.

24 ~~DE.~~ Posted notices, ~~other than of hearings for the formation~~  
25 ~~of a benefit assessment district or for the annexation of territory to an~~  
26 ~~existing district,~~ shall be made by posting upon any official bulletin  
27 board customarily used by the City for the posting of notices.  
28

1 F. ~~Posted notices of hearings for the formation or~~  
2 ~~consolidation of a benefit assessment district or for the annexation of~~  
3 ~~territory to an existing district shall be headed "Public Notice" in letters~~  
4 ~~at least one (1) inch in height. The notices, not less than three (3) in~~  
5 ~~all, shall be posted at intervals of not more than three hundred (300)~~  
6 ~~along all streets within the proposed benefit assessment district or~~  
7 ~~within the territory proposed to be annexed to or consolidated with an~~  
8 ~~existing district, as the case may be. Posting of notice of those~~  
9 ~~hearings shall be completed at least ten (10) days prior to the date of~~  
10 ~~the hearing specified herein.~~

11 G. ~~Notwithstanding Subsection (f) above notices of hearings~~  
12 ~~for the formation or consolidation of a benefit assessment district or for~~  
13 ~~the annexation of territory to an existing district need not be posted~~  
14 ~~when such notices are mailed to all property owners, whether resident~~  
15 ~~or nonresident, within the district as provided herein.~~

16 EH. Mailed notice shall be sent by first-class mail and  
17 deposited, postage prepaid, in the United States mail and shall be  
18 deemed given when so deposited. Mailed notice to property owners  
19 shall be given by mailing notice to those property owners as the term is  
20 defined herein.

21 FI. Mailed notice may be waived by ~~dispensed with as to all~~  
22 ~~property owners who have filed a written request for inclusion within an~~  
23 ~~existing or proposed assessment district.~~

24 G. Prior to levying a new or increased assessment the City  
25 Council shall cause notice of the public hearing to be given pursuant to  
26 § 53753 of the Government Code.

27 **§15.01.005 REPORTS.**  
28

1           A.     The engineer shall prepare reports in accordance with this  
2 Chapter.

3           B.     1.—A report shall be prepared for each fiscal year for which  
4 assessments are to be levied and collected to pay the costs of the  
5 improvements or services, or both, described in the report.

6                     ~~2.—Describe the improvements or services, or both.~~

7  
8           C.     A report shall refer to the benefit assessment district by its  
9 distinctive designation, specify the fiscal year to which the report applies and,  
10 with respect to that year, shall contain:

11                     1.     Plans and specifications for the improvements or  
12 services, or both.

13                     2.     An estimate of the costs for the improvements or  
14 services, or both.

15                     3.     A diagram for the benefit assessment district.

16                     4.     An assessment of the estimated costs of the  
17 improvements or services, or both.

18                     5.     If bonds or notes will be issued pursuant to Section  
19 15.01.095, an estimate of their principal amount.

20  
21           D.     The plans and specifications shall show and describe existing  
22 and proposed improvements, and existing and proposed services. The plans  
23 and specifications need not be detailed, but shall be sufficient if they show or  
24 describe the general nature, location, and extent of the improvements or  
25 services, or both. If the benefit assessment district is divided into zones, the  
26 plans and specifications shall indicate the class and type of improvements or  
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1 services to be provided for each such zone. The plans or specifications may  
2 be prepared as separate instruments and either or both may be incorporated  
3 in the diagram as a combined instrument.

4 E. The estimate of costs of the improvements or services, or both,  
5 for the fiscal year shall contain estimates for the following:

6 1. The total improvement costs, being the total costs of  
7 constructing or installing all proposed improvements and of  
8 maintaining and servicing all existing and proposed improvements,  
9 including all incidental expenses. This may include a reserve which  
10 shall not exceed the estimated costs of maintenance and servicing to  
11 December 10 of the fiscal year, or whenever the City expects to  
12 receive its apportionment of special assessments and tax collections  
13 from the County, whichever is later.

14 ~~2. The total services costs, being the total costs of training~~  
15 ~~for the paramedics and emergency medical personnel, the obtaining,~~  
16 ~~furnishing, operating and maintaining paramedic equipment or~~  
17 ~~apparatus, paying the salaries and benefits to paramedic and~~  
18 ~~emergency medical personnel, and all expenses incidental thereto.~~

19 23. The amount of any surplus or deficit in the improvement  
20 fund to be carried over from a previous fiscal year.

21 34. The amount of any contributions to be made from  
22 sources other than assessments levied hereunder.

23 4. The amount, if any, of the voter approved annual inflator  
24 to be applied to the maximum rates. This amount shall comply with the  
25

1 requirements of the Proposition 218 Omnibus Implementation Act  
2 beginning with Gov't Code § 53750 and Article XIID of the California  
3 State Constitution.

4 5. The amount, if any, of the annual installment for the  
5 assessment for the estimated cost of any improvements or services, or  
6 both, to be levied and collected in annual installments.

7 6. The net amount to be assessed upon assessable lands  
8 within the benefit assessment district, being the total costs, as referred  
9 to in Subsections E.1., ~~and E.2.~~ of this Section, which have been  
10 increased or decreased by any of the amounts referred to in  
11 Subsections E.2., E.3., E.4. or E.5. of this Section.

12 F. The diagram for a benefit assessment district shall show the  
13 exterior boundaries of the district, the boundaries of any zones within the  
14 district and the lines and dimensions of each lot or parcel of land within the  
15 district with each lot identified by a distinctive number or letter. The diagram  
16 may refer to the County Assessor's maps for a detailed description of the  
17 lines and dimensions of any lots or parcels, in which case those maps shall  
18 govern for all details concerning the lines and dimensions of such lots or  
19 parcels.

20 G. The lines and dimensions of each lot or parcel of land shown on  
21 the diagram shall conform to those shown on the ~~e~~County ~~a~~Assessor's maps  
22 for the fiscal year to which the report applies. The diagram may refer to the  
23 ~~e~~County ~~a~~Assessor's maps for a detailed description of the lines and  
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1 dimensions of any lots or parcels, in which case those maps shall govern for  
2 all details concerning the lines and dimensions of such lots or parcels.

3 H. The assessment shall refer to the fiscal year to which it applies  
4 and shall:

5 1. State net amount, determined in accordance with  
6 Subsection 15.01.055 E.6., to be assessed upon assessable lands  
7 within the benefit assessment district.

8 2. Describe each assessable lot or parcel of lands within  
9 the district.

10 3. Assess the net amount upon all assessable lots or  
11 parcels of lands within the district by apportioning that amount among  
12 the several lots or parcels in proportion to the estimated benefits to be  
13 received by each lot or parcel from the improvements as defined in this  
14 Chapter or services or both.

15 I. The assessment may refer to the eCounty assessment roll for a  
16 description of the lots or parcels, in which case that roll shall govern for all  
17 details concerning the description of the lots or parcels.

18 J. The net amount to be assessed upon lands within a benefit  
19 assessment district may be apportioned by any formula or method which  
20 fairly distributes the net amount among all assessable lots or parcels in  
21 proportion to the estimated benefits to be received by each such lot or parcel  
22 from the improvements.

23 K. The diagram and assessment may classify various areas within  
24 a benefit assessment district into different zones where, by reason of  
25

1 variations in the nature, location, and extent of such improvements or  
2 services, or both, various areas will receive differing degrees of benefit from  
3 the improvements. A zone shall consist of all territory which will receive  
4 substantially the same degree of benefit from the improvements or services,  
5 or both.

6 **§15.01.060 FORMATION OF THE BENEFIT ASSESSMENT DISTRICT.**

7  
8 A. Proceedings for the formation of a benefit assessment district  
9 shall be initiated by resolution. The Resolution of Initiation shall:

10 1. Propose the formation of a benefit assessment district  
11 pursuant to this Chapter.

12 2. Describe the improvements or services or both.

13 3. Describe the proposed district, and including a distinctive  
14 designation for the district. The descriptions need not be detailed but shall be  
15 sufficient if they enable the engineer to generally identify the nature, location,  
16 and extent of the improvements and the location and extent of the benefit  
17 assessment district.

18  
19 4. Order the engineer to prepare and file a report in  
20 accordance with § 15.01.055.

21  
22 B. Upon completion, the engineer shall file a report with the Clerk for  
23 submission to the City Council. ~~The City Council may approve the report as~~  
24 ~~filed, or it may modify the report in any particular and approve it as modified.~~

25 C. After the approval filing of the engineer's report with the City  
26 Clerk, ~~either as filed or as modified~~, the City Council shall adopt a resolution  
27 of intention. The Resolution of Intention shall:  
28

1                   1.       Declare the intention of the City Council to order the  
2                   formation of a benefit assessment district and to levy and collect  
3                   assessments pursuant thereto.

4                   2.       Approve the report of the engineer. The City Council may  
5                   approve the report as filed, or it may modify the report in any particular  
6                   and approve it as modified.

7                   32.     Generally describe the improvements or services or both.

8                   43.     Refer to the proposed district by its distinctive designation  
9                   and indicate the general location of the district.

10                  54.     Refer to the report of the engineer, on file with the Clerk,  
11                  for a full and detailed description of the improvements or services, or both,  
12                  the boundaries of the benefit assessment district, and any zones therein, and  
13                  the proposed assessments upon assessable lots and parcels of land within  
14                  the district.

15                  6.       If debt is to be issued, declare the necessity for the  
16                  indebtedness, the purpose for which the debt is to be incurred, the amount of  
17                  the proposed debt, specify the rate or maximum rate of interest which debt  
18                  shall bear, and maximum number of years of the debt.

19                  75.     Give notice of, and fix a time and place for, a hearing by  
20                  the City Council on the question of the formation of the assessment district  
21                  and the levy of the proposed assessment.

22                  D.     The Clerk shall give notice of hearing by causing the ~~r~~Resolution  
23                  of ~~i~~ntention, or summary thereof, to be published, posted, and mailed as  
24                  provided in § 15.01.050.

1 E. Prior to the conclusion of the hearing, any interested person may  
2 file a written protest with the Clerk, or having previously filed a protest, may  
3 file a written withdrawal of that protest. A written protest shall state all  
4 grounds of objection. A protest by a property owner shall contain a  
5 description sufficient to identify the property owned by him.

6 F. The City Council shall hold the hearing at the time and place fixed  
7 in the ~~r~~Resolution of ~~i~~ntention and in any order continuing the hearing. All  
8 interested persons shall be afforded the opportunity to hear and be heard.  
9 The City Council shall consider all oral statements and all written protests and  
10 communications made or filed by any interested persons.

11 G. During the course or upon the conclusion of the hearing, the City  
12 Council may order changes in any of the matters provided in the engineer's  
13 report, including changes of the improvements or services, or both, the  
14 boundaries of the proposed assessment district and any zones therein, and  
15 the proposed diagram or proposed assessment. The City Council may,  
16 without further notice, order the exclusion of territory from the proposed  
17 district, but shall not order the inclusion of any additional territory within the  
18 district except upon written request by property owner for the inclusion of his  
19 property or upon the giving of mailed notice of hearing to affected property  
20 owners upon the question of the inclusion of their property in the district.

21 H. Upon the conclusion of the hearing, the City Council shall  
22 determine whether a majority protest exists in accordance with the  
23 requirements of the Proposition 218 Omnibus Implementation Act beginning  
24 with Gov't Code § 53750 and Article XIID of the California State Constitution.  
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1 For that purpose, the extent of the territory of the proposed benefit  
2 assessment district shall be adjusted in accordance with any orders excluding  
3 territory from or including additional territory within the district.

4 I. ~~Proceedings for the formation of the benefit assessment district~~  
5 ~~shall be abandoned if there is a majority protest unless, by a four fifths (4/5)~~  
6 ~~vote of all members of the City Council, the protest shall be overruled. A~~  
7 ~~majority protest exists if, upon the conclusion of the hearing, written protests~~  
8 ~~filed and not withdrawn represent property owners owning more than fifty~~  
9 ~~percent (50%) of the area of assessable lands within the proposed district.~~  
10 ~~Proxies shall not be allowed.~~

11  
12 IJ. If a majority protest has not been found filed, or, if filed, has been  
13 overruled, the City Council may adopt a resolution ordering the improvements  
14 or services, or both, and the formation of a benefit assessment district and  
15 confirming the diagram and assessment, either as originally proposed or as  
16 changed. The adoption of the resolution shall constitute the levy of an  
17 assessment for the fiscal year referred to in the assessment.

18  
19 J. Upon the passage of the resolutions provided for in this Section,  
20 the City Clerk shall record the diagram and a notice of assessment as  
21 provided for in Cal. Sts. & High. Code § 3114, whereupon the assessment  
22 shall attach as a lien upon the property assessed, as provided in the Cal. Sts.  
23 & High. Code § 3115.

24  
25 K. Whenever a railroad, gas, water or electric utility right-of-way is  
26 included within the benefit assessment district, the railroad, gas, water or  
27 electric utility right-of-way or electric line right-of-way shall be included in the  
28

1 initiating resolution, the engineer's report, and the resolution of intention. The  
2 railroad, gas, water, or electric utility right-of-way or electric line right-of-way  
3 shall be assessable only if, and to the extent, it is found it will benefit from the  
4 installation and maintenance of the proposed improvement. Any railroad, gas,  
5 water, or electric utility right-of-way or electric line right-of-way so assessed  
6 shall be subject to the same penalties, and the same procedure and sale, in  
7 the event of delinquency as other parcels in the benefit assessment district.  
8 In determining whether or not the railroad, gas, water, or electric utility right-  
9 of-way or electric line right-of-way benefits, its use as a right-of-way for a  
10 railroad, gas, water, or electric utility shall be presumed to be permanent.  
11

12 **§ 15.01.065 CHANGES IN ORGANIZATION.**

13 A. The City Council, either in a single proceeding or by  
14 separate proceedings, may order one (1) or any combination of the following  
15 changes of organization:  
16

17 1. The annexation of territory to an existing district  
18 formed pursuant to this Chapter.

19 2. The detachment of territory from an existing district  
20 formed pursuant to this Chapter.

21 3. The dissolution of an existing district formed  
22 pursuant to this Chapter.

23 4. The consolidation into a single district of two (2) or  
24 more existing districts formed pursuant to this Chapter.  
25

26 B. Proceedings for changing organization may be:  
27  
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1                   1.       Undertaken subsequent to or concurrently with  
2       proceedings for the formation of the benefit assessment district  
3       hereunder. Any or all such proceedings may be conditioned upon the  
4       completion of any or all such proceedings.

5                   2.       Combined with proceedings for the formation of a  
6       benefit assessment district hereunder. In such case, any of the  
7       several resolutions, reports, notices, or other instruments  
8       provided for in this Chapter may be combined into a single  
9       document.  
10

11                  C.       Except as otherwise provided herein, proceedings for a  
12       ~~charge or~~ change of organization shall be initiated, conducted and  
13       completed in substantial compliance with the procedure provided for  
14       the formation of a benefit assessment district.  
15

16                  D.       In annexation proceedings, the resolutions, report, notices  
17       of hearing and right of majority protests shall be limited to the territory  
18       proposed to be annexed. Notice of hearing shall be provided as in §  
19       15.01.050 governing the formation of the benefit assessment district.  
20       Mailed notice may be ~~dispensed with as to~~ waived by all property  
21       owners who shall have filed a written request for annexation of their  
22       property.  
23

24                  E.       If all of the owners of property within the territory proposed  
25       to be formed into a benefit assessment district, or proposed to be  
26       annexed to an existing district, have given written consent to the  
27       proposed formation, consolidation, or annexation, the territory may be  
28

1 formed into a benefit assessment district, or annexed to or  
2 consolidated with an existing district, as the case may be, without  
3 notice and hearing or filing an engineer's report, or both.

4 ~~F. In the event an ordinance of the city requires the~~  
5 ~~installation of any improvements described in this part by a subdivider,~~  
6 ~~the resolution of intention may state the territory owned by the~~  
7 ~~subdivider comes under the terms of such ordinance, and order that~~  
8 ~~such territory be formed into a benefit assessment district, or annexed~~  
9 ~~to an existing district, without notice and hearing or filing of an~~  
10 ~~engineer's report, or both.~~

11  
12 FG. In detachment proceedings, the resolutions, report,  
13 notices of hearing, and right of majority protest shall be limited to the  
14 territory proposed to be detached. City Council may dispense with the  
15 resolution initiating proceedings and the engineer's report, and may  
16 initiate proceedings by the adoption of the Resolution of Intention  
17 pursuant to Subsection 15.01.060 C. Mailed Notice may be waived by  
18 all property owners who shall have filed a written request for  
19 detachment of their property. ~~The City Council may dispense with~~  
20 ~~posted and mailed notice of hearing.~~

21  
22 GH. The City Council may establish policies and procedures  
23 for property owners to request the dissolution of an assessment district  
24 whose proceeds are not pledged to repay debt service on any bonds  
25 or notes issued pursuant to Section 15.01.095. In dissolution  
26 proceedings, the City Council may dispense with the resolution  
27  
28

1 initiating proceedings and engineer's report and may initiate dissolution  
2 proceedings by the adoption of a resolution of intention. Mailed Notice  
3 may be waived by all property owners who shall have filed a written  
4 request for the dissolution of the assessment district. The City Council  
5 ~~may dispense with posted and mailed notice of hearing. If the City~~  
6 ~~Council orders the dissolution of a benefit assessment district, any~~  
7 ~~monies in the improvement fund for the district shall be transferred to~~  
8 ~~the general fund of the City.~~

9  
10 H. Notwithstanding any other provision of law, the single  
11 benefit assessment district resulting from a consolidation under this  
12 Chapter shall assume all assets and liabilities of the districts  
13 consolidated and shall be entitled to all of the revenues to which each  
14 of the separate districts would have been entitled had such districts not  
15 been so consolidated.  
16

17 **§ 15.01.070 LEVY OF ANNUAL ASSESSMENTS.**

18 A. This Section shall apply to all annual assessments levied after  
19 the formation of a benefit assessment district, except annual assessments to  
20 pay the principal of, and interest on, previously issued bond debt or notes.

21 B. Proceedings shall be taken pursuant to this Section for any fiscal  
22 year during which an assessment is to be levied and collected within an  
23 existing district.  
24

25 C. The City Council shall adopt a resolution which shall generally  
26 describe any proposed new, or changes in existing, improvements or  
27  
28

1 services, or both, and order the engineer to prepare and file a report in  
2 accordance with § 15.01.055.

3 D. Upon completion, the engineer shall file a report with the Clerk  
4 for submission to the City Council. ~~The City Council may approve the report,~~  
5 ~~as filed, or may modify the report in any particular and improve it as modified.~~

6 E. After approval the filing of the engineer's report, ~~either as filed or~~  
7 ~~as modified,~~ the City Council shall adopt a resolution of intention. The  
8 ~~Resolution of Intention~~ shall:  
9

10 1. Declare the intention of the City Council to levy and collect  
11 assessments within the assessment district for the fiscal years stated therein  
12 or as described in Section 15.01.090. ~~except that it shall not impose an~~  
13 ~~assessment upon a Federal or State governmental agency or another local~~  
14 ~~agency.~~

15 2. Approve the report of the engineer. The City Council may  
16 approve the report, as filed, or may modify the report in any particular and  
17 approve it as modified so long as the rates to be levied do not increase above  
18 the voter approved maximum rates adjusted by an inflationary formula, if any.  
19

20 32. Generally describe the existing and proposed  
21 improvements or services, or both, and any substantial changes proposed to  
22 be made in the existing improvements or services, or both.

23 43. Refer to the benefit assessment district by its distinctive  
24 designation and indicate the general location of the district.

25 54. Refer to the report of the engineer, on file with the Clerk,  
26 for a full and detailed description of the improvements or services, or both,  
27  
28

1 the boundaries of the benefit assessment district and any zones therein, and  
2 the proposed assessments upon assessable lots and parcels of land within  
3 the district.

4 6. If debt is to be issued, declare the necessity for the  
5 indebtedness, the purpose for which the debt is to be incurred, the amount of  
6 the proposed debt, specify the rate or maximum rate of interest which debt  
7 shall bear, and maximum number of years of the debt.

8  
9 75. Give notice of the time and place for the hearing by the  
10 City Council on the levy of the proposed assessment.

11 F. The date, hour and place of the hearing is fixed as the date, hour,  
12 and place of any regular meeting ~~in June~~, as specified in the ~~Resolution~~ of  
13 ~~Intention~~ adopted pursuant to Subsection 15.01.070 E.

14 G. The Clerk shall give notice of hearing by either of the following  
15 methods: ~~causing the resolution of intention to be published.~~

16  
17 1. If the assessments are to be levied in the same or lesser  
18 amounts than the voter approved maximum rates as adjusted by an  
19 inflationary formula, if any, the clerk shall give notice by causing a  
20 summary of the ~~Resolution~~ of ~~Intention~~ to be published pursuant to  
21 Section 6061 of the Government Code and Section 22553 of the  
22 Streets and Highways Code.

23  
24 2. If the assessments are to be increased over the voter  
25 approved maximum rates as adjusted by an inflationary formula, if any,  
26 the clerk shall cause notice to be given pursuant to Section 53753 of  
27 the Government Code.  
28

1 H. Any interested person may, prior to the conclusion of the hearing,  
2 file a written protest with the Clerk or, having previously filed the protest, may  
3 file a written withdrawal of that protest. A written protest shall state all  
4 grounds of objection. A protest by a property owner shall contain a  
5 description sufficient to identify the property owned by him.

6 I. The City Council shall hold the hearing at the time and place  
7 specified in the Resolution of Intention and in any order continuing the  
8 hearing. All interested persons shall be afforded the opportunity to hear and  
9 be heard. The City Council shall consider all oral statements and all written  
10 protests made or filed by any interested person. The City Council may  
11 continue the hearing from time to time, provided, that no continuance shall be  
12 made to a date subsequent to the following July 31, without the prior consent  
13 of the County Auditor.

14 J. During the course or upon the conclusion of a hearing, the City  
15 Council may order changes in any of the matters provided in the report,  
16 including changes in the improvements or services, or both, and any zones  
17 within the district, and the proposed diagram or proposed assessment so long  
18 as the changes do not result in an increase of the rates above the voter  
19 approved maximum rates adjusted by an inflationary formula, if any.

20 K. Upon the conclusion of the hearing, the City Council may adopt a  
21 resolution confirming the diagram and assessment, either as originally  
22 proposed or as changed by it. If there is a majority protest against the  
23 increased levy of an annual assessment, the proposed increase shall be  
24

1 abandoned. The adoption of the resolution shall constitute the levy of an  
2 assessment for the fiscal year referred to in the assessment.

3 **§15.01.075 COMPLETION OF PROCEEDINGS.**

4 A. Hearings upon the formation of a benefit assessment district,  
5 upon a change of organization for an existing district, or upon the levy of  
6 annual assessments after the formation of a district shall be concluded in a  
7 resolution confirming a diagram and an assessment shall be adopted not  
8 later than:

9 1. July 31 of the fiscal year during which the assessments are  
10 to be collected on the eCounty assessment roll; or

11 2. Such later date, ~~not beyond the third Monday in August~~, as  
12 the eCounty aAuditor may authorize.

13 B. Immediately after the adoption of any resolution confirming a  
14 diagram and assessment ~~and by not later than the third Monday in August~~,  
15 the Clerk shall file the ~~diagram and assessment~~, or a certified copy thereof,  
16 with the eCounty aAuditor.

17 **§15.01.080 COLLECTION OF ASSESSMENTS.**

18 A. After the filing of the ~~diagram and assessment~~, the eCounty  
19 aAuditor shall enter on the eCounty assessment roll opposite each lot or  
20 parcel of land the amount assessed thereupon, as shown in the assessment.

21 B. The assessments shall be collected at the same time and in the  
22 same manner as eCounty taxes are collected, and all laws providing for the  
23 collection and enforcement of eCounty taxes shall apply to the collection and  
24 enforcement of the assessments, except that assessment levied pursuant to  
25 Subsection 15.01.0950.A. for which bonds are to be issued may be paid  
26 within thirty (30) days after the date of the Public Hearing ~~the county auditor~~  
27 ~~has entered the assessments on the county assessment roll~~, at which time  
28

1 the engineer shall make and file with the treasurer a complete list of all  
2 unpaid assessments in the manner required by Cal. Sts. & High. Code §  
3 8620.

4 C. After collection by the eCounty, the net amount of the  
5 assessments shall be paid to the City Treasurer, after deduction of any  
6 compensation due to the eCounty for collection.

7 **§ 15.01.085 FINANCIAL PROVISIONS.**

8 A. Upon receipt of monies representing assessments collected by  
9 the eCounty, the City Treasurer shall deposit the monies to the credit of an  
10 assessment fund for the benefit assessment district for which they were  
11 collected, and the money shall be expended only for the improvements or  
12 services, or both, authorized for such district.

13 B. If there is a surplus or a deficit in the assessment fund of a  
14 district at the end of any fiscal year, the surplus or deficit shall be carried  
15 forward to the next annual assessment to be levied within such district and  
16 applied as a credit or debit, as the case may be, against the next annual  
17 assessment. This amount shall be adjusted based upon the required  
18 balance in the reserves and may not exceed the amount that can be  
19 collected based upon the voter approved maximum rates as adjusted by any  
20 applicable inflator.

21 C. If there is a deficit in the assessment fund of a district during any  
22 fiscal year, the City Council, from any available and unencumbered funds of  
23 the City is not obligated to but, may provide for the following adjustments to  
24 funds or services:

- 25 1. A contribution to the assessment fund.
- 26
- 27
- 28

1                   2. A temporary advance to the assessment fund and direct  
2                   that the advance be repaid from the ~~next~~ future annual assessments  
3                   levied and collected within the district.

4                   3. Reduce levels of service provided to accommodate  
5                   available funds.

6                   D. The City Council may accept contributions from any source  
7                   toward payment of the costs of the improvements or services. The City  
8                   Council, at any time either before or after the confirmation of the assessment,  
9                   may provide for contributions toward payment of such costs from the funds of  
10                  the City. All contributions shall be deposited in the assessment fund of the  
11                  district for which the contribution was provided.

12                  E. All contributions authorized prior to confirmation of an  
13                  assessment shall be deducted from the total assessment costs to be  
14                  assessed within the district. Temporary advances shall not be so deducted.

15                  **§ 15.01.090 ANNUAL INSTALLMENT ASSESSMENTS.**

16                  A. The City Council may, by resolution, determine that the estimated  
17                  costs of any proposed improvements are greater than can be conveniently  
18                  raised from a single annual assessment and order that the estimated costs  
19                  shall be raised by an assessment levied and collected in installments over a  
20                  period to be defined in the resolution pursuant to Section 15.01.070.E. ~~not to~~  
21                  ~~exceed five (5) fiscal years; provided that such annual assessment may be~~  
22                  ~~levied and collected in installments over a period not to exceed thirty (30)~~  
23                  ~~years for the costs of improvements other than the costs of maintenance and~~  
24                  ~~servicing.~~

25                  B. The resolution adopted pursuant to Subdivision A. shall generally  
26                  describe the proposed improvements, set forth the estimated costs thereof,  
27                  specify the number of annual installments and the fiscal years during which  
28

1 they are to be collected, and fix or determine the maximum amount of each  
2 annual assessment.

3 C. After adoption of a resolution providing for annual installment  
4 assessments, the engineer, in preparing the reports required by this Chapter,  
5 shall include in the estimate an assessment for each fiscal year specified in  
6 the resolution the total amount of the annual installment fixed or determined  
7 for such year.

8 D. If a resolution providing for annual installment payments has  
9 been adopted, in the resolution or subsequent thereto, the City Council may  
10 do any or a combination of the following:

11 1. Provide for the accumulation of monies collected from the  
12 annual installments in the improvement fund until there are sufficient  
13 monies to pay all or part of the costs of the improvement described in  
14 the resolution.

15 2. Provide for a temporary advance to the improvement fund  
16 from any available and unencumbered funds of the City to pay all or  
17 part of the costs of the improvements described in the resolution, and  
18 direct that the advance be repaid from the annual installments levied  
19 and collected during the fiscal years designated in the resolution.

20 3. Borrow an amount necessary to finance the estimated  
21 costs of the proposed improvements. The amount borrowed, except  
22 for the amount borrowed pursuant to § 15.01.095 shall not exceed the  
23 amount of revenue estimated to be raised from the annual  
24 assessments ~~levied over five (5) fiscal years.~~

25 **§ 15.01.095 BONDS.**

26 A. The City Council may, by resolution, determine and declare that  
27 bonds shall be issued to finance the estimated acquisition, construction and  
28

1 installation costs of the proposed capital improvements, other than costs and  
2 of maintenance of and servicing, under either the Improvement Bond Act of  
3 1915, Cal. Sts. & High. Code Div. 10, commencing with § 8500 or the Marks-  
4 Roos Local Bond pooling Act of 1985, Cal. Gov't Code Div. 7, commencing  
5 with § 6584. Either Cal. Sts. & High. Code Div. 10, (commencing with § 8500)  
6 or Cal. Gov't Code Div. 7 (commencing with § 6584), as the case may be,  
7 shall govern all proceedings relating to the issuance of those bonds.  
8 Alternatively, the City may determine and declare that notes shall be issued  
9 for the same purposes for which bonds may be issued. The maximum term  
10 to maturity of any notes issued shall not exceed 10 years.

11 B. The resolution pursuant to Subsection A. of this Section shall  
12 generally describe the proposed improvements, other than the costs of  
13 maintenance and servicing, specify the number of annual installments and  
14 the fiscal years during which they are to be collected, and fix or determine the  
15 maximum amount of each annual installment necessary to retire the bonds or  
16 any notes issued. The amount of debt service to retire the bonds or notes  
17 shall not exceed the period of the bonds or notes ~~amount of revenue~~  
18 ~~estimated to be raised from annual assessments over thirty (30) years.~~

19 C. Notwithstanding any other provision of this chapter,  
20 assessments levied to pay the principal of, and interest on, any bond or note  
21 issued pursuant to this Section, shall not be reduced or terminated if doing so  
22 would interfere with the timely retirement of the debt.

### 23 **§ 15.01.100 ASSESSMENT OF PUBLIC PROPERTY.**

24 Parcels within a benefit assessment district that are owned or used by  
25 any public agency, the State of California or the United States shall not be  
26 exempt unless those parcels receive no special benefit. ~~Public property~~  
27 ~~owned by a public agency and in use in the performance of a public function~~  
28

1 shall not be subject to assessment unless the resolution of intention  
2 expressly provides that it should be assessed. If the resolution provides that  
3 public property shall be assessed, the City shall be liable for payment of all  
4 amounts so assessed. Any such amount shall be payable from the general  
5 fund of the City unless the resolution of intention designates some other fund.  
6 To the extent that any such amounts are paid by the public agency owning  
7 the public property, the City conducting the proceedings shall not be liable  
8 therefor.

9 **§ 15.01.105 PERFORMING THE WORK.**

10 A. The City Council, by contract or otherwise, shall provide for the  
11 performance of all work or services ordered by it pursuant to this Chapter.

12 B. The City Council may provide for the construction, installation, or  
13 ownership of any improvements, or for the furnishing of services by contract  
14 with a public agency or public utility. Any such contract shall conform to all  
15 laws applicable to the other public agency and to the City. Any contract with a  
16 public utility shall comply with all tariffs, rules, and rate schedules approved  
17 by the Public Utilities Commission.

18 C. The City Council may:

19 1. Provide for the acquisition, construction or installation of  
20 any improvements, purchase of equipment or furnishing of services  
21 authorized by this Chapter through proceedings taken pursuant to any  
22 other special assessment law, or any procedural regulation or law of  
23 the City; and

24 2. Provide for the operation, maintenance or servicing of such  
25 improvements or equipment, or continuation of services, through  
26 proceedings taken pursuant to this Chapter.

1                   D.       The proceedings referred to in Subsection C. may be taken  
2 separately or combined. If combined, any of the several resolutions, reports,  
3 notices or other instruments provided for in this Chapter may be combined  
4 with those provided for in the other proceedings.

5                   **SECTION 2.** Section 15.01.110 is hereby added to Chapter 15.01 of the  
6 Culver City Municipal Code as follows:  
7

8                   **§ 15.01.110 LIMITATIONS OF ACTIONS AND APPEAL.**

9                   The validity of an assessment levied under this Chapter for the  
10 purpose of raising revenue necessary to pay the debt service on bonds  
11 issued pursuant to Section 15.01.095 shall not be contested in any action or  
12 proceeding, unless the action or proceeding is commenced within 30 days  
13 after the initial assessment is levied. Any appeal from a final judgment in the  
14 action or proceeding shall be perfected within 30 days after the entry of  
15 judgment.  
16

17                   **SECTION 3.** Pursuant to Section 619 of the City Charter, this Ordinance  
18 shall take effect thirty (30) days after the date of its adoption. Pursuant to Sections 616  
19 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption,  
20 the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the  
21 Culver City News and shall post this Ordinance or a summary thereof in at least three  
22 places within the City.  
23

24                   **SECTION 4.** The City Council hereby declares that, if any provision, section,  
25 subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared  
26 invalid or unconstitutional by any final action in a court of competent jurisdiction or by  
27 reason of any preemptive legislation, then the City Council would have independently  
28

1 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases  
2 or words of this ordinance and as such they shall remain in full force and effect.

3

4 **APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

5

6

7

8

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ATTEST:

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11

MARTIN R. COLE, City Clerk

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A12-00225

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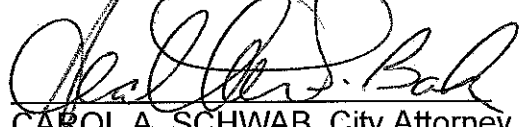
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\_\_\_\_\_, Mayor  
City of Culver City, California

APPROVED AS TO FORM:

  
CAROL A. SCHWAB, City Attorney

