

RESOLUTION NO. R-3-2001

A RESOLUTION MAKING A PROVISIONAL ORDER TO THE EFFECT THAT CERTAIN IMPROVEMENTS IN THE CITY SHALL BE ACQUIRED PURSUANT TO THE CONSOLIDATED LOCAL IMPROVEMENTS LAW TO BE KNOWN AS CITY OF LAS VEGAS, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 1473 - ANN ROAD (US-95 FREEWAY TO ALLEN LANE); AND CALLING A HEARING ON THE PROJECT.

Summary: Provisional Order Resolution

WHEREAS, the Las Vegas City Council of the City of Las Vegas (the "City Council" and "City", respectively) of the County of Clark, in the State of Nevada, is of the opinion that the interest of the City requires the creation of a special improvement district pursuant to the Consolidated Local Improvements Law and the acquisition and improvement of a Street Project as defined in NRS 271.225, a Sanitary Sewer Project as defined in NRS 271.200 and a Water Project as defined in NRS 271.250 (collectively, the "Project"); and

WHEREAS, the City Engineer, together with the Engineering Integration Division, the City and certain consulting engineers (collectively, the "Engineer") have filed at the office of the City Clerk, in connection with the Project and with the proposed City of Las Vegas, Nevada, Special Improvement District No. 1473 - Ann Road (US-95 Freeway to Allen Lane) the following:

(A) Preliminary plans and specifications showing a typical section of the contemplated improvements, the type or types of material, approximate thickness and wideness for the Project;

(B) A preliminary estimate of the total cost of the Project and of each type of construction, the estimate being made in a lump sum or by unit prices, and further, including in the total estimate, without limiting the generality of the foregoing, the advertising, appraising, engineering, legal, interest on interim warrants, if any, discount on any bonds, printing, and such other expenses, as in the judgment of the Engineer, are necessary or essential to the completion of such work or improvement, and the payment of the cost thereof;

(C) An assessment plat or map, including an addendum thereto (designated as a "Preliminary Assessment Roll") showing the descriptions of the property to be assessed, showing the area to be assessed, the market values, a description of each lot, tract or parcel of land, the

name and address of each owner, the amounts of estimated preliminary assessments, the amount of maximum benefits (and corresponding market value increases) estimated to be assessed against each lot, tract or parcel of land in the assessment area, such estimate, being based on the method of assessment set forth herein (an equitable adjustment having been made for assessments to be levied against wedge or "V" or other irregularly-shaped lots or lands, or for any lot, tract or parcel of land not specially benefited for other reasons in direct proportion to its front footage, so that assessments according to benefits will be equal and uniform); and

(D) The Engineer's Report to the City Council on Benefits, as to the method of determining benefits and corresponding market value increases and as to whether the creation of the District is economically sound and feasible; and

WHEREAS, the City Council has examined the improvement plans, assessment plat, including the addendum thereto, typical section of contemplated improvements, preliminary estimate of the cost, estimate of maximum benefits, and Engineer's Report, so filed with the City Clerk, and has found, and does hereby declare the same to be satisfactory in all respects; and

WHEREAS, the City Council has also determined, and does hereby determine, that all of the assessable property in the City which is specially benefited by the improvements to be acquired in the District No. 1473 - Ann Road (US-95 Freeway to Allen Lane) and only the property which is so specially benefited, is included in the District; and

WHEREAS, the City Council has determined and does hereby determine that the exception provided by NRS 271.306(2)(a) does exist with respect to the costs of the improvements in Ann Road as more than one-half of the total costs will be paid with money derived from sources other than the levy of special assessments.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAS VEGAS OF THE COUNTY OF CLARK, IN THE STATE OF NEVADA; THAT:

Section 1. The special improvement district shall be designated "City of Las Vegas, Nevada, Special Improvement District No. 1473 - Ann Road (US-95 Freeway to Allen Lane)", (the District").

Section 2. This Resolution shall be known as, and may be cited by, the short title "Special Improvement District 1473 Provisional Order Resolution" (the "Resolution").

Section 3. The City Council hereby ratifies the preparation by the Engineer of and does accept the plans and specifications, assessment plat (including the addendum and exhibits thereto), typical section of the contemplated improvements, preliminary estimate of cost, the Engineer's Report on Benefits, and the estimate of maximum benefits (and corresponding market value increases) to be assessed against each lot, tract, or parcel of land in the assessment area.

Section 4. The Project shall be acquired at an estimated preliminary total cost of \$421,517.83, including engineering, legal, and incidental expenses, as more particularly hereinafter set forth and as described in the plans and specifications herein accepted, reference to which is hereby made and which are available for public inspection at the office of the City Clerk at 400 Stewart Avenue, Las Vegas, Nevada 89101.

Section 5. The City Council has also determined and does hereby declare as follows:

1. The public convenience and necessity require the creation of the District and the construction of the Project.
2. The creation of the District is economically sound and feasible.
3. The market value of each of the benefited lots, tracts and parcels of land in the District will be increased by an amount directly attributable to the Project for which the assessment is made.

Section 6. The boundaries of the District, within which is located the Project and the lots, tracts and parcels of land to be assessed, shall be as designated in the form of notice set forth in Section 7 of this Resolution. It is estimated that the total cost shall be apportioned as follows:

Estimated Amount of Special Assessments	Amount Available of Other Sources	Total Cost
\$ 421,517.83	\$ 22,909,777.85	\$ 23,331,295.68

The amounts to be assessed shall be made upon all tracts benefited in proportion to the special benefits received, as more fully described in the form of notice set forth in Section 7 of this Resolution.

Section 7. On Wednesday, February 7, 2001, at 1:00 p.m. at the City Council Chambers, 400 Stewart Avenue, in Las Vegas, Nevada (i.e., a time at least 20 days after the adoption of this Resolution) the City Council will consider the ordering of the Project and will hear all complaints, protests, and objections that may be made in writing, and filed as hereafter provided, or made verbally at the hearing, concerning the same, by the owners of land to be assessed or any person interested. The owners of the property to be assessed or any other persons interested therein may file a written protest or objection, and may appear before the City Council and be heard as to the propriety and advisability of making such improvements, as to the estimated cost thereof, as to the manner of payment therefor, as to the amount thereof to be assessed against the property to be improved, and as to the amount of special benefits and corresponding market value increases. Twenty (20) days' notice in writing of such time and place shall be given to such property owners, postage prepaid, as first-class mail, to each of such property owners at his last-known address, the names and addresses of such property owners to be obtained from the records of the County Assessor or from such other sources as the City Clerk deems reliable. Such notice shall also be given to the owner and each tenant of mobile home parks (if any) located on any tracts to be assessed. Any such list of names and addresses may be revised from time to time, but such list need not be revised more frequently than at twelve-month intervals. Notice shall also be given by posting in three public places, at or near the site of the Project, at least twenty (20) days prior to the hearing. Proof of mailing and posting shall be made by the affidavit of the City Clerk or Deputy City Clerk, such proof to be filed with the City Clerk, provided that failure to mail such notice or notices shall not invalidate any assessment nor any other of the proceedings hereunder. Notice of the time and place of the hearing shall also be given by publication in the Las Vegas Review Journal, a daily newspaper published in Las Vegas and of general circulation in City of Las Vegas, Nevada, once each week for three (3) consecutive weekly publications, by three (3) weekly insertions, the first publication in such newspaper to be at least fifteen (15) days prior to the date of the protest hearings. Not less than fourteen (14) days shall intervene between the first publication and the last publication in such newspaper. Service by publication shall be verified by the affidavit of the publishers and filed with the City Clerk. The proof of publication, the proof of mailing and the proof of posting shall be maintained in the records of the office of

the City Clerk until all the assessments appertaining to the District have been paid in full principal, interest and any penalties or collection costs. Notice shall be in substantially the following form:

(Form of Notice)

NOTICE OF HEARING ON PROPOSED PROJECT AND ASSESSMENTS WITHIN
THE PROPOSED CITY OF LAS VEGAS, NEVADA SPECIAL IMPROVEMENT
DISTRICT NO. 1473 - ANN ROAD (US-95 FREEWAY TO ALLEN LANE)

NOTICE IS HEREBY GIVEN to the property owners within the proposed City of Las Vegas, Nevada, Special Improvement District No. 1473 - Ann Road (US-95 Freeway to Allen Lane) and to all interested persons that:

The Las Vegas City Council of the City of Las Vegas (the "City Council" and "City", respectively) of the County of Clark in the State of Nevada, has provisionally ordered the acquisition of a Street Project, Sewer Project and a Water Project (collectively, the "Project") as follows:

Ann Road (BOTH SIDES) - from the easterly right-of-way line of US-95 Freeway easterly along Ann Road to the westerly right-of-way line of Allen Lane. (100 feet of right-of-way)

Except as shown on the preliminary plans and specifications now on file in the office of the City Clerk and in the office of the Special Improvement District in Las Vegas, Nevada, the character of such Project shall be described more particularly as follows: The improvements on Ann Road will consist of the grading, regrading, graveling, and asphalt paving as necessary for at least four (4) travel lanes, raised medians with turn pockets at the signalized or future signalized intersections, "L" type curb and gutter, sidewalks, commercial and/or residential driveway approaches, and streetlights. The streetlights will be installed at the back of the sidewalk at appropriate intervals. At the request of the owners of property in the District (filed with the office of the Special Improvement District prior to September 29, 2000) water and sewer laterals will be installed from the existing or proposed potable water and sanitary sewer mains in Ann Road to such property. Sewer lines within the District are owned and maintained by the City. The City will require that properties connecting to the sewer line pay a connection fee to the City at the time of hookup. THE CITY HAS NO OBLIGATION TO PROVIDE WATER OR SEWER SERVICE TO ANY PROPERTY WITHIN THE DISTRICT REGARDLESS OF WHETHER THE CITY COUNCIL PROCEEDS WITH ALL OR ANY PART OF THE PROJECT.

The preliminary estimated total cost of the Project and the amount to be assessed is as follows:

Estimated Amount of Special Assessments	Amount Available of Other Sources	Total Cost
\$ 421,517.83	\$ 22,909,777.85	\$ 23,331,295.68

The amounts to be assessed for the improvements in the District will be levied upon all tracts in the District, i.e., upon all abutting tracts in proportion to the special benefits derived (as shown by the estimated benefits and corresponding market value increases); provided, however, that an equitable adjustment will be made for assessments to be levied against wedge or "V" or other irregularly-shaped lots or lands, if any, and for any lot, tract or parcel not specially benefited by the improvements so that assessments according to benefits are to be equal and uniform. The portion of the costs to be assessed against, and the maximum amount of benefits estimated (and corresponding market value increases) to be conferred upon, each piece or parcel of property in the District is stated in the assessment plat and addendum thereto designated as the preliminary assessment roll. In cases of wedge or "V" or any other irregularly-shaped tracts, the amount apportioned thereto shall be in proportion to the special benefits thereby derived.

Each property owner will be assessed for the cost of an eight foot (8') wide pavement section, curb, gutter, sidewalks, driveway approaches and streetlights, where not already existing. The assessments for pavement, curb, gutter, sidewalk and streetlights will be on a front foot method.

The owners of property who elect to have water or sewer laterals installed will be assessed on a per service or unit lot method. The potable water and sanitary sewer main extensions will be levied on a front foot method. Commercial and residential driveway approaches will be assessed using a square-foot method.

The boundaries of the District shall be the exterior boundary of each parcel of property fronting a street to be improved by the improvements.

All persons interested are hereby advised that the preliminary plans and specifications (showing a typical section of the contemplated improvements) and the assessment plat including a preliminary assessment roll; a preliminary estimate of the total cost, a description of the lots, tracts and parcels of land to be assessed and the portion of the cost to be assessed thereagainst, and the amount of maximum

benefits (including the corresponding market value increases) estimated to be conferred on each piece or parcel of property, the Engineer's report as to the method of determining benefits, and all proceedings in the premises, are on file in the office of the Special Improvement District office, Department of Public Works, and at the office of the City Clerk at 400 Stewart Avenue, Las Vegas, Nevada and can be seen and examined by any property owner, or other interested persons, during regular business hours.

It is anticipated that there will be grade or elevation changes in connection with the acquisition of the Project (such grade or elevation changes are substantial and are as shown on the preliminary plans and specifications) all persons interested are hereby referred to the preliminary plans and specifications which relate to the details of the Project.

On Wednesday, February 7, 2001, at 1:00 p.m., in the City Council Chambers at 400 Stewart Avenue, in Las Vegas, Nevada, the City Council will consider the ordering of the proposed Project, and will hear all complaints, protests and objections that may be made in writing and filed as hereafter provided, or made verbally at the hearing, concerning the same, by the owner of any tract to be assessed or any person interested. The owners of the property to be assessed, or any other person interested therein, may appear before the City Council and be heard as to the propriety and advisability of acquiring and improving such Project, as to the estimated cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed, the benefits estimated to be conferred against each tract, and the corresponding market value increases expected for each tract, in the District.

The City Council requests that any property owner or interested person wishing to make protest or objection, make such protest or objection in writing at the office of the City Clerk at least three (3) days before the time set for such hearing, i.e., on or before February 2, 2001. On the date and at the place fixed for such hearing, any and all property owners interested in the Project may, by written complaint, protest or objection, present their views to the City Council, or present them orally, and the City Council may adjourn the hearing from time to time. Any person filing a written protest or objection as hereinabove provided shall have the right within thirty (30) days after the City Council has finally passed on such protest or objection to commence an action or suit in any court of competent jurisdiction to correct or set

aside such determination, but thereafter all actions or suits attacking the validity of the proceedings and the amount of benefits shall be perpetually barred.

A PROPERTY OWNER'S ONLY CHANCE TO PRESENT EVIDENCE TO DEMONSTRATE THAT HIS OR HER ESTIMATED ASSESSMENTS ARE EXCESSIVE WILL BE AT THE PUBLIC HEARING; AND A PROPERTY OWNER WILL NOT BE ABLE TO PRESENT ANY ADDITIONAL EVIDENCE UPON SUBSEQUENT APPEAL TO DISTRICT COURT.

A person should object to the formation of the District, using the procedure outlined in this notice, if his support for the District is based upon a statement or representation concerning the Project that is not contained in the language of this notice.

If a person objects to the amount of maximum benefits estimated to be assessed or to the legality of the proposed assessments in any respect:

- (1) He is entitled to be represented by counsel at the hearing;
- (2) Any evidence he desires to present on these issues must be presented at the hearing; and
- (3) Evidence on these issues that is not presented at the hearing may not thereafter be presented in an action brought pursuant to NRS 271.315.

The City Council of the City of Las Vegas has determined that one-half or more of the total cost of the improvements shall be paid with monies derived from other than the levy of special assessments on Ann Road and accordingly may take advantage of the exception stated in paragraph (a) of subsection (2) of NRS 271.306 (which exception is that the City, at its option, may proceed with the improvements in the District regardless of the percentage of protests).

After such hearing, the City Council shall determine the advisability of undertaking each part of the Project, and, if it determines to proceed shall determine the kind and character of such improvements so to be made, and shall authorize the advertising for bids for the doing of such work and the furnishing of all necessary materials with the lowest and best bidder or bidders. The City Council may determine not to proceed with all or any part of the Project regardless of the protests or objections.

After the determination of the actual cost of the Project, assessments shall be levied in accordance with the laws of the State of Nevada. In no event shall the assessments exceed the

estimated maximum special benefits to the property assessed or the reasonable market value of the property being assessed (as determined by the City Council). The City Council shall provide that the assessments may be payable without interest and without demand during a specified cash payment period and the City Council shall provide that the assessments may be paid at the election of the owner in twenty (20) substantially equal semi-annual installments of principal. The City Council shall also provide the time and terms of payment of such assessments, and shall fix penalties (at a rate not exceeding two percent (2%) per month) to be collected upon delinquent payments. The City Council shall also provide the rate of interest on unpaid installments of assessments which will not exceed the maximum rate of interest permitted under the statutes of the State; and if assessment bonds are issued, such rate will not exceed by more than one percent (1%) of the highest rate of interest on the assessment bonds for the District. The effective interest rate on the assessment bonds of the District will not exceed the statutory maximum rate, i.e., will not exceed by more than three percent (3%) the "Index of Twenty Bonds" which shall have been most recently published before the time bids for the bonds are received, or at the time a negotiated offer for the sale of such bonds is accepted. If bonds are not sold for the District the City Council shall by resolution establish the rate of interest on unpaid and deferred installments of assessments.

By order of the City Council of the City of Las Vegas, Nevada, and dated January 3, 2001.

BARBARA JO RONEMUS, City Clerk

(End of Form of Notice)

Section 8. That all action, proceedings, matters and things heretofore taken, had and done by the City and the officers thereof (not inconsistent with the provisions of this Resolution) concerning the City of Las Vegas, Nevada, Special Improvement District No. 1473 - Ann Road (US-95 Freeway to Allen Lane) be, and the same hereby are, ratified, approved and confirmed.

Section 9. That the officers of the City are directed to effectuate the provisions of this Resolution.

Section 10. That all resolutions, or parts thereof, in conflict herewith are hereby repealed to the extent of such inconsistency.

Section 11. That the invalidity of any provision of this Resolution shall not affect any remaining provisions hereof.

Section 12. That the City Council has determined, and does hereby declare, that this Resolution shall be in effect after its passage in accordance with the law.

PASSED, ADOPTED AND APPROVED, January 3, 2001.


OSCAR B. GOODMAN, Mayor

Attest:


BARBARA JO RONEMUS, City Clerk

Approved as to Form:

12/21/00 
Date Deputy City Attorney