

RESOLUTION NO. 10014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, DETERMINING THAT PORTIONS OF ELLIOT ROAD SHOULD BE IMPROVED BEFORE THE DEVELOPMENT OF THE ADJACENT PROPERTY; ORDERING PORTIONS OF ELLIOT ROAD BE IMPROVED BEFORE THE DEVELOPMENT OF ADJACENT PROPERTY; ORDERING A PORTION OF THE EXPENSES TO BE ASSESSED AGAINST THE ADJACENT PROPERTY; PROVIDING AND APPROVING THE MANNER OF ASSESSING THE PROPERTY; AND PROVIDING THE MANNER OF COLLECTING THE UNPAID ASSESSMENTS AT THE TIME OF DEVELOPMENT.

WHEREAS, pursuant to the provisions of Title 9, Chapter 6, of the Mesa City Code entitled "Subdivision Regulations", the owner of any property within the City of Mesa, at the time of the development of the property, is required to construct streets within and adjacent to the property; and

WHEREAS, pursuant to the provisions of A.R.S. Section 9-243 (B), the City of Mesa is authorized to order the improvements of streets prior to development of adjacent property and to assess certain costs of such improvements against the adjacent property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: Determination of Necessity as required by A.R.S. 9-243 (B): The City Council of the City of Mesa has determined that portions of Elliot Road beginning at Signal Butte Road and thence continuing west approximately 1600 feet plus or minus; is in need of improvements before the development of the adjacent property within the meaning of A.R.S. 9-243 (B), (See Exhibit "A" for location map).

Section 2: The City Council does hereby order that portions of Elliot Road as described in Section 1 of this Resolution be improved by installing standard arterial pavement, curb, gutter, sidewalks, and storm drainage improvements (collectively, the "Improvements"). The Improvements are shown on the final approved plans for this project titled "Signal Butte & Elliot Utility & Roadway Infrastructure, Roadway & Watermain Plans, City Project 10-601-002".

Section 3: Upon completion of the improvements, the actual cost of the Improvements shall be assessed against the property legally described below; provided, however, the assessment shall not exceed the limitations established in A.R.S. 9-243(B). The description of the property to be assessed (the "Property" or "Assessment District") is as follows:

Maricopa County Assessor's Parcel Number: 304-01-006F

(See Exhibit "A" for Property Location)

The South 250 feet of the North half of Section 11, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, except the West 55.00 feet and except the east 40.00 feet thereof;

Together with the South half of the Southeast quarter of Section 11, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, except that portion conveyed in document 1996-0853735 (304-01-009Y); and except the east 40.00 feet and the south 40.00 feet thereof; and except that portion conveyed in document 2010-0913856.

Together with the Southwest quarter of Section 11, Township 1 South, Range 7 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, except that portion conveyed in document 1999-0604317 (304-01-006D); and except the west 55.00 feet thereof.

Section 4: Upon the completion of the Improvements, the Superintendent of Streets shall assess upon and against the Property the amount of the cost as described in Section 3 of this Resolution.

Section 5: The assessments shall refer to this Resolution, shall state the total expense incurred by the City of Mesa in construction of the Improvements, the amount assessed against

the Property, the name of the owner, if known, and there shall be attached to the assessment a statement signed by the Superintendent of Streets and countersigned by the Mayor, which shall be in the following form: "By virtue hereof, I, ELIZABETH HUNING, Superintendent of Streets of the City of Mesa, Maricopa County, Arizona, by the authority vested in me pursuant to the provisions of A.R.S. Section 9-243, and by Resolution No. 10014 of the City of Mesa do hereby assess upon the property described in the foregoing assessment the amounts designated therein, and do declare that the total amount assessed for these Improvements as described in this Resolution is not greater than the actual expense incurred by the City of Mesa and complies with the limitations in A.R.S. 9-243(B)(1) and (2)."

Section 6: Upon completion of the Improvements, the Superintendent of Streets shall notify the City Council of such fact, and the City Council shall fix a time when it will hear and pass upon the assessment and their proceedings theretofore, which shall not be less than twenty (20) days thereafter. The City Council shall cause notice of the hearing to be given by five (5) publications in a daily newspaper published and circulated in the City, and shall cause notices of the time and place of the hearing to be mailed by first class mail at least twenty (20) days before the hearing date to all persons owning real property affected by the assessments as the names and addresses appear on the last certified tax roll for the State and County purposes. If no address appears for any person on the last certified tax roll, then no notice needs to be mailed to such person. The Superintendent of Streets shall make an affidavit of the mailing and shall recite therein that the persons to who notices were mailed constitute all persons whose names and addresses appear upon the tax roll as owning property within the assessment district, which affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed. Failure to receive notice shall not constitute any jurisdictional defect

invalidating any proceeding or assessment if notice has been sent pursuant to this section.

Section 7: The owners and all other persons directly interested in the Improvements or in the assessment who have any objection to the legality of the assessment or to any of the previous proceedings connected herewith, or who claim that the Improvements have not been performed according to the plans and specifications therefore, may, prior to the time fixed for the hearing, file a written notice briefly specifying the grounds of their objections. At the time fixed for the hearing or at any time not later than ten (10) days thereafter to which the hearing may be postponed, the City Council shall hear and pass upon the objections. The decision of the City Council shall be final and conclusive upon all person entitled to object as to all errors, informalities, and irregularities which the City Council might have remedied or avoided at any time during the progress of the proceedings.

Section 8: If the City Council finds that the amount assessed against the property in the assessment district exceeds the actual expense incurred by the City of Mesa for constructing the Improvements or does not comply with the assessment limitations in A.R.S. 9-243(B)(1) and (2), it may modify the assessments after hearing. It may also order that the assessments be recomputed if it finds error with the computations. When re-computing the assessment, the Superintendent of Streets shall again levy the assessment as instructed by the City Council, notwithstanding the fact that reduction of any assessment may cause a corresponding increase in other assessments.

Section 9: If assessments are modified and recomputed, the Superintendent of Streets shall modify in the same respect the original assessment and a duplicate of the recomputed assessment shall be recorded in lieu of the original assessment. If the assessments are not modified, the Superintendent of Streets shall record the original assessment.

Section 10: The amount assessed against the property shall become due when application of a building permit for development of the property assessed is applied for. The word "development" in the prior sentence shall mean as that word is defined in A.R.S. 9-243(E)(1). A building permit for such property shall not be issued until payment in full of the amount of the assessment with respect to any individual lot. The amount of the assessment shall not bear interest. If any lot assessed pursuant to this Resolution is not developed within ten (10) years from the date of recording the assessment, the lien of the assessment shall automatically expire and such lot may be developed without payment of the assessment.

PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 23rd day of April, 2012.

APPROVED:



Mayor

ATTEST:



City Clerk



EXHIBIT "A"

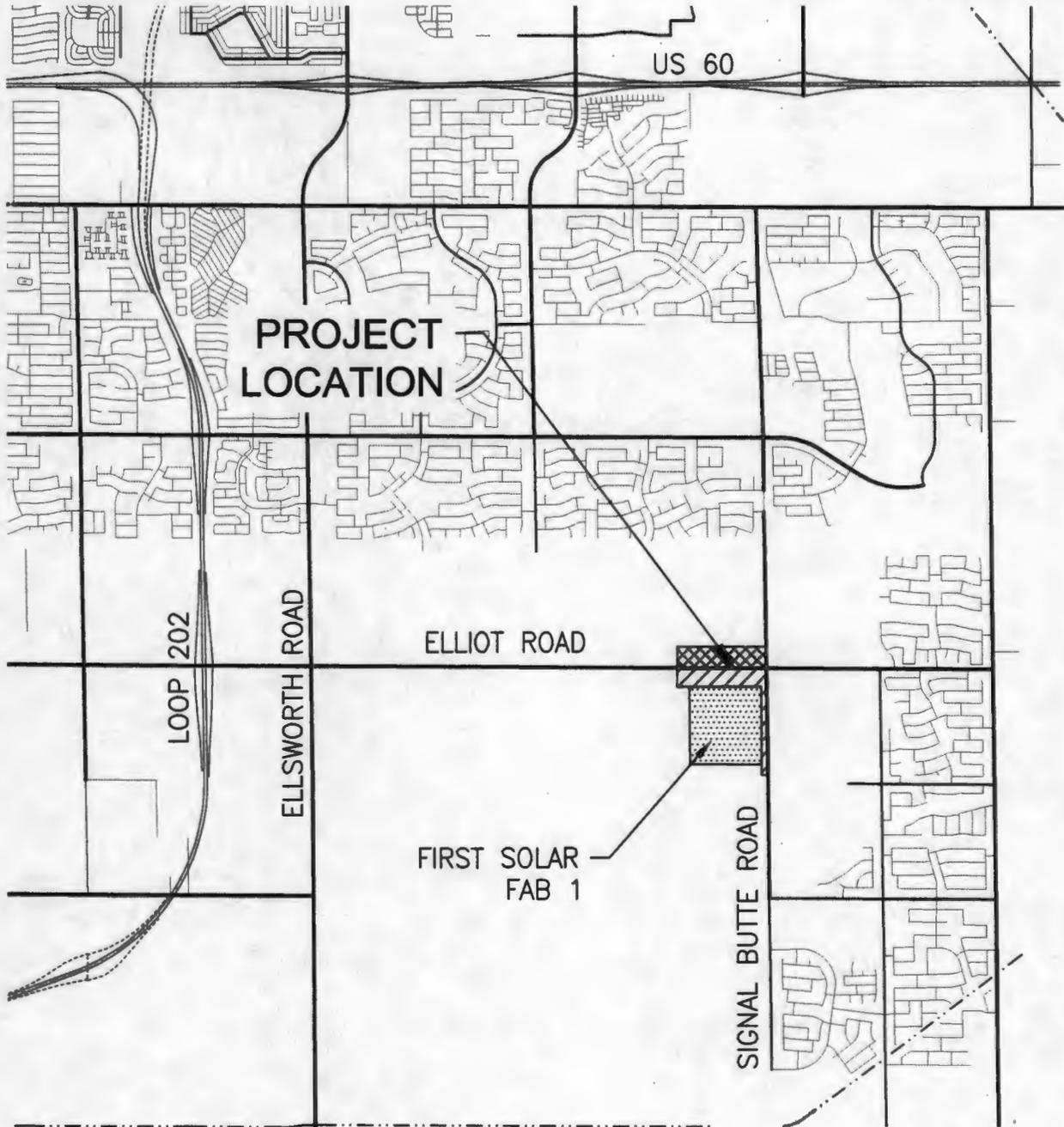
LEGEND



County Contributing Area
(Special Project Fund)



First Solar Project
(Original Project Limits)



PROJECT LOCATION MAP

Roadway & Utility Improvements

Elliot and Signal Butte Roads

PROJECT NO. 10-601-002



NORTH