Summary - An ordinance creating the Clark County, Nevada, Special Improvement District No. 112 (Flamingo Underground), ratifying action taken by County officers toward the creation of such District and providing other matters related thereto.

BILL NO.

ORDINANCE NO. ____________

AN ORDINANCE CREATING THE CLARK COUNTY, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 112 (FLAMINGO UNDERGROUND); ORDERING AN UNDERGROUND CONVERSION PROJECT; AND PROVIDING FOR THE ADOPTION OF THIS ORDINANCE AS IF AN EMERGENCY EXISTS.

WHEREAS, pursuant to Chapter 271, Nevada Revised Statutes and all laws amendatory thereof and supplemental thereto (the “Act”), there has heretofore been presented to the Board of County Commissioners (the “Board”) of Clark County, Nevada (the “County”) a written petition from the owners of certain assessable property requesting the County to initiate the financing of an underground conversion project that will replace existing electric power lines along Flamingo Road, from approximately 1600 feet west of the intersection of Las Vegas Boulevard and Flamingo Road to approximately Koval Lane (the “Project”), to issue bonds and levy assessments and requesting the County to proceed with certain actions required by the Act; and

WHEREAS, pursuant to the Petition and the Act, the Board has previously approved the District Financing Agreement, among the County, Caesars Palace Realty Corp. (“Caesars”), and Parball Corporation (the “Financing Agreement”) which requests that the County proceed with the Project; and

WHEREAS, the Financing Agreement provides that the entire cost and expense of the Project shall be paid by special assessments according to benefits received by the benefited lots, tracts and parcels of land in the District and amounts (the “Private Funding Sources”) to be provided by Caesars; and

WHEREAS, the Financing Agreement contains the terms and conditions required by NRS 271.710 and 271.720; and
WHEREAS, pursuant to NRS 271.800, Nevada Power Company, the electric service provider that owns the overhead service facilities which will be converted to underground as part of the Project, has submitted its written approval of the Project and a written estimate of the costs of the Project; and

WHEREAS, the Board has determined and does hereby declare as follows:

(a) this ordinance is adopted pursuant to NRS 271.710(2)(c) and may be adopted as if an emergency exists;

(b) such declaration shall be conclusive in the absence of fraud or gross abuse of discretion in accordance with the provisions of NRS 271.308; and

(c) this ordinance may accordingly be adopted as if an emergency now exists and may become effective at the same time that an emergency ordinance of the County may go into effect.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, IN THE STATE OF NEVADA, DOES ORDAIN:

Section 1. This ordinance shall be known as and may be cited by the short title “District No. 112 Creation Ordinance” (this “Ordinance”).

Section 2. Pursuant to NRS 271.800 and NRS 271.710, there is created in the County an improvement district designated as the “Clark County, Nevada, Special Improvement District No. 112 (Flamingo Underground)” for the purpose of acquiring and improving the Project, as more particularly described below.

Section 3. The Project, which is hereby ordered to be financed, shall be as shown on the full and detailed plans and specifications for the District filed with the County Clerk on or before February 19, 2008. The kind and location of the Project (without mentioning minor details) is as follows:

The Project consists of the financing of certain improvements within the District to include the underground conversion of electric power lines along Flamingo Road from approximately I-15 to approximately Koval Lane and all appurtenances and incidentals necessary, useful or desirable, including real and other property therefor, which is more particularly described (with all segment lengths to be current approximations subject to minor adjustment) as set forth below.
Section 4. The District shall constitute one construction unit with the project described in Section 3. Construction of the Project shall not commence until the conditions of NRS 271.800(6) have been satisfied.

Section 5. Except for the possible Private Funding Sources, all of the costs of the Project will be defrayed by assessments. The assessments, levied in the amount not to exceed $63,500,000 shall be payable in not more than fifty-nine (59) semiannual installments as described in the Financing Agreement. Assessment installments shall be payable semiannually at the office of the County Treasurer on June 1 and December 1 in each year, commencing on June 1, 2008. The assessments will be apportioned at the time the assessment ordinance is adopted on the basis of the taxable value of the each parcel in the District as a percentage of the total taxable value of all parcels in the District.

Section 6. All actions, proceedings and matters heretofore taken, had and done by the Board and the officers of the County (not inconsistent with the provisions of this Ordinance), concerning the District and the Project, including but not limited to the performing of all prerequisites to the creation of the District, the acquisition and improvement of the Project, the determination of the specially benefited property therein, and the levy of assessments for that purpose be, and the same hereby are, ratified, approved and confirmed.

Section 7. The officers of the County be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, the preparation of all necessary documents, legal proceedings and other items necessary or desirable for the completion of the levying of the assessments for the District and the issuance of the bonds for the Project.

Section 8. Immediately upon the final adoption of this Ordinance, the Board shall, and hereby directs the County Clerk to, file in the office of the County Recorder, a certified copy of the list of the tracts to be assessed and the amount of maximum benefits estimated to be assessed against each tract in the District, as shown on the final assessment plat and map. Notwithstanding the foregoing, neither the failure to record such list nor any defect or omission in such list regarding any tract to be included in the District shall affect the validity of any assessment, the lien for the payment thereof or the priority of that lien.

Section 9. If bonds are issued for the Project, the Engineer is hereby authorized to approve all requests by the Nevada Power Company, a Nevada corporation
("NPC"), for payment by the County for the Project costs, subject to and in accordance with the applicable provisions of the Flamingo Underground Conversion Project Agreement, between the County and NPC. Upon such approval, the County Treasurer is hereby authorized to make such payments to NPC, without the necessity of further authorization or approval by the Board.

Section 10. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.

Section 11. The Board has expressed in the preambles of this Ordinance that this Ordinance pertains to the creation of the District, that this Ordinance may accordingly be adopted as if an emergency now exists, and may become effective at any time when an emergency ordinance of the County may go into effect. Consequently, pursuant to NRS 271.710(2)(c) and NRS 271.325, final action shall be taken immediately, and this Ordinance shall be in effect from and after its publication by title and collateral statement as herein provided.

Section 12. After this Ordinance is signed by the Chairman of the Board and attested and sealed by the County Clerk, this Ordinance shall be published by its title only, together with the names of the Commissioners voting for or against its passage, and with a statement that copies of such ordinance are available for inspection by all interested parties at the office of the County Clerk, such publication to be made in the Las Vegas Review-Journal a newspaper published and having general circulation in the County, at least once a week for a period of two weeks by two insertions, pursuant to NRS 244.100 and all laws thereunto enabling, such publication to be in substantially the following form:
(Form of Publication)

BILL NO. ______

ORDINANCE NO. ______
(of Clark County, Nevada)

AN ORDINANCE CREATING THE CLARK COUNTY, NEVADA, SPECIAL IMPROVEMENT DISTRICT NO. 112 (FLAMINGO UNDERGROUND); ORDERING AN UNDERGROUND CONVERSION PROJECT; AND PROVIDING FOR THE ADOPTION OF THIS ORDINANCE AS IF AN EMERGENCY EXISTS.

Public notice is hereby given that copies of the above-numbered and entitled ordinance are available for inspection by all interested parties at the office of the County Clerk of Clark County, Nevada, Sixth Floor of the Clark County Government Center, 500 South Grand Central Parkway, Las Vegas, Nevada; and that such ordinance was proposed by Commissioner _______ on February 19, 2008, and was passed and adopted without amendment at the same regular meeting as an emergency ordinance on February 19, 2008, by the following vote of the Board of County Commissioners:

Those Voting Aye: ______________________

____________________

____________________

____________________

____________________

____________________

Those Voting Nay: ______________________

Those Abstaining: ______________________

Those Absent: ______________________

This ordinance shall be in full force and effect from and after March 4, 2008, (i.e., the date of the second publication of such ordinance by its title only).
IN WITNESS WHEREOF, the Board of County Commissioners of Clark County, Nevada, has caused this ordinance to be published by title only.

DATED this February 19, 2008.

/s/ Rory Reid
Chairman
Board of County Commissioners
Clark County, Nevada

(SEAL)

Attest:

/s/ Shirley B. Parraguirre
County Clerk

(End of Form of Publication)
Section 13. If any section, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Proposed on February 19, 2008.
Proposed by Commissioner ____________________________
Passed on February 19, 2008.

Ayes: Susan Brager
      Tom Collins
      Chris Giunchigliani
      Chip Maxfield
      Rory Reid
      Lawrence Weekly
      Bruce L. Woodbury

Nays: ____________________________

Abstentions: ____________________________

Absent: ____________________________

Chairman, Board of County Commissioners
Clark County, Nevada

(SEAL)

Attest:

County Clerk
This Ordinance shall be in force and effect from and after March 4, 2008, (i.e., the date of the second publication of such Ordinance by its title only).

This Ordinance has been reviewed by the Deputy District Attorney.

[Signature]
Deputy District Attorney
STATE OF NEVADA  
)  
) SS.  
COUNTY OF CLARK  
)

I, Shirley B. Parraguirre, the duly elected, qualified and acting County Clerk of
Clark County (the “County”), Nevada, and ex officio Clerk of its Board of County
Commissioners (the “Board”), do hereby certify:

1. The foregoing pages are a true and correct copy of an ordinance (the
“Ordinance”) introduced, passed and adopted by the Board at a regular meeting of the Board
held on February 19, 2008. A quorum of the Board was in attendance at the meeting.

2. The adoption of the Ordinance was duly moved and seconded and the
Ordinance was adopted by an affirmative vote of at least two-thirds of the members of the Board
at the regular meeting of the Board on February 19, 2008, as follows:

Those Voting Aye:  
Susan Brager
Tom Collins
Chris Giunchigliani
Chip Maxfield
Rory Reid
Lawrence Weekly
Bruce L. Woodbury

Those Voting Nay:

Those Absent:

Those Abstaining:

3. The members of the Board were present at such meeting and voted on the
passage of the Ordinance as set forth above.

4. The Ordinance was approved and authenticated by the signature of the
Chairman of the Board, sealed with the County seal, attested by the Clerk and recorded in the
minutes of the Board.

5. All members of the Board were given due and proper notice of the
meeting. Public notice of the meeting was given and the meeting was held and conducted in full
compliance with the provisions of NRS 241.020. A copy of the notice of the meeting was posted
not later than 9:00 a.m. at least 3 working days in advance of the meeting at:
(i) Principal Office  
Clark County Government Center  
500 South Grand Central Parkway  
Las Vegas, Nevada

(ii) Winchester Park and Center  
3130 South McLeod  
Las Vegas, Nevada

(iii) Paradise Park, Pool and Center  
4775 South McLeod  
Las Vegas, Nevada

(iv) Desert Breeze Park & Community Center  
8275 Spring Mountain Road  
Las Vegas, Nevada

6. A copy of the notice was mailed to each person, if any, who has requested notice of the meetings of the Board in the same manner in which notice is required to be mailed to a member of the Board. Such notice, if mailed, was delivered to the postal service no later than 9:00 a.m. on the third working day prior to the meeting.

7. A copy of the notice was posted on the County’s website no later than 9:00 a.m. on the third working day prior to the meeting.

8. Upon request, the Board provides at no charge, at least one copy of the agenda for its public meetings, any proposed resolution which will be discussed at the public meeting, and any other supporting materials provided to the Board for an item on the agenda, except for certain confidential materials and materials pertaining to closed meetings, as provided by law.

9. Copies of the notice so given of the meeting of the Board held on February 19, 2008 is attached to this certificate as Exhibit “A.”

10. A copy of the affidavit of publication is attached as Exhibit “B.”

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the County this ____________, 2008.

(SEAL)

County Clerk
EXHIBIT A

(Notice of February 19, 2008 Meeting)