

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Yugal K. Lall, City Engineer/Public Works Director 

DATE: September 23, 2009 (CC Meeting of 10/07/09)

SUBJECT: Consider Request for the Formation of Assessment District AD 10-02 (HFR Investment I, LLC – CPD 2005-03) and Resolution Initiating the Proceedings for Same

OVERVIEW

This report is for the formation of an assessment district to fund City costs related to the possible future maintenance back-up district of certain landscape and drainage improvements located within and adjacent to the HFR Investments I, LLC (CPD 2005-03) office building (herein "Property"), located at 145 Park Lane (see Exhibit 'B' of the Petition).

DISCUSSION

A. Improvements

The developer of the Property has constructed certain landscape and drainage improvements (herein "Improvements") within and adjacent to the Property. The developer, and/or subsequent property managers, are responsible for maintaining the Improvements.

B. Maintenance Guarantee

The Conditions of Approval for CPD 2005-03 include provisions to allow the City to take over the responsibility for the maintenance of the Improvements, should the City determine that the Improvements are not being maintained properly.

C. Assessment District Formation

CPD 2005-03 was approved by City Council Resolution No. 2005-2409. Special Condition No. 13 of that Resolution states that the developer shall form an assessment district to fund City costs related to the possible future maintenance of the Improvements by the City, and to fund on-going assessment district administration costs. The name given to this proposed new assessment district is Assessment District AD 10-02 [herein "District"].

D. Proposition 218

The provisions of Proposition 218 require that any new assessment, or any increase to an existing assessment, must first be approved by a Mail Ballot provided to the owner(s) of the affected properties. An alternative procedure for forming assessment districts for new developments, is to have the developer(s)/property owner(s) sign a Petition and Waiver 1) requesting the formation of the assessment district, and 2) waiving all rights conferred by Proposition 218 with regard to Mail Ballots.

E. Petition and Waiver / District Boundary Map

The property owner/developer of the Property has signed a Petition and Waiver (herein "Petition") (Attachment 1) requesting formation of the District. The District boundary, as depicted on Exhibit 'B' of the Petition, is the property lines for the Property. It should be noted that the developer has paid a fee to cover City costs related to this District formation.

F. Improvements to be Maintained

The improvements to be maintained by the District (Improvements) are generally identified in Exhibits 'A' and 'C' of the Petition.

G. Access and Right-of-Way

All of the Improvements (to be maintained) are located on-site or within City street right-of-way. A Maintenance Easement will be granted to the City to allow for future City access to the on-site Improvements, should that become necessary.

H. Resolution Initiating Proceedings

A Resolution has been prepared (Attachment 2) for the purpose of initiating the proceedings necessary for the formation of the District. Should the City Council approve and accept the Petition and adopt the attached Resolution, it would be the intent of staff to have the City's Assessment Engineer proceed with the preparation of

the Engineer's Report for AD 10-02 (District 28). If formed, the new District cannot become effective until July 2010.

I. Primary Assessment & Back-Up Assessment

As described and defined in Exhibit 'C' of the Petition, the District will have a primary and back-up assessment, generally described as follows:

1. **Primary Assessment.** The Primary Assessment is that amount deemed sufficient to fund annual assessment district administration costs. The amount of the Primary Assessment for Fiscal Year 2010/11, which is an amount equal to the estimated administrative costs for FY 2010/11, is \$500.00. The Petition provides that each subsequent fiscal year the City will determine the amount of the Primary Assessment and that said amount shall be sufficient to cover actual past and estimated future administrative costs, even if said amount exceeds the amount determined for the initial fiscal year.
2. **Back-Up Assessment.** The Back-up Assessment is an amount equal to the estimated cost for the maintenance of the Improvements. As stated in the Petition, the initial amount of the Back-up Assessment is \$9,036.00-per-acre.
3. **Assessment vs. Levy.** Each fiscal year the Engineer's Report for the District will state that the total assessment amount will be an amount equal to the sum of the Primary Assessment and the Back-up Assessment. However, the Engineer's Report will also state that the amount to be levied upon the Property will be an amount equal to the Primary Assessment plus all or any portion of the Back-up Assessment required to maintain those Improvements maintained or to be maintained by the City.

J. Future Proceedings

If the recommended action is taken, staff will retain the City's Assessment Engineering consultant to prepare the draft Engineer's Report for AD 10-02 for FY 2010/11. When completed, said Engineer's Report will be presented to the City Council for preliminary approval. If the City Council preliminarily approves the Engineer's Report, a public hearing will be scheduled to consider final approval of the Engineer's Report and approval of the assessment amounts for FY 2010/11.

K. Assessment Amount

The proposed assessment and levy amounts are discussed and defined in detail in Exhibit 'C' of the Petition, and re-caped here as follows:

Element	Total Estimated Annual Cost		
	Landscaping (\$)	Drainage (\$)	Total (\$)
Maintenance and Replacement Cost	5,218.00	3,259.00	8,477.00
Contingency (10%)	521.80	325.90	847.70
Administration	130.00	81.00	211.00
Total	5,869.80	3,665.90	9,535.70

Description	Total Assessment Amount		
	Primary Assessment	Back-up Assessment	Total Assessment
Total Assessment Amount	\$500.00	\$9,036.00	\$9,536.00
Total Number of acres	1.00	1.00	1.00
Total Assessment per Acre	\$500.00	\$9,036.00	\$9,536.00

L. Cost of Living Adjustment (C.O.L.A.)

As set forth in Exhibit 'C' of the Petition, the Engineer's Report for the District will include provisions for an annual C.O.L.A.

M. Capital Improvement Reserve Fund

As set forth in Exhibit 'C' of the Petition, the Engineer's Report for the District will also include provisions for the establishment of a Capital Improvement Reserve Fund. Said language will state that when and if the Capital Improvement Reserve Fund exceeds three hundred percent (300%) of the estimated annual program costs, the actual amount of the assessment levied upon the affected properties shall be reduced to an amount deemed sufficient to keep the amount of the Capital Improvement Fund at an amount below the three hundred percent (300%) ceiling.

STAFF RECOMMENDATIONS

1. Accept and approve the Petition/Waiver (Attachment 1) from the owner of the property, requesting the formation of assessment district (AD 10-02) for CPD 2005-03.
2. Adopt Resolution No. 2009 - _____ (Attachment 2) initiating the proceedings required for the formation of said District.

Attachments:

- 1 Petition and Waiver
- 2 Resolution Initiating District Formation Proceedings

**PETITION AND WAIVER
RE:
FORMATION OF AN ASSESSMENT DISTRICT
FOR CPD2005-03: HFR INVESTMENT I, LLC**

To: Honorable City Council
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

Subject: Establishment of a Landscape Maintenance Assessment District for CPD2005-03, located at the intersection of Park Crest Lane and Park Lane.

The undersigned is the record owner (herein "Owner") in fee simple of the real property identified below (herein "Property"). The Property is located within the City of Moorpark (herein "City") and is the subject of the approved CPD 2005-03 (herein "Development Plan"), prepared and submitted by the Owner.

Certain landscape improvements, defined and described in Exhibit 'A' attached hereto and made a part hereof (herein referred to as "Improvements"), are to be or have been constructed by the Owner. Although it is understood by the City and Owner that the Improvements are to be maintained by the Owner and or the future property manager, the City and Owner have determined that, under certain circumstances, it may become necessary for the City to take over the maintenance responsibility for the Improvements. Accordingly, the City and Owner have determined that it is necessary to establish a new Landscape Maintenance Assessment District (herein "District") to fund any City costs related to the maintenance of the Improvements, as well as any and all costs related to the administration of the District. (herein "Costs").

Therefore, the undersigned Owner hereby petitions the City Council of the City (herein "City Council") to form said District for the purpose of funding said Costs at the expense of the undersigned and its successors-in-interest, including the future owners of the property subject to the Development Plan.

The undersigned Owner hereby waives, for itself and its successors-in-interest, all of the rights conferred upon the owners of real property under Article XIII D of the California Constitution and the implementing statute at Article 4.6 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code (commencing with Section 53750) (collectively "the Article"). The undersigned also waives, for itself and its successors-in-interest, all of the rights conferred upon the owners of real property under Chapter 2 of the Landscaping and Lighting Act of 1972 (commencing with Section 22500 of the Streets and Highways Code) (herein "the Act").

In executing this Petition and Waiver, the undersigned understand(s), agree(s) and acknowledge(s) that:

1. The area to be included in the District is that area identified on the District Boundary Map attached hereto and made a part hereof as Exhibit 'B'.
2. The amount of the assessment chargeable to the entire District, the per lot or per acre assessment amount, the duration of the payments, the reason for the assessment, the basis

Petition & Waiver [Page 2]
Assessment District for CPD 2005-03
Summary Description

upon which the amount of the assessment was calculated and a general description of the Improvements are set forth in the Assessment District Summary Description attached hereto and made a part hereof as Exhibit 'C'.

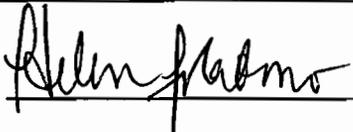
3. The amount chargeable to the District, as set forth in Exhibit 'C', does not exceed the reasonable cost of the special benefit conferred on the entire Property.
4. The amount chargeable to each parcel, as set forth in Exhibit 'C', does not exceed the reasonable cost of the proportional special benefit conferred upon each of those parcels.

In executing this Petition and Waiver, the undersigned warrant and represent that:

1. They have read the Article and have had an opportunity to have the Article, including the rights conferred by the Article that are being waived pursuant to this Petition and Waiver, explained to them by legal counsel of their choice;
2. They have read the Act and have had an opportunity to have the Act, including the rights conferred by the Act that are being waived pursuant to this Petition and Waiver, explained to them by legal counsel of their choice;
3. They have read this Petition and Waiver, have had the opportunity to have the Petition and Waiver explained to them by legal counsel of their choice, knows and understands the rights that they are waiving by this Petition and Waiver, knows and understands the legal effects of the Petition and Waiver, and are not relying upon any representations by the City Council or any of the officers, employees, servants or agents of the City.
4. They consent to the imposition of the assessments defined and described in Exhibit 'C'.
5. They agree to pay all City costs related to the formation of the District.

THIS PETITION AND WAIVER IS KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY EXECUTED this 27th day of APRIL, 2009 at MOORPAC, California.

HFR INVESTMENTS I., LLC

By: 

Helen F. Rabano

Manager

By: _____

The property that is subject to this Petition and Waiver and owned (not leased or optioned) by the above named owners is that property subject to the Development Plan [AP Nos. 506-0-050-465]

Exhibit 'A' [Page 1]
 Assessment District for CPD 2005-03
 Summary Description

A. Description of Improvements

1. Landscaping: The landscaping subject to this District, located within and adjacent to the boundaries of the District, is generally shown on Exhibit 'B' of this Petition. Said landscaping is located a) on-site, and on b) Park Lane.
2. Drainage Improvements: The drainage improvements subject to this District, consist of storm drain pipes and stormwater filtration systems generally shown on Exhibit 'B' of this Petition.

B. Annual Costs

1. Description: The chart attached as page 2, list the maintenance components, unit costs, maintenance frequencies and total costs.
2. Total Annual Cost: The total annual maintenance cost is summarized as follows:

Element	Total Estimated Annual Cost		
	Landscaping (\$)	Drainage (\$)	Total (\$)
Maintenance and Replacement Cost	5,218.00	3,259.00	8,477.00
Contingency (10%)	521.80	325.90	847.70
Administration	130.00	81.00	211.00
Total	5,869.80	3,665.90	9,535.70

3. Annual District Renewal Cost: The current annual estimated District administration cost is \$500.00.

EXHIBIT 'A'
STORM DRAIN MAINTENANCE DISTRICT
DRAINAGE IMPROVEMENTS

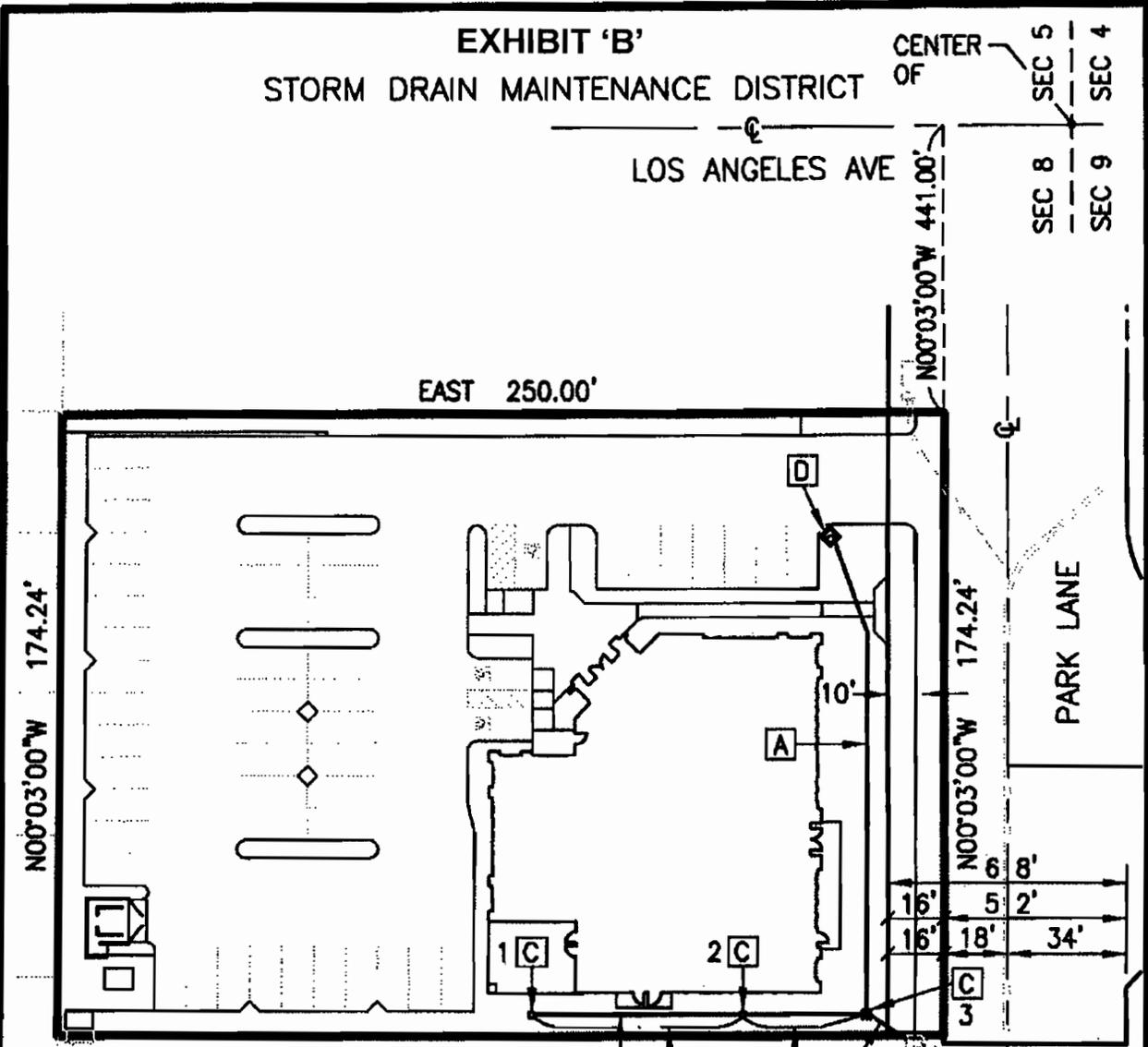
TASKS	UNITS	COST PER TASK PER UNIT	QUANTITY	FREQ. PER YEAR	TOTAL
1 PIPES (4" TO 8")					
ANNUAL INSPECTION	LF	2.00	227	1	454.00
ANNUAL CLEANING	LF	7.00	227	1	1589.00
REPLACEMENT	LF	20.00	227	0.033*	149.82
*ONCE EVERY THIRTY YEARS					
2 FILTERS					
ANNUAL INSPECTION	EA	200.00	1	1	200.00
ANNUAL CLEANING	EA	700.00	1	1	700.00
FILTER REPLACEMENT	EA	500.00	1	0.200	100.00
COMPLETE REPLACEMENT	EA	2000.00	1	0.033*	66.00
*ONCE EVERY THIRTY YEARS					
SUBTOTAL DRAINAGE					3258.82

LANDSCAPE MAINTENANCE DISTRICT
LANDSCAPE IMPROVEMENTS

TASKS	UNITS	COST PER TASK PER UNIT	QUANTITY	FREQ. PER YEAR	TOTAL
TREES (24" BOX)	EA	2	35.00	1	70.00
TREES (48" BOX)	EA	3	35.00	1	105.00
TREES (60" BOX)	EA	3	35.00	1	105.00
TREES (72" BOX)	EA	2	35.00	1	70.00
SUBTOTAL TREES					350.00
SHRUBS/GROUNDCOVER	SF	3,575	0.35	1	1,251.25
IRRIGATION	SF	3,575	0.10	1	357.50
SUBTOTAL					1,608.75
SUBTOTAL LANDSCAPING					1,958.75

TOTAL DRAINAGE AND LANDSCAPE **5,217.57**

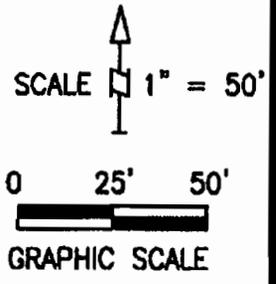
EXHIBIT 'B'
STORM DRAIN MAINTENANCE DISTRICT



PREPARED BY:
FRED W. HAMMAR
P.O. BOX 162
SOMIS, CA 93066
(805)491-0294

Fred W. Hammar 3-23-09

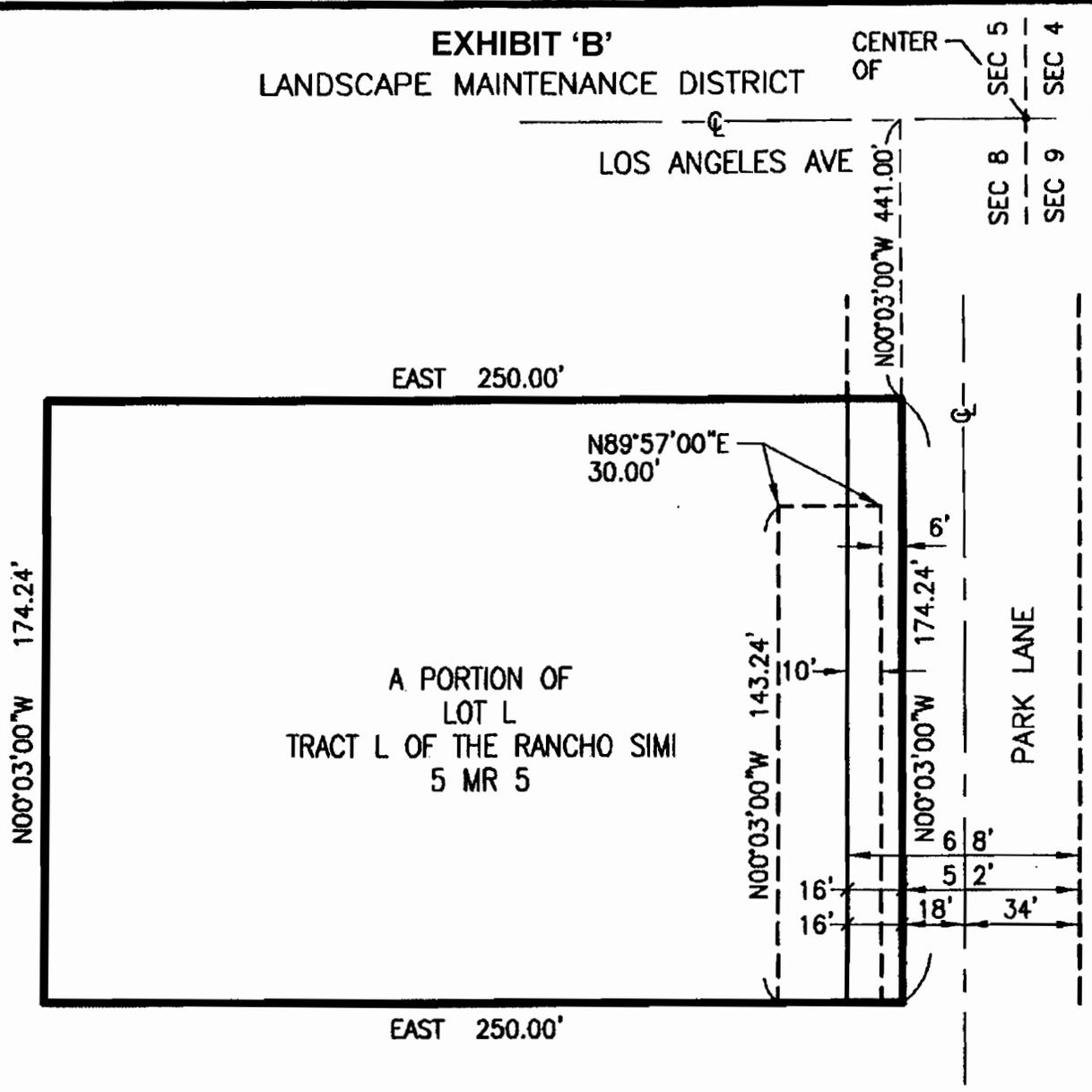
- LEGEND
- A STORM DRAIN = 237.50 LF
 - B BIO SWALE = IN LANDSCAPING
 - C DROP INLET = 3
 - D CURB INLET = 1



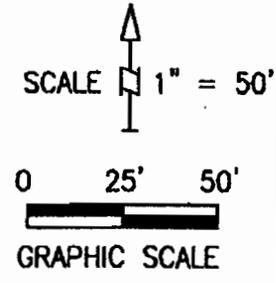
R.C.E. 13765 EXP. 03-31-11 DATE

SHEET 1 OF 2 SHEETS

EXHIBIT 'B'
LANDSCAPE MAINTENANCE DISTRICT



PREPARED BY:
FRED W. HAMMAR
P.O. BOX 162
SOMIS, CA 93066
(805)491-0294



F. W. Hammar 3-23-09
R.C.E. 13765 EXP. 03-31-11 DATE

SHEET 2 OF 2 SHEETS

Exhibit 'C' [Page 1]
Assessment District for CPD 2005-03
Summary Description

A. Introduction

The purpose of the District is to provide funding for certain Costs described in the petition and more particularly defined and described herein, which may be incurred by the City, when and if it should become necessary for the City to assume the maintenance responsibilities for the Improvements. For the purposes of this District, the term Improvements shall refer to only those features and activities specifically identified and listed in Exhibit C" of the Petition. As discussed and described herein, it is the intent of the City to only levy that amount of the total assessment necessary to fund the administration of the District. The City does not intend to levy that portion of the total assessment related to the maintenance of the Improvements, unless and until the City takes over the maintenance responsibilities for the Improvements.

B. Definitions

Certain terms in this Exhibit which begin with a capital letter, are defined in the Petition and Waiver.

C. District Boundary

The location and boundary of the District is generally shown on Exhibit 'B'. The boundary of the District is the same as the boundary for the Development Plan.

D. Description of Improvements to be Maintained

The Improvements to be maintained by the District, which are located within and adjacent to the District, are generally described in Exhibit 'A' of the Petition. The full scope of the Improvements to be maintained shall be set forth on plans and specifications to be on file with the City. Said plans and specifications will generally describe the Improvements which include but are not limited to the installation, maintenance and servicing of turf, ground cover, shrubs and trees, irrigation systems, stamped concrete surfaces, drainage systems, lighting, fencing, and all necessary appurtenances, and labor, material, supplies, utilities and equipment, as applicable, for the property owned or maintained by the City located in or adjacent to the properties subject to the Development Plan.

As applied herein, "maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of the Improvements, including repair, removal or replacement of all or any part of any improvements; providing for the life, growth, health, and beauty of landscaping, and the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti. "Servicing" means the furnishing of electric current, or energy, gas or other illuminating agent for the lighting or operation of any improvements; maintaining, operating and service street and traffic safety lighting, and water for irrigation of any landscaping or the maintenance of any other improvements.

Exhibit 'C' [Page 2]
 Assessment District for CPD 2005-03
 Summary Description

E. Estimated Annual Cost and Budget

A general description of the annual cost for the maintenance and servicing of the Improvements, for FY 2010/11, is as follows:

Element	Total Estimated Annual Cost		Total (\$)
	Landscaping (\$)	Drainage Improvements (\$)	
Maint. / Replacement	5,218.00	3,259.00	8,477.00
Contingency (10%)	521.80	325.90	847.70
General Admin / OH (2.5%)	130.00	81.00	211.00
Total	5,869.80	3,665.90	9,535.70

A more detailed summary of the estimated FY 2010/11 annual costs is set forth in the Exhibit 'A' of the Petition.

F. Fiscal Year 2010/11 Total Annual Assessment Amount

The FY 2010/11 total annual assessment amount shall be equal to the total estimated annual cost and budget as defined herein above as being equal to \$9,536.00-per-acre.

G. Estimated Annual District Renewal Cost

The current estimated annual cost related to the administration of the District renewal process is \$500.00 This is the cost amount estimated for FY 2010/11. Each year the City will evaluate actual District renewal costs incurred. The City reserves the right to adjust the estimated annual District renewal cost and any assessment amount(s) related thereto, in order to recover actual costs incurred.

H. Primary Assessment and Back-up Assessments

The purpose for the Primary Assessment is to fund the annual District Renewal cost. The purpose for the Back-up Assessment is to fund City cost, should they occur, for the maintenance of the Improvements. In the event the Owner and/or its successor-in-interest fails to maintain the Improvements in a manner satisfactory to the City, the City may, at its sole discretion, take over the maintenance of the Improvements. Should that occur the cost of such maintenance would be funded by the Back-up Assessment. The amount of the Total Assessment for FY 2010/11 is summarized as follows:

Description	Total Assessment Amount		
	Primary Assessment (\$)	Back-up Assessment (\$)	Total Assessment (\$)
Total Assessment Amount	500.00	9,036.00	9,536.00
Total Number of acres	1.00	1.00	1.00
Total Assessment per Acre	500.00	9,036.00	9,536.00

Additional information about the levying of the Primary Assessment and the Back-up Assessment is set forth in Section N of this Exhibit 'C'.

Exhibit 'C' [Page 3]
Assessment District for CPD 2005-03
Summary Description

I. Amount of Assessment to be Levied

It is the intent of the City to only levy that portion of the FY 2010/11 total assessment related to District administration costs (the Primary Assessment). The amount of the FY 2010/11 assessment to be levied would, therefore, only be \$500.00.

J. Apportionment of Total Assessment Amount

1. **General Provisions:** The District is to consist of all of the public or privately owned properties [herein "Parcels"] subject to the Development Plan, and/or any such Parcels or lots which might be created at any date in the future by further subdivision of the properties within the boundaries of the Development Plan.
2. **Special vs. General Benefits:** The method used for apportioning the assessment is based upon the proportional special benefits to be derived by each Parcel within the District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two step process: the first step is to identify the types of benefit arising from the improvements, and the second step is to allocate the assessments to each Parcel based upon the estimated relative special benefit for each type of Parcel.

The types of special benefit to be derived by the "benefited" properties, resulting from the installation, maintenance and servicing of the Improvements are generally summarized as follows:

- a) Public improvements provided and maintained specifically for special benefit of properties in the District.
- b) Views, scenery and other resources amenities and environmental benefits for the property owners in the District.
- c) Proximity and access to the public Improvements in the District.
- d) Enhanced desirability of the properties in the District.
- e) Certain individual lots for residential use that, in the absence of the assessment, would not have been created.

The District was created to provide higher levels of public improvements for properties in the District than otherwise would have been provided. All of the improvements are over and above those provided by the City in the District in absence of the District. Moreover, the District was drawn to only include parcels receiving particular and distinct special benefits from the Improvements. Therefore, the parcels in the District receive direct advantage and all special benefits from the improvements.

3. **Special Benefits to Properties within the District:** It has been determined that all of the properties within the District will receive a similar special benefit. The total annual assessment will, therefore, be allocated to all properties in amounts proportionate to the size of each Parcel. The Total Annual Assessment Amount will, therefore, be apportioned to each Assessor Parcel within the District using a "Per Acre" assessment amount.

4. ***Delinquent Assessments:*** In the event the annual levied assessment for a previous fiscal year for a property in the District is delinquent and uncollected, the budget for the new fiscal year may be increased by the amount of the delinquent assessment, and the total budget, including the delinquent assessment, may be allocated to all other non-delinquent properties on a "per acre" basis.

Any increase in the assessment on other properties in the District resulting from such delinquent assessments, or the annual CPI adjustment (see below), will be considered authorized increases in the assessment and shall not require additional approval by property owners through a mailed assessment ballot proceeding, pursuant to Article XIIIID of the California Constitution.

5. ***Cost of Living Adjustment.*** The annual assessment is subject to an annual adjustment tied to the Consumer Price Index for the Los Angeles Area as of December of each succeeding year (CPI). In the event that the actual assessment rate for any given year is not increased by an amount equal to the CPI change, any such deferred assessment increase may be added to the total amount assessed in any subsequent year. In such event, the maximum authorized assessment amount shall be equal to the base year assessment as adjusted by the increase to the CPI, plus any and all CPI adjustments deferred in any and all prior years. In addition, the annual adjustment may be increased due to delinquent assessments on property in the District, as specified above.
6. ***Appeals and Interpretation:*** Any property owner who feels that the proposed or approved assessment amount for his/her property is in error as a result of incorrect information being used to apply the forgoing method of assessment, may file a written appeal with the Director of Public Works or his/her designee (herein "Director"). Any such appeal is limited to correction of an assessment during the then current or, if before July 1, the upcoming fiscal year. Upon the filing of such an appeal, the Director will promptly review the appeal and any information provided by the property owner. If the Director finds that the assessment amount should be modified, the appropriate changes shall be made to the assessment roll. If any such changes are approved after the assessment roll has been filed with the County for collection, the Director shall cause any refund amount due to the property owner to be provided to said property owner. Any property owner who disagrees with the decision of the Director may refer their appeal to the City Manager. Any property owner who disagrees with the decision of the City Manager may refer their appeal to the City Council. The decision of the City Council shall be final.

K. Duration of Assessments

The assessment is an annual assessment approved, for a given fiscal year, in accordance with the provisions of the Act. It is the intent of the City to undertake the review and approve of a new annual assessment prior to the beginning of each fiscal year, for as long as the assessment is deemed to be necessary and required by the City.

Exhibit 'C' [Page 5]
Assessment District for CPD 2005-03
Summary Description

L. Capital Improvement Reserve Fund

The District will have a Capital Improvement Reserve Fund to provide for unforeseen expenses. The projected year-end balance for the Capital Improvement Reserve Fund shall not exceed three (3) years of estimated program costs for the District. If and when it is determined that that levying the maximum authorized assessment for the District in any given year, would cause the Capital Improvement Reserve Fund for the District to exceed said limit, then the amount of the approved assessment which shall be levied upon the properties within the District, shall be reduced to an amount which is estimated to not cause the Capital Improvement Reserve Fund year-end balance to exceed said limit, provided the amount levied upon the properties in the District is not less than ten percent (10%) of the annual assessment amount. In such event, the amount of the assessment shall remain unchanged. Any reduction to the amount actually levied upon the properties in the District shall not affect the maximum authorized assessment amount for that or any future year.

Upon formation of the District, it is the intent of the City to limit the amount of the Capital Reserve Fund to three hundred percent (300%) of the estimated annual cost of maintaining and servicing the medians and islands. Should it never become necessary for the City to undertake and provide for the maintenance and servicing of the parkways, the upper limit for the Capital Improvement Reserve Fund shall be equal to three hundred percent (300%) of the total estimated annual cost for the maintenance and servicing of all of the Improvements. Any fluctuations in the amount of the assessment actually levied upon the parcels within the District in any given year, shall not affect the maximum authorized assessment amount for that or any future year.

M. Reason for Assessment

The reason for the assessment is to fund City Cost for providing for the maintenance of the Improvements.

N. Assessment Amount vs. Amount to be Levied

Upon formation of the District, that portion of the total assessment related to the administration of the District shall be levied upon the Property; and that portion of the total assessment related to the maintenance and servicing of the Improvements, as defined herein, shall not be levied upon the Property unless and until the City determines, at its sole discretion, that the proper maintenance and servicing of the Improvements requires the City to undertake and provide for same. In the event it becomes necessary for the City to take over the maintenance and servicing of the Improvements, both the Primary Assessment and the Back-up Assessment shall be levied upon the Property.

Prior to the beginning of each future fiscal year the City will undertake the efforts necessary to approve the annual assessments as defined and described herein, including the annual CPI increase and a determination with regard to the amount of the assessment to be levied upon the Property. Each year the City reserves the right to levy that amount necessary to recover actual administrative costs, even if that amount exceeds the estimates set forth herein related to annual administrative costs.

RESOLUTION NO. 2009 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, INITIATING PROCEEDINGS FOR THE FORMATION OF THE CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. AD 10-02 (HFR INVESTMENTS I, LLC: CPD 2005-03) AND DIRECTING PREPARATION OF ANNUAL REPORT

WHEREAS, the City of Moorpark provides for the maintenance and improvement of parks, setback landscaping, drainage systems and street lighting services through the City's Landscape and Lighting Assessment Districts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Council hereby proposes the formation of a landscaping and lighting district pursuant to Article XIID of the California Constitution, and the Landscaping and Lighting Act of 1972 (the "Act"), Part 2 of Division 15 of the California Streets and Highways Code (commencing with Section 22500 thereof).

SECTION 2. The location and boundaries of the proposed landscaping and lighting district are coincidental with the boundaries of CPD 2005-03 (HFR Investments I, LLC).

SECTION 3. The purpose of the landscaping and lighting district shall be for the installation, maintenance and servicing of improvements to the City of Moorpark described in Section 4 below.

SECTION 4. Within the landscaping and lighting district, the existing and proposed improvements are generally described as the installation, maintenance and servicing of turf, ground cover, shrubs and trees, irrigation systems, drainage systems, lighting, fencing, and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, as applicable, for property owned or maintained by the City of Moorpark. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of said improvements, including repair, removal, or replacement of all or part of any improvement; providing for the life, growth, health and beauty of landscaping; and cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti. Servicing means the furnishing of electric current or energy, or other illuminating agent, for the operation or lighting of any improvements, maintaining, operating and servicing street and traffic safety lighting, and water for irrigation of any landscaping or the maintenance of any other improvements.

SECTION 5. The landscaping and lighting district proposed in this Resolution is hereby given the distinctive designation of the "City of Moorpark Landscaping and Lighting Maintenance Assessment District Number AD 10-02".

SECTION 6. SCI Consulting Group is hereby designated as Engineer of Work for purposes of these proceedings and is hereby ordered to prepare an Engineer's Report in accordance with Article 4 of Chapter 1 of the Act and Article XIII D of the California Constitution. Upon completion, the Engineer shall file the Engineer's Report with the Clerk of the City Council for submission to the Council.

SECTION 7. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 7th day of October, 2009.

Janice S. Parvin, Mayor

ATTEST:

Deborah S. Traffenstedt, City Clerk