ITEM 8.C.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: **Honorable City Council**

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

DATE: **May 20, 2010 (CC Meeting of 06/02/10)**

SUBJECT: **Consider Final Engineer's Report for Assessment District AD10-01 (Tuscany Partners – CPD 2005-02) and Resolution Confirming the Assessment Amounts for Fiscal Year 2010-11**

DISCUSSION

A. Background

On May 19, 2010 the Moorpark City Council adopted Resolution No 2010-2907 Approving the Engineer's Report for Assessment District AD10-01 (Tuscany Partners – CPD 2005-02) for Fiscal Year 2010-11 and Providing Notice of Public Hearing for June 2, 2010.

On October 7, 2009, the Moorpark City Council adopted Resolution No. 2009-2857, a Resolution initiating proceedings for the formation of the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 pertaining to the properties within CPD 2005-02 [Tuscany Partners] and directing preparation of an Annual Report.

The City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD-10-01 is proposed for formation to provide funding for possible future maintenance of landscaping and drainage improvements within and adjacent to the Tuscany Partners, LLC (CPD 2005-02) retail shopping center located on the south side of Los Angeles Avenue between Park Lane and Moorpark Avenue.

B. CPD 2005-02 / Improvements / Back-up District

The property subject to CPD 2005-02, generally described on the map attached as Attachment 1, is located on the south side of Los Angeles Avenue between Park Lane and Moorpark Avenue.

The developer of this 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. The Conditions of Approval for CPD 2005-02 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.

The Conditions of Approval for CPD 2005-02 require formation of an assessment district to fund City costs associated with the possible future maintenance of the Improvements by the City, and to fund on-going assessment district administration costs.

C. Engineer's Report

The Engineer's Report for the formation of this new Assessment District is provided as Attachment 2. This report includes certain information required for the formation of a 1972 Act Lighting and Landscaping Assessment District, including the following:

- A Boundary Map for AD10-01;
- The reason for the assessment;
- The duration of the assessment;
- The method of assessment;
- The amount of the annual assessment; and
- A description of improvements to be maintained.

D. Improvements to be Maintained

The improvements to be maintained by the District (Improvements) are described in the Engineer's Report.

E. Access and Right-of-Way

All of the Improvements (to be maintained) are located on-site or within Caltrans right-of-way. A "Three-Way Agreement", between the developer, the City and Caltrans, has been executed to facilitate access to the Improvements within the Caltrans 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.

F. Primary Assessment & Back-Up Assessment

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 FY 2010/11, which is an amount equal to the estimated administrative costs for FY 2010/11, is $500.00. The Engineer's Report 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, plus a ten percent (10%) contingency and Administration cost.

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.

G. Assessment Amount

The proposed assessments amounts discussed and defined in Engineer's Report are re-capped as follows:

	Total Estimated Annual Cost (Back-up Assessment)		
Element	Landscaping	Drainage	Total
Maintenance and Replacement Cost	$7,208	$26,967	$34,175
Contingency (10%)	$721	$2,697	$3,418
Administration	$180	$674	$854
Total	$8,109	$30,338	$38,447

	Total Assessment Amount		
Description	Primary Assessment	Back-up Assessment	Total Assessment
Total Assessment Amount	$500	$38,447	$38,947
Single Family Equivalents (SFE)	6.96	6.96	6.96
Total Assessment per SFE	$71.84	$5,523.99	$5,595.83

H. Fiscal Year 2010/11 Levy Amount

The Engineer's Report stipulates that the levy amount for FY 2010/11 shall be the amount identified as the "Primary Assessment" in the above chart.

I. Annual Adjustment Consumer Price Index (CPI)

The Engineer's Report provides for an annual adjustment to assessment and levy amounts, based on Consumer Price Index (CPI) for the Los Angeles area as of December of each succeeding year.

J. Capital Improvement Reserve Fund

The District has a Capital Improvement Reserve Fund to provide funding for unforeseen expenses (slope failures, etc.) The projected year-end balance for said Capital Improvement Reserve Funds shall not exceed one (1) year of estimated program costs for the district; and if and when it is determined 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 in 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. In any event, the amount actually levied upon the property, shall not affect the maximum authorized assessment amount for that or any future year. In the event the amount levied is less than the maximum authorized assessment amount, the amount levied shall not e less than 10% of the maximum authorized assessment.

K. Public Hearing

The "Landscaping and Lighting Act of 1972" ["Act"] (Streets and Highways Code) requires that a public hearing be held prior to the formation of any new assessment district and the levy of the assessments provided for by that new assessment district. In signing and submitting the aforementioned Petition and Waiver, all affected property owners for this assessment voluntarily waived their rights to notice, balloting and providing other comment to the City, so no additional noticing was required.

L. Final Review and Revision

Consistent with the requirements of the Act, the City Council may make changes to the Engineer's Report, including the assessment amounts set forth therein, at any time prior to its action approving the levy of the assessments for the ensuing year.

FISCAL IMPACT

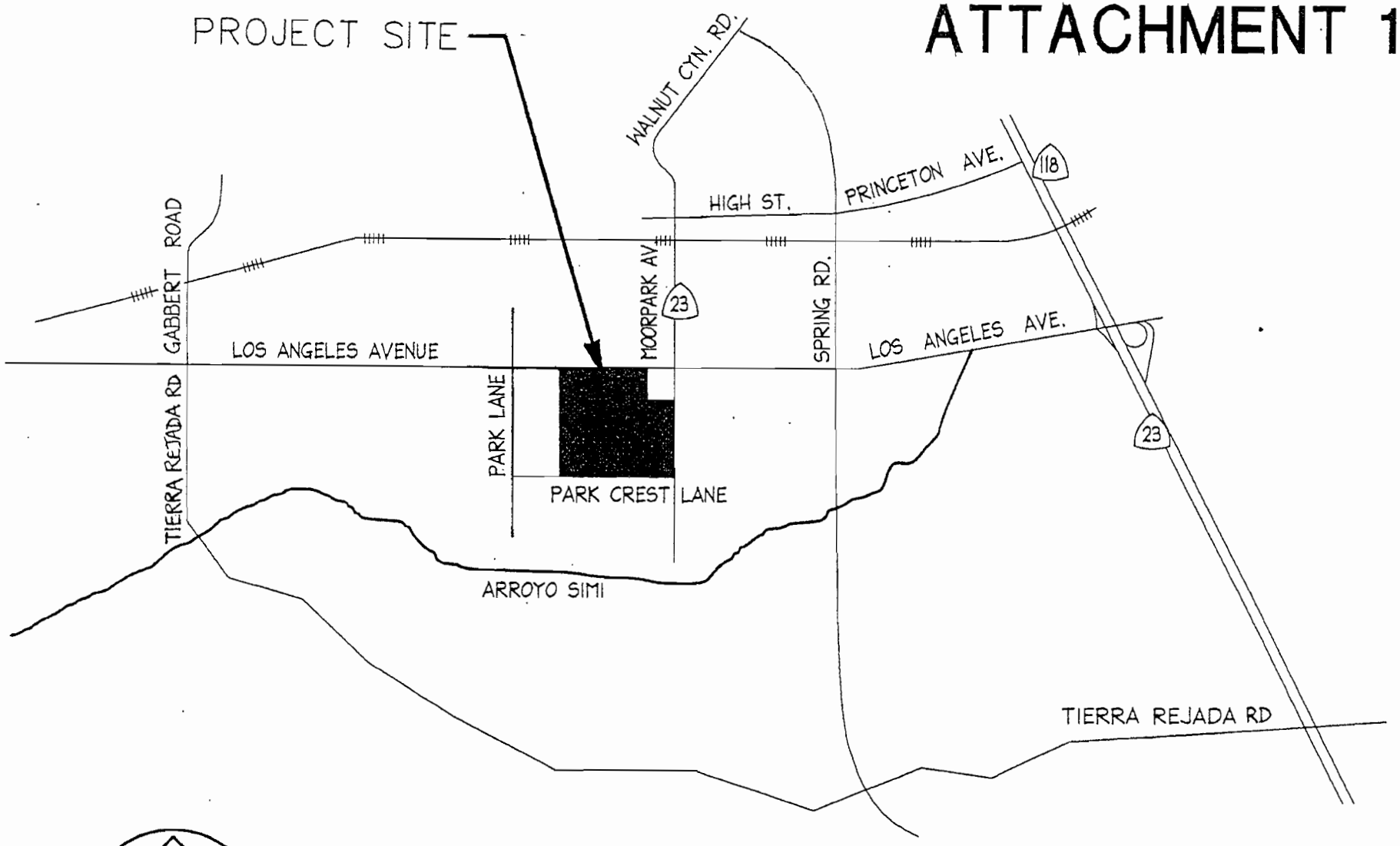
None.

STAFF RECOMMENDATIONS

1) Open the public hearing, accept testimony, and close the public hearing.
2) Approve the Engineer's Report for AD-10-01 for FY 2010/2011, with no changes from the report approved by City Council Resolution No. 2010 -2907.
3) Adopt Resolution No. 2010 - _____.

Attachments:
1: Vicinity Map
2: Engineer's Report
3: Resolution

ATTACHMENT 1



N

VICINITY MAP

NO SCALE

CITY OF MOORPARK

CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. AD10-01 [TUSCANY PARTNERS - CPD 2005-02]

ENGINEER'S REPORT

FISCAL YEAR 2010-11

APRIL 2010

PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 AND ARTICLE XIIID OF THE CALIFORNIA CONSTITUTION

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INTRODUCTION

OVERVIEW

The City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD-10-01 (the "District") is proposed for formation to provide funding for possible future maintenance of setback landscaping and drainage improvements within and adjacent to the Tuscany Partners, LLC (CPD 2005-02) retail shopping center located on the south side of Los Angeles Avenue between Park Lane and Moorpark Avenue. This District results from agreements or conditions of development approval, between the City of Moorpark and the developer of the property, whereby the City and developer agreed on landscaping and drainage improvements to enhance views and resources for property in the District and to improve the appeal of property in the District.

This Engineer's Report ("Report") was prepared to establish the budget for the services and improvements that would be funded by the proposed 2010-11 assessments and to determine the benefits received from the services and improvements by property within the District and the method of assessment apportionment to lots and parcels. This Report and the proposed assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the *California Streets and Highways Code* (the "Act") and Article XIIID of the California Constitution (the "Article"). For a more complete description of the Act and the Article, please refer to Appendix A and Appendix B.

In lieu of a mailed ballot proceeding, the property owner has submitted a Petition and Waiver to the Council for approval. In submitting this document to the City, the property owner (1) unanimously agrees to the assessments and acknowledges the special benefits received by the property in the District; (2) requests that the new assessment district be formed; and (3) waives all rights conferred by Proposition 218 with respect to the approval of the new assessment by mailed ballot.

Following submittal of this Report and the property owner's Petition/Waiver to the City of Moorpark City Council (the "Council") for preliminary approval, the Council may, by Resolution, call for a Public Hearing on the proposed establishment of assessments. The public hearing must be held for the purpose of allowing public testimony regarding the proposed assessments and the services and improvement they would fund. This hearing is scheduled for June 2, 2010 at 7:00 p.m. At this hearing, the Council may take action to form the District and to approve the levy of the assessments for fiscal year 2010-11. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in July 2010 for inclusion on the property tax roll for Fiscal Year 2010-11.

In each subsequent year for which the assessments will be levied, the Council must direct the preparation of an Engineer's Report, budgets and proposed assessments for the upcoming fiscal year. After the Engineer's Report is completed, the Council may preliminarily approve the Engineer's Report and proposed assessments and establish the date for a public hearing on the continuation of the assessments.

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY

In July of 2008, the California Supreme Court issued its ruling on the Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority ("SVTA vs. SCCOSA"). This ruling is the most significant court case in further legally clarifying the substantive assessment requirements of Proposition 218. Several of the most important elements of the ruling included further emphasis that:

- Benefit assessments are for special benefits to property, not general benefits
- The services and/or improvements funded by assessments must be clearly defined
- Assessment districts must be drawn to contain all parcels to receive a special benefit from a proposed public improvement or service.

This Engineer's Report, and the process used to establish this proposed assessment for 2010-11 are consistent with the SVTA vs. SCCOSA decision. The assessments are for special benefits only, the improvements are well-defined and the district boundary is well-drawn and narrowly drawn.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th Court of Appeal amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. On this date, Dahms became good law and binding precedent for assessments. In Dahms the court upheld an assessment that was 100% special benefit on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district.

CERTIFICATES

1. The undersigned respectfully submits the enclosed Engineer's Report and does hereby certify that this Engineer's Report, and the Assessment and Assessment Diagram herein, have been prepared by me in accordance with the order of the City Council of the City of Moorpark, adopted on October 7, 2009.

_____
Engineer of Work, License No. C52091

2. I, the Clerk of the City Council, City of Moorpark, County of Ventura, California, hereby certify that the enclosed Engineer's Report, together with the Assessment and Assessment Diagram thereto attached, was filed and recorded with me on_____ _____, 2010.

_____
Clerk of the City Council

3. I, the Clerk of the City Council, City of Moorpark, County of Ventura, California, hereby certify that the Assessment in this Engineer's Report was approved and confirmed by the City Council on _____, 2010, by Resolution No. _____.

_____
Clerk of the City Council

4. I, the Clerk of the City Council of the City of Moorpark, County of Ventura, California, hereby certify that a copy of the Assessment and Assessment Diagram was filed in the office of the County Auditor of the County of Ventura, California, on _____ _____, 2010.

_____
Clerk of the City Council

5. I, the County Auditor of the County of Ventura, California, hereby certify that a copy of the Assessment Roll and Assessment Diagram for fiscal year was filed with me on _____, 2010.

_____
County Auditor, County of Ventura

PLANS & SPECIFICATIONS

The work and improvements proposed to be undertaken by the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 (the "District") and the cost thereof paid from the levy of the annual assessment provide special benefit to Assessor Parcels within the District as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972, (the "Act") the work and improvements are generally described as follows:

Within the landscaping and lighting district, the improvements to be maintained are generally described as the maintenance and servicing of setback landscaping and storm water quality facilities, and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, as applicable, for property owned or maintained by the City of Moorpark located in or adjacent to the Tuscany Partners, LLC (CPD 2005-02) retail shopping center located on the south side of Los Angeles Avenue between Park Lane and Moorpark Avenue. Any plans and specifications for these improvements will be filed with the City of Moorpark and are incorporated herein by reference.

As applied herein, "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 any part of any improvement; 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 servicing street and traffic safety lighting, and water for irrigation of any landscaping or the maintenance of any other improvements.

FISCAL YEAR 2010-11 ESTIMATE OF COST AND BUDGET

Description of Improvements to be Maintained:

Landscaping Improvements
The maintenance of landscape improvements including but not limited to trees, shrubs, ground cover, and irrigation systems located within or adjacent to the District along Los Angeles Avenue, Moorpark Avenue and Park Crest Lane.

Drainage Improvements
The maintenance of storm drain pipes and stormwater filtration systems.

The Property Owner shall retain the responsibility for the maintenance of the landscape and drainage improvements, but in the event it is ever determined that said maintenance is inadequate, the City can take over the maintenance of the landscape and drainage improvements. The assessments for the cost of maintaining the landscape and drainage improvements will be levied only if the City takes over responsibility for the maintenance of the landscape and drainage improvements.

Estimate of Cost FY 2010-11 - Maximum Authorized Assessment Budget	
Landscaping (Back-up Assessment)	
Landscaping Maintenance & Replacement Cost	$7,208
Contingency (10%)	$721
Administration	$180
Total Landscaping	$8,109
Drainage (Back-up Assessment)	
Drainage Maintenance & Replacement Cost	$26,967
Contingency (10%)	$2,697
Administration	$674
Total Drainage	$30,338
Total Assessment Budget	$38,447
Total SFEs	6.96
Total authorized fiscal year 2010-11 assessment rate	**$5,523.99**

Estimate of Cost FY 2010-11 - Assessment Budget	
Administrative Costs	$500
Total Assessment Budget	$500
Total SFEs	6.96
Proposed fiscal year 2010-11 assessment rate	**$71.84**

CAPITAL IMPROVEMENT RESERVE FUND

The District has a Capital Improvement Reserve Fund to provide funding for unforeseen expenses (slope failures, etc.). The projected year-end balance for said Capital Improvement Reserve Funds shall not exceed one (1) year of estimated program costs for the district; and if and when it is determined 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 in 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. In any event, the amount of the assessment shall always remain unchanged. Any reduction to the amount actually levied upon the property, shall not affect the maximum authorized assessment amount for that or any future year. In the event the amount levied is less than the maximum authorized assessment amount, the amount levied shall not be less than 10% of the maximum authorized assessment.

METHOD OF APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the maintenance and servicing of lighting and landscaping facilities throughout the City, and the methodology used to apportion the total assessment to properties within the City of Moorpark Landscaping and Lighting Maintenance District No. AD10-01.

The City of Moorpark Landscaping and Lighting Maintenance District No. AD10-01 consists of all Assessor Parcels within the boundaries of CPD 2005-02 – Tuscany Partners, LLC as defined within the area of the boundary diagram included within this Engineer's Report (see the Assessment Roll for a list of all the parcels included). The parcels include all privately or publicly owned parcels within said boundaries. The method used for apportioning the assessment is based upon the proportional special benefits to be derived by the properties in the City of Moorpark Landscaping and Lighting Maintenance District No. AD10-01 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 special benefit arising from the improvements, and the second step is to allocate the assessments to property based on the estimated relative special benefit for each type of property.

DISCUSSION OF BENEFIT

In summary, the assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Moreover, such benefit is not based on any one property owner's use of the District's landscaping and drainage improvements or a property owner's specific demographic status. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

> *"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."*

Proposition 218, as codified in Article XIIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

> *"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing of landscaping improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and other studies which describe the types of special benefit received by property from maintenance and improvements such as those proposed by the City of Moorpark Landscaping and Lighting Assessment District No. AD10-01. These types of special benefit are summarized as follows:

A. Drainage of water and runoff from property in the District
B. Protection from flooding and standing water due to the improved drainage systems
C. Improved proximity to new and well maintained landscaping and other public improvements for property in the District
D. Improved views and scenery and other resources values for property in the District.
E. Enhanced desirability of property in the District directly as a result of the landscaping improvements and drainage improvements funded by the assessments
F. Creation of individual lots for commercial use that, in absence of the assessments, would not have been created.

BENEFIT FINDING

In summary, real property located within the boundaries of the District distinctly and directly benefits from improved protection from flooding, closer proximity, access and views of improved landscaping and the improved drainage systems funded by the Assessments. These improvements directly enhance the utility, attractiveness and desirability of benefiting parcels in the Improvement District. The Improvements are specifically designed to serve local properties in the Improvement District, not other properties or the public at large. These are special benefits to property in the Improvement District in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of property and make them more functional to use, safer and easier to access.

GENERAL VERSUS SPECIAL BENEFIT

The District was specifically proposed for formation to provide additional and improved public resources in the District. In absence of the assessments, these public resources would not be created and revenues would not be available for their continued maintenance and improvement. Therefore, the assessments solely provide special benefit to property in

the Districts over and above the general benefits conferred by the general facilities of the City.

In the 2009 Dahms case, the court upheld an assessment that was 100% special benefit on the rationale that the services funded by the assessments were directly provided within the assessment district. It is also important to note that the improvements and services funded by the assessments in Pomona are similar to the improvements and services funded by the Assessments described in this Engineer's Report and the Court found these improvements and services to be 100% special benefit. Also similar to the assessments in Pomona, the Assessments described in this Engineer's Report fund improvements and services directly provided within the Assessment District and every benefiting property in the Assessment District enjoys proximity and access to the Improvements. Therefore, Dahms establishes a basis for minimal or zero general benefits from the Assessments.

Special Note Regarding General Benefit and the SVTA v. SCCOSA Decision: There is no widely-accepted or statutory formula for calculating general benefit. General benefits are benefits from improvements or services that are not special in nature, are not "particular and distinct" and are not "over and above" benefits received by other properties. The SVTA vs. SCCOSA decision provides some clarification by indicating that general benefits provide "an indirect, derivative advantage" and are not necessarily proximate to the improvements.

Although the analysis used to support these assessments concludes that the benefits are solely special, as described above, consideration is made for the suggestion that a portion of the benefits are general. General benefits cannot be funded by these assessments - the funding must come from other sources.

The maintenance and servicing of these improvements is also partially funded, directly and indirectly from other sources including City of Moorpark, the County of Ventura and the State of California. This funding comes in the form of grants, special programs, and general funds, as well as direct maintenance and servicing of facilities (e.g. transportation facilities, other infrastructure, etc.) Finally, this funding from other sources more than compensates for general benefits, if any, received by the properties within the assessments district.

METHOD OF ASSESSMENT

The second step in apportioning assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single family home, or, in other words, on the basis of Single Family Equivalents (SFE). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as

providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Engineer's Report, all properties are designated a SFE value, which is each property's relative benefit in relation to a single family home on one parcel. In this case, the "benchmark" property is a commercial property on a one acre parcel; such properties are assigned 1.0 benefit unit which is one Single Family Equivalent or one SFE.

ASSESSMENT APPORTIONMENT

The proposed assessments for the District would provide direct and special benefit to properties in this District. The properties within the District consist of parcels proposed for commercial development. The benefits are determined to be reasonably equivalent on an acreage basis. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all parcels is on a per acre basis. In the event that the assessable parcel acreage in the District declines, the assessment rate per acre shall be recalculated. Any such acreage rate recalculation shall not be an increase in the assessment that would require approval through an assessment ballot proceeding.

All properties that are specially benefited are assessed. Public right-of-way parcels, well, reservoir or other water rights parcels, limited access open space parcels, watershed parcels and common area parcels typically do not generate employees, residents, customers or guests. Moreover, many of these parcels have limited economic value and, therefore, do not benefit from specific enhancement of property value. Such parcels are, therefore, not specially benefited and are not assessed.

In the event that the annual assessment from a previous fiscal year for property in District AD10-01 is delinquent and uncollected, the budget for the new fiscal year may be increased by the amount of delinquent assessment, and the total budget, including the delinquent assessments, may be allocated to all other non-delinquent. Any increase in the assessment on other properties in District AD10-01 resulting from such delinquent assessments, or the annual CPI adjustment, 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 XIIID of the California Constitution.

The 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 (the 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 District AD10-01 as specified above. Including the authorized annual adjustment, the maximum fiscal year 2010-11 assessment rate per equivalent dwelling unit

is $5,523.99. The proposed fiscal year 2010-11 assessment rate per equivalent dwelling unit is $71.84.

APPEALS AND INTERPRETATION

Any property owner who feels that the assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment, may file a written appeal with the Director of Public Works or her or his designee. 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 any such appeal, the Director of Public Works or his or her designee will promptly review the appeal and any information provided by the property owner. If the Director of Public Works or her or his designee finds that the assessment 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 of Public Works or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any property owner who disagrees with the decision of the Director of Public Works or her or his designee, may refer their appeal to the City Council of the City of Moorpark and the decision of the City Council of the City of Moorpark shall be final.

ASSESSMENT

WHEREAS, the City Council of the City of Moorpark, County of Ventura, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIIID of the California Constitution (collectively "the Act"), adopted its Resolution Initiating Proceedings For the Formation of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD-10-01;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the assessment district and an assessment of the estimated costs of the improvements upon all assessable parcels within the assessment district, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of said City of Moorpark, hereby make the following assessment to cover the portion of the estimated cost of said improvements, and the costs and expenses incidental thereto to be paid by the assessment district.

The amount to be paid for said improvements and the expense incidental thereto, to be paid by the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 for the fiscal year 2010-11 is generally as follows:

SUMMARY COST ESTIMATE

	F.Y. 2010-11 Budget
Administrative Costs	$500.00
Total Levy to Budget	$500.00

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01. The distinctive number of each parcel or lot of land in the said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said net amount of the cost and expenses of said improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01, in accordance with the special benefits to be received by each parcel or lot, from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessment is made upon the parcels or lots of land within the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 in proportion to the special benefits to be received by the parcels or lots of land, from said improvements.

The 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 (the 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 District AD10-01 as specified in the Assessment Apportionment section of this Engineer's Report.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Ventura for the fiscal year 2010-11. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of said County.

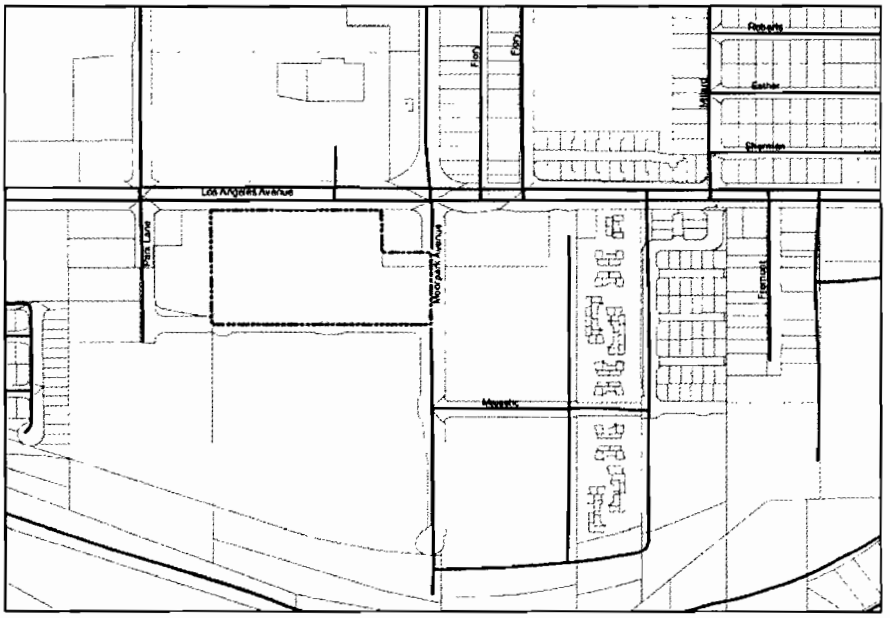
I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2010-11 for each parcel or lot of land within the said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01.

Dated: April 12, 2010

Engineer of Work

By _____
John W. Bliss, License No. C52091

ASSESSMENT DIAGRAM



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA,
THIS _____ DAY OF _____, 2010.

_____
CITY CLERK

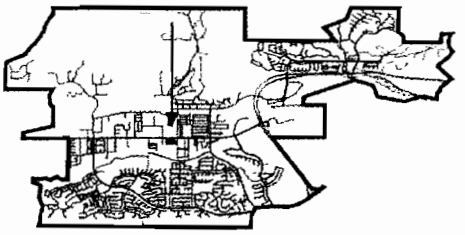
RECORDED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS _____ DAY OF _____, 2010.

_____
DIRECTOR OF PUBLIC WORKS

AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY COUNCIL OF THE CITY OF MOORPARK ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE _____ DAY OF _____, 2010 FOR FISCAL YEAR 2010-11 AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF VENTURA ON THE _____ DAY OF _____, 2010. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

_____
CITY CLERK

District Location



FILED THIS _____ DAY OF _____, 2010, AT THE HOUR OF _____ O'CLOCK ___. M. IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA, AT THE REQUEST OF THE CITY OF MOORPARK CITY COUNCIL.

_____
COUNTY AUDITOR, COUNTY OF VENTURA

Note
REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF VENTURA FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.

AD 10-01 Boundary
Streets08
Parcels

SCI Consulting Group
4745 Mangels Blvd
Fairfield, CA 94534

CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. AD10-01
ASSESSMENT DIAGRAM

APPENDIX C - 2010-11 ASSESSMENT ROLL

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this report. These records shall govern for all details concerning the description of the lots or parcels.

Assessor's Parcel No.	Owner Name	SFE's	Assessment
506-0-050-295	TUSCANY SQUARE PARTNERS LLC	6.73	$37,176.45
506-0-050-420	TUSCANY SQUARE PARTNERS LLC	0.23	$1,270.52

Attachment 3

RESOLUTION NO. 2010-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF ASSESSMENT FOR FISCAL YEAR 2010-11 FOR THE CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT AD10-01

WHEREAS, this Council designated SCI Consulting Group as Engineer of Work and ordered said Engineer to make and file an Engineer's Report for a proposed Landscaping and Lighting Assessment District;

WHEREAS, the report was duly made and filed with the Council and duly considered by this Council and found to be sufficient in every particular, whereupon it was determined that the report should stand as the Engineer's Report for all subsequent proceedings;

WHEREAS, in order to expedite the proceedings, the property owner has submitted a Petition and Waiver, wherein the property owner (1) has requested that the new assessment district be formed; and (2) has waived all rights conferred by Proposition 218 with respect to the approval of the new assessment by mailed ballot/notice and the 45-day time period for balloting;

WHEREAS, on June 2, 2010 at the hour of 7:00 PM at the City of Moorpark City Council Chambers, 799 Moorpark Avenue, Moorpark, California 93021, the public hearing was duly and regularly held, and all persons interested and desiring to be heard were given an opportunity to speak and be heard, and all matters and things pertaining to the levy were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly considered;

WHEREAS, at the public hearing the Council thereby acquired jurisdiction to order the levy and the confirmation of the diagram and assessment prepared by and made a part of the Engineer's Report to pay the costs and expenses thereof,

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

SECTION 1. The public interest, convenience and necessity require that the levy be made.

SECTION 2. The City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 benefited by the improvements and assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the Council, which map is made a part hereof by reference thereto.

SECTION 3. The Engineer's Report as a whole and each part thereof, to wit:

(a) the Engineer's estimate of the itemized and total costs and expenses of maintaining the improvements and of the incidental expenses in connection therewith;

(b) the diagram showing the assessment district, plans and specifications for the improvements to be maintained and the boundaries and dimensions of the respective lots and parcels of land within the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01; and

(c) the assessment of the total amount of the cost and expenses of the proposed maintenance of the improvements upon the several lots and parcels of land in the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01 in proportion to the estimated special benefits to be received by such lots and parcels, respectively, from the maintenance, and of the expenses incidental thereto;

are finally approved and confirmed.

SECTION 4. Final adoption and approval of the Engineer's Report as a whole, and of the plans and specifications, estimate of the costs and expenses, the diagram and the assessment, as contained in the report as hereinabove determined and ordered, is intended to and shall refer and apply to the report, or any portion thereof as amended, modified, or revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this Council.

SECTION 5. The assessment to pay the costs and expenses of the maintenance of the improvements for fiscal year 2010-11 is hereby levied.

SECTION 6. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the hearing, this Council expressly finds and determines (a) that each of the several lots and parcels of land will be specially benefited by the maintenance of the improvements at least in the amount if not more than the amount, of the assessment apportioned against the lots and parcels of land, respectively, and (b) that there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the aforesaid finding and determination as to

special benefits.

SECTION 7. Immediately upon the adoption of this resolution, but in no event later than the second Monday in August following such adoption, the Council shall file a certified copy of the diagram and assessment and a certified copy of this resolution with the Auditor of the County of Ventura. Upon such filing, the County Auditor shall enter on the County assessment roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the assessment. The assessments shall be collected at the same time and in the same manner as County taxes are collected and all laws providing for the collection and enforcement of County taxes shall apply to the collection and enforcement of the assessments. After collection by the County, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01.

SECTION 8. The moneys representing assessments collected by the County, shall be deposited in the City Treasury to the credit of the improvement fund previously established under the distinctive designation of the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD10-01. Moneys in the improvement fund shall be expended only for the maintenance, servicing, construction or installation of the improvements.

SECTION 9. The assessments levied are in conformance with Proposition 218.

SECTION 10. 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 2nd day of June, 2010.

_____
Janice Parvin, Mayor

ATTEST:

_____
Deborah S. Traffenstedt, City Clerk