

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Dave Klotzle, City Engineer/Public Works Director 

**DATE:** November 8, 2013 (CC Meeting of 11/20/13)

**SUBJECT:** Consider Resolution Approving the Engineer's Report and Ordering the Annexation of Shea Homes Tentative Tract 5425 to Landscaping and Lighting Maintenance Assessment District 06-01, and Confirming the Assessment Amounts for Fiscal Year 2014/15

**DISCUSSION**

Shea Homes is the developer of Tentative Tract 5425 (Tract), generally located south of Los Angeles Avenue at Fremont Street. The conditions of approval for the Tract require the developer to construct certain parkway landscaping improvements within and/or adjacent to the Tract. The conditions of approval also require that an assessment district be formed to fund certain City maintenance costs for these improvements.

Shea Homes was also the developer of the existing residential community, Tract 5133, located immediately to the east of, and adjacent to, Tentative Tract 5425. In June 2006, Landscaping and Lighting Maintenance Assessment District 06-01 (AD 06-01) was formed to fund the City maintenance costs for certain landscaping improvements installed by Shea Homes during the development of Tract 5133. Rather than form a new assessment district, staff has determined that the maintenance costs related to the landscaping improvements to be installed by Tentative Tract 5425 should be annexed to AD 06-01.

On October 16, 2013, the City Council accepted and approved a Petition and Waiver from Shea Homes requesting the annexation of Tentative Tract 5425 into Assessment District AD 06-01. At the same meeting, the City Council adopted Resolution No. 2013-3232 initiating proceedings for the annexation and directing the preparation of an Engineer's Report.

On November 6, 2013, the City Council adopted Resolution No. 2013-3237 of intent to annex Tentative Tract 5425 into Assessment District AD 06-01, preliminarily approving

the Engineer's Report and setting November 20, 2013 as the date of a public hearing to consider the levy of assessments provided for in the Engineer's Report.

The Landscaping and Lighting Act of 1972 (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 is required.

The Engineer's Report for annexation of Tentative Tract 5425 into Assessment District AD 06-01(Attachment 1) contains a description of the improvements to be maintained, the method of apportionment and the amount of assessment. Properties within the annexation area of Tentative Tract 5425 are referred to as Zone of Benefit "B," while the properties within the original AD 06-01 of Tract 5133 are referred to as Zone of Benefit "A." Each Zone of Benefit will fund the maintenance of improvements that provide direct benefit to the properties within each Zone.

The amount of FY 2014/15 annual assessment for the City-maintained improvements in Zone B is proposed to be \$109.77 per lot. A backup assessment amount of \$48.01 per lot is established in the Engineer's Report for the Homeowner's Association (HOA) maintained improvements but this amount will not be levied unless the HOA fails to maintain their improvements and the City takes over the maintenance.

The aforementioned Petition and Waiver, signed by Shea Homes and approved by the City Council on October 16, 2013, set the maximum authorized assessment at the existing, approved AD 06-01 limit for FY 2013/14 of \$479.20 per lot including the backup assessment for the HOA maintained improvements. The current FY 2013/14 AD 06-01 assessment levied on the Tract 5133, "Zone A" properties is \$104.30 per lot.

A City Council Resolution approving the Engineer's Report and ordering the annexation of Shea Homes Tentative Tract 5425 to Landscaping and Lighting Maintenance Assessment District 06-01, and confirming the assessment amounts for Fiscal Year 2014/15. is required to proceed with the annexation (Attachment 2).

### **FISCAL IMPACT**

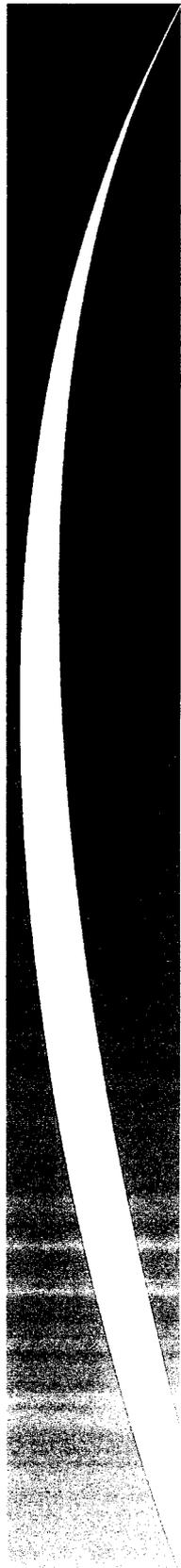
Shea Homes has paid the required fee to cover all City and Assessment Engineer costs related to the annexation to AD 06-01.

**STAFF RECOMMENDATION**

1. Open the public hearing, take public testimony and close the public hearing.
2. Adopt Resolution No. 2013 - \_\_\_\_\_ approving the Engineer's Report and ordering the annexation of Shea Homes Tentative Tract 5425 to Landscaping and Lighting Maintenance Assessment District 06-01, and confirming the assessment amounts for Fiscal Year 2014/15.

Attachments:

- 1 – Engineer's Report
- 2 – Resolution 2013 - \_\_\_\_\_



## **CITY OF MOORPARK**

**ANNEXATION OF TENTATIVE TRACT MAP NO. 5245 [SHEA HOMES]  
INTO CITY OF MOORPARK LANDSCAPING AND LIGHTING  
MAINTENANCE ASSESSMENT DISTRICT NO. AD06-01**

## **ENGINEER'S REPORT**

FISCAL YEAR 2014-15

OCTOBER 2013

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

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## INTRODUCTION

### OVERVIEW

The City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD-06-01 (the "District") was formed to June 2006 to provide funding for maintenance of parkway landscaping and drainage improvements within and adjacent to the Tentative Tract 5133 (Shea Homes) located south of Los Angeles Avenue at Millard Street. It is now proposed that Tentative Tract 5425 be annexed into the District in order to provide funding for maintenance of parkway landscaping and drainage improvements within and adjacent to Tentative Tract 5425 (Shea Homes) located south of Los Angeles Avenue at Fremont Street (the "Annexation Area"). This annexation results from agreements or conditions of development approval, between the City of Moorpark and the developer of Shea Homes whereby the City and developer agreed on parkway landscaping and storm water facilities to enhance public views and resources and to improve the appeal of the community.

This Engineer's Report ("Report") was prepared to establish the budget for the services and improvements that would be funded by the proposed 2014-15 assessments and to determine the benefits received from the services and improvements by property within the Annexation Area 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 XIID of the California Constitution (the "Article").

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 Annexation Area; (2) requests that the property be annexed into the District; 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, by Resolution, may call for a Public Hearing on the proposed annexation. The public hearing must be held for the purpose of allowing public testimony regarding the proposed assessments and the services and improvements they would fund. This hearing is scheduled for November 20, 2013 at 7:00 p.m. At this hearing, the Council may take action to order the annexation and to approve the levy of the assessments for fiscal year 2014-15. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in July 2014 for inclusion on the property tax roll for Fiscal Year 2014-15.

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.

## **LEGISLATIVE ANALYSIS**

### **PROPOSITION 218**

This assessment is levied consistent with Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now codified as Articles XIII C and XIII D of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which specially benefits the assessed property.

Proposition 218 describes a number of important requirements, including property-owner balloting, for the imposition, increase and extension of assessments, and these requirements are satisfied by the process used to establish this assessment.

### **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 2014-15 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.

**BONANDER V. TOWN OF TIBURON**

On December 31, 2009, the 1st District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments on the grounds that the assessments had been apportioned to assessed property based on in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

**BEUTZ V. COUNTY OF RIVERSIDE**

On May 26, 2010 the 4th District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside ("Beutz") appeal. This decision overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services was not explicitly calculated, quantified and separated from the special benefits.

**GOLDEN HILL NEIGHBORHOOD ASSOCIATION V. CITY OF SAN DIEGO**

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in Beutz, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City of San Diego had failed to record the basis for the assessment on its own parcels.

**COMPLIANCE WITH CURRENT LAW**

This Engineer's Report is consistent with the requirements of Article XIIC and XIID of the California Constitution and with the *SVTA* decision because the improvements to be funded are clearly defined; the improvements are directly available to and will directly benefit property in the District; and the improvements provide a direct advantage to property in the District that would not be received in absence of the Assessments.

This Engineer's Report is consistent with *Buetz, Dahms and Greater Golden Hill* because, the improvements will directly benefit property in the District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer's Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the improvements and proportional special benefit to each property.

## PLANS & SPECIFICATIONS

The work and improvements proposed to be undertaken by the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD06-01 (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 District, the improvements to be maintained are generally described as the maintenance and servicing of parkway 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 Tentative Tract 5133 located south of Los Angeles Avenue at Millard Street and Tentative Track 5425 located south of Los Angeles Avenue at Fremont Street (*Shea Homes*). Any plans and specifications for these improvements are on file with the City of Moorpark and are incorporated herein by reference.

Installation means the construction of lighting and landscaping improvements, including, but not limited to: land preparation, such as grading, leveling, cutting and filling, sod, landscaping, irrigation systems, sidewalks and drainage and lights.

Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury; the removal of trimmings, rubbish, debris, and other solid waste, 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 for the operation or lighting of any improvements, and water for irrigation of any landscaping or the maintenance of any other improvements.

Incidental expenses include all of the following: (a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment; (b) the costs of printing, advertising, and the giving of published, posted, and mailed notices; (c) compensation payable to the County for collection of assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance and servicing of the Improvements; (f) any expenses incidental to the issuance of bonds or notes pursuant to Streets & Highways Code Section 22662.5; and (g) costs associated with any elections held for the approval of a new or increased assessment. (Streets & Highways Code §22526).

The assessment proceeds will be exclusively used for Improvements within the Annexation Area plus Incidental expenses. Reference is made to the Improvement plans, which are on file with the Department of Public Works of the City of Moorpark.

## FISCAL YEAR 2014-15 ESTIMATE OF COST AND BUDGET

### Description of Improvements to be maintained:

#### Parkway Improvements – City Maintained

The maintenance of parkway landscape improvements along Los Angeles Avenue frontage.

#### Drainage Improvements – City Maintained

The maintenance of filtration systems, nine seven foot catch basins, four fourteen foot catch basins and storm drains located throughout the District.

#### Parkway Improvements – HOA Maintained

The maintenance of parkway landscape improvements along Edenbridge Road.

### Estimate of Cost FY 2014-15

#### Parkway Landscaping (City Maintained)

|  |                |
|--|----------------|
| Landscaping Maintenance & Replacement Cost | \$4,437        |
| Contingency (20%)                          | \$887          |
| Operation & Administrative Costs           | <u>\$1,000</u> |

|   |         |
|---|---------|
| Total City Maintained Parkway Landscaping | \$6,324 |
|---|---------|

#### Drainage (City Maintained)

|   |                |
|---|----------------|
| Drainage Maintenance & Replacement Cost | \$2,952        |
| Contingency (20%)                       | \$590          |
| Operation & Administrative Costs        | <u>\$1,000</u> |

|                                |         |
|--------------------------------|---------|
| Total City Maintained Drainage | \$4,542 |
|--------------------------------|---------|

#### Parkway Landscaping (HOA Maintained)

|  |              |
|--|--------------|
| Landscaping Maintenance & Replacement Cost | \$3,961      |
| Contingency (20%)                          | <u>\$792</u> |

|                                  |         |
|----------------------------------|---------|
| Total HOA Maintained Landscaping | \$4,753 |
|----------------------------------|---------|

|                      |                 |
|----------------------|-----------------|
| Total Levy to Budget | <u>\$15,620</u> |
|----------------------|-----------------|

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**Estimate of Cost FY 2014-15 Continued**


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**Budget to Assessment**

|  |                        |
|--|------------------------|
| Total Assessment Budget City Maintained Landscaping & Drainage | \$10,867               |
| Total EDUs   | 99.00                  |
| Assessment Per EDU City Landscaping & Drainage                 | <u>\$109.77</u>        |
| <br>   |                        |
| Total Assessment Budget HOA Maintained Landscaping             | \$4,753                |
| Total EDUs   | 99.00                  |
| Assessment Per Acre Parkways                                   | <u>\$48.01</u>         |
| <br>   |                        |
| Total Assessment Budget  | \$15,620               |
| Total EDUs   | 99.00                  |
| <b>Total authorized fiscal year 2014-15 assessment rate</b>    | <b><u>\$157.78</u></b> |
| <br>   |                        |
| Proposed fiscal year 2014-15 assessment rate                   | <b>\$109.77</b>        |

**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 landscaping and drainage facilities throughout the Annexation Area, and the methodology used to apportion the total assessment to properties within the Annexation Area.

The Annexation Area consists of all Assessor Parcels within the boundaries of Tentative Tract 5425 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 Annexation Area 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 XIID 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."*

Benefit categories have been established that represent the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the installation, maintenance and servicing lighting and landscaping improvements to be provided with the assessment proceeds. These categories of special benefit are summarized as follows:

- A. Proximity to Improved Landscaped Areas within the District.
- B. Access to Improved landscaped areas within the District.
- C. Improved Views within the District.
- D. Extension of a property's outdoor areas and green spaces for properties within close proximity to the Improvements.
- E. Creation of individual lots for residential use that, in absence of the assessments, would not have been created.
- F. Drainage of water and runoff from property in the District
- G. Protection from flooding and standing water due to the improved drainage systems

In this case, the recent the SVTA v. SCCOSA decision provides enhanced clarity to the definitions of special benefits to properties in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements are a direct advantage and special benefit to property that is proximate to a park that is improved by an assessment:

*The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).*

Proximity, improved access and views, in addition to the other special benefits listed above further strengthen the basis of these assessments.

#### **GENERAL VERSUS SPECIAL BENEFIT**

The Assessments allow the City to provide permanent public Improvements within its boundaries at a much higher level than what otherwise would be provided in absence of the Assessments. Moreover, in absence of the Assessments, the Improvements would not be provided because the City does not have alternative available funds to provide the Improvements.

All of the Assessment proceeds derived from the District will be utilized to fund the cost of providing a level of tangible "special benefits" in the form of landscaped parkways and

drainage facilities and costs incidental to providing the Improvements and collecting the Assessments. The Assessments are also structured to provide specific Improvements within each Zone of Benefit, further ensuring that the Improvements funded by the Assessments are of specific and special benefit to property within each Zone of Benefit.

Although these Improvements may be available to the general public at large, the permanent public Improvements in the District were specifically designed, located and created to provide additional and improved public resources for the direct advantage of property inside the District, and not the public at large. Other properties that are either outside the District or within the District and not assessed, do not enjoy the unique proximity, access, views and other special benefit factors described previously. Moreover, the homes in the District would not have been built if the Assessments were not established because an assessment for the Improvements was a condition of development approval.

In summary, real property located within the boundaries of the District distinctly and directly benefits from closer proximity, access and views of Improvements funded by the Assessments, the creation of developable parcels, the extension of usable land area provided by the Assessments and other special benefits. The Improvements are specifically designed to serve local properties in the District, not other properties or the public at large. The District boundary has been narrowly drawn to include those parcels that receive a direct advantage from the Improvements. The public at large and other properties outside the District receive only limited benefits from the Improvements because they do not have proximity, good access or views of the Improvements. These are special benefits to property in the 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.

Without the Assessments, the public improvements within the District would not be maintained and would turn into brown, unmaintained and unusable public improvements and public lands. If this happened, it would create a significant and material negative impact on the desirability, utility and value of property in the District. The Improvements are, therefore, clearly above what otherwise would be provided. In fact, it is reasonable to assume that if Assessments were not collected and the Improvements were not maintained as a result, properties in the District would decline in desirability, utility and value by significantly more than the amount of the Assessment. We therefore conclude that all the landscaping Improvements funded by the Assessment are of special benefit to the identified benefiting properties located within the District and that the value of the special benefits from such Improvements to property in the District reasonably exceeds the cost of the Assessments for every assessed parcel in the District. (In other words, as required by Proposition 218: the reasonable cost of the proportional special benefit conferred on each parcel reasonably exceeds the cost of the assessments.)

### QUANTIFICATION OF GENERAL BENEFIT

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, development fees, special programs, and general funds, as well as direct maintenance and servicing of facilities (e.g. curbs, gutters, streets, drainage systems, etc.) This funding from other sources more than compensates for general benefits, if any, received by the properties within the District.

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 District and every benefiting property in the District enjoys proximity and access to the Improvements. Therefore, Dahms establishes a basis for minimal or zero general benefits from the Assessments.

The General Benefits from these Assessments may be quantified as illustrated in the following table.

| <b>Benefit Factor</b>                     | <b>Relative Weight</b> | <b>General Benefit Contribution</b> | <b>Relative General Benefit</b> |
|---|------------------------|-------------------------------------|---------------------------------|
| Creation of parcels                       | 90                     | 0%                                  | 0                               |
| Extension of recreation area              | 5                      | 10%                                 | 0.5                             |
| Improved views                            | 5                      | 10%                                 | 0.5                             |
|   | 100                    |                                     | 1                               |
| <b>Total Calculated General Benefit =</b> |                        |                                     | <b>1.0%</b>                     |

In addition to the 1% general benefit calculated above, it can be argued that the 7 existing single family lots (that are not within the Annexation Area) along the Fremont Street private drive, receive general benefit. Therefore, to be more conservative, the total general benefit is increased by 7% (7 / 7 + 99) to a total general benefit calculation of 8%.

As a result, the City will contribute at least 8.0% of the total budget from sources other than the Assessments. This contribution offsets any general benefits from the Improvements.

This general benefit contribution is the sum of the following components:

The City and / or Homeowners Association owns, maintains, rehabilitates and replaces curb and gutter along the border of the District Improvements. This curb and gutter serves to support, contain, retain, manage irrigation flow and growth, and provide a boundary for the improvements. The contribution from the City and / or Homeowners Association towards general benefit from the maintenance, rehabilitation and replacement of the curb and gutter is conservatively estimated to be 1%.

The City and / or Homeowners Association owns and maintains local public streets along the border of the District Improvements. These public streets provide access to the Improvements for its enjoyment as well as efficient maintenance. The contribution from the City and / or Homeowners Association towards general benefit from the maintenance of local public streets is conservatively estimated to be 1%.

The value of the construction of the Improvements can be quantified and monetized as an annuity. Since this construction was performed and paid for by non-assessment funds, this "annuity" can be used to offset general benefit costs, and is conservatively estimated to contribute 25%.

Therefore the total General Benefit is conservatively quantified at 8.0% which is more than offset by the total non-assessment contribution towards general benefit of 27%.

#### **ZONE OF BENEFIT**

Properties in the Annexation Area, Tentative Tract 5425 located south of Los Angeles Avenue at Fremont Street shall be referred to as Zone of Benefit B or Zone B. All other properties within the District, Tentative Tract 5133 are classified into Zone of Benefit A or Zone A. Properties in each Zone of Benefit are funding annual maintenance of specific improvements that were required as a condition of development approval. Each Zone of Benefit is funding improvements that provide direct benefit to property in each Zone.

In the District, the advantage that each parcel receives from the Improvements is direct, and the boundaries are narrowly drawn to include only parcels that benefit from the assessment. Therefore, the even spread of assessment throughout each narrowly drawn Zone of Benefit is indeed consistent with the SVTA vs. SCCOSA decision and satisfies the "direct relationship to the 'locality of the improvement.'" standard.

#### **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 Equivalent (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 the single family dwelling, including attached or detached condominium units or 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 Tract 5425 consist of 99 condominium units that are proposed for development, each of which receives similar benefit from the proposed improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all parcels is on a SFE basis.

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 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 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 XIID of the California Constitution.

The assessment is subject to an annual adjustment tied to the Consumer Price Index for all Urban Consumers 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 the District as specified above. Including the authorized annual adjustment, the maximum fiscal year 2014-15 assessment rate per equivalent dwelling unit for property in the Annexation Area, Zone B is \$157.78. The proposed fiscal year 2014-15 assessment rate per equivalent dwelling unit for property in the Annexation Area, Zone B is \$109.77.

**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 Finance Director 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 Finance Director or his or her designee will promptly review the appeal and any information provided by the property owner. If the Finance Director 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 Finance Director 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 Finance Director 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 XIII D of the California Constitution (collectively "the Act"), adopted its Resolution Initiating Proceedings to Annex Tract 5425 (Shea Homes) into the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD06-01;

**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. AD06-01, Zone B for the fiscal year 2014-15 is generally as follows:

**SUMMARY COST ESTIMATE**

|                                  | <i>F.Y. 2014-15</i> |
|----------------------------------|---------------------|
|                                  | <u>Budget</u>       |
| Landscaping Maintenance          | \$8,398.00          |
| Drainage Maintenance             | \$2,952.06          |
| Operation & Administrative Costs | <u>\$4,270.01</u>   |
| <b>Total Levy to Budget</b>      | <u>\$15,620.07</u>  |

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. AD06-01. The distinctive number of each parcel or lot of land in the said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD06-01 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. AD06-01, 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. AD06-01 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 all Urban Consumers 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 AD06-01 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 2014-15. 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 2014-15 for each parcel or lot of land within the said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD06-01.

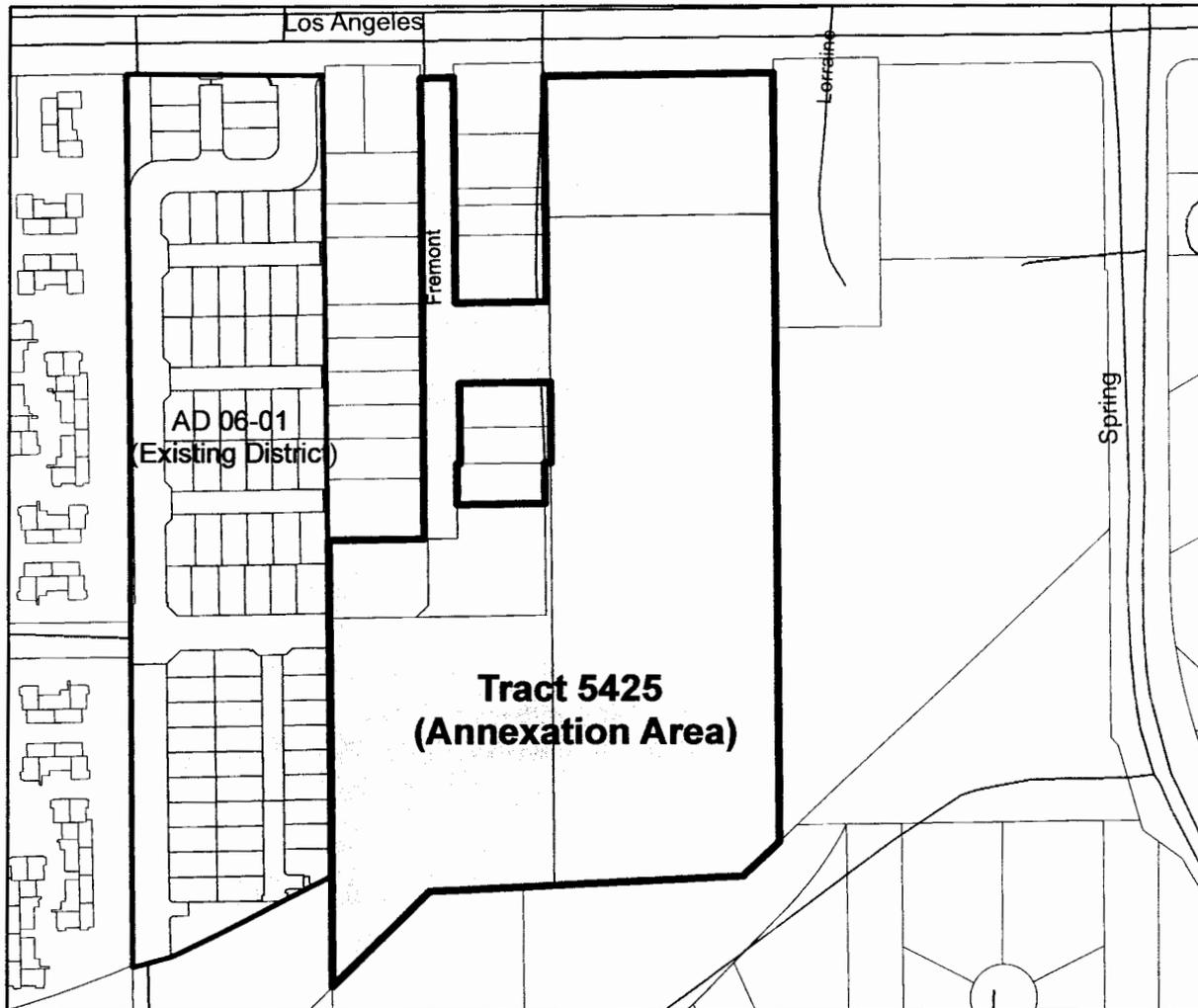
Dated: October 28, 2014

Engineer of Work



*John W. Bliss*

By \_\_\_\_\_  
John W. Bliss, License No. C52091



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

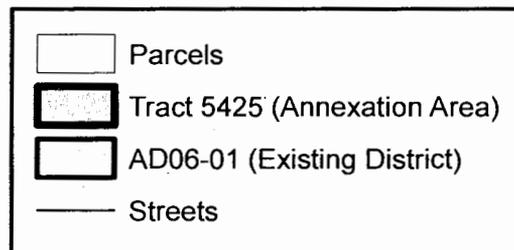
\_\_\_\_\_  
CITY CLERK

RECORDED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

\_\_\_\_\_  
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 \_\_\_\_\_, 2014 FOR FISCAL YEAR 2014-15 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 \_\_\_\_\_, 2014. REFERENCE IS HEREBY MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

\_\_\_\_\_  
CITY CLERK



FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013, 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.

ANNEXATION OF TRACT 5425 INTO  
CITY OF MOORPARK LANDSCAPING AND LIGHTING  
MAINTENANCE ASSESSMENT DISTRICT NO. AD06-01  
ASSESSMENT DIAGRAM

**2014-15 ASSESSMENT ROLL**

| <b>Assessor's Parcel No.</b> | <b>Owner Name</b>          | <b>SFE's</b> | <b>Assessment</b> |
|------------------------------|----------------------------|--------------|-------------------|
| 5060020320                   | SHEA HOMES LTD PARTNERSHIP | 25           | \$3,944.50        |
| 5060020340                   | SHEA HOMES LTD PARTNERSHIP | 46           | \$7,257.88        |
| 5060020660                   | SHEA HOMES LTD PARTNERSHIP | 6            | \$946.68          |
| 5060020670                   | SHEA HOMES LTD PARTNERSHIP | 0            | \$0.00            |
| 5060020680                   | SHEA HOMES LTD PARTNERSHIP | 18           | \$2,840.04        |
| 5060020690                   | SHEA HOMES LTD PARTNERSHIP | 4            | \$631.12          |

RESOLUTION NO. 2013-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ENGINEER'S REPORT, ORDERING ANNEXATION OF TRACT 5425 (SHEA HOMES) INTO THE CITY OF MOORPARK LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT AD 06-01, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF ASSESSMENT WITHIN SUCH ANNEXATION FOR FISCAL YEAR 2014-15

WHEREAS, this Council designated SCI Consulting Group as Engineer of Work and ordered said Engineer to make and file an Engineer's Report for the annexation of Tract 5425 (the "Annexation Area") into the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD 06-01 (the "District");

WHEREAS, properties in the Annexation Area shall be referred to as Zone of Benefit B or Zone B;

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 property be annexed into the District; 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 November 20, 2013 at the hour of 7:00 p.m. 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; and

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 Annexation Area 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 Annexation Area; 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 Annexation Area 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 2014-15 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. AD 06-01 Zone B.

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. AD 06-01 Zone B. 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 20th day of November, 2013.

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Janice Parvin, Mayor

ATTEST:

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Maureen Benson, City Clerk