

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Dave Klotzle, City Engineer/Public Works Director



DATE: April 24, 2015 (CC Meeting of 5/6/15)

SUBJECT: Consider Resolution of Intent to Levy Assessments for Fiscal Year 2015/16, Preliminarily Approve the Engineer's Report and Provide Notice of Public Hearing on May 20, 2015 for Landscaping and Lighting Maintenance Assessment District AD 15-01 for Tentative Tract 5130 (City Ventures, LLC)

DISCUSSION

City Ventures, LLC is the developer of Tentative Tract 5130 (Tract), a 110-home residential subdivision, generally located east of Walnut Canyon Road, west of Spring Road and north of Wicks Road. The conditions of approval for the Tract require the developer to construct certain drainage and 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.

On March 4, 2015, the City Council adopted Resolution No. 2015-3370 initiating proceedings for the formation of Landscaping and Lighting Maintenance Assessment District AD 15-01 for Tentative Tract 5130, City Ventures, LLC and directing the preparation of an Engineer's Report.

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

City Ventures, LLC has submitted a signed Petition and Waiver requesting the formation of AD 15-01 and waiving all rights conferred by Proposition 218 with regard to Mail Ballots (Attachment 1). The Petition and Waiver describes the proposed assessment and levy amounts.

The Engineer's Report for formation of AD 15-01 (Attachment 2) contains a description of the improvements to be maintained, the method of apportionment and the amount of assessment. The amount of FY 2015/16 annual assessment for the City-maintained improvements is proposed to be \$6,659.70 per equivalent dwelling unit. A backup assessment amount of \$6,987.45 per equivalent dwelling unit is established in the Engineer's Report for 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.

A City Council Resolution of intent to levy assessments for Fiscal Year 2015/16 for AD 15-01, preliminarily approve the Engineer's Report and provide notice of a public hearing on May 20, 2015 is required to proceed with the annexation (Attachment 3).

FISCAL IMPACT

City Ventures, LLC has paid the required fee to cover all City and Assessment Engineer costs related to the formation of AD 15-01.

STAFF RECOMMENDATION

1. Accept and approve the Petition and Waiver from City Ventures, LLC (Attachment 1) requesting the formation of Assessment District AD 15-01.
2. Adopt Resolution No. 2015 - _____ of intent to levy assessments for Fiscal Year 2015/16, preliminarily approve the Engineer's Report and provide notice of public hearing on May 20, 2015 for Landscaping and Lighting Maintenance Assessment District AD 15-01 for Tentative Tract 5130 (City Ventures, LLC).

Attachments:

- 1 – Petition and Waiver
- 2 – Engineer's Report
- 3 – Resolution 2015 - _____

**PETITION AND WAIVER
RE:
FORMATION OF AN ASSESSMENT DISTRICT
FOR TRACT 5130
(VISTAS AT MOORPARK)**

TO: The Honorable City Council
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021

RE: Establishment of a Landscape Maintenance Assessment District for Tract 5130, located east of Walnut Canyon Road, west of Spring Road and north of Wicks Road.

The undersigned is the record owner (herein "Owner") in fee simple of the real property identified below (herein "Property"). The Property is located within the City of Moorpark (herein "City") and is the subject of an approved tentative map for Tract 5130 (herein "Tentative Map"), prepared and submitted by the Owner.

Certain designated landscape and drainage improvements to be constructed by the Owner (herein "City Improvements") are to be accepted and maintained by City. In addition, it may, under certain circumstances, become necessary for the City to take over the responsibility for the maintenance of certain other designated landscape and drainage improvements (herein "HOA Improvements") which are to be initially owned and maintained by a future Home Owners Association. Accordingly, it is necessary to establish a new Landscape Maintenance Assessment District (herein "District") to fund, or potentially fund, the following costs (herein "City Costs"): a) the cost of maintaining the City Improvements; b) the costs of providing for the future maintenance of the HOA Improvements by the City should that become necessary; and c) the cost of providing for the administration of the District. The total improvements to be maintained, or potentially maintained, by the District (herein "Improvements") shall consist of the City Improvements and the HOA Improvements, as more particularly defined and described Exhibit A.

Therefore, the undersigned Owner hereby petitions the City Council of the City (herein "City Council") to form said District for the purpose of funding said City Costs at the expense of the undersigned and its successors-in-interest, including the future owners of any and all parcels of land into which the Property is to be subdivided upon the recordation of the final map for Tract 5130.

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

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

1. The area to be included in the District is that area identified on the Assessment District Diagram attached hereto and made a part hereof as Exhibit "B".
2. The Owner hereby approves the City of Moorpark Landscape and Lighting Maintenance Assessment District No. 15-01 assessments at the maximum fiscal year 2015-16 rate of \$13,647.15 per lot or equivalent dwelling unit plus an annual increase in the assessments in an amount equal to the annual change in the Los Angeles Metropolitan Area Consumer Price Index for all Urban Consumers for the Property.
3. The amount chargeable to the District shall not exceed the reasonable cost of the special benefit conferred on the entire Property.
4. The amount chargeable to each parcel shall not exceed the reasonable cost of the proportional special benefit conferred upon each of those parcels.

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

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

THIS PETITION AND WAIVER IS KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY EXECUTED this 23 day of April, 2015 at Ventura, California.

Moorpark 1 Inv LLC
By: [Signature]
Name: Bill McReynolds
Title: Vice President of Development

Moorpark 1 Inv LLC
By: _____
Name: N/A
Title: _____

The property that is subject to this Petition and Waiver and owned (not leased or optioned) by the above named owner(s) is that property subject of Tentative Map 5130 [APN No. 512-0-010-010, 512-0-010-025, 512-0-010-065, 512-0-020-010, 512-0-020-030, 512-0-030-010, 512-0-030-025, 512-0-040-035, 512-0-040-040, 512-0-040-070, 512-0-040-130, 512-0-040-145, 512-0-040-240, 512-0-050-140, 512-0-050-350, 512-0-160-140, 512-0-160-155].

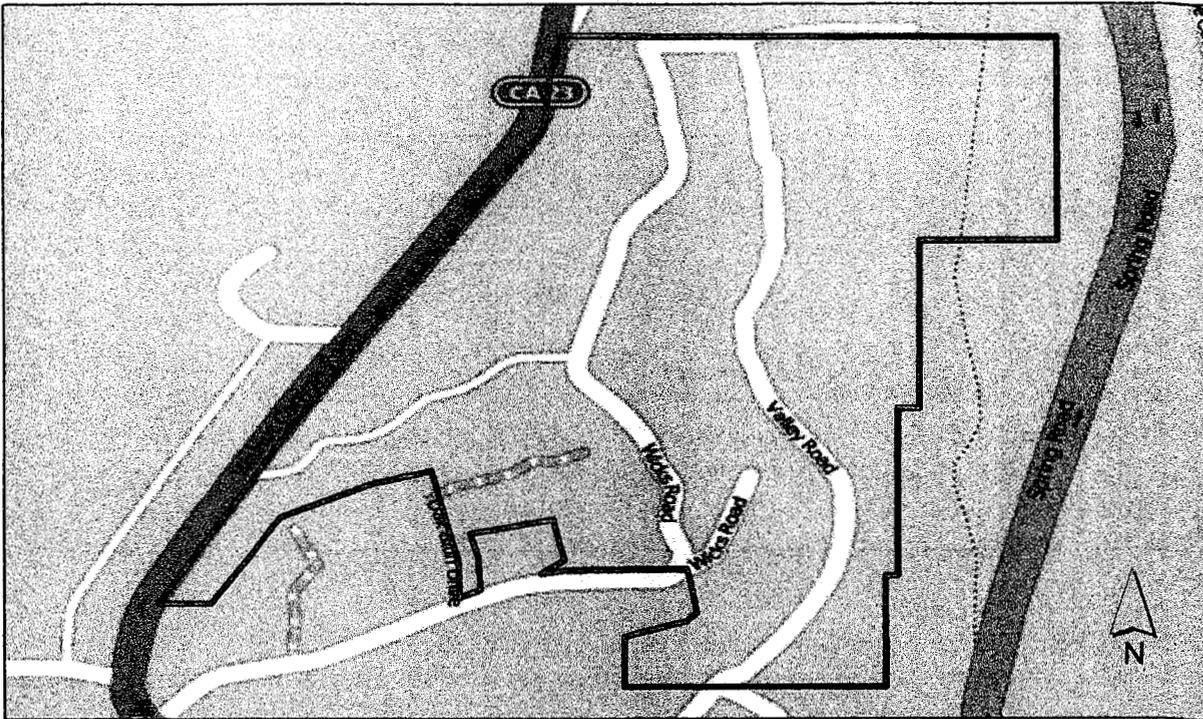
Exhibit A

The improvements to be maintained include but are not limited to the maintenance and servicing of setback landscaping, detention basins, stormwater access road, 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 Vistas at Moorpark (Tentative Tract No. 5130) located between Spring Road and Walnut Canyon Road. In addition maintenance of setback landscaping and trails on the west side of Spring Road between Charles Street and the project entry way shall be the responsibility of the District. 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.

EXHIBIT B



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS ____ DAY OF _____, 2015.

CITY CLERK

RECORDED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS ____ DAY OF _____, 2015.

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 _____, 2015 FOR FISCAL YEAR 2015-16 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 _____, 2015. 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 _____, 2015, 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.

SCI Consulting Group
4745 Mangels Blvd
Fairfield, CA 94534

 AD 15-01 Boundary

CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. AD15-01 ASSESSMENT DIAGRAM



CITY OF MOORPARK
CITY OF MOORPARK LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT No. AD15-01
[VISTAS AT MOORPARK TENTATIVE TRACT MAP No. 5130]

ENGINEER'S REPORT

FISCAL YEAR 2015-16

APRIL 2015

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

ENGINEER OF WORK:
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INTRODUCTION

OVERVIEW

The City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD-15-01 (the "District") is proposed for formation to provide funding for future maintenance of landscaping and drainage improvements within and adjacent to the Vistas at Moorpark (Tentative Tract Map No. 5130) located between Spring Road and Walnut Canyon Road. 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 2015-16 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 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 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, by Resolution, may 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 May 20, 2015 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 2015-16. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in July 2015 for inclusion on the property tax roll for Fiscal Year 2015-16.

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**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 2015-16 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. AD15-01 (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, detention basins, stormwater access road, 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 Vistas at Moorpark (Tentative Tract No. 5130) located between Spring Road and Walnut Canyon Road. In addition maintenance of setback landscaping and trails on the west side of Spring Road between Charles Street and the project entry way shall be the responsibility of the District. 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 2015-16 ESTIMATE OF COST

Description of Improvements to be maintained:

City Improvements

The maintenance of improvements including but not limited to landscaped areas, irrigated ground cover, irrigation systems, detention basins and a stormwater access road located within or adjacent to the District. The maintenance of setback landscaping and trails on the west side of Spring Road between Charles Street and the project entry way.

HOA Improvements

The maintenance of landscaped areas located in the eastern and southern areas of the District as illustrated in the Maintenance Responsibility Map identified as HOA maintenance area located in Appendix A of this Report.

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

Estimate of Cost FY 2015-16

| | |
|--|--------------------|
| Direct Costs (City Maintained Improvements) | |
| Landscape Maintenance & Replacement | \$314,430 |
| Spring Road Landscape Maintenance & Replacement | \$112,352 |
| Detention Basin Maintenance & Replacement | \$190,016 |
| Access Road Maintenance & Replacement | \$37,279 |
| Total City Maintained Direct Costs | \$654,077 |
| Contingency (10%) | \$65,408 |
| Administrative Costs | \$13,082 |
| Total City Maintained Costs | \$732,567 |
| Total EDUs | 110 |
| Proposed FY 15-16 assessment rate | \$6,659.70 |
| Back-up Assessment (HOA Maintained Improvements) | |
| Landscape Maintenance & Replacement | \$686,268 |
| Contingency (10%) | \$68,627 |
| Administrative Costs | \$13,725 |
| Total HOA Maintained Costs | \$768,620 |
| Total Assessment Budget | \$1,501,187 |
| Total EDUs | 110 |
| Total Maximum Authorized FY 15-16 assessment rate | \$13,647.15 |

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. AD15-01.

The City of Moorpark Landscaping and Lighting Maintenance District No. AD15-01 consists of all Assessor Parcels within the boundaries of Tentative Tract Map No. 5130 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. AD15-01 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 XIII D 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. AD15-01. 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 residential use that, in absence of the assessments, would not have been created.

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.

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 District. The Improvements are specifically designed to serve local properties in the District, not other properties or the public at large. 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.

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 areas, trail systems, drainage facilities, other Improvements and costs incidental to providing the Improvements and collecting the Assessments.

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 Districts 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.

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, etc.) This funding from other sources more than compensates for general benefits, if any, received by the properties within the Districts.

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.

| Benefit Factor | Relative Weight | General Benefit Contribution | Relative General Benefit |
|--|------------------------------------|------------------------------|--------------------------|
| Creation of parcels | 90 | 0% | 0 |
| Extension of recreation area | 2 | 10% | 0.2 |
| Proximity to improved landscaped areas | 2 | 10% | 0.2 |
| Access to improved landscaped areas | 2 | 10% | 0.2 |
| Improved views | 2 | 10% | 0.2 |
| | 98 | | 0.8 |
| | Total Calculated General Benefit = | | 0.8% |

As a result, the City will contribute at least 0.8% 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 0.8% which is more than offset by the total non-assessment contribution towards general benefit of 27%.

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 Tract 5130 consist of 110 residential single family dwellings, 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 improved residential properties with a single residential dwelling unit are assigned one Single Family Equivalent or 1.0 SFE. Detached or attached houses, zero-lot line houses and town homes are included in this category. Properties with more than one residential unit are designated as multi-family residential properties and are assigned 0.75 SFE per residential unit.

Commercial, industrial and institutional properties are generally open and operated for more limited times, relative to residential properties. Therefore, the relative hours of operation can be used as a measure of the relative benefits, since employee density and use also provides a measure of the relative benefit to property. Since such properties are typically open and occupied by employees approximately one-half the time of residential properties, it is reasonable to assume that commercial, industrial and institutional properties uses receive one-half of the special benefit on a land area basis relative to single family residential property. Other properties types that are used for commercial, industrial or institutional purposes are assigned 0.5 SFE per quarter acre.

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 the District as specified above. Including the authorized annual adjustment, the maximum fiscal year 2015-16 assessment rate per equivalent dwelling unit is \$13,647.15. The proposed fiscal year 2015-16 assessment rate per equivalent dwelling unit is \$6,659.70.

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 XIID 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-15-01;

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. AD15-01 for the fiscal year 2015-16 is generally as follows:

SUMMARY COST ESTIMATE

| | |
|----------------------|----------------------|
| | <i>F.Y. 2015-16</i> |
| | <u><i>Budget</i></u> |
| Direct Costs | \$654,077 |
| Contingency | \$65,408 |
| Administrative Costs | <u>\$13,082</u> |
| Total Levy to Budget | \$732,567 |

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. AD15-01. The distinctive number of each parcel or lot of land in the said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD15-01 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. AD15-01, 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. AD15-01 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 AD15-01 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 2015-16. 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.

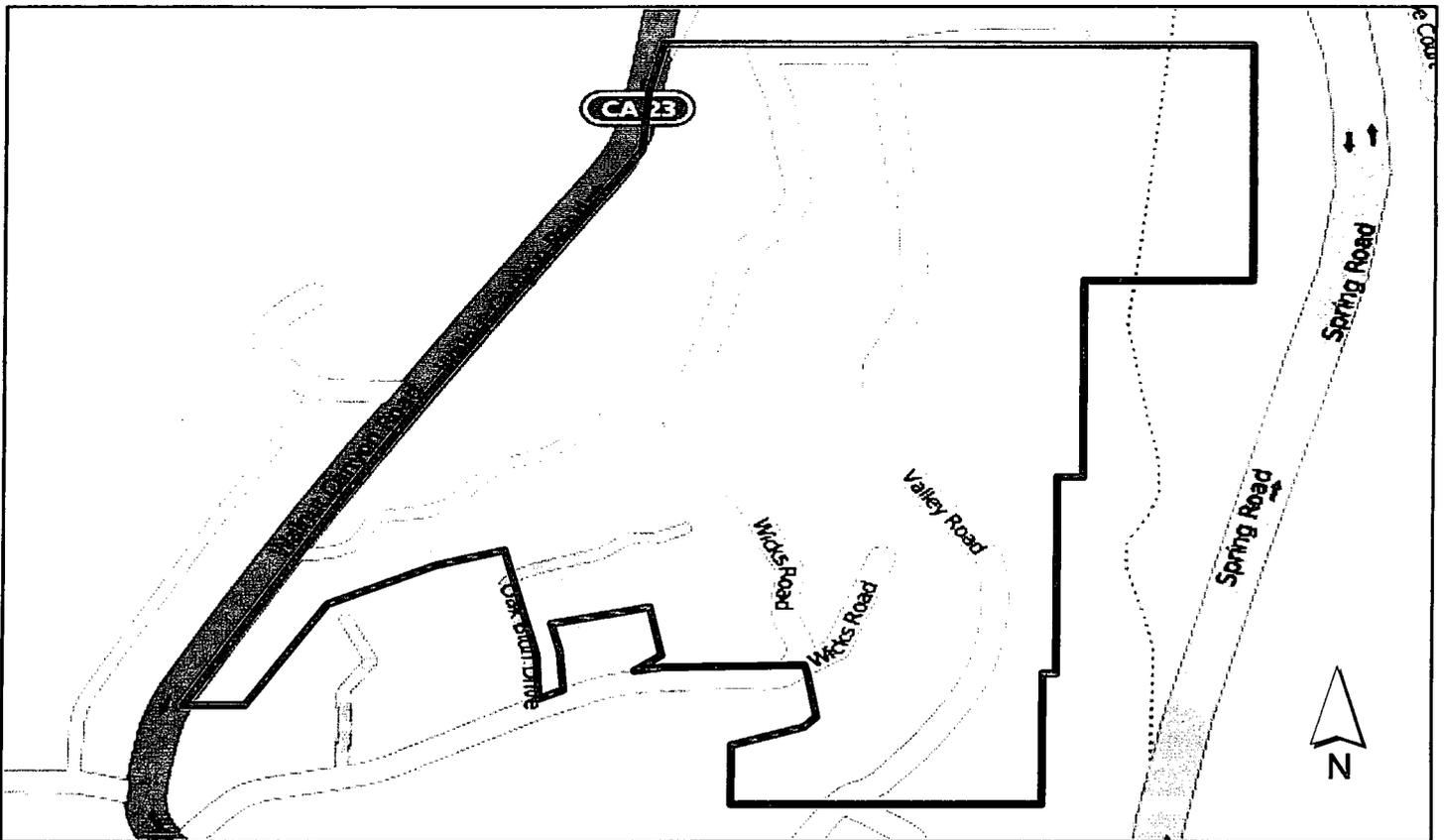
I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2015-16 for each parcel or lot of land within the said City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD15-01.

Dated: April 21, 2015



Engineer of Work

By _____
John W. Bliss, License No. C52091

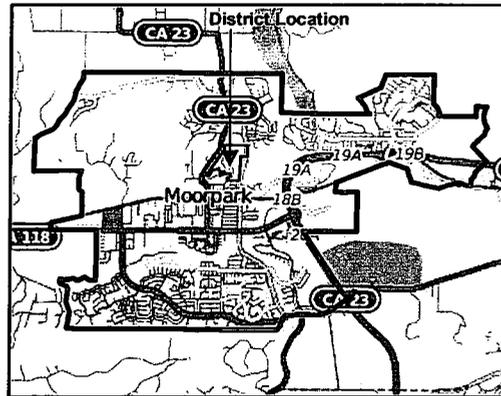


FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS _____ DAY OF _____, 2015.

CITY CLERK

RECORDED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF MOORPARK, COUNTY OF VENTURA, CALIFORNIA, THIS _____ DAY OF _____, 2015.

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 _____, 2015 FOR FISCAL YEAR 2015-16 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 _____, 2015. 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 _____, 2015, 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

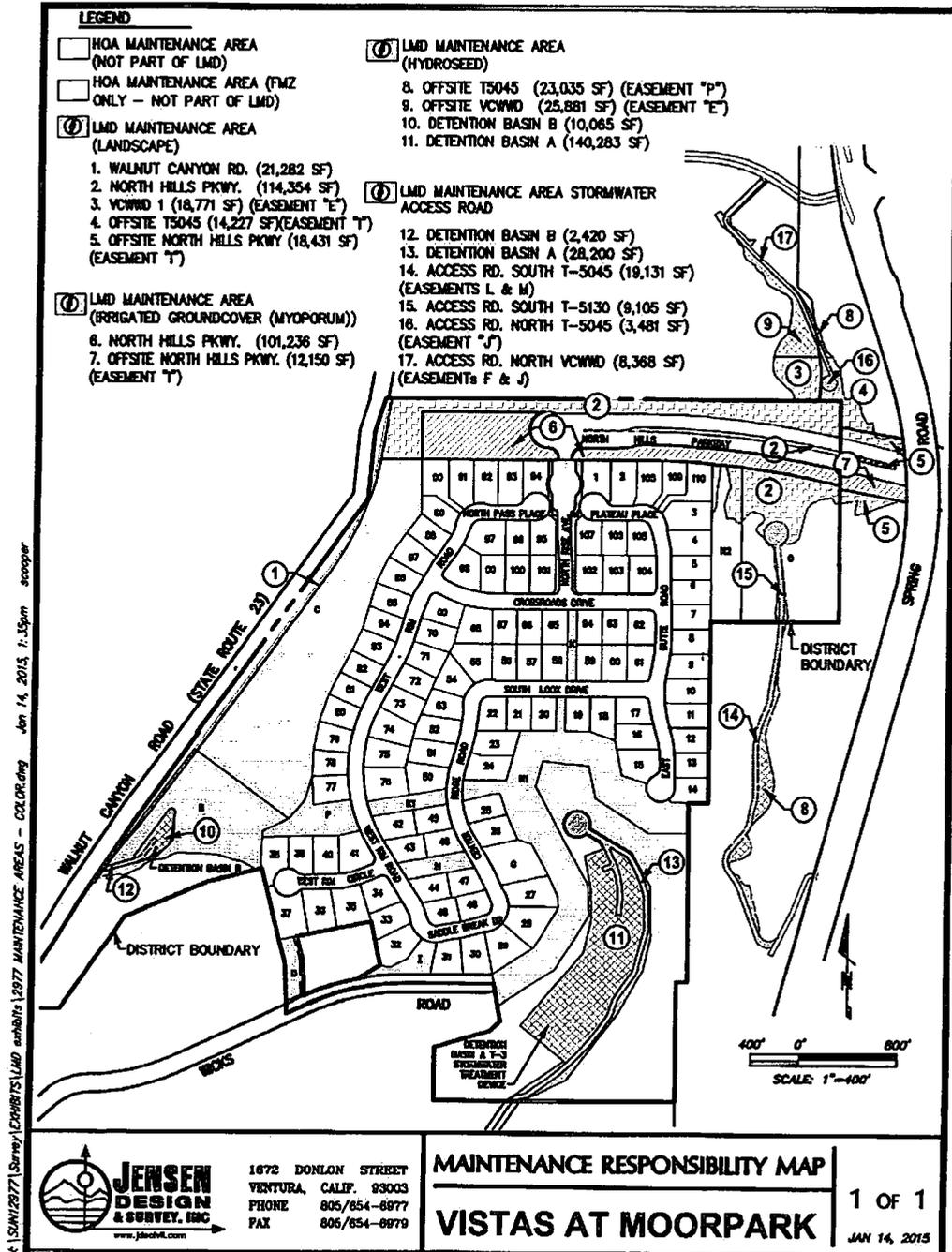
Note:
REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF VENTURA FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL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

SCI Consulting Group
4745 Mangels Blvd
Fairfield, CA 94534

 AD 15-01 Boundary

CITY OF MOORPARK LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DISTRICT NO. AD15-01
ASSESSMENT DIAGRAM

APPENDIX A – MAINTENANCE RESPONSIBILITY MAP



APPENDIX B – 2015-16 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 |
|-----------------------|--------------------|-------|------------|
| 512-0-010-010 | MOORPARK 1 INV LLC | 13 | \$86,576 |
| 512-0-010-025 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-010-055 | MOORPARK 1 INV LLC | 10 | \$66,597 |
| 512-0-010-065 | MOORPARK 1 INV LLC | 6 | \$39,958 |
| 512-0-020-010 | MOORPARK 1 INV LLC | 20 | \$133,194 |
| 512-0-020-030 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-030-010 | MOORPARK 1 INV LLC | 18 | \$119,875 |
| 512-0-030-025 | MOORPARK 1 INV LLC | 18 | \$119,875 |
| 512-0-040-035 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-040-040 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-040-070 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-040-130 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-040-145 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-040-240 | MOORPARK 1 INV LLC | 15 | \$99,895 |
| 512-0-050-140 | MOORPARK 1 INV LLC | 10 | \$66,597 |
| 512-0-050-350 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-160-140 | MOORPARK 1 INV LLC | 0 | \$0 |
| 512-0-160-155 | MOORPARK 1 INV LLC | 0 | \$0 |

RESOLUTION NO. 2015 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, OF INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2015-16, PRELIMINARILY APPROVING ENGINEER'S REPORT, AND PROVIDING FOR NOTICE OF HEARING FOR THE CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT AD 15-01

THE CITY COUNCIL OF THE CITY OF MOORPARK (the "City") DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. On March 4, 2015, the Moorpark City Council adopted Resolution No. 2015-3370, a Resolution initiating proceedings for the formation of the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD 15-01 (the "District") pertaining to the properties within Tentative Tract Map No. 5130 [Vistas at Moorpark] and directing preparation of an Annual Report. Pursuant to this resolution, SCI Consulting Group, the Engineer of Work, prepared an Engineer's Report in accordance with Section 22565, et. seq., of the Streets and Highway Code (the "Report") and Article XIID of the California Constitution. The Report has been made, filed with the City Clerk and duly considered by the City Council and is hereby deemed sufficient and preliminarily approved. The Report shall stand as the Engineer's Report for all subsequent proceedings under and pursuant to the foregoing resolution.

SECTION 2. It is the intention of the City Council to levy and collect assessments within the District for fiscal year 2015-16. Within the landscaping and lighting district, the existing and proposed improvements are generally described as the installation, maintenance and servicing of turf, ground cover, shrubs and trees, irrigation systems, drainage systems, lighting, fencing, and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, as applicable, for property owned or maintained by the City of Moorpark located in or adjacent to the properties contained within Tentative Tract Map No. 5130. Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of said improvements, including repair, removal, or replacement of all or part of any improvement; providing for the life, growth, health and beauty of landscaping; and cleaning, sandblasting and painting of walls and other improvements to remove or cover graffiti. Servicing means the furnishing of electric current or energy, or other illuminating agent, for the operation or lighting of any improvements, maintaining, operating and servicing street and traffic safety lighting, and water for irrigation of any landscaping or the maintenance of any other improvements.

SECTION 3. The District consists of all of the lots and parcels within the boundary map of the District to be placed on file with the City Clerk, and reference is hereby made to such map for further particulars.

SECTION 4. Reference is hereby made to the Report for a full and detailed description of the Improvements, the boundaries of the District and the proposed assessments upon assessable lots and parcels of land within the District. 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. Including the authorized annual adjustment, the maximum fiscal year 2015-16 assessment rate per equivalent dwelling unit is \$13,647.15. The proposed fiscal year 2015-16 assessment rate per equivalent dwelling unit is \$6,659.70.

SECTION 5. The public hearing shall be held, before the City Council, in the City Council Chambers of the City of Moorpark, located at 799 Moorpark Avenue, Moorpark, California 93021 as follows: on May 20, 2015, at the hour of 7:00 p.m. for the purpose of determining whether the public interest, convenience and necessity require the improvements and the City Council's final action upon the Engineer's Report and the assessments therein.

SECTION 6. In order to expedite the proceedings, the property owners have submitted a Petition and Waiver. In submitting these documents to the City, the property owners (1) unanimously agrees to the assessments and acknowledges the special benefits received by the property in the District (2) request that the new assessment district be formed; and (2) waive all rights conferred by Proposition 218 with respect to the approval of the new assessment by mailed ballot and the 45-day time period for balloting.

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

PASSED AND ADOPTED this 6th day of May, 2015.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk