ITEM 8. B.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: **The Honorable City Council**

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

DATE: **May 18, 2007 (CC Meeting of 06-06-07)**

SUBJECT: **Consider Final Review and Changes to the Engineer's Report for Assessment District AD07-04 (Asadurian – IPD 2000-10) and Resolution Confirming the Assessment Amounts for Fiscal Year 2007/08**

DISCUSSION

A. Background

On March 7, 2007, the City Council considered a Petition/Waiver from the owner(s) of the property subject to IPD 2000-10, requesting formation of the subject assessment district. On that date the City Council approved and accepted that Petition/Waiver and adopted Resolution No. 2007-2569, initiating the process required for the formation of the subject Assessment District.

On May 2, 2007, the City Council adopted Resolution No. 2007-2589, approving the AD07-04 Engineer's Report for FY 2007/08 and setting June 6, 2007, as the date of a public hearing to consider the levy of the assessments provided for in the Engineer's Report.

B. IPD 2000-10 / Improvements / Back-up District

The property subject to IPD 2000-10, generally described on the map attached as Attachment 1, is located at the northwest corner of the intersection of Los Angeles Avenue and Goldman Avenue.

The developer of this property has constructed certain landscape improvements (herein "Improvements") within and adjacent to the property. The developer, and/or subsequent property managers, are responsible for maintaining the Improvements. The Conditions of Approval for IPD 2000-10 include provisions to allow the City to take over the responsibility for the maintenance of the Improvements, should the City

determine that the Improvements are not being maintained properly.

The Conditions of Approval for IPD 2000-10 require formation of an assessment district to fund City costs associated with the possible future maintenance of the Improvements by the City, and to fund on-going assessment district administration costs.

C. Engineer's Report

The Engineer's Report for the formation of this new Assessment District was previously distributed to the City Council and key staff members by separate memo. Copies of this report may be obtained from the City Clerk's Division. This report includes certain information required for the formation of a 1972 Act Lighting and Landscaping Assessment District, including the following:

- a Boundary Map for AD07-04;
- the reason for the assessment;
- the duration of the assessment;
- the method of assessment;
- the amount of the annual assessment; and
- a description of improvements to be maintained.

D. Improvements to be Maintained

The improvements to be maintained by the District (Improvements) are described in the Engineer's Report and generally depicted on Attachment 1.

E. Access and Right-of-Way

All of the Improvements (to be maintained) are located on-site or within Caltrans or City street right-of-way. A "Three-Way Agreement", between the developer, the City and Caltrans, has been executed to facilitate access to the Improvements within the Caltrans right-of-way. A Maintenance Easement will be granted to the City to allow for future City access to the on-site Improvements, should that become necessary.

F. Primary Assessment & Back-Up Assessment

1. ***Primary Assessment***: The Primary Assessment is that amount deemed sufficient to fund annual assessment district administration costs. The amount of the Primary Assessment for FY 07/08, which is an amount equal to the estimated administrative costs for FY 07/08, is $500.00. The Engineer's Report provides that each subsequent fiscal year the City will determine the amount of the Primary Assessment and that said amount shall be sufficient to cover actual past and estimated future administrative costs, even if said amount exceeds the amount determined for the initial fiscal year.

2. ***Back-Up Assessment***: The Back-up Assessment is an amount equal to the estimated cost for the maintenance of the Improvements, plus a ten percent (10%) contingency. The amount of Back-up Assessment for FY 07/08 is $21,753.50.

3. ***Assessment vs. Levy***: Each fiscal year the Engineer's Report for the District will state that the total assessment amount will be an amount equal to the sum of the Primary Assessment and the Back-up Assessment. However, the Engineer's Report will also state that the amount to be levied upon the Property will be an amount equal to the Primary Assessment plus all or any portion of the Back-up Assessment required to maintain those Improvements maintained or to be maintained by the City.

G. Assessment Amount

The proposed assessment amounts discussed and defined in Engineer's Report are recapped as follows:

	Total Estimated Annual Cost		
Element	Landscaping ($)	Drainage ($)	Total ($)
Maintenance and Replacement Cost	19,775.00	0.00	19,775.00
Contingency (10%)	1,978.50	0.00	1,978.50
Administration	500.00	0.00	500.00
Total	22,253.50	0.00	22,253.50

	Total Assessment Amount		
Description	Primary Assessment	Back-up Assessment	Total Assessment
Total Assessment Amount	$500.00	$21,752.50	$22,252.50
Total Number of acres	2.54	2.54	2.54
Total Assessment per Acre	$196.85	$8,563.98	$8,760.83

H. FY 2007/08 Levy Amount

The Engineer's Report stipulates that the levy amount for FY 2007/08 shall be the amount identified as the "Primary Assessment" in the above chart.

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

The Engineer's Report provides for an annual C.O.L.A. adjustment to assessment and levy amounts.

J. Capital Improvement Reserve Fund

The Engineer's Report also includes provisions for the establishment of a Capital Improvement Reserve Fund. Said language states that when and if the Capital Improvement Reserve Fund exceeds three hundred percent (300%) of the estimated annual program costs, the actual amount of the assessment levied upon the affected properties shall be reduced to an amount deemed sufficient to keep the amount of the Capital Improvement Fund at an amount below the three hundred percent (300%) ceiling.

K. Public Hearing

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

L. Final Review and Revision

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

STAFF RECOMMENDATIONS (Roll Call Vote)

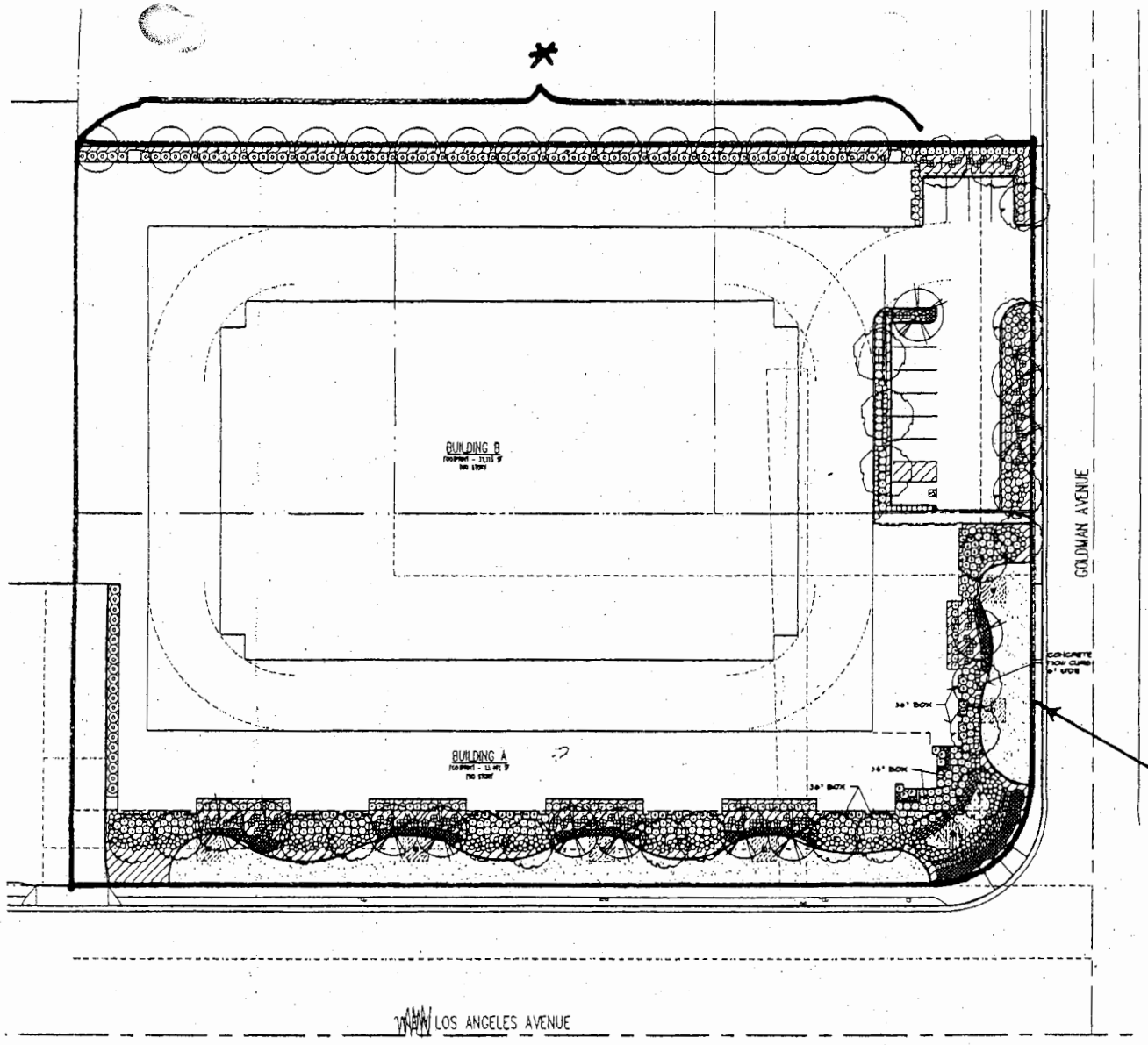
Subsequent to opening the public hearing, receiving testimony and closing the public hearing, staff recommends that the City Council take the following actions:

1. Approve the Engineer's Report for AD07-04 for FY 2007/08, with no changes from the report approved by City Council Resolution No. 2007-2589.

2. Adopt Resolution No. 2007-_____.

Attachments:
1: District Location Map and Boundary Map
2: Resolution

Attachment 1



TREE LEGEND

SYMBOL	BOTANICAL/COMMON NAME	SIZE	SPACING/COMMENTS
	CALLISTEMON CITRINUS LEMON BOTTLEBRUSH	24" BOX	STD. DOUBLE STAKE (D.S.)
	LAGERSTROMIA 'TUSCARORA' CRAPE MYRTLE	24" BOX 36" BOX	STD. D.S. STD. D.S. (NOTED)
	LAGERSTROMIA 'TUSCARORA' CRAPE MYRTLE	36" BOX	MULTI-TRUNK D.S. (NOTED)
	KOELREUTERIA BIPINNATA CHINESE FLAME TREE	24" BOX	STD. D.S.
	PINUS CANARIENSIS CANARY ISLAND PINE	24" BOX	STD. D.S.

SHRUB LEGEND

SYMBOL	BOTANICAL/COMMON NAME	SIZE	SPACING/COMMENTS
	AGAPANTHUS 'QUEEN ANNE' LILY OF THE NILE	5 GAL.	24" O.C.
	DIETES BICOLOR FORTNIGHT LILY	5 GAL.	36" O.C.
	LIGUSTRUM J. 'TEXANUM' JAPANESE PRIVET	5 GAL.	36" O.C.
	PHORMIUM 'MAORI MAIDEN' MAORI MAIDEN FLAX	5 GAL.	36" O.C.
	PITTOSPORUM T. 'CREAM DE MINT' VARIEGATED TOBIRA	5 GAL.	24" O.C.
	PITTOSPORUM TOBIRA 'VARIEGATA' VARIEGATED MOCK ORANGE	5 GAL.	36" O.C.
	RHAPHIOLEPIS INDICA 'CLARA' INDIA HAWTHORN	5 GAL.	36" O.C.
	TULBAGHIA VIOLACEA SOCIETY GARLIC	5 GAL.	24" O.C.
	XYLOSMA CONGESTUM 'COMPACTA' XYLOSMA	5 GAL.	48" O.C.

GROUNDCOVER LEGEND

SYMBOL	BOTANICAL/COMMON NAME	SIZE	SPACING/COMMENTS
	FESTUCA OVINA GLAUCA BLUE FESCUE	FLATS	8" O.C.
	HEDERA HELIX 'HANNI' HANN'S IVY	FLATS	8" O.C.
	PELARGONIUM PELTATUM IVY GERANIUM	1 GAL.	18" O.C.
	MARATHON II SOD	SOD	

Assesment District Boundary

Improvements to be Maintained:
All landscaping except as noted below.

* Not included

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Attachment 2

RESOLUTION NO. 2007 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, APPROVING ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF ASSESSMENT FOR FISCAL YEAR 2007/08 FOR THE CITY OF MOORPARK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT AD07-04

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

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; and

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

WHEREAS, on June 6, 2007, at the hour of 7:00 PM at the City of Moorpark City Council Chambers, 799 Moorpark Avenue, Moorpark, California 93021, the public hearing was duly and regularly held, and all persons interested and desiring to be heard were given an opportunity to speak and be heard, and all matters and things pertaining to the levy were fully heard and considered by this Council, and all oral statements and all written protests or communications were duly considered; 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 City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD07-04 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 City Clerk, which map is made a part hereof by reference thereto.

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

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

(b) the diagram showing the assessment district, plans and specifications for the improvements to be maintained and the boundaries and dimensions of the respective lots and parcels of land within the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD07-04; and

(c) the assessment of the total amount of the cost and expenses of the proposed maintenance of the improvements upon the several lots and parcels of land in the City of Moorpark Landscaping and Lighting Maintenance Assessment District No. AD07-04 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 2007/08 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. AD07-04.

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. AD07-04. 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 6th day of June, 2007.

_____
Patrick Hunter, Mayor

ATTEST:

_____
Deborah S. Traffenstedt, City Clerk