COUNCIL AGENDA: 08-07-12
ITEM: 2.12

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: David Sykes

SUBJECT: **PROPOSED ANNEXATION TO MAINTENANCE DISTRICT 19 (RIVER OAKS AREA LANDSCAPING)**

DATE: July 16, 2012

Approved

Date 7/25/12

COUNCIL DISTRICT: 4

RECOMMENDATION

(a) Adopt a resolution preliminarily approving the Engineer's Report for Annexation Area 1 to Maintenance District 19 (River Oaks Area Landscaping).

(b) Set the Public Meeting to be held on September 18, 2012 at 1:30 p.m.

(c) Set the Public Hearing and tabulation of property owner ballots for October 30, 2012 at 1:30 p.m.

(d) Direct the notice of said meeting, hearing and ballots be mailed to the property owners in district.

OUTCOME

Adoption of a resolution to preliminarily approve the Engineer's Report and to call an election satisfies the legal requirement to allow affected property owners to vote on the proposed assessment on the annexation.

BACKGROUND

Maintenance District 19 (River Oaks) (hereafter "MD 19") was formed in 2001 to accommodate the maintenance requirements of enhanced public improvements installed around the River Oaks area in north San José. These improvements include enhanced landscape in the median islands and special paving at select intersections.

Essex Portfolio, LP, the sole property owner, currently has a development permit (PDC06-067) to construct up to 769 condominium units (Tract 10080) on a 10.4 acre site located on the south

east corner of Seely Avenue and River Oaks Parkway. This project is adjacent to the Crescendo condominium development and across the street from the Elan Apartments at River Oaks. This proposed development changes the site usage from office to residential similar to adjacent properties in the district and relies on access from the adjacent district. The project will therefore benefit from the improvements being maintained by the district.

On April 3, 2012, Council adopted a Resolution of Intention to annex territory into Maintenance District 19 and directed the Director of Public Works to create and file an engineer's report. The proposed formation schedule anticipated staff presenting the Engineer's Report to Council on May 15, 2012. However, due to complications in finalizing the Engineer's Report, we have delayed presenting the report to Council until August 7, 2012, which requires modification of the proposed schedule.

The revised proposed schedule of events for the district annexation:

April 3, 2012	Adopt resolution of intention (Council) (completed)
August 7, 2012	Adopt resolution to preliminarily approve the engineer's report, set Public Hearing, and Tabulation of Ballot (Council) (this action)
September 7, 2012	Publish Notice of Public Meeting and Hearing (staff)
September 7, 2012	Mail Notice of Public Meeting and Hearing along with property owner ballots (staff)
September 18, 2012	Conduct Public Meeting (Council)
October 30, 2012	Conduct Public Hearing and tabulate ballots (Council)
	Adopt resolution declaring ballot tabulation results, and if approved by voters annexing the land into the district (Council)

ANALYSIS

This action requests Council to preliminarily approve the Engineer's Report on file in the Clerk's Office. The report includes: the description of improvements to be maintained and the maintenance work, which is not changing from the current district scope; the budget and assessments for Fiscal Year 2012-2013; the base assessment and escalation limit; the assessment spread formula; the general benefit share; the assessment roll; and, the boundary description and the district map. It is proposed that the annexation area be subject to the same assessment and annual escalator as those properties currently within Zone A. Tract 10080 is a subdivision expected to include a maximum of 769 individual condominium units. Based on current approved development permits, apartments are to be built with condominium specifications for the possibility of future conversion. Since apartments are classified as multi-family residential, the assessment on parcels with apartments will be adjusted based on density. The vacant parcel will be assessed at $0.00 until building permits are issued. The 2012-2013 maximum assessment for the annexation area based on the current land use and unit count is $1,018.50, which will be

adjusted annually thereafter by the average annual change in the Consumer Price Index for the San Francisco-Oakland-San José area.

The Public Meeting on September 18, 2012, and Public Hearing on October 30, 2012 will allow for public testimony to be presented to Council. The Public Meeting, as prescribed by the San José Municipal Code and the Brown Act, allows the public to voice concerns to Council about the project and provide additional feedback, although the Council does not take action at that time. At the Public Hearing, Council must consider all objections or protests to the proposed assessment. The hearing may be continued, if necessary, to allow staff to respond to Council's inquiries or to implement changes proposed by Council. At the close of the Public Hearing, Council will conduct a form of an election called an assessment ballot proceeding whereby property owners within the district cast ballots in favor of or opposed to the assessment, with votes weighted by the amount of the assessment on each parcel. The assessment can only be implemented if affected property owners protesting do not outweigh the ballots cast in favor of the assessment (simple majority). If approved, the proposed assessment will commence in Fiscal Year 2012-2013 and will be adjusted annually by the Consumer Price Index. In the event the ballots submitted in opposition to the assessment exceed the ballots in favor of the assessment, Council cannot impose the assessment.

The Notice of Public Hearing is scheduled to be mailed on or before September 7, 2012, and will include the property owner ballot. The notice will inform the affected owners of the Public Meeting and Hearing, the services to be provided by the district and the proposed assessment. Each completed ballot must be received by the City Clerk prior to the close of the Public Hearing in order to be included in the tabulation. Although this is a mailed ballot election, any property owner may submit their ballot prior to the close of the public hearing on October 30, 2012.

EVALUATION AND FOLLOW-UP

If the annexation to the district is approved by the property owners within the annexation area, the assessments will be placed on the County property tax roll for collection. Staff will bring forward appropriation and funding sources recommendations for Council approval at a later date as appropriate.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website for the August 7, 2012 Council agenda. This action was initiated at the request and with support from the Developer and was prepared by Public Works. City staff has met with the Developer regularly regarding the district and their development plans.

COORDINATION

This memorandum, related documents and resolutions were prepared in cooperation with the City Attorney's Office, the Departments of Transportation and Planning, Building and Code Enforcement, and the City Manager's Budget Office.

FISCAL/POLICY ALIGNMENT

These actions are in compliance with the Council-approved Budget strategy in that staff costs are funded by the Developer's deposit. If district annexation is approved by the property owners, the costs of services provided through the district will be funded through annual assessments on the properties within the district.

COST IMPLICATIONS

The Developer has deposited funds to pay annexation costs for the district. Any unused funds will be returned to the Developer. If all funds are exhausted prior to the tabulation of ballots, the Developer must provide additional funds to continue the process or the formation process will be discontinued. It should be noted that the developer funds were recognized in 2011-2012, and inadvertently not rebudgeted as part of the Adopted Budget process. It is anticipated that these funds will be recommended for rebudget into 2012-2013, as part of the 2011-2012 Annual Report, scheduled for City Council consideration in October 2012.

CEQA

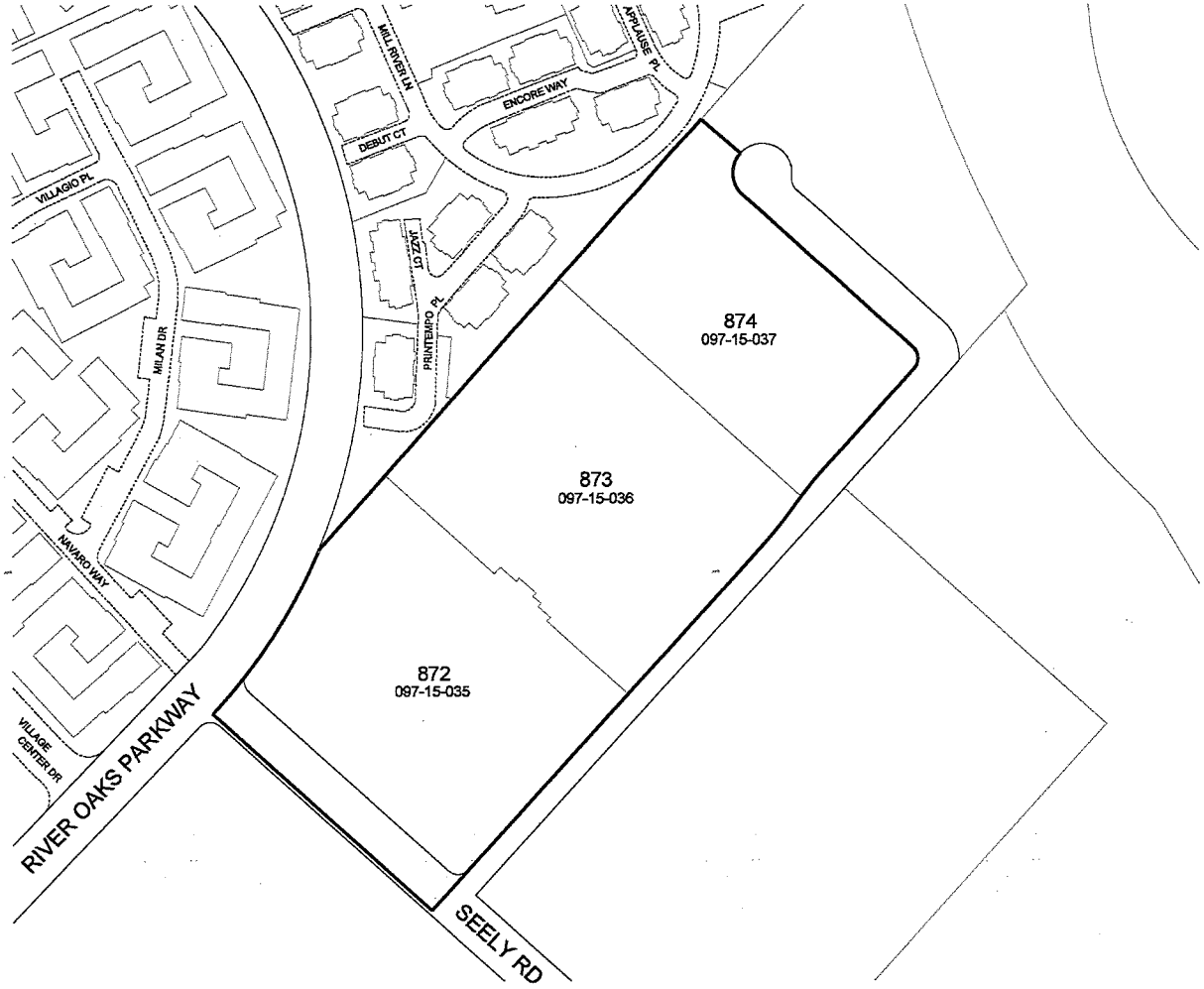
North San José Development Policy Update EIR, Resolution No. 72768.

/s/
DAVID SYKES
Director of Public Works

For questions please contact Thomas Borden, Special Districts Manager, Department of Public Works, at (408) 535-6831.

Attachment

ATTACHMENT



CERTIFICATIONS

(1) DIRECTOR OF PUBLIC WORKS

FILED THIS _____ DAY OF _____, 2012, IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF SAN JOSE.

_____
DAVID SYKES
DIRECTOR OF PUBLIC WORKS

(2) CITY CLERK

FILED THIS _____ DAY OF _____, 2012, IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE.

_____
DENNIS D. HAWKINS, CMC
CITY CLERK

(3) CITY COUNCIL

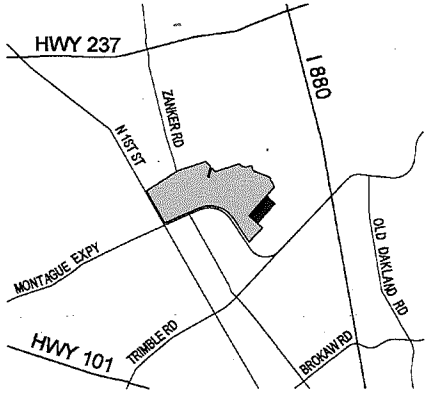
BY RESOLUTION NUMBER _____, ON THE _____ DAY OF _____, 2012, AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS DIAGRAM. THE APPROVED DIAGRAM AND ASSESSMENT ROLL FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS CONTAINS THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS DIAGRAM.

_____
DENNIS D. HAWKINS, CMC
CITY CLERK

(4) COUNTY RECORDER

FILED THIS _____ DAY OF _____, 2012, AT THE HOUR OF _____ O'CLOCK ___M. IN BOOK_____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS PAGE(S) _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO.: _____ FEE PAID: _____

_____
REGINA ALCOMENDRAS, COUNTY RECORDER
COUNTY OF SANTA CLARA



LOCATION MAP

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY
PUBLIC WORKS DEPARTMENT

LEGEND

ANNEXATION AREA NO. 1		PROPERTY LINE	
STREET RIGHT OF WAY	1	DISTRICT PARCEL NUMBER (DPN)	
PRIVATE STREET	123-45-678	ASSESSOR'S PARCEL NUMBER (APN)	

0' 100' 200' 300'
SCALE: 1" = 100'

CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

ANNEXATION AREA NO. 1
TO
MAINTENANCE DISTRICT 19
(RIVER OAKS AREA LANDSCAPING)
FISCAL YEAR 2012-2013

SHEET 1 OF 1

CITY OF SAN JOSE

ENGINEER'S REPORT

ANNEXATION AREA NO. 1
TO
MAINTENANCE DISTRICT 19
(RIVER OAKS AREA LANDSCAPING)

FISCAL YEAR 2012-2013

Filed in the office of the City Clerk of the City of San José on _____.

_____
DENNIS D. HAWKINS, CMC
City Clerk

This Engineer's Report was preliminarily approved by the City Council of the City of San José at a meeting thereof on _____.

_____
DENNIS D. HAWKINS, CMC
City Clerk

This Engineer's Report and assessments herein were duly approved, confirmed and adopted by the City Council of the City of San José at a meeting thereof on _____.

_____
DENNIS D. HAWKINS, CMC
City Clerk

I, the Acting Director of Finance of the City of San José, hereby certify that on _____, the assessments contained in this Engineer's Report were delivered to the officer of the County of Santa Clara designated by law to post City special assessments upon the property tax roll on which they are collected.

_____
JULIA H. COOPER
Acting Director of Finance

WHEREAS, Chapter 14.15 of the City of San José Municipal Code establishes the Alternative Procedures for Maintenance Districts in conformance with the requirements of the California Constitution and provides that benefit assessments may be apportioned upon all assessable lots or parcels of land within a maintenance district in proportion to the estimated special benefits to be received by each lot or parcel from the improvements.

WHEREAS, Articles XIIIC and XIIID of the California Constitution require property owner approval of any imposed, extended or increased assessment and that a parcel's assessment may not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The Constitution also provides that public property is subject to assessments.

WHEREAS, Article XIIID of the California Constitution provides that only special benefits are assessable; a special benefit being a particular and distinct benefit over and above general benefits conferred on real property within the district or the public at large. The general enhancement of property value does not constitute a special benefit; the general benefits must be separated from the special benefits conferred on a parcel.

WHEREAS, Chapter 14.15 of the City of San José Municipal Code requires that the assessment be authorized by a vote of those proposed to be assessed, and; that the Director of Public Works prepare an Engineer's Report containing:

1. a written description of the boundaries of the district;
2. a description of the improvements to be maintained;
3. a description of the maintenance to be provided;
4. a budget for the ensuing fiscal year;
5. a formula for apportioning the maintenance costs among the parcels
6. an estimate of the initial Annual Aggregate assessment and the proposed annual adjustment together with an explanation of the proposed adjustment formula;
7. an assessment roll with a property owners list, and;
8. a map or diagram showing the boundaries of the district and identifying the parcels in the district.

WHEREAS, on March 17, 2009 the City of San José Council reconfirmed the Median Island Landscape Program policy adopted on June 9, 1994 that only Type 1 landscaping be installed on City streets unless an alternate funding source has been identified for maintenance. Type 1 includes trees and paved surfaces as the City maintained standard (with an exception for downtown sites).

WHEREAS, on August 7, 2001 the City Council of San José adopted its Resolution Number 70553 providing for the establishment of Maintenance District 19 (River Oaks Area Landscaping) pursuant to the provisions of Municipal Code Chapter 14.15, referred to as the Alternative Procedures for Maintenance Districts, which was revised to conform to the requirements of California Proposition 218; and

NOW, THEREFORE:

1. **THE BOUNDARY** of proposed Annexation Area No. 1 to Maintenance District 19 (River Oaks Area Landscaping), as shown on the diagram attached as Exhibit 3, is generally described as: the southerly border of Tract No. 8385, known as Crescendo at River Oaks condominium development, to the north, Seely Avenue on the west, Epic Way on the south, and a line approximately 600 feet west of the centerline of the Coyote River on the east.

2. **THE IMPROVEMENTS** for which maintenance and operation are provided shall include: all street islands, special paving, and; all additions, improvements and enlargements thereto which may hereafter be made for the District, and of benefit to the District but not of benefit to the City of San Jose as a whole. Improvements include but are not limited to: ornamental plantings, including trees, shrubs, vines, groundcovers and lawns; special street lights: irrigation, drainage and decorative lighting systems, and; decorative paving, curbing, maintenance bands, seats, walls, and signs.

3. **THE MAINTENANCE AND OPERATION** of the improvements shall include the necessary servicing, repairs, replacements, equipment, supplies, water, fuel, power, electric current, care, supervision, administration and any and all other items necessary for the safe and proper maintenance and operation thereof.

4. **THE BUDGET** for the costs and expenses of maintaining and operating any and all of the public improvements when the district was originally formed Fiscal Year 2001-2002 is shown on the following table.

MAINTENANCE DISTRICT 19 - FUND (359)			**FISCAL YEAR 2001-2002**
SOURCE OF FUNDS	TOTAL	USE OF FUNDS	TOTAL
Beginning Fund Balance:		Expenditures:	
Restricted Cash	30,000	Non Personal Services	32,348
Unrestricted Cash	324,309	Overhead	80,481
Total Beginning Fund Balance	**$354,309**	Personal Services	0
		Worker's Comp Claims	0
Transfers		Total Expenditures	**$112,829**
General Fund	7,162		
Total Transfers	**7,162**	Ending Fund Balance:	
		Restricted Cash	0
Revenue:		Unrestricted Cash	
Interest	19,458	Operating Funds	84,622
Benefit Assessment	49,000	Replacement Funds	232,478
Total Revenue	**$68,458**	Total Ending Fund Balance	**$317,100**
TOTAL SOURCE OF FUNDS	**$429,929**	**TOTAL USE OF FUNDS**	**$429,929**

The budget for the costs and expenses of maintaining and operating any and all of the public improvements for Fiscal Year 2012-2013 as approved by Council on June 19, 2012 is shown on the following table.

MAINTENANCE DISTRICT 19 - FUND (359)		FISCAL YEAR 2012-2013	
SOURCE OF FUNDS	TOTAL	USE OF FUNDS	TOTAL
Beginning Fund Balance:		Expenditures:	
Restricted Cash	23,068	Non Personal Services	66,335
Unrestricted Cash	273,901	Overhead	4,276
Total Beginning Fund Balance	**$296,969**	Personal Services	14,109
		Worker's Comp Claims	500
Transfers		Total Expenditures	**$85,220**
General Fund	6,195		
Total Transfers	**6,195**		
		Ending Fund Balance:	
Revenue:		Restricted Cash	23,068
Interest	1,000	Unrestricted Cash *	
Benefit Assessment **	43,400	Operating Funds	63,915
Total Revenue	**$44,400**	Replacement Funds	175,361
		Total Ending Fund Balance	**$262,344**
TOTAL SOURCE OF FUNDS	**$347,564**	**TOTAL USE OF FUNDS**	**$347,564**

* Subject to limitation are the Ending Fund Balances for Unrestricted Cash: Operating Funds and Replacement Funds. Operating Funds may not exceed one year's Total Expenditures. Replacement Funds may not exceed the full replacement value of the improvements maintained. If either limit is exceeded, the excess amount shall be credited to the assessments in proportion to each parcel's assessment.

** The 2012-2013 maximum aggregate assessment is $63,463.42. Credits were given in 2012-2013 reducing the assessment levy due to operational efficiencies and a healthy reserve fund.

5. **THE METHOD OF ASSESSMENT** upon and by which the special assessment is to be levied is based upon the special benefit received.

BACKGROUND

Articles XIIIC and XIIID of the California Constitution require that a parcel's assessment not exceed the reasonable cost of the proportional special benefit conferred on that parcel. The Constitution further provides that only special benefits are assessable. If there are general benefits, they must be separated from the special benefits conferred on a parcel; a special benefit being a particular and distinct benefit over and above general benefits which are conferred on the public at large, including real property within the district. The general enhancement of property value is not considered to constitute a special benefit.

Maintenance District 19 provides special benefit to a development in North San Jose. The area within this district was initially developed under Local Improvement District 78-153SJ. The property owners requested formation of the Improvement District to fund major public infrastructure capital costs, including the northern Montague Expressway shoulder landscaping, frontage easement landscaping and the street island landscaping, thus creating the need to form a Maintenance District to fund ongoing maintenance of the improvements. Several years after the original industrial development began, approximately 1/3 of the area was rezoned for residential use.

Formation of a maintenance district was requested to maintain the special improvements for the following reasons: (1) the level of improvements constructed exceeded the level of improvement typically maintained by the City in such an area; (2) a higher than normal City standard of maintenance was desired, and; (3) the improvements specially benefited the area. All parcels are now developed.

The original maintenance district established to maintain the special improvements did not receive the required voter approval in Fiscal Year 2000-2001 when it was brought before the property owners for reauthorization. Subsequent to that reauthorization attempt, property owners in the area requested that a new district be formed with a limited scope to continue the special landscape maintenance services for the street island landscaping and special paving in River Oaks Parkway, Research Place, Zanker Road and Innovation Drive.

Maintenance District 19 was formed with two benefit zones. Properties within Zone A are assessed for the maintenance of the enhanced landscaping in the street islands within the District boundary on Research Place and River Oaks Parkway from Montague Expressway up to and including the street island east of Cisco Road, plus special pavers in the intersections. Properties within Zone B are assessed for the maintenance of the enhanced landscaping in the street islands on Zanker Road, Innovation Drive and River Oaks Parkway from North First Street up to the street island east of Cisco Road.

The development of Tract No. 10080 changes the site usage from office to residential similar to adjacent properties in Maintenance District 19 and relies on access from the District, therefore benefitting from the improvements being maintained. The residential units of Tract No. 10080 are being developed in three phases. Two of the three phases are in progress with the third currently vacant.

The following table compares typical City maintenance services to Special District maintenance. There are also major differences in the design of the improvements maintained. The table helps to define the levels of special services and general services in the special verses general benefit evaluation that follows.

COMPARISON OF CITY AND SPECIAL DISTRICT MAINTENANCE		
ITEM	**CITY – GENERAL TYPE 1**	**SPECIAL DISTRICT TYPE 2**
DESIGN	Trees only	May include all or part of: trees, shrubs, ground cover, turf, mulches/crushed rock, lighting, pathways, decorative walls & signage, fountains and/or structures
SERVICE FREQUENCY	Twice annually	Weekly
TREES		
Trimming (clearance)	None	As needed
Trimming (structural)	None	Every 3 years
Replacement	None	As needed
SHRUBS and GROUND COVER		
Pruning	None	Yearly (and as needed)
Fertilize	None	2 times per year (or as needed)
Replacement	None	As needed
Flowers	None	Seasonal
TURF		
Mowing	None	Weekly
Fertilize	None	3 times per year
WEED CONTROL		
Pre-emergent	Yearly	Yearly (and as needed)
Contact Spray	Yearly	As needed
Hand Removal	None	As needed
DEBRIS REMOVAL	Twice annually	Weekly
IRRIGATION REPAIR	Adjusted every 6 months / 2 weeks for complaint response (Some are just abandoned)	Weekly
MULCH/BARK/ROCK		
Grooming	None	As needed
Replacement	None	As needed
GRAFFITI REMOVAL	Within 1 - 2 weeks	Within 1-2 days
STREET ISLAND HARDSCAPE		
Cleaning	Safety only	As needed
Repair	Safety only	As needed

GENERAL BENEFIT

In evaluation of the general benefits provided by the landscape maintenance, it is concluded that the landscape maintenance services on Zanker Road provide benefit to the general public and the City as a whole as well as properties included within the district for the following reasons:

1. The landscape maintenance service maintains street islands on Zanker Road which are required for traffic control purposes.

2. The City generally provides, from generally available City funds, similar services in other similar areas where street islands are required for traffic control, however, if installed, the landscaping provided is at the City standard level, which consists of street trees and decomposed granite.
3. The district provides for the maintenance of the street islands relieving the City of its underlying maintenance responsibility at City standard levels for that island area.

The street islands and landscaping on Zanker Road is considered to provide general benefit because the City of San Jose promotes the installation of street islands on major collector streets throughout the City; providing a general benefit through minimal maintenance of those islands. In evaluating the street design and traffic circulation patterns associated with the District, it is concluded that the general traffic is on the major thoroughfares of Zanker within the District. In summary, general benefit is derived because: 1) The City, in conformance with City policy, required the street island construction in Zanker; 2) the street islands are in major thoroughfares, and; 3) through traffic is intended on Zanker Road.

Conversely, the street islands in River Oaks Parkway, Research Place, and Innovation Drive were installed for decorative purposes only and were not required for traffic control by the City. The City does not generally provide from generally available City funds, similar service in other similar areas and the proposed service only benefits the properties in the District. Therefore no general benefit is derived from maintaining the street island landscaping on those streets.

SPECIAL BENEFIT

Each and every assessed parcel within the district receives a particular and distinct benefit from the improvements over and above any general benefit that may be conferred by those services. The operation and maintenance of the landscaping provides a specific and direct benefit to all properties within each of the two benefit zones and therefore may be levied upon the properties in proportion to the benefit received. Each benefit zone, if approved by the property owners within that zone, can operate independently. Therefore if only one zone is approved the boundaries of the District would be reduced to reflect only the approved benefit zone.

Special benefits are provided to the parcels by the landscape maintenance for the following reasons:

1. The street islands in River Oaks Parkway, Research Place and Innovation Drive are not required for traffic control purposes; they are provided only as a decorative feature.
2. The street islands on Zanker Road are needed for traffic control purposes, however, the landscaping was upgraded to a level above City standards to provide continuity within the district.
3. The special pavement treatments on River Oaks Parkway are provided only as a decorative feature.
4. Special landscaping that is well maintained and readily accessible to the properties may be enjoyed by all tenants, owners, and visitors without the owners expending the effort of individually maintaining, replacing and repairing the improvements.

5. The special landscaping and maintenance reduces the visual and noise impacts of traffic and other activities in the adjoining areas, thereby improving the physical environment within the immediate area, making it more attractive and desirable.
6. The presence of special landscaping that is well maintained and available for the enjoyment of the property tenants, owners, businesses and their visitors specifically enhances the desirability of their property. This contributes to the ability of the parcels to remain superior in comparison to other similarly zoned parcels without these special features.
7. The special landscaping and maintenance, by enhancing the attractiveness of the immediate area, increases desirability for potential tenants and buyers, thereby improving desirability and marketability.
8. When a community's infrastructure are clean, safe, available, and well maintained, its desirability and value are enhanced. Unappealing, unsafe, or damaged common facilities decreases the locale's desirability and ultimately, its value.
9. Attractive, well maintained special landscaping fosters a sense of identity and pride in an area. This tends to influence the individual businesses, tenants and property owners, encouraging improved landscaping on and maintenance of private property, increasing the attractiveness and desirability of all property in the area.
10. Special landscaping disease and weed control reduces the likelihood of damaging and costly insect or weed infestations spreading to properties within an area.

Multi-Family residential properties receive an adjustment to their assessment based on the number of dwelling units within the parcel being assessed. The reduction in the assessment, by use of an equivalent unit benefit factor, is due to the decrease in relative population density as the number of units increases as well as the fact that the as the number of units increases, the average value per rental unit decreases. All of which have been documented in previous studies. Therefore, the special benefit to a parcel is reduced as the number of dwelling units on that parcel increase.

One public parcel lies within Maintenance District 19, a 1.2 acre parcel, owned by the City of San Jose. In evaluating the special benefit that the district may provide to this parcel it is noted that the City of San Jose parcel supports a unique use. The fire station located on this parcel provides emergency fire safety services to the immediate area. These services mandate that the station is located within the area it serves. This mandate, in conjunction with the fact that historically, fire stations rarely move once established, justifies a finding that this parcel receives minimal special benefit.

The special benefit from the maintenance of landscaped street islands and/or decorative paving is apportioned to parcels in the District by benefit zone, each of which are to be approved independently, based on three components: 1) the specific enhancements as a result of having well-maintained street islands in the district; 2) the specific benefit associated with owning a parcel that has frontage on the streets with islands; and 3) the specific benefit derived (for each Benefit Zone) by adjacency to the facilities being maintained.

In apportioning the special benefit assessment it is first concluded that the special benefits are specific to each of the two Benefit Zones: (1) Eastern River Oaks, Research (Benefit Zone A), or (2)

Western River Oaks, Zanker (Benefit Zone B). Each amenity has its specific benefit zone, so the assessment for the costs associated with each zone shall be apportioned between each and every parcel within the zone equally by area, except that (1) the assessment for residential parcels is based on a zone specific unit assessment for each zone of benefit, and (2) adjustments are made for certain land uses.

1. For most owners and tenants, the landscaped street islands will be considered an enhancement of the area, providing a unique atmosphere. All properties are equally restricted in use of the island areas, so no feature could be considered to be available to use significantly more extensively by any one of the properties. So, facility use, being approximately equal, further contributes to the determination that the benefits are essentially equal for each type of use.
2. Multi-Family Residential complexes retain their original parcel but some of their area is held in common providing benefit to all units equally.
3. However, proximity to the facilities provides one of the reasons to differentiate benefit. A parcel having frontage on streets with the street islands is obviously closer to the enhanced landscaping and benefits from the reduction of noise and visual impacts provided by the landscaped street islands, in addition to the esthetic advantage of having well maintained landscaped islands adjacent to the property.
4. The fire station, being an institutional use, receives a reduction in its assessment because it must be located within the immediate area to provide services. The station workers do however, derive some benefit from the improvements and it must therefor pay a share of the cost for the services.
5. Multi-Family Residential complexes receive a reduction in the Dwelling Unit Equivalent Benefit Factor resulting in a decrease in their assessment. This is justified because as the number of dwelling units increases the rate potential per rental unit decreases and thus the benefit received by this parcel is reduced as the number of units on that parcel increase.

6. THE FORMULA to apportion the special benefit assesses each parcel in proportion to the benefit each property receives from street islands and decorative paving, based on parcel size and benefit zone with adjustments for proximity, institutional and residential uses. The use of each property shall be determined on June 30th preceding the tax year to be assessed and will be based on the approved use at that time. The amount of the General Benefit allocation must be subtracted from the amount of the total budgeted expenditures for the landscaping. The resulting amount, calculated separately for (Benefit Zone A) and (Benefit Zone B), combined for the 2001-2002 tax year, is the Annual Aggregate Assessment.

The Annual Aggregate Assessment is then allocated, by Benefit Zone, among the parcels in that zone, based on the following:

1. Determine acreage for all parcels within the Benefit Zone.
2. Determine and apply the benefit multiplier to the acreage of each parcel based on the use, frontage or combination thereof, the result being the net acreage.

a. Residential

Dwelling Unit Equivalent Benefit Factor

	UNITS	FACTOR
Single Family, Condo, or Townhome -		1.00 benefit multiplier
Multi-family -	1-20	0.75 benefit multiplier
	21-50	0.50 benefit multiplier
	51-100	0.25 benefit multiplier
	100 or more	0.10 benefit multiplier

b. Institutional parcels:

Occupied parcels receive a reduction - 0.50 benefit multiplier

c. Any parcel having frontage on the landscaped street islands or the Montague Expressway shoulder - 1.25 benefit multiplier

d. Any parcel not having frontage on the landscaped street islands - 1.00 benefit multiplier

3. Determine the ratio of net acreage for each parcel to the total net acreage for the district.
4. For parcels in residential use, the net acreage for all residential parcels is summed, and then multiplied by the Annual Aggregate Assessment to determine the total assessment to parcels with residential use.
5. The result is then divided by the total number of residential units within the district to derive the residential unit assessment per unit.
6. For residential parcels with multiple units, the residential unit assessment is multiplied by the number of units.
7. For parcels with non-residential use, the ratio of the net acreage for each parcel to the net acreage for the district is multiplied by the Annual Aggregate Assessment to determine the assessment for each parcel.

Eastern River Oaks, Research (Benefit Zone A)

All costs associated with the maintenance of the enhanced landscaping in the street islands including special pavers in the intersections are equally assessed to all properties within Benefit Zone A, based on the ratio of the area of each parcel to that of all parcels within Benefit Zone A. The resulting ratio is then multiplied by the benefit factors listed above to adjust for proximity and use.

Western River Oaks, Zanker (Benefit Zone B)

All costs associated with the maintenance of the enhanced landscaping in the street islands in Benefit Zone B, are equally assessed to all properties within benefit Zone B, based on the ratio of the area of each parcel to that of all parcels. The resulting ratio is then multiplied by the benefit factors listed above to adjust for proximity and use.

7. THE ANNUAL ADJUSTMENT FORMULA, upon approval of a majority vote of the property owners, sets maximum limits to the assessments in future annual budgets. Fiscal Year

2001-02 was established as the base year, having a base assessment of $49,000 when the district was originally formed. The base adjustment index was set at 180.200, which is the average annual Consumer Price Index, All Urban Consumers, for the San Francisco-Oakland-San Jose Area ("CPI") for the calendar year (2000) preceding the base assessment year. Assessments for any future fiscal year may not exceed the Maximum Annual Adjustment; the maximum assessment is calculated by dividing the $49,000 base assessment by the 180.2 CPI for the 2000 base calendar year and then multiplying the resulting quotient, $271.92, by the CPI for the calendar year preceding the desired future fiscal year. The CPI for the 2011 calendar year is 233.390, which adjusts the maximum assessment for the existing district to $63,463.42 for fiscal year 2012-2013.

The 2012-2013 maximum assessment for single family residential units in the existing district is $17.90, with multi-family classified parcels receiving an adjusted benefit factor based on density. Upon annexing the residential component of Tract 10080 based on its current approved development permits, the maximum assessment for single family residential units remains at $17.90. Phases I and II are permitted to be apartments and built to condominium specifications for the possibility of future conversion. Phase III is planned as condominiums, however currently remains vacant. Since apartments are classified as multi-family residential, the assessment on parcels with apartments will be adjusted based on density. The residential parcel that is vacant will be assessed at $0.00 until building permits are issued. The 2012-2013 maximum assessment for the annexation area based on the current land use and unit count is $1,018.50. Changes in the type of residential or use of the land will trigger a change in assessment.

Annual budgets within this limit may be approved by the City Council without additional property owner ratification. This limit may be exceeded only with a majority owner approval of either: 1) a supplemental assessment; 2) a revision of or a supplement to, the maximum assessment and/or adjustment formula, or; 3) any other methodology agreeable to the property owners.

8. INTERPRETATION and application of any section of this document shall be left to the City's discretion. In addition, the City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Assessment Formula or Annual Adjustment Formula.

NOW, THEREFORE, I, DAVID SYKES, Director of Public Works of the City of San José by virtue of the power vested in me under the Resolution and the order of the City Council, hereby make the benefit assessments as shown on the Assessment Roll attached as Exhibit 1 upon all parcels of property subject to assessment owned by the persons shown on the Owners List attached as Exhibit 2 and shown on the diagram attached as Exhibit 3.

Dated: 7/16/12

DAVID SYKES
Director of Public Works

EXHIBIT 1

ANNEXATION AREA NO. 1
MAINTENANCE DISTRICT 19
(RIVER OAKS AREA LANDSCAPING)

ASSESSMENT ROLL
FISCAL YEAR 2012-13

BENEFIT FACTOR = 1.00 for parcels not fronting landscaped medians
1.25 for parcels fronting landscaped medians
1.00 for single parcel residential units
0.75 for parcels with multi-family residential with 1-20 dwelling units
0.50 for parcels with multi-family residential with 21-50 dwelling units
0.25 for parcels with multi-family residential with 51-100 dwelling units
0.10 for parcels with multi-family residential with 101+ dwelling units

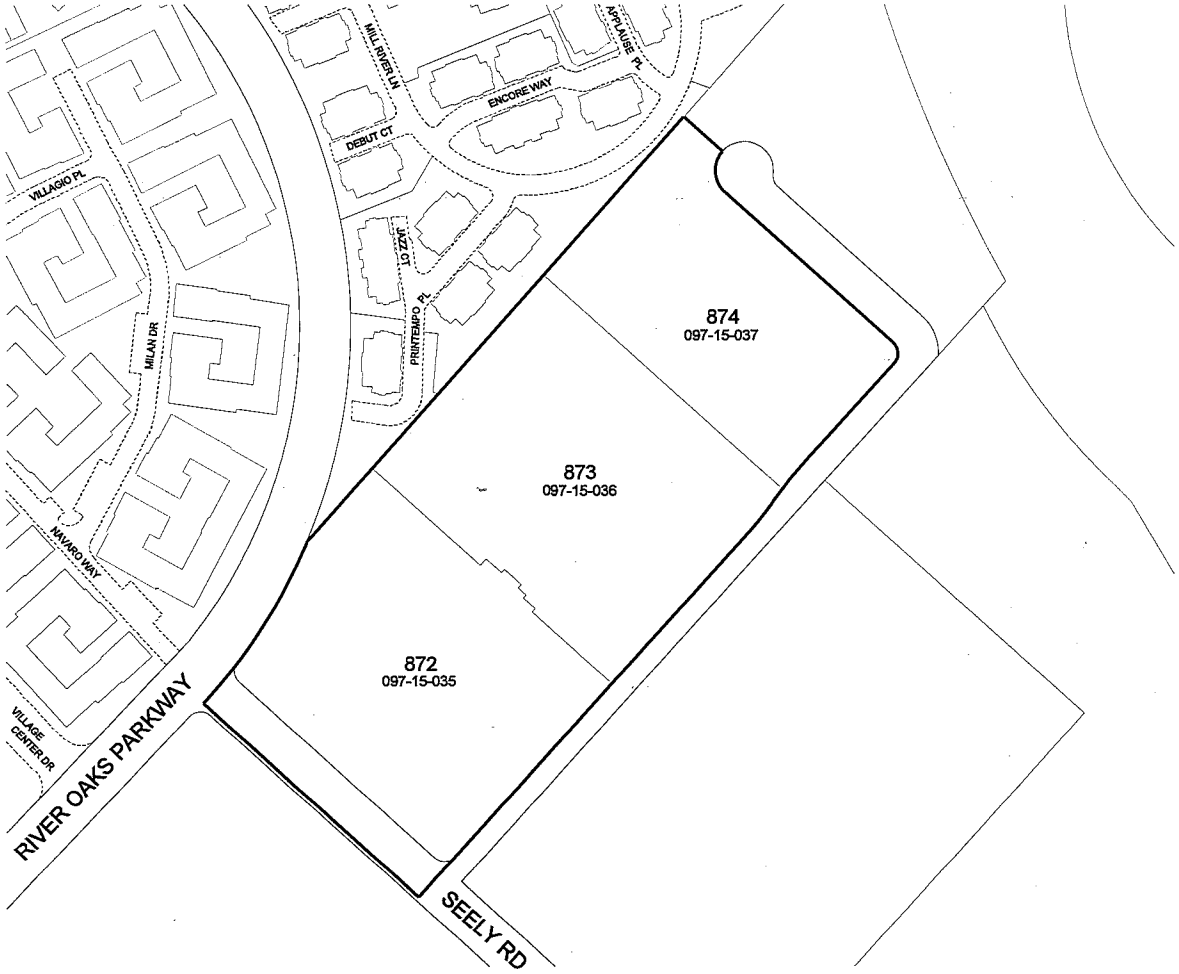
PARCEL NUMBER ASSESSOR/DISTRICT		NET ASSESSMENT	MAXIMUM ALLOWABLE ASSESSMENT	CREDITS	PARCEL ACREAGE	RESIDENTIAL DWELLING UNITS	BENEFIT FACTOR	EQUIVALENT DWELLING UNITS
ANNEXATION TOTALS:		$1,018.50	$1,018.50	$0.00	10.380	569		56.90
CK TTL:			1,018.50					
DIFF:			0.00					
APN	DPN							
097-15-035	872	501.20	501.20	0.00	3.650	280	0.10	28.00
097-15-036	873	517.30	517.30	0.00	3.920	289	0.10	28.90
097-15-037	874	0.00	0.00	0.00	2.810	0	1.00	0.00

EXHIBIT 2

ANNEXATION AREA NO. 1
MAINTENANCE DISTRICT 19
(RIVER OAKS AREA LANDSCAPING)

OWNERS LIST
FISCAL YEAR 2012-13

PARCEL NUMBER DIST	/ ASSESSOR'S	PROPERTY OWNER MAILING ADDRESS	2012-13 ASSESSMENT
872	09715035	ESSEX CADENCE OWNER LP 925 E MEADOW DR; PALO ALTO CA 94303	$ 501.20
873	09715036	ESSEX CADENCE OWNER LP 925 E MEADOW DR; PALO ALTO CA 94303	$ 517.30
874	09715037	ESSEX CADENCE OWNER LP 925 E MEADOW DR; PALO ALTO CA 94303	$ .00



CERTIFICATIONS

(1) DIRECTOR OF PUBLIC WORKS

FILED THIS _____ DAY OF_____, 2012, IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF SAN JOSE.

DAVID SYKES
DIRECTOR OF PUBLIC WORKS

(2) CITY CLERK

FILED THIS _____ DAY OF_____, 2012, IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SAN JOSE.

DENNIS D. HAWKINS, CMC
CITY CLERK

(3) CITY COUNCIL

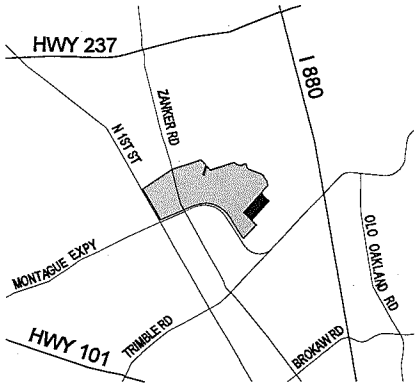
BY RESOLUTION NUMBER _____, ON THE _____ DAY OF_____, 2012, AN ASSESSMENT WAS LEVIED BY THE CITY COUNCIL ON THE LOTS, PIECES, AND PARCELS OF LAND SHOWN ON THIS DIAGRAM. THE APPROVED DIAGRAM AND ASSESSMENT ROLL FILED IN THE OFFICE OF THE DIRECTOR OF PUBLIC WORKS CONTAINS THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND SHOWN ON THIS DIAGRAM.

DENNIS D. HAWKINS, CMC
CITY CLERK

(4) COUNTY RECORDER

FILED THIS _____ DAY OF_____, 2012, AT THE HOUR OF_____O'CLOCK___M. IN BOOK_____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS PAGE(S)_____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO.: _____ FEE PAID: _____

REGINA ALCOMENDRAS, COUNTY RECORDER
COUNTY OF SANTA CLARA



LOCATION MAP

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY
PUBLIC WORKS DEPARTMENT

LEGEND

ANNEXATION AREA NO. 1		PROPERTY LINE	
STREET RIGHT OF WAY	1	DISTRICT PARCEL NUMBER (DPN)	
PRIVATE STREET	123-45-678	ASSESSOR'S PARCEL NUMBER (APN)	

0' 100' 200' 300'
SCALE: 1" = 100'

CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA

ANNEXATION AREA NO. 1
TO
MAINTENANCE DISTRICT 19
(RIVER OAKS AREA LANDSCAPING)
FISCAL YEAR 2012-2013

SHEET 1 OF 1

EXHIBIT 3