



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** David Sykes

**SUBJECT:** SEE BELOW

**DATE:** October 9, 2012

Approved

Date

10/15/12

**COUNCIL DISTRICT:** 4

**SUBJECT: PUBLIC HEARING AND ELECTION ON THE MAINTENANCE  
DISTRICT 19 ANNEXATION**

## RECOMMENDATION

- (a) Conduct a public hearing regarding the proposed annexation to Maintenance District 19 (River Oaks Area Landscaping) and at the close of the public hearing, direct the City Clerk to tabulate the property owner ballots and report the results.
- (b) If the majority of the votes tabulated are weighted in favor of the proposal, adopt a resolution:
  - (1) Declaring the ballot tabulation results;
  - (2) Approving the engineer's report, base assessment and annual adjustments and annexing territory in Maintenance District 19 (River Oaks Area Landscaping); and
  - (3) Imposing the assessments on those properties within the district as proposed in the engineer's report

## OUTCOME

The recommended actions will allow the benefitting properties to share in the costs of the enhanced services of Maintenance District 19 (River Oaks Area Landscaping).

## BACKGROUND

Maintenance District 19 (River Oaks Area Landscaping) (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.

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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. It has been determined by staff that the project will therefore benefit from the improvements being maintained by the district. The developer acknowledges that the development should share in the costs for maintaining the enhanced improvements and has provided the City with a deposit to annex the residential development into Zone A of MD 19.

City and State law requires that any new proposed assessment be approved by a simple majority of property owners in the maintenance district through a special election process called an assessment ballot proceeding. For maintenance districts, a four-step process is necessary for Council to hold this type of election.

#### Completed Council actions

- 1) April 3, 2012 – Adopted Resolution No. 76182 of intention to annex territory into MD 19 and directed the Director of Public Works to file an engineer's report;
- 2) August 7, 2012 – Adopted Resolution No. 76374 preliminarily approving the Engineer's report, and setting the date and time of the public meeting, public hearing and tabulation of ballots; and
- 3) September 18, 2012 – Conducted a public meeting

#### Council action on October 30, 2012

- 4) Conduct a public hearing, and at the end of the hearing, tabulating the ballots.

The engineer's report, describing the improvements to be maintained, the amount of the assessment and the district boundary map, is available in the City Clerk's Office for public examination. A copy of the Annexation Area No. 1 to Maintenance District 19 (River Oaks Area Landscaping) boundary map showing the three parcels proposed to be assessed is provided as Attachment A.

Article XIID of the California Constitution 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. General benefits provided by the district landscape maintenance includes maintenance and operation services for the street islands; generally provided by the City at much lower care levels in similar areas.

### ANALYSIS

On October 30, 2012, Council will conduct a public hearing to receive and record any additional public comment. Council must consider all objections or protests to the proposed annexation and assessments. The hearing may be continued if necessary to allow staff to respond to Council's inquiries or to implement changes proposed by Council.

The budget for the annexation area is proposed to be \$1,018.50 Fiscal Year 2012-2013. The assessments will be allocated among the parcels in the district based on land use and density:

RESIDENTIAL	RATE
Single Parcel	\$17.90/unit
1-20 unit Multi-Family	\$13.43/unit
21-50 unit Multi-Family	\$8.95/unit
51-100 unit Multi-Family	\$4.48/unit
100+ unit Multi-Family	\$1.79/unit

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 annexation area cast ballots in favor of or opposed to the annexation, with votes weighted by the amount of the assessment on each parcel. In the event the ballots submitted in opposition to the assessment exceed the ballots in favor of the assessment, Council cannot form the district and levy the assessment. If approved by the property owners, the proposed assessment will commence in fiscal year 2013-2014 at the same assessment rate and annual escalator as all other residential units in Zone A of MD 19.

### EVALUATION AND FOLLOW-UP

This is the final Council action in the annexation process for maintenance districts. The results of the public hearing and ballot tabulation will be shared with MD 19 property owners. 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.

### 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)**

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- 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 action does not meet any of the criteria above; however this memorandum will be posted on the City's website for October 30, 2012 Council agenda. A notice of public hearing along with a ballot was mailed to each property owner within the annexation area on September 7, 2012. The notice was also published in the *San Jose Post Record* on September 6, 2012.

### **COORDINATION**

This memorandum, related documents and resolutions were prepared in cooperation with the City Attorney's Office, the Department of Transportation, 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. It should be noted that the developer funds were recognized in 2011-2012 and inadvertently not rebudgeted as part of the Adopted Budget process. These funds have been recommended for rebudget into 2012-2013 as part of the 2011-2012 Annual Report, scheduled for City Council consideration on October 16, 2012.

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**CEQA**

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

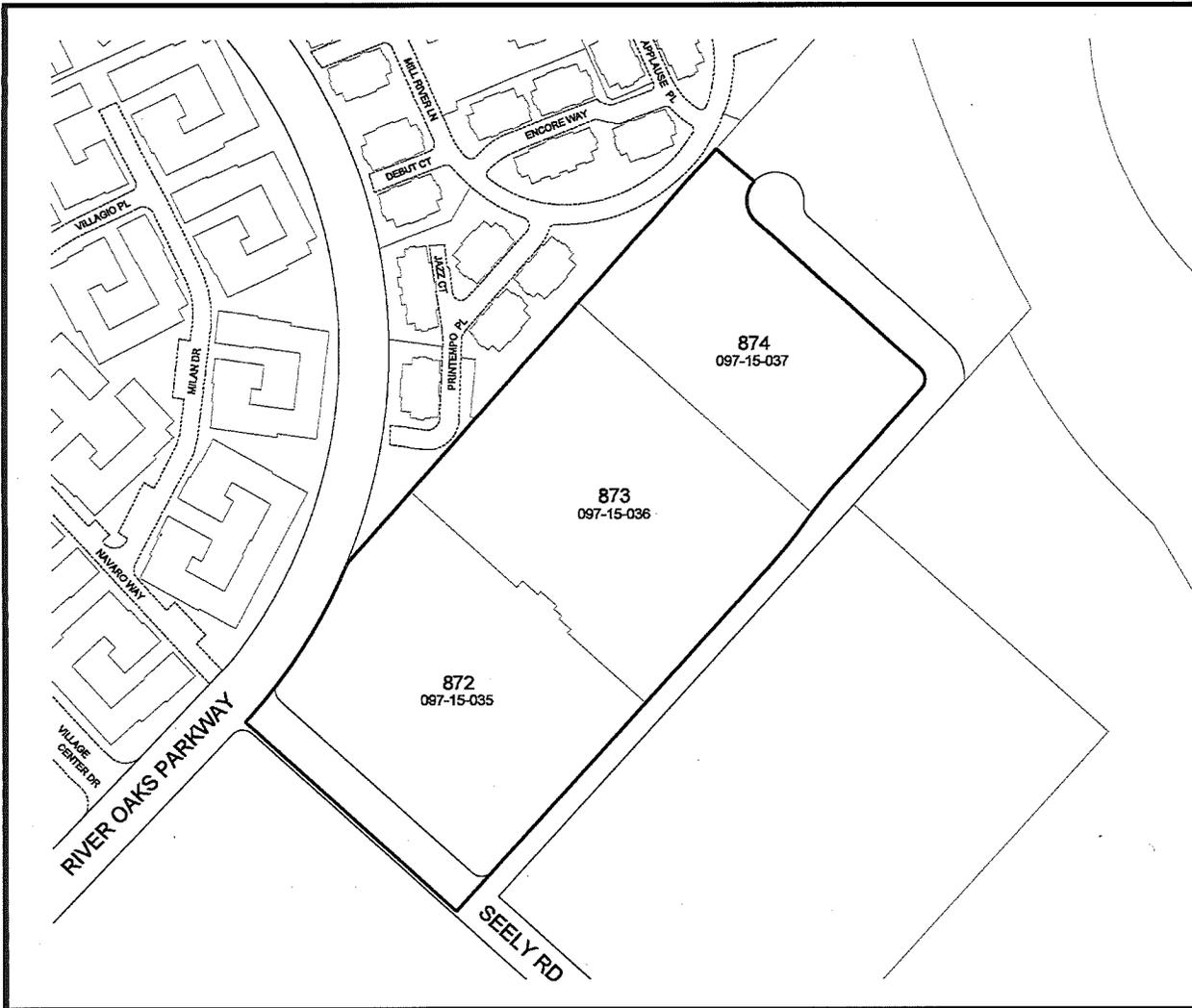
/s/

DAVID SYKES

Director of Public Works

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

Attachment



**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 EYKEE  
 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.

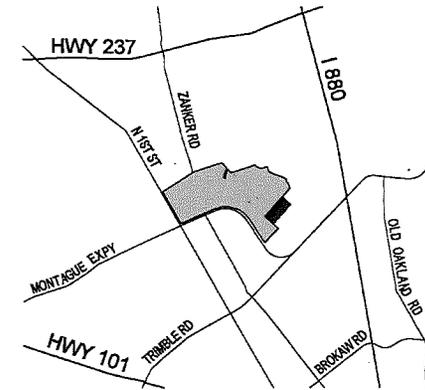
DENNIS D. HAWKINS, CIMC  
 CITY CLERK

(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, CIMC  
 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 PAGES \_\_\_\_\_, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA. RECORDER'S SERIES NO. \_\_\_\_\_ FEE PAID: \_\_\_\_\_

REGINA ALCONDEGUAL, COUNTY RECORDER  
 COUNTY OF SANTA CLARA

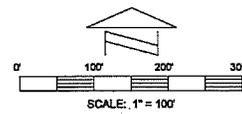


LOCATION MAP



LEGEND

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



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