

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING THE ANNUAL ENGINEER'S REPORT, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR FISCAL YEAR 2015-2016, AND PROVIDING NOTICE OF HEARING FOR LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1**

**WHEREAS**, on May 5, 2015, the City Council adopted Resolution No. 8471, "A Resolution Initiating Proceedings for the Annual Levy and Collection of Assessments and Ordering the Preparation of the Annual Engineer's Report for the Landscaping and Lighting Maintenance Assessment District No. 98-1" (the "Maintenance District"). Pursuant to Resolution No. 8471, the designated Assessment Engineer prepared a report in accordance with Section 22565, *et seq.*, of the California Streets and Highways Code (the "Report"); and

**NOW, THEREFORE**, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The Engineer's Report has been prepared, filed with the City Clerk, and duly considered by this Council and is hereby deemed sufficient and approved. The report shall stand as the Engineer's Report for all subsequent proceedings under and pursuant to the foregoing Resolution.
3. It is the intention of this Council to levy and collect assessments within the Maintenance District for fiscal year 2015-2016. Within the Maintenance District, the existing and proposed improvements and any substantial changes proposed to be made to the existing improvements are generally as described on Exhibit A attached and by this reference made a part of this Resolution. The total assessment of \$38,053.07 has increased by 4.00% from the prior year to adjust for inflation and administration of the district. The amount of the increase is under the maximum authorized range previously approved by the owners in the Maintenance District.
4. The Maintenance District consists of the lots and parcels shown on the boundary map of the Maintenance District on file with the City Clerk, and reference is hereby made to such map for further particulars.
5. Reference is hereby made to the Engineer's Report for a full and detailed description of the Improvements, the boundaries of the Maintenance District and the proposed assessments upon assessable lots and parcels of land within the Maintenance District
6. This Council hereby orders that a public hearing shall be held before this Council in the regular meeting place thereof, City Council Chambers, 455 East Calaveras Boulevard, Milpitas California on Tuesday, June 2, 2015, at the hour of 7:00 p.m., or as soon thereafter as the matter can be heard, for the purpose of allowing public testimony regarding the proposed assessments for the Maintenance District and this Council's determination whether the public interest, convenience and necessity requires improvements and this Council's final action upon the Engineer's Report and the assessments therein.

7. Prior to the conclusion of the hearing, any interested person may file a written protest with the City Clerk, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection. A protest by a property owner shall contain a description sufficient to identify the property owned by such owner.
  
8. The City Clerk shall cause notice of the hearing to be given by publishing a copy of this Resolution or public hearing notice once, at least ten (10) days prior to the date of the hearing above specified, in the Milpitas Post, a newspaper published and circulated in the Maintenance District.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

## EXHIBIT A

### DESCRIPTION OF WORK LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1

LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1 is generally described as a district bounded on the east side by the existing Sinclair Frontage Road, on the west by Berryessa Creek, on the south by the existing commercial development, and on the north by Los Coches Street.

Maintenance and operation of any or all public landscaping and irrigation improvements adjacent to curbs of the following described streets, including asphalt concrete jogging paths, planter walls, grass berms, and appurtenant irrigation systems; ornamental planting including lawns, shrubs, and trees; including necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal and all other items of work necessary and incidental for proper maintenance and operation thereof.

The maintenance and operation of and the furnishing of services and materials, as required for the following improvements:

#### **Berryessa Creek**

- 1) A strip of land approximately 510 feet long varying in width from 35 feet to 60 feet along the east bank of Berryessa Creek adjacent to Tract 9018. The improvements include an asphalt concrete jogging path, exercise equipment, planting and irrigation.

#### **Los Coches Creek:**

- 1) A strip of land 812 feet long, 14 feet in width along the south bank of Los Coches Creek adjacent to Tract 9018. The improvements include an asphalt concrete jogging path, exercise equipment, planting and irrigation.
- 2) A strip of land 5.5 feet wide within the Los Coches Street right-of-way between the back of sidewalk and the right-of-way line along the south side of Los Coches Street between Berryessa Creek and Sinclair Frontage Road. The improvements include planting and irrigation.

#### **Sinclair Frontage Road**

- 1) A strip of land approximately 550 feet long, varying in width from 5.5 feet to 25 feet along the east side of Sinclair Frontage Road, except at the intersection of Cameron Place, between the back of sidewalk and the soundwall. The improvements include planting and irrigation.
- 2) A parcel on the east side of Sinclair Frontage Road within the Sinclair Frontage Road and Los Coches Street right-of-way, bounded on the east side by the Interstate 680, on the southwest side by the back of sidewalk and on the north side by the Los Coches Street right-of-way line. The improvements include planting and irrigation.