RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS PROVIDING FINAL APPROVAL OF THE ANNUAL ENGINEER'S REPORT, CONFIRMING DIAGRAM AND ASSESSMENT AND ORDERING LEVY OF ASSESSMENT FOR FISCAL YEAR 2017-18 FOR LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1, SINCLAIR HORIZON

WHEREAS, on June 16, 1998, the City Council (the “City Council”) of the City of Milpitas (the “City”) completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish Landscaping and Lighting Maintenance Assessment District No. 98-1, Sinclair Horizon (the “Maintenance District”), for the purpose of paying for the installation, construction, maintenance and/or servicing of certain improvements authorized under the Act, hereto, and incidental expenses in connection therewith (collectively, the “Improvements”); and

WHEREAS, on May 16, 2017, the City Council adopted Resolution No. 8666 pursuant to Section 22622 of the Act (the “Resolution Initiating Proceedings”), whereby the City Council initiated proceedings for the annual levy and directed the Assessment Engineer to prepare a report in accordance with Section 22565 of the Act (the “Engineer’s Report”); and

WHEREAS, on June 6, 2017, the City Council adopted Resolution No. 8676 (the “Resolution of Intention”), a resolution of intention pursuant to Section 22624 of the Act, which, among other things, scheduled a public hearing on the levy and collection of annual assessments on the lots and parcels of assessable property within the Maintenance District for Fiscal Year 2017-18 pursuant to the Act; and

WHEREAS, pursuant to the Resolution of Intention, the Engineer’s Report, having been duly made and filed with the City Clerk in accordance with Section 22565 et seq. of the Act, was duly considered by this City 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 a public hearing was set for June 20, 2017 at the hour of 7:00 p.m., or shortly thereafter in the Milpitas City Council Chambers, 455 East Calaveras Boulevard, Milpitas, California, on the question of the levy of the proposed assessment, notice of which hearing was given as required by law; and

WHEREAS, at the appointed time and place the hearing was duly and regularly held, and all persons interested desiring to be heard were given an opportunity to 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 heard, considered and overruled, and this 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 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 public interest, convenience and necessity require that the levy be made.
3. The Maintenance District, which includes the properties 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.

4. The Engineer's Report as a whole and each part thereof are finally approved and confirmed, including:

   (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; and

   (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 Maintenance District; and

   (c) the assessment of the total amount of the costs and expenses of the proposed maintenance of the improvements upon the several lots and parcels of land in the Maintenance District in proportion to the estimated benefits to be received by such lots and parcels, respectively, from the maintenance, and of the expenses incidental thereto.

5. 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 Engineer’s Report, as hereinabove determined and ordered, is intended to and shall refer and apply to the Engineer’s 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 City Council.

6. The assessment to pay the costs and expenses of the maintenance of the improvements for Fiscal Year 2017-18 is hereby levied. For further particulars pursuant to the provisions of the Act, reference is hereby made to the Resolution Initiating Proceedings and the Resolution of Intention.

7. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the hearing, this City 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.

8. Immediately upon the adoption of this Resolution, but in no event later than the third Monday in August following such adoption, the City Clerk shall file a certified copy of the diagram and assessment and a certified copy of this Resolution with the Auditor of the County of Santa Clara. 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 Director of Financial Services/Treasurer of the City.

9. Upon receipt of moneys representing assessments collected by the County, the Director of Financial Services/Treasurer shall deposit the moneys in the City Treasury to the credit of the improvement fund previously established under the distinctive designation of the Maintenance District. Moneys in the improvement fund shall be expended only for the maintenance, servicing, construction or installation of the improvements.

PASSED AND ADOPTED this ______ day of __________, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

__________________________________________
Mary Lavelle, City Clerk Rich Tran, Mayor

APPROVED AS TO FORM:

__________________________________________
Christopher J. Diaz, City Attorney