

TO: James L. App, City Manager
FROM: Ronald Whisenand, Community Development Director
SUBJECT: Intent to Annex to Landscape and Lighting District Tract 2778-2 (Erskine)
DATE: September 16, 2008

Needs: That the City Council take the initial steps towards annexation to the Landscape and Lighting District Tract 2778-2.

Facts:

1. In accordance with conditions of approval of Tract 2778, the applicant, Tom Erskine, has requested that the lots within this subdivision be annexed to the Landscape and Lighting District (see Vicinity/Reduction tract map, Attachment 1).
2. Improvements to be maintained by the Landscape and Lighting District include maintenance of the landscaping in the parkway along Golden Hill Road and all streets lights within the subdivision.

**Analysis
and**

Conclusion: Tract 2778 was approved by the Planning Commission on April 25, 2006. Annexation to the Landscape and Lighting District is a condition of approval imposed by the Planning Commission.

Policy

Reference: General Plan
California Government Code Section 22500 ("Streets and Highways Code")

Fiscal

Impact: None.

Options: That the City Council take the following actions:

- a.** Adopt Resolution No. 08-xxx initiating proceedings for the annexation of Tract 2778-2 to the Paso Robles Landscape and Lighting Maintenance District No 1; and the levy and collection of assessments related thereto commencing with fiscal year 2009/2010; and
- b.** Adopt Resolution No. 08-xxx declaring its intention to annex Tract 2778-2 to the Paso Robles Landscape and Lighting Maintenance District No. 1; and declaring its intention to conduct a property owner protest ballot proceeding on the matter of the new assessments related thereto commencing with fiscal year 2009/2010.
- c.** Amend, modify or reject the above option.

Attachments: (4)

- 1) Vicinity/Reduced size tract map
- 2) Engineer's Report Sub-Area 37
- 3) Resolution Initiating Proceedings
- 4) Resolution of Intention

CITY OF PASO ROBLES

ENGINEER'S REPORT

PASO ROBLES LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 1

ANNEXATION OF

TRACT NO. 2778 PHASE II TO SUB-AREA 37

FISCAL YEAR 2009-2010



Intent Meeting: September 2, 2008
Public Hearing: October 21, 2008



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ENGINEER'S REPORT AFFIDAVIT

Annexation of

Tract No. 2778 Phase II to

**Paso Robles Landscape and Lighting Maintenance District No. 1
Sub-Area 37**

Establishment of Annual Assessments

This Report outlines the proposed annexation of the parcels of land within Tract No. 2778 Phase II, identified as the Annexation Territory, into the Paso Robles Landscape and Lighting Maintenance District No. 1, Sub-Area 37 for Fiscal Year 2009-2010 and the proposed assessments connected therewith pursuant to the provisions of the Landscape and Lighting Act of 1972, being Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500, and in compliance with the substantive and procedural requirements of Article XIID of the California State Constitution. This Report includes a description of the improvements, an assessment diagram, an estimate of the annual expenses and assessments proposed for said Annexation Territory. Reference is hereby made to the San Luis Obispo County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each parcel within the Annexation Territory. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this _____ day of _____, 2008.

MuniFinancial
Assessment Engineer
On Behalf of the City of Paso Robles

By: _____
Jim McGuire
Senior Project Manager

By: _____
Richard Kopecky
R. C. E. # 16742

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INTRODUCTION

Pursuant to the provisions of the *Landscape and Lighting Act of 1972, being Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500* (hereafter referred to as the “1972 Act”), and in compliance with the substantive and procedural requirements of *Article XIID of the California State Constitution* (hereafter referred to as the “California Constitution”), the City Council of the City of Paso Robles, County of San Luis Obispo, State of California (hereafter referred to as the “City”), has previously formed and annually levied special benefit assessments within the **Paso Robles Landscape and Lighting Maintenance District No. 1** (hereafter referred to as the “District”) for the maintenance and operation of local street lighting and landscape improvements that provide special benefits to the properties therein. Within this District, numerous Sub-Areas have been established based on variations in the nature, location, and extent of the specific improvements that provide special benefits to the properties within each of those Sub-Areas. In addition to the Sub-Area designations, thirteen (13) Zones have been established that are comprised of one or more of the District’s Sub-Areas based on similarity and/or shared special benefits from various improvements provided and maintained by the District. However, many of the District’s Sub-Areas are considered stand-alone Sub-Areas that have specific improvements that provide a direct and special benefit to only the developments and properties within those respective Sub-Areas.

This Engineer’s Report (“Report”) has been prepared in connection with the proposed annexation of specific parcels of land within the City identified as Tract No. 2778 Phase II to Sub-Area 37 of the District pursuant to *Chapter 2, Article 2* of the 1972 Act. Accordingly, the City Council has by resolution, initiated proceedings for the annexation of Tract No. 2778 Phase II and associated undeveloped land (open space areas) to Sub-Area 37, herein designated as:

Tract No. 2778 Phase II Annexation

(hereafter referred to as the “Annexation Territory”). This Report provides the required documentation that describes the Annexation Territory, the improvements and assessments related thereto as required pursuant to *Chapter 1, Article 4* of the 1972 Act and the provisions of the California Constitution. The Annexation Territory encompasses the lots and parcels of land within the planned commercial development identified as Tract No. 2778 Phase II, which includes eleven (11) planned commercial lots as well as the surrounding undeveloped land (open space) that are included in San Luis Obispo County Assessor’s Parcel Numbers 025-435-011 and 025-435-017. The approved development plans and specifications for the Annexation Territory and the existing Sub-Area 37 (comprised of Tract 2269 - Oakwood Orchard and Tract No. 2778 Phase I), are on file in the City’s Community Development Department, and by reference these plans and specifications are made part of this Report.

The City Council proposes to annex the parcels of land within the Annexation Territory to Sub-Area 37 of the District, and to levy and collect annual assessments on the County tax rolls on parcels therein commencing in Fiscal Year 2009-2010, to fund the costs and expenses to service and maintain the landscaping and lighting improvements that provide special benefits to those parcels including, but not limited to, the improvements constructed and installed in connection with the development of such properties and existing improvements associated with and shared by each property within Sub-Area 37. The improvements to be funded and the assessments and annual

inflation adjustment described herein are made pursuant to the 1972 Act and the substantive and procedural provisions of the California Constitution.

This Report describes the Annexation Territory, the improvements, and the proposed assessments to be imposed upon properties in connection with the special benefits the properties will receive from the maintenance and servicing of the improvements. The annual assessments to be levied on such properties and the existing properties within Sub-Area 37, together with the assessment range formula, will provide the necessary funding for the continued operation and maintenance of local landscaping and lighting improvements installed in connection with the development of those properties.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number ("APN") by the San Luis Obispo County Assessor's Office. The San Luis Obispo County Auditor/Controller uses APNs and specific fund numbers to identify properties to be assessed on the tax roll for special benefit assessments.

Pursuant to the provisions of *Article XIII D, Section 4* of the California Constitution the City shall conduct a property owner protest ballot proceeding (referred to as "Ballot Proceeding") for the proposed levy of a new assessment as described in this Report. In conjunction with this Ballot Proceeding, the City Council will conduct a noticed public hearing to consider public testimonies, comments and written protests regarding the annexation, and the levy of the proposed new assessments. Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether majority protest exists:

"A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property."

After completion of the ballot tabulation, the City Council will confirm the results of the balloting. If majority protest exists, proceedings for the annexation and levy of assessments shall be abandoned. If tabulation of the ballots indicates that majority protest does not exist for the assessments and the assessment range formula presented and described herein, the City Council may approve this Report, as submitted or amended, order the annexation of the Annexation Territory to the District and Sub-Area 37, approve the assessment diagram contained herein; and order the improvements to be made. In such case, the assessments for the Annexation Territory and Sub-Area 37 for Fiscal Year 2009-2010, as generally outlined herein, shall be reviewed and confirmed by the City Council at the annual public hearing for the entire District. The annual assessments approved and adopted for Fiscal Year 2009-2010 at that conclusion of that public hearing shall be submitted to the San Luis Obispo County Auditor/Controller for inclusion on the property tax roll for each affected parcel.

Each subsequent fiscal year, an engineer's report for the District shall be prepared and presented to the City Council. Said Report shall address any proposed changes to the improvements, budgets and assessments related to Sub-Area 37 for that fiscal year. The City Council shall hold a noticed public hearing regarding these matters prior to approving and ordering the levy of assessments.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A description of the Annexation Territory and the proposed improvements associated with, and for which properties within the Annexation Territory will receive special benefits, including the existing improvements associated with Sub-Area 37 and the additional improvements to be installed in connection with the development of properties within Tract No. 2778 Phase II.

Part II

Method of Apportionment: A discussion of special benefits the improvements and services provide to properties within the Annexation Territory and Sub-Area 37, and the method of calculating each property's proportional special benefit and annual assessment. This section also identifies and outlines an assessment range formula that provides for an annual adjustment to the maximum assessment rate that establishes limits on future assessments, but also provides for reasonable cost adjustments due to inflation without the added expense of additional balloting.

Part III

Budget: An estimate of the annual costs to operate, maintain, and service the landscaping, lighting, and appurtenant facilities associated with Sub-Area 37 and the Annexation Territory including, but not limited to those improvements installed and constructed in connection with the development of properties therein. This budget includes an estimate of direct annual maintenance costs, installments for long term maintenance activities and incidental expenses authorized by the 1972 Act including, but not limited to, administration expenses and collection of appropriate fund balances. The maximum assessment rate identified in this budget and the amount to be balloted for each parcel with the Annexation Territory represents that parcel's proportional special benefit of the net annual costs to provide the improvements and excludes any costs that are considered general benefit or are funded by other revenue sources. The proposed maximum assessments are consistent with the maximum assessment rate for Sub-Area 37 in Fiscal Year 2008-2009, and shall be adjusted annually by the Assessment Range Formula described in Part II of this Report commencing in Fiscal Year 2009-2010.

Part IV

Assessment Diagram: A Diagram showing the exterior boundaries of the Annexation Territory that encompasses each parcel of land determined to receive special benefits from the improvements. Parcel identification, and the lines and dimensions of each lot and parcel of land within the Annexation Territory, is inclusive of all lots and parcels of land within the commercial development identified as Tract No. 2778 Phase II and surrounding undesignated land (open space). Said Annexation Territory includes in their entirety, Parcels 11 and 17 on Page 435 of Book 025 of San Luis Obispo County Assessor's Parcel Maps, and shall include any subsequent subdivisions, lot line adjustments and/or parcel changes therein. Reference is hereby made to the San Luis Obispo

County Assessor's Parcel Maps for a detailed description of the lines and dimensions of each lot and parcel of land within the Annexation Territory.

Part V

Assessment Roll: A listing of the proposed assessment amounts (initial maximum assessment amount) to be presented to the property owners of record in the Ballot Proceedings required pursuant to the provisions of the California Constitution. The proposed maximum assessment amount for each parcel is based on the parcel's proportional special benefit as outlined in the method of apportionment and the proposed initial maximum assessment rate. The assessments shown on the Assessment Roll are based on the current maximum assessment rate (Fiscal Year 2008-2009) for Sub-Area 37 and shall be subject to the inflationary adjustment (Assessment Range Formula) applicable for Fiscal Year 2009-2010. Each parcel's actual assessment amount for Fiscal Year 2009-2010 may be less than or equal to this adjusted maximum assessment and will be based on the budget and assessment rates approved and adopted by the City Council as part of the annual levy of assessments for the entire District prior to the submittal of such assessments to the County of San Luis Obispo for the 2009-2010 County Tax Rolls.

PART I — PLANS AND SPECIFICATIONS

Description of the Annexation Territory

The Annexation Territory identified by this Report consists of the lots and parcels of land within the planned commercial development known as the Tract No. 2778 Phase II. This commercial development is generally located on the eastern end of Wisteria Lane, north of Highway 46, south of Dry Creek Road, east of Golden Hill Road, and west of Airport Road.

The Annexation Territory is currently identified as Parcels 11 and 17 on Page 435 of Book 025 of San Luis Obispo County Assessor's Parcel Maps and shall include all subsequent subdivisions, lot line adjustments and/or parcel changes therein. These parcels are currently proposed to be subdivided to create eleven (11) commercial lots and undeveloped acreage (open space).

Improvements and Services

Improvements and Services Authorized by the 1972 Act

As generally defined by the 1972 Act, the improvements and services applicable to Sub-Area 37 of the District and the Annexation Territory, may include one or more of the following:

- ❖ The installation or planting of landscaping;
- ❖ The installation or construction of statuary, fountains, and other ornamental structures and facilities;
- ❖ The installation or construction of public lighting facilities including, but not limited to street lights and traffic signals;
- ❖ The installation or construction of any facilities which are appurtenant to any of the foregoing or which are necessary or convenient for the maintenance or servicing thereof;
- ❖ The acquisition of land for park, recreational, or open-space purposes or any existing improvement otherwise authorized pursuant to this section.
- ❖ The maintenance or servicing, of any of the foregoing including the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any improvement including but not limited to:
 - Repair, removal, or replacement of all or any part of any improvements;
 - Grading, clearing, removal of debris, the installation or construction of curbs, gutters, walls, sidewalks, or paving, or water, irrigation, drainage, or electrical facilities;
 - Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;

- The removal of trimmings, rubbish, debris, and other solid waste;
 - The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti;
 - Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements;
 - Water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.
- ❖ Incidental expenses associated with the improvements including, but not limited to:
- The costs of the report preparation, including plans, specifications, estimates, diagram, and assessment;
 - The costs of printing and advertising, and publishing, posting and mailing of notices;
 - Compensation payable to the County for collection of assessments;
 - Compensation of any engineer or attorney employed to render services;
 - Any other expenses incidental to the construction, installation, or maintenance and servicing of the improvements;
 - Costs associated with any elections held for the approval of a new or increased assessment.

Specific Improvements Associated with the Annexation Territory

The properties and parcels within Tract No. 2778 Phase II (Annexation Territory) are a continuation and expansion of the commercial development associated with the properties already within Sub-Area 37. The purpose of this annexation is to ensure the ongoing maintenance, operation and servicing of local landscaping and lighting improvements established or installed in connection with development of properties within the Annexation Territory and those existing improvements of Sub-Area 37 for which these properties proportionately share and receive special benefits. Because the properties within the existing Sub-Area 37 and the Annexation Territory are in close proximity to each other and the improvements associated with these developments are similar in nature and considered shared amenities, each of the properties therein receive similar special benefits from those improvements. The improvements to be provided and maintained generally include local street lighting and maintenance of the irrigated parkways and slopes (shrubs) on Golden Hill Road and interior parkways (shrubs) within the developments.

The maintenance and servicing of the improvements generally include, but are not limited to all materials, equipment, utilities, labor and incidental expenses including administrative expenses required for the annual operation, as well as the performance of periodic repairs, replacement and expanded maintenance activities as needed to provide for the growth, health, and beauty of local landscaping and the proper operation and functioning of lighting, irrigation and drainage systems. Detailed maps and descriptions of the location and extent of the improvements to be maintained are on file at the City in the Community Development Department, and by reference are made part of this Report.

Landscape Improvements

The local landscape improvements to be funded by the assessments may include, but are not limited to: turf; shrubs and plants; trees; ground cover (both hardscape and vegetation); weed and vector control; irrigation and drainage systems; related hardscapes and associated appurtenant facilities that have been or will be installed in connection with and/or for the direct and special benefit of the developments and properties within the Annexation Territory and Sub-Area 37, including but not limited to the :

- ❖ Irrigated perimeter parkways on the east side of Golden Hill Road, extending from Wisteria Lane north to a point approximately 640 feet north of Wisteria Lane, and south to a point approximately 640 feet south of Wisteria Lane (the length of Tract 2269 - Oakwood Orchard); and
- ❖ Irrigated parkways on both sides of Wisteria Lane within Tract 2269 and Tract 2778 Phase I; and
- ❖ Proposed irrigated parkways on both sides of Wisteria Lane within Tract 2778 Phase II; and
- ❖ Irrigated parkways on both sides of Danley Court; and
- ❖ Irrigated parkways on both sides of Germaine Way; and
- ❖ Proposed irrigated parkways on both sides of the future cross street north and south of Wisteria Lane within Tract 2778 Phase II (Currently designated as "A Street" and "A Court" on the tract map for Tract 2778 Phase II).

Public Street Lighting Improvements

Local street lighting improvements to be funded by the annual assessments may include, but are not limited to: electrical energy; lighting fixtures; poles; meters; conduits; electrical cable and associated appurtenant facilities associated with the local street lighting within and adjacent to Sub-Area 37 and the Annexation Territory including:

- ❖ Twenty (20) existing street lights located within or adjacent to Tract 2269 and Tract 2778 Phase I, located on Golden Hill Road, Wisteria Lane, Danley Court and Germaine Way; and
- ❖ Six (6) new street lights within or adjacent Tract 2778 Phase II, located on Wisteria Lane and the yet unnamed streets within Tract 2778 Phase II designated as "A Street" and "A Court".

PART II — METHOD OF APPORTIONMENT

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements, which includes the construction, maintenance, and servicing of public lights, landscaping, parks and appurtenant facilities. The 1972 Act further requires that the cost of these improvements be levied according to benefit rather than assessed value:

“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

The method of apportionment described in this Report for allocation of special benefit assessments utilizes commonly accepted engineering practices and have been established pursuant to the 1972 Act and the provisions of the California Constitution. The formula used for calculating assessments in the Annexation Territory and Sub-Area 37, reflects the composition of the parcels, and the improvements and services provided, to fairly apportion the costs based on the proportional special benefits to each parcel or lot.

Benefit Analysis

The improvements to be maintained within the Annexation Territory and Sub-Area 37 of the District and for which properties shall be assessed resulted from the development of those properties and would otherwise not have been constructed and installed. Likewise, without such improvements and facilities the properties therein would not be developed to their fullest potential, consistent with the development plans and applicable portions of the City's General Plan. As such, these improvements were necessary, desired and required only for the orderly development of such properties and the ongoing maintenance and operation of such improvements would be necessary for the individual property owners even if such improvements were privately owned.

In reviewing the improvements associated with the Annexation Territory and the existing Sub-Area 37, the proximity of those improvements to each of the properties within these planned developments as well as nearby properties, it is clear that the reasons for installing and constructing such improvements and the need to maintain such improvements are exclusively the result of property development within the Annexation Territory and Sub-Area 37. As such the condition of these improvements and the level of service associated with such improvements will directly affect only the properties within these developments and although the improvements are within public right-of-ways or easements that may be visible to the public at large, the construction and installation of these improvements were only necessary for the development of these properties and were neither required nor necessarily desired by any properties or developments outside these developments or the public at large. Therefore, any public access or use of these local improvements is directly associated with the properties themselves and therefore a direct special benefit to such properties and the improvements provide no measurable benefit (special or general) to properties outside the Sub-Area or to the public at large.

Therefore, the annual costs of ensuring the maintenance and operation of the improvements are considered entirely the financial obligation of the properties within the Annexation Territory and Sub-Area 37, and such improvements provide a distinct and special benefit to only those properties.

Assessment Methodology

The method of apportionment (also referred to as the “assessment methodology”) established herein is based on the premise that each assessed parcel receives similar special benefits from the improvements considering their overall proximity to the improvements and land use (commercial use). It has been determined that the security, use, access, appearance and desirability of those properties is enhanced by the presence of adequate street lighting and well-maintained landscaping in close proximity to those properties and such enhancements are a direct and distinct special benefit to those properties.

Upon review of the proposed improvements in their entirety, it has been determined that each of the planned commercial lots within the Annexation Territory and those within the existing Sub-Area 37 will receive substantially similar and proportional special benefits from the overall improvements to be provided within Sub-Area 37 based on their direct proximity to both the landscaping and lighting improvements. While some parcels or lots may have more or less actual street frontage (location of the improvements) these differences are solely due the parcel configuration within the developments and because the overall improvements are substantially the same throughout the developments, it was previously determined for Sub-Area 37 that an appropriate reflection of each parcel’s proportional special benefit is on an equal per parcel/lot apportionment and this apportionment of the net annual cost of providing the improvements shall be extended and applied to the parcels and lots within the Annexation Territory. The following formula is used to arrive at the levy amount for each parcel within Sub-Area 37 and the Annexation Territory.

$$\frac{\text{Total Balance to Levy}}{\text{Total Assessable Lots}} = \text{Levy Amount per Parcel/Lot}$$

Note: The Annexation Territory (Tract 2778 Phase II) is currently identified by two Assessor’s Parcel Numbers (025-435-011 and 025-435-017) that collectively represent eleven (11) planned commercial lots and undeveloped land (remainder lots and open space). The proportional special benefit to these parcels is based on the eleven planned commercial lots rather than the two parcels themselves.

The undeveloped portions of 025-435-011 and 025-435-017 that are not contained within Tract 2778 Phase II, shall be exempt from assessment unless and until such land is developed or has an approved development plan. At such time, the lots and parcels of land within those developments and/or planned developments shall be subject to annual assessment pursuant to the method of apportionment and the adjusted maximum assessment rate as described herein.

