

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

The City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446

Attn: DITAS ESPERANZA

RESOLUTION NO. 03-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
ACCEPTING CERTAIN STREETS WITHIN THE ORCHARD
BUNGALOW ASSESSMENT DISTRICT

WHEREAS, the Orchard Bungalow Tract (herein referred to as "Tract"), as recorded in Book 2 of Maps, at page 55, in the City of El Paso de Robles, County of San Luis Obispo, State of California, was originally located in the unincorporated area of the County of San Luis Obispo and was established with the recordation of a final map in November 1920; and

WHEREAS, the original Tract Map provided that the streets within the Tract were not to be dedicated to the public but were reserved as private streets to the owners, their heirs and assigns; and

WHEREAS, the original Tract Map, including the description of street right-of-ways, is incorporated into this Resolution herein by reference; and

WHEREAS, on March 3, 1977, the Tract was annexed to the City of El Paso de Robles (herein "City") as Annexation No. 31 by Resolution No. 77-2 of the San Luis Obispo Local Area Formation Commission; and

WHEREAS, in 1980, the developer requested the City assist in forming the Orchard Bungalow Assessment District ("OBAD") which encompassed a portion of the property within the Tract, pursuant to the Municipal Improvement Act of 1913, for the purposes of, among others, installing water mains and sewer mains and constructing street paving (herein "Improvements"); and

WHEREAS, the developer's intent in making such a request was to fund private, not public streets; and

WHEREAS, the record does not indicate that anyone explained to the City Council or the public at that time that an assessment district may not be formed to fund private streets and that improvements constructed with an assessment district's bonds would be public, not private; and

WHEREAS, in the absence of any information to inform them otherwise, the City Council, as it existed in 1980, apparently believed that an assessment district could be formed to fund private streets; and

WHEREAS, on August 19, 1980, the City Council adopted Resolutions No. 2458, 2459, 2460 and 2461, which approved the proposed assessment district's boundaries, undertook proceedings pursuant to special assessment and assessment bond acts for the acquisition and construction of improvements, appointed the Assessment District Engineer and Attorney and declared the City's intent to acquire and construct improvements; and

WHEREAS, in September 1981, the City Council adopted Resolution No. 2631, which formed OBAD pursuant to the Municipal Improvement Bond Act of 1913 and the Improvement Bond Act of 1915; and

WHEREAS, the City acquired easements for the Improvements within OBAD; and

WHEREAS, a Notice of Completion for the Construction Project was filed on December 13, 1982; and

WHEREAS, since the construction of the streets, they have been treated by the City and OBAD residents as being private; and

WHEREAS, in 1998, the City notified property owners within OBAD that assessments would no longer be levied because all outstanding bonds were being retired; and

WHEREAS, since that time, there have been numerous public discussions to determine whether the streets within OBAD should be public streets to be maintained by the City or private streets to be maintained by individual property owners within the boundaries of OBAD; and

WHEREAS, the streets constructed within OBAD are all at least twenty (20) feet in width (although the right-of-way and utility easements are an average of forty (40) feet in width) and are not improved with curbs, gutters and sidewalks, were not improved to current City standards; and have had privately installed speed humps and other traffic control devices that are not installed to City standards; and

WHEREAS, the streets within OBAD have been used by members of the general public since they were initially constructed; and

WHEREAS, in February 2001, after numerous public hearings and separate meetings with various residents, the City Council directed City Staff to initiate proceedings to include all streets within the Orchard Bungalow Tract into the City's street maintenance system, including those streets within OBAD, as well as those streets outside of OBAD but within the Tract; and

WHEREAS, based on the City Staff Report, the City Staff presentation and written and oral public testimony taken during numerous public hearings and evidence that the City obtained easements for the streets within OBAD prior to the construction of the Improvements, the City Council desires to remedy the situation authorized by a former city council.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

SECTION 1. The above Recitals are true and correct and are incorporated into this Resolution by reference.

SECTION 2. Subject to the conditions set forth in this resolution, the following streets, or portions of streets, which are located within easements dedicated for right-of-way purposes within the boundaries of OBAD are hereby accepted into the City's maintenance program in their current condition to be maintained as non-standard City streets:

- a. Pino Way;
- b. Burro Verde;
- c. Osos Way;
- d. Orchard Drive;
- e. Jackson Drive;
- f. Vista Grande from the Walnut Drive intersection to the portion of the street adjacent to lots 317 and 263; and
- g. Walnut Drive from the Shannon Hill Drive intersection to the Vista Grande intersection; and
- h. North Trigo Lane north of the Ivy Lane intersection.

A map showing the general location of the above-listed streets is attached hereto as Exhibit B and incorporated herein by reference. A legal description of the above-listed streets, or portions of streets being accepted into the City maintenance system is attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. The City shall maintain the above-listed streets on a schedule and in the manner established by the City.

SECTION 4. The City may, but shall not be required to, construct curbs, gutters or sidewalks along the streets and within the dedicated right-of-way easements being accepted by the City under this resolution.

SECTION 5. Subject to the conditions set forth in this resolution, the streets designated in this resolution within the boundaries of OBAD are hereby accepted by the City for the purposes of maintenance. Although the current width of such streets is less than forty (40) feet, the City Council hereby determines that it is necessary for the public convenience and necessity to acquire such streets. This determination is based upon the continuing use of such streets by members of the public and the fact that the streets are not constructed to the full width of the dedicated right-of-way easement, thus allowing for potential future expansion of the streets if the City determines that such expansion is necessary for the public health, safety and welfare.

SECTION 6. As a specific condition to acceptance by the City of the streets designated herein, all speed humps and any other traffic control devices located on or about such streets that do not conform to City standards shall be removed. City shall perform the installation of any traffic control devices on or about such streets, in accordance with normal City standards and procedures. In addition, City shall issue and have recorded encroachment permits for any existing encroachments within the right-of-way easements. City may revoke any such encroachment permits and/or cause the removal of any such encroachments into a right-of-way easement.

SECTION 7. The City Engineer, pursuant to Section 12.32.110 of the City Municipal Code, is authorized to place signs and markings indicating "No Parking" upon any streets within the Tract for purposes of allowing emergency vehicles to safely travel on the streets within the Tract.

SECTION 8. The City Clerk is hereby authorized to cause a copy of this resolution to be recorded in the official records of the County of San Luis Obispo.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 18th day of February 2003 by the following vote:

AYES: Finigan, Nemeth, Picanco and Mecham
NOES: None
ABSTAIN: Heggarty
ABSENT: None

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk