

CITY COUNCIL

For City Clerk's Use:

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APPROVED

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DENIED

Reso No. _____

File No. _____

Ord No. _____

Agenda Item No.: 7
Date: **March 24, 2010**

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Director of Engineering Services

SUBJECT: City of Escondido Landscape Maintenance Assessment District – Preliminary Engineer's Report for Fiscal Year 2010/2011

RECOMMENDATION:

It is requested that Council adopt Resolution Nos. 2010-18, 2010-19, and 2010-48 that will initiate the proceedings for the annual levy of assessments for the City of Escondido Landscape Maintenance Assessment District (LMD) (see attached map) for the 2010/2011 fiscal year, approve the preliminary Engineer's Report, and set a Public Hearing date of May 19, 2010.

FISCAL ANALYSIS:

The LMD reimburses all costs incurred by the City in all zones except Zones 12 and 13. The City of Escondido purchased property adjacent to the Reidy Creek environmental channel that lies within Zone 12 and therefore assumed the assessment assigned to this property. Zone 13 was formed to pay for the maintenance of the median landscaping in Centre City Parkway south of Felicita Avenue and north of Montview Drive. The City shares the cost of the maintenance in Zone 13 with the two shopping centers on either side of the parkway.

PREVIOUS ACTION:

The City Council approved the formation of the LMD in 1986.

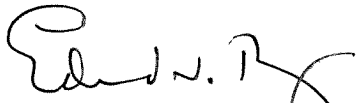
BACKGROUND:

The LMD was established as a means to fund the ongoing maintenance of certain landscape improvements associated with the development of specific properties within the City of Escondido. These landscape improvements have special benefit to those specific properties. The LMD is divided into various zones. Property owners of parcels within each zone are assessed for the benefit received within their zone for the maintenance of the landscape improvements.

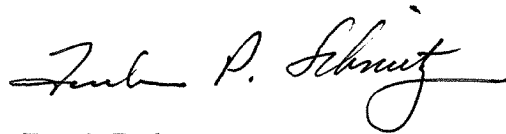
Each year, the City Council is required to review and approve the upcoming fiscal year budget and assessment for the LMD. Pursuant to Proposition 218, passed by the California voters on November 5, 1996, all new assessments and increases in assessments require a vote of the affected property

owners. In fiscal year 2010/2011 an increase in assessment is proposed for Zone 4. Ballots will be sent to all property owners in Zone 4 giving them the option of approving or rejecting the proposed assessment. These ballots will be counted after the close of the May 19, 2010 public hearing. The results of the ballot tabulation will be reported to the City Council at the June 16, 2010 City Council meeting in conjunction with Council action to approve the final Engineer's Report and setting of assessments for fiscal year 2010/2011.

Respectfully submitted,



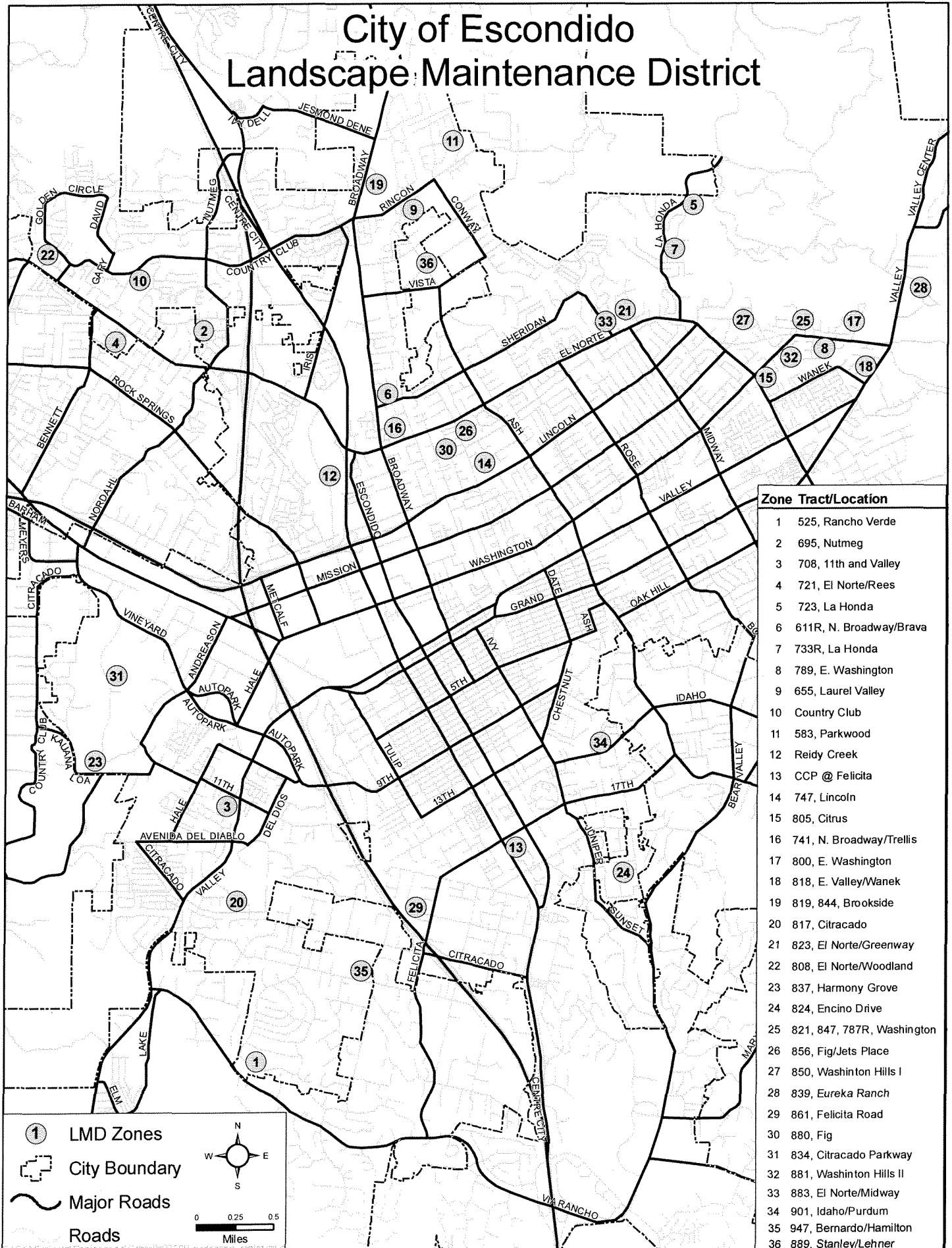
Edward N. Domingue, P.E.
Director of Engineering Services



Frank P. Schmitz
Parks and Open Space Administrator

City of Escondido

Landscape Maintenance District



RESOLUTION NO. 2010-18

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
INITIATING PROCEEDINGS FOR THE
ANNUAL LEVY OF ASSESSMENTS AND
ORDERING THE PREPARATION OF AN
ASSESSMENT ENGINEER'S REPORT IN
THE ESCONDIDO LANDSCAPE
MAINTENANCE ASSESSMENT DISTRICT

WHEREAS, the City Council of the City of Escondido has previously formed a special maintenance district pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Act"), said special maintenance district known and designated as Escondido Landscape Maintenance Assessment District (the "Maintenance District"); and

WHEREAS, at this time the City Council desires to initiate proceedings to provide for the annual levy of assessments for the next ensuing year to provide for the annual costs of maintenance of existing improvements within the Maintenance District; and

WHEREAS, the proceedings for the annual levy of assessments shall relate to the fiscal year commencing July 1, 2010, and ending June 30, 2011; and

WHEREAS, there has been submitted to this City Council for its consideration at this time, a map showing the boundaries of the area affected by the levy of the assessment for the above-referenced fiscal year, and an inventory map showing and describing in general the works of improvement proposed to be maintained in said

District, said description being sufficient to identify the works of improvement and the areas proposed to be assessed for said maintenance thereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.
2. That the public interest and convenience requires, and it is the intention of this legislative body to initiate proceedings for the annual levy and collection of special assessments for the payment of annual maintenance and/or servicing costs within the Maintenance District.
3. That the existing improvements are hereby referred to Special District Financing and Administration, which is hereby directed and ordered to prepare and file an Assessment Engineer's Report as required by the provisions of the Act, Article XIID of the Constitution of the State of California ("Article XIID"), and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the 1972 Act, Article XIID, and the Implementation Act are referred to collectively as the "Assessment Law") generally containing the following:
 - A. Plans and specifications describing the general nature, location and extent of the improvements to be maintained;
 - B. An estimate of the cost of the maintenance and/or servicing of the existing improvements for the Maintenance District for the referenced fiscal year;
 - C. A diagram for the Maintenance District, showing: (a) the exterior boundaries of the Maintenance District and the Zones within the

Maintenance District, and (b) the lines and dimensions of each lot or parcel of land within the Maintenance District;

D. An assessment of the estimated costs of the maintenance and/or servicing, assessing the net amount upon all assessable lots and/or parcels within the Maintenance District in proportion of the special benefits received.

Upon completion of the preparation of said Assessment Engineer's Report, the original shall be filed with the City Clerk, who shall then submit the same to this legislative body for its immediate review and consideration.

4. That the above Assessment Engineer's Report shall include all costs and expenses of said maintenance and/or servicing relating to the fiscal year commencing July 1, 2010, and ending June 30, 2011.

5. That this Resolution shall take effect immediately upon its adoption.

RESOLUTION NO. 2010-19

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
DECLARING ITS INTENTION TO PROVIDE
FOR AN ANNUAL LEVY AND COLLECTION
OF ASSESSMENTS IN THE ESCONDIDO
LANDSCAPE MAINTENANCE ASSESSMENT
DISTRICT, SETTING THE TIME AND PLACE
FOR PUBLIC HEARINGS THEREON

WHEREAS, the City Council of the City of Escondido ("City") has previously formed a maintenance district pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Act), and, the Article XIID of the Constitution of the State of California ("Article XIID"), and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the 1972 Act, Article XIID and the Implementation Act are referred collectively as the "Assessment Law"). Such maintenance district is known and designated as the Escondido Landscape Maintenance Assessment District (the "Maintenance District"); and;

WHEREAS, there has been established by the City, 36 zones within the Maintenance District (each individually referenced as a "Zone"); and

WHEREAS, the City Council initiated proceedings to provide for the annual levy of assessments for the Maintenance District and each Zone thereof for the next ensuing fiscal year to provide for the costs and expenses necessary to pay for the maintenance of the existing improvements in the Maintenance District; and,

WHEREAS, there has been presented to the City Council the Assessment Engineer's Report for the Maintenance District, attached hereto as Exhibit "A" and by this referenced incorporated herein, as required by the Assessment Law, and this City Council desires to continue with the proceedings for the annual levy; and,

WHEREAS, this City Council has now carefully examined and reviewed the Assessment Engineer's Report as presented, and is satisfied with each and all of the items and documents as set forth therein pertaining to Zones 1 through 3 and 5 through 36, and is satisfied that the assessments for Zones 1 through 3 and 5 through 36, on a preliminary basis, have been spread in accordance with the special benefits received from the improvements to be maintained, as set forth in the Assessment Engineer's Report; and

WHEREAS, the proposed annual assessments for Zones 1 through 3 and 5 through 36 for Fiscal Year 2010-2011 as set forth in the Assessment Engineer's Report do not exceed the maximum annual assessments as previously authorized to be levied by the previously approved formula for Zones 1 through 3 and 5 through 36 of the Maintenance District, and therefore, in accordance with the Assessment Law, the proposed levy of assessments for Fiscal Year 2010-2011 are not deemed to be "increased" over the maximum authorized annual assessments for such Zones; and

WHEREAS, the City Council desires to preliminarily approve such Assessment Engineer's Report pertaining to Zones 1 through 3 and 5 through 36 and to conduct the proceedings to authorize the annual levy and collection of the assessments within Zones 1 through 3 and 5 through 36 of the Maintenance District for Fiscal Year 2010-2011; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Escondido, California, as follows:

1. That the above recitals are all true.
2. That the public interest and convenience requires, and it is the intention of this City Council, to levy and collect assessments to pay the annual costs and expenses for the maintenance and/or servicing of the existing improvements for Zones 1 through 3 and 5 through 36 of the above-referenced Maintenance District, said existing improvements generally described in Exhibit "A," the Engineer's Report.
3. That the existing improvements are of special benefit to certain identified properties within the boundaries of Zones 1 through 3 and 5 through 36 of the Maintenance District.
4. That the Assessment Engineer's Report as it pertains to Zones 1 through 3 and 5 through 36, as presented, is hereby approved on a preliminary basis, and is ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection. Reference is made to said Assessment Engineer's Report for a full and detailed description of the existing improvements proposed to be maintained, the boundaries of the Maintenance District and the zones therein, and the proposed assessments upon assessable lots and parcels of land within the Maintenance District. For further particulars, reference is made to the diagram of the Maintenance District as previously approved by this City Council, a copy of which is on file in the Office of the City Clerk of the City of Escondido and open for public inspection, and is designated by name of the Maintenance District.

5. That the public interest and convenience requires, and it is the intention of this City Council to order the annual levy and collection of the assessments for Zones 1 through 3 and 5 through 36 of the Maintenance District as set forth and described in the Assessment Engineer's Report, and further it is determined to be in the best public interest and convenience to levy and collect annual assessments to pay the costs and expense of said maintenance and improvements as estimated in the Assessment Engineer's Report. All costs and expenses of the maintenance and incidental expenses have been apportioned and distributed to the benefiting parcels in Zones 1 through 3 and 5 through 36 in accordance with the special benefits received from the existing improvements. Assessments are proposed to be levied as follows:

A. Assessments proposed to be levied on parcels within Zones 1 through 3 and 5 through 36 of the Maintenance District are not proposed to be increased from those as previously authorized to be levied within such zones.

B The maximum assessments authorized to be levied in Zones 1, 6, 7, 9, 10, 13 through 30, and 32 through 36, have been adjusted for inflation by the increase in the Consumer Price Index – All Urban Consumers, San Diego Area, as published by the Bureau of Labor Statistics. Adjustment of the maximum authorized assessments by such formula has been previously approved. No increase in the assessments beyond the maximum authorized assessments, as adjusted for inflation, is proposed for any of these Zones.

6. NOTICE IS HEREBY GIVEN that a public hearing will be held May 19, 2010, at 4:00 p.m., or as soon thereafter as the matter may be heard, in the regular meeting place of this City Council, located at 201 North Broadway, Escondido, California 92025, which are the time, date, and place fixed by the City Council for the hearing of protests or objections in reference to the annual levy of assessments within Zones 1 through 3 and 5 through 36 of the Maintenance District, to the extent of the maintenance, by any interested person and any other matters contained in this Resolution. At such time the City Council will consider and finally determine whether to levy the proposed annual assessments.

The City Council shall consider all objections or protests, if any, to the annual assessments proposed to be levied on all properties located in Zones 1 through 3 and 5 through 36. Any person interested may file a written protest prior to the close of the public hearing referred to herein or having filed such a protest, may file a written withdrawal of that protest prior to the close of such hearing, which shall occur upon the conclusion of public testimony. Any such written protest must state all grounds for objection. A written protest by a property owner must contain a description sufficient to identify the property owned by such person, e.g., assessor's parcel number.

Any interested person may mail a protest to the following address:

City Clerk

City of Escondido

201 North Broadway

Escondido, CA 92025

To be considered by the City Council, all protests must be received prior to the conclusion of the public hearing. A postmark on an envelope returning a written protest which is postmarked prior to such date and time but not received until after the conclusion of the public hearing will not be considered.

7. That the City Clerk is authorized and directed to give notice of the public hearing for the annual levy and collection of the assessments within Zones 1 through 3 and 5 through 36 as required by law by causing a copy of this Resolution to be published one time in a newspaper of general circulation within the City of Escondido; said publication to be completed not less than ten (10) days prior to the date set for the public hearing.

8. That for any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below:

Frank Schmitz

Engineering Services Department

City of Escondido

201 North Broadway

Escondido, CA 92025

(760) 839-4039

9. That this Resolution shall take effect immediately upon its adoption.

Preliminary Annual Report Fiscal Year 2010/11

City of Escondido Landscape Maintenance District

Report pursuant to the Landscaping and Lighting Act of 1972, Part 2 Division 15 of the Streets and Highways Code. Article 4, commencing with Section 22565, directs the preparation of the annual report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements described herein.

March 24, 2010

**DUE TO THE NUMBER OF PAGES OF EXHIBIT(S) A COMPLETE SET IS
AVAILABLE IN THE OFFICE OF THE CITY CLERK OR CITY ATTORNEY.
For Councilmembers, a set is available in the Council reading file.**

SPECIAL DISTRICT FINANCING & ADMINISTRATION

437 W. Grand Avenue
Escondido CA 92025
760 • 233 • 2630 Fax 233 • 2631

RESOLUTION NO. 2010-48

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, DECLARING ITS INTENTION TO INCREASE THE ANNUAL ASSESSMENTS IN ZONE 4 OF THE ESCONDIDO LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT, PROVIDE FOR THE ANNUAL LEVY AND COLLECTION OF ASSESSMENTS IN ZONE 4 OF THE ESCONDIDO LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT, AND SET THE TIME AND PLACE FOR A PUBLIC HEARING THEREON

WHEREAS, the City Council of the City of Escondido has previously formed a maintenance district pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California (the "Act"), and, the Article XIID of the Constitution of the State of California ("Article XIID"), and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following) (the "Implementation Act") (the 1972 Act, Article XIID, and the Implementation Act are referred collectively as the "Assessment Law"). Such maintenance district is known and designated as the Escondido Landscape Maintenance Assessment District (the "Maintenance District"); and

WHEREAS, the City Council initiated proceedings to provide for the annual levy of assessments for Zone 4 of the Maintenance District for the next ensuing fiscal year to provide for the costs and expenses necessary to pay for the maintenance of the existing improvements in the Maintenance District; and

WHEREAS, there has been presented to the City Council the Assessment Engineer's Report for the Maintenance District and Zone 4 thereof, attached hereto as

Exhibit "A" and by this referenced incorporated herein, as required by the Assessment Law; and

WHEREAS, the City Council proposes to: (1) increase the annual assessments for the properties within Zone 4; (2) establish a formula for annual adjustments for inflation measured by increases in the Consumer Price Index; and (3) levy and collect assessments to pay a prescribed portion of the cost of future maintenance of those items within Zone 4 described in the Assessment Engineer's Report, which is attached as Exhibit A and incorporated by this reference; and

WHEREAS, this City Council has now carefully examined and reviewed the Assessment Engineer's Report as presented, and is satisfied with each and all of the items and documents as set forth therein pertaining to Zone 4, and is satisfied that the assessments proposed for Zone 4, on a preliminary basis, have been spread in accordance with the special benefits received from the improvements to be maintained in Zone 4, as set forth in the Assessment Engineer's Report; and

WHEREAS, the City Council desires to initiate proceedings for a ballot protest procedure to increase the annual assessments for Zone 4 and to hold a public hearing in conformance with the Assessment Law for the purpose of considering increases to the annual assessments and authorizing the annual levy and collection of the assessments for Zone 4.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Escondido, California, as follows:

1. That the above recitals are all true.

2. That the public interest and convenience requires, and it is the intention of this City Council, to levy and collect assessments to pay the annual costs and expenses for the maintenance and/or servicing of the existing improvements for the above-referenced Zone 4, said existing improvements are generally described in Exhibit "A," the Engineer's Report.

3. That the existing improvements are of special benefit to certain identified properties within the boundaries of Zone 4.

4. That the Assessment Engineer's Report, as presented pertaining to Zone 4, is hereby approved on a preliminary basis, and is ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection. Reference is made to the Assessment Engineer's Report for a full and detailed description of the proposed increases to the assessments upon assessable lots and parcels of land within Zone 4 of the Maintenance District.

5. That the Boundaries of the Maintenance District, and Zone 4 thereof, are described as the boundaries previously defined in the formation documents of the Maintenance District, within the City of Escondido, County of San Diego. For particulars, reference is made to the diagram of the Maintenance District as previously approved by this legislative body, a copy of which is on file in the Office of the City Clerk of the City of Escondido and open for public inspection, and is designated by name of the Maintenance District.

6. That the public interest and convenience requires, and it is the intention of this City Council to order the proposed increases to the annual levy and collection of the assessments for Zone 4 as set forth and described in the Assessment Engineer's

Report, and further it is determined to be in the best public interest and convenience to levy and collect annual assessments to pay the costs and expense of said maintenance and improvement as estimated in the Assessment Engineer's Report for Zone 4. All costs and expenses of the maintenance and incidental expenses for Zone 4 have been apportioned and distributed to the benefiting parcels in accordance with the special benefits received from the existing improvements. Assessments are proposed to be increased within Zone 4 within the range of assessments proposed to be established for the properties within Zone 4, together with the establishment of a formula for annual adjustments for inflation measured by increases in the Consumer Price Index. If a majority protest exists, as described below in section 7., and the assessments are not increased, the assessments to be levied on parcels within Zone 4 of the Maintenance District are those proposed to be levied and collected at the maximum authorized rate as previously authorized for Zone 4.

7. NOTICE IS HEREBY GIVEN that a public hearing will be held May 19, 2010, at 4:00 p.m., or as soon thereafter as the matter may be heard, in the regular meeting place of this City council, located at 201 North Broadway, Escondido, California 92025, which are the time, date, and place fixed by the City Council for the hearing of protests or objections in reference to the proposed increases to and levy and collection of the annual assessments within Zone 4, to the extent of the maintenance, by any interested person and any other matters contained in this Resolution. At such time the legislative body will consider and finally determine whether to levy the proposed annual assessments.

Pursuant to the provisions of the Assessment Law, the record owner of each parcel proposed to be assessed within Zone 4 has the right to submit an assessment ballot in favor of or in opposition to the assessment proposed to be levied on such parcel.

Assessment ballots will be mailed to the record owner of each parcel located within Zone 4 and proposed to be subject to proposed increases of the assessments. Each such owner may complete such assessment ballot and thereby indicate such owner's support for or opposition to the proposed increases to the levy of the assessments. All such assessment ballots must be received by the City Clerk at or before the time set for the close of the public hearing, which will occur when public testimony is concluded. This public hearing may be continued from time to time. All such assessment ballots may be delivered by mail or personal delivery to the City Clerk at or before 4:00 pm on May 19, 2010, at City of Escondido, 201 North Broadway, Escondido, CA 92025, or in person in the City Council Chambers at the public hearing prior to the close of the public hearing. AN ASSESSMENT BALLOT RECEIVED AFTER THE CLOSE OF THE PUBLIC HEARING WILL NOT BE TABULATED EVEN THOUGH THE POSTMARK ON THE ENVELOPE TRANSMITTING THE ASSESSMENT BALLOT IS DATED ON OR BEFORE MAY 19, 2010.

At the public hearing, the City Council shall consider all objections or protests, if any, to the increases to the annual assessments proposed to be levied within Zone 4. The City Council shall also determine whether assessment ballots submitted pursuant to the Assessment Law in opposition to the increases to the assessments proposed to

be levied within Zone 4 exceed assessment ballots submitted in favor of such proposed increases to the assessments.

After the close of the public hearing, the City Council shall cause the tabulation, pursuant to California Government Code section 53753, of the assessment ballots timely received. If a majority protest, as described below, exists the City Council shall not impose the proposed increases to the assessments within Zone 4 of the Maintenance District. The City Council shall, however, consider authorizing the levy and collection of the annual assessments in accordance with the existing maximum authorization for annual assessments within Zone 4. A majority protest to the increases to the levy of the assessments within Zone 4 exists if, upon the close of the public hearing, assessment ballots submitted in opposition to the increases to the assessments within Zone 4 exceed the assessment ballots submitted in favor of such increases to the assessments. In tabulating the assessment ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

8. That in accordance with the Assessment Law, the City Clerk is hereby authorized and directed to give notice of the public hearing for the proposed increases to the levy of the assessments within Zone 4 as follows:

- a. At least forty-five (45) days before the date set forth for hearing protests, the City Clerk shall, pursuant to Government Code Section 53753, mail or cause to be mailed, postage prepaid, notice of the public hearing and of the adoption of the Resolution of Intention, as amended, and the filing and consideration of the Assessment Engineer's Report to all persons owning real property proposed to be assessed whose names

and addresses appear on the last equalized assessment roll for taxes of the County of San Diego, or who are known to the City Clerk. The form of such notice shall conform in all respects with the requirements of California Government Code Section 53753(b) and, pursuant to California Government Code Section 53753(c), each such notice shall contain an assessment ballot whereon the record owner may indicate his or her support for or opposition to the proposed increase to the assessments within Zone 4.

b. Except as provided in the following sentence, the assessments to be reflected in the assessment ballots shall be the proposed assessments for Zone 4 as set forth in the Assessment Engineers Report.

c. Upon the completion of the mailing of such notices, the City Clerk shall file with the City Council a certificate setting forth the time and manner of compliance with the requirements of this resolution for mailing notices.

9. That for purposes of tabulating the assessment ballots for these proceedings as required pursuant to the Assessment Law, the City Council hereby designates the City Clerk to act as the tabulation official to tabulate the assessment ballots submitted.

10. That for any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below:

Frank Schmitz

Engineering Services Department

City of Escondido
201 North Broadway
Escondido, CA 92025
(760) 839-4039

11. That this Resolution shall take effect immediately upon its adoption.

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City of Escondido Landscape Maintenance District

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