

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9

Date: June 22, 2011

TO: Honorable Mayor and Members of the City Council

FROM: Edward N. Domingue, Director of Engineering Services
Frank P. Schmitz, Parks and Open Space Administrator

SUBJECT: Final Assessment Engineer's Report for Zone 37 of the City of Escondido Landscape Maintenance District for FY 2011/2012.

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2011-71 approving the final Assessment Engineer's Report for Zone 37 of the City of Escondido Landscape Maintenance Assessment District (LMD) (map attached to staff report), declaring the results of the assessment ballot tabulation for Zone 37 of the LMD, confirming that a majority protest exists to the establishment of the initial assessment for FY 2011/2012, and that no initial assessment shall be imposed.

FISCAL ANALYSIS:

The owner of Tract 934 submitted the \$3,500 annexation fee required to process the annexation of this tract into the LMD as Zone 37.

PREVIOUS ACTION:

The City Council approved the annexation of Tract 934 into the LMD as Zone 37 on March 2, 2011, and approved the FY 2011/2012 preliminary LMD Engineer's Report for Zone 37 on March 23, 2011.

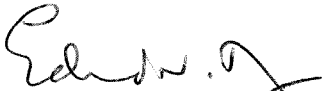
BACKGROUND:

On November 5, 1996, the California voters approved Proposition 218, which among other things, requires property owner approval for any new assessment and any increase in any existing assessment. In FY 2011/2012 the initial new assessment was proposed for Zone 37. A ballot was sent to the property owner in Zone 37 giving her the option of approving or rejecting the proposed assessment. The completed ballot was submitted before the close of the public hearing on May 11, 2011. The ballot was tabulated on Thursday May 12, 2011. The property owner voted to reject the proposed assessment and therefore the assessment will not be imposed for FY 2011/2012. The owner indicated the reason for the rejection of the assessment was that it was decided to postpone

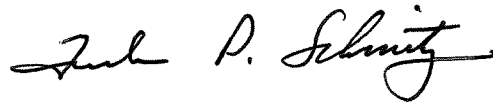
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LMD Zone 37 Final Report FY 2011/12
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the development of Tract 934 until economic conditions improved. The City Council action today will not prejudice the ability of the Developer to move forward with the assessment in the future.

Respectfully submitted,

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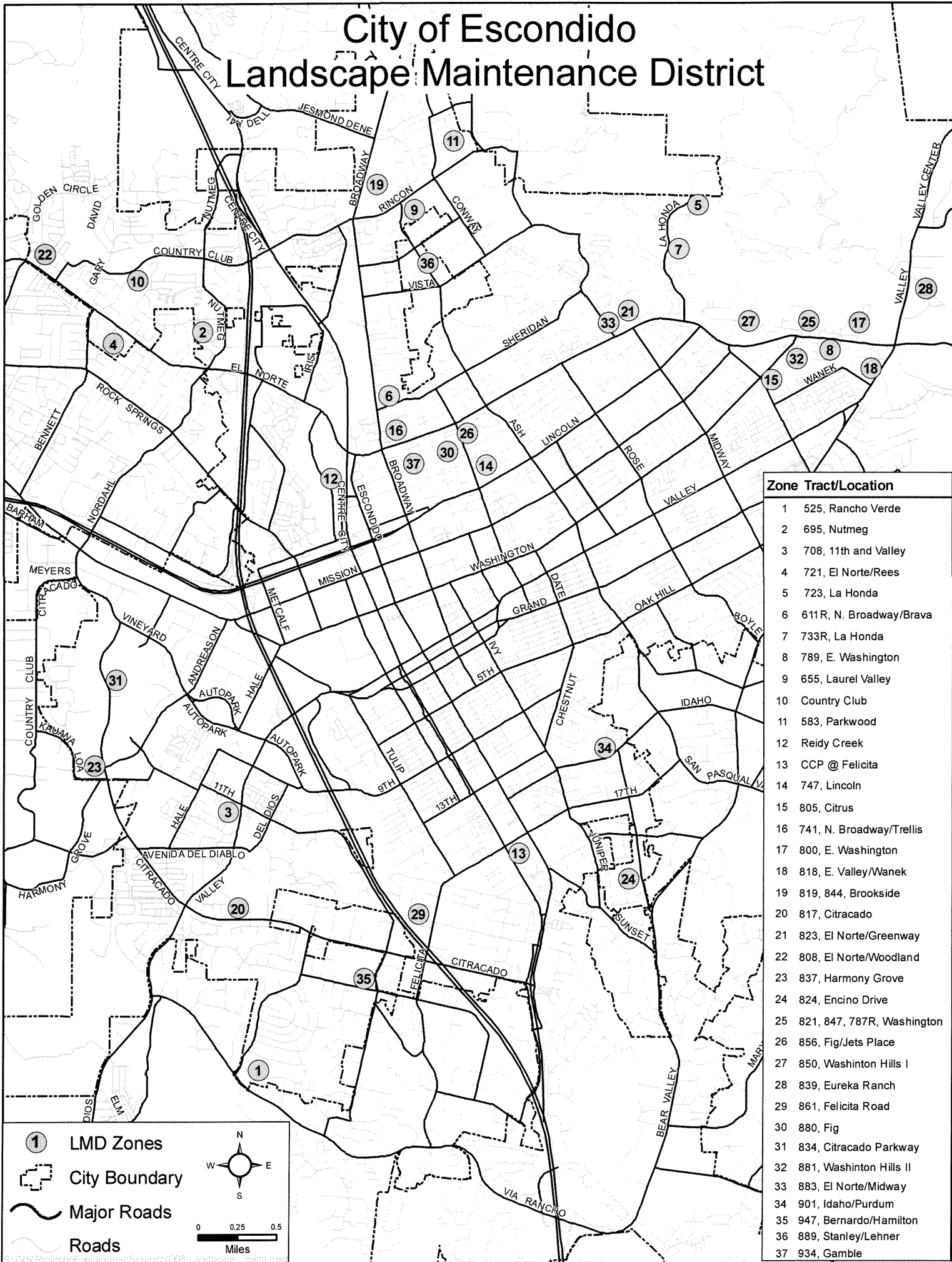
Edward N. Domingue, P.E.
Director of Engineering Services

A handwritten signature in black ink, appearing to read "Frank P. Schmitz".

Frank P. Schmitz
Parks and Open Space Administrator

City of Escondido

Landscape Maintenance District



RESOLUTION NO.2011-71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, DECLARING THE RESULTS OF THE ASSESSMENT BALLOT TABULATION FOR ZONE 37 OF THE ESCONDIDO LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT, APPROVING THE ASSESSMENT ENGINEER'S REPORT FOR ZONE 37 OF THE ESCONDIDO LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT FOR FISCAL YEAR 2011-2012 AND TERMINATING FURTHER PROCEEDINGS

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, there has been established by the City 37 zones within the Maintenance District (each individually referenced herein as a "Zone"); and

WHEREAS, on May 11, 2011, the City Council held a public hearing and initiated proceedings to provide for the annual levy and collection of assessments for Zone 37 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 Zone 37 of the Maintenance District; and

WHEREAS, notice of the public hearing was duly and legally published in the time, form, and manner as required by law; and

WHEREAS, the City Council also previously received and preliminarily approved a report of the Assessment Engineer (the "Assessment Engineer's Report"), a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein, for Zone 37 of the Maintenance District as required by the 1972 Act; and

WHEREAS, the City Council also previously initiated proceedings for a ballot protest procedure to establish the annual assessment for Zone 37 of the Maintenance District and to hold a public hearing in conformance with the Assessment Law for the purpose of considering the establishment of the annual assessment and authorizing the annual levy and collection of the assessment for Zone 37; and

WHEREAS, the City Council also (a) set the time and place for conducting a public hearing for the purpose of hearing protests to the initial assessment proposed to be levied on land within the Zone 37; and (b) ordered that the record owners of each parcel proposed to be assessed have the right to submit an assessment ballot in favor of or in opposition to the initial assessment proposed to be levied on such parcels; and

WHEREAS, notices of such hearing accompanied by assessment ballot materials were regularly mailed in the time, form, and manner required by the Assessment Law; and

WHEREAS, at the time and place fixed for such public hearing, the Assessment

Engineer submitted the Assessment Engineer's Report as it pertains to Zone 37, which was prepared and contained all the matters and items called for pursuant to the provisions of the Assessment Law; and

WHEREAS, on May 11, 2011, a full hearing was given, and all assessment ballots submitted and received pursuant to the Assessment Law prior to the close of such public hearing have been tabulated by the City Clerk of the City, acting as the tabulation official appointed by the City, all in the manner provided by the Assessment Law; and

WHEREAS, the City Clerk has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Assessment Ballots Submitted (the "Certificate of the Tabulation Official"), a copy of which is attached as Exhibit "B" hereto and incorporated herein by this reference, which reflects the results of the tabulation of the assessment ballots; and

WHEREAS, at this time based upon the Certificate of Tabulation Official this City Council determines that the assessment ballots received by the City in favor of the proposed assessment and weighted as required by the Assessment Law do not exceed the assessment ballots received in opposition to the assessment and similarly weighted and, therefore, a majority protest pursuant to the Assessment Law does exist and therefore an initial assessment cannot be made at this time; and

WHEREAS, the City Council finds the Maintenance District as exempt from the California Environmental Quality Act (Public Resources Code Section 21000 and following) ("CEQA") pursuant to section 15302(d) of the State CEQA guidelines;

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

1. That the above recitals are true.
2. The final Engineer's Report is hereby approved.
3. The assessment ballots submitted pursuant to the Assessment Law in favor of the establishment of the assessment for Zone 37 and weighted as required by the Assessment Law do not exceed the assessment ballots submitted in opposition to the establishment of the assessment and similarly weighted and it is therefore determined that a majority protest pursuant to Assessment Law does exist and the initial assessment proposed by the final Engineer's Report may not be imposed
4. This Resolution shall take effect immediately upon its adoption.



Agenda Item No.: 9
Date: June 22, 2011

() There is no material for this agenda item

THE FOLLOWING ITEM(S) WILL BE DISTRIBUTED WHEN AVAILABLE:

- () Staff Report**
- () Resolution No.**
- () Ordinance No.**
- () Exhibits/Attachments**

DUE TO THE SIZE OF THIS AGENDA ITEM:

- (X) A copy of the City of Escondido Landscape Maintenance Assessment District: Assessment Engineer's Report Zone 37 is on file in the City Clerk's Office**

Assessment Engineer's Report Zone 37

Fiscal Year 2011/12

City of Escondido Landscape Maintenance Assessment District

Report pursuant to the Landscaping and Lighting Act of 1972, Part 2 Division 15 of the Streets and Highways Code, Article XIII.D. of the California Constitution, and Proposition 218 Omnibus Implementation Act (Government Code Section 53750 et seq.). The Streets and Highways Code, Part 2, Division 15, Article 4, commencing with Section 22565, directs the preparation of the Assessment Engineer's Report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements described herein.

FINAL REPORT

June 22, 2011

**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.**

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