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CITY COUNCIL

AGENDA REPORT

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TO: Honorable Mayor and Members of the City Council  
FROM: Daniel Fox, City Manager   
TITLE: **FORMATION OF NEW LANDSCAPING ASSESSMENT DISTRICT NO. 39-2019.**  
STRATEGIC GOAL: *Open, Engaged & Responsive Government*

**RECOMMENDATION:**

Receive presentation, open Public Hearing, receive testimony, close Public Hearing, discuss, and take the following actions:

- A. If a majority protest does not exist (i.e. a weighted majority of ballots cast are in favor of the measure), adopt Resolution No. 2019-XX (FORMATION) approving the revised Engineer's Report, Confirming the Diagram and Assessment, and Ordering the levy of the Landscape Assessment District No. 39-2019 Assessment for Fiscal Year 2019-20; or
- B. If a majority protest does exist (i.e. a weighted majority of ballots cast are in opposed of the measure), adopt Resolution No. 2019-XX (NO FORMATION) certifying the Results of the Ballot Proceeding for Landscape Assessment District No. 39-2019.

**FINANCIAL SUMMARY:**

As shown in the attached revised Engineer's Report, costs are annualized at \$504,255 (FY 19/20). Revenues from the current assessment rate of \$236.00 per parcel are \$294,764, causing the City's General Fund to subsidize this District in the amount of \$209,491. This shortfall is projected to increase in coming years. If approved, the new assessments ranging from \$358.34 to \$387.39 per parcel would generate revenues of \$469,651, which would be supplemented by \$34,604 of General Fund for the requisite general benefit portion of the Assessment District.

**BACKGROUND:**

Assessment District No. 39 was created in 1985 upon the request of developers Bramalea Limited, Inc., and M. J. Brock and Sons, Inc. to pay for the maintenance and

upkeep of certain landscape and recreation features in the neighborhood. At that time before the 1989 incorporation of the City of Diamond Bar, the County of Los Angeles formed the District and provided maintenance and administration. Upon incorporation in 1989, the City of Diamond Bar took responsibility for maintaining its improvements and setting and collecting the annual assessments. The City contracted with the County to perform the actual maintenance for a period of time after that. The District was structured to be self-supporting, and, up to the adoption of Proposition 218 in 1996, the County, then the City, had authority to set assessments at levels sufficient to raise the required revenues in subsequent years.

In 1996 California voters approved Proposition 218, which changed the legal requirements for increasing assessments such as these. From that year forward any increase in assessments required the approval of a weighted majority of the property owners within the District by way of a mailed ballot procedure. For a few years, cost increases were modest and fiscal reserves were sufficient to fund maintenance activities and thus, there was no need to seek an increase in the assessments. Once the reserves were depleted, the City's General Fund was utilized to cover the shortfalls in the District.

The continuing operational deficit for the District is an unintended burden on the City's General Fund. The most straightforward remedy is to increase assessments for the District to levels adequate to cover costs. Other options include scaling back landscape services to fit within available revenues or dissolving the District and ceasing all services. In the former case, it is anticipated that residents in the area would see noticeable declines in the health and appearance of the landscaped areas. In the latter case, several complications would arise including identifying who would inherit the maintenance responsibilities (abutting property owners, homeowners' associations, or the City) and to what level they would perform that work.

In a study session on March 19, 2019, the City Council considered the details of these options for the District and decided to pursue the option of having the District's property owners determine whether the assessment should be increased to fund current levels of service through a ballot proceeding.

On April 16, 2019 the City Council adopted Resolution 2019-12 initiating Proposition 218 proceedings and approved a contract amendment with the City's assessment firm, SCI Consulting Group, to draft an Engineer's Report and assist the City in the Proposition 218 procedures and neighborhood outreach.

On May 21, 2019 the City Council adopted Resolution No. 2019-20 preliminarily approving the draft Engineer's Report and setting July 16, 2019 as the date for a public hearing and authorizing the mailing of assessment ballots. The Engineer's report estimated the annualized cost to perform the required services to be \$504,255 in FY 19/20 dollars. The proposed District No. 39-2019 is essentially the same as the existing District No. 39 (same boundaries and services), but the methodology for determining the assessment rates is slightly different than was used in the original 1985 District. The primary differences are that the General Benefit must be quantified in more specific terms, and additional scrutiny must be given to differing levels of benefit for the various properties in the District.

The District is made up primarily of single-family homes, so there are no practical differences in how they accrue benefits from the District's improvements. However, the improvements are not spread throughout the District evenly, so the Engineer has determined that three benefit zones are appropriate, each with different assessment rates.

- Zone A lies south of Grand Avenue and has the greatest concentration of improvements such as a mini park, landscape slopes and brush-clearing areas. This zone has the highest assessment rate of \$387.39 for FY 19/20.
- Zone B lies north of Grand Avenue and south of Pantera Elementary School and has a similar concentration of mini parks, but less quantities of landscaped slopes and brush-clearing areas. This zone has a slightly lower assessment rate of \$377.70.
- Zone C lies at the north end of the District and has no nearby mini parks and no landscaped slope areas, although there are several brush-clearing areas. This has the lowest assessment rate of \$358.34.

At the May 21 Council meeting it was determined that the Pantera Elementary School should not be assessed by virtue of being included in the General Benefit calculation. As a result, the Engineer's Report has been revised to reflect that adjustment. The revised Engineer's Report (dated July 23, 2019) is not changed in any other way including the assessment amounts for all other properties, the boundaries, scope of services, general benefit, and zones of benefit.

Subsequent to the mailing of the Notices and Ballots, an error was found on the ballots for Zones A and C; the assessment amounts were switched due to a clerical error. In order to correct the error and to comply with a 45-day notice requirement, the City Council directed staff at their June 18, 2019 meeting (Resolution No. 2019-29) to mail replacement ballots to all property owners in those two Zones, and to reschedule the Public Hearing to August 6, 2019.

## **PUBLIC HEARING AND BALLOT TABULATION**

The public hearing scheduled for tonight is the final step in the three-step process complying with the Landscape and Lighting Act, California Streets and Highways Code Sections 22500 et seq., Section 53750 - 53754 of the Government Code, and Article XIID of the California Constitution, added by Proposition 218. The purpose of this public hearing is to give all interested parties the opportunity to hear, and have heard, comments regarding the proposed assessments and assessment ballot proceeding and for the City Council to accept any additional ballots. In addition, the balloting period officially closes at the conclusion of the public input portion of the hearing. Following the close of the public input portion of the public hearing, staff recommends that the Council continue the public hearing until the end of the tonight's meeting to allow sufficient time for the tabulation of the ballots received, and direct the City Clerk, as the tabulator, to tabulate all valid ballots that were received prior to the close of the public input portion of the public hearing. It is expected that that the tabulation will be completed prior to the end of the City Council meeting to allow the City Council to receive the results and take any appropriate final actions on the proposed assessment at the end of the meeting.

This new District is structured to replace the existing District No. 39. Since the results of the ballot proceeding will not be known until after the tabulation, two draft resolutions are attached – one for each potential outcome. If the tabulation results in a majority in favor of the proposed assessment, staff recommends the City Council adopt Resolution 2019-XX (FORMATION) approving, among other things, the formation of Landscape Assessment District No. 39-2019 and ordering the levy of the proposed assessment on the parcels identified within said District. In addition, Resolution No. 2019-28 approved on June 18, 2019 ordering the levies for Landscape Assessment District No. 39 for fiscal year 2019-20, will be rescinded in favor of the increased levies.

If a majority protest exists, i.e., the majority of the ballots cast are against the proposed assessment, then the proposed assessment may not be imposed, and the City Council should adopt Resolution No. 2019-XX (NO-FORMATION), certifying the results of the majority protest. Should a majority protest exist, the assessments levied will remain at the levels identified in Resolution No. 2019-28, adopted by the City Council on June 18, 2019.

**LEGAL REVIEW:**

The City Attorney has reviewed and approved as to form.

**PREPARED BY:**

  
David G. Liu, Public Works Director/City Engineer 8/6/2019

**REVIEWED BY:**

  
Nasser Abbaszadeh, Contract Deputy City Engineer 7/24/2019

  
David G. Liu, Public Works Director/City Engineer 7/29/2019

  
Dianna Honeywell, Finance Director 7/29/2019

**Attachments:**

1. 7.1.a Resolution No. 2019-XX - (FORMATION) #39-2019
2. 7.1.b Resolution No. 2019-XX - (NO FORMATION) #39-2019
3. 7.1.c Revised Engineer's Report - 39-2019 (July 2019)

**RESOLUTION NO. 2019-XX  
(FORMATION)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DIAMOND BAR APPROVING THE REVISED ENGINEER'S REPORT, CONFIRMING THE DIAGRAM AND BOUNDARY MAP DEPICTING PARCELS SUBJECT TO THE ASSESSMENT, AND ORDERING THE LEVY ON PARCELS WITHIN LANDSCAPE ASSESSMENT DISTRICT NO. 39-2019 FOR FISCAL YEAR 2019-20**

**WHEREAS**, in 1985 a landscape maintenance district was formed by the County of Los Angeles pursuant to the Landscape and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code commencing with § 22500 thereof) ("Act") for the purpose of financing the cost of installation, maintenance and servicing of parcels within said landscape maintenance district ("1985 District") and within what is now the City of Diamond Bar;

**WHEREAS**, by Resolution No. 2019-12, approved on April 16, 2019, the City Council ordered the initiation of proceedings for the formation of a landscape maintenance district pursuant to the Act and Article XIID of the California Constitution (added in 1996 by Proposition 218) to be known as the Landscape Assessment District No. 39-2019 ("2019 District") of the City of Diamond Bar to rescind and supersede the 1985 District, for the purpose of financing the cost of installation, maintenance and servicing of parcels within the 2019 District, as detailed in the Engineer's Report prepared by SCI Consulting Group;

**WHEREAS**, the City Council has adopted a resolution approving and filing an Engineer's Report which includes: (1) a description of the Improvements to be installed, maintained and serviced ("Improvements") with funds from the assessment proceeds; (2) an estimate of the annual cost of the Improvements described in the Engineer's Report; (3) a description of the assessable parcels of land within the 2019 District and proposed to be subject to the new assessment; (4) a description of the proportionate special and general benefits conferred on property by the proposed assessment; (5) a diagram and boundary map for the 2019 District, and (6) the amount to be assessed upon various types of assessable land within the 2019 District to fund the cost of the Improvements. The Engineer's Report is incorporated herein by this reference;

**WHEREAS**, the City Council adopted Resolution No. 2019-20 on May 21, 2019, declaring its intent to form the 2019 District, to levy assessments, preliminarily approving the Engineer's Report, providing notice of a public hearing and the mailing of the 2019 District assessment ballots. The annual assessment rates for various types of real property within the proposed assessment, the total number of parcels to be assessed, and the total amount of annual assessment revenue is contained within said Engineer's Report;

**WHEREAS**, the City Council adopted Resolution No. 2019-18 on May 21, 2019, adopting ballot and notice procedures to conform to Conform with Proposition 218 and subsequent amendments thereto;

**WHEREAS**, the Engineer's Report has been revised (dated July 23, 2019) as discussed at the May 21, 2019 City Council Meeting to reflect that the Pantera School site is not assessed because it is considered to be part of the general benefit calculation, while all other aspects remain unchanged from the May 2019 Engineer's Report including boundaries, scope of services, general benefit, zones of benefit and assessment rates;

**WHEREAS**, the City Council adopted Resolution No. 2019-20 on May 21, 2019, setting the public hearing date for July 16, 2019, at 6:45 p.m. at the SCAQMD auditorium, and then subsequently adopted Resolution No. 2019-29 on June 18, 2019 that ordered replacement ballots be mailed to each record owner of assessable parcels of real property located within Zones A and C of the 2019 District because of the misprinting of the assessment amounts on the original ballots for those two Zones, and changed the date of the public hearing to August 6, 2019 thereby providing a new 45-day written mailed notice period;

**WHEREAS**, the City Council has provided a 45-day written mailed notice to each record owner of assessable parcels of real property located within the 2019 District boundaries as set forth in the 2019 District diagram and boundary map and notice of a public hearing which was to be held at a regular meeting of the City Council on August 6, 2019, at 6:45 p.m. at the SCAQMD auditorium, located at 21865 Copley Drive, Diamond Bar, CA, on the issue of whether the 2019 District should be formed and assessments levied and collected as proposed in the revised Engineer's Report for Fiscal Year 2019-20 and future Fiscal Years;

**WHEREAS**, the form of written mailed public notice of the public hearing contained the following information: (a) the total amount of assessments proposed to be levied within the 2019 District for Fiscal Year 2019-20; (b) the assessment chargeable to each owner's parcel; (c) the duration of the proposed assessment; (d) the reason for the proposed assessment; (e) the basis upon which the amount of the proposed assessment was calculated; (f) the date, time and place of the public hearing as specified in this Resolution; and (g) a summary of the voting procedures and the effect of a majority protest. The written mailed public notice also included a ballot by which each property owner could indicate its support or opposition to the proposed assessment. The ballot stated that it must be returned before the conclusion of the public hearing on August 6, 2019, in order to be valid and counted, and that all assessment ballots received by the City Clerk (the "Tabulator"), would be tabulated after the conclusion of the public input portion of the public hearing on August 6, 2019, by the Tabulator;

**WHEREAS**, pursuant to the provisions of California Constitution Article XIID, an opportunity to vote on the proposed assessment has been afforded, and the

assessment ballots mailed to owners of assessable real property within 2019 District have been received and tabulated, with assessment ballots weighted according to the proportional financial obligation of each affected parcel; and

**WHEREAS**, the City Council adopted Resolution No. 2019-28 on June 18, 2019, levying assessments for the 1985 District with the understanding that it would be rescinded if the ballot proceeding for the 2019 District was successful.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Diamond Bar as follows:

**Section 1.** The above Recitals are in all respects true and correct.

**Section 2.** The tabulation of the assessment ballots submitted by the property owners is complete and certified by the Tabulator, and the votes cast are as follows:

Total Number of Valid Ballots Processed:	
Total Assessment Amount of Valid Ballots:	\$
Total Number of "Yes" Votes Processed:	
Total Assessment Amount of "Yes" Votes Processed:	\$
Percentage of "Yes" votes, unweighted:	%
Total Percentage of "Yes" Ballots, weighted:	%
Total Number of "No" Votes Processed:	
Total Assessment Amount of "No" Votes Processed:	\$
Percentage of "No" votes, unweighted:	%
Total Percentage of "No" Ballots, weighted:	%
Total Number of "Invalid" Votes Processed	
Total Assessment Amount of "Invalid" Votes Processed:	\$

**Section 3.** \_\_\_\_\_assessment ballots were returned and received prior to the close of the public hearing on August 6, 2019. This represents a \_\_\_\_\_% ballot return rate on the 1,239 ballots mailed. Of the assessment ballots returned, \_\_\_\_\_assessment ballots were declared invalid in that they were either not marked with a "Yes" or "No", were marked with both a "Yes" and a "No", were not signed, or the property ownership and barcode information was illegible."

**Section 4.** As determined by ballots cast, as weighted according to the amount of assessment for each parcel, \_\_\_\_\_% of the property owners cast ballots in support of the 2019 District. Since a majority protest, as defined by Article XIID of the California Constitution, did not exist, this City Council is authorized to order the levy of assessment prepared by and made a part of the revised Engineer's Report for the 2019 District to pay the costs and expenses thereof.

**Section 5.** The revised Engineer's Report for the 2019 District, together with the diagram of the 2019 District contained therein, and the proposed assessment roll for Fiscal Year 2019-20 are hereby confirmed and approved.

**Section 6.** Based on the oral and documentary evidence, including the revised Engineer's Report, offered and received at the public hearing, the City Council expressly finds and determines that: (a) each of the several assessed lots and parcels of land within the 2019 District will be specially benefited by the Improvements (as described in the revised Engineer's Report) in at least the amount of the assessment apportioned against such lots and parcels of land, respectively; and (b) that there is substantial evidence to support said finding and determination as to special benefit to property with the 2019 District from the Improvements to be financed with assessment proceeds.

**Section 7.** The 2019 District is hereby formed, and assessments consistent with the revised Engineer's Report are hereby levied, pursuant to the Act as set below.

**Section 8.** Assessments for Fiscal Year 2019-20 shall be levied at the rate of three hundred eighty-seven dollars and thirty-nine cents (\$387.39) per single family residence in Zone A, three hundred seventy-seven dollars and seventy cents (\$377.70) per single family residence in Zone B, and three hundred fifty-eight dollars and thirty-four cents (\$358.34) per single family residence in Zone C as specified in the revised Engineer's Report for Fiscal Year 2019-20 with estimated total annual assessment revenues as set forth in the revised Engineer's Report.

**Section 9.** The 2019 District Improvements to be financed with assessment proceeds described in the revised Engineer's Report are hereby ordered.

**Section 10.** The authorized maximum assessment to be levied in future Fiscal Years shall be increased by an amount up to the change in the Los Angeles-Riverside-Orange County area Consumer Price Index, but not exceeding three percent (3%) annually, which adjustment shall be based on actual costs, including any reasonable reserves, supported by an Engineer's Report prepared in accordance with Article XIID of the California Constitution.

**Section 11.** The assessment is in compliance with the provisions of the Act, and the City Council has complied with all laws pertaining to the levy of an annual assessment pursuant to the Act. The assessment is levied for the purpose of paying the

costs and expenses of the Improvements described in the revised Engineer's Report for fiscal year 2019-20.

**Section 12.** The City of Diamond Bar City Council hereby certifies that the assessments to be placed on the 2019-20 property tax bills meet the requirements of Proposition 218 that added Article XIID to the California Constitution.

**Section 13.** The assessments are levied without regard to property valuation.

**Section 14.** Immediately upon the adoption of this resolution, but in no event later than the second Monday in August following such adoption, the City Clerk is directed to file a certified copy of the 2019 District diagram and assessments and a certified copy of this Resolution with the Auditor/Tax Collector of the County of Los Angeles ("County Tax Collector"). Upon such filing, the County Tax Collector shall enter on the County tax roll opposite each lot or parcel of land the amount of assessment thereupon as shown in the 2019 District assessments. 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 Tax Collector, the net amount of the assessments, after deduction of any compensation due the County for collection, shall be paid to the City of Diamond Bar Landscape Assessment District No 39-2019.

**Section 15.** The monies representing assessments collected from the 2019 District shall be deposited in a separate fund established under the distinctive designation of the Landscape Assessment District No. 39-2019. Funds collected from Landscape Assessment District No. 39-2019 Such funds shall be expended only for the special benefit of parcels within the 2019 District.

**Section 16.** Any 2019 District assessment upon any parcel, may be corrected, cancelled or a refund granted as appropriate, by order of the City Council upon a determination from the Engineer that the assessment should be revised to be consistent with the method of assessment established in the revised Engineer's Report. Any such corrections, cancellations or refunds shall be limited to the Fiscal Year 2019-20 tax rolls.

**Section 17.** Resolution No. 2019-28 is hereby rescinded and the assessments for the 1985 District shall not be levied on the 2019-20 tax rolls.

**Section 18.** The City Clerk shall:

- a) Certify to the adoption of this Resolution; and
- b) Cause a true and correct copy of this Resolution to be published pursuant to California Government Code § 6061.

**PASSED, ADOPTED AND APPROVED** this 6<sup>th</sup> day of August 2019.

\_\_\_\_\_  
Carol Herrera, Mayor

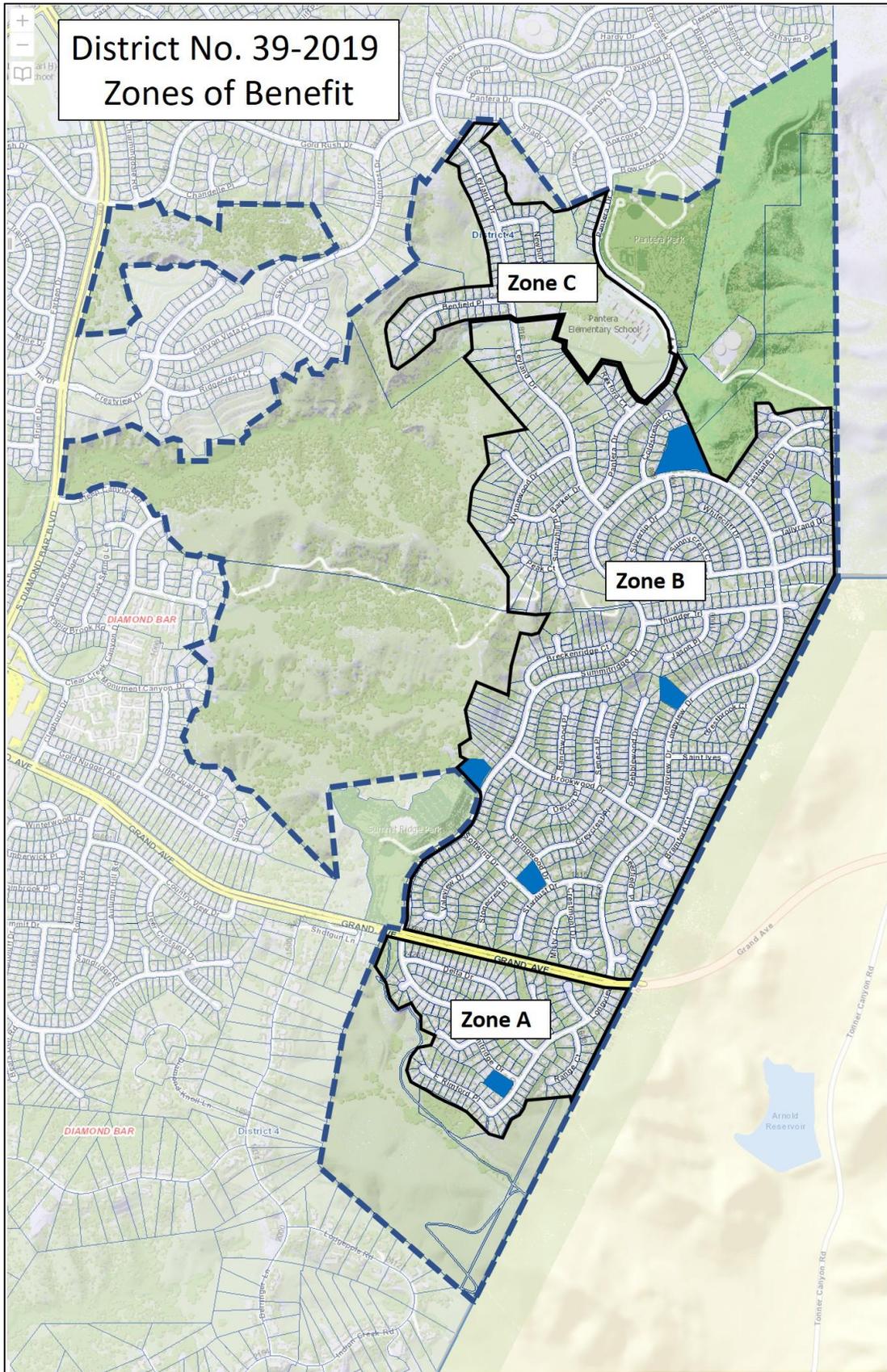
ATTEST:

I, TOMMYE CRIBBINS, City Clerk of the City of Diamond Bar, do hereby certify that the foregoing Resolution was passed, approved and adopted at the regular meeting of the City Council of the City of Diamond Bar held on the 6<sup>th</sup> day of August 2019, by the following roll call vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAINED:	COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
Tommye Cribbins, City Clerk  
City of Diamond Bar

# EXHIBIT A



**RESOLUTION NO. 2019-XX  
(NO FORMATION)**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DIAMOND  
BAR CERTIFYING THE RESULTS OF THE BALLOT PROCEEDING FOR  
LANDSCAPE ASSESSMENT DISTRICT NO. 39-2019**

**WHEREAS**, in 1985 a landscape maintenance district was formed by the County of Los Angeles pursuant to the Landscape and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code commencing with § 22500 thereof) (“Act”) for the purpose of financing the cost of installation, maintenance and servicing of parcels within said landscape maintenance district (“1985 District”) and within what is now the City of Diamond Bar;

**WHEREAS**, by Resolution No. 2019-12, approved on April 16, 2019, the City Council ordered the initiation of proceedings for the formation of a landscape maintenance district pursuant to the Act and Article XIID of the California Constitution (added in 1996 by Proposition 218) to be known as the Landscape Assessment District No. 39-2019 (“2019 District”) of the City of Diamond Bar to rescind and supersede the 1985 District, for the purpose of financing the cost of installation, maintenance and servicing of parcels within the 2019 District, as detailed in the Engineer’s Report prepared by SCI Consulting Group;

**WHEREAS**, the City Council has adopted a resolution approving and filing an Engineer’s Report which includes: (1) a description of the Improvements to be installed, maintained and serviced (“Improvements”) with funds from the assessment proceeds; (2) an estimate of the annual cost of the Improvements described in the Engineer’s Report; (3) a description of the assessable parcels of land within the 2019 District and proposed to be subject to the new assessment; (4) a description of the proportionate special and general benefits conferred on property by the proposed assessment; (5) a diagram and boundary map for the 2019 District, and (6) the amount to be assessed upon various types of assessable land within the 2019 District to fund the cost of the Improvements. The Engineer’s Report is incorporated herein by this reference;

**WHEREAS**, the City Council adopted Resolution No. 2019-20 on May 21, 2019, declaring its intention to levy assessments, preliminarily approving the Engineer’s Report, providing notice of a public hearing and the mailing of the 2019 District assessment ballots. The annual assessment rates for various types of real property within the proposed assessment, the total number of parcels to be assessed, and the total amount of annual assessment revenue is contained within said Engineer’s Report;

**WHEREAS**, the City Council adopted Resolution No. 2019-18 on May 21, 2019, adopting ballot and notice procedures to conform to Conform with Proposition 218 and subsequent amendments thereto;

**WHEREAS**, the Engineer's Report has been revised (dated July 23, 2019) as discussed at the May 21, 2019 City Council Meeting to reflect that the Pantera School site is not assessed because it is considered to be part of the general benefit calculation, while all other aspects remain unchanged from the May 2019 Engineer's Report including boundaries, scope of services, general benefit, zones of benefit and assessment rates;

**WHEREAS**, the City Council adopted Resolution No. 2019-20 on May 21, 2019, setting the public hearing date for July 16, 2019, at 6:45 p.m. at the SCAQMD auditorium, and then subsequently adopted Resolution No. 2019-29 on June 18, 2019 that ordered replacement ballots be mailed to each record owner of assessable parcels of real property located within Zones A and C of the 2019 District because of the misprinting of the assessment amounts on the original ballots for those two Zones, and changed the date of the public hearing to August 6, 2019 thereby providing a new 45-day written mailed notice period;

**WHEREAS**, the City Council has provided a 45-day written mailed notice to each record owner of assessable parcels of real property located within the 2019 District boundaries as set forth in the 2019 District diagram and boundary map and notice of a public hearing which was to be held at a regular meeting of the City Council on August 6, 2019, at 6:45 p.m. at the SCAQMD auditorium, located at 21865 Copley Drive, Diamond Bar, CA, on the issue of whether the 2019 District should be formed and assessments levied and collected as proposed in the revised Engineer's Report for Fiscal Year 2019-20 and future Fiscal Years;

**WHEREAS**, the form of written mailed public notice of the public hearing contained the following information: (a) the total amount of assessments proposed to be levied within the 2019 District for Fiscal Year 2019-20; (b) the assessment chargeable to each owner's parcel; (c) the duration of the proposed assessment; (d) the reason for the proposed assessment; (e) the basis upon which the amount of the proposed assessment was calculated; (f) the date, time and place of the public hearing as specified in this Resolution; and (g) a summary of the voting procedures and the effect of a majority protest. The written mailed public notice also included a ballot by which each property owner could indicate its support or opposition to the proposed assessment. The ballot stated that it must be returned before the conclusion of the public hearing on August 6, 2019, in order to be valid and counted, and that all assessment ballots received by the City Clerk (the "Tabulator"), would be tabulated after the conclusion of the public input portion of the public hearing on August 6, 2019, by the Tabulator;

**WHEREAS**, pursuant to the provisions of California Constitution Article XIID, an opportunity to vote on the proposed assessment has been afforded, and the assessment ballots mailed to owners of assessable real property within 2019 District have been received and tabulated, with assessment ballots weighted according to the proportional financial obligation of each affected parcel; and

**WHEREAS**, the City Council adopted Resolution No. 2019-28 on June 18, 2019, levying assessments for the 1985 District with the understanding that it would be rescinded if the ballot proceeding for the 2019 District was successful.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Diamond Bar as follows:

**Section 1.** The above Recitals are in all respects true and correct.

**Section 2.** The tabulation of the assessment ballots submitted by the property owners is complete and certified by the Tabulator, and the votes cast are as follows:

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Percentage of "No" votes, unweighted:	%
Total Percentage of "No" Ballots, weighted:	%
Total Number of "Invalid" Votes Processed	
Total Assessment Amount of "Invalid" Votes Processed:	\$

**Section 3.** \_\_\_\_\_ assessment ballots were returned and received prior to the close of the public hearing on August 6, 2019. This represents a \_\_\_\_\_% ballot return rate on the 1,239 ballots mailed. Of the assessment ballots returned, \_\_\_\_\_ assessment ballots were declared invalid in that they were either not marked with a "Yes" or "No", were marked with both a "Yes" and a "No", were not signed, or the property ownership and barcode information was illegible."

**Section 4.** As determined by ballots cast, as weighted according to the amount of assessment for each parcel, \_\_\_\_\_% of the property owners cast ballots in support of the Assessment District and \_\_\_\_\_% of the property owners cast ballots against the Assessment District. Since a majority protest, as defined by Article XIID of

the California Constitution, exists, the measure fails and the 2019 Assessment District cannot be formed or its proposed assessments levied.

**Section 5.** The 2019 District is not formed, and the 1985 District shall remain in place and Resolution 2019-28 shall remain in force and effect.

**Section 6.** The results of this ballot proceeding are hereby certified by the City Council of the City of Diamond Bar.

**Section 7.** The City Clerk shall:

- a) Certify to the adoption of this Resolution; and
- b) Cause a true and correct copy of this Resolution to be published pursuant to California Government Code § 6061.

**PASSED, ADOPTED AND APPROVED** this 6<sup>th</sup> day of August 2019.

\_\_\_\_\_  
Carol Herrera, Mayor

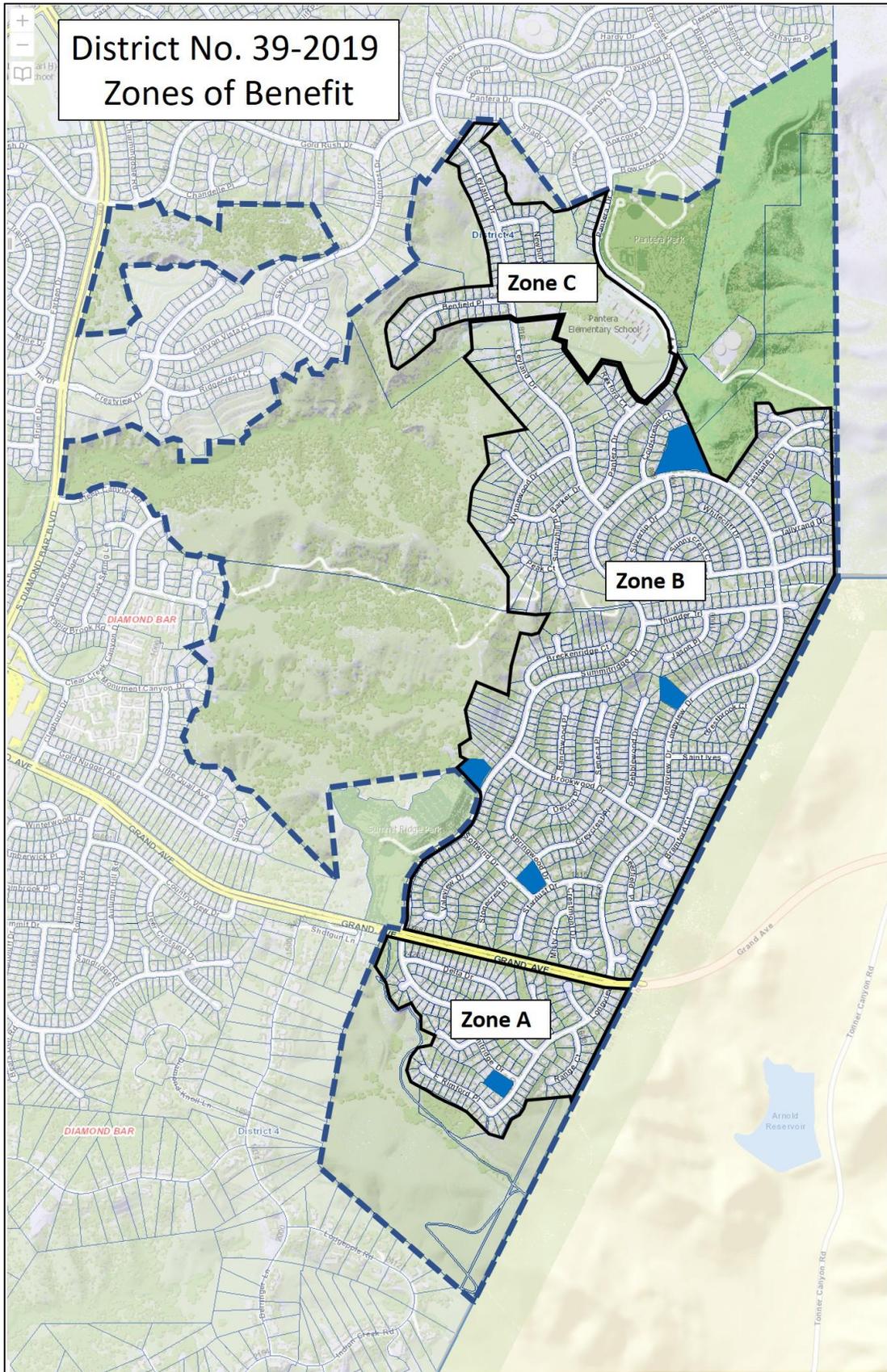
ATTEST:

I, TOMMYE CRIBBINS, City Clerk of the City of Diamond Bar, do hereby certify that the foregoing Resolution was passed, approved and adopted at the regular meeting of the City Council of the City of Diamond Bar held on the 6<sup>th</sup> day of August 2019, by the following roll call vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAINED:	COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
Tommye Cribbins, City Clerk  
City of Diamond Bar

# EXHIBIT A





# **CITY OF DIAMOND BAR**

**LANDSCAPING ASSESSMENT DISTRICT No. 39-2019**

## **ENGINEER'S REPORT - REVISED**

FISCAL YEAR 2019-20

JULY 2019

PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972,  
GOVERNMENT CODE AND ARTICLE XIID OF THE CALIFORNIA CONSTITUTION

ENGINEER OF WORK:  
**SCI**ConsultingGroup  
4745 MANGELS BOULEVARD  
FAIRFIELD, CALIFORNIA 94534  
PHONE 707.430.4300  
FAX 707.430.4319  
[WWW.SCI-CG.COM](http://WWW.SCI-CG.COM)

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## **CITY OF DIAMOND BAR**

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### **CITY COUNCIL**

Carol Herrera, Mayor  
Steve Tye, Mayor Pro Tem  
Andrew Chou, Councilmember  
Ruth Low, Councilmember  
Nancy Lyons, Councilmember

### **CITY MANAGER**

Dan Fox

### **PUBLIC WORKS DIRECTOR / CITY ENGINEER**

David Liu

### **CITY ATTORNEY**

David DeBerry

### **ENGINEER OF WORK**

Jerry Bradshaw, P.E.  
SCI Consulting Group

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## INTRODUCTION

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### OVERVIEW

The City of Diamond Bar (the "City") services and maintains mini-parks, slopes and open space areas and other improvements ("Improvements") in the Diamond Bar Hills area of the City. In order to fund the maintenance and operation ("Services") of these projects and improvements, Landscaping Assessment District No. 39 was formed in 1985 by the County of Los Angeles prior to the incorporation of the City of Diamond Bar. Upon incorporation in 1989, the City assumed jurisdiction over the District. Since the passage of Proposition 218, the assessments for this existing District cannot be increased beyond the previously approved amount of \$236.00 per parcel. This assessment amount does not generate sufficient revenue to fund the District's improvements and services, and the annual shortfalls have been funded by the City's General Fund.

The City Council has directed that a new assessment be proposed and voted on by property owners within the District in accordance with Proposition 218 (Article XIII C and D or the California Constitution). Their intent is to replace the existing District No. 39 with a new District No. 39-2019 that would adhere to the existing boundary and include the same improvements and services. If approved, the existing District No. 39 will be dissolved.

This Engineer's Report ("Report") was prepared to establish the budget for the Improvements (as described below) that will be funded by the proposed assessments and other revenue, and to determine the general and special benefits received from the Improvements by property within the District and the method of assessment apportionment to lots and parcels. This Report and the assessments have been made pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (the "Act") and Article XIII D of the California Constitution (the "Article").

### ENGINEER'S REPORT AND CONTINUATION OF ASSESSMENTS

As required by the Act, this Report includes plans and specifications, a diagram or map of the District, the benefits received by property from the Improvements within the District, and the method of assessment apportionment to lots and parcels within the District.

If the Council approves this Engineer's Report and the proposed Assessments by resolution, a ballot and notice will be mailed to each property owner as identified in the most recent equalized tax roll prepared by the Los Angeles County Assessor's office. The resolution preliminarily approving the Engineer's Report and mailed notice will include the date for a public hearing at which time all ballots must be received to be counted in accordance with Government Code Section 53753. The notice and ballots must be mailed at least 45 days prior to the public hearing.

At the appointed time and place, a public hearing is held for the purpose of allowing public testimony about the proposed Assessments. This hearing is currently scheduled for July 16, 2019. At this hearing, the Council will hear public testimony and tabulate all ballots

turned in before the close of the public comment period of the public hearing. If it is determined that the assessment ballots submitted in opposition to the proposed Assessments do not exceed the assessment ballots submitted in favor of the Assessments (each ballot is weighted by the proportional financial obligation of the property for which the ballot is submitted) the Council may take action to approve the levying of Assessments for Fiscal Year 2019-20. If so confirmed and approved, the Assessments would be submitted to the Los Angeles County Auditor/Controller for inclusion on the property tax rolls for fiscal year 2019-20.

## LEGISLATIVE ANALYSIS

### PROPOSITION 218

The Right to Vote on Taxes Act was approved by the voters of California on November 6, 1996 and is now Article XIII C and XIII D of the California Constitution. Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services and improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.

### SILICON VALLEY TAXPAYERS ASSOCIATION, INC. V SANTA CLARA COUNTY OPEN SPACE AUTHORITY (2008) 44 CAL. 4TH 431

In July of 2008, the California Supreme Court issued its ruling on the *Silicon Valley Taxpayers Association, Inc. v. Santa Clara County Open Space Authority* ("SVTA"). This ruling is significant in that the Court clarified how Proposition 218 made changes to the determination of special benefit. The Court also found that:

- Benefit assessments are for special, not general, benefit
- The services and/or improvements funded by assessments must be clearly defined
- Special benefits are directly received by and provide a direct advantage to property in the Improvement District
- The assessment paid by property should be proportional to the special benefits it receives from the Improvements

### DAHMS V. DOWNTOWN POMONA PROPERTY (2009) 174 CAL. APP. 4TH 708

In *Dahms v. Downtown Pomona Property* ("Dahms") the Court upheld an assessment that was 100% special benefit (i.e. 0% general benefit) on the rationale that the services and improvements funded by the assessments were directly provided to property in the assessment district. The Court also upheld discounts and exemptions from the assessment for certain properties.

### BONANDER V. TOWN OF TIBURON (2009) 180 CAL. APP. 4TH 103

*Bonander v. Town of Tiburon* ("Bonander"), the 1<sup>st</sup> District Court of Appeal overturned a benefit assessment approved by property owners to pay for placing overhead utility lines underground in an area of the Town of Tiburon. The Court invalidated the assessments

primarily on the grounds that the assessments had been apportioned to assessed property based on the costs within sub-areas of the assessment district instead of the overall cost of the improvements and the overall proportional special benefits.

**BEUTZ V. COUNTY OF RIVERSIDE** (2010) 184 CAL. APP. 4<sup>TH</sup> 1516

*Steven Beutz v. County of Riverside* (“*Beutz*”) the Court overturned an assessment for park maintenance in Wildomar, California, primarily because the general benefits associated with improvements and services were not explicitly calculated, quantified and separated from the special benefits.

**GOLDEN HILL NEIGHBORHOOD ASSOCIATION V. CITY OF SAN DIEGO** (2011) 199 CAL. APP. 4<sup>TH</sup> 416

On September 22, 2011, the San Diego Court of Appeal issued a decision on the Golden Hill Neighborhood Association v. City of San Diego appeal. This decision overturned an assessment for street and landscaping maintenance in the Greater Golden Hill neighborhood of San Diego, California. The court described two primary reasons for its decision. First, like in *Beutz*, the court found the general benefits associated with services were not explicitly calculated, quantified and separated from the special benefits. Second, the court found that the City had failed to record the basis for the assessment on its own parcels.

**COMPLIANCE WITH CURRENT LAW**

This Engineer’s Report is consistent with the *SVTA* decision and with the requirements of Article XIIC and XIID of the California Constitution because the Improvements to be funded are clearly defined; the benefiting property in the District enjoys close and unique proximity, access and views to the Improvements; the Improvements serve as an extension of usable land area for benefiting properties in the District and such special benefits provide a direct advantage to property in the District that is not enjoyed by the public at large or other property.

This Engineer’s Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because the Improvements will directly benefit property in the District and the general benefits have been explicitly calculated and quantified and excluded from the Assessments. The Engineer’s Report is consistent with *Bonander* because the Assessments have been apportioned based on the overall cost of the Improvements and Services proportional special benefit to each property, rather than the proportional cost to the District to provide the Improvements to specific properties.

## PLANS & SPECIFICATIONS

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The City maintains landscaping and other improvements in locations within the District's boundaries. The work and improvements to be undertaken by Landscaping Assessment District No. 39-2019, ("District"), and the cost thereof paid from the levy of the annual Assessment provide special benefit to Assessor Parcels within the District as defined in the Method of Assessment herein. In addition to the definitions provided by the Landscaping and Lighting Act of 1972 (the "Act"), the work and improvements are generally described as mini-parks, slopes and open space areas within the District. The Assessment Diagram shows the location and extent of the Improvements to be installed, maintained or serviced by the proceeds from this Assessment District.

Installation, maintenance and servicing of Improvements, may include, but are not limited to, turf and play areas, landscaping, ground cover, shrubs and trees, irrigation systems, sidewalks, parking lots, lighting, fencing, entry monuments, basketball courts, tennis courts, other recreational facilities, graffiti removal and repainting, and labor, materials, supplies, utilities and equipment, as applicable, at each of the locations owned, operated or maintained by the District.

As applied herein, "Installation" means the construction of Improvements, including, but not limited to, land preparation (such as grading, leveling, cutting and filling), sod, landscaping, irrigation systems, walkways and drainage, lights, playground equipment, play courts, playing fields, recreational facilities and public restrooms.

"Maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of any improvement, including repair, removal or replacement of all or any part of any improvement; 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, and the cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

"Servicing" means the furnishing of electric current, or energy, gas or other illuminating agent for any public lighting facilities or for the lighting or operation of any other improvements; or water for the irrigation of any landscaping, the operation of any fountains, or the maintenance of any other improvements.

Incidental expenses include all of the following: (a) The costs of preparation of the report, including plans, specifications, estimates, diagram, and assessment; (b) the costs of printing, advertising, and the giving of published, posted, and mailed notices; (c) compensation payable to the County for collection of assessments; (d) compensation of any engineer or attorney employed to render services in proceedings pursuant to this part; (e) any other expenses incidental to the construction, installation, or maintenance and servicing of the Improvements; (f) any expenses incidental to the issuance of bonds or notes pursuant

to Streets & Highways Code Section 22662.5; and (g) costs associated with any elections held for the approval of a new or increased assessment (Streets & Highways Code §22526).

Modifications to the District structure could include, but are not limited to, substantial changes or expansion of the Improvements provided, substantial changes in the service provided, modifications or restructuring of the District including annexation or detachment of specific parcels, revisions in the method of apportionment, or proposed new or increased assessments.

The assessment proceeds will be exclusively used for Improvements within the District plus incidental expenses.

## FISCAL YEAR 2019-20 ESTIMATE OF COST AND BUDGET

### BUDGET FOR FISCAL YEAR 2019-20

The 1972 Act provides that the total costs for providing the maintenance and servicing of the District Improvements and facilities can be recovered in the assessment spread including incidental expenses. The latter can include engineering fees, legal fees, printing, mailing, postage, publishing and all other costs identified with the District proceedings.

An estimate of District costs for fiscal year 2019-20 for the maintenance and servicing of the Improvements is provided below.

**TABLE 1: FY 2019-20 ESTIMATE OF COSTS**

<u>Expenditure Item</u>		<u>Amount</u>
Salaries & Benefits		\$ 21,801
Operating Expenses		
Advertising		5,000
Utilities		139,686
Maintenance of Grounds/Buildings		34,500
Professional Services		5,500
Contract Services		
Landscape Maintenance		208,476
Tree Maintenance		24,280
Weed/Pest Abatement		41,000
Capital Improvements		-
Estimated Expenditures		<u>\$ 480,243</u>
Contingencies/Reserves	5%	24,012
Estimated Expenditures		<u><u>\$ 504,255</u></u>
<b>Revenue Item</b>		
Direct Benefit Assessments		\$ 469,651
Carryover from Fund Balance		0
General Fund Contribution <sup>1</sup>	7.37%	34,604
Estimated Revenues <sup>2</sup>		<u><u>\$ 504,255</u></u>

1. Funding from non-assessment sources must equal at least 6.62% of the total District budget to pay for General Benefits as outlined later in this Report.

2. The Act requires that proceeds from the assessments must be deposited into a special fund that has been set up for the revenues and expenditures of the District. Moreover, funds raised by the assessment shall be used only for the purposes stated within this Report. Any balance remaining at the end of the Fiscal Year, June 30, must be carried over to the next Fiscal Year. The District may also establish a reserve fund for contingencies and special projects as well as a capital improvement fund for accumulating funds for larger capital improvement projects or capital renovation needs. Any remaining balance would either be placed in the reserve fund or would be used to reduce future years' assessments.

Table 2 below shows how the assessment rates are determined including the estimated number of single-family equivalents (“SFE”) and how the costs of improvements are allocated to parcels in the various benefit zones as defined later in this Report.

**TABLE 2: ASSESSMENT RATE DETERMINATION**

<u>Single-Family Equivalents</u>	<u>Parcels</u>	<u>SFE factor</u>	<u>SFEs</u>
Zone A	176	100.0%	176.00
Zone B	969	97.5%	944.78
Zone C	99	92.5%	91.58
Total	<u>1244</u>		<u>1,212.35</u>

<u>Budget Allocation to Parcels</u>	<u>Amount</u>
Total Assessment Budget	\$ 469,651
Total SFEs	1,212.35
Assessment per SFE <sup>3</sup>	<u>\$ 387.39</u>
Zone A Assessment Rate	\$ 387.39
Zone B Assessment Rate	\$ 377.70
Zone C Assessment Rate	\$ 358.34

3. The rate shown here is for a single-family home or its equivalent. For the definition of the term SFE and rates for other types of property, see the section titled, “Method of Assessment Apportionment” and the sections following it in this report.

## METHOD OF ASSESSMENT APPORTIONMENT

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### METHOD OF APPORTIONMENT

This section of the Engineer's Report explains the benefits to be derived from the Improvements and the methodology used to apportion the total assessment to properties within the District.

The District consists of certain assessor parcels within the boundaries as defined by the Assessment Diagram referenced in this report and the parcels identified by the Assessor Parcel Numbers listed with the levy roll. The parcel list includes all privately and publicly owned parcels as shown. The method used for apportioning the Assessment is based upon the relative special benefits to be derived by the properties in the District over and above general benefits conferred on real property or to the public at large. The Assessment is apportioned to lots and parcels in proportion to the relative special benefit from the Improvements. The apportionment of special benefit is a two-step process: the first step is to identify the types of special benefit arising from the Improvements and the second step is to allocate the Assessments to property based on the estimated relative special benefit for each type of property.

### DISCUSSION OF BENEFIT

In summary, the Assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. With reference to the requirements for assessments, Section 22573 of the Landscaping and Lighting Act of 1972 states:

*"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."*

Proposition 218, as codified in Article XIID of the California Constitution, has confirmed that assessments must be based on the special benefit to property and that the value of the special benefits must exceed the cost of the assessment:

*"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

The following benefit categories summarize the types of special benefit to residential, commercial, industrial and other lots and parcels resulting from the Improvements to be provided with the assessment proceeds. These types of special benefit are summarized as follows:

- A. Proximity and access to Improved Landscaped Areas and Other Public Improvements within the District.
- B. Improved Views within the District.
- C. Extension of a property's outdoor areas and green spaces for properties within close proximity to the Improvements.
- D. Safety and Security within the District
- E. Creation of individual lots for residential use that, in absence of the Assessments, would not have been created.

In this case, the recent SVTA v. SCCOSA decision provides enhanced clarity to the definitions of special benefits to properties from similar improvements in three distinct areas:

- Proximity
- Expanded or improved access
- Views

The SVTA v. SCCOSA decision also clarifies that a special benefit is a service or improvement that provides a direct advantage to a parcel and that indirect or derivative advantages resulting from the overall public benefits from a service or improvement are general benefits. The SVTA v. SCCOSA decision also provides specific guidance that park improvements are a direct advantage and special benefit to property that is proximate to a park that is improved by an assessment:

*The characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g. proximity to a park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g. general enhancement of the district's property values).*

Proximity, improved access and views, in addition to the other special benefits listed herein further strengthen the basis of these assessments.

Moreover, the Dahms decision further clarified that certain services and improvements funded by assessments, that are over and above what otherwise would be provided and that other property in general and the public do not share or receive are 100% special benefit. The assessment-funded services upheld by Dahms included streetscape maintenance and security services.

## **SPECIAL BENEFIT**

SCI assessment engineers have identified the following special benefits:

### **PROXIMITY AND ACCESS TO IMPROVED LANDSCAPED AREAS WITHIN THE DISTRICT**

Only the specific properties within close proximity to the Improvements are included in the District. The District has been narrowly drawn to include the properties that receive special benefits from the Improvements. Therefore, property in the District enjoys unique and

valuable proximity and access to the Improvements that the public at large and property outside the District do not share.

In absence of the Assessments, the Improvements would not be provided, and the public improvements funded in the District would be degraded due to insufficient funding for maintenance, upkeep and repair. Therefore, the Assessments provide Improvements that are over and above what otherwise would be provided. Improvements that are over and above what otherwise would be provided do not by themselves translate into special benefits but when combined with the unique proximity and access enjoyed by parcels in the District, they provide a direct advantage and special benefit to property in the District.

#### **IMPROVED VIEWS WITHIN THE ASSESSMENT DISTRICT**

The City, by maintaining permanent public improvements funded by the Assessments in the District, provides improved views to properties in the District. The properties in the District enjoy close and unique proximity, access and views of the specific Improvements funded in the District; therefore, the improved and protected views provided by the Assessments are another direct and tangible advantage that is uniquely conferred upon property in the District.

#### **EXTENSION OF A PROPERTY'S OUTDOOR AREAS AND GREEN SPACES FOR PROPERTIES WITHIN CLOSE PROXIMITY TO THE IMPROVEMENTS**

In large part because it is cost prohibitive to provide large open land areas on property in the District, the residential, commercial and other benefiting properties in the District do not have large outdoor areas and green spaces. The Improvements within the District provide additional outdoor areas that serve as an effective extension of the land area for proximate properties because the Improvements are uniquely proximate and accessible to property in close proximity to the Improvements. The Improvements, therefore, provide an important, valuable and desirable extension of usable land area for the direct advantage and special benefit of properties in the District because such properties have uniquely good and close proximity to the Improvements.

#### **SAFETY AND SECURITY WITHIN THE ASSESSMENT DISTRICT**

The City, through proper installation, maintenance and servicing of public and private improvements funded by the Assessments in the District, provides increased security and safety by preventing crime and suppressing fire. For parks and recreation Improvements, proper lighting and well-kept landscapes help to deter crime and vandalism. Other landscaped area activities such as slope maintenance and brush clearing provide critical fire suppression.

#### **CREATION OF INDIVIDUAL LOTS FOR RESIDENTIAL USE THAT, IN ABSENCE OF THE ASSESSMENTS, WOULD NOT HAVE BEEN CREATED**

In the District, the original owner/developer(s) of the property within the District agreed unanimously to the Assessments. The Assessments provide the necessary funding for improvements that were required as a condition of development and subdivision approval. Therefore, such Assessments allowed the original property to be subdivided and for

development of the parcels to occur. As parcels were sold, new owners were informed of the Assessments through the title reports, and in some cases, through Department of Real Estate “White Paper” reports that the parcels were subject to assessment. Purchase of property was also an “agreement” to pay the Assessment. Therefore, in absence of the Assessments, the lots within most of the District would not have been created. These parcels, and the improvements that were constructed on the parcels, receive direct advantage and special benefit from the Assessments.

**SUMMARY OF RELATIVE WEIGHT OF BENEFIT FACTORS**

A solid argument could be made that the Creation of Individual Lots benefit comprises 100% of the benefit because the Improvements were incorporated into the original planning and design of the subdivision, and thus were deemed to be necessary and required for the development of the lot. Without those Improvements and associated benefit, the lots would not have been created in the first place. Nevertheless, four other definitive benefits accruing to the parcels within the District are identified, and an allowance should be made within the overall relative importance of benefits. The relative benefit level of the five identified benefits used in this Report is shown below.

<u>Benefit Category</u>	<u>Relative Weight</u>
Proximity & Access	10%
Views	10%
Outdoor Area Extension	10%
Safety & Security	10%
Creation of Lots	60%
<b>TOTAL Benefit</b>	<b>100%</b>

**GENERAL VERSUS SPECIAL BENEFIT**

Article XIII C of the California Constitution requires any local agency proposing to increase or impose a benefit assessment to “separate the general benefits from the special benefits conferred on a parcel.” The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not paying for general benefits. An assessment can fund special benefits but cannot fund general benefits. Accordingly, a separate estimate of the special and general benefit is given in this section.

In other words:

<b>Total Benefit</b>	<b>=</b>	<b>General Benefit</b>	<b>+</b>	<b>Special Benefit</b>
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There is no widely accepted or statutory formula for general benefit. General benefits are benefits from improvements or services that are not special in nature, are not “particular and distinct” and are not “over and above” benefits received by other properties. SVTA vs. SCCOSA provides some clarification by indicating that general benefits provide “an indirect, derivative advantage” and are not necessarily proximate to the improvements.

In this Report, the general benefit is liberally estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service. The Assessment will fund Improvements “over and above” this general, baseline level and the general benefits estimated in this section are over and above the baseline.

A formula to estimate the general benefit is listed below:

<b>General Benefit</b>	=	<b>Benefit to Real Property Outside the Assessment District</b>	+	<b>Benefit to Real Property Inside the Assessment District that is Indirect and Derivative</b>	+	<b>Benefit to the Public at Large</b>
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Special benefit, on the other hand, is defined in the state constitution as “a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” The SVTA v. SCCOSA decision indicates that a special benefit is conferred to a property if it “receives a direct advantage from the improvement (e.g., proximity to a park).” In these Assessments, as noted, properties in the District have close and unique proximity, views and access to the Improvements and uniquely improved desirability from the Improvements and other properties and the public at large do not receive significant benefits because they do not have proximity, access or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special and is only minimally received by property outside the Districts or the public at large.

## **BENEFIT FINDING**

### **QUANTIFICATION OF GENERAL BENEFIT**

In this section, the general benefit from landscaping and other types of Improvements is liberally estimated and described, and then budgeted so that it is funded by sources other than the Assessment.

### **BENEFIT TO PROPERTY OUTSIDE THE ASSESSMENT DISTRICTS**

Properties within the District receive almost all of the special benefits from the Improvements because properties in the District enjoy unique close proximity and access to the Improvements that is not enjoyed by other properties or the public at large. However, certain properties within the proximity/access radius of the Improvements, but outside of the boundaries of the District, may receive some benefit from the Improvements. Since this

benefit is conferred to properties outside the District boundaries, it contributes to the overall general benefit calculation and will not be funded by the Assessments. The general benefit to property outside of the District is calculated with the parcel and data analysis performed by SCI Consulting Group.

Since certain properties outside the District enjoy close proximity and access to the Improvements cannot be assessed by the District, this is a form of general benefit to other property. There are eight parcels outside the District that lie within a half mile travel distance of one of mini parks within the District. In addition, there are 79 parcels outside the District that are directly adjacent to areas where brush clearing activity is performed by the District. The benefits conferred to these properties do not include the Lot Creation benefit factor, therefore the benefit is reduced by 60%. The general benefit to property outside of the District is calculated as follows.

<b><u>Assumptions:</u></b>	
<i>87 Parcels Outside District</i>	
<i>1,245 Parcels In the District</i>	
<i>40% Benefit Factor</i>	
<b><u>Calculation:</u></b>	
<i>General Benefit to Property Outside the District</i>	
$\frac{87}{87 + 1,245} \times 40\% = \mathbf{2.61\%}$	

#### **BENEFIT TO PROPERTY *INSIDE* THE ASSESSMENT DISTRICTS THAT IS *INDIRECT AND DERIVATIVE***

The “indirect and derivative” benefit to property within the District is particularly difficult to calculate. A solid argument can be presented that all benefit within the District is special, because the other Improvements are clearly “over and above” and “particular and distinct” when compared with the baseline level of service and the unique proximity, access and views of the other Improvements enjoyed by benefiting properties in the District.

Nevertheless, the SVTA vs. SCCOSA decision indicates there may be general benefit “conferred on real property located in the district” A measure of the general benefits to property within the Assessment area is the percentage of land area within or directly abutting the District that is publicly owned and used for regional purposes such as regional parks, major roads, rail lines and other regional facilities because such properties used for regional purposes could provide indirect benefits to the public at large. Approximately 1.51% of the land area in the District is used for such regional purposes, so this is a measure of the general benefits to property within the District.

#### **BENEFIT TO THE PUBLIC AT LARGE**

The general benefit to the public at large can be estimated by the proportionate amount of time that the District’s Improvements are used and enjoyed by individuals who are not

residents, employees, customers or property owners in the District. There are two ways in which the public at large can enjoy the improvements, with each counting for half of the general benefit: use of parks, and pass-by trips where landscaped areas can be viewed. In the case of the mini parks that serve primarily the neighborhood, City staff estimate that approximately 10% of the users do not live, work or own property in the District. The general landscape improvements are typically along slopes and open space areas, out of view of the general public; no general benefit is conferred for views of landscaping. Finally, the general benefits conferred to the public at large does not include the benefit of lot creation, so this benefit is further reduced by half. Therefore, we find that  $((50\% \text{ of } 10\%) \times 50\% =) 2.50\%$  of the benefits from the Improvements are general benefits to the public at large.

### TOTAL GENERAL BENEFITS

Using a sum of these three measures of general benefit, we find that approximately 6.62% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the assessment.

<u><b>Landscaping General Benefit Calculation</b></u>	
2.61%	Outside the District
1.51%	Inside the District
<u>2.50%</u>	Public At Large
6.62%	Total General Benefit

### ZONES OF BENEFIT

The boundaries of the District were developed in conjunction and concurrent with the planning and design of the subdivisions and Improvements, and thus include only the properties in the City of Diamond Bar that are proximate to the Improvements and that would materially benefit from the Improvements. Certain other properties surrounding the District were not part of the designed association between the Improvements and the assessed areas and are generally less proximate to the Improvements. In other words, the boundaries of the District have been narrowly drawn to include only properties that will specially benefit from the Improvements and would receive a declining level of service if the Assessments were not approved.

The SVTA decision indicates:

*In a well-drawn district — limited to only parcels receiving special benefits from the improvement — every parcel within that district receives a shared special benefit. Under section 2, subdivision (i), these benefits can be construed as being general benefits since they are not “particular and distinct” and are not “over and above” the benefits received by other properties “located in the district.”*

*We do not believe that the voters intended to invalidate an assessment district that is narrowly drawn to include only properties directly benefiting from an improvement. Indeed, the ballot materials reflect otherwise. Thus, if an assessment district is narrowly drawn, the fact that a benefit is conferred throughout the district does not make it general rather than special. In that circumstance, the characterization of a benefit may depend on whether the parcel receives a direct advantage from the improvement (e.g., proximity to park) or receives an indirect, derivative advantage resulting from the overall public benefits of the improvement (e.g., general enhancement of the district's property values).*

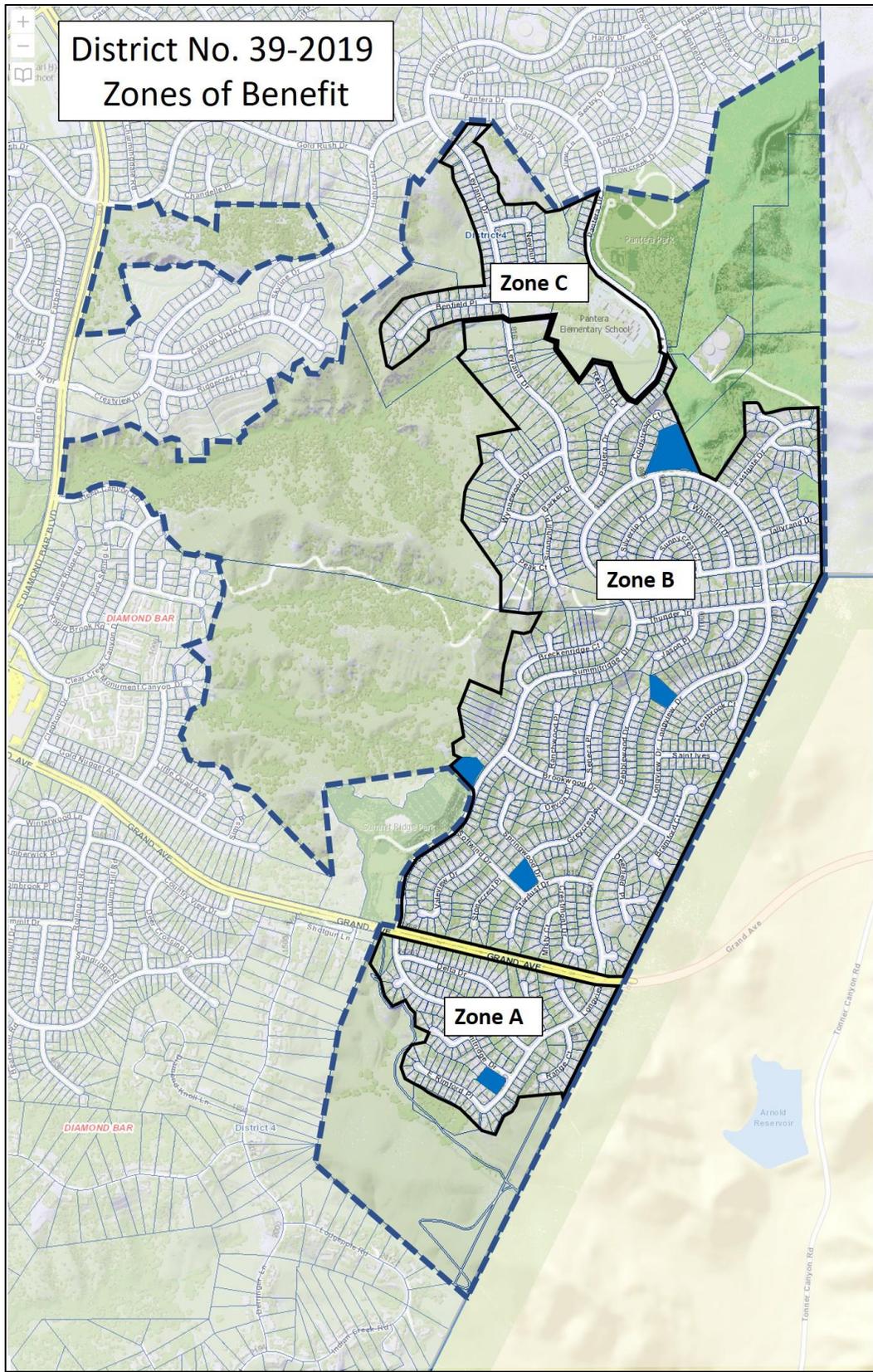
In the District, the benefit that each parcel receives from the Improvements is direct, and the boundaries are narrowly drawn to include only parcels that benefit from the Assessment. However, proximity to the improvements varies somewhat within the District. In order to most conservatively assure that Assessments are proportional to the relative benefits in the District, three zones have been created:

- A. In the area south of Grand Avenue the concentration of landscaped areas (brush and slopes) as well as mini parks is the greatest.
- B. In the area north of Grand Avenue but south of Pantera Park there is less concentration of landscaped slopes and brush-cleared areas, but still a high concentration of mini parks.
- C. In the area around and north of Pantera Park there is less concentration of landscaped slopes and brush-cleared areas and no mini parks within a half mile.

Based on the varying characteristics of these three distinct zones, each of the five benefit categories have been assigned a benefit factor to estimate the overall relative benefit. Using Zone A as the benchmark (100%), the other two zones derive less benefit due to the proximity of relatively fewer improvements. This estimation is summarized below.

<u>Benefit Category</u>	<u>Weight</u>	<u>Zone A</u>		<u>Zone B</u>		<u>Zone C</u>	
		Factor	Benefit	Factor	Benefit	Factor	Benefit
Proximity & Access	10%	100%	10.0%	75%	7.5%	75%	7.5%
Views	10%	100%	10.0%	100%	10.0%	75%	7.5%
Outdoor Area Ext.	10%	100%	10.0%	100%	10.0%	75%	7.5%
Safety & Security	10%	100%	10.0%	100%	10.0%	100%	10.0%
Creation of Lots	60%	100%	60.0%	100%	60.0%	100%	60.0%
Relative Benefit			<u>100%</u>		<u>98%</u>		<u>93%</u>

A map of these zones is shown on the following page.



## **METHOD OF APPORTIONMENT**

As previously discussed, the proposed Assessments will provide comprehensive Improvements that will clearly confer special benefits to properties in the proposed District. The allocation of special benefits to property is partially based on the type of property and the size of property. These benefits can also partially be measured by the occupants on property in the District because such parcel population density is a measure of the relative benefit a parcel receives from the Improvements. It should be noted that many other types of "traditional" assessments also use parcel population densities to apportion the Assessments. For example, the assessments for sewer systems, roads and water systems are typically allocated based on the population density of the parcels assessed. Therefore, the apportionment of benefit is reasonably based on the type of parcel, the size of parcels and the population density of parcels.

The next step in apportioning Assessments is to determine the relative special benefit for each property. This process involves determining the relative benefit received by each property in relation to a single-family home, or, in other words, on the basis of Single-Family Equivalents (SFE). This SFE methodology is commonly used to distribute Assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of Assessments. For the purposes of this Engineer's Report, all properties are assigned an SFE value, which is each property's relative benefit in relation to a single-family home on one parcel. In this case, the "benchmark" property is the single-family detached dwelling which is one Single Family Equivalent or one SFE.

## **RESIDENTIAL PROPERTIES**

In the District, there is only one type of residential property present: the single-family home. Other types of residential property, such as multifamily, apartments and condominiums, are not present. Furthermore, the property in the District is fully developed, has been stable since its original development in the late 1980s, and is zoned such that a change in that dominate land use is not expected in the future. As a result, there is no need for a detailed analysis of population densities to determine relative benefit for other types of residential properties. Each single-family residential property is assigned one SFE.

## **VACANT/UNDEVELOPED PROPERTIES**

While there are currently no vacant or undeveloped properties in the District, the following discussion is included in the event that properties become vacant in the future.

The benefit to undeveloped properties is determined to be proportional to the corresponding benefits for similar type developed properties, but at a lower rate due to the lack of improvements on the property. A measure of the benefits accruing to the underlying land is the average value of land in relation to Improvements for developed property. An analysis of the assessed valuation data from the City of Diamond Bar found that approximately 45% of the assessed value of improved properties is classified as the land value. It is reasonable to assume, therefore, that approximately 45% of the benefits are related to the underlying

land and 55% are related to the improvements and the day-to-day use of the property. Using this ratio, the SFE factor for vacant/undeveloped parcels is 0.45 per parcel.

## **OTHER PROPERTY TYPES**

Notwithstanding the foregoing discussion, there are four other types of property uses to be considered: School, municipal park, water utility, and open space. These are discussed below.

School Property: Pantera Elementary School lies within the District and may derive some benefit from the Improvements. However, all benefits that may be derived from the improvements are included in the General Benefits calculation noted earlier. Therefore, the school accrues no further special benefit and is not assessed a fee.

Municipal Park: Pantera Park lies partly within the District. However, all benefits that may be derived from the improvements are included in the General Benefits calculation noted earlier. Therefore, the park accrues no further special benefit and is not assessed a fee.

Water Utility: The Walnut Valley Water District owns a parcel with two water tanks used to supply water for domestic use and fire protection. This property has no people stationed on-site and derives no benefit in any category. Therefore, it is not assessed a fee.

Open Space: The open space parcels that lie within the District are part of the improvements (views, safety & security, etc.) Therefore, these parcels are not assessed a fee.

## **ANNUAL COST INDEXING**

The assessment shall be subject to an adjustment up to a cap of 3% annually, which adjustment shall be based upon actual costs, including any reasonable reserves, supported by an Engineer's Report prepared in accordance with Article XIID of the California Constitution. If the Engineer's Report does not support an increase or supports a reduction in the assessment, then the assessment shall not be increased or shall be lowered as applicable.

## **DURATION OF ASSESSMENT**

It is proposed that the Assessments, if approved by property owners, will be continued every year after their formation, so long as the public Improvements need to be maintained and improved, and the City requires funding from the Assessments for these Improvements in the District. As noted previously, the Assessment can continue to be levied annually after the City Council approves an annually updated Engineer's Report, budget for the Assessment, Improvements to be provided, and other specifics of the Assessment. In addition, the City Council must hold an annual public hearing to continue the Assessment.

## **APPEALS OF ASSESSMENTS LEVIED TO PROPERTY**

Any property owner who feels that the Assessment levied on the subject property is in error as a result of incorrect information being used to apply the foregoing method of assessment

may file a written appeal with the City of Diamond Bar City Manager or his or her designee. Any such appeal is limited to correction of an Assessment during the then-current Fiscal Year and applicable law. Upon the filing of any such appeal, the City Manager or his or her designee will promptly review the appeal and any information provided by the property owner. If the City Manager or his or her designee finds that the Assessment should be modified, the appropriate changes shall be made to the Assessment Roll. If any such changes are approved after the Assessment Roll has been filed with the County for collection, the City Manager or his or her designee is authorized to refund to the property owner the amount of any approved reduction. Any dispute over the decision of the City Manager or his or her designee shall be referred to the Diamond Bar City Council, and the decision of the City Council shall be final.

#### **ASSESSMENT FUNDS MUST BE EXPENDED WITHIN THE DISTRICT AREA**

The net available Assessment funds, after incidental, administrative, financing and other costs shall be expended exclusively for Improvements within the boundaries of the District or as described herein, and appropriate incidental and administrative costs as defined in the Plans and Specifications section.

## ASSESSMENT

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**WHEREAS**, the City of Diamond Bar directed the undersigned engineer of Work to prepare and file a report presenting an estimate of costs, a Diagram for the District and an assessment of the estimated costs of the Improvements upon all assessable parcels within the District;

**NOW, THEREFORE**, the undersigned, by virtue of the power vested in me under the Act, Article XIIIID of the California Constitution, and the order of the City of Diamond Bar City Council, hereby makes the following Assessment to cover the portion of the estimated cost of the Improvements, and the costs and expenses incidental thereto to be paid by the District.

The amount to be paid for said Improvements and the expense incidental thereto, to be paid by the District for the Fiscal Year 2019-20 is generally as follows:

**TABLE 3: FY 2019-20 SUMMARY COST ESTIMATE**

Salaries & Benefits	\$ 21,801
Operating Expenses & Services	458,442
Capital Expenses / Reserves	24,012
Total for Services	<u>\$ 504,255</u>
Less General Fund Contribution	(34,604)
Less Carryover	0
Net Amount to Assessments	<u><u>\$ 469,651</u></u>

As required by the Act, an Assessment Diagram of the District is hereto attached and incorporated herein by reference. The distinctive number of each parcel or lot of land in the District is its Assessor Parcel Number appearing on the Assessment Roll.

I do hereby assess and apportion the net amount of the cost and expenses of the Improvements, including the costs and expenses incident thereto, upon the parcels and lots of land within the District, in accordance with the special benefits to be received by each parcel or lot, from the Improvements, and more particularly set forth in the Estimate of Cost and Method of Assessment in the Report.

The Assessment is made upon the parcels or lots of land within the District in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Los Angeles for the Fiscal Year

2019-20. For a more particular description of the property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby will place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the Fiscal Year 2019-20 for each parcel or lot of land within the District.

Dated: July 23, 2019

Engineer of Work

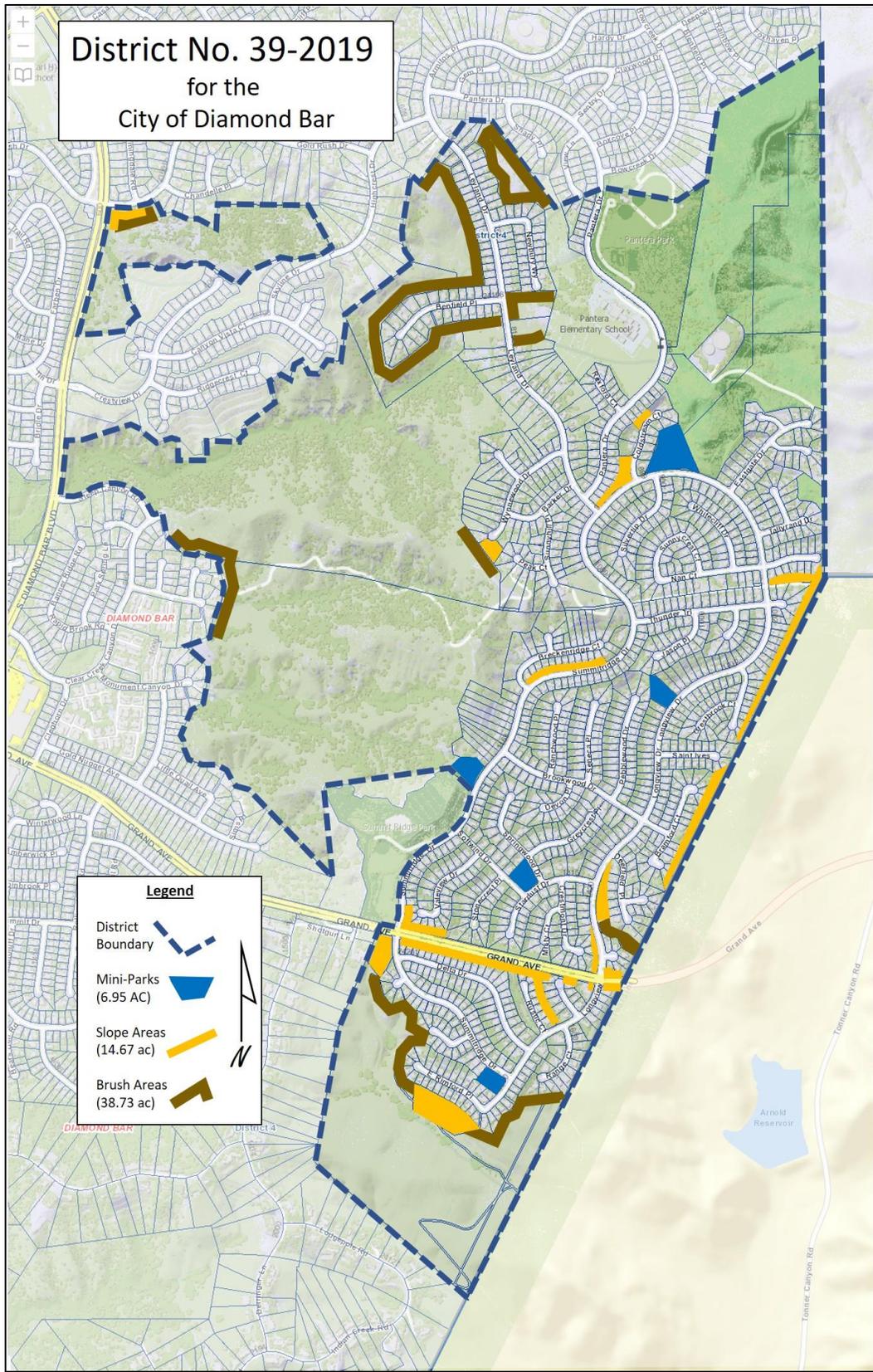


By   
Jerry Bradshaw, License No. C48845

## ASSESSMENT DIAGRAM

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The District boundary and the parcels to be assessed in Landscaping Assessment District No. 39-2019 are shown on the Assessment Diagram, which is on file with the City Clerk of the City of Diamond Bar and includes all those properties included in the original formation of the District and subsequent annexations. The following Assessment Diagram is for general location only and is not to be considered the official boundary map. The lines and dimensions of each lot or parcel within the District are those lines and dimensions as shown on the maps of the Assessor of the County of Los Angeles, for Fiscal Year 2019-20, and are incorporated herein by reference, and made a part of this Diagram and this Report.



## ASSESSMENT ROLL

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An Assessment Roll (a listing of all parcels assessed within the District and the amount of the Assessment) will be filed with the City Clerk and is, by reference, made part of this Report and is available for public inspection during normal office hours at the City Hall at 21810 Copley Drive, 2<sup>nd</sup> floor, Diamond Bar, California 91765.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference, made part of this Report. These records shall govern for all details concerning the description of the lots or parcels.