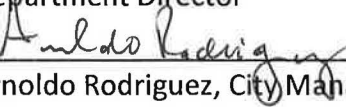


REPORT TO CITY COUNCIL

Approved by:



Department Director



Arnoldo Rodriguez, City Manager

Council Meeting of: March 6, 2019

Agenda Number: B-10

SUBJECT:

Consideration of a Resolution Approving Annexation of Lots 3-6 of Sierra Vista Homes Phase II Subdivision into Zone of Benefit 44; Confirming the Diagram and Assessment for City Wide Landscape and Lighting Assessment District Zone of Benefit 44 for Fiscal Year 2019/2020; Authorizing the Mayor to Execute the Covenant on Behalf of the City and Authorizing the City Clerk to File the Diagram and Assessment with the Madera County Auditor; and

Consideration of a Resolution Approving Annexation of Cloeters Parcel Map 18-P-04 into Zone of Benefit 4; Confirming the Diagram and Assessment for City Wide Landscape and Lighting Assessment District Zone of Benefit 4 for Fiscal Year 2019/2020; Authorizing the Mayor to Execute the Covenant on Behalf of the City and Authorizing the City Clerk to File the Diagram and Assessment with the Madera County Auditor

RECOMMENDATION:

Staff recommends that the City Council (Council) adopt two resolutions providing for the annexation of properties into City Wide Landscape and Lighting Assessment District (LMD) Zones of Benefit 4 and 44.

SUMMARY:

The development of Lots 3-6 of Sierra Vista Homes Phase II Subdivision was approved by the Planning Commission through Precise Plan 2017-03 on September 13, 2017. A requirement of the project's development was annexation of the parcels into the existing City's LMD Zone of Benefit 44 for perpetual maintenance of already existing landscaping.

The Cloeters Parcel Map 18-P-04 was approved by the Madera Development Review Committee through Tentative Parcel Map 2018-01 on October 18, 2018. A requirement of the project's development was annexation of the parcels into the existing City's LMD Zone of Benefit 4 for perpetual maintenance of existing landscaping.

The covenants for Zone of Benefit 4 and 44 consent to an annual change in the range of the assessment in the amount of the Engineering News-Record Construction Cost (ENRCC) Index plus a two percent charge.

DISCUSSION:

In June of 1991, the City formed the City-Wide Landscape and Lighting District (LMD) for the purposes of levying assessments against new development for the maintenance of landscaped areas including median islands, certain park strips, frontage road islands, and certain landscaped out-lots. Ultimately, the creation of the LMD led to a greater ability to provide projects that met with the City's goals of more attractive development. Since that time, eighty separate landscape strips from various development projects have been created as one new zone, whereas in the past a new zone was typically formed with each successive development within the City. In recent years, the City taken efforts to halt or slow the growth of zones through annexation of new developments into existing zones where such annexation was logical.

The two annexations presented herein are logical in that the developments are within close proximity to Zone 44 and Zone 4 and would benefit from the existing landscape therein. Zone 44 is responsible for maintenance of previously established landscape areas along Don Miguel Street and Olive Avenue associated with Sierra Vista Homes III. Zone 4 is responsible for maintenance of previously established landscaped areas along Sunset Avenue, Westberry Boulevard, and Doubletree Lane.

FINANCIAL IMPACT:

The individual parcels will be responsible for participating in the cost of maintaining existing landscaping in Zones 4 and 44. There are no financial impacts to the General Fund.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The inclusion of the four parcels into LMD Zone of Benefit 44 and five parcels into LMD Zone 4 is consistent with:

Strategy 126 - Clean, attractive streets: Expand or develop programs to create clean, safe and aesthetically pleasing streets.

Action 134.1 - Consider establishment of design/landscape standards for neighborhoods and business construction - Current landscape design standards have been enforced which aid in the establishment of Well-Planned Neighborhoods and Housing.

ALTERNATIVES:

If Council does not accept the annexation of the parcels into the existing LMD zones, maintenance of the landscape areas would only occur if another possible zone were identified or if the City of Madera assumed such responsibility and associated costs.

ATTACHMENTS:

1. Resolution of Confirmation of the Diagram and Assessments for Zone of Benefit 44
2. Covenant for LMD Zone 44 with Legal Description
3. Assessment Diagram Zone 44
4. LMD Zone Location Map
5. Resolution of Confirmation of the Diagram and Assessments for Zone of Benefit 4
6. Covenant for LMD Zone 4 with Legal Description
7. Assessment Diagram Zone 4

ATTACHMENT 1

RESOLUTION NO. 19-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING ANNEXATION OF LOTS 3-6 OF SIERRA VISTA HOMES PHASE II SUBDIVISION INTO ZONE OF BENEFIT 44; CONFIRMING THE DIAGRAM AND ASSESSMENT FOR CITY WIDE LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT ZONE OF BENEFIT 44 FOR FISCAL YEAR 2019/2020; AUTHORIZING THE MAYOR TO EXECUTE THE COVENANT ON BEHALF OF THE CITY AND AUTHORIZING THE CITY CLERK TO FILE THE DIAGRAM AND ASSESSMENT WITH THE MADERA COUNTY AUDITOR

WHEREAS, the City of Madera Landscape Maintenance District (District) was formed by Resolution No. 91-67, approved June 17, 1991, pursuant to Part 2 of Division 15 of the Streets and Highways Code (Landscape and Lighting Act of 1972), herein the "Act"; and

WHEREAS, the recommended assessments for Fiscal Year (FY) 2019/2020 reflect the cost of landscape maintenance provided by the City for said fiscal year; and

WHEREAS, all of the owners of property proposed to be annexed to the Zone of Benefit 44 of said District consisting of Lots 3-6 of Sierra Vista Homes Phase II Subdivision, as described in Exhibit "A" attached hereto and incorporated herein by reference, have consented to said annexation and such annexation may be ordered without notice and hearing or filing of engineer's report, or both;

WHEREAS, the property owner has agreed that the annual assessment is proportional to, and no greater than, the special benefit conferred on the property by being annexed into the Landscape Maintenance District; and

WHEREAS, the property owner has consented to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost (ENRCC) Index (Los Angeles), plus two percent (2%). The property owner agreed that if such change in the range of the assessment is implemented less frequently than an annual basis, the

change may be based upon the ENRCC Index since the most recent change in the assessment plus two percent per year;

WHEREAS, the property owner further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs, provided such assessment is consistent with the terms of this covenant.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY, finds, orders and resolves as follows:

1. The above recitals are true and correct.
2. That the public interest and convenience require that certain property described in Exhibit "A" attached hereto and by reference incorporated herein be annexed to City Landscape Maintenance District as Zone of Benefit 44 for the maintenance and servicing of landscaping facilities.
3. The Mayor is authorized to execute the covenant on behalf of the City.
4. The City Council hereby confirms the diagram and annual assessments as set forth in the agreement "COVENANT LANDSCAPE MAINTENANCE DISTRICT ZONE OF BENEFIT 44" for the certain property described in Exhibit "A" attached hereto and by reference incorporated herein, as the same may be modified, and levies the assessments for FY 2019/2020.

5. Pursuant to Section 22641 of the Streets and Highways Code, the City Clerk is authorized and directed to forthwith file the diagram and assessments with Auditor of Madera County.
6. This resolution is effective immediately upon adoption.

* * * * *

EXHIBIT "A"

LEGAL DESCRIPTION

The land described herein below is situated in the State of California, County of Madera, City of Madera, and is described as follows:

LOTS 3-6:

Lots 3, 4, 5 and 6 of Subdivision #98-S-02, Sierra Vista Homes II, Phase I, according to the Map thereof recorded May 10, 1999 in Book 47 of Maps, Pages 107, 108 and 109, Madera County Records.

EXCEPTION THEREFROM all minerals and mineral rights, interests, and royalties, including, without limiting, the generality thereof, oil, gas and other hydrocarbon substances, as well as metallic or other solid materials, in and under the Property; however, Grantor or its successors and assigns, shall not have the right for any purpose whatsoever to enter upon, into or through the surface of the Property in connection therewith, as reserved by Southern Pacific Transportation Company, a Delaware Corporation in Deed recorded September 6, 1991 as Document No. 91-22268.

A.P.N.: 011-202-016, 011-202-017, 011-202-018, 011-202-019

ATTACHMENT 2

RECORDING REQUESTED BY:
City of Madera
WHEN RECORDED RETURN TO:
City of Madera
205 W. 4th Street
Madera, CA 93637
Attention: City Clerk

Fee Waived per Section 27383 & 27388.1(a)(2)(D) of the Government Code

**COVENANT
LANDSCAPE MAINTENANCE DISTRICT
ZONE OF BENEFIT 44**

WHEREAS, LOMAR CONSTRUCTION, LLC, hereinafter referred to as “Covenantor”, is the owner of the real property situated in the City of Madera, County of Madera, State of California, hereinafter referred to as “Subject Property” and more particularly described in attached Exhibit “A”; and

WHEREAS, the Covenantor hereby warrants that any and all parties having record title interest in the Subject Property which may ripen into a fee have subordinated to this instrument; and

WHEREAS, all such instruments of Subordination, if any, are attached hereto and made a part of this instrument; and

WHEREAS, Covenantor is required by the City as a condition of Precise Plan 2017-03, for Lots 3-6 of Sierra Vista Homes II Subdivision approval to annex to the City’s Landscape Maintenance District; and

WHEREAS, the Planning Commission of the City of Madera conditionally approved the Precise Plan 2017-03, for Lots 3-6 of Sierra Vista Homes II Subdivision; and

WHEREAS, said resolution requires that maintenance of the landscaping

associated with the Subject Property shall be the responsibility of the City's Landscape Maintenance District.

NOW, THEREFORE, it is agreed:

1. In consideration of the foregoing and the approval of the Precise Plan 2017-03, by the City of Madera, the undersigned hereby covenants, promises and agrees with the City of Madera for the benefit of said City.

2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property in an amount not to exceed \$227.55 per each of the 4 lots. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is

implemented less frequently than an annual basis, the change may be based upon the total change in the ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

5. The Covenantor agrees that he/she has received the written notice required by California Constitution Article, XIII D, Section 4(c).

6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

10. The Covenant shall be released and be of no further effect upon written determination by the undersigned and the City Engineer of the City of

Madera that it's continued existence and enforcement are no longer necessary.

11. The provisions of this Covenant shall be deemed independent and severable and the validity or partial invalidity or unenforceability of any other provision or portion thereof shall not affect the validity or enforceability of any one provision thereof. Whenever the context of the Covenant so requires, in interpreting this Covenant, any gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____

WITNESS the execution of this covenant consisting of 6 pages including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor

APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

APPROVED AS TO FORM:

By: _____
City Attorney

COVENANTOR:
LOMAR CONSTRUCTION, LLC

By: _____
Lorenzo Marquez, President

ATTEST:

By: _____
Sonia Alvarez, City Clerk

**NOTARY
ACKNOWLEDGEMENT
REQUIRED**

Sec ATTACHED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN DIEGO)

On 25 FEB 2019 before me, SETH ESSENFELD - NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared LORENZO MARQUEZ
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document DISTRICT ZONE OF BENEFIT
Title or Type of Document: CONVEY LANDSCAPE MAINTENANCE document Date: 2-4-19
Number of Pages: Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)
Signer's Name:
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator
[] Other:
Signer Is Representing:

Signer's Name:
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator
[] Other:
Signer Is Representing:

EXHIBIT "A"

LEGAL DESCRIPTION

The land described herein below is situated in the State of California, County of Madera, City of Madera, and is described as follows:

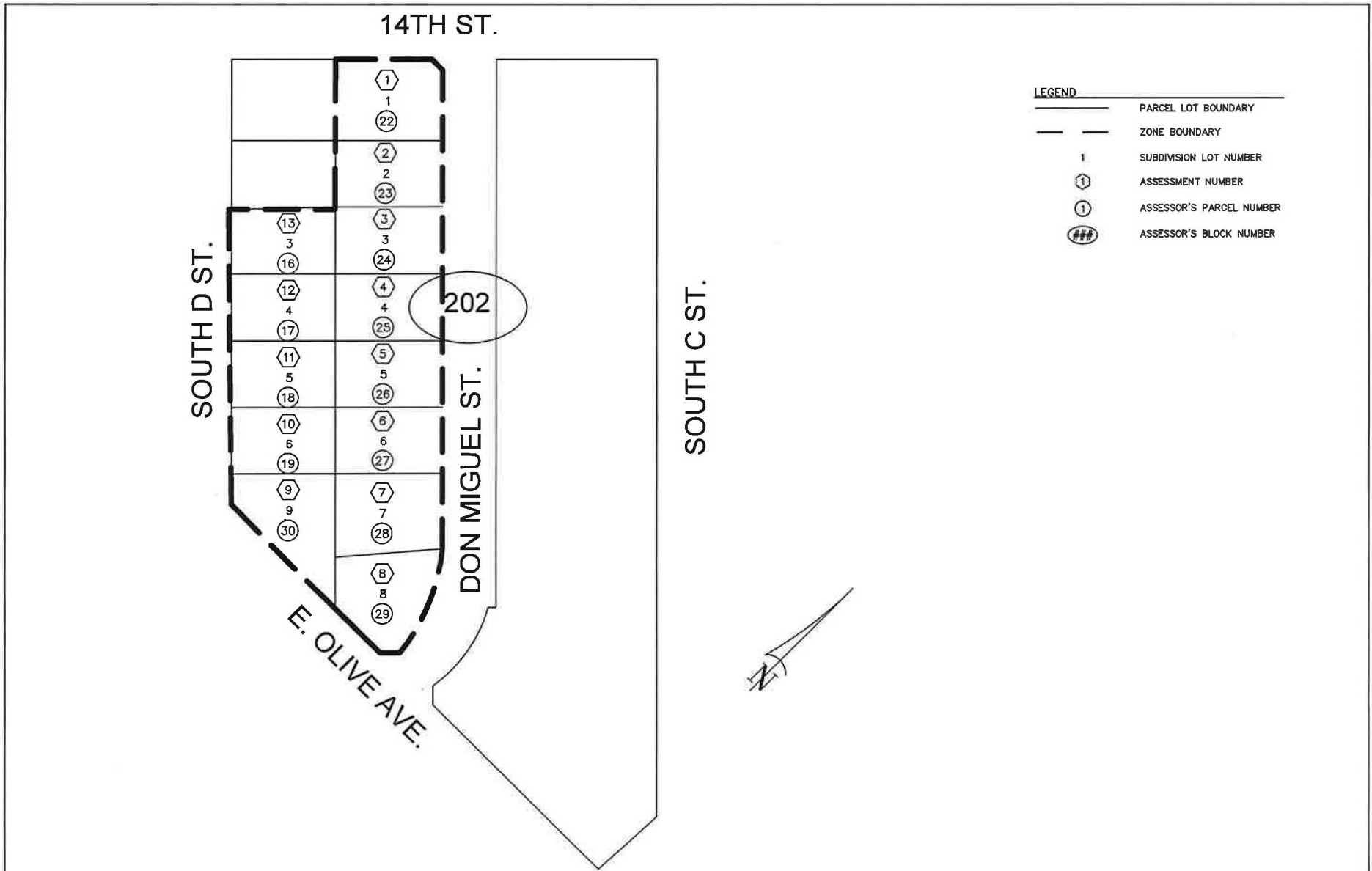
LOTS 3-6:

Lots 3, 4, 5 and 6 of Subdivision #98-S-02, Sierra Vista Homes II, Phase I, according to the Map thereof recorded May 10, 1999 in Book 47 of Maps, Pages 107, 108 and 109, Madera County Records.

EXCEPTION THEREFROM all minerals and mineral rights, interests, and royalties, including, without limiting, the generality thereof, oil, gas and other hydrocarbon substances, as well as metallic or other solid materials, in and under the Property; however, Grantor or its successors and assigns, shall not have the right for any purpose whatsoever to enter upon, into or through the surface of the Property in connection therewith, as reserved by Southern Pacific Transportation Company, a Delaware Corporation in Deed recorded September 6, 1991 as Document No. 91-22268.

A.P.N.: 011-202-016, 011-202-017, 011-202-018, 011-202-019

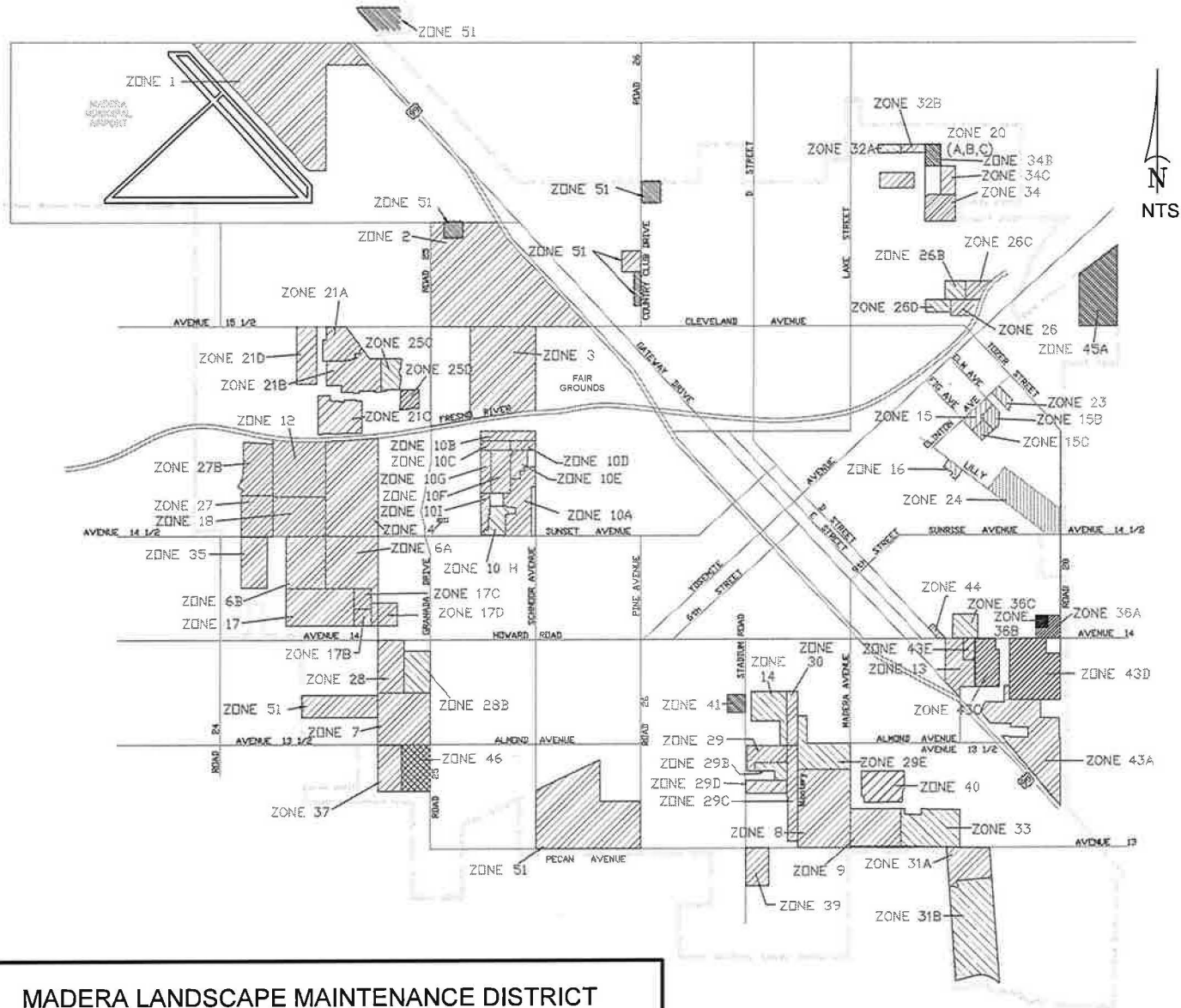
ATTACHMENT 3



ASSESSMENT DIAGRAM
 MADERA LANDSCAPE MAINTENANCE DISTRICT - ZONE 44
 CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA

CITY OF MADERA
 SIERRA VISTA
 ESTATES
 REV. FEB. 2019

ATTACHMENT 4



MADERA LANDSCAPE MAINTENANCE DISTRICT
 ZONE LOCATION MAP

CITY OF MADERA
 COUNTY OF MADERA
 STATE OF CALIFORNIA
 REV. FEB. 2019

ATTACHMENT 5

RESOLUTION NO. 19-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA, APPROVING ANNEXATION OF CLOETERS PARCEL MAP 18-P-04 INTO ZONE OF BENEFIT 4; CONFIRMING THE DIAGRAM AND ASSESSMENT FOR CITY WIDE LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT ZONE OF BENEFIT 4 FOR FISCAL YEAR 2019/2020; AUTHORIZING THE MAYOR TO EXECUTE THE COVENANT ON BEHALF OF THE CITY AND AUTHORIZING THE CITY CLERK TO FILE THE DIAGRAM AND ASSESSMENT WITH THE MADERA COUNTY AUDITOR

WHEREAS, the City of Madera Landscape Maintenance District (District) was formed by Resolution No. 91-67, approved June 17, 1991, pursuant to Part 2 of Division 15 of the Streets and Highways Code (Landscape and Lighting Act of 1972), herein the "Act"; and

WHEREAS, the recommended assessments for Fiscal Year (FY) 2019/2020 reflect the cost of landscape maintenance provided by the City for said fiscal year; and

WHEREAS, all of the owners of property proposed to be annexed to the Zone of Benefit 4 of said District consisting of Cloeters Parcel Map 18-P-04, as described in Exhibit "A" attached hereto and incorporated herein by reference, have consented to said annexation and such annexation may be ordered without notice and hearing or filing of engineer's report, or both;

WHEREAS, the property owner has agreed that the annual assessment is proportional to, and no greater than, the special benefit conferred on the property by being annexed into the Landscape Maintenance District; and

WHEREAS, the property owner has consented to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost (ENRCC) Index (Los Angeles), plus two percent (2%). The property owner agreed that if such change in the range of the assessment is implemented less frequently than an annual basis, the

change may be based upon the ENRCC Index since the most recent change in the assessment plus two percent per year;

WHEREAS, the property owner further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs, provided such assessment is consistent with the terms of this covenant.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY, finds, orders and resolves as follows:

1. The above recitals are true and correct.
2. That the public interest and convenience require that certain property described in Exhibit "A" attached hereto and by reference incorporated herein be annexed to City Landscape Maintenance District as Zone of Benefit 4 for the maintenance and servicing of landscaping facilities.
3. The Mayor is authorized to execute the covenant on behalf of the City.
4. The City Council hereby confirms the diagram and annual assessments as set forth in the agreement "COVENANT LANDSCAPE MAINTENANCE DISTRICT ZONE OF BENEFIT 4" for the certain property described in Exhibit "A" attached hereto and by reference incorporated herein, as the same may be modified, and levies the assessments for FY 2019/2020.

5. Pursuant to Section 22641 of the Streets and Highways Code, the City Clerk is authorized and directed to forthwith file the diagram and assessments with Auditor of Madera County.
6. This resolution is effective immediately upon adoption.

* * * * *

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23; TOWNSHIP 11 SOUTH, RANGE 17 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF A TRACT OF LAND DESCRIBED IN DEED RECORDED IN VOLUME 369 OF OFFICIAL RECORDS OF MADERA COUNTY, PAGE 39, SAID POINT BEARING EAST 484 FEET AND NORTH 0° 21' WEST 1064.5 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 23; THENCE NORTHERLY ALONG SAID EAST LINE OF SAID TRACT 146 FEET TO A POINT WHICH BEARS SOUTHERLY 100 FEET FROM THE NORTHEAST CORNER OF SAID TRACT, THENCE WESTERLY 317.0 FEET TO A POINT ON THE WEST LINE OF SAID TRACT, WHICH IS SOUTHERLY 100 FEET FROM THE NORTHWEST CORNER OF SAID TRACT; THENCE ALONG SAID WEST LINE SOUTHERLY 146 FEET; THENCE EASTERLY 317.1 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 11 SOUTH, RANGE 17 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS EAST, A DISTANCE OF 484 FEET, N 00° 13' 01" W, A DISTANCE OF 1064.5 FEET AND WEST, A DISTANCE OF 317.1 FEET, SAID POINT BEING THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED RECORDED JULY 20, 1994 AS DOCUMENT NUMBER 9421730, MADERA COUNTY RECORDS AND ALSO BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE N 00° 13' 01" W, A DISTANCE OF 146.00 FEET; THENCE N 85° 45' 08" E, PARALLEL TO THE NORTH LINE OF SAID PARCEL OF LAND, A DISTANCE OF 317.70 FEET; THENCE S 00° 13' 01" E, A DISTANCE OF 48.00 FEET; THENCE S 85° 45' 08" W, A DISTANCE OF 257.53 FEET; THENCE ALONG A CURVE, CONCAVE TO THE SOUTHEAST, WITH A CENTRAL ANGLE OF 12° 48' 50", A RADIUS OF 43.00 FEET AND AN ARC LENGTH OF 9.62 FEET; THENCE S 43° 47' 07" W, A DISTANCE OF 47.03 FEET; TO A POINT ON A NON-TANGENT CURVE, SAID POINT HAVING A RADIAL BEARING OF N 79° 22' 05" W, FROM THE RADIUS POINT, THENCE ALONG SAID CURVE, CONCAVE TO THE SOUTHEAST, WITH A CENTRAL ANGLE OF 12° 48' 50", A RADIUS OF 43.00 FEET AND AN ARC LENGTH OF 9.62 FEET; THENCE S 00° 13' 01" E, A DISTANCE OF 53.58 FEET TO THE SOUTH LINE OF SAID PARCEL OF LAND; THENCE S 89° 45' 08" W, ALONG SAID SOUTH LINE, A DISTANCE OF 19.05 FEET TO THE TRUE POINT OF BEGINNING.

APN: 006-360-016

ATTACHMENT 6

RECORDING REQUESTED BY:
City of Madera
WHEN RECORDED RETURN TO:
City of Madera
205 W. 4th Street
Madera, CA 93637
Attention: City Clerk

Fee Waived per Section 27383 & 27388.1(a)(2)(D) of the Government Code

**COVENANT
LANDSCAPE MAINTENANCE DISTRICT
ZONE OF BENEFIT 4**

WHEREAS, Ivan Cloeters and Dina Cloeters, husband and wife as joint tenants, hereinafter referred to as "Covenantor", is the owner of the real property situated in the City of Madera, County of Madera, State of California, hereinafter referred to as "Subject Property" and more particularly described in attached Exhibit "A"; and

WHEREAS, the Covenantor hereby warrants that any and all parties having record title interest in the Subject Property which may ripen into a fee have subordinated to this instrument; and

WHEREAS, all such instruments of Subordination, if any, are attached hereto and made a part of this instrument; and

WHEREAS, Covenantor is required by the City as a condition of Tentative Parcel Map 2018-01 approval to annex to the City's Landscape Maintenance District; and

WHEREAS, the Development Review Committee of the City of Madera conditionally approved the Tentative Parcel Map 2018-01; and

WHEREAS, said resolution requires that maintenance of the landscaping

associated with the Subject Property shall be the responsibility of the City's Landscape Maintenance District.

NOW, THEREFORE, it is agreed:

1. In consideration of the foregoing and the approval of the Tentative Parcel Map 2018-01, by the City of Madera, the undersigned hereby covenants, promises and agrees with the City of Madera for the benefit of said City.

2. The Covenantor consents to annexation of said Subject Property to the City's Landscape Maintenance District, has petitioned the City to annex said Subject Property to said district pursuant to Streets and Highways Code Section 22605, and pursuant to California Constitution Article, XIII D, section 5(b), waives any right to protest or object to such annexation.

3. The Covenantor agrees that the Subject Property receives a special benefit, as the term is defined in California Constitution Article, XIII D, section 2(i), from being annexed to Landscape Maintenance District, and that special benefit includes, but is not limited to, the right and ability to develop the Subject Property.

4. The Covenantor consents to an annual assessment on the Subject Property in an amount not to exceed \$68.69 per each of the 5 lots. The Covenantor agrees that this assessment is proportional to, and no greater than, the special benefit conferred on the Subject Property by being annexed into the Landscape Maintenance District. The Covenantor also consents to an annual change in the range of the assessment in the amount of the Engineering News Record Construction Cost Index (ENRCC), plus two percent (2%). The Covenantor agrees that if such change in the range of the assessment is

implemented less frequently than an annual basis, the change may be based upon the total change in the ENRCC Index since the most recent change in the assessment plus two percent per year. The Covenantor further agrees that temporary decreases in assessment do not represent a waiver of other provisions of this covenant and that the assessment may later be reset to an amount consistent with the assessment prior to the reduction plus the total change in the ENRCC Index plus two percent per year but only to the degree necessary to cover actual and reasonable costs.

5. The Covenantor agrees that he/she has received the written notice required by California Constitution Article, XIII D, Section 4(c).

6. The Covenantor agrees that this shall constitute a ballot in support of the proposed assessment pursuant to California Constitution Article, XIII D, Section 4(d).

7. Furthermore, should City hold a hearing notwithstanding such waiver, Covenantor waives the requirement of 45 days notice of such hearing in favor of a five-day notice of such hearing.

8. The Covenantor shall fully disclose this covenant to every potential purchaser of the Subject Property.

9. It is the intention of the parties hereof that this document shall constitute a covenant in favor of the City of Madera and shall run with the land and be binding upon the undersigned, its grantees, heirs, successors and assigns.

10. The Covenant shall be released and be of no further effect upon written determination by the undersigned and the City Engineer of the City of

Madera that it's continued existence and enforcement are no longer necessary.

11. The provisions of this Covenant shall be deemed independent and severable and the validity or partial invalidity or unenforceability of any other provision or portion thereof shall not affect the validity or enforceability of any one provision thereof. Whenever the context of the Covenant so requires, in interpreting this Covenant, any gender includes the other genders, the singular includes the plural, and the plural includes the singular.

Dated: _____

WITNESS the execution of this covenant consisting of 6 pages including Exhibit A the day and year first above written.

CITY OF MADERA:

By: _____
Andrew J. Medellin, Mayor


APPROVED:

By: _____
Keith B. Helmuth,
City Engineer

APPROVED AS TO FORM:

By: _____
City Attorney

COVENANTOR:

By:  _____
Ivan Cloeters, Owner

By:  _____
Dina Cloeters, Owner

ATTEST:

By: _____
Sonia Alvarez, City Clerk

**NOTARY
ACKNOWLEDGEMENT
REQUIRED**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Madera)

On 2/22/19 before me, Sonia Alvarez, Notary Public, personally appeared **Ivan Cloeters and Dina Cloeters**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) *is/are* subscribed to the within instrument and acknowledged to me that *he/she/they* executed the same in *his/her/their* authorized capacity(ies), and that by *his/her/their* signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sonia Alvarez (Seal)



DESCRIPTION OF ATTACHED DOCUMENT (OPTIONAL)

Title or Type of Document: Covenant Landscape Maintenance District Zone of Benefit 4

Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

CAPACITY(IES) CLAIMED BY SIGNER(S)

Signer's Name:

Signer's Name:

Title:

Title:

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23; TOWNSHIP 11 SOUTH, RANGE 17 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

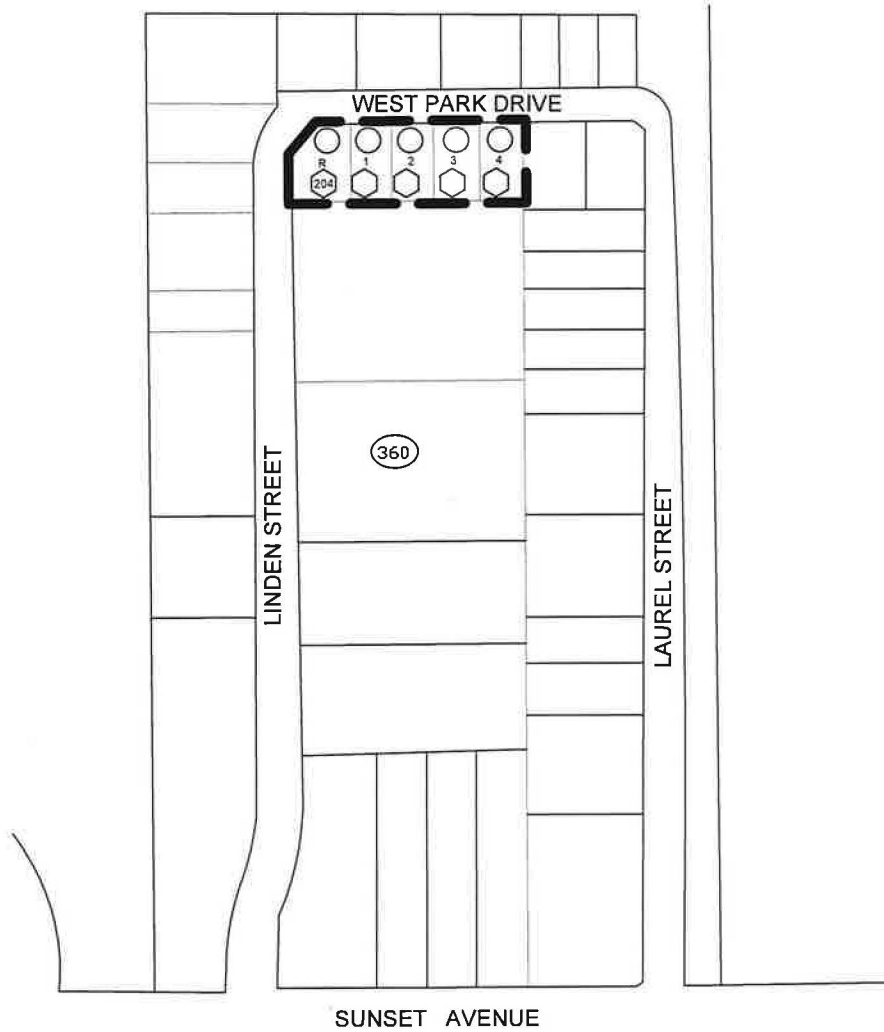
BEGINNING AT A POINT ON THE EAST LINE OF A TRACT OF LAND DESCRIBED IN DEED RECORDED IN VOLUME 369 OF OFFICIAL RECORDS OF MADERA COUNTY, PAGE 39, SAID POINT BEARING EAST 484 FEET AND NORTH 0° 21' WEST 1064.5 FEET FROM THE WEST QUARTER CORNER OF SAID SECTION 23; THENCE NORTHERLY ALONG SAID EAST LINE OF SAID TRACT 146 FEET TO A POINT WHICH BEARS SOUTHERLY 100 FEET FROM THE NORTHEAST CORNER OF SAID TRACT, THENCE WESTERLY 317.0 FEET TO A POINT ON THE WEST LINE OF SAID TRACT, WHICH IS SOUTHERLY 100 FEET FROM THE NORTHWEST CORNER OF SAID TRACT; THENCE ALONG SAID WEST LINE SOUTHERLY 146 FEET; THENCE EASTERLY 317.1 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 11 SOUTH, RANGE 17 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH BEARS EAST, A DISTANCE OF 484 FEET, N 00° 13' 01" W, A DISTANCE OF 1064.5 FEET AND WEST, A DISTANCE OF 317.1 FEET, SAID POINT BEING THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED RECORDED JULY 20, 1994 AS DOCUMENT NUMBER 9421730, MADERA COUNTY RECORDS AND ALSO BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE N 00° 13' 01" W, A DISTANCE OF 146.00 FEET; THENCE N 85° 45' 08" E, PARALLEL TO THE NORTH LINE OF SAID PARCEL OF LAND, A DISTANCE OF 317.70 FEET; THENCE S 00° 13' 01" E, A DISTANCE OF 48.00 FEET; THENCE S 85° 45' 08" W, A DISTANCE OF 257.53 FEET; THENCE ALONG A CURVE, CONCAVE TO THE SOUTHEAST, WITH A CENTRAL ANGLE OF 12° 48' 50", A RADIUS OF 43.00 FEET AND AN ARC LENGTH OF 9.62 FEET; THENCE S 43° 47' 07" W, A DISTANCE OF 47.03 FEET; TO A POINT ON A NON-TANGENT CURVE, SAID POINT HAVING A RADIAL BEARING OF N 79° 22' 05" W, FROM THE RADIUS POINT, THENCE ALONG SAID CURVE, CONCAVE TO THE SOUTHEAST, WITH A CENTRAL ANGLE OF 12° 48' 50", A RADIUS OF 43.00 FEET AND AN ARC LENGTH OF 9.62 FEET; THENCE S 00° 13' 01" E, A DISTANCE OF 53.58 FEET TO THE SOUTH LINE OF SAID PARCEL OF LAND; THENCE S 89° 45' 08" W, ALONG SAID SOUTH LINE, A DISTANCE OF 19.05 FEET TO THE TRUE POINT OF BEGINNING.

APN: 006-360-016

ATTACHMENT 7



LEGEND

- PARCEL LOT BOUNDARY.
- - - ASSESSOR'S BOUNDARY
- 1 SUBDIVISION LOT NUMBER.
- ① ASSESSMENT NUMBER.
- ① ASSESSOR'S PARCEL NUMBER.
- ①23 ASSESSOR'S BLOCK NUMBER.

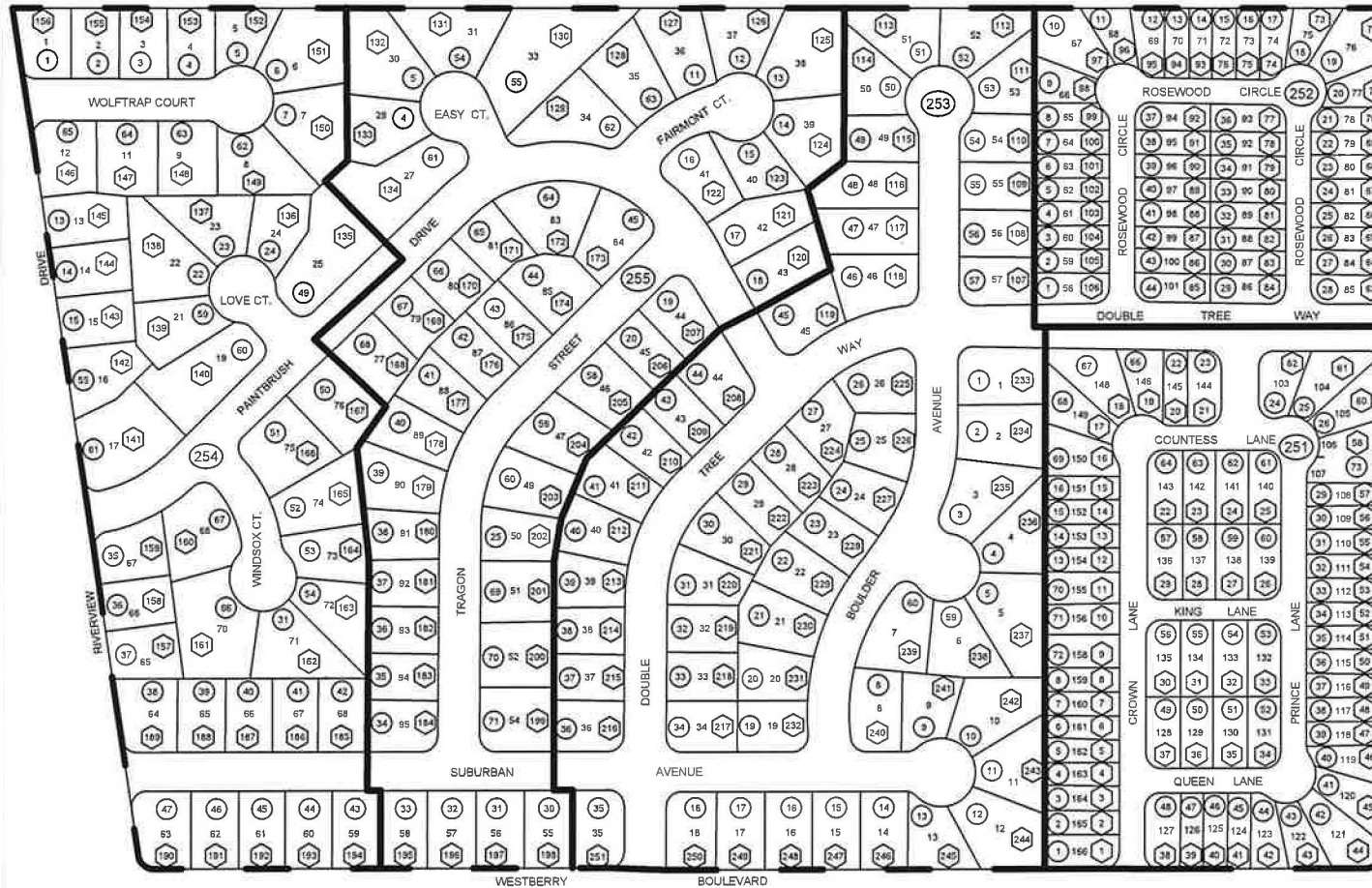
ASSESSMENT DIAGRAM
 MADERA LANDSCAPE MAINTENANCE DISTRICT - ZONE 4
 CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA

PAGE 1 OF 2







CITY OF MADERA

PARCEL MAP 18-P-01

REV. FEB, 2019



LEGEND

-  PARCEL LOT BOUNDARY.
-  ASSESSOR'S BOUNDARY
-  SUBDIVISION LOT NUMBER.
-  ASSESSMENT NUMBER.
-  ASSESSOR'S PARCEL NUMBER.
-  ASSESSOR'S BLOCK NUMBER.

AN 18" X 26" VERSION OF THIS MAP HAS BEEN
 RECORDED WITHIN BOOK 4 OF OF MAPS OF
 ASSESSMENT DISTRICTS, PAGES 118 THROUGH 183,
 ON AUGUST 17, 2007, AS DOC. NO. 2007030644

ASSESSMENT DIAGRAM
 MADERA LANDSCAPE MAINTENANCE DISTRICT - ZONE 4
 CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA

PAGE 2 OF 2

CITY OF MADERA
WESTGATE NORTHWEST 1 & 2
REV. JULY 2011