

MAIN STREET ASSESSMENT DISTRICT NO. 1
RESOLUTION OF INTENTION
May 25, 2010
PAGE 2

DISCUSSION

There are no increases in assessments for FY 2010/11. Staff recommends that Council schedule the protest hearing for June 22, 2010 at 6:30 p.m. in the Council Chamber, located at 11300 Stanford Avenue, Garden Grove, California. Any interested person may file a written protest with the City Clerk. Protests must be delivered to the City Clerk prior to the conclusion of the hearing. In addition, all interested persons will have the opportunity to speak at the hearing. Notices will be distributed not less than ten days prior to the date of set for the hearing.

In order for the FY 2010/11 assessments to be made, the attached resolution and Engineer's Report must have city Council approval and be submitted to the county auditor no later than August 9, 2010. Should this deadline not be met, the assessment will not take place, and the MSAD reserves will be eliminated in 2010.

FINANCIAL IMPACT

The Engineer's Report (Attachment 1) projects the MSAD services and costs for the FY 2010/11 to be:

| | | | |
|----|------------------------|----|------------|
| A. | Trash Pick-Up | \$ | 0 |
| B. | General Maintenance | | 15,500 |
| C. | Street Improvements | | |
| D. | Street Lighting | | 2,000 |
| E. | Street Cleaning | | 1,000 |
| F. | Tree Trimming | | |
| G. | Professional Services | | 3,500 |
| H. | Administrative Support | | 2,100 |
| I. | <u>Insurance</u> | | <u>732</u> |

TOTAL: \$24,832

The MSAD budget for the FY 2010/11 currently has an estimated fund balance of \$18,478. Total revenue from the assessments for FY 2010/11 will total \$27,200. There are no increases in assessments for FY 2010/11. Expenditures (as stated in the approved budget above) are estimated to be \$24,832. The assessment, currently set at \$19.92 per linear foot, meets the minimal service level costs for the proposed FY 2010/11 budget. There is no impact to the General Fund.

RECOMMENDATION

Staff recommends that the City Council:

- Approve the Engineer's Report (Attachment 1);
- Adopt the attached Resolution (Attachment 2), which will meet the requirements set forth in the LLA;
- Declare its intention to levy and collect an assessment for maintenance for the FY 2010/11; and,
- Set a protest hearing regarding the assessment for June 22, 2010.


KEITH G. JONES
Public Works Director


By: Ann Eifert
Senior Administrative Analyst

Attachment 1: Engineer's Report
Attachment 2: Resolution

Recommended for Approval


Matthew Fertal
City Manager



Harris & Associates.

SHAPING THE FUTURE ONE PROJECT AT A TIME.

Engineer's Report

for the

**City of Garden Grove
Main Street Assessment District No. 1**

Fiscal Year 2010-11

**City of Garden Grove
Orange County, California**

May 12, 2010

ENGINEER'S REPORT

**CITY OF GARDEN GROVE
MAIN STREET ASSESSMENT DISTRICT NO. 1**

FISCAL YEAR 2010-11

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**ENGINEER'S REPORT FOR THE
CITY OF GARDEN GROVE
MAIN STREET ASSESSMENT DISTRICT NO. 1
FISCAL YEAR 2010-11**

SYNOPSIS

This report has been prepared and is submitted for consideration by the City Council of the City of Garden Grove under the authority of the Landscaping and Lighting Act of 1972 as set forth in Part 2 of Division 15 of the California Streets and Highways Code.

BACKGROUND

In 1977, the City of Garden Grove formed Main Street Assessment District (MSAD) No. 1 to oversee the construction and maintenance of special public improvements along Main Street. Those include planters, trees, streetscaping, sidewalks, benches, trash receptacles, drinking fountains, streetlights, drainage, and bollards.

The assessment rate for the funded services has not been increased since 1989.

Due to increased costs and the higher levels of maintenance requested by the businesses within this Assessment District, the assessment rate was proposed to be increased for FY 2004-05 to keep up with the rising costs.

Notices and ballots were mailed to all property owners in the District in accordance with Article XIID of the California State Constitution (Proposition 218).

On June 8, 2004, the public hearing was held, the ballots were tabulated, and the property owners rejected the proposed assessment increase.

Therefore, the assessments will remain the same in Fiscal Year 2010-11 as in the previous year.

CITY OF GARDEN GROVE

FISCAL YEAR 2010-11

ENGINEER'S REPORT

Prepared Pursuant to the Provisions of the Landscaping and Lighting Act of 1972 (California Streets and Highways Code Section 22500 through 22679), Article XIII D of The California Constitution, and The Proposition 218 Omnibus Implementation Act (California Government Code Section 53750 Et Seq.)

Pursuant to Part 2 of Division 15 of the Streets and Highways Code of the State of California, Article XIII D of the California Constitution, the Proposition 218 Omnibus Implementation Act and in accordance with the Resolution of Initiation adopted by the Council of the City of Garden Grove, State of California, in connection with the proceedings for:

**CITY OF GARDEN GROVE
MAIN STREET ASSESSMENT DISTRICT NO. 1**

hereinafter referred to as the "Assessment District" or "District", I, Joan E. Cox, P.E., the authorized representative of Harris & Associates, the duly appointed ASSESSMENT ENGINEER, submit herewith the "Report" consisting of five (5) parts as follows:

**PART A
PLANS AND SPECIFICATIONS**

Plans and specifications for the improvements showing and describing the general nature, location and extent of the improvements.

**PART B
ESTIMATE OF COST**

The estimated cost to be funded by the District for the operation, servicing and maintenance of the improvements for fiscal year 2010-11, including incidental costs and expenses in connection therewith.

**PART C
METHOD OF APPORTIONMENT**

The method of apportionment of assessments indicates the proposed assessment of the net amount of the costs and expenses of the maintenance and/or servicing of the existing and ultimate improvements to be assessed upon the several lots and parcels of land within the Assessment District in proportion to the estimated special benefits to be received by such lots and parcels.

**PART D
ASSESSMENT DIAGRAM**

The Assessment Diagram, which shows the exterior boundaries of the Assessment District, the boundaries of any zones within the Assessment District and the lines and dimensions of each lot or parcel of land within the Assessment District, is on file in the Office of the City Clerk and is incorporated herein by reference.

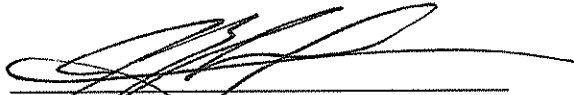
**PART E
ASSESSMENT ROLL**

An assessment of the estimated cost of maintenance and/or servicing of the existing improvements on each benefited lot or parcel of land within the Assessment District for the fiscal year to which this report applies are on file in the Office of the City Clerk and incorporated herein by reference.

The undersigned respectfully submits the enclosed report as directed by the City Council. The undersigned certifies that she is a Professional Engineer, registered in the State of California.

DATED: May 12, 2010

Harris & Associates



BY: Joan E. Cox, P.E.
R.C.E. No. 41965



PART A
PLANS AND SPECIFICATIONS

The facilities, which have been constructed within the City of Garden Grove, and those which may be subsequently constructed, will be serviced and maintained as generally described as follows: A portion of Main Street from Garden Grove Boulevard to Acacia Parkway and a portion of Garden Grove Boulevard between 150.16 feet west of the centerline of Main Street and 150.06 feet east of the centerline of Main Street, all being within said district.

DESCRIPTION OF IMPROVEMENTS
FOR THE CITY OF GARDEN GROVE
MAIN STREET ASSESSMENT DISTRICT NO. 1
FISCAL YEAR 2010-11

The facilities to be maintained and serviced for the District as described as follows: Facilities include but are not limited to: streetscape improvements including sidewalks, decorative paving, street lights, street trees, and street furniture, including bollards, benches, trash receptacles, drinking fountains, miscellaneous planters, and related items within the boundaries of said District.

Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of the landscaping and appurtenant facilities, including repair, removal or replacement of all or part of any of the landscaping or appurtenant facilities; providing for the life, growth, health and beauty of the landscaping, including cultivation, irrigation, trimming, spraying, fertilizing and 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 water for the irrigation of the landscaping and the maintenance of any of the lighting facilities or appurtenant facilities and the furnishing of electric current or energy, gas or other illuminating agent for the lighting facilities, or for the lighting or operation of the landscaping or appurtenant facilities.

The plans and specifications for the improvements, showing and describing the general nature, location, and the extent of the improvements, are on file in the office of the Director of Public Works and are incorporated herein by reference.

PART B
ESTIMATE OF COST

The City's budget for the installation, operation, maintenance and servicing of lighting details the estimated costs for Fiscal Year 2010-11 as available at the time of preparation of this report, and includes engineering fees, legal fees, printing, mailing, postage, publishing, and all other related costs identified with the district proceedings.

| | <u>FY 10-11</u> |
|--|-----------------|
| Fund 533 - Main Street | |
| Estimated Expenditures FY 2010-11 | |
| Trash Pick Up | \$0 |
| General Maintenance | \$15,500 |
| Street Lighting | \$2,000 |
| Streetscape Improvements | \$0 |
| Streetscape Cleaning | \$1,000 |
| Tree Trimming | \$0 |
| Professional Services | \$3,500 |
| Administrative Support | \$2,100 |
| Insurance | \$732 |
| Subtotal Expenditures: | \$24,832 |
| Starting Fund Balance (Fund Balance as of June 30, 2010) | (\$18,478) |
| Estimated Capital Reserve (Fund Balance as of June 30, 2011) | \$20,846 |
| Interest (positive) | (\$500) |
| Total Estimated 2010-11 Assessments: | \$26,700 |
| | |
| Total Front Feet (FF) in Assessment District: | 1,340.45 |
| Proposed FY 10-11 Assessment Rate (\$/FF): | \$19.92 |

The 1972 Act requires that a special fund be set-up for the revenues and expenditures of the District. Funds raised by assessment shall be used only for the purpose as stated herein. A contribution to the District by the City may be made to reduce assessments, as the City Council deems appropriate. Any balance or deficit remaining on July 1 must be carried over to the next fiscal year.

PART C METHOD OF APPORTIONMENT

GENERAL

Part 2 of Division 15 of the Streets and Highways Code, the Landscaping and Lighting Act of 1972, permits the establishment of assessment districts by cities for the purpose of providing certain public improvements which include the maintenance and servicing of street lights, traffic signals, landscaping, parks and recreational facilities.

The 1972 Act requires that maintenance assessments be levied according to benefit rather than according to assessed value. Section 22573 provides that:

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 benefit to be received by each such lot or parcel from the improvements.

The Act permits the designation of areas of benefit within any individual assessment district if "by reasons or variations in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvement" (Sec. 22574). Thus, the 1972 Act requires the levy of a true "assessment" rather than a "special tax."

In addition, Proposition 218, the "Right to Vote on Taxes Act" which was approved on the November 1996 statewide ballot and added Article XIID to the California Constitution, requires that a parcel's assessment may not exceed the reasonable cost for the proportional special benefit conferred on that parcel. Article XIID provides that only special benefits are assessable and the City must separate the general benefits from the special benefits. It also requires that publicly owned properties which benefit from the improvements be assessed.

If the assessment is approved by the property owners as required by Article XIID of the California Constitution, Section 53739 of the Government Code allows that the assessment may be imposed thereafter at "...any rate or amount that is less than or equal to the maximum amount authorized by the voter approved ordinance or resolution".

Section 53739 also allows that the assessment may be adjusted for inflation based upon a clearly defined formula that is stated in the resolution that is approved by the property owners at an election authorizing the levy of the assessment.

This report establishes the formula to be used to distribute the costs of providing the enhanced levels of services described in this report to the assessable parcels within the District.

SPECIAL BENEFIT ANALYSIS

Street Landscaping. Trees, landscaping, hardscaping and appurtenant facilities, if well maintained, provide beautification, shade and enhancement of the desirability of the surroundings, and therefore increase property value.

In Parkways and Land Values, written by John Nolan and Henry V. Hubbard in 1937, it is stated:

"... there is no lack of opinion, based on general principals and experience and common sense, that parkways *do in fact add value* to property, even though the amount cannot be

determined exactly.... Indeed, in most cases where public money has been spent for parkways the assumption has been definitely made that the proposed parkway will show a *provable* financial profit to the City. It has been believed that the establishment of parkways causes a rise in real estate values throughout the City, or in parts of the City,..."

It should be noted that the definition of "parkways" above may include the roadway as well as the landscaping along side the roadway.

The ongoing operation and maintenance of the street landscaping within the individual district, as identified in Part A of this Report, provide beautification to the areas that result in a special benefit to the parcels within the tracts adjacent to the improvements. If these landscaped areas were not properly maintained, the tract would be blighted.

Theme Lighting. Proper maintenance and operation of streetlights benefit all properties within the District by providing security, safety and community character and vitality as outlined below. Streetlights provide only incidental benefits to motorists traveling to, from or through the area.

BENEFITS OF STREET LIGHTING

Security and Safety

- Mitigates crime
- Alleviates the fear of crime
- Enhances safe ingress/egress to property

Community Character and Vitality

- Promotes social interaction
 - Contributes to a positive nighttime visual image
-

METHODOLOGY

The parcels of land in the District are all commercial properties and are assessed on a linear foot (LF) basis based on their frontage on Main Street and Garden Grove Boulevard. City-owned parking lot properties are not considered to benefit from the improvements and are therefore excluded from assessment. The table below provides the assessment apportionment for the district.

| Previous FY 09-10 Total Asmt | Estimated FY 10-11 Total Asmt | Total District Frontage | Maximum FY 10-11 Asmt per LF |
|------------------------------------|-------------------------------------|-------------------------------|------------------------------------|
| \$26,700 | \$26,700 | 1,340.45 | \$19.92 |

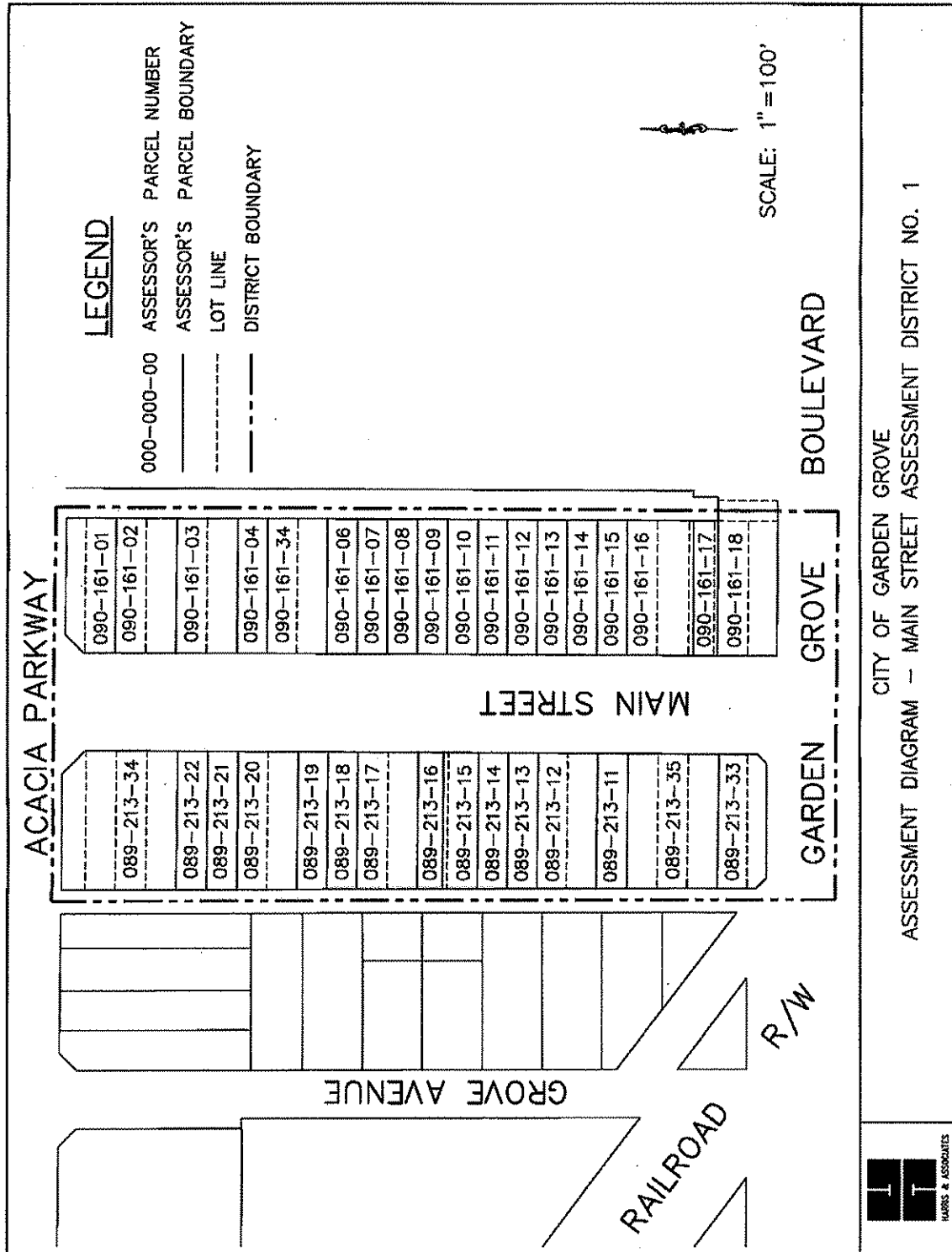
The actual assessments levied in any fiscal year will be as approved by the City Council and may not exceed the maximum assessment rate without receiving property owner approval for the increase.

PART D
ASSESSMENT DIAGRAM

A diagram showing the exterior boundaries of the District is on file in the Office of the City Clerk and incorporated herein by reference.

The lines and dimensions of each lot or parcel within the District are those lines and dimensions shown on the maps of the Assessor of the County of Orange for the fiscal year to which this report applies. The Assessor's maps and records are incorporated by reference herein and made part of this report.

A reduced copy of the City of Garden Grove Main Street Assessment District No. 1 Map is provided on the following page.



PART E
ASSESSMENT ROLL

The total proposed assessment for Fiscal Year 2010-11 and the amount of the total proposed assessment apportioned to each lot or parcel within the District, as shown on the latest assessment roll at the Orange County Assessor's Office, are contained in the Assessment Roll provided below.

The description of each lot or parcel is part of the records of the Assessor of the County of Orange and these records are, by reference, made part of this Report.

| Assessor's Parcel No. | Linear Feet | Proposed FY 10-11 Asmt |
|----------------------------------|------------------------|---------------------------------------|
| 089-213-11 | 25.50 | \$507.91 |
| 089-213-12 | 49.50 | \$985.95 |
| 089-213-13 | 25.00 | \$497.95 |
| 089-213-14 | 25.00 | \$497.95 |
| 089-213-15 | 29.00 | \$577.62 |
| 089-213-16 | 21.00 | \$418.28 |
| 089-213-17 | 50.00 | \$995.90 |
| 089-213-18 | 25.00 | \$497.95 |
| 089-213-19 | 25.00 | \$497.95 |
| 089-213-20 | 50.00 | \$995.90 |
| 089-213-21 | 25.00 | \$497.95 |
| 089-213-22 | 25.00 | \$497.95 |
| 089-213-33 | 155.09 | \$3,089.30 |
| 089-213-34 | 101.05 | \$2,012.98 |
| 089-213-35 | 75.00 | \$1,493.85 |
| 090-161-01 | 47.27 | \$941.53 |
| 090-161-02 | 50.00 | \$995.90 |
| 090-161-03 | 50.00 | \$995.90 |
| 090-161-04 | 25.00 | \$497.95 |
| 090-161-06 | 25.00 | \$497.95 |
| 090-161-10 | 25.00 | \$497.95 |
| 090-161-11 | 25.00 | \$497.95 |
| 090-161-12 | 25.00 | \$497.95 |
| 090-161-13 | 25.00 | \$497.95 |
| 090-161-14 | 25.00 | \$497.95 |
| 090-161-15 | 25.00 | \$497.95 |
| 090-161-16 | 50.42 | \$1,004.27 |
| 090-161-17 | 25.25 | \$502.93 |
| 090-161-18 | 161.37 | \$3,214.58 |
| 090-161-34 | 50.00 | \$995.90 |
| | 1,340.45 | \$26,700.00 |

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DECLARING ITS INTENTION TO ORDER THE MAINTENANCE OF CERTAIN IMPROVEMENTS IN THE "MAIN STREET ASSESSMENT DISTRICT NO. 1" IN THE CITY OF GARDEN GROVE; DESCRIBING THE DISTRICT TO BE BENEFITED, AND DECLARING ITS INTENTION TO LEVY AN ASSESSMENT TO PAY THE COST AND EXPENSES THEREOF; AND SETTING THE TIME AND PLACE FOR THE HEARING ON THE QUESTION OF THE LEVY OF THE PROPOSED ASSESSMENT

WHEREAS, the City Council of the City of Garden Grove, adopted Resolution No. 8973-10, which described existing and any proposed new improvements or substantial changes in existing improvements in the Main Street Assessment District No. 1, and ordered the City Engineer to prepare and file a report pursuant to the provisions of the Landscaping and Lighting Act of 1972, i.e., Division 15, Part 2 (commencing with Section 22500) of the California Streets and Highways Code (hereinafter Act);

WHEREAS, the City Council formed an Assessment District to finance the maintenance of certain improvements under the Act;

WHEREAS, the proposed boundaries of such Assessment District are shown on a map thereof which indicates by a boundary line the extent of the territory included in such Assessment District, which map is designated "Assessment Diagram Main Street Assessment District No. 1" as part of the report of the City Engineer described more fully herein below and which map is on file in the Office of the City Clerk;

WHEREAS, the City Engineer is competent to make and file with the City Council a report regarding maintenance of the improvements, which is required by the Act;

WHEREAS, the City Council has directed the City Engineer to procure the required information and prepare and present to the City Council the written report of maintenance required by the Act;

WHEREAS, the City Engineer has prepared the report, filed it with the City Clerk, and presented it to the City Council and the City Council has examined the report;

WHEREAS, under the Act, before levying and collecting assessments in the Assessment District, the City Council is required to adopt a Resolution declaring its intention to do so; and

WHEREAS, the City Council proposes no increase in assessment for a total of \$19.92 per linear foot of frontage on Main Street and Garden Grove Boulevard.

NOW, THEREFORE, the City Council of the City of Garden Grove does hereby resolve, determine, and order as follows:

Section 1. The City Council hereby finds and declares that the public interest and necessity require the maintenance of certain improvements in the streets and other public easements as hereinafter described, and the City Council hereby declares its intention to levy and collect assessments covering the real property benefited by the improvements, pursuant to the Act.

Section 2. The City Council intends to order maintenance of improvements in certain streets, and other public easements, as follows:

A portion of Main Street from Garden Grove Boulevard to Acacia Parkway, and a portion of Garden Grove Boulevard between 150.16 feet west of the centerline of Main Street and 150.06 feet east of the centerline of Main Street, all being within said District, including on-street parking, sidewalks, center gutter, street lights, street trees, and street furniture, including bollards, benches, trash receptacles, drinking fountains, miscellaneous planters, and related items.

Section 3. The District is designated "Main Street Assessment District No. 1," and is generally located on Main Street between Acacia Parkway and Garden Grove Boulevard.

Section 4. The report of the City Engineer is hereby approved, and the City Clerk is directed to endorse the fact and date of approval on the report and to file the report in its office. Reference is hereby made to the report, on file with City Clerk, for a full and detailed description of the improvements to be maintained; the boundaries of the Assessment District; and the proposed assessments upon assessable lots and parcels of land within the District.

Section 5. An assessment will be levied pursuant to the Act upon all property in Main Street Assessment District No. 1 subject to assessment under the Act, to pay the balance of costs and expenses of the maintenance of the improvements.

Section 6. Notice is hereby given that as there is no increase in the assessment for the 2010-11 fiscal year for Main Street Assessment District No. 1, there will only be one Public Hearing, which will be held on Tuesday, June 22, 2010, at 6:30 p.m. (or as soon thereafter as the City Council may hear same), in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, Garden Grove, California, which is hereby set as the time and place for the Public Hearing on the question of the levy of the proposed assessment. Any interested person may file a written protest with the City Clerk, in which each signer is interested, sufficient to identify the property, which must be delivered to the City Clerk of said City prior to the conclusion of the hearing. In addition, all interested persons shall be afforded the opportunity to be heard at the hearing. The City

Council shall consider all oral statements and all written protests or communications made or filed by any interested persons.

Section 7. The City Clerk shall cause this Resolution of Intention to be published once in a local newspaper of general circulation in the City of Garden Grove, California, not less than ten (10) days prior to the date set for the Public Hearing.