

RESOLUTION NO. 03-101

**RESOLUTION ADOPTING ENGINEER'S REPORT, CONFIRMING THE
ASSESSMENT, ORDERING THE IMPROVEMENTS
AND DIRECTING RELATED ACTIONS**

**CITY OF LOS ALTOS
Raymundo Avenue Curb and Gutter Assessment District**

RESOLVED by the City Council (the "Council") of the City of Los Altos (the "City"), County of Santa Clara, State of California, that:

1. **Resolution of Intention.** on October 14, 2003, this Council adopted A Resolution of Intention to Make Acquisitions and Improvements (the "Resolutions of Intention"), and in it directed the Engineer of Work to make and file a report in writing in accordance with and pursuant to the Municipal Improvement Act of 1913 (the "Act") in and for the City's proposed Raymundo Avenue Curb and Gutter Assessment District (the "Assessment District");

2. **Engineer's Report.** The report was made and filed, and considered by this Council and found to be sufficient in every particular, whereupon it was determined that the report should stand as the Engineer's Report for all subsequent proceedings under and pursuant to the Resolutions of Intention, December 9, 2003, at the hour of 7:00 o'clock p.m., in the meeting place of this Council, Community Chambers, City Hall, One North San Antonio Road, Los Altos, California, were appointed, as the time and place for a public hearing to take testimony and for hearing protests in relation to the proposed acquisitions and improvements, for tabulation on assessment ballots and final action upon the Engineer's Report, notices of which hearing, including assessment ballots, were mailed as required by law; and

3. **Hearing and Ballot.** the hearing was held, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to the acquisitions and improvements were fully heard and considered by this Council, and any protests, both written and oral, were duly heard, considered, and all assessment ballots submitted by property owners were received and tabulated;

4. **No Majority Protest; Protests Overruled.** It is hereby determined that, upon the conclusion of the public hearing, and after tabulation of the assessment ballots submitted, no majority protest against the assessment existed because the assessment ballots submitted in opposition to the assessment did not exceed the ballots submitted in favor of the assessment. In tabulating the ballots, they were weighted according to the proportional financial obligation of the affected properties. The protests against the proposed acquisitions and improvements or the grades at which the work is proposed to be done, as a whole or as to any part thereof, or against the assessment district or the extent thereof to be assessed for the costs and expenses of the acquisitions and improvements, as a whole or as to any part thereof, or against the engineer's estimate of costs and expenses, in whole or in part, or against the maps and descriptions, in whole or in part, or against the diagram or the assessment to pay for the costs and expenses thereof, in whole or in part. The protests, written and oral, are hereby overruled.

5. **Public Interest.** The public interest, convenience and necessity require that the acquisitions and improvements be made and that the Assessment District be created.

6. **Assessment District Described.** The Assessment District benefited by the acquisitions and improvements and to be assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by a map thereof filed in the office of the City Clerk, which map is made a part hereof by reference thereto.

7. **Engineer's Report Approved.** The Engineer's Report, in the form on file in the office of the City Clerk and to which reference is hereby made for further particulars, including the estimates of costs and expenses, the apportionment of assessments and the assessment diagram contained in the Engineer's Report, is hereby approved and confirmed and shall stand as the Engineer's Report for these and all future proceedings for the Assessment District. Final approval of the Engineer's Report is intended to and shall refer and apply to the Engineer's Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this Council.

8. **Benefits Determined.** Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the public hearing, this Council expressly finds and determines that:

(a) each of the several subdivisions of land in the Assessment District will be specially benefited by the acquisitions and improvements at least in the amount, if not more than the amount, of the assessment apportioned against the subdivisions of land, respectively; and

(b) there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.

9. **Improvements Ordered, Assessment District Formed and Assessments Confirmed and Levied.** This Council hereby orders that the acquisitions and improvements described in the Resolutions of Intention be made, the Assessment District be formed and that the assessment to pay the costs and expenses thereof be confirmed and are hereby levied. For further particulars pursuant to the provisions of the Act, reference is hereby made to the Resolutions of Intention and the Engineer's Report.

10. **Recording Ordered.** The City Clerk shall forthwith:

(a) deliver to the official of the City who is the Superintendent of Streets under the Act the assessment as contained in the Engineer's Report together with the assessment diagram, as approved and confirmed by this Council, with a certificate of such confirmation and of the date thereof, executed by the City Clerk, attached thereto. The Superintendent of Streets shall record the assessment and diagram in a suitable book to be kept for that purpose, and append thereto a certificate of the date of such recording, and such recordation shall be and constitute the assessment roll herein; and

(b) cause a copy of the assessment diagram and a notice of assessment, substantially the form provided in Section 3114 of the Streets and Highways Code of California, executed by the City Clerk, to be filed and recorded, respectively, in the office of the County Recorder of the County of Santa Clara.

From the date of recording of the notice of assessment, all persons shall be deemed to have notice of the contents of such assessment, and each of such assessments shall thereupon be a lien upon the property against which it is made, and unless sooner discharged such liens shall so continue for the period of ten (10) years from the date of the recordation, or in the event bonds are issued to represent the assessments, then such liens shall continue until the expiration of four (4) years after the due date of the last installment upon the bonds or of the last installment of principal of the bonds. The appropriate officer or officers of the City are hereby authorized to take all actions and to pay any and all fees required by law in connection with the above.

11. Cash Payment Ordered.

(a) **Cash Payment.** Pursuant to the Act, this Council hereby directs that the owners of property within the Assessment District shall be given written notice of the confirmation of the assessments and of the recording thereof in the office of the City Superintendent of Streets and of the opportunity of such owners to pay all or a portion of the assessments in cash for a period of not less than thirty (30) days.

(b) **Collection Officer.** The Finance Director of the City is appointed Collection Officer (the "Collection Officer") for the assessments and the person to whom payment of the assessments shall be made, and that the office of the Collection Officer, at City Hall, One North San Antonio Road, Los Altos, California, 94022-3087, is designated as the place at which any payments will be made, and the City Engineer is hereby relieved of all responsibility for collecting assessments.

(c) **Mailed Notices.** The Collection Officer shall cause notices to pay assessments to be mailed under Section 10404 of the Act, which notice shall state that bonds will be issued under the Improvement Bond Act of 1915, to represent any unpaid assessments. The mailed notice shall be mailed to each owner of real property within the Assessment District at his or her last known address as the same appears on the tax rolls of the City, or on file in the office of or as known to the Clerk of the Council, or to both addresses if the address is not the same, or to the general delivery when no address so appears.

(d) **Published Notice.** The Collection Officer shall also cause the notice to be published once a week for two successive weeks (with at least five days intervening between the respective publication dates, not counting such dates) in a newspaper published and circulated in the City.

(e) **Proceeds of Collections.** The Collection Officer shall establish a fund, separate and distinct from other funds of the City and designated "City of Los Altos, Avalon Drive Curb and Gutter Assessment District Cash Payment Fund" (the "Cash Payment Fund") into which shall be deposited all sums received from the cash payments. The Cash Payment Fund may be invested by the Collection Officer in lawful investments for the City;

provided, however, that the Collection Officer shall be under no obligation to invest any or all of the amounts in the Cash Payment Fund. In the event that this Council issues bonds for the Assessment District, the moneys in the Cash Payment Fund shall be applied to the acquisitions and improvements for the Assessment District and the Fund shall be closed. If the Council determines not to issue bonds to finance the acquisitions and improvements, the Collection Officer shall return the amounts of cash payments (with any interest thereon) to the persons responsible for paying such cash payments and the Fund shall be closed. The timing of such determinations shall be entirely at the discretion of the Council.

9. Effective Date. This resolution shall be effective upon the date of its adoption.

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly passed and adopted by the City Council of the City of Los Altos, California, at a meeting thereof held on the 9TH day of December, 2003, by the following vote of members thereof:

AYES: COLE, PACKARD, CASAS, LEAR, MOSS
NOES: None
ABSENT: None



JOHN MOSS, MAYOR



Susan Kitchens, City Clerk