



CITY OF HAYWARD

ANNEXATION OF BLACKSTONE AT CANNERY PLACE PROPERTY TO

**LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT No. 96-1,
BENEFIT ZONE No. 13**

ENGINEER'S REPORT

MAY 2016

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

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INTRODUCTION

OVERVIEW

On May 7, 1996, the City of Hayward ("City") formed the Consolidated Landscaping and Lighting Assessment District No. 96-1 ("District") by consolidating six separate Landscape and Lighting Assessment Districts into six separate zones of benefit within the new District. Since the formation, seven additional benefit zones (Benefit Zone No. 7 – No. 13) have been created and annexed into the District, creating thirteen separate zones of benefit.

The Annexation of Blackstone at Cannery Place ("Blackstone" or the "Annexation Area") properties into the existing Benefit Zone No. 13 of the District is proposed to provide funding for the maintenance and improvements to Panhandle Park, as well as perimeter and setback landscaping, irrigation and lighting facilities ("Improvements") to specially benefit the properties in the Blackstone subdivision. Benefit Zone No. 13 currently encompasses four prior phases of the Cannery Place project. Blackstone is a residential development that will consist of 52 single-family residences and 105 townhome-styled condominiums on an 8.81 acre site that is located south of Burbank Elementary School at the intersection of Burbank Street and Filbert Street, as part of the existing Cannery Place development.

This annexation, described in this Engineer's Report, results from agreements or conditions of development approval between the City of Hayward and the property owner, Tri Pointe Homes. The City and property owner agreed on maintenance and Improvements to Panhandle Park and the perimeter setback landscaping in order to improve the utility of these properties through increased access and proximity to the amenities, improved views, extension of desirable outdoor space and other special benefits. Moreover, the City would not approve this development without these associated Improvements.

This Engineer's Report ("Report") was prepared to establish the budget for the services that would be funded by the proposed 2016-17 assessments and to determine the benefits received from the maintenance and Improvements by Blackstone property within the Annexation Area and the method of assessment apportionment to lots and parcels. This Report and the proposed 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").

Following submittal of this Report to the City of Hayward City Council (the "Council") for preliminary approval, the Council may, by Resolution, call for an assessment ballot proceeding and Public Hearing on the proposed establishment of assessments for the Improvements.

If the Council approves such Resolution, a notice of assessment and assessment ballot will be mailed to property owners within the Annexation Area. Such notice would include a description of the proposed assessments as well as an explanation of the method of voting

on the assessments. Each notice would also include a ballot on which the property owner could mark his or her approval or disapproval of the proposed assessments, and a postage prepaid envelope in which to return the ballot.

After the ballots are mailed to property owners in the Annexation Area, a minimum 45-day time period must be provided for the return of the assessment ballots, unless a petition is signed to waive the balloting period. Following the ballot period, a public hearing must be held for the purpose of allowing public testimony regarding the proposed assessments. This hearing is scheduled for May 17, 2016 at 7:00 p.m. At this hearing, the public will have the opportunity to speak on this issue and the returned ballots will be tabulated.

If it is determined at the public hearing that the assessment ballots submitted in opposition to the proposed assessments do not exceed the assessment ballots submitted in favor of the assessments (weighted by the proportional financial obligation of the property for which ballots are submitted), the Council may take action to form the Blackstone Annexation Area, authorize the annexation, and approve the levy of the assessments for fiscal year 2016-17. If the assessments are so confirmed and approved, the levies would be submitted to the County Auditor/Controller in August 2016 for inclusion on the property tax roll for Fiscal Year 2016-17.

LEGISLATIVE ANALYSIS

PROPOSITION 218

Many of the Assessment Districts in the City of Hayward were formed prior to the passage of Proposition 218, The Right to Vote on Taxes Act, which was approved by the voters of California on November 6, 1996, and is now Article XIIC and XIID of the California Constitution. (Proposition 218 provides for benefit assessments to be levied to fund the cost of providing services, improvements, as well as maintenance and operation expenses to a public improvement which benefits the assessed property.) Although these assessments are consistent with Proposition 218, the California judiciary has generally referred to pre-Proposition 218 assessments as “grandfathered assessments” and held them to a lower standard than post Proposition 218 assessments.

Other Assessment Districts that were formed after Proposition 218, including those for Benefit Zone No. 13, are consistent with the approval procedures and requirements imposed by Proposition 218.

SILICON VALLEY TAXPAYERS ASSOCIATION, INC. v SANTA CLARA COUNTY OPEN SPACE AUTHORITY

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 vs. SCCOSA”). This ruling is the most significant legal document in further legally clarifying Proposition 218. Several of the most important elements of the ruling included further emphasis 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 Annexation Area

This Engineer's Report and the assessments are consistent with the SVTA vs. SCCOSA decision and with the requirements of Article XIII C and XIII D of the California Constitution based on the following factors:

1. The assessment revenue derived from real property in the Annexation Area is extended only for specifically identified Improvements and/or maintenance and servicing of those Improvements in the Annexation Area that confer special benefits to property in that Annexation Area.
2. The use of the Annexation Area ensures that the Improvements constructed and maintained with assessment proceeds are located in close proximity to the real property subject to the assessment, and that such Improvements provide a direct advantage to the property in the Annexation Area.
3. Due to their proximity to the assessed parcels, the Improvements and maintenance thereof financed with assessment revenues in the Annexation Area benefit the properties in the Annexation Area in a manner different in kind from the benefit that other parcels of real property in the City derive from such Improvements, and the benefits conferred on such property in the Annexation Area are more extensive and direct than a general increase in property values.
4. The assessments paid in the Annexation Area are proportional to the special benefit that each parcel within the Annexation Area receives from such Improvements and the maintenance thereof because of the following:
 - a. The Engineer's Report specifically identifies the permanent public Improvements that the assessments will finance;
 - b. The costs of such Improvements are estimated and calculated; and
 - c. Such improvement and maintenance costs in the Annexation Area are allocated to each property within the Annexation Area based upon the estimated special benefits received from the Improvements.

DAHMS V. DOWNTOWN POMONA PROPERTY

On June 8, 2009, the 4th District Court of Appeals amended its original opinion upholding a benefit assessment for property in the downtown area of the City of Pomona. On July 22, 2009, the California Supreme Court denied review. Hence Dahms is good law and binding precedent for assessments. In 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

On December 31, 2009, the 1st District Court of Appeals 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 on the grounds that the assessments had been apportioned to assessed property based in part on relative costs within sub-areas of the assessment district instead of proportional special benefits.

BEUTZ V. COUNTY OF RIVERSIDE

On May 26, 2010 the 4th District Court of Appeals issued a decision on the Steven Beutz v. County of Riverside (“Beutz”) appeal. This decision 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

On September 22, 2011, the San Diego Court of Appeals 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 of San Diego 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 requirements of Article XIIC and XIID of the California Constitution and with the *SVTA* decision because the Improvements to be funded are clearly defined; the Improvements are directly available to and will directly benefit property in the Annexation Area; and the Improvements provide a direct advantage to property in the Annexation Area that would not be received in absence of the assessments.

This Engineer’s Report is consistent with *Beutz*, *Dahms* and *Greater Golden Hill* because the Improvements will directly benefit property in the Annexation Area 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 proportional special benefit to each property.

PLANS & SPECIFICATIONS

INTRODUCTION

The work and Improvements proposed to be undertaken by the City of Hayward and the annexation of Blackstone property to Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1 and the costs thereof paid from the levy of the annual assessments, will provide special benefit to Assessor Parcels within the Annexation Area as defined in the Method of Assessment herein. Consistent with the Landscaping and Lighting Act of 1972, (the "Act") the work and Improvements are generally described as follows:

Improvements within the Annexation Area include: turf, ground cover, shrubs, and trees, irrigation systems, drainage systems, sidewalks, curbs and gutters, signage, street lights, fencing, parks and all necessary appurtenances. Services provided include all necessary service, operations and maintenance of the Improvements.

Installation, maintenance and servicing of public Improvements, including but not limited to, street lights, sidewalks, curbs and gutters, signage, lighting, exercise equipment, park facilities, turf, ground cover, shrubs, trees, irrigation systems, fencing, masonry walls and soil retaining components, walkways, graffiti removal and painting, and all necessary appurtenances, and labor, materials, supplies, utilities and equipment, as applicable, for property within the Annexation Area that is owned or maintained by the City of Hayward (the "Improvements"). Any plans and specifications for these Improvements will be filed with the Park Superintendent of the City of Hayward and are incorporated herein by reference.

As applied herein, "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, 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; 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, or the maintenance of any other Improvements.

DESCRIPTION OF IMPROVEMENTS

Improvements include all work associated to maintain Improvements, landscaping and irrigation in Panhandle Park, all paving (sidewalks, permeable, and vehicular), setback landscaping and irrigation including eco-mesh fencing along Filbert Street, and all paving (sidewalks, permeable, and vehicular), setback landscaping and irrigation along the frontages of Burbank Street and Palmer Avenue. Such landscaping consists of the care for groundcover, shrubs, trees, and vines, bio retention plants, weed abatement in planted

areas, upkeep and servicing of the irrigation system, and utility costs to service the landscaping. Additionally, to maintain paved and cobblestone pathways, faux bridge, storm water basins, shade structures, trash receptacles, exercise equipment and bocce ball court, and all other park amenities within Panhandle Park. Maintenance also includes graffiti removal, renovations and replacements.

SUMMARY FIGURE OF COSTS

The budget depicted in Figures 1, 2, 3 and 4, on the following pages reflects estimated costs for Fiscal Year 2016-17. As shown on Figure 4, total maintenance costs for the Blackstone annexation are anticipated to total **\$64,524**, equating to **\$407.86** per single family equivalent.

FIGURE 1 – 2016-17 ANNUAL BUDGETED LANDSCAPING COSTS

| Task | Quantity | Units | Annual Maintenance Rate | Annual Maintenance Costs | Annual Replacement Rate | Annual Replacement Costs | Total Costs | Replacement Years | Unit Replacement Costs |
|----------------------------|-----------------|--------------|--------------------------------|---------------------------------|--------------------------------|---------------------------------|--------------------|--------------------------|-------------------------------|
| Landscaping | | | | | | | | | |
| Grass Area (Sod) | 9,561 | sqft | \$0.50 | \$4,780.50 | \$0.13 | \$1,274.80 | \$6,055.30 | 15 | \$2.00 |
| Landscaped Area | 29,734 | sqft | \$0.40 | \$11,893.60 | \$0.05 | \$1,486.70 | \$13,380.30 | 15 | \$0.75 |
| Trees | 124 | each | \$50.00 | \$6,200.00 | \$14.00 | \$1,736.00 | \$7,936.00 | 25 | \$350.00 |
| Vines (Offsite Only) | 27 | each | \$50.00 | \$1,350.00 | \$6.67 | \$180.00 | \$1,530.00 | 15 | \$100.00 |
| Irrigation System | 1 | ls | \$2,000.00 | \$2,000.00 | \$2,500.00 | \$2,500.00 | \$4,500.00 | 10 | \$25,000.00 |
| Sub Totals: | | | | \$26,224.10 | | \$7,177.50 | \$33,401.60 | | |
| Total Annual Costs: | | | | | | | \$33,401.60 | | |

FIGURE 2 – 2016-17 ANNUAL BUDGETED HARDSCAPE COSTS

| Task | Quantity | Units | Annual Maintenance Rate | Annual Maintenance Costs | Annual Replacement Rate | Annual Replacement Costs | Total Costs | Replacement Years | Unit Replacement Costs |
|--------------------------------|----------|-------|-------------------------|--------------------------|-------------------------|--------------------------|--------------------|-------------------|------------------------|
| Sidewalks & Paving | | | | | | | | | |
| Sidewalk | 21,060 | sqft | \$0.05 | \$1,053.00 | \$0.02 | \$421.20 | \$1,474.20 | 50 | \$1.00 |
| Curb & Gutter | 1,550 | ft | \$0.20 | \$310.00 | \$0.50 | \$775.00 | \$1,085.00 | 50 | \$25.00 |
| Permeable Paving | 9,100 | sqft | \$0.05 | \$455.00 | \$0.02 | \$182.00 | \$637.00 | 50 | \$1.00 |
| Vehicular Paving | 600 | sqft | \$0.05 | \$30.00 | \$0.02 | \$12.00 | \$42.00 | 50 | \$1.00 |
| Cobblestone | 1,260 | sqft | \$0.10 | \$126.00 | \$0.04 | \$50.40 | \$176.40 | 50 | \$2.00 |
| Street Signs | 10 | each | \$25.00 | \$250.00 | \$10.00 | \$100.00 | \$350.00 | 25 | \$250.00 |
| Street Lights (includes power) | 10 | each | \$240.00 | \$2,400.00 | \$20.00 | \$200.00 | \$2,600.00 | 25 | \$500.00 |
| Park Improvements | | | | | | | | | |
| Bridge | 1 | ls | \$500.00 | \$500.00 | \$600.00 | \$600.00 | \$1,100.00 | 50 | \$30,000.00 |
| Benches | 22 | each | \$25.00 | \$550.00 | \$40.00 | \$880.00 | \$1,430.00 | 25 | \$1,000.00 |
| Table and Bench | 4 | each | \$50.00 | \$200.00 | \$80.00 | \$320.00 | \$520.00 | 25 | \$2,000.00 |
| Shade Structures | 6 | each | \$100.00 | \$600.00 | \$200.00 | \$1,200.00 | \$1,800.00 | 25 | \$5,000.00 |
| Trash Cans | 11 | each | \$25.00 | \$275.00 | \$175.00 | \$1,925.00 | \$2,200.00 | 10 | \$1,750.00 |
| Bike Rack | 3 | each | \$25.00 | \$75.00 | \$150.00 | \$450.00 | \$525.00 | 10 | \$1,500.00 |
| Exercise Equipment | 1 | ls | \$100.00 | \$100.00 | \$1,400.00 | \$1,400.00 | \$1,500.00 | 25 | \$35,000.00 |
| Bocce Court | 1 | ls | \$1,000.00 | \$1,000.00 | \$1,000.00 | \$1,000.00 | \$2,000.00 | 25 | \$25,000.00 |
| Subtotals | | | | \$7,924.00 | | \$9,515.60 | \$17,439.60 | | |
| Total Annual Costs: | | | | | | | \$17,439.60 | | |

FIGURE 3 – 2016-17 ANNUAL BUDGETED MANAGEMENT OTHER COSTS

| Task | Quantity | Units | Annual Rate | Annual Costs | Total Costs |
|-------------------------------------|-----------------|--------------|--------------------|---------------------|--------------------|
| Utilities and Administration | | | | | |
| Water | 821 | HCF | \$5.00 | \$4,103.98 | \$4,103.98 |
| District Management (portion) | 1 | ls | \$5,000.00 | \$5,000.00 | \$5,000.00 |
| Engineer's Report (portion) | 1 | ls | \$3,500.00 | \$3,500.00 | \$3,500.00 |
| Subtotals | | | | \$12,603.98 | \$12,603.98 |
| Total Annual Costs: | | | | | \$12,603.98 |

FISCAL YEAR 2016-17 ESTIMATE OF COST AND BUDGET

FIGURE 4 – 2016-17 COST ESTIMATE

| City of Hayward - Blackstone at the Cannery Landscaping and Lighting District No. 96-01, Benefit Zone No. 13 Estimate of cost Fiscal Year 2016-17 | | | | |
|--|----------------------|--------------------|-----------------------|----------------------------|
| | | | | <i>Total Budget</i> |
| Total Costs | | | | |
| Total Annual Landscaping Costs (From Table 1) | | | | \$33,402 |
| Total Annual Hardscape and Other Costs (From Table 2) | | | | \$17,440 |
| Total Annual Management Costs (From Table 3) | | | | \$12,604 |
| County Collection Fee (1.7%) | | | | \$1,079 |
| Total Maintenance and Servicing and Related Expenditures | | | | \$64,524 |
| Total Maintenance and Servicing and Related Expenditures and Incidentals | | | | |
| (Net Amount to be Assessed: Annual Costs - Existing Funds) | | | | \$64,524 |
| Budget Allocation to Property | | | | |
| | Number of Parcels | Total SFE Units | Assessment per SFE | Total Assessment |
| Zone A: | 133 | 133 | \$407.86 | \$54,245.63 |
| Zone B: | 24 | 25.20 | \$428.25 | \$10,278 |
| | 157 | 158.20 | | \$64,524 |

METHOD OF ASSESSMENT APPORTIONMENT

METHOD OF APPORTIONMENT

This section of the Engineer's Report includes an explanation of the benefits to be derived from the installation, maintenance and servicing of Improvements and landscaping for the Annexation Area and the methodology used to apportion the total assessment to the properties within the Annexation Area.

The method used for apportioning the assessment is based upon the relative special benefits to be derived by the properties in the Annexation Area 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 cost of the special benefits from the Improvements. Special benefit is calculated for each parcel in the Annexation Area using the following process:

1. Identification of all benefit factors derived from the Improvements
2. Calculation of the proportion of these benefits that are general
3. Determination of the relative special benefit with the two zones described below within the Annexation Area
4. Determination of the relative special benefit per property type
5. Calculation of the specific assessment for each individual parcel based upon special vs. general benefit; location, property type, property characteristics, improvements on property and other supporting attributes

The Blackstone parcels proposed for annexation to Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1 consist of all Assessor Parcels within the boundaries as defined by the Assessment Diagram included within this Report and the Assessor Parcel Numbers listed within the included Assessment Roll. The method used for apportioning the assessments is based upon the proportional special benefits to be derived by the Annexation Area properties in Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1, over and above general benefits conferred on real property or to the public at large. 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:

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

In this case, the recent the SVTA v. SCCOSA decision provides enhanced clarity to the definition of special benefits to properties from similar public 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.

The following benefit categories summarize the types of special benefit to residential and other lots and parcels resulting from the installation, maintenance and servicing of setback landscaping, sidewalks, signs, street lights and park improvements to be provided with the assessment proceeds. These categories of special benefit are derived from the statutes passed by the California Legislature and studies which describe the types of special benefit received by property from maintenance and improvements such as those proposed by the City of Hayward for the Blackstone annexation into Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1. These types of special benefit are summarized as follows:

- A. Improved access to landscaped areas and other permanent public improvements such as Panhandle Park and the Blackstone perimeter setback landscaping.
- B. Proximity to improved landscaped areas and other permanent public improvements such as Panhandle Park and Blackstone perimeter setback landscaping.
- C. Improved Views.
- D. Extension of a property's outdoor areas and Landscaped Areas for properties within close proximity to the Improvements.
- E. Creation of individual lots for residential use that, in absence of the assessments, would not have been created.

The above benefit factors, when applied to property in the Annexation Area, specifically increase the utility and usefulness of the property within the Annexation Area. For example, the assessments will provide funding to improve and maintain Panhandle Park and the setback landscaping adjoining the properties in the Annexation Area. Such improved and well-maintained park amenities and setback landscaping enhances the overall quality, desirability, utility and safety of the properties.

GENERAL VERSUS SPECIAL BENEFIT

Article XIID, Section 4(a) 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. Property may be assessed to fund improvements to the extent of the special benefits conferred by the Improvements; but general benefits are not assessable. Accordingly, a separate estimate of the special and general benefit is given in this section.

Article XIID never defines the term “general benefit.” The definition of special benefit in Section 2(i) includes the statement that general enhancement of property value does not constitute special benefit. General benefit may be described as “an indirect, derivative advantage” resulting from the improvements. One infers from Article XIID that all benefit is either general or special.

In other words:

| | | | | |
|--------------------------|----------|----------------------------|----------|----------------------------|
| Total Benefit | = | General Benefit | + | Special Benefit |
|--------------------------|----------|----------------------------|----------|----------------------------|

There is no widely-accepted or statutory formula for quantifying the amount of any general benefit that is identified.

In this Report, the general benefit is first identified, generously estimated, and then budgeted so that it is funded, as required by Proposition 218, by sources other than the Blackstone Assessment.

The starting point for evaluating general and special benefits is the current, baseline level of service, which is funded primarily by the City. The proposed Blackstone 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:

| | | | | | | |
|------------------------|---|---|---|--|---|---------------------------------------|
| General Benefit | = | Benefit to Real Property Outside the Assessment District | + | Benefit to Real Property Inside the Assessment District that is Indirect and Derivative | + | Benefit to the Public at Large |
|------------------------|---|---|---|--|---|---------------------------------------|

Special benefit, on the other hand, is defined in the California 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.” A special benefit is conferred to a property if the property “receives a direct advantage from the improvement (e.g., proximity to a park).” In this proposed Assessment, as noted, properties in the Annexation Area have close and unique proximity, views of and access to the Improvements, and uniquely improved utility and desirability from the Improvements, and other properties and the public at large do not receive such benefits because they do not have proximity, access to or views of the Improvements. Therefore, the overwhelming proportion of the benefits conferred to property is special, and only minimal general benefit is conferred on property outside the Annexation Area or to the public at large.

In the 2010 *Beutz* case, the 4th Appellate Court rejected an assessment for parks in large part because the general benefits were not calculated and quantified. In its decision, the 4th Appellate Court suggests that the use of parks in an assessment district by people who live outside of the district likely is a general benefit. This Engineer’s Report includes a specific, quantified calculation of general benefits, as described below, that is based in part on such use by people outside of the Annexation Area. Moreover, the proportionality of the Assessments to the special benefits conferred on each parcel, based in large part on proximity, is established as well. Therefore, the Assessments and this Engineer’s Report are consistent with the *Beutz* decision.

CALCULATING GENERAL BENEFIT AND SPECIAL BENEFIT PAID FROM OTHER FUNDS

In this section, the general benefit not paid from the assessment, which must be paid from other funds, are conservatively estimated and described, and then budgeted so that it is funded by sources other than this Assessment.

BENEFIT TO PROPERTY OUTSIDE THE PROPOSED ANNEXATION AREA

In summary, real property located within the boundaries of the Annexation Area distinctly and directly benefit from closer proximity, access and views of the Improvements funded by the Assessments, the creation of developable parcels, and from the extension of usable land area provided by the assessments. The Improvements are specifically designed to serve local properties in the Annexation Area, not other properties nor the public at large. The Annexation Area has been narrowly drawn to include those parcels that receive a direct advantage from the Improvements. The public at large and other properties outside the Annexation Area receive only limited benefits from the Improvements because they do not have proximity, good access or views of the Improvements. These are special benefits to property in the Annexation Area in much the same way that sewer and water facilities, sidewalks and paved streets enhance the utility and desirability of specific proximate properties and make them more functional to use, safer and easier to access.

Properties within the proposed Annexation Area receive almost all of the special benefits from the Improvements, because properties in the Annexation Area enjoy unique and close proximity and access to the Improvements that are enjoyed less by other properties or the public at large. The Panhandle Park and landscaping Improvements are specifically designed to benefit the properties in the Annexation Area.

Furthermore, there are multiple, proximate parks and other improvements outside of the Annexation Area, funded by other sources, that provide most of the park and landscaping benefits to nearby parcels that are outside of the Annexation Area.

For example:

- The large Cannery Park on Burbank Street that is adjacent to, and northwest, of the Annexation Area provides a wide variety of park Improvements at a higher service level than Panhandle Park.
- The large Burbank Elementary School on Burbank Street that is adjacent to, and north, of the Annexation Area provides a wide variety of hardscape and other park Improvements at a higher service level than Panhandle Park, although access may be more limited.
- The ample new parklands along Palmer Avenue that are adjacent to, and south, of the Annexation Area provides a wide variety of park Improvements at a higher service level than Panhandle Park.
- The landscaping along the east side of Filbert Street is only visible and enjoyed by properties within the Annexation Area and not to properties with back yard facing Filbert Street.

In other words, the Panhandle Park and landscaping Improvements maintained by the proposed Assessments specially benefit the properties within the Annexation but other nearby improvements primarily benefit other proximate properties.

However, there are certain properties that are located outside the boundaries of the Annexation Area on the west edge along Parkhurst Street that will benefit from improved views of Panhandle Park and other Annexation Area landscaping. These properties may receive some benefit from the Improvements. The amount of benefit conferred to properties just outside the Annexation Area boundaries, must be deducted from the total benefit and not assessed to property in the Annexation Area.

A 50% reduction factor is applied to the benefit received by these properties because they are all geographically on only one side of the Improvements. Additionally, to access the Improvements the owners of those properties would have to drive twice the average distance from the Improvements compared to owners of properties in the Annexation Area.

Assumptions:

23 parcels Along Parkhurst Street outside the district but within the views, proximity and access of Panhandle Park

157 parcels in the Annexation Area

50% relative benefit compared to property within the Annexation Area

Calculation:

Benefit to property outside the Annexation Area= $(23 / (23 + 157)) * 0.5 = 6.3\%$

Although it can reasonably be argued that Improvements inside, but near the Annexation Area boundaries are offset by similar park and recreational improvements provided outside, we use the more generous approach of finding that 6.3% of the Improvements may be of benefit to property outside the Annexation Area.

BENEFIT TO PROPERTY INSIDE THE DISTRICT THAT IS INDIRECT AND DERIVATIVE

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

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 Annexation Area’s park and recreational facilities are used and enjoyed by individuals who are not residents, employees, customers or property owners in the Annexation Area. Based on surveys and research conducted by SCI, in which visitors to

similar parks; at various times of the day, evening, and week; were asked to look at a District map and to identify whether they lived or worked within the park's District, less than 5% of the use of similar parks and recreation areas is by the public at large. When people outside the Annexation Area use parks, they diminish the availability of parks for people within the Annexation Area. Therefore, another 5% of general benefits are allocated for people within the Annexation Area. Finally, another 5% is added for the general benefit of general public pedestrians, cyclists, and motorists travelling along Burbank Street, Filbert Street, Parkhurst Street, and Palmer Avenue that enjoy the improved views and landscaping. Combining these three elements of general benefit, we find that 15% of the benefits from the Improvements are general benefits to the public at large.

TOTAL GENERAL BENEFITS TO BE FINANCIALLY CONTRIBUTED FROM OTHER FUNDS IS 25%

Using a sum of these three measures of general benefit, we find that approximately 21.3% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the Assessments.

General Benefit Paid From Other Funds =

- 6.3% (Outside the district)
- + 0.0% (Inside the district - indirect and derivative)
- + 15.0% (Public at Large)

= 21.3% (Total General Benefit and Special Benefit paid from other funds)

Although this analysis finds that 21.3% of the Assessment may provide general benefits and special benefit that would need to be paid from funds other than the assessment, the Assessment Engineer establishes a requirement for a minimum contribution from sources other than the Assessments rounded up to 25.0%. This additional allocation above the measure of general benefits will serve to provide additional coverage for any other general benefits.

SOURCE OF FINANCIAL CONTRIBUTIONS FROM OTHER FUNDS TO SATISFY THE 25% REQUIREMENT

The general benefit contribution is paid in part from other "in-kind" contributions from the City in the form of infrastructure critical to the continued maintenance of the Annexation Area Improvements, as described below. Also, general benefit contributions come from the "annuity" value of the improvements that were constructed by the developer.

The City of Hayward owns and maintains a storm drainage system along the border of the Annexation Area. This system serves to prevent flooding and associated damage to the Improvements, and manage urban runoff including local pollutants loading from the Improvements. The contribution from the City of Hayward toward general benefit from the maintenance, rehabilitation, and replacement of the local storm drainage system is conservatively estimated to be 10%, based upon the relative cost to construct and maintain

this critical local infrastructure. In others words, if the Annexation Area were required to construct and maintain the local storm drainage system, the budget would increase by at least 10%.

The City of Hayward owns and maintains local public streets along the border of the Annexation Area. These public streets provide access to the Improvements for its enjoyment as well as efficient maintenance. The contribution from the City of Hayward toward general benefit from the maintenance, rehabilitation, and replacement of the local public streets is conservatively estimated to be 20%, based upon the relative cost to construct and maintain this critical local infrastructure. In others words, if the Annexation Area were required to construct and maintain the local public streets, the budget would increase by at least 20%.

The value of the initial Improvements constructed by the Developer can be quantified and monetized as an annuity to be amortized. Since the initial Improvements were performed and paid for by non-assessment funds, this “annuity” can be used to offset general benefit costs, and is conservatively estimated to contribute 10%. In others words, if the Annexation Area were required to construct all the Improvements, the annual budget would increase by at least 10%.

Source of Financial Contributions from Other Funds to Satisfy 25% Requirement

| | |
|---|---|
| | 10.0% (Storm drainage system) |
| + | 10.0% (Public roads) |
| + | 20.0% (Amortized value of initial construction) |
| | = 40.0% (Total General Benefit paid from other funds) |

In other words, the Annexation requires 25% contribution to offset the general benefits conferred by the Improvements, and there is a 40% contribution from City of Hayward supporting local infrastructure, along with the amortized value of initial construction. This 40% contribution more than satisfies the general benefit requirements.

ZONES OF BENEFIT

The boundaries of the Annexation Area have been carefully drawn to only include the properties in Annexation Area that are proximate to the proposed Improvements and that would materially benefit from the Improvements. Certain other properties surrounding and outside the Annexation Area were excluded from the proposed Annexation Area because these properties are generally less proximate to the Improvements and/or they do not enjoy the same access.

For the most part, the special benefits from the Improvements within the Annexation Area do not vary based on proximity of the parcels to the Improvements because the increased benefits of greater proximity to the Improvements are generally offset by a parallel increase

in negative factors such as higher levels of traffic, noise, etc. that comes with increased proximity.

However, the properties in very close proximity to Panhandle Park facing Parkhurst Street do receive some additional benefit, due to the views and extension of open space provided to those homes by Panhandle Park. Therefore, the majority of the parcels in the Annexation Area are assigned to what will be known as Benefit Zone A, and the properties which enjoy this increased special benefit from being directly adjacent to Panhandle Park will be assigned to what will be known as Benefit Zone B.

The increased special benefit in Benefit Zone B is calculated as follows:

The Engineer has determined that the increase in the special benefits enjoyed by the parcels in Benefit Zone B, due to direct views of Panhandle Park, is 10%. However, this additional special benefit is offset by a parallel increase in negative factors, primarily noise. Therefore, the additional special benefit in Zone B is reduced by 50% to 5%, and these parcels will be assessed an additional 5%, accordingly.

ASSESSMENT APPORTIONMENT

The assessments are apportioned among all lots and parcels within the Annexation Area on the basis of Single Family Equivalent (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 designated an SFE value, which is each property's relative benefit in relation to a single family home on one parcel. The "benchmark" property is the single family detached dwelling which is equal to one Single Family Equivalent benefit factor.

Blackstone is a residential development project consisting of 52 single family residences, 105 townhome style condominiums, and City-owned park property. Each residential property receives similar benefit from the proposed improvements. Therefore, the Engineer has determined that the appropriate method of apportionment of the benefits derived by all residential parcels is on an equivalent dwelling unit basis. Vacant parcels will also exist for a relatively short period of time prior to their development.

RESIDENTIAL PROPERTIES

All improved residential properties that represent a single residential dwelling unit, including both the single family residences and townhome style condominiums, are assigned 1.0 SFE. (The single family residences and townhome style condominiums are generally of similar size and generally house the same number of occupants and therefore are assessed the same SFE value.)

VACANT RESIDENTIAL

It is the Engineer's determination that approximately 30% of the benefit from the Improvements flows to the underlying land, and approximately 70% of the benefit flows to the improvements made to each parcel. Therefore, vacant residential land is assigned 0.30 SFE per parcel, until the parcel is improved.

OTHER PROPERTIES

There are no other property uses (other than vacant and residential) planned for the Annexation Area. If properties are developed in the future with other property uses, (i.e. commercial, agriculture, etc.), the engineer will individually calculate the associated special benefit for those properties at that time.

INITIATION OF ASSESSMENT ON PARCELS

Full benefit units will be assigned to all mapped and unmapped properties in the Annexation Area after the Improvements are installed, and costs are incurred by the Annexation Area.

ASSESSMENT

WHEREAS, the City Council of the City of Hayward, County of Alameda, California, pursuant to the provisions of the Landscaping and Lighting Act of 1972 and Article XIID of the California Constitution (collectively “the Act”), adopted its Resolution Initiating Proceedings for the Annexation of Blackstone property to Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1;

WHEREAS, said Resolution directed the undersigned Engineer of Work to prepare and file a report presenting an estimate of costs, a diagram for the Annexation Area and an assessment of the estimated costs of the improvements upon all assessable parcels within the Annexation Area, to which Resolution and the description of said proposed improvements therein contained, reference is hereby made for further particulars;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of the City of Hayward, hereby make the following assessments to cover the portion of the estimated cost of Improvements, and the costs and expenses incidental thereto to be paid by the Annexation Area.

WHEREAS, the undersigned Engineer of Work has prepared and filed a report presenting an estimate of costs, a diagram for the Annexation Area and an assessment of the estimated costs of the improvements upon all assessable parcels within the Annexation Area;

NOW, THEREFORE, the undersigned, by virtue of the power vested in me under said Act and the order of the City Council of the City of Hayward, County of Alameda, California, hereby make 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 Annexation Area.

The amount to be paid for Improvements and expenses incidental thereto, that are to be paid by the annexation of Blackstone property to Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1, for the Fiscal Year 2016-17, are detailed below.

**FIGURE 5 – SUMMARY COST ESTIMATE FOR BLACKSTONE ANNEXATION TO BENEFIT ZONE NO. 13
FOR FISCAL YEAR 2016-17**

| Budget Item | Cost |
|---------------------|-----------------|
| Total Annual Costs | \$63,445 |
| Incidentals | \$1,079 |
| Total Budget | \$64,524 |

As required by the Act, an Assessment Diagram is hereto attached and made a part hereof showing the exterior boundaries of said Blackstone Annexation Area. The distinctive number of each parcel or lot of land in said property proposed for annexation into existing Benefit Zone No. 13 of the said Landscaping and Lighting Assessment District No. 96-1, is its Assessor Parcel Number appearing on the Assessment Roll.

And I do hereby assess and apportion said 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 said Blackstone Annexation Area, in accordance with the special benefits to be received by each parcel or lot from the improvements, and more particularly set forth in the Cost Estimate and Method of Assessment hereto attached and by reference made a part hereof.

The assessments are made upon the parcels or lots of land within Blackstone Annexation Area, in proportion to the special benefits to be received by the parcels or lots of land, from the Improvements.

The assessments are subject to an annual adjustment tied to the Consumer Price Index for the San Francisco Bay Area as of December of each succeeding year, with the maximum annual adjustment not to exceed 3%. In the event that the annual change in the CPI exceeds 3%, any percentage change in excess of 3% can be cumulatively reserved and can be added to the annual change in the CPI for years in which the CPI change is less than 3%.

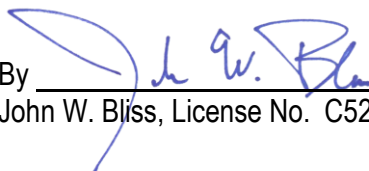
Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of Alameda for the fiscal year 2016-17. For a more particular description of said property, reference is hereby made to the deeds and maps on file and of record in the office of the County Recorder of the County.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2016-17 for each parcel or lot of land within said Landscaping and Lighting Assessment District No. 96-1.

Dated: May 3, 2016

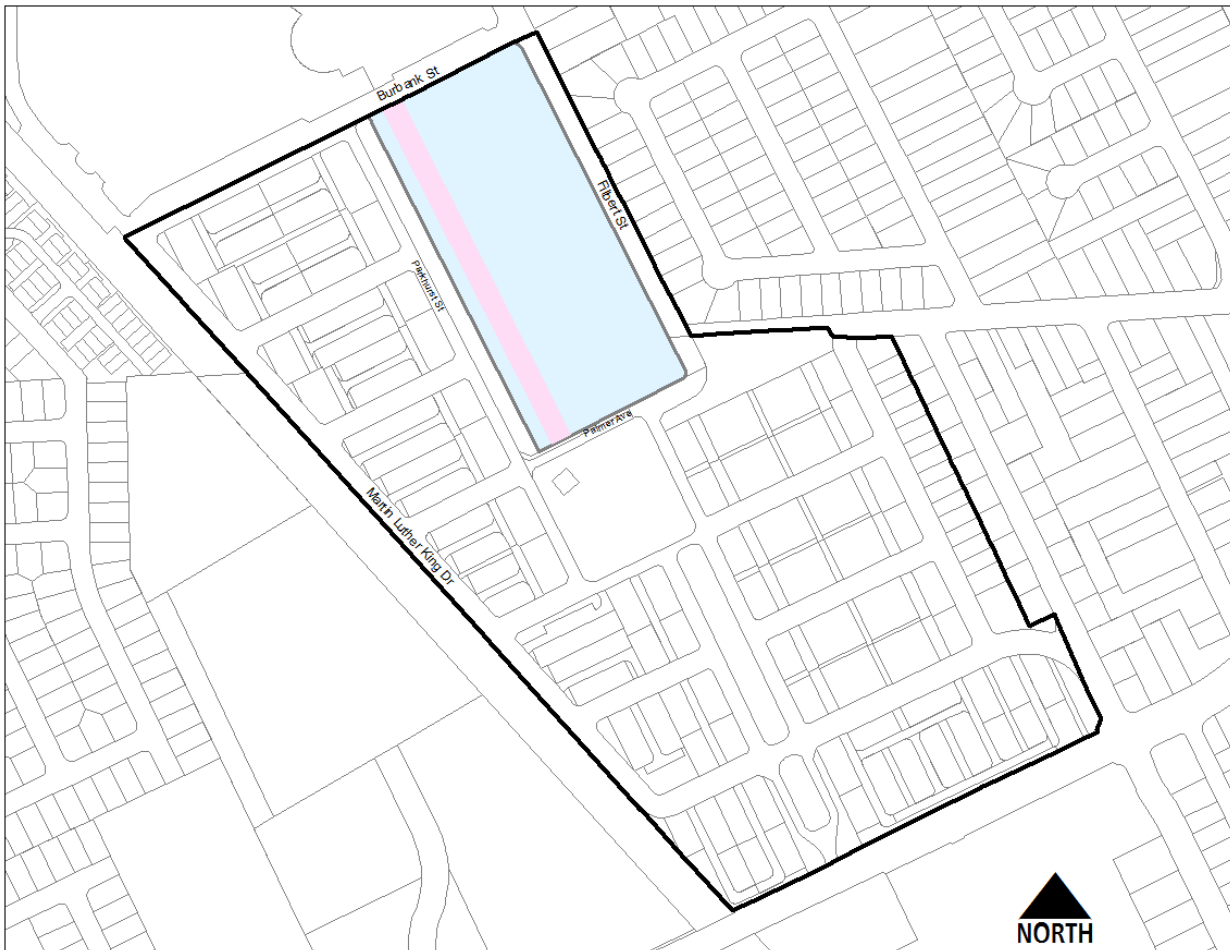


Engineer of Work

By  _____
John W. Bliss, License No. C52091

ASSESSMENT DIAGRAM

The boundaries of the Blackstone Annexation Area proposed to be annexed into Benefit Zone No. 13 of Landscaping and Lighting Assessment District No. 96-01 is displayed on the following Assessment Diagram.



FILED IN THE OFFICE OF THE CLERK OF THE COUNCIL,
CITY OF HAYWARD, COUNTY OF ALAMEDA, CALIFORNIA,
THIS ____ DAY OF _____, 2016.

CLERK OF THE COUNCIL, CITY OF HAYWARD




RECORDED IN THE OFFICE OF THE CLERK OF THE COUNCIL,
CITY OF HAYWARD, COUNTY OF ALAMEDA, CALIFORNIA,
THIS ____ DAY OF _____, 2016.

CLERK OF THE COUNCIL, CITY OF HAYWARD

AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE
CITY COUNCIL, CITY OF HAYWARD, COUNTY OF SOLANO,
CALIFORNIA, ON THE LOTS, PIECES AND PARCELS OF
LAND ON THIS ASSESSMENT DIAGRAM ON THE ____
DAY OF _____, 2016 FOR FISCAL YEAR 2016-17 AND
SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL
FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF
THE COUNTY AUDITOR OF THE COUNTY OF ALAMEDA ON
THE ____ DAY OF _____, 2016.

REFERENCE IS HEREBY MADE TO SAID RECORDED
ASSESSMENT ROLL FOR THE EXACT AMOUNT OF
EACH ASSESSMENT LEVIED AGAINST EACH
PARCEL OF LAND.

CLERK OF THE COUNCIL, CITY OF HAYWARD

-  Zone 13: Cannery Place
Blackstone Annexation
-  Zone A
-  Zone B

Note: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS
OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY
OF ALAMEDA FOR A DETAILED DESCRIPTION OF THE LINES
AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN.

SCI Consulting Group
4745 Mangels Boulevard
Fairfield, CA 94534

CITY OF HAYWARD
LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT 96-01
BLACKSTONE ANNEXATION TO BENEFIT ZONE NO. 13
ASSESSMENT DIAGRAM

ASSESSMENT ROLL

An Assessment Roll (a listing of all parcels proposed to be annexed into Benefit Zone No. 13 of the Landscaping and Lighting Assessment District No. 96-1, and the amount of the assessments) is shown below.

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.

| Parcel | Owner | Developed Property Assessment |
|------------------|----------------------|-------------------------------|
| 431 -0109-003-04 | TRI POINTE HOMES INC | \$64,524.00 |
| | Totals | \$64,524.00 |

Note: The assessments listed above indicate amounts *at buildout* and are based on the developed property rate of \$407.86 per Single Family Equivalent (SFE).

This is the maximum, proposed rates that shall be levied for all proposed or actual dwelling units on improved and unimproved property in the Assessment District. Such assessments shall be levied for all proposed or actual dwelling units and unimproved property in the Assessment Districts, as increased annually by the CPI adjustment.