

RESOLUTION NO. 03-91

A RESOLUTION OF THE CITY OF LOS ALTOS OF INTENTION TO MAKE ACQUISITIONS AND IMPROVEMENTS

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 (the "County"), California, that

1. **Intention.** The public interest, convenience and necessity require, and that it intends to order the making of the acquisitions and improvements (the "Improvements") described in Exhibit "A" attached hereto and made a part hereof in and for the City's proposed Raymundo Avenue Curb and Gutter Assessment District (the "Assessment District")

2. **Law Applicable.** Except for the public hearing and assessment ballot proceedings and the issuance of bonds, all of the proceedings shall be conducted under the Municipal Improvement Act of 1913, Division 12 of the Streets and Highways Code of California (the "Act").

3. **Grades.** This Council does hereby adopt and establish as the official grades for the work the grades and elevations to be shown upon the plans, profiles and specifications. All such grades and elevations are to be in feet and decimals thereof with reference to the datum plane of this City. Notice is hereby given that in case the Improvements bring the finished work to a grade different from that formerly existing and to the extent the grades are thereby changed, the work will be done to the changed grades.

4. **Work on Private Property.** In cases where there is any disparity in level or size between the Improvements proposed to be made herein and private property and where it is more economical to eliminate such disparity by work on the private property than by adjustment of the work on public property, it is hereby determined that it is in the public interest and more economical to do such work on private property to eliminate such disparity. In such cases, the work on private property shall, with the written consent of the owner of the property, be done and the actual cost thereof may be added to the proposed assessment of the lot on which the work is to be done.

5. **Descriptions - General.** The descriptions of the Improvements and the termini of the work contained in this Resolution are general in nature. All items of work do not necessarily extend for the full length of the description thereof. The plans and profiles of the work and maps and descriptions as contained in the Engineer's Report, hereinafter directed to be made and filed, shall be controlling as to the correct and detailed description thereof.

6. **Special Benefit and Boundary Map.** The contemplated Improvements, in the opinion of this Council, are of special benefit, and the costs and expenses thereof are made chargeable upon an Assessment District, the exterior boundaries of which are shown on a map thereof on file in the office of the City Clerk, to which reference is hereby made for further particulars. The map indicates by a boundary line the extent of the territory included in the proposed City and shall govern for all details as to the extent of the Assessment District.

7. Public Property Exempt. This Council declares that all public streets, highways, lanes and alleys within the Assessment District in use in the performance of a public function, and all lands owned by any public entity, including the United States and the State of California, or any departments thereof, shall be omitted from the assessment hereafter to be made to cover the costs and expenses of the Improvements, except and to the extent found to be specially benefited from the Improvements herein provided

8. Engineer's Report. The Improvements are hereby referred to James C. Porter, P.E., Public Works Director, City of Los Altos, California as the Engineer of Work under the Act for the Assessment District (the "Engineer of Work"), and the Engineer of Work is hereby directed to make and file with the Secretary a report in writing, presenting the following:

(a) Maps and descriptions of the lands and easements to be acquired, if any;

(b) Plans and specifications of the proposed Improvements if the Improvements are not already installed. The plans and specifications do not need to be detailed and are sufficient if they show or describe the general nature, location, and extent of the Improvements. The plans or specifications may be prepared as separate documents, or either or both may be incorporated in the Engineer's Report as a combined document.

(c) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the Improvements, if the works, appliances, or property are to be acquired as part of the Improvements.

(d) An estimate of the cost of the Improvements and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the Improvements, including any cost of registering bonds.

(e) A diagram showing, as they existed at the time of the passage of this Resolution, all of the following:

(i) The exterior boundaries of the Assessment District.

(ii) The boundaries of any zones within the City.

(iii) The lines and dimensions of each parcel of land within the City.

Each subdivision, shall be given a separate number upon the diagram. The diagram may refer to the County's assessor's maps for a detailed description of the lines and dimensions of any parcels, in which case those maps shall govern for all details concerning the lines and dimensions of the parcels.

(f) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the City in proportion to the estimated benefits to be received by each subdivision, respectively, from the improvement. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (e).

When any portion or percentage of the costs and expenses of the Improvements is to be paid from sources other than assessments, the amount of such portion or percentage shall first be deducted from the total estimated cost and expenses of the Improvements, and the assessment shall include only the remainder of the estimated cost and expenses.

9. Use of Surplus. If any excess shall be realized from the assessment it shall be used, in such amounts as this Council may determine, in accordance with the provisions of the Act, for one or more of the following purposes:

(a) Transfer to the general fund of this City, provided that the amount of any such transfer shall not exceed the lesser of \$1,000 or 5% of the total amount expended from the improvement fund;

(b) As a credit upon the assessment and any supplemental assessment or for the redemption of bonds, or both; or

(c) For the maintenance of the Improvements.

10. Contact Person. Jim Gustafson, Assistant Director of Public Works, is hereby designated as the person to answer inquiries regarding any protest proceedings to be had herein, and may be contacted during regular office hours at City of Los Altos, City Offices, 1 North San Antonio Road, Los Altos, CA 94022 telephone (650) 947-2621.

11. Contracts with Others. To the extent that any of the Improvements indicated in the Engineer's Report, to be made as provided herein, are shown to be connected to the facilities, works or systems of, or are to be owned, managed and controlled by, any public agency or party other than the City, or of any public utility, it is the intention of this Council to enter into an agreement with such public agency or public utility pursuant to Chapter 2 (commencing with Section 10100) of the Act, which agreement may provide for, among other matters, the ownership, operation and maintenance by such agency, party or utility of the Improvements, and may provide for the installation of all or a portion of such Improvements by the agency, party or utility and for the providing of service to the properties in the area benefiting from the Improvements by such agency or utility in accordance with its rates, rules and regulations, and that such agreement shall become effective after proceedings have been taken for the levy of the assessments and sale of bonds and funds are available to carry out the terms of any such agreement.

12. Improvement Bonds. Notice is hereby given that serial and/or term improvement bonds (the "Bonds") to represent unpaid assessments, and bear interest at the rate of not to exceed twelve percent (12%) per annum, or such higher rate of interest as may be authorized by applicable law at the time of sale of such bonds, will be issued hereunder in the manner provided by the Improvement Bond Act of 1915, Division 10 of the California Streets and Highways Code (the "Bond Law"), the last installment of which Bonds shall mature not to exceed twenty-nine (29) years from the second day of September next succeeding twelve months from their date. The provisions of Part 11.1 of the Bond Law, providing an alternative procedure for the advance payment and calling of the Bonds, shall apply to the Bonds issued in these proceedings. It is the intention of this Council to create a special reserve fund pursuant to and as authorized by Part 16 of the Bond Law. It is the intention of the City that it will not obligate itself to advance available funds from the treasury of the City to cure any deficiency in the redemption fund to be created with respect to the

bonds; provided, however, that a determination not to obligate itself shall not prevent the City from, in its sole discretion, so advancing funds.

13. Refunding of Bonds. The Bonds may be refunded under the provisions of Division 11.5 of the California Streets and Highways Code upon the determination of the Council of the City that the public interest or necessity requires such refunding. Such refunding may be undertaken by the Council when, in its opinion, lower prevailing interest rates may allow reduction in amount of the installments of principal and interest upon the assessments to given to owners of property assessed for the works herein described. The refunding bonds shall bear interest at a rate not to exceed that which is stated in the resolution of the Council expressing its intention to issue the refunding bonds, which resolution of intention shall also set forth the maximum term of years of the refunding bonds. Any adjustment to assessments resulting from the refunding will be done on a pro-rata basis. The refunding shall be accomplished pursuant to Division 11.5 (commencing with Section 9500) of the California Streets and Highways Code, except that, if, following the filing of the Engineer's Report specified in Section 9523 and any subsequent modifications of the Engineer's Report, the Council finds that each of the conditions specified in the resolution of intention to issue the refunding bonds is satisfied and that adjustments to the assessments are on a pro-rata basis, the Council may approve and confirm the Engineer's Report and may, without further proceedings, authorize, issue and sell the refunding bonds pursuant to Chapter 3 (commencing with Section 9600) of Division 11.5 of the California Streets and Highways Code.

14. No Private Contract. In the event the City undertakes to construct any or all of the Improvements by public contract, the City determines that the public interest will not be served by allowing the property owners of properties assessed to take the contract for such construction of the Improvements and therefore that, pursuant to Section 20487 of the California Public Contract Code, no notice of award of contract shall be published.

15. Division 4. It is the intention of this Council to comply with Division 4 of the Streets and Highways Code of California by proceeding under Part 7.5 thereof. To that end, the Engineer of Work is hereby directed to include in the Engineer's Report all of the material specified by such Part 7.5 and for which the total true value shall be as provided in a current appraisal of the lands in the Assessment District.

16. Reimbursement Declaration. The City intends to issue the Bonds, which are "Obligations" under United States Income Tax Regulations section 1.150-2 (the "Regulations"), in the maximum principal amount of approximately \$250,000. to finance all or a portion of the costs of the Improvements. The Council hereby declares that the City reasonably expects to use a portion of the proceeds of the Bonds for reimbursement of expenditures for the Improvements that are paid before the date of issuance of the Bonds. This section of this resolution shall be solely for the purpose of complying with the provisions of the Regulations and shall not be deemed an approval of all or any part of the Assessment District or a commitment on the part of this Council to issue any or all of the Bonds or otherwise provide for financing.

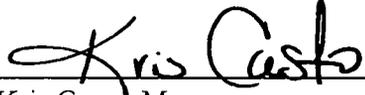
17. Effective. This resolution shall take effect upon adoption.

I HEREBY CERTIFY that the forgoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a regular meeting thereof held on the 14th day of October, 2003 by the following role call vote:

AYES: MOSS, LA POLL, BECKER, LEAR, CASTO

NOES: NONE

ABSENT: NONE


Kris Casto, Mayor

ATTEST


Susan Kitchens, City Clerk

EXHIBIT A

CITY OF LOS ALTOS Raymundo Avenue Curb & Gutter Assessment District

DESCRIPTION OF IMPROVEMENTS

Within the City of Los Altos (the "City"), the construction and/or acquisition of the following Improvements, including all planning, design, contingencies, construction administration and general administration services, the acquisition of all necessary rights of way, the acquisition of licenses, franchises and permits and the construction of all auxiliary work necessary and/or convenient to the accomplishment thereof, in accordance with the plans and specifications to be approved by the City Council of the City, together with all required demolition, clearing, grubbing, staking and the incidental costs of financing, including, but not limited to, capitalized interest, discounts, legal, financial advisory services, engineering and appraisals:

To create a smooth transition from the top of curb to the existing landscaping install concrete suburban (rolled) gutters along both sides of Raymundo Avenue, from North Springer Road to Mountain View Avenue, consistent with the City's requirements for new development. The width of the pavement between the curbs will be 30'. Each fronting property to receive a new driveway approach/conform in the area between the new concrete gutter and the front property line. The improvements include the removal of all paved parking areas, except driveway conforms, so that front yard landscaping can be extended to the new curb.

Following the completion of the concrete curb work, the street will be resurfaced from curb to curb. This resurfacing work will be a combination of asphalt overlay or localized reconstruction depending on whether the existing street surface elevation provides proper slope to the new curb flowline elevations for storm water conveyance. The area behind the curb and the property line will be backfilled with plantable topsoil.