

## RESOLUTION NO. 2012 -

### A RESOLUTION OF INTENTION TO MAKE ACQUISITIONS AND IMPROVEMENTS

#### AROMAS WATER DISTRICT Assessment District No. 2012-1

**WHEREAS**, the Aromas Water District (the "District") has commenced proceedings for the formation of a proposed assessment district (the "Assessment District") in order to finance certain acquisitions and improvements described in Exhibit "A" attached hereto; and

**WHEREAS**, at the request of the District, Freitas + Freitas Engineering and Planning Consultants, Inc., prepared a map specifying the exterior boundaries of the assessment district (the "Boundary Map"); and

**WHEREAS**, the District has submitted a copy of the Boundary Map and this Resolution to the County of Monterey for its approval as required under Streets and Highways Code §10104; and

**WHEREAS**, on \_\_\_\_\_, 2012, the County of Monterey approved the Map and this proposed Resolution;

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED** by the Board of Directors (the "Board") of the District as follows:

**Section 1. Intention.** The public interest, convenience and necessity require, and the Board intends to order, the "Work," as defined in Exhibit "A" attached to and incorporated by reference in this resolution, for the Assessment District. The Assessment District shall be known as "Aromas Water District Assessment District No. 2012-1."

**Section 2. Law Applicable.** Except as herein otherwise provided for the issuance of bonds, all the improvements shall be constructed as provided in the Municipal Improvement Act of 1913 (Division 12 of the Streets and Highways Code of California) (the "Act").

**Section 3. Nature and Location of, and Grades for, Improvements.** The Work is to be completed in the manner specified in the plans, profiles and specifications to be made therefor, as hereinafter provided. There is to be excepted from the Work anything already done to line and grade and marked excepted or shown not to be done in the plans, profiles and specifications. Whenever any public way is herein referred to as running between two public ways, or from or to any public way, the intersections of the public ways referred to are included to the extent that work is shown on the plans to be done therein. The streets and highways are or will be more particularly shown in the records in the offices of the Monterey County Recorder, and shall be shown upon the plans.] [Clarify?]

**Section 4. Change of Grade.** Notice is hereby given of the fact that in many cases the Work will result in a grade different from that currently existing.

**Section 5. 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 the disparity by Work on the private property than by

adjustment of the Work on public property, this Board hereby determines that it is in the public interest and more economical to do the Work on private property to eliminate the disparity. In that case, 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.

**Section 6. Official Grades.** This Board hereby adopts and establishes as the official grades for the Work the grades and elevations to be shown in the plans, profiles and specifications. All the grades and elevations are to be in feet and decimals thereof with reference to the datum plane of this District.

**Section 7. Descriptions - General.** The descriptions of the Work contained in this resolution are general in nature and are not intended to be complete. The information contained in the Engineer's Report, hereinafter directed to be made and filed, shall be controlling as to the correct and detailed description of the Work.

**Section 8. Special Benefit and Boundary Map.** This Board finds the contemplated Work to be of more than local or ordinary public benefit, and the related costs and expenses are made chargeable upon the Assessment District. The exterior boundaries of the Assessment District are shown on a map thereof on file in the office of the Secretary, to which reference is hereby made for further particulars. The map indicates the extent of the territory proposed to be included in Assessment District and shall govern for the purpose of determining the extent of the Assessment District.

**Section 9. Public Property.** This Board declares that all public streets, highways, lanes, alleys, and properties owned by the United States, the State of California or any local government, or any of their political subdivisions, located within the Assessment District and serving a public function shall be omitted from the assessment hereafter to be made unless they constitute lands (a) owned by a public school or community college district; (b) acquired by a public agency through the foreclosure or deed in lieu of such foreclosure of a purchase money mortgage, deed of trust or similar security interest in favor of the United States, the State of California or any local government, or any of their political subdivisions; or (c) receiving a special benefit from the Work.

**Section 10. Engineer's Report.** Freitas + Freitas Engineering and Planning Consultants, Inc., being a competent firm employed for the purpose hereof as the Engineer of Work for this Assessment District (the "Engineer of Work"), is hereby directed to make and file with the District Secretary a report in writing (the "Engineer's Report"), 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. If the Assessment District is divided into zones, the plans and specifications shall indicate the class and the type of improvements to be provided for each zone. 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 issuing and registering bonds.

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

(1) The exterior boundaries of the Assessment District.

(2) The boundaries of any zones within the Assessment District.

(3) The lines and dimensions of each parcel of land within the Assessment District.

Each parcel shall be given a separate number upon the diagram, and each zone within the Assessment District shall be separately identified. The diagram may refer to the county 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 parcels of land in the Assessment District in proportion to the estimated benefits to be received by each parcel, respectively, from the improvement. The assessment shall refer to the parcels by their respective numbers as assigned pursuant to subparagraph (e) above. When any portion or percentage of the costs and expenses of the acquisitions and 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 acquisitions and improvements, and the assessment shall include only the remainder of the estimated cost and expenses.

(g) A proposed maximum annual assessment upon each of the several parcels of land in the Assessment District to pay costs incurred by the District and not otherwise reimbursed resulting from the administration and collection of assessments or from administration or registration of any associated bonds and reserve or other related funds.

**Section 11. Use of Surplus.** If any excess is realized from the assessment, it shall be used, in such amounts as this Board 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 District, provided that the amount of any such transfer may 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.

**Section 12. Contact Person.** The General Manager of the District is hereby designated as the person to answer inquiries regarding any protest proceedings with respect to the proposed assessment.

Any inquiries should be directed during regular office hours to:

Vicki Morris, General Manager  
Aromas Water District  
P.O. Box 388  
Aromas, California 95004  
Telephone: (831) 726-3155.

**Section 13. Contracts with Others.** To the extent that any of the work, rights, improvements and acquisitions indicated in the Engineer's Report, to be made as provided herein, is shown to be connected to the facilities, works or systems of, or are to be owned, managed and controlled by, any public agency other than this District, or any public utility, this Board intends to enter into an agreement with the 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 the public agency or public utility of the works, rights, improvements and acquisitions the installation of all or a portion of the improvements by the public agency or utility and the service to the properties in the area benefiting from the work, rights, improvements and acquisitions, and that the agreement shall become effective after proceedings have been conducted for the levy of the assessments and sale of bonds, and funds are available to carry out the terms of any such agreement.

**Section 14. Improvement Bonds.** Notice is hereby given that serial or term improvement bonds to represent unpaid assessments ("Bonds"), bearing interest at a rate not to exceed the maximum permitted by applicable law, 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 shall mature not to exceed 39 years from the September 2 next succeeding 12 months from their issue date. The Bonds shall be issued in such series and mature in such principal amounts at the times as shall be determined by this Board at the time of their issuance. The provisions of Part 11.1 of the Bond Law, providing an alternative procedure for the advance payment and redemption of bonds, shall apply to the Bonds. This Board intends to create a special reserve fund pursuant to and as authorized by Part 16 of the Bond Law. This Board intends that the District will not obligate itself to advance available funds from the treasury of the District to cure any deficiency in the redemption fund created for the Bonds; provided, however, that a determination not to obligate itself shall not prevent the District from, in its sole discretion, so advancing funds.

**Section 15. Refunding of Bonds.** The Bonds may be refunded pursuant to Division 11.5 of the California Streets and Highways Code upon the determination of this Board that the public interest or necessity requires such refunding. Such refunding may be undertaken by this Board when, in its opinion, lower prevailing interest rates may allow reduction in the amount of the installments of principal and interest upon the assessments given to owners of property assessed for the Works. The refunding bonds shall bear interest at a rate not to exceed that which is stated in the resolution of this Board 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. 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 report specified in Section 9523 and any subsequent modifications of the report, this Board finds that each of the conditions specified in that resolution of intention is satisfied and adjustments to the assessments are on a pro-rata basis, this Board may approve and confirm the 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.

**Section 16. Division 4.** This Board intends 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 the material specified by such Part 7.5 and for which the total true value shall be estimated as the full cash value of the parcels of land in the Assessment District, as shown on the last equalized assessment rolls of the County of Monterey.

**Section 17. No Private Contract.** Notice is hereby given that, in the opinion of this Board, the public interest will not be served by allowing the property owners to take the contract for the 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.

**Section 18. Reimbursement Declaration.** The District intends to issue the Bonds, which are "Obligations" under Section 1.150-2 of the regulations of the Internal Revenue Code of 1986, as amended (the "Regulations") This Board hereby declares that the District 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 Board to issue any or all of the Bonds or otherwise provide for financing.

**Section 19. Professionals Appointed.** The District hereby appoints Jones Hall, A Professional Law Corporation, San Francisco, California, as bond counsel. The General Manager, President of the Board, and District Counsel are hereby authorized and directed to enter into an appropriate agreement with this firm for its services to the District for the formation of the Assessment District and the issuance, sale and delivery of the Bonds.

\*\*\*\*\*

The foregoing Resolution was duly and regularly introduced, passed, and adopted by the Board of Directors of the Aromas Water District at a regular meeting thereof held on the day of        2012.

AYES:

NOES:

ABSENT:

---

Attest: Laurie Goodman, Board Secretary

Ernest Huggins, Board President

## **EXHIBIT A**

### **AROMAS WATER DISTRICT Assessment District No. 2012-1**

“Work” means the construction and acquisition of the following public improvements within the Aromas Water District (the “District”), County of Monterey, State of California:

(i) the installation of buried 6” and 8” pipe, fire hydrants, line valves, water services, air relief valves and other pipeline appurtenances and clearing, grubbing, demolition, underground piping, site grading, pavement, installation of a new 100,000 gallons bolted steel water storage tank, installation of a factory constructed booster pump station including building, electrical, control, telemetry and appurtenances all work to the satisfaction of the District as shown on the drawings in complete working condition.

(ii) the making of all acquisitions and the doing of all work auxiliary to any of the work, acquisitions and improvements previously described and that are necessary to complete the same.

These public improvements will include the acquisition of all lands, easements, rights-of-way, licenses, franchises, rights of service and use, and permits and the construction of all auxiliary work necessary and/or convenient to the accomplishment thereof in accordance with plans and specifications to be approved by the Aromas Water District.