

RESOLUTION NO. 2006-37

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE:

(1) ORDERING FORMATION OF PUBLIC FACILITIES MAINTENANCE DISTRICT NO. 1, INCLUDING ZONE 1 THEREIN; AND

(2) CONFIRMING THE DIAGRAM AND ASSESSMENT OF FIRST ANNUAL LEVY FOR FISCAL YEAR 2006-2007 FOR PUBLIC FACILITIES MAINTENANCE DISTRICT NO. 1, ZONE 1

WHEREAS, on June 6, 2006, the City Council of the City of Lemoore adopted Resolution No. 2006-29, "A Resolution of Intention to Order Formation of City of Lemoore Landscaping and Lighting District No. 2 and to Levy and Collect Annual Assessments in Zone 1 Thereof for Fiscal Year 2006-07" (the "Resolution of Intention"), whereby the City Council declared its intention to order formation of a maintenance assessment district and the levy and collection of annual assessments therein under the authority of Chapter 10 of Title 7 of the Lemoore Municipal Code, as enacted by Ordinance No. 2006-01 (the "Ordinance"), and according the procedures in the Proposition 218 Omnibus Implementation Act (Government Code Sections 53750--53753.5, inclusive) (the "Implementation Act"), Article XIID of the California Constitution ("Proposition 218") and, to the extent not inconsistent with the Ordinance, the procedures in the State Landscaping and Lighting Act of 1972 (Chapter 2 of Part 2 of Division 15 of the California Streets & Highways Code) (the "Landscaping & Lighting Act"); and

WHEREAS, at the direction of the City Council, the City Engineer prepared and has filed with the City Clerk a report labeled Engineer's Report and Assessment, Public Facilities Maintenance District No. 1, Zone 1, City of Lemoore (the "Report"), to which reference is hereby made, which Report contains a description of the improvements and the maintenance, operation, repair and periodic replacement services to be provided therein, the boundaries of the maintenance assessment district and Zone 1, including the general location of the improvements, and the proposed assessment upon assessable lots and parcels of land within the proposed maintenance assessment district, including Zone 1; and

WHEREAS, the City Council has determined that the distinctive designation of the proposed maintenance assessment district given in the Resolution of Intention, "City of Lemoore Landscaping and Lighting District No. 2," should be changed to "City of Lemoore Public Facilities Maintenance District No. 1," the designation given in the Report; and

WHEREAS, the City Engineer also prepared and filed with the City Clerk a map of the boundaries of the proposed maintenance assessment district, including Zone 1; and

WHEREAS, the proceeds of the assessments proposed to be levied and collected on the separate lots and parcels in the maintenance assessment district, including Zone 1, will be used exclusively to finance the expenses for maintenance, operation, repair and periodic replacement of certain landscaping, street lights, local street paving, parks and appurtenant facilities described in the Report for the 2006-2007 fiscal year (the "Services"), which Services will provide particular, distinct special benefits to the various parcels in the proposed maintenance assessment district, including Zone 1 thereof, over and above the benefits conferred on the public at large; and

WHEREAS, the amount of the proposed assessment on each lot or parcel in the maintenance assessment district, including those in Zone 1, is proportional to and no greater than the particular, distinct special benefits conferred on such lot or parcel from the Services; and

WHEREAS, after notice by publication of the Resolution of Intention and after notice by mail to the record owners of all lots and parcels within the boundaries of the proposed maintenance assessment district, including Zone 1, as required by the Ordinance, the Proposition 218, the Implementation Act and the Landscaping & Lighting Act, the City Council conducted a public hearing, heard and considered all objections and protests to the formation of the proposed maintenance assessment district, the boundaries of the proposed maintenance assessment district, including Zone 1, the Services, the proposed diagram and the proposed assessments; and, at the conclusion thereof, the City Clerk tabulated all assessment ballots submitted and not withdrawn in support of or in opposition to formation of the proposed maintenance assessment district and assessment of the lots and parcels therein, including Zone 1, announced the results; and

WHEREAS, the City Council has determined, based on such ballot tabulation, that a majority protest to the proposed formation and assessment does not exist, in that the assessment ballots submitted and not withdrawn in favor of the proposed formation and assessment exceed the assessment ballots submitted and not withdrawn in opposition; and

WHEREAS, the City Council has further determined that all of the property owners within the proposed maintenance assessment district, including Zone 1, either have consented to the formation of the district and the levy of the assessments proposed for the 2006-2007 fiscal year or have failed to file a majority protest against the proposed annual assessment in the manner provided by law;

THEREFORE, the City Council of the City of Lemoore resolves, finds and determines as follows:

1. The Resolution of Intention is amended to provide that the distinctive designation of the maintenance assessment district is "City of Lemoore Public Facilities Maintenance District No. 1" (the "District"), for all purposes of these proceedings.

2. The recitals, findings and determinations in the Resolution of Intention, as amended in paragraph 1, are hereby restated and confirmed. The recitals in the Resolution of Intention and in this resolution, above, are true and correct.

3. The formation of the District is hereby ordered. All territory whose boundaries are set forth in the Report on file with the City Clerk, is included in and made part of District as Zone 1 thereof. The map of the boundaries of the District, prepared by the City Engineer and showing Zone 1, is approved.

4. The territory within the District, including Zone 1, whose boundaries are set forth in the Report, will be the territory directly and specially benefited, over and above the benefits conferred on the public at large, from the Services described in the Report.

5. The hearing on the formation of the District, the boundaries of the District, including Zone 1, the Services and the first annual levy of assessments in the District, including Zone 1, was noticed and held in accordance with law.

6. The Report, including the diagram of the District and the assessment of the estimated costs of the Services contained in the Report, and each and every part of the Report, is finally adopted, confirmed and approved.

7. The assessment diagram showing the District and the lots and parcels of land within the District, including Zone 1, all as contained in the Report, is finally approved and confirmed as the diagram of the lots and parcels within the District to be assessed to pay the costs of the Services described in the Report.

8. The assessment of the total amount of the costs and the individual assessments thereof on the lots and parcels within the Zone 1 of the District in proportion to the special benefits to be conferred on each such lot or parcel from the Services, and of the expenses incidental thereto, as set forth in the Report, is finally approved and confirmed as the annual assessment for the 2006-2007 fiscal year to pay such costs and the first annual assessment for the District.

9. The levy of the first annual assessment within the District, including Zone 1, for fiscal year 2006-2007, as described in the Resolution of Intention and the Report, is hereby ordered.

10. The City Clerk is authorized and directed to file the diagram of the District, including Zone 1, and assessments therein, as approved and confirmed by the City Council and containing all information and statements required by Section 3114 of the Streets & Highways Code, with the Kings County Recorder immediately after adoption of this resolution. The City Clerk is further authorized and directed to record a notice of assessment with respect to the District pursuant to Streets & Highways Code Section 3114. The City Clerk is further

authorized and directed to file the map of the boundaries of the District, including Zone 1, as approved by the City Council and containing all information and statements provided for in Streets & Highways Code Sections 3110 and 3113, with the Kings County Recorder not later than 10 days after the date this resolution is adopted. The City Clerk is further authorized and directed, prior to filing or recording any of the above documents, to ensure that the designation of the District on each document is changed as provided in paragraph 1 of this resolution.

11. This resolution shall take effect immediately upon adoption.

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Passed and adopted at a Regular Meeting of the City Council of the City of Lemoore held on the 1st day of August, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

APPROVED:

Thomas E. Buford
Mayor

ATTEST:

Nanci C. O. Lima, City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, Nanci C. O. Lima, City Clerk of the City of Lemoore do hereby certify the foregoing Resolution of the City Council of the City of Lemoore was duly passed and adopted at a Regular Meeting held on August 1, 2006.

DATED: August 2, 2006

Nanci C. O. Lima
City Clerk