

**RESOLUTION NO. 2008-25**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE:**

**(1) ORDERING ANNEXATION AND INCLUSION OF ADDITIONAL TERRITORIES TO ZONE 1 OF PUBLIC FACILITIES MAINTENANCE DISTRICT NO. 1; AND**

**(2) CONFIRMING THE DIAGRAM AND ASSESSMENT OF ANNUAL LEVY FOR FISCAL YEAR 2008-2009 FOR THE ADDITIONAL TERRITORIES ANNEXED TO AND INCLUDED IN ZONE 1 OF PUBLIC FACILITIES MAINTENANCE DISTRICT NO. 1**

**WHEREAS**, pursuant to 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, 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"), the City Council of the City of Lemoore declared its intention to form, conducted all proceedings to form and did form Public Facilities Maintenance District No. 1 of the City of Lemoore (the "PFMD"), and has thereafter levied and collected the first assessment for maintenance, operation, repair and periodic replacement of landscaping, street lights, local streets, parks and other appurtenant facilities and improvements described as follows:

Plants, shrubbery, trees, turf, irrigation systems, entry monuments, local street maintenance, parks, hardscapes, walls, fencing, street lights and appurtenant facilities in public rights-of-way and easements within the proposed boundaries of the PFMD,

(collectively, the "Facilities and Improvements") which provide particular, distinct special benefits to the various lots and parcels assessed over and above the general benefits conferred on such lots and parcels and the public at large; and

**WHEREAS**, the City has determined that lots and parcels within Tract No. 817, Phase 2, in the City of Lemoore, California (the "Added Territories"), receive such special benefits from the Facilities and Improvements within the Added Territories and therefore should be annexed to and included in the PFMD as part of Zone 1 thereof, and be subject to levy of annual assessments for the cost of maintenance, operation, repair and periodic replacement of such Facilities and Improvements; and

**WHEREAS**, at the direction of the City Council, the City Engineer has prepared and filed with the City Clerk a report entitled "Engineer's Report of the City of Lemoore Public Facilities Maintenance District No. 1, Annexation of Tract No. 817, Phase 2 (Lots 40-71) to Zone 1, 2008-2009 Tax Year," dated February, 2008 (the "Engineer's Report"), to which

reference is hereby made, which Engineer's Report contains a description of the existing Facilities and Improvements specially benefiting the lots and parcels within the Added Territories, the boundaries of the Added Territories proposed to be annexed to the PFMD in these proceedings, the Facilities and Improvements existing in and proposed for the Added Territories, and the general location and proposed assessments on the assessable lots and parcels of land within the Added Territories; and

**WHEREAS**, the City Engineer also has prepared and filed with the City Clerk an amended map of the boundaries of the PFMD, incorporating the Added Territories within the boundaries of Zone 1 of the PFMD, as proposed in these proceedings; and

**WHEREAS**, on March 4, 2008, the City Council adopted Resolution No. 2008-13, "A Resolution of Intention to (i) Annex and Include Additional Territories in Zone 1 of Public Facilities Maintenance District No. 1 in the City of Lemoore, and (ii) Levy and Collect Annual Assessments in Such Annexed Territory for Fiscal Year 2008-2009 and Thereafter" (the "Resolution of Intention"), whereby the City Council declared its intention to annex and include the territories within Tract No. 817, Phase 2, to Zone 1 of the PFMD and to levy and collect annual assessments within the Added Territories for maintenance, operation, repair and periodic replacement of the Facilities and Improvements specially benefiting the lots and parcels within such Added Territories, commencing with the 2008-2009 fiscal year; and

**WHEREAS**, the proceeds of the annual assessments will be used exclusively to finance the expenses for operation and maintenance of the Facilities and Improvements benefiting the lots and parcels within the Added Territories for the 2008-2009 fiscal year or other fiscal year for which such assessments are levied, which operation and maintenance will provide particular, distinct special benefits to the various lots and parcels in the Added Territories, over and above the general benefits conferred on such lots and parcels and the public at large; and

**WHEREAS**, the amount of the assessment to be levied on each lot or parcel in the Added Territories for the 2008-2009 fiscal year, as proposed in the Engineer's Report, is proportional to and no greater than the special benefits conferred on such lot or parcel from the maintenance, operation, repair and periodic replacement of the Facilities and Improvements described in the Engineer's Report; and

**WHEREAS**, after notice by mail to the record owners of all lots and parcels within the Added Territories, as shown in the last equalized assessment roll of the County of Kings, the State Board of Equalization assessment roll or as known to the City Clerk, as required by Streets & Highways Code Section 22588 and Government Code Section 53753, the City Council conducted a public hearing and heard and considered all objections and protests to 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 the proposed annexation and assessment of the lots and parcels in the Added Territories, and announced the results; and

**WHEREAS**, the City Council has determined, based on such ballot tabulation, that a majority protest to the proposed annexation and assessment of the lots and parcels within the

Added Territories does not exist, in that the assessment ballots submitted and not withdrawn in favor of the proposed annexation 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 Added Territories either have consented to the annexation to and inclusion in Zone 1 of the PFMD and the levy of the assessments proposed for the 2008-2009 fiscal year or have failed to file a majority protest against the proposed annexation and 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 recitals, findings and determinations in the Resolution of Intention are hereby restated and confirmed. The recitals in the Resolution of Intention and in this resolution, above, are true and correct.

2. All territories within Tract No. 187, Phase 2, whose boundaries are set forth in the Engineer's Report on file with the City Clerk, are annexed to and made part of Zone 1 of City of Lemoore Public Facilities Maintenance District No. 1. The amended map of the boundaries of the PFMD, prepared by the City Engineer and showing annexation of the Added Territories to Zone 1 thereof, is hereby approved.

3. The Added Territories, whose boundaries are set forth in the Engineer's Report, will be particularly, distinctly and specially benefited, over and above the general benefits conferred on such territories and the public at large, from maintenance, operation, repair and periodic replacement of the Facilities and Improvements described in the Engineer's Report.

4. The hearing on the annexation of the territories within the Added Territories to Zone 1 of the PFMD and the levy of annual assessments therein, commencing with the 2008-2009 fiscal year, was noticed and held in accordance with law.

5. The Engineer's Report, including the diagram of the Added Territories as part of Zone 1 of the PFMD and the assessment therein of the estimated costs of maintenance, operation, repair and periodic replacement of the Facilities and Improvements contained in the Engineer's Report, and each and every part of the Engineer's Report, is finally adopted, confirmed and approved.

6. The assessment diagram showing the lots and parcels of land within the Added Territories as part of Zone 1 of the PFMD, all as contained in the Engineer's Report, is finally approved and confirmed as the diagram of the lots and parcels within the Added Territories to be assessed to pay the costs of maintenance, operation, repair and periodic replacement of the Facilities and Improvements described in the Engineer's Report.

7. The assessment of the total amount of the costs and the individual assessments

thereof on the lots and parcels within the Added Territories in proportion to the direct special benefits to be conferred on each such lot or parcel from maintenance, operation, repair and periodic replacement of the Facilities and Improvements, and of the expenses incidental thereto, as set forth in the Engineer's Report, is finally approved and confirmed as the assessment for the 2008-2009 fiscal year to pay such costs.

8. The annexation and inclusion of the Added Territories within Zone 1 of the PFMD, and the levy of the annual assessments on all lots and parcels within the Added Territories for fiscal year 2008-2009, as described in the Resolution of Intention and the Engineer's Report, are hereby ordered.

9. The City Clerk is authorized and directed to file the diagram of the PFMD, including the Added Territories as part of Zone 1 thereof, and assessments therein, as approved and confirmed by the 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 Added Territories pursuant to Streets & Highways Code Section 3114. The City Clerk is further authorized and directed to file the amended map of the boundaries of the PFMD, incorporating the Added Territories within 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.

10. 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 6<sup>th</sup> day of May, 2008, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAINING:

APPROVED:

\_\_\_\_\_  
John F. Murray, 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 the 6<sup>th</sup> day of May, 2008

DATED: May 7, 2008

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Nanci C. O. Lima  
City Clerk