

RESOLUTION NO. 2009-26

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEMOORE
CONFIRMING THE DIAGRAM AND ASSESSMENT OF ANNUAL LEVY FOR
FISCAL YEAR 2009-2010 FOR PUBLIC FACILITIES MAINTENANCE
DISTRICT NO. 1, ZONES 1 & 2**

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, 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"), 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 "District"), and has thereafter levied and collected the first annual assessment for maintenance, operation, repair and periodic replacement of certain landscaping, street lights, local street paving, parks and appurtenant facilities and improvements within the District (the "Services") and which provide particular, distinct special benefits to the various lots and parcels assessed over and above general benefits conferred on such lots and parcels and the public at large; 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, Zones 1 and 2, dated June 2009 (the "Engineer's Report"), to which reference is hereby made, which Engineer's Report contains a description of the general nature, location and extent of the existing facilities and improvements within Zones 1 and 2 of the District, an estimate of the costs of the maintenance, operation, repair and periodic replacement of the facilities and improvements (the Services), a diagram showing the boundaries of the District and Zones 1 and 2 therein, the lines and dimensions of each lot or parcel of land within Zones 1 and 2, and the descriptions of and proposed assessments on the assessable lots and parcels of land within Zones 1 and 2; and

WHEREAS, at a regular meeting on June 2, 2009, the City Council declared its intention to levy and collect the annual assessments for the costs of providing the Services within Zones 1 and 2 for the 2009-2010 fiscal year; and

WHEREAS, the amount of the assessments proposed in the Engineer's Report for Zone 1 of the District for the 2009-2010 fiscal year are proposed to increase from the previous fiscal year, but by no more than the increase in the Employment Cost Index for total compensation for State and Local Government Workers (the "Employee Cost Index") during the previous fiscal year, which methodology for determining annual increases was approved by a majority of property owners in Zone 1 and 2 at a duly noticed and conducted property owner ballot proceeding.

WHEREAS, the proceeds of the assessments will be used exclusively to finance the

expenses for providing the Services for the 2009-2010 fiscal year, which Services will provide particular, distinct special benefits to the various lots and parcels in Zones 1 and 2, over and above the general benefits conferred on such lots and parcels and the public at large; and

WHEREAS, no substantial changes are proposed to be made in the existing facilities and improvements, and no new facilities or improvements are proposed in Zones 1 and 2 in fiscal year 2009-2010; and

WHEREAS, the amount of the assessment on each lot or parcel in Zones 1 and 2 is proportional to and no greater than the special benefits conferred on such lot or parcel from the Services; and

WHEREAS, after notice of the hearing was published pursuant to Streets & Highways Code Section 22626(a) and Government Code Section 6061, the City Council conducted a public hearing and heard and considered all objections and protests to the proposed assessments; and

WHEREAS, the City Council has determined that there is not a majority protest to the proposed annual assessments by property owners in Zones 1 and 2;

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

1. The recitals in this resolution, above, are true and correct.
2. The territory within Zones 1 and 2 of the District, whose boundaries are set forth in the Engineer's Report, will be the territory particularly, distinctly and specially benefited, over and above the general benefits conferred on such territory and the public at large, from the Services described in the Engineer's Report.
3. The hearing on the annual levy of assessments in Zones 1 and 2 of the District was noticed and held in accordance with law.
4. The Engineer's Report, including the diagram of Zones 1 and 2 and the assessment of the estimated costs of Services contained in the Engineer's Report, and each and every part of the Engineer's Report, is finally adopted, confirmed and approved.
5. The assessment diagram showing Zones 1 and 2 and the lots and parcels of land therein, all as contained in the Engineer's Report, is finally approved and confirmed as the diagram of the lots and parcels within Zones 1 and 2 to be assessed to pay the costs of the Services described in the Engineer's Report.
6. The assessment of the total amount of the costs and the individual assessments thereof on the lots and parcels within Zones 1 and 2 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 Engineer's Report, is finally approved and confirmed as the annual assessment for Zones

1 and 2 for the 2009-2010 fiscal year to pay such costs.

7. The levy of the annual assessments within Zones 1 and 2 of the District for fiscal year 2009-2010, as described in the Engineer's Report, is hereby ordered.

8. The City Clerk is authorized and directed to file the diagram of Zones 1 and 2 of the District and assessments therein, or a certified copy thereof, as approved and confirmed by the Council and containing all information and statements required by Streets & Highways Code Section 3114, with the Kings County Auditor immediately after adoption of this resolution.

9. 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 21st day of July 2009, by the following vote:

Zone 1 and 2

AYES:

NOES:

ABSENT:

ABSTAINING:

APPROVED:

John F. Murray, Mayor

ATTEST:

Nanci C.O. Lima, CMC
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 July 21, 2009.

DATED: July 22, 2009

Nanci C.O. Lima, CMC
City Clerk