

RESOLUTION NO. 2013-13

A RESOLUTION OF INTENTION TO (i) ANNEX AND INCLUDE AN ADDITIONAL TERRITORIES IN PUBLIC FACILITIES MAINTENANCE DISTRICT NO. 1 IN THE CITY OF LEMOORE, AND (ii) LEVY AND COLLECT ANNUAL ASSESSMENTS IN SUCH ANNEXED TERRITORIES FOR FISCAL YEAR 2013-2014 AND THEREAFTER

WHEREAS, it is the intention of the City Council of the City of Lemoore to order annexation of Territories to City of Lemoore Public Facilities District No. 1 ("PFMD"), as Zone 6 thereof, and to order levy and collection of annual assessments in such annexed Territories for fiscal year 2013-2014 and thereafter, under Chapter 10 of Title 7 of the Lemoore Municipal Code, as enacted by Ordinance No. 2006-01 (the "Ordinance"), and according the procedures set forth 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 specified in the State Landscaping and Lighting Act of 1972 (Chapter 2 of Part 2 of Division 15 of the California Streets & Highways Code) (the "LLMD Act"); and

WHEREAS, the Territories to be annexed to the PFMD (the "Added Territories") is comprised of the real property to be benefited and to be assessed for the maintenance, operation, repair and periodic replacement of landscaping, street lights, local street paving, parks and appurtenant facilities 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 or appurtenant to the boundaries of the applicable benefit Zone of said District;

the Added Territories is generally described in the map(s), attached hereto as Exhibit A and incorporated herein; and

WHEREAS, 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, Zone 6" dated May, 2013 (the "Engineer's Report"), to which reference is hereby made, which Engineer's Report contains a description of the existing facilities and improvements, the boundaries of the PFMD and any zones therein, the boundaries of the Territories proposed to be annexed to the PFMD in these proceedings, the facilities and improvements proposed for the Added Territories, and the general location and proposed assessments on the assessable lots and parcels of land within the PFMD, including the Added Territories; and

WHEREAS, the Engineer's Report is on file in the office of the City Clerk and is available for inspection during regular business hours;

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 such boundaries as Zone 6, as proposed in these proceedings; and

WHEREAS, the proceeds of the annual assessments to be levied on the parcels within the PFMD, including the Added Territories, for fiscal year 2013-2014 and for each fiscal year thereafter will be used exclusively to finance the expenses for maintenance, operation, repair and periodic replacement of the improvements and facilities described in the Engineer's Report for that fiscal year, which maintenance, operation, repair and periodic replacement will provide direct, particular and distinct special benefits to the various parcels assessed, over and above the benefits conferred on the public at large; and

WHEREAS, the amount of the assessment to be levied on each parcel in the PFMD, including the Added Territories, for the 2013-2014 fiscal year, as proposed in the Engineer's Report, is proportional to and no greater than the special benefits conferred on such parcel from maintenance, operation, repair and periodic replacement of the improvements and facilities described in the Engineer's Report;

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

1. The above recitals are true.
2. The Engineer's Report of the City Engineer as filed with the City Clerk is preliminarily approved. Reference is hereby made to the Engineer's Report for a full and detailed description of the improvements and facilities, the boundaries of the Added Territories, including the general location of the improvements and facilities, and the proposed assessment upon assessable lots and parcels of land within the Added Territories.
3. The City Council declares its intention to annex and make part of the PFMD, as Zone 6 thereof, all Territories within the Added Territories, whose boundaries are set forth in the Engineer's Report and the amended map of the boundaries of the PFMD on file with the City Clerk. The amended map of the boundaries of the PFMD, showing the proposed annexation of the Added Territories, is preliminarily approved.
4. The City Council further declares its intention to levy and collect annual assessments within the Added Territories for fiscal year 2013-2014 and thereafter, as stated in the Engineer's Report, under the authority of and according to the procedures set forth in the Ordinance, including without limitation the procedures in the Implementation Act, Proposition 218 and, to the extent not inconsistent with the Ordinance, the procedures specified in the LLMD Act.
5. The City Council incorporates into this Resolution by reference the general description of the facilities and improvements existing in or proposed for the Added Territories, all as detailed in the Engineer's Report.

6. Notice is further hereby given that on the 16th day of July, 2013, at the hour of 7:30 p.m. or as soon thereafter as possible, in the regular meeting place of the City Council, Council Chambers, 429 C Street, Lemoore, California, is hereby fixed as the time and place for public hearing when and where all interested persons may be heard regarding the question of annexation of the Added Territories to the PFMD and the levy and collection of the proposed assessments therein. At the hearing, any interested person shall be permitted to present written or oral testimony. Also, prior to the conclusion of public testimony at the hearing, the record owner(s) of each lot or parcel in the Added Territories identified in the Engineer's Report as having special benefit conferred on it and on which an assessment is proposed to be imposed may submit, change or withdraw an assessment ballot as provided in Section 7 below, the Engineer's Report and the Implementation Act. The hearing shall be conducted, and assessment ballots tabulated, as described in Section 7, the Engineer's Report and the Implementation Act.

7. The City Clerk is hereby authorized and directed to give notice of the public hearing in accord with Section 53753 of the Implementation Act. The City Clerk shall mail notice to the record owner(s), 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, of each lot or parcel in the Added Territories and identified in the Engineer's Report as having special benefit conferred on it and on which an assessment is proposed to be imposed. The notice shall be given by mail at least 45 days before the hearing on the Engineer's Report, the proposed annexation of the Added Territories and the proposed levy and collection of assessments therein. Each notice shall include (i) the name and address of the City, (ii) the reason for the assessment, (iii) the total amount of the assessment chargeable to the entire Territories within the Added Territories boundaries and the maximum assessment, (iv) the amount of initial assessment chargeable to the record owner's lot or parcel and the maximum assessment chargeable to such lot or parcel, (v) the duration of the payments, (vi) the basis on which the amount of the proposed assessment was and will be calculated for each fiscal year, (vii) in a conspicuous place, a summary of the procedures for completion, return and tabulation of assessment ballots, including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected lots or parcels, (viii) the date, time and place of the public hearing, and (ix) the name and telephone number of the person designated by the Council to answer inquiries regarding the protest and assessment ballot proceedings.

Each notice also shall contain an assessment ballot that includes the City's address for receipt of the form and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the lot or parcel, and his or her support of or opposition to the proposed assessment. An envelope for the return of the assessment ballot shall be included with each notice. All assessment ballots shall be signed and returned by mail or otherwise delivered at the address indicated in the assessment ballot, or the site of the public hearing, prior to the date and hour set for the hearing. An assessment ballot may be submitted, changed or withdrawn prior to the conclusion of the public testimony on the proposed assessment at the hearing.

At the time, date and place stated in the notice, the Council shall conduct a public hearing on

the proposed assessment and, at the hearing, shall consider all objections and protests, if any, to the proposed assessment and shall consider the adoption of a resolution ordering annexation of the Added Territories to the PFMD as Zone 6 and the maintenance, operation, repair and periodic replacement of the specified improvements and facilities, finally approving the Engineer's Report, and confirming the diagram and assessment, either as originally proposed or as changed by the Council. Any interested person shall be permitted to present written or oral testimony at the hearing. The Council may continue the hearing from time to time.

At the conclusion of the public hearing, an impartial person designated by the Council, who does not have a vested interest in the outcome of the proposed assessment and who may be the City Clerk, will tabulate the assessment ballots submitted and not withdrawn in support of or in opposition to the proposed assessment. If the assessment ballots submitted and not withdrawn in opposition to the proposed assessment exceed the assessment ballots submitted and not withdrawn in favor of the proposed assessment (weighting the assessment ballots by the amount of the proposed assessment to be imposed on the lot or parcel for which each assessment ballot was submitted), a majority protest shall exist and the Council shall not impose the assessment. If a majority protest (determined as described above) does not exist, the Council intends to proceed with annexation of the Added Territories to the PFMD and to levy and impose the assessments in the Added Territories in accordance with applicable law.

8. 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 May, 2013 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINING:

APPROVED:

William M. Siegel, Jr., Mayor

ATTEST:

Kristie R. Baley, City Clerk

CERTIFICATE

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

I, Kristie R. Baley, 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 May 21, 2013.

DATED: May ____, 2013

Kristie R. Baley, City Clerk