

RESOLUTION NO. 49-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA, DECLARING ITS INTENTION TO FORM THE MARINA BAY LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT; AND ITS INTENTION TO CONDUCT A PROPERTY OWNER PROTEST BALLOT PROCEEDING ON THE MATTER OF THE NEW ASSESSMENTS RELATED THERETO COMMENCING WITH FISCAL YEAR 2009/2010

WHEREAS, the City Council of the City of Richmond (the "City") pursuant to the provisions of the Landscaping and Lighting Act of 1972, being Part 2, Division 15 of the California Streets and Highways Code, commencing with Section 22500 (hereafter referred to as the "Act"), did by previous Resolution, initiate proceedings for the proposed formation of the Marina Bay Landscaping and Lighting Maintenance District (hereafter referred to as the "District"), and the proposed levy and collection of annual special benefit assessments related thereto commencing in Fiscal Year 2009/2010; and,

WHEREAS, the City Council desires to form the District and to levy and collect annual assessments against lots and parcels of land within said District to pay the cost and expenses related to the maintenance, servicing and operation of local parks, trails, landscaping and related improvements and appurtenants that provide special benefits to the parcels of land therein as authorized by the Act and the provisions of the California Constitution Article XIID (hereafter referred to as the "California Constitution"); and,

WHEREAS, Willdan Financial Services, the Assessment Engineer of Work (Engineer) has prepared and filed with the City Clerk an Engineer's Report (hereafter referred to as the "Report") in connection with the formation of the District and the proposed levy of assessments commencing with fiscal year 2009/2010 (said fiscal year beginning July 1, 2009 and ending June 30, 2010); in accordance with the Act and the California Constitution; and said Report has been presented to the City Council.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL OF THE CITY OF RICHMOND, THE LEGISLATIVE BODY FOR SAID DISTRICT, AS FOLLOWS:

Section 1: The above recitals are true and correct.

Section 2: The proposed territory of the District consists of the lots, parcels and subdivisions of land in the southern section of the City of Richmond known as Marina Bay, and is generally located: south and west of Interstate 580; north of the Pacific Ocean (Bay); and adjacent to and east of Harbour Way.

The District generally includes all or a portion of the lots, parcels and subdivisions of land identified on the following Contra Costa County Assessor's Parcel Maps:

- ❖ Book 560, Pages 09 through 15;
- ❖ Book 560, Pages 17 through 19;
- ❖ Book 560, Pages 26 and 27;
- ❖ Book 560, Page 37;
- ❖ Book 560, Pages 45 through 47;
- ❖ Book 560, Pages 53 through 56;

❖ Book 560, Pages 59 through 63; and

❖ Book 560, Pages 68 through 81

Section 3: The proposed District improvements include the annual ongoing operation, maintenance, servicing and incidental expenses related to the improvements associated with the Marina Bay Landscaping and Lighting District; which are authorized pursuant to the Act. Said improvements may include, but are not limited to materials, equipment, utilities, labor, appurtenant facilities and expenses necessary for the operation, maintenance and servicing of the parks, trails and public landscaped areas including related lighting, hardscapes, equipment, amenities and facilities which have been determined to be of special benefit to the lots and parcels of land within the District. The Engineer's Report prepared in connection with these proceedings provides a more detailed description of the improvements and associated costs.

Section 4: The Engineer's Report as presented consists of the following:

- 4a) A Description of the Improvements (Plans and Specifications); and,
- 4b) The Method of Apportionment that details the method of calculating the proportional special benefits and the annual assessment obligation for each affected parcel including a description of an "Assessment Range Formula" that provides for an annual inflationary adjustment to the maximum assessment rate; and,
- 4c) The estimated annual costs and expenses to provide the improvements (Budget) that establishes the proposed initial "Maximum Assessment Rate"; and,
- 4d) An Assessment Diagram (Boundary Map); and,
- 4e) An Assessment Roll containing the assessment to be levied for each Assessor Parcel Number within the Annexation Territory based on the maximum assessment rate and method of apportionment described therein.

Section 5: The Engineer's Report filed with the City Clerk and presented to this City Council, is hereby approved on a preliminary basis as submitted or amended by direction of this City Council, and is hereby ordered to be filed in the Office of the City Clerk as a permanent record and remain open to public inspection.

Section 6: The City Council hereby declares its intention to form the Marina Bay Landscaping and Lighting Maintenance District, and to levy and collect annual assessments against the lots and parcels of land within said District to fund the ongoing cost and expenses of maintaining, operating and servicing the improvements determined to be of special benefit to the lots and parcels of land therein as outlined in the Engineer's Report prepared in connection therewith, commencing with fiscal year 2009/2010; and,

The City Council further declares its intention to conduct a public hearing regarding the proposed formation of the District, and the proposed levy of assessments connected therewith; and calls for a property owner protest balloting proceeding in accordance with the provisions of the California Constitution Article XIII D. The City Council finds that the best interest of the properties and public requires such action and levy of assessments.

Section 7: The City Council hereby declares its intention to conduct a public hearing concerning the formation of the District and the levy of assessments connected therewith in accordance with Government Code, Section 54954.6 and California Constitution, Article XIII D, Section 4(e); and,

Notice is hereby given that a public hearing on these matters will be held by the City Council on Tuesday, July 28, 2009, beginning at 6:00 P.M., or as soon thereafter as feasible, in the City Council Chambers located at 440 Civic Center Plaza, Richmond, California. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

Section 8: Pursuant to Article XIII D of the California Constitution, an assessment ballot proceeding is hereby called on the matter of confirming the assessments for the proposed District. The ballots and notices so authorized shall be distributed by first class mail to the property owners of record as of the last County equalized roll, and property owner or owners of each affected parcel may return the ballot by mail or in person to the City Clerk not later than the conclusion of the public hearing for these matters.

Section 9: The City Council hereby authorizes and directs the City Clerk or their designee to prepare and mail notice of the public hearing and property owner ballots to the property owners of record regarding the proposed assessments including the assessment range formula as outlined in the Engineer's Report, for return receipt prior to the date and time of the public hearing set forth in this Resolution; and,

The notice of the hearing and ballot shall be distributed by first class mail to the property owner(s) of record for each parcel within the proposed District subject to an assessment, not less than 45 days before the date of the public hearing pursuant to the California Constitution.

Section 10: The property owner protest ballot proceeding conducted for the District shall constitute the property owners' approval or rejection of the annual levy of assessments and assessment range formula described in the Engineer's Report presented and previously approved by the City Council. Each property owner may return the ballot by mail or in person to the City Clerk no later than the conclusion of the public hearing scheduled for Tuesday, July 28, 2009. After the close of the public hearing, pursuant to Section 4 (e) of the California Constitution, the City Clerk or their designee shall open and tabulate the ballots returned to determine if majority protest exists. Only those ballots issued by or on behalf of the City and signed by the property owner of record or authorized representative, shall be considered as valid ballots and shall be weighted according to the proportional financial obligation of each affected property. Majority protest exists if, upon the conclusion of the hearing, valid ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment; and,

In addition to the ballot proceedings, property owners may also file a separate written protest with the City Clerk prior to the conclusion of the hearing, or having previously filed such protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection and shall contain a description sufficient to identify the property owned by such property owner. At the public hearing, all interested persons shall be afforded the opportunity to hear and be heard.

I certify that the foregoing resolution was adopted by the Council of the City of Richmond at a regular meeting held on June 9, 2009, by the following vote:

AYES:	Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes, Vice Mayor Lopez, and Mayor McLaughlin.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	None.

DIANE HOLMES
Clerk of the City of Richmond
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }