

RESOLUTION NO. 84-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND, CALIFORNIA CONFIRMING THE ENGINEER'S REPORT FOR THE FORMATION OF THE MARINA BAY LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT AND THE ASSESSMENT DIAGRAM CONNECTED THEREWITH; AND ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR 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 resolutions, initiate proceedings for the formation of the Marina Bay Landscaping and Lighting Maintenance District (hereafter referred to as the "District"), and declared its intention to conduct a protest balloting for the levy of new assessments within the District commencing in Fiscal Year 2009/2010 for the special benefits received by properties therein for the operation, maintenance and servicing of local landscaping, parks, trails and the lighting, amenities and appurtenant facilities related thereto in accordance with the provisions of the *California Constitution Article XIID* (the "Constitution"); and,

WHEREAS, an Engineer's Report has been prepared, filed and presented to the City Council in connection with the proceedings for the formation of the District and the annual levy of assessments related thereto commencing on Fiscal Year 2009/2010 as required by the Act and the Constitution; and,

WHEREAS, the City Council of the City of Richmond initiated discussions with concerned property owners within the proposed District during public hearings on June 2, 2009 and June 9, 2009 and approved amendments to the Engineer's Report; and

WHEREAS, the City Council approved by unanimous vote a commitment to maintain a city-funded basic level of service for the District that will not be reduced to ensure the property assessment for enhanced landscaping and lighting services will not be supplanted; and

WHEREAS, the contributions for enhances services and for water and other utilities in the Marina Bay Assessment District share is 42% for the City and 58% for the property owners, due to national, regional and community use of Marina Bay parks and trails; and

WHEREAS, to ensure the efficient administration of the District and that the assessed property owners' interests will be represented in District decisions, the City Council authorized the formation of a property owners advisory committee ("Committee") to confer with the District Administrator on budget priorities and other matters of concern to property owners within the District; and

WHEREAS, the City Council directs the District Administrator to provide public information and reasonable support to the Board; and

WHEREAS, the City Council has duly held a public hearing regarding these matters and has conducted a property owner protest ballot proceeding for the proposed new assessments related thereto pursuant to the provisions of the Constitution, the results of which have been presented and confirmed by this City Council; and,

WHEREAS, the City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2009 and ending June 30, 2010 (Fiscal Year 2009/2010), to pay the costs and expenses associated with the ongoing operation, maintenance, and servicing of

improvements and appurtenant facilities related thereto that have been determined to be of special benefit to the properties within the District as described in the Engineer's Report; and,

WHEREAS, the Engineer's Report confirms a process for annual cost-of-living adjustments and the City Council confirms that all property owners within the District will be properly assessed in proportion to general and special benefits,

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 preceding recitals are all true and correct.

Section 2: Following notice duly given, the City Council has held a full and fair public hearing regarding the formation of the District, the levy and collection of assessments, and has considered all public testimony and written statements, protests and communications made or filed by interested persons. The City Council has evaluated the results of the property owner protest ballot proceedings conducted in accordance with the provisions of the Constitution, and has determine that majority protest of the assessments did not exist.

Section 3: Based upon its review (and amendments, as applicable) of the Engineer's Report, which has been filed with the City Clerk, the City Council hereby finds and determines that:

- 3a) The land within the District will receive special benefit from the operation, maintenance and servicing of local landscaping, parks, trails and the lighting, amenities and appurtenant facilities related thereto, to be provided by the District as described in the Engineer's Report.
- 3b) The District as defined by the Assessment Diagram contained in the Engineer's Report, includes all of the lands receiving such special benefit.
- 3c) The net amount to be assessed upon the lands within the District has been apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefit to be received by each parcel from the improvements and services to be provided commencing with Fiscal Year 2009/2010.

Section 4: The City Council hereby orders the proposed improvements as described within the Engineer's Report to be made. The improvements so described may include, but are not limited to the materials, equipment, utilities, labor, contract services and incidental expenses necessary for the operation, maintenance and servicing of local landscaping, parks, trails and the lighting, amenities and appurtenant facilities within the District that provide special benefits to properties therein.

Section 5: The City Council hereby orders the formation of the property owners advisory committee ("Committee") as set forth in the Engineer's Report. The Committee will be composed of nine property owners within the District to advise the District Administrator on budget priorities, service alternatives, and other matters of concern to the District. Five members will appointed by the Homeowners' Associations within the District, one member will be appointed by the Neighborhood Council, two members shall be

non-residential property owners, and the Harbormaster will serve as the City representative. The stakeholders (the Neighborhood Council, the Homeowners' Associations, and the non-residential property owners) shall determine the qualifications and terms of service for members of the Committee. The Committee will have access to public operational and financial information concerning the District and may make recommendations to the District Administrator regarding the District's draft budget before the budget is formally adopted. The District Administrator will attend and will provide reasonable support for one Committee meeting per month in order to exchange information about the affairs of the District. At District expense, the District Administrator will prepare and mail one annual report to property owners setting forth activity for the past year and planned activities for the upcoming year. The Committee will provide an annual report to the City Council.

Section 6: The maintenance, operation and servicing of improvements shall be performed pursuant to the Act, and for Fiscal Year 2009/2010, the County Auditor of Contra Costa shall enter on the County Assessment Roll opposite each parcel of land the amount of levy established by the Engineer's Report, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

Section 7: The adoption of this Resolution constitutes the formation of the District, the boundaries of which is identified by the Assessment Diagram; the establishment of the maximum assessment rates and assessment range formula connected therewith; and the assessments for the fiscal year commencing July 1, 2009 and ending June 30, 2010, as described in the Engineer's Report and adopted by the City Council.

Section 8: The City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the City Council's approval of the formation of the District; the adoption and confirmation of the Assessment Diagram; and the establishment of the maximum assessment rate(s), assessment range formula and the assessments for Fiscal Year 2009/2010 as contained in the Engineer's Report.

Section 9: The City Clerk is hereby authorized and directed to file the levy of assessments for Fiscal Year 2009/2010 as approved, with the County Auditor of Contra Costa.

I certify that the foregoing resolution was adopted by the Council of the City of Richmond at a regular meeting held on July 28, 2009, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Ritterman, 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 }

I certify certify that the foregoing is a true copy of Resolution No. 84-09, finally passed and adopted by the City Council of the city of Richmond at a regular meeting held on July 28, 2009.