

RESOLUTION NO. 2024-50

**RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
APPROVING THE IMPLEMENTATION OF THE APPROVED NEW/INCREASED
ASSESSMENTS, CONFIRMING THE ENGINEER'S REPORT, THE ASSESSMENT DIAGRAM
AND ASSESSMENTS RELATED THERETO, OVERRULING ALL PROTESTS CONCERNING
THE ASSESSMENTS**

WHEREAS, the Marin County Board of Supervisors ("Board"), in their official capacity as the legislative body for the Rush Creek Landscaping and Lighting District, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code ("1972 Act"), in compliance with the substantive and procedural requirements of Article XIII D, section 4 of the California State Constitution ("California Constitution") and the Proposition 218 Omnibus Implementation Act ("Omnibus Act"), being Government Code section 53750 et seq., (collectively, the "Assessment Law"), the Board by Resolution No. 2024-05, initiated proceedings to levy a proposed new or increased ("new/increased") assessment, and ordering the preparation and filing of an Engineer's Report; and,

WHEREAS, after fully considering the Engineer's Report presented, the Board adopted Resolution No. 2024-31 preliminarily approving said Engineer's Report, declared its intention to levy a proposed new/increased assessment, to conduct a property owner protest ballot proceeding regarding the proposed new/increased assessments in compliance with the substantive and procedural requirements of the Assessment Law, and set the Public Hearing to be noticed pursuant to applicable law for May 21, 2024 at 10:00 a.m.; and,

WHEREAS, notices and ballots were mailed by first class mail to the affected property owners of record within the District regarding the proposed levy of the new/increased assessments and the assessment range formula outlined in the Engineer's Report pursuant to the provisions of the Assessment Law for return receipt prior to the close of the Public Hearing on May 21, 2024; and,

WHEREAS, on May 21, 2024, the Board held the duly noticed Public Hearing not less than 45 days after the mailing of the notices and ballots, to consider all oral statements, objections, and communications made or filed by any interested person regarding the proposed levy of the new/increased assessments and the assessment range formula outlined in the Engineer's Report; and to receive and accept all protest ballots from the affected property owners of record within the District; and,

WHEREAS, at the conclusion of the Public Hearing, a tabulation and canvass of the property owner protest ballots was conducted by the Clerk of the Board or their designee, with all valid protest ballots returned by the affected property owners being counted; and,

WHEREAS, by resolution the Board confirmed the results of the ballot tabulation and property owner protest proceeding conducted in accordance with the provisions of the Assessment Law, the results of which indicated that a majority protest did not exist for the assessments as presented and to be levied on properties within the District commencing fiscal year 2024/2025.

NOW, THEREFORE, THE BOARD OF SUPERVISORS IN THEIR OFFICIAL CAPACITY AS THE BOARD OF DIRECTORS OF THE RUSH CREEK LANDSCAPING AND LIGHTING DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

1. That the foregoing recitals are true and correct.
2. Following notice duly given, the Board has held a full and fair public hearing regarding the levy and collection of the proposed new/increased assessment, and has considered all public testimony and written statements, communications made or filed by interested persons, and ballots submitted and not withdrawn by affected property owners.
3. In accordance with the provisions of the Assessment Law, the Board has evaluated the results of the property owner ballot protest proceedings and has determined that a majority protest of the proposed new/increased assessments did not exist, and hereby overrules all oral or written protests that may have been presented concerning the annual assessments for the District.
4. Based upon its review of the facts presented and the Engineer's Report that has been filed with the Clerk of the Board, the Board hereby finds and determines that:
 - 4a.) The land within the District will receive special benefits from the operation, maintenance, and servicing of the improvements to be provided by the District as described in the Engineer's Report; and,
 - 4b.) The proportionate special benefits derived by each assessable parcel from the maintenance and servicing of the improvements has been determined in relationship to the entirety of the cost of such maintenance and service expenses; the assessments do not exceed the reasonable cost of the proportional special benefits conferred on each parcel; only special benefits have been assessed, and the general benefits have been separated from the special benefits; and all publicly owned parcels within the District that derive special benefits from the maintenance and servicing of the improvements have been assessed for such special benefits; and,
 - 4c.) The District as defined by the Assessment Diagram contained in the Engineer's Report, includes all lands receiving such special benefits; and,
 - 4d.) Pursuant to the Assessment Law, 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 benefits to be received by each parcel from the improvements and services to be provided.
5. The adoption of this Resolution constitutes the approval of the new/increased assessment, the boundaries of the District as contained and presented in the Engineer's Report; the establishment of the maximum assessment rate (\$1,316.00) and assessment range formula connected therewith, as described in the Engineer's Report, and adopted by the Board. Subsequent annual assessments, in amounts that do not exceed this established maximum annual assessment and assessment range formula may be confirmed and levied without further assessment ballot proceedings pursuant to the Assessment Law. Each fiscal year, beginning fiscal year 2025/2026, the maximum amount (the "Maximum Assessment") may be increased by a fixed three percent (3.0%) annual inflationary adjustment (Assessment Range Formula).
6. The Board hereby orders the District improvements to be made as outlined by the Engineer's Report and by these proceedings. The diagram and assessments shall be filed in the Office of the Clerk of the Board. Said diagram and assessments, and the certified copy thereof, shall be open for public inspection.

7. Pursuant to applicable law, County staff or their designee is hereby authorized and directed to file as may be required the annual levy of assessments for the District commencing in fiscal year 2024/2025 as approved herein with the Marin County Auditor/Controller along with a certified copy of this Resolution; and/or other Resolutions and documents as may be required by the County Auditor/Controller or County Assessor, including copies of the Engineer's Report and/or Assessment Diagram confirmed by this Resolution.
8. The Clerk of the Board shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the Board's approval of the new/increased assessment; the confirmation of the Assessment Diagram; the establishment of the maximum assessment rate and assessment range formula as outlined in the Engineer's Report; and the levy of assessments for fiscal year 2024/2025 as approved in these proceedings.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, held on the May 21, 2024 by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Mary Sackett, Eric Lucan, Katie Rice,
 Stephanie Moulton-Peters

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



DENNIS RODONI, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST:



CLERK