

RESOLUTION NO. 2017-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, DECLARING INTENTION TO ANNEX PROPERTY TO LANDSCAPE MAINTENANCE DISTRICT NO. 2 (ANNEXATION NO. 18, ZONE 19) AND TO LEVY ASSESSMENTS ON SUCH PROPERTY FOR FISCAL YEAR 2017-18 AND SETTING THE TIME, DATE AND PLACE OF A PUBLIC HEARING ON THE PROPOSED ANNEXATION AND ASSESSMENTS

WHEREAS, the City Council (the "City Council") of the City of Desert Hot Springs (the "City") has initiated proceedings for the annexation of certain property, as Annexation No. 18, to Landscape Maintenance District No. 2 of the City of Desert Hot Springs (the "Assessment District") as part of Zone 19 of the Assessment District pursuant to the Landscaping and Lighting Act of 1972, as found in Part 2 (commencing with Section 22500) of Division 15 of the California Streets and Highways Code ("the Act"), for the planting and installation of public landscaping and facilities which are appurtenant thereto and the maintenance and servicing thereof in accordance with Section 22525 of the California Streets and Highways Code; and

WHEREAS, as ordered by the City Council, Albert A. Webb Associates, the assessment engineer, has filed with the City Clerk a report regarding the assessments which are proposed to be levied on and collected from the owners of such property for Fiscal Year 2017-18, to pay the costs of the maintenance and servicing of such public landscaping and appurtenant facilities, and that report has been presented to and considered by the City Council; and

WHEREAS, it is necessary that the City Council adopt a resolution of intention pursuant to Sections 22606 and 22587 of the California Streets and Highways Code setting and providing for notice of the time, date and place of public hearing on said report, the proposed annexation of such property to the Assessment District and the proposed assessments; and

WHEREAS, In addition to the requirements set forth in the Act to annex property into the Assessment District, Proposition 218 establishes detailed requirements for the imposition of a "new or increased" special assessment; and

WHEREAS, in addition to notice, ballot and hearing requirements, Proposition 218 requires the City to separate the general benefits from the special benefits conferred on a parcel, and to only assess the special benefits on that parcel; and

WHEREAS, Proposition 218 requires all assessments to be supported by a detailed Engineer's Report prepared by a registered professional engineer; and

WHEREAS, the proposed assessment will assess properties located with the Assessment District pursuant to the amounts stated in the Engineer's Report ("Assessment Amount"); and

WHEREAS, pursuant to Proposition 218, the City must comply with applicable sections of Article XII(D) of the California Constitution regarding the notice, hearing and protest procedures.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the City Council of the City of Desert Hot Springs, California as follows:

Section 1. Recitals.

The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings.

The City Council finds that:

- (a) The Engineer's report of Albert A. Webb Associates (the "Report") contains all matters required by the Act and Proposition 218 and may, therefore, be approved by the City Council;
- (b) The assessments which are proposed to be levied for Fiscal Year 2017-18 on all parcels of assessable property which are proposed to be annexed, as Annexation No. 18 to the Assessment District As part of Zone 19 thereof are based on special benefit conferred upon each such parcel from the payment of the costs of the planting and installation of public landscaping and appurtenant facilities and the maintenance and servicing thereof;
- (d) The proportionate special benefit derived by each parcel within the Assessment District has been determined in relationship to the entirety of the capital cost of the maintenance and servicing of the public landscaping and appurtenant facilities;
- (e) The Assessment Amount which is proposed to be assessed on each such parcel is based upon and will not exceed the reasonable cost of the proportional special benefit conferred on that parcel; and
- (f) The Assessment Amount is supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

Section 3. Intention.

The City Council declares that it intends to annex the Subject Property, as defined below, into the Assessment District as part of Zone 19, to levy and collect assessments on all of the lots and parcels of assessable property which are proposed to be annexed, as Annexation No. 18, to the Assessment District as part of Zone 19 thereof for Fiscal Year 2017-18, for the duration specified in Section 7 herein, in the amounts set forth in the Report. Such assessments will be collected at the same time and in the same manner as county taxes are collected, and all laws providing for the collection and enforcement of county taxes shall apply to the collection and enforcement of the assessments.

Section 4. Improvements.

The improvements which shall be provided for such property by and through the assessments levied annually thereon include the following:

- (a) The installation and planting of landscaping, including trees, shrubs, grass and other ornamental vegetation;
- (b) The installation or construction of any facilities which are appurtenant to such landscaping or which are necessary or convenient for the maintenance or servicing

thereof, including, but not limited to, all matters specified in subdivision (d) of Section 22525 of the California Streets and Highways Code; and

(c) The maintenance and servicing, or both, of any of the foregoing.

Section 5. Annexation to Assessment District.

The distinctive designation of the annexation is "Annexation No. 18 to Landscape Maintenance District No. 2 of the City of City of Desert Hot Springs" ("Annexation No. 18"). The property which is proposed to be annexed to the Assessment District which comprises Annexation No. 18 is all the property that is in the City of Desert Hot Springs, and which is described in Exhibit "A" attached hereto and by this reference made a part hereof ("Subject Property"). Upon the completion of the annexation proceedings, the property which comprises Annexation No. 18 will be included in Zone 19 of the Assessment District. The boundaries of Annexation No. 18 are further described and shown in the Report.

Section 6. Report and Assessments.

The Report, which is on file with the City Clerk, and which has been presented to the City Council at the meeting at which this resolution is adopted, is approved. Reference is made to the Report for a full and detailed description of the improvements, the boundaries of Annexation No. 18, the assessments which are proposed to be levied on the assessable lots and parcels of land in Annexation No. 18 as a part of Zone 19 of the Assessment District for Fiscal Year 2017-18.

Section 7. Duration of Assessments.

The assessments shall be levied on all parcels of assessable property in Annexation No. 18 as a part of Zone 19 of the Assessment District, as identified in the Report, so long as the assessments are necessary to finance the improvements specified in Section 4 hereof and the maintenance and servicing thereof.

Section 8. Hearing.

The public hearing on the proposed annexation of the Subject Property to Zone 19 of the Assessment District and the assessments which are proposed to be levied for Fiscal Year 2017-18 and which is required by Section 22587 through 22594 and 22624 through 22629 of the California Streets and Highways Code and Section 53753 of the California Government Code, and Proposition 218 shall be held **at 6:00 p.m. on June 6, 2017** in the Carl May Community Center at 11711 West Drive, City of Desert Hot Springs, California.

Section 9. Notice of Hearing and Ballots.

The City Clerk shall mail a notice of the proposed annexation, the proposed assessments and of the time, date and place of the public hearing, as specified in Section 8 hereof, to the record owner of each parcel of property identified in the Report. Such notice shall specify the total amount of the assessment chargeable to all the property within Annexation No. 18 as a part of Zone 19 of the Assessment District, the amount chargeable to each owner's particular parcel, the duration of the assessments, the reason for the assessments and the basis upon which the amounts of the proposed assessments were calculated, together with the date, time and location of the public hearing, as specified in Section 8 hereof. The notice shall

include, in a conspicuous place, thereon, a summary of the procedures applicable to the completion, return and tabulation of the assessment ballots which will accompany the notice and shall include a statement that the existence of a majority protest will result in the assessments not being levied, and that a majority protest will exist if, upon the conclusion of the hearing, assessment ballots submitted in opposition to the assessments exceed the assessment ballots submitted in favor of the assessments based on financial obligation. There shall be included with each such notice mailed to owner of identified parcels within Annexation No. 18 an assessment ballot which includes the District's address for receipt of any ballot when completed by any owner receiving such notice whereby such owner may indicate his or her name, reasonable identification of the parcel and support or opposition to the proposed assessments. The notice and the assessment ballots shall conform in all respects to the requirements of subdivisions (b) and (c) of Section 53753 of the California Government Code and Article XIII(D) of the California Constitution. Should there be any conflict between the Act and Proposition 218, Proposition 218 shall control.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting duly held on the 4th day of April, 2017, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, CMC, City Clerk

APPROVED:

Scott Matas, Mayor

APPROVED AS TO FORM:

Jennifer Mizrahi, City Attorney

CERTIFICATE OF CLERK

I, Jerryl Soriano, Deputy City Clerk of the City of Desert Hot Springs, do hereby certify that the foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of the City of Desert Hot Springs duly and regularly held at the regular meeting place thereof on April 4, 2017, of which meeting all of the members of said City Council had due notice, and at said meeting said resolution was adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I do hereby further certify that an agenda of said meeting was posted at least 72 hours before said meeting at 65950 Pierson Boulevard, Desert Hot Springs, CA 92240, a location freely accessible to members of the public, and a brief description of said resolution appeared on said agenda.

I do hereby further certify that I have carefully compared the foregoing copy with the original minutes of said meeting on file and of record in my office; that said copy is a full, true and correct copy of the original resolution adopted at said meeting and entered in said minutes; and that said resolution has not been amended, modified, rescinded or revoked in any manner since the date of its adoption, and the same is now in full force and effect.

Dated: April 4, 2017

City Clerk of the City of Desert Hot Springs

[SEAL]

EXHIBIT A**DESCRIPTION OF PROPOSED TERRITORY TO BE ANNEXED**

The City of Desert Hot Springs Landscape and Lighting Maintenance District No. 2 (the "LMD No. 2") Annexation No. 18, Zone 19 is currently comprised of two hundred fifty-nine (259) assessable parcels within the Riverside County, Tract Map No. 23866, located within the City boundaries. The properties are identified by the following Riverside County Assessor's Parcel Numbers (APN).

APN	APN	APN	APN	APN	APN
661291001	661302010	661312009	661321035	661332019	661341032
661291002	661302011	661312010	661321036	661332020	661341033
661291003	661302012	661312011	661322001	661332021	661341034
661291004	661302013	661312012	661322002	661332022	661341035
661291005	661302014	661313001	661322003	661333001	661341036
661291007	661302015	661313002	661322004	661333002	661341037
661291008	661302016	661313003	661322005	661333003	661341038
661292001	661302017	661313004	661322006	661333004	661341039
661292002	661302018	661313005	661322007	661333005	661341040
661292003	661302019	661313006	661322008	661333006	661342001
661292004	661302020	661321001	661322009	661333007	661342002
661292005	661302021	661321002	661322010	661333008	661342003
661292006	661302022	661321003	661331001	661333009	661342004
661292007	661302023	661321004	661331002	661341001	661342005
661292008	661302024	661321005	661331003	661341002	661342006
661292009	661302025	661321006	661331004	661341003	661342007
661292010	661302026	661321007	661331005	661341004	661342008
661292011	661311001	661321008	661331006	661341005	661342009
661292012	661311002	661321009	661331007	661341006	661342010
661292013	661311003	661321010	661331008	661341007	661342011
661293001	661311004	661321011	661331009	661341008	661342012
661293002	661311005	661321012	661331010	661341009	661342013
661293003	661311006	661321013	661331011	661341010	661342014
661293004	661311007	661321014	661331012	661341011	661342015
661301001	661311008	661321015	661331013	661341012	661342016
661301002	661311009	661321016	661331014	661341013	661343001
661301003	661311010	661321017	661332001	661341014	661343002
661301004	661311011	661321018	661332002	661341015	661343003
661301005	661311012	661321019	661332003	661341016	661343004
661301006	661311013	661321020	661332004	661341017	661343005
661301007	661311014	661321021	661332005	661341018	661343006
661301008	661311015	661321022	661332006	661341019	661343007
661301009	661311016	661321023	661332007	661341020	661343008
661301010	661311017	661321024	661332008	661341021	661343009
661301011	661311018	661321025	661332009	661341022	661343010
661302001	661311019	661321026	661332010	661341023	661343011
661302002	661312001	661321027	661332011	661341024	661343012
661302003	661312002	661321028	661332012	661341025	661343013
661302004	661312003	661321029	661332013	661341026	661343014
661302005	661312004	661321030	661332014	661341027	
661302006	661312005	661321031	661332015	661341028	
661302007	661312006	661321032	661332016	661341029	
661302008	661312007	661321033	661332017	661341030	
661302009	661312008	661321034	661332018	661341031	