

RESOLUTION NO. 2017-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS,
CALIFORNIA, 1) DECLARING THAT NO MAJORITY PROTEST EXISTS FOR THE
ANNEXATION OF THE SUBJECT PARCELS INTO THE ASSESSMENT DISTRICT;
AND 2) ORDERING THE ANNEXATION OF PROPERTY (ANNEXATION NO. 18,
ZONE 19) TO LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 2 AND
LEVYING ASSESSMENTS**

WHEREAS, on April 4, 2017, the City Council of the City of Desert Hot Springs (the "City Council") adopted Resolution No. 2017-013 which commenced proceedings to annex certain property to Landscape and Lighting Maintenance District No. 2 of the City of Desert Hot Springs (the "Assessment District") pursuant to 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"), and Proposition 218, which property has been designated for purposes of such proceedings as "Annexation No. 18, Zone 19" and scheduling a public hearing thereon; and

WHEREAS, the Act and Proposition 218 authorizes the formation (annexation) of an assessment district for the purpose of funding the construction and maintenance of public improvements including landscaping; and

WHEREAS, Proposition 218 establishes detailed requirements for the imposition of a new or increased special assessment; and

WHEREAS, by Resolution No. 2017-013, the City Council approved the report of Albert A. Webb Associates, the assessment engineer (the "Report"), which contained, among other matters, the proposed assessments to be levied for fiscal year 2017-18 upon assessable lots and parcels comprising Annexation No. 18, Zone 19; and

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

WHEREAS, pursuant to Resolution No. 2017-013, the City Council found the following:

(a) The Engineer's report of Albert A. Webb Associates 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, Zone 19 to the Assessment District 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;

(c) 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;

(d) 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

(e) The Assessment Amount is supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California; and

WHEREAS, pursuant to Section 4, of Article XIII(D) of the California Constitution, Section 53753 of the Government Code, by Resolution No. 2017-013, the City Council directed the City Clerk to mail

notice of the public hearing and ballots to all affected property owners notifying of this hearing and their right to protest the annexation. The ballot contained a place for which the owner could indicate his or her support or opposition to the proposed assessment. The notice and ballot was in writing, both in English and Spanish and stated all of the following:

- (a) The total amount of the proposed Assessment Amount chargeable to the entire district;
- (b) The amount chargeable to the record owner's parcel;
- (c) The duration of the payments;
- (d) The reasons for the proposed Assessment Amount;
- (e) The basis upon which the proposed Assessment Amount was calculated;
- (f) The date, time, and location of the public hearing;
- (g) Procedures for the completion, return and tabulation of the assessment ballots; and
- (h) A statement that the proposed Assessment Amount shall not be imposed if the ballots submitted in opposition to the assessment exceeded the ballots submitted in favor of the assessment, which ballots weighted according to the proportional financial obligation of the affected property; and

WHEREAS, on June 6, 2017, the City Council conducted the public hearing with respect to the annexation of the territory proposed to be annexed to the Assessment District and has received a report from the City Clerk regarding the tabulation of the assessment ballots submitted; and

WHEREAS, at the close of the public hearing, _____ objections were received; and

WHEREAS, the weighted ballots submitted, and not withdrawn, in opposition were not greater than the weighted ballots submitted, and not withdrawn, in favor of the Assessment; and

WHEREAS, a majority protest does not exist; and

WHEREAS, this Resolution confirms the annexation of the subject parcels into Landscape and Lighting Maintenance District No. 2.

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

Section 1. Findings. The findings recited in the preceding paragraphs are true and correct.

Section 2. Assessment District. The Assessment District is Landscape and Lighting Maintenance District No. 2 of the City of Desert Hot Springs. The property which is proposed to be annexed to the Assessment District and which comprises Annexation No. 18, Zone 19 is identified as Riverside County Tract Map No. 23866.

Section 3. Improvements. The improvements within and for the Assessment District and which shall be provided for through the assessments levied annually on property therein, including the property which comprises Annexation No. 18, Zone 19, shall 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 and 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 of any of the foregoing.

Section 4. Annexation. The property comprising Annexation No. 18, Zone 19, as described in Section 2 hereof, is annexed to Landscape and Lighting Maintenance District No. 2 of the City of Desert Hot Springs. The diagram of the Assessment District, as modified to include Annexation No. 18, Zone 19 and as contained in the Report, is confirmed.

Section 5. Levy of Assessments, Duration. The assessments proposed to be levied on the lots and parcels comprising property annexed to the Assessment District, as Annexation No. 18, Zone 19, for fiscal year 2017-18 in the amounts set forth in the Report and in the assessment ballots mailed to and returned by the owners of the property comprising Annexation No. 18, Zone 19 shall be and are confirmed and levied. The assessments shall be levied annually on lots and parcels comprising Annexation No. 18, Zone 19 as long as the assessments are necessary to finance the cost of the operation, maintenance, and servicing landscaping and appurtenant facilities within the Assessment District.

Section 6. Filing With the County Auditor. The City Clerk shall cause the diagram and assessments as confirmed and levied hereby to be filed with the County Auditor of the County of Riverside as required by Section 22641 of the Streets and Highways Code.

Section 7. Levying the Assessment Amount. Staff is hereby directed to perform what is legally necessary to collect the Assessment Amount pursuant to this Resolution, Resolution No. 2017-013, and the Report.

Section 8. City Clerk. The City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions of the City; and shall make a minute of passage and adoption thereof in the records of the proceedings of the City Council. This Resolution shall take effect immediately.

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

AYES:

NAYS:

ABSENT:

ABSTAIN:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST:

Jerryl Soriano, 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 June 6, 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: June 6, 2017

City Clerk of the City of Desert Hot Springs

[SEAL]