RESOLUTION NO. 2017-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN DRAINAGE ASSESSMENT DISTRICT NO. 1, FISCAL YEAR 2017-18

WHEREAS, the Benefit Assessment Act of 1982, Title 5 Division 2, of the California Government Code (commencing with Section 54703) (hereafter referred to as the "Act"), and in particular, Sections 54710 and 54710.5 thereof, authorizes local agencies which provide drainage services to impose a benefit assessment pursuant to the Act to finance the maintenance and operation of those services; and

WHEREAS, pursuant to the Act, the City Council of the City of Desert Hot Springs ("City") formed Drainage Assessment District No.1 ("District"); and

WHEREAS, pursuant to the Act, the City Council has previously caused to be prepared and approved the Annual Engineer's Report (hereafter referred to as the "Report") as presented or amended, which describes the assessments against parcels of land within the District; and

WHEREAS, Albert A. Webb Associates ("Engineer"), the engineer selected by the City Council, has prepared and filed with the City Clerk, and the City Clerk has presented to the City Council, a Report in connection with the proposed levy and collection upon eligible parcels of land within the District, and the City Council did by previous Resolution approve such Report. A copy of the Report is attached to the July 5, 2017 staff report relating to this Resolution; 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, 2017 and ending June 30, 2018, to pay the costs and expenses of operating, maintaining, and servicing the improvements within the District; and

WHEREAS, the assessment rates within the District are exempt from the assessment balloting procedures set forth in Section 4 of Proposition 218 because the District was formed by consent of the land owners, and the proposed assessments per lot or parcel are not proposed to increase by more than the assessment rates approved by the landowners at the time of annexation into the District; and,

WHEREAS, the assessment levies are not based upon the assessed value of the property within the District, but are based upon the special benefit received by the parcels within the District from the improvements.

NOW, THEREFORE, BE IT RESOLVED DETERMINED, AND ORDERED BY THE CITY COUNCIL, AS FOLLOWS:

<u>**Section 1.**</u>   **Recitals**

That all of the above recitals are true and correct.

<u>**Section 2.**</u>   **Public Hearing**

That following notice duly and properly given, the City Council has held a full and fair public hearing regarding its Resolution Approving and or Amending the Report prepared in connection therewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons.

Section 3.   Findings

That based upon its review (and amendments, as applicable) of the Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds and determines that:

A.   The land within the District will receive special benefit by the operation, maintenance, and servicing of flood control, graffiti removal, masonry walls, and associated appurtenant facilities within the boundaries of the District.

B.   The District includes all of the lands receiving such special benefit.

C.   The net amount to be assessed upon the lands within the District is in accordance with the costs for the fiscal year commencing July 1, 2017 and ending June 30, 2018 and is apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the estimated special benefit to be received by each parcel from the improvements and services.

Section 4.   Report Filed With City Clerk

The Report and assessment as presented to the City Council are on file in the office of the City Clerk as required by the Act.

Section 5.   District Improvements

The City Council hereby orders the improvements, as discussed in the Report, to be made, which include maintenance and servicing of flood control facilities, graffiti removal, masonry walls, and associated appurtenant facilities within the boundaries of the District. The maintenance, operation and servicing of the flood control, graffiti removal, masonry walls, and associated appurtenant facilities shall be performed pursuant to the Act.

Section 6.   Collection

The County Auditor of the County of Riverside shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, 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.   Use of Levy Funds

The City Treasurer shall deposit all money representing assessments collected by the County of Riverside for the District to the credit of a fund for the Drainage Assessment District No. 1 and such money shall be expended only for the maintenance, operating and servicing of appurtenant facilities as described in Section 4 hereof.

Section 8.   Approval of Assessments; Levy

The City Council hereby approves the Report, and adoption of this Resolution constitutes the District levy for the Fiscal Year commencing July 1, 2017 and ending June 30, 2018.

Section 9.   Effective Date

That this Resolution shall take effect immediately upon its adoption.

Section 10.   Filing with County Auditor

The City Clerk is hereby authorized and directed to file the levy with the Riverside County Auditor upon adoption of this Resolution.

Section 11.   Severability

That should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this resolution as hereby adopted shall remain in full force and effect.

Section 12.   Repeal of Conflicting Resolutions

The City Council hereby repeals any prior resolutions which may conflict with this Resolution.

Section 13.   Certification

The City Clerk shall certify as to the adoption of this Resolution and shall cause the same to be processed in the manner required by law. A certified copy of the levy shall be filed in the office of the City Clerk and open for public inspection.

PASSED AND ADOPTED by the City Council of the City of Desert Hot Springs at a regular meeting held on this fifth day of July, 2017 by the following vote:

AYES:

NAYS:

ABSENT:

RECUSED:

[SIGNATURES FOLLOW ON THE NEXT PAGE]

ATTEST: **APPROVED:**

_____   _____
Jerryl Soriano, CMC, City Clerk   Scott Matas, Mayor

APPROVED AS TO FORM:

_____
Jennifer Mizrahi, City Attorney

CERTIFICATE OF CLERK

       I, Jerryl Soriano, 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 July 5, 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:

ABSENT:

RECUSSED:

       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: July 5, 2017

_____
City Clerk of the City of Desert Hot Springs

[SEAL]