

RESOLUTION NO. 2018-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, DECLARING INTENTION TO ANNEX PROPERTY TO LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT NO. 2 (ANNEXATION NO. 18, ZONE 19) AND TO LEVY ASSESSMENTS ON SUCH PROPERTY FOR FISCAL YEAR 2018-19, APPROVING THE ENGINEER'S REPORT, AND SETTING THE DATE, TIME AND PLACE OF A PUBLIC HEARING ON THE PROPOSED ANNEXATION AND ASSESSMENTS

WHEREAS, the City of Desert Hot Springs (the "City") received a petition ("Petition") from ninety-three (93) property owners within the Rancho Del Oro community requesting the City initiate proceedings to annex the property underlying the Rancho Del Oro community into the Assessment District, as defined below; and

WHEREAS, in response to the Petition, the residents of Rancho Del Oro the City Council (the "City Council") of the City of Desert Hot Springs has initiated proceedings for the annexation of certain property, as Annexation No. 18, Zone 19, to Landscape and Lighting Maintenance District No. 2 of the City of Desert Hot Springs (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 prepared and filed with the City Clerk a report regarding the assessments which are proposed to be levied on and collected from the owners of the Subject Property, as defined below, for Fiscal Year 2018-19, 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 the Subject 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 within 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 2018-19 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 installation, 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;

(e) The methodology for determining the amounts to be assessed on all parcels of assessable property which are proposed to be annexed as Annexation 18, Zone 19, provides that the amount of the assessment per equivalent dwelling unit, and the resulting amount to be assessed on each parcel, will be subject to an increase for each such Fiscal Year, commencing with Fiscal Year 2019-20, by two percent (2.0%); 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, 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, Zone 19, to the Assessment District for Fiscal Year 2018-19, and 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 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, or both, of any of the foregoing.

Section 5. Annexation to Assessment District. The distinctive designation of the annexation is "Annexation No. 18, Zone 19 to Landscape and Lighting Maintenance District No. 2 of the City of City of Desert Hot Springs" (sometimes herein referred to as "Annexation No. 18, Zone 19"). The property which is proposed to be annexed to the Assessment District which comprises Annexation No. 18, Zone 19 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, Zone 19 will be included in the Assessment District. The boundaries of Annexation No. 18, Zone 19 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, Zone 19, the assessments which are proposed to be levied on the assessable lots and parcels of land in Annexation No. 18, Zone 19 as a part of the Assessment District for Fiscal Year 2018-19.

Section 7. Duration of Assessments. The assessments shall be levied on all parcels of assessable property in Annexation No. 18, Zone 19, 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 the Assessment District and the assessments which are proposed to be levied for Fiscal Year 2018-19 and which is required by Sections 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 April 3, 2018**, 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, Zone 19, 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, Zone 19 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.

Section 10. If Majority Protest Exists

If a majority protest exists, the City Council shall not undergo another City-initiated petition under the Act for at least twelve (12) months from the hearing date thereof, unless otherwise provided by law.

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 February, 2018, by the following vote:

AYES:

NAYS:

ABSENT:

RECUSED:

[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 February 6, 2018, 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 11999 Palm Drive, 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: February 6, 2018

City Clerk of the City of Desert Hot Springs

[SEAL]