

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION OVERRULING PROTESTS AND DECLARING ASSESSMENT BALLOT RESULTS, CONFIRMING ASSESSMENTS AND ANNEXING TERRITORY TO STOCKTON CONSOLIDATED STORM DRAINAGE MAINTENANCE ASSESSMENT DISTRICT NO. 2005-1, AND THE FORMATION OF ZONE 15 THEREIN BD HOMES SUBDIVISION ANNEXATION OF BD HOMES SUBDIVISION TO STOCKTON CONSOLIDATED STORM DRAINAGE MAINTENANCE ASSESSMENT DISTRICT NO. 2005-1, ZONE 15

(Municipal Improvement Act of 1913 / Stockton Improvement Procedure Code)

This Council previously formed the Stockton Consolidated Storm Drainage Maintenance Assessment District No. 2005-1; and

On July 28, 2020, this City Council adopted a Resolution of Intention to Annex Territory to the Stockton Consolidated Storm Drainage Maintenance Assessment District No. 2005-1 and the Formation of a Zone for the Maintenance and Operation of Storm Drainage Improvements, Providing for Annual Assessments for the Costs and Expenses Thereof, Approving A Proposed Boundary Map and Appointing Engineer of Work ("Resolution of Intention") therein to be known as "BD Homes - Zone 15" and a Resolution Preliminarily Approving Engineer's Report, Setting Date for Public Hearing of Protests and Providing for Property Owner Ballots Regarding Stockton Consolidated Storm Drainage Maintenance Assessment District No. 2005-1, Newcastle Rd. South - Zone 15 and in them directed the Engineer of Work to make and file a report ("Engineer's Report") in writing in accordance with and pursuant to the Municipal Improvement Act of 1913 (the "1913 Act") Division 12 (commencing with §§ 10000, *et seq.*) of the California Streets and Highways Code and the Stockton Improvement Procedure Code (the "Stockton Code"); and

The Engineer's Report was made and filed, considered by this City Council and found to be sufficient in every particular, whereupon it was determined that the Engineer's Report was preliminarily approved for all subsequent proceedings under and pursuant to the Resolution of Intention; and

The City Council provided for the giving of Notice of the Public Hearing, setting September 29, 2020, at the hour of 5:30 p.m., in the meeting place of this City Council, Council Chamber, City Hall, 425 North El Dorado Street, Stockton, California, as the time and place for a public hearing to take testimony and hearing protests in relation to the proposed assessment, the annexation of territory to a municipal improvement district, the formation of a zone, the maintenance of the improvements thereof, the property

owner assessment ballot procedure required by Article XIID of the California Constitution and final action upon the Engineer's Report (the "Public Hearing"); and

The owners of all the territory proposed to be included in the district have filed herein their Waiver and Consent; and

The City Clerk has filed with the City Council a certificate setting forth the time and manner of the compliance with the requirements of law for mailing notice and or personal service of the time and place for said Public Hearing and the notice of the property owner assessment ballot procedure required by Article XIID of the California Constitution (together with the property owner assessment ballots) and the City Council hereby finds that the notice of the time and place for said Public Hearing thereon and notice of the property owner assessment ballot procedure required by Article XIID of the California Constitution (together with the property owner assessment ballots) have been done in the time, form and manner required by law; and

On September 29, 2020, at the time and place as previously notified, the City Council held the Public Hearing and duly heard all interested parties desiring to be heard; and

In accordance with the Resolution of Intention and Article XIID of the California Constitution, property owner assessment ballots were provided to all of the property owners in said proposed assessment district, and at the close of the Public Hearing, the City Clerk, the impartial person designated by the City Council, tabulated the assessment ballots submitted and not withdrawn and found that the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment did not exceed assessment ballots submitted and not withdrawn in its favor, weighing those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcels for which each assessment ballot was submitted and the City Council so found; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The foregoing recitals are true and correct, and the City Council so finds and determines.

2. The City Council finds that any and all protests against the proposed assessment, maintenance of the improvements, or against the annexation of territory to the District or formation of Zone 15 or the extent thereof to be assessed for the costs and expensed as a whole or as to any part thereof, or against the engineer's estimate of costs and expenses, in whole or as to any part, or against the diagram and descriptions in whole or in part or the boundaries of the territory to be annexed or extent thereof (specifically all written protests not withdrawn in writing before the conclusion of the protest hearing) are made by the owners of less than one-half of the area of the land to be assessed. The City Council hereby overrules each of these protests, written and oral.

3. The City has caused the distribution of assessment ballots, a summary of the procedures applicable to the completion, return and tabulation of assessment ballots, and a statement that the existence of a majority protest will result in the assessment not being imposed. The City hereby finds and declares that the ballot measure has been submitted to the voters of land within the district and after the tabulation of the assessment ballots submitted and not withdrawn, that no majority protest against the assessment existed because the assessment ballots submitted in opposition to the assessment did not exceed the ballots submitted in favor of the assessment. In tabulating the ballots, they were weighted according to the proportional financial obligation of the affected properties.

4. The City Council hereby approves the Engineer's Report and each component part of it, including each Exhibit incorporated by reference in the Engineer's Report. Reference is made to the Engineer's Report for a full and detailed description of the improvements to be maintained, the boundaries of the territory annexed to the District and Zone 15 and the Assessments.

5. The City Council hereby confirms the Assessment Roll, and the Diagram as now on file with it, and declares the Engineer's Report and said Diagram, Assessment and Assessment Roll as contained therein are hereby adopted and confirmed.

6. Based on the oral and documentary evidence, including the Engineer's Report, offered, and received at the public hearing, this Council expressly finds and determines that:

(a) each of the several subdivisions of land in the territory to be annexed will be specially benefited by the maintenance of the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the subdivisions of land, respectively; and

(b) there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.

7. The City Council determines that public interest, convenience and necessity require annexation of Zone 15 and hereby annexes territory to "Stockton Consolidated Storm Drainage Maintenance Assessment District No. 2005-1" and the creation of Zone 15 to be known as "Newcastle Rd. South, Zone 15" and they may be referred to by such name in all subsequent proceedings, including annexations proceedings, proceedings for the levy and collection of assessments on each parcel of real property within the maintenance assessment district.

8. This Council hereby orders that the improvements described in the Resolution of Intention be maintained, the formula and method of assessment to be used to pay the annual costs and expenses of the maintenance be confirmed, that the maximum annual assessment is established for Zone 15 in the amount of \$10,513 is hereby ordered and confirmed.

9. The City Council finds, determines and orders that the maximum annual assessment set forth in Section 8 of this Resolution shall be annually increased in an amount equal to the greater of: 1) three percent (3%) or (2) the percentage increase of the Local Consumer Price Index ("CPI"). The CPI applied is for the San Francisco-Oakland-San Jose County Area for all Urban Consumers as developed by the U.S. Bureau of Labor Statistics for a similar period.

10. The City Council finds, determines, and orders that for the 2021-22 Fiscal Year there is an actual levy of \$10,513 as detailed in the Assessment Roll contained in the Report.

11. The City Clerk shall forthwith deliver to the City Superintendent of Streets the assessment as confirmed by this City Council, together with the diagram thereto attached and made a part thereof, with the Clerk's certificate on the diagram of such confirmation and the date thereof; the Superintendent of Streets shall record the diagram and assessment in the Superintendent's Office in a suitable book to be kept for that purpose, and shall execute the Superintendent's Certificate of the date of such recording, and such recording shall be and constitute the assessment roll herein.

12. After the recording of the assessment and diagram in the office of the Superintendent of Streets, the City Clerk shall file a copy of the assessment diagram in the Office of the County Recorder and shall concurrently therewith execute and record a Notice of Assessment in substantially the form provided in section 3114 of the Streets and Highways Code.

13. The City Council hereby further directs the City Clerk to comply with section 22641 of the Streets and Highways Code. The County Auditor/Controller is requested to comply with the provisions of section 22645 of the Streets and Highways Code in the collection of installments of these assessments on the assessment roll for taxes.

14. This Resolution shall take effect immediately upon its adoption.

15. The City Manager or his designee is authorized and directed to execute all documents, including, but not limited to, agreements and amendments.

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16. The City Manager is further authorized to take appropriate and necessary actions to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED September 29, 2020.

MICHAEL D. TUBBS
Mayor of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMC
City Clerk of the City of Stockton