

Resolution No.

# STOCKTON CITY COUNCIL

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## **RESOLUTION OVERRULING ANY AND ALL PROTESTS, DECLARING ASSESSMENT BALLOT RESULTS, CONFIRMING ASSESSMENTS, AND ANNEXING TERRITORY TO A MAINTENANCE ASSESSMENT DISTRICT**

### **CALAVERAS ESTATES UNIT NO. IV ANNEXATION TO CALAVERAS ESTATES UNIT NO 2, ZONE D-4 STOCKTON CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 96-2 (Landscaping and Lighting Act of 1972)**

On September 18, 2018, the City Council of the City of Stockton adopted Resolution of Intention No. 2018-09-18-1109, to annex territory to a maintenance assessment district, identify improvements to be maintained, set a public hearing for November 6, 2018, set forth mailed property owner ballot procedure and publish notice of the public hearing for Calaveras Estates Unit No. IV; and

Florsheim Homes is the owner (the "Landowner") of a proposed residential subdivision known as Calaveras Estates Unit No. IV (the "Property") proposed for development, and has requested that such property be annexed into the Stockton Consolidated Landscape Maintenance Assessment District No. 96-2; and

The Landowner has waived preparation of an engineer's report. NorthStar Engineering Group, Inc., of Modesto, California, has prepared and filed with the City Clerk a proposed Annexation Boundary Map showing the Property to be annexed to the Calaveras Estates Unit No 2, Zone D-4, of the Stockton Consolidated Landscape Maintenance Assessment District No. 96-2 ("Zone D-4"), and which proposed Annexation Boundary Map was preliminarily approved by this Council; and

The City Council provided for the giving of the Notice of the Public Hearing, setting Tuesday, November 6, 2018, at the hour of 5:30 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers of City Hall, 425 North El Dorado Street, Stockton, California, as the date, time, and place when the City Council will conduct a public hearing to take testimony and for hearing protests in relation to the proposed assessment, the annexation of territory, the maintenance of the improvements thereof, and the property owner assessment ballot procedure required by Article XIID of the California Constitution; and

The Landowner of all the territory proposed to be annexed have filed herein their Consent and Waiver; 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 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) has been done in the time, form, and manner required by law; and

On November 6, 2018, 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 Resolution No. 2018-09-18-1109 and Article XIID of the California Constitution, property owner assessment ballots were provided to all of the property owners in the territory proposed for annexation into Zone D-4 said 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 the 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 COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. All of the owners of the property subject to the assessment for the cost of the annual operation, repair, replacement, and maintenance of the improvements have signed and filed with the City Clerk of the City written Consent and Waiver for the annexation of territory to the assessment maintenance district and to the levy of assessment. The Consent and Waiver are hereby accepted, a copy of which is attached as Exhibit 1 and incorporated by this reference.
2. The City Council finds that any and all protests against the proposed assessment, maintenance of the improvements, or against the annexation or the extent thereof to be assessed for the costs and expenses as a whole or as to any part thereof, or against the diagram and descriptions in whole or in part (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 Annexation Boundary Map and Assessment Diagram and the boundaries of the territory to be annexed.

5. Based on the oral and documentary evidence, including the Annexation Diagram, offered and received at the public hearing, this City 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.

6. The City Council determines and orders that the territory shown on the Annexation Boundary Map be and hereby is annexed to Calaveras Estates Unit No. 2, Zone D-4, Stockton Consolidated Landscape Maintenance Assessment District No. 96-2.

7. This City Council hereby orders that the improvements described in Exhibit 1 of Resolution 2018-11-06-1109 be maintained, and that the Fiscal Year (FY) 2018-19 maximum annual assessment is established in the amount of \$1,156.46 per dwelling unit equivalent factor (dueF) is hereby ordered and confirmed.

8. The City Council finds, determines, and orders that the maximum annual assessment set forth in Section 7 of this resolution shall be annually increased in an amount equal to the greater of: (1) three percent, or (2) the annual percentage increase of the Local Consumer Price Index (CPI). The CPI applied is the San Francisco-Oakland-San Jose County Area for all Urban Consumers as developed by the U.S. Bureau of Labor Statistics.

9. The City Council finds, determines, and orders that for FY 2019-20 actual levy on each dueF will be determined at the City of Stockton's FY 2019-20 annual Stockton Consolidated Landscape Maintenance Assessment District No. 96-2 budget proceedings.

10. The City Council hereby 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.

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

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

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

PASSED, APPROVED, and ADOPTED November 6, 2018.

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MICHAEL D. TUBBS, Mayor  
of the City of Stockton

ATTEST

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CHRISTIAN CLEGG  
Deputy City Manager/Interim City Clerk  
of the City of Stockton