Resolution No. 06-0255

STOCKTON CITY COUNCIL

RESOLUTION ADOPTING ENGINEER'S REPORT, CONFIRMING THE ASSESSMENTS, OVERRULING PROTESTS AND DECLARING ASSESSMENT BALLOT RESULTS AND ESTABLISHING ASSESSMENT MAINTENANCE DISTRICT

DAVIS OAKS CONDOMINIUMS ASSESSMENT DISTRICT
ZONE C-8
STOCKTON CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 96-2
(Landscaping and Lighting Act of 1972)

WHEREAS, on March 21, 2006, this Council adopted A Resolution of Intention to Order the Formation of a Maintenance Assessment District and to Levy and Collect Assessments and a Resolution of Preliminary Determination and in them directed the Engineer to make and file a Report in writing in accordance with and pursuant to the Landscaping and Lighting Act of 1972 (the Act) in and for the City's Davis Oaks Condominiums Assessment District Zone C-8 Stockton Consolidated Landscape Maintenance Assessment District No. 96-2; and

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

WHEREAS, the City Council provided for the giving of Notice of the Public Hearing setting May 9, 2006 at the hour of 5:30 p.m. in the meeting place of this Council, Council Chambers, City Hall, 425 North El Dorado Street, Stockton, California, as the time and place for a Public Hearing to take testimony and for hearing protests in relation to the proposed assessment, the establishment of Zone C-8, the maintenance of the improvements thereof, the property owner assessment ballot procedure required by Article XIII D of the California Constitution and final action upon the Engineer's Report; and

WHEREAS, the Owners of all of the property proposed to be included in Zone C-8 have filed herein their Waiver and Consent; and

WHEREAS, 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 XIII D 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 XIIIID of the California Constitution (together with the property owner assessment ballots) has been done in the time, form and manner required by law; and

WHEREAS, on May 9, 2006, at the time and place as set forth in Resolution No. 06-0147, the City Council held the Public Hearing and duly heard all interested parties desiring to be heard; and

WHEREAS, in accordance with Resolution No. 06-0147 and Article XIIIID of the California Constitution, property owner assessment ballots were provided to all of the property owners in said assessment district, and at the close of the Public Hearing, the Clerk, the impartial person designated by the 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 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 Council so found; now, therefore,

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

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

Section 2. The City Council finds that any and all protests against the proposed assessment, maintenance of the improvements, the establishment of Zone C-8 or the extent thereof, the costs and expenses to be assessed 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 (specifically all written protests not withdrawn in writing before the conclusion of the protest hearing) are made by the owners of less that one-half of the area of the land to be assessed. The City Council hereby overrules each of these protests, written and oral.

Section 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.
Section 4. The City Council hereby approves the Engineer's Report and the Assessment Roll and each component part of it, including each Exhibit incorporated by reference in the Report. Reference is made to the Report for a full and detailed description of the improvements to be maintained, the boundaries of Zone C-8 and the Assessments.

Section 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 hereby adopted and confirmed.

Section 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 Assessment District Zone C-8 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.

Section 7. The City Council determines and orders that the maintenance assessment district be formed to be known as Davis Oaks Condominiums Assessment District Zone C-8.

Section 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 in the amount of $45.71 per dueF, is hereby ordered and confirmed.

Section 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). Consumer Price Index 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 of time.

Section 10. The City Council finds, determines and orders that for the 2006-2007 Fiscal Year the actual levy on each dueF will be determined at the City of Stockton's 2006-2007 Annual Stockton Consolidated Landscape Maintenance Assessment District 96-2 budget proceedings.
Section 11. The City Clerk shall forthwith deliver to the City Superintendent of Streets the assessment as confirmed by this Council, together with the diagram thereto attached and made a part hereof, 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.

Section 12. After recording 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.

Section 13. 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.

PASSED, APPROVED and ADOPTED

MAY 9, 2006

EDWARD J. CHÁVEZ, Mayor
of the City of Stockton

ATTEST:

KATHERINE GONG-MEISSNER
City Clerk of the City of Stockton

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