

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

CONFIRMING THE BALLOT RESULTS TO DETERMINE WHETHER A  
MAJORITY PROTEST EXISTS IN THE PROCEEDINGS TO  
INCREASE ASSESSMENTS IN LANDSCAPING AND LIGHTING  
ASSESSMENT DISTRICT NO. 84-2 ZONE 4 (PARK STREET)

WHEREAS, the City of Alameda (the "City") has duly created the Island City Landscaping and Lighting District 84-2 (the "District"), Zone 4 (the "Zone") under the Alameda Maintenance Procedure Code (Chapter III, Article V, et al.) (the "Municipal Code") which incorporates the provisions of the Landscaping and Lighting Act of 1972 (Sections 22500 and following of the Streets and Highways Code of California) (the "Act") to install and maintain certain landscaping and lighting improvements (the "Improvements"); and

WHEREAS, on May 19, 2015 by Resolution No. 15037, the City Council initiated proceedings to increase the assessments within Zone 4 to pay for the increased costs of maintenance and servicing of certain improvements pursuant to terms and provisions of the 1972 Act, Article XIII D of the Constitution of the State of California ("Article XIIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 et seq.) (the "Omnibus Act" and, together with the Alameda Municipal Code, the 1972 Act and Article XIIID, the "Assessment Law"); and

WHEREAS, the City Council did order and subsequently receive an Assessment Engineer's Report (hereafter referred to as the "Engineer's Report") prepared by NBS in accordance with the Assessment Law; and

WHEREAS, the Engineer's Report has been made a part of the record of these proceedings and is on file in the office of the City Clerk of the City (the "City Clerk"); and

WHEREAS, on May 19, 2015 by Resolution No. 15038, the City Council (a) set the time and place for conducting a public hearing for the purpose of hearing protests to the proposed maintenance and servicing of the improvements and the assessments proposed to be levied on land within Zone 4 and (b) ordered that the record owner of each parcel proposed to be assessed have the right to submit an assessment ballot in favor of or in opposition to the assessment proposed to be levied on such parcel; and

WHEREAS, notices of such hearing, accompanied by assessment ballot materials, were regularly mailed to each such record owner in the time, form and manner required by the Assessment Law, a full hearing has been given, and at this time all assessment ballots submitted and not withdrawn pursuant to the Assessment Law have been tabulated by the tabulation official appointed by the City (the "Tabulation Official"), all in the manner provided by the Assessment Law; and

WHEREAS, the Tabulation Official has prepared and submitted to this legislative body a Certificate of Tabulation Official and Statement of Assessment Ballots Submitted

(the "Certificate of the Tabulation Official"), a copy of which is attached as Exhibit A hereto and incorporated herein by this reference, which reflects the results of the tabulation of the assessment ballots submitted and not withdrawn; and

WHEREAS, at this time, based upon the Certificate of Tabulation Official, this City Council hereby determines that the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessments and weighted as required by the Assessment Law exceed the assessment ballots submitted, and not withdrawn, in favor of the proposed assessments and similarly weighted and, therefore, a majority protest pursuant to the Assessment Law does exist; and

WHEREAS, as a result of the existence of such majority protest, the Assessment Law prohibits this City Council from increasing the assessments within Zone 4 and levying the proposed assessments therein; and

WHEREAS, as the further result of the existence of such majority protest, this City Council desires to abandon the proceedings to increase the proposed assessments within Zone 4.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alameda, DOES HEREBY RESOLVE as follows:

SECTION 1. Recitals. The above recitals are all true and correct and made an operative part of this Resolution.

SECTION 2. Assessment Ballot Tabulation. The assessment ballots submitted, and not withdrawn, pursuant to the Assessment Law in opposition to the proposed assessments and weighted as required by the Assessment Law exceed the assessment ballots submitted, and not withdrawn, in favor of the proposed assessments and similarly weighted and it is therefore determined pursuant to Assessment Law that a majority protest does exist.

SECTION 3. Abandonment of Proceedings. As a result of the existence of a majority protest to the levy of increased assessments within Zone 4 that prohibits this City Council from levying assessments at an increased rate therein as proposed, this City Council hereby orders that all proceedings to increase the assessments as proposed be abandoned.

SECTION 4. Island City Landscaping and Lighting Maintenance District No. 84-2, Zone 4. As a result of the existence of the majority protest and the abandonment of the proceedings to increase assessments, the Zone existing assessments shall remain in full force and effect and the City may continue to levy assessments within the Zones as authorized pursuant to the Assessment Law.

SECTION 5. Effective Date. This Resolution shall take effect immediately upon its adoption.

## Exhibit A

### Certificate of Tabulation Official and Statement of Assessment Ballots Submitted

STATE OF CALIFORNIA    )  
COUNTY OF ALAMEDA    ) ss.  
CITY OF ALAMEDA        )

The undersigned, the duly authorized tabulation official appointed by the City Council of the City of Alameda, DOES HEREBY CERTIFY that pursuant to the provisions of Article XIID of the Constitution of the State of California and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following), I did tabulate the assessment ballots timely submitted, and not withdrawn, in the assessment ballot proceedings pertaining to the Island City Landscaping and Lighting Maintenance District No. 84-2, Zone 4 (Park Street).

I FURTHER CERTIFY that this Statement of Assessment Ballots Received shows the assessment ballots submitted, and not withdrawn, in favor of the proposed assessment and the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment, each total weighted according to the financial obligation of the affected properties for which the assessment ballots were submitted.

Total assessment ballots distributed	
Total assessment ballots submitted and not withdrawn	
Assessment ballots submitted, and not withdrawn, in favor of the proposed assessment	
Weighted value of assessment ballots submitted, and not withdrawn, in favor of the proposed assessment	
Assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment	
Weighted value of assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment	

This certification is executed this \_\_\_\_ day of \_\_\_\_\_, 2015 in Alameda, California.

By: \_\_\_\_\_

Title: \_\_\_\_\_

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 7th day of July, 2015, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 8th day of July, 2015.

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Lara Weisiger, City Clerk  
City of Alameda

APPROVED AS TO FORM:

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Janet C. Kern, City Attorney  
City of Alameda