



# STAFF REPORT

## CITY of YORBA LINDA

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### PUBLIC WORKS DEPARTMENT

**DATE:** JUNE 21, 2022

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** JAMIE LAI, P.E., DIRECTOR OF PUBLIC WORKS/ CITY ENGINEER  
**PREPARED BY:** AUSTIN POSTOVOIT, SENIOR MANAGEMENT ANALYST

**SUBJECT:** PUBLIC HEARING DECLARING THE VACATION OF LANDSCAPE EASEMENTS WITHIN TRACT 16144 FOR LOCAL LANDSCAPING ZONE L-5A (RESOLUTION NO. 2022-5809)

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### **RECOMMENDATION**

It is recommended that the City Council:

1. Adopt Resolution No. 2022-5809, declaring the landscape easements within Tract 16144 (Local Landscape Maintenance Zone L-5A) be vacated; and
2. Direct the City Clerk to cause a certified copy of the proposed resolution to be recorded in the Office of the Clerk-Recorder, County of Orange upon completion of any removal of irrigation equipment undertaken by the City; and
3. Direct staff execute release agreements from property owners with approved requests to keep any of the existing on-grade irrigation infrastructure within the proposed vacated easement area.

### **BACKGROUND**

The City's Landscape Maintenance Assessment District (LMAD) currently contains multiple "local" zones where landscaping services are overseen by staff. One such local landscape zone is L-5A (L-5A) which is generally located in the northwesterly portion of the City. In order to contend with L-5A's budgetary needs, the City Council initiated proceedings to levy an increased assessment in November of 2015. During this ballot process, in May of 2016, property owners did not vote in favor of the proposed assessment increase. Subsequently, in November of 2017 after a second ballot process for L-5A, a majority of property owners again did not vote in favor of an assessment increase to funding.

Due to the votes not passing twice, the City vacated certain landscape maintenance easements within L-5A pursuant to the City's LMAD Maintenance Location Guidelines for Deficit Zones and ceased maintenance activities within certain areas. These proceedings included reverting the maintenance responsibilities for the sloped and adjacent landscape areas within the zone back to the underlying property owners. However, there were some

easements where the vacation process was initiated but not completed at the time of which the City is now completing that process. The City Council adopted Resolution No. 2022-5801 on May 17, 2022, declaring its intent to vacate designated landscape easements within Tract 16144 (Local Landscape Maintenance Zone L-5A).

## **DISCUSSION**

The purpose of this public hearing is to hear evidence and testimony offered by persons interested in the proposed vacation. At the conclusion of the public hearing, if the City Council finds that the landscape easement is unnecessary for present or prospective public use, the City Council may order the vacation of the easements by adopting Resolution No. 2022-5809 (Attachment 2).

With this proposed vacation action, the City intends to vacate maintenance easements within L-5A, namely adjacent to fifteen (15) properties along Silver Maple Drive and Red Pine Road as depicted in the attached Vicinity Map (Attachment 1). In addition to the fifteen (15) properties with landscape easements along the two streets, an additional four (4) properties will have maintenance activities ceased. To date, the City and original developer (Toll Brothers) have worked in tandem to irrigate and maintain the landscaping on the sloped area of the properties (19) properties. Toll Brothers, in conjunction with the City and the Orange County Fire Authority, recently updated a Precise Fuel Modification Plan (Fuel Mod) for the landscape slopes within Tract 16144.

Once the proposed vacation process is complete, revisions of the Fuel Mod allows original maintenance responsibility for the slope to revert to the property owner. City staff provided property owners with information regarding OCFA's maintenance requirements for a slope within a Fuel Mod on April 18<sup>th</sup>, 2022, via certified mail. Staff has since responded to some property owners' questions via telephone meetings and email inquiring about the details of the process and next steps.

### ***Vacation Process:***

Streets & Highways Code Section 8300 et seq. sets forth the procedures for vacating public service easements such as the subject landscape easements. First, the City Council adopts a resolution declaring its intent to vacate the easements, instructs the City Clerk to set the hearing, and further, publishes and posts the required notices. By adopting the attached resolution, the City Council will approve the final process for vacating the designated landscape easements.

This public hearing was scheduled for a date at least fifteen (15) days after the date the proceedings were initiated. Additionally, the notice of the public hearing was published for two successive weeks prior to the public hearing. The City Council may order the vacation of the designated easements after hearing all testimony and evidence presented by interested persons, if the City Council finds that such designated easements are unnecessary for present or prospective public use.

Pursuant to Government Code section 65402, the Planning Commission considered and found that the proposed disposition of the property is consistent with the City's General Plan. This finding was made at a Planning Commission meeting, which was held on May 25, 2022.

***Irrigation infrastructure & Release Agreements:***

Staff is also requesting authorization from Council to remove existing on-grade irrigation infrastructure once the easement vacation process is imminent. The estimated cost associated with removing the City's on-grade irrigation infrastructure within the sloped landscape easement areas (and the four adjacent properties without easements) displayed in Attachment 1 is approximately \$9,500. Staff has been authorized to accept, review, and respond to requests to keep above ground irrigation lines in place after easements are vacated and transfer the appropriate irrigation facilities to property owners. There are a small number of locations where the above ground irrigation system (piping and valves) may be hydraulically useful and easily isolated for the underlying property owner to use. As such, staff reached out to affected property owners via USPS mail, certified mail, electronic mail, via telephone communication and in person.

At the time of this report's compilation, at least seven residents indicated that they desired to keep the irrigation equipment in place by executing an irrigation transfer agreement. Staff will coordinate with those residents to ensure that all necessary paperwork and agreements are completed prior to recording the easement vacations. Staff will also allow for additional residents to pursue an irrigation transfer agreement, if interest in that process is communicated to staff prior to June 29<sup>th</sup>, 2022 (in accordance with the notices previously provided to property owners). To protect the City from any future liability of the use of the existing on-grade irrigation infrastructure by property owners, staff recommends that a release agreement be required. Once the vacation approval process is completed, staff will work with property owners to execute necessary irrigation transfer and liability release agreements.

***Notices:***

Staff has already contacted the owners of the nineteen (19) subject properties via certified mail to inform them of the forthcoming public hearing, impending maintenance responsibilities and to offer assistance. Additionally, notices were provided as required by the official vacation process. This included notices of the Public Hearing in the newspaper and the posting of notices within the areas to be vacated. Signs were staked along the to be vacated easements as well as along Valley View Circle, which is the adjoining access street. A total of not less than 45 noticing signs were posted.

Further, staff mailed a second letter to the owners, providing an update on the vacation process including the Public Hearing date. Upon approval of this report, City staff will also provide final follow-up contact with property owners to confirm that the indicated vacation will take effect.

### **FISCAL IMPACT**

There are minor costs associated with posting the notices (less than \$300 and staff time). These costs will be covered within the Public Works operating budget. An agreement with the City's consultant Surveyor has already been approved by Council to cover the costs associated with the preparation of legal descriptions and exhibits. An additional cost of approximately \$400 was incurred in order to send out certified letters to the property owners in the Zone. This includes envelopes and postage. Subsequent mailing activities resulted in nominal additional costs.

Modifications to and the removal of existing on-grade irrigation infrastructure is estimated to cost approximately \$9,500. This cost may decrease depending on the total number of acceptable requests from property owners to keep the existing on-grade irrigation infrastructure located on their property. Any portion of the cost not borne by the property owners will be expended out of the LMAD operating account (2010350-432950) for Zone L-5A. There will be a reduction in potential future costs to the Zone by way of removing future maintenance and irrigation responsibilities.

### **ALTERNATIVES**

The Council may direct staff to not proceed with vacating the easements in the manner proposed in this report. However, keeping all of the areas where the City currently has easements and assuming the maintenance responsibilities for those areas would increase operating costs for Zone L-5A.

### **ATTACHMENTS**

1. L-5A Zone and Vicinity Map
  2. Resolution No. 2022-5809
  3. Draft Legal Descriptions – Exhibit A and Sketches to Legal Description – Exhibit B
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