



STAFF REPORT

CITY of YORBA LINDA

PUBLIC WORKS DEPARTMENT

DATE: JANUARY 17, 2023

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: APPROVE AN ANNEXATION ENGINEER'S REPORT, DECLARATION OF INTENT TO BALLOT AND ASSOCIATED PROCEEDINGS FOR ANNEXATION AND ESTABLISHMENT OF ASSESSMENTS FOR LMAD ZONES – ANNEXATION TERRITORY TRACT 17341 (CIELO VISTA DEVELOPMENT)

RECOMMENDATION

It is recommended that the City Council:

1. Adopt proposed Resolution No. 2023-5836, authorizing the annexation of Tract No. 17341 (Cielo Vista Development) into the Landscape Maintenance Assessment District (LMAD) and initiating proceedings to levy a proposed new or increased assessment for the Annexation Territory of Tract 17341, known as the Cielo Vista Development within the Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K within the Yorba Linda Street Lighting and LMAD, commencing Fiscal Year 2022/2023; and
2. Adopt proposed Resolution No. 2023-5837, approving the Annexation Engineer's Report regarding the proposed new or increased assessment for the Annexation Territory of Tract 17341, known as the Cielo Vista Development within the Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K within the Yorba Linda Street Lighting and LMAD for Fiscal Year 2022/2023; and
3. Adopt proposed Resolution No. 2023-5838, declaring its intention to ballot property owners for a proposed new or increased assessment within the Annexation Territory of Tract 17341, known as the Cielo Vista Development within the Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K of the Yorba Linda Street Lighting and LMAD commencing with Fiscal Year 2022/2023, setting a time and place for a Public Hearing, and authorizing staff to proceed with the balloting procedures.

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BACKGROUND

In December 2016, the Orange County Board of Supervisor's approved an Area Plan and Environmental Impact Report for a land development project within the (then) unincorporated area of Orange County known as the Cielo Vista Project (hereafter referred to as "Tract 17341" or "Property"). The project area more specifically lies north of Via Del Agua/Stonehaven Boulevard and east of Dorinda Road and San Antonio Road (Attachment 4 - Vicinity Map). The Property consists of 84.761 acres of land, proposed to be subdivided into seventy-four (74) single-family residential units. The territory that comprises the Property was annexed into the City in 2020, with the Orange County Local Agency Formation Commission Certificate of Completion being recorded at the County on or about December 20, 2019.

In 2019, the City entered into a Pre-Annexation Agreement (Agreement) for the Property with North County BRS Project, LLC, (Company) who represented the ownership of the Property at the time. The Agreement sets forth obligations for the development of the Property that must be met by the Company prior to the Property's annexation. The Property is now owned by Lennar Homes of California, Inc. (Owner) who is developing the Tract, and assumes the responsibility to comply with the provisions of the Agreement.

A major provision of the Agreement for Tract 17341 is the commitment to eventually annex the Property into the City's Landscape Maintenance Assessment District (LMAD). The annexation of the Property includes annexation into the LMAD's applicable Arterial Lighting Zone, Arterial Landscaping Zone (A-3), Local Landscaping Zone (L-2K), and Traffic Signal Zone (TS-2). The agreement included a commitment to the approval of assessments up to the maximum amount of the allowable assessment, including a yearly increase based on CPI, on property with the LMAD that neighbored the Property (which is LMAD Local Landscape Zone L-2K).

As the development of the Property progressed, City staff solicited a sub-task proposal from Willdan Financial Services (Willdan) to draft an Annexation Engineer's Report in order to adhere to the LMAD annexation requirements of the Agreement. Willdan's scope of services included preparation of annexation documentation, database development, establishing a comprehensive improvement matrix and preparation of an annexation Engineer's Report (Attachment 5). Their services also included the development and provision of detailed listings and descriptions of the improvements, services and/or maintenance to be funded. Also provided was pertinent budget information, which included estimated costs, estimated service costs or rates, specific replacement costs and/or capital expenditures, City overhead, and available funding from other sources that can be used to offset costs. Additionally, Willdan's services includes overseeing the preparation and delivery of all balloting materials.

City staff, including LMAD personnel and the City Attorney have reviewed and approved the completed Annexation Engineer's report and associated resolutions for the Property. It should be noted that City staff has coordinated with the Owner's project representatives

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throughout this process. Visual depictions of the proposed boundaries for each applicable LMAD Zone related to the proposed annexation is provided in the Annexation Diagrams in Attachment 5.

DISCUSSION

Annually, the City establishes the District's assessments for each Zone based on an estimate of the costs to maintain, operate and service the improvements in those Zones in conjunction with available revenues including fund balances, general benefit contributions, additional City contributions, and current assessment limits. To fully fund the improvements that are considered special benefits to the Property, it was determined that it is appropriate and, in the public's, best interest to annex the Property. The net annual cost to provide the improvements in each Zone is based on the various improvements and the types of improvements and services to be provided by the LMAD for the properties that are directly associated with and benefit from those improvements.

With the annexation of Tract 17341 and the development of properties therein, approximately 2,045 square feet of decomposed granite trail and approximately 170 linear feet of equestrian trail fencing will eventually be added to the existing Local Landscaping Zone L-2K improvements. The trail and fencing are to be located on the east side of Palo Verde (the entry street access to Tract 17341), just north of Stonehaven Drive. Additional potential future trail improvements within the Tract may also be included in future engineer's reports. A traffic signal (traffic control device) will be constructed and installed by the developer within Traffic Signal Zone TS-2 at the intersection of Via Del Agua and Yorba Linda Boulevard. This eventual signal will be included as a Zone improvement in future Engineer's reports. There are no improvements being added to the existing Arterial Landscaping Zone A-3 or Arterial Lighting Zone as a part of this annexation. The total balloted annexation assessment amount for the Property is \$34,603.88. This total is comprised of a proposed per EBU rate of \$467.62, which represents the fiscal year 2022/2023 combined maximum assessment rates for Local Landscaping Zone L-2K, Arterial Landscaping Zone A-3, Arterial Lighting Zone, and Traffic Signals Zone TS-2. The initial assessments will be borne by the Owner; however, the levied amounts will eventually be assessed to subsequent property owners once housing units at the Property are sold. It should be noted that although the assessment rates being proposed are based on fiscal year 2022/2023 values, the realized levy amounts will be subject to the CPI rate increase if and when they are incorporated into the FY2023/2024 citywide Engineer's Report for the LMAD.

The proposed Public Hearing will include the tabulation of the Proposition 218 ballots that will be mailed out to the owner of the Property. Since the entirety of the Property is owned by the Developer, only one ballot will be mailed. Pursuant to Proposition 218, the Notice of Public Hearing and assessment ballot will be post marked at least 45 days in advance of the Public Hearing. It is anticipated that the notices and ballot will be sent out on or before February 3, 2023.

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The proposed action items for Council are to adopt the proposed resolutions (Attachments 1, 2 and 3) which approve the Annexation, the Engineer's Report and declares the City's intention to levy and collect assessments for the applicable Zones and setting a Public Hearing to confirm the assessments. By the proposed Public Hearing on March 21, 2023, any public comments and written protests regarding the applicable Zone's within District and the annual levy of assessments may be heard. The time between approval of the Annexation Engineer's report and the Public Hearing allows at least 45 days for public review. Based upon those public comments and written protests, the City Council may order amendments to the Report or confirm the Report as submitted.

Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether a majority protest exists: "A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property." With regards to the proceedings for the annexation of territory, pursuant to Section 22608 of the 1972 Act, the "right of majority protest shall be limited to the territory proposed to be annexed." Following final approval of the Report and confirmation of the assessments, the Council may, by resolution, order the improvements to be made, and confirm the levy and collection of assessments pursuant to the 1972 Act. The assessments, as approved, will be submitted to the Orange County Auditor/Controller in tandem with the forthcoming Citywide LMAD Engineer's Report, to be included on the property tax roll for each affected parcel.

FISCAL IMPACT

Per the Pre-Annexation agreement associated with this development, all costs incurred by the City that are associated with the annexation of Tract No. 17341 into the LMAD are eligible for reimbursement by the developer. The consultant costs for development of the focused Engineers' Report and associated Proposition 218 services, which are also reimbursable, are approximately \$9,500. It should be noted that while the proposed resolutions will be implemented this fiscal year, the first assessment for the Annexation Territory will be levied and collected commencing in fiscal year 2023/2024.

ALTERNATIVES

Council may choose to reject the recommendations to approve the Annexation Engineer's Report, annexation processes and intent to ballot the property owner. However, this alternative would prevent the Owner's ability to comply with the Pre-Annexation agreement's clause committing to the annexation of Tract 17341 into the LMAD. Additionally, this action may result in the collection of less than the full cost recovery for the Property.

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ATTACHMENTS

Attachment 1 – Resolution 2023-5836

Attachment 2 – Resolution 2023-5837

Attachment 3 – Resolution 2023-5838

Attachment 4 – Vicinity Map

Attachment 5 – Annexation Engineer's Report
