

RESOLUTION NO. 2023-5838

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA, PURSUANT TO THE PROVISIONS OF THE LANDSCAPING AND LIGHTING ACT OF 1972, DECLARING ITS INTENTION TO BALLOT PROPERTY OWNERS FOR PROPOSED NEW OR INCREASED ASSESSMENTS FOR ANNEXATION TERRITORY OF TRACT 17341, KNOWN AS THE CIELO VISTA DEVELOPMENT WITHIN 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 LANDSCAPING MAINTENANCE ASSESSMENT DISTRICT COMMENCING FISCAL YEAR 2022/2023, SETTING A TIME AND PLACE FOR A PUBLIC HEARING, AND AUTHORIZING STAFF TO PROCEED WITH THE BALLOTING PROCEDURES

WHEREAS, there currently exists in the City of Yorba Linda an assessment district known as the Yorba Linda Lighting and Landscaping Maintenance District (“District”); and

WHEREAS, by Resolution No. 2023-5836, the City Council of the City of Yorba Linda initiated proceedings to levy and collect proposed new or increased assessments for the Annexation Territory of Tract 17341, known as the Cielo Vista Development within Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K within the District commencing in Fiscal Year 2022/2023 and ordered the City Engineer to prepare the report regarding such assessments, pursuant to the provisions of the Landscaping and Lighting Act of 1972 of the California Streets and Highways Code (hereafter the “Act,” starting at Streets and Highways Code Section 22500); and

WHEREAS, by Resolution No. 2023-5837, the City Annexation Engineer’s report for the proposed new or increased assessments for Annexation Territory of Tract 17341, known as the Cielo Vista Development within Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K, commencing in Fiscal Year 2023/2024 has been approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yorba Linda as follows:

Section 1. The foregoing recitals are incorporated herein by this reference.

Section 2. Pursuant to the Act, the City Council hereby finds and declares that the public interest and necessity require the maintenance and servicing of landscaping and public lighting facilities within the City, and contingent upon compliance with, as applicable, the requirements of the Act, Article XIID of the California Constitution (commonly known as “Proposition 218”) and the Proposition 218 Omnibus Implementation Act (set forth at Government Code Sections 53750-53758), the City Council hereby declares its intention to levy and collect proposed new or increased assessments for Fiscal Year 2022/2023 within 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 Lighting and Landscaping Maintenance District.

Under the Act, before levying and collecting proposed new or increased assessments in the assessment district, the City Council is required to adopt a resolution declaring its intention to do so.

Section 3. The existing and proposed improvements in the District within 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 are generally described as the construction, installation, operation, servicing, and maintenance of the landscaping of green belts, multi-purpose trails, median islands and slopes adjacent to public rights-of-way. The location and boundaries of the Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K are shown on a map in the Annexation Engineer’s Report referenced in Section 4 (below) and the third recital (above). In addition, a list of the parcel numbers for each of the properties in the above-listed Zones is on file with the City Clerk.

Section 4. Reference is hereby made to the Annexation Engineer’s Report Annexation Territory of Tract 17341, known as the Cielo Vista Development within Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K for the proposed new or increased assessments commencing in Fiscal Year 2023/2024, approved by a resolution the City Council and on file with the City Clerk, which contains a full description of the improvements, the boundaries of the Zone within the District, and the proposed new or increased assessments upon assessable lots and parcels of land within the Zone within the District.

Section 5. Contingent on compliance with the Act’s, Proposition 218’s and the Proposition 218 Omnibus Implementation Act’s balloting procedure(s), the City Council proposes to levy and collect a new or increased assessment upon properties in the Annexation Territory of Tract 17341, known as the Cielo Vista Development within Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K of the City of Yorba Linda Street Lighting and Landscaping Maintenance District for Fiscal Year 2022/2023, as described in the Annexation Engineer’s Report. The existing assessment in the Zone is proposed to increase from the previous year. Parcels

within 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 that are owned or used by any county, city, special district or other agency shall be assessed unless the City demonstrates by clear and convincing evidence that such lots or parcels receive no special benefit from proposed improvements.

Section 6. Notice is hereby given that on **Tuesday, March 21, 2023, at 7:00 p.m.**, in the City Council Chambers at 4845 Casa Loma Avenue, Yorba Linda, at a Regular Meeting of the City Council, the City Council will hold a Public Hearing to tabulate Proposition 218 ballots, consider all oral statements, and communication made or filed by any interested person concerning the proposed new or increased assessments 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 for Fiscal Year 2022/2023 for the Yorba Linda Lighting and Landscaping Maintenance District.

Section 7. Pursuant to the Act, the California Constitution, and the Proposition 218 Omnibus Implementation Act, an assessment ballot proceeding is hereby called on the matter of confirming the 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, as outlined in the Annexation Engineer's Report. Under the supervision of the City Clerk's Office, City staff is authorized and directed to proceed with the balloting procedure 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 of the City of Yorba Linda Street Lighting and Landscaping Maintenance District. The ballots and notices for the Public Hearing shall be distributed to the property owner(s) of record as of the last County equalized roll. Property owner or owners of each affected parcel may return the ballot by mail or in person to the City Clerk not later than the conclusion of the Public Hearing noted above.

Section 8. The City Clerk or their designee is hereby authorized and directed to give Notice of the Public Hearing referred to in Section 6 of this Resolution and distribute property owner protest ballots referred to in Section 7 of this Resolution in accordance with applicable law. The Notice and ballots shall be distributed by first class mail to the property owner(s) of records, as provided by the County of Orange, for each parcel 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 not less than 45 days before the date of the Public Hearing pursuant to the California Constitution.

Section 9. The property owner protest ballot proceeding conducted for the Annexation Territory of Tract 17341, known as the Cielo Vista Development within Arterial Lighting Zone, Arterial Landscaping Zone A-3, Traffic Signal Zone TS-2, and Local Landscaping Zone L-2K will constitute the property owners' approval of rejection of the proposed new or increased assessments and assessment range formula described in the Annexation Engineer's Report.

Section 10. In accordance with Streets and Highways Code Section 22660(a), the City Council has determined that the estimated cost of certain proposed improvements, described in Section 22525, subdivisions (a) through (d) of the Act, are greater than can conveniently be raised from a single assessment and, as a result, shall be collected in installments over a period not to exceed five fiscal years and held in a reserve account, as noted in the Annexation Engineer's Report.

Section 11. General descriptions of the above-referenced proposed improvements for all Zone and Sub-Zone in the District, as well as the estimated costs thereof, the number of annual installments and years during which they are to be collected, and the maximum amount of each annual installment, are described in the Capital Improvement Renovation Budget on file with the City Clerk.

Section 12. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions might subsequently be declared invalid or unconstitutional. Additionally, if any section, subsection, sentence, clause, phrase, portion, zone, or subzone of the Annexation Engineer's Report is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of the Annexation Engineer's Report and each section, subsection, subdivision, sentence, clause, phrase, portion, zone, or subzone thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, portions, zones, or subzones might subsequently be declared invalid or unconstitutional.

Section 11. This Resolution shall become effective upon its adoption.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Yorba Linda on this 17th day of January, 2023.

GENE HERNANDEZ, MAYOR
CITY OF YORBA LINDA

ATTEST:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA

APPROVED AS TO FORM:
RUTAN & TUCKER LLP

CITY ATTORNEY

**STATE OF CALIFORNIA) ss.
COUNTY OF ORANGE)**

I, MARCIA BROWN, City Clerk of the City of Yorba Linda, California, **DO HEREBY CERTIFY** that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Yorba Linda held on the 17th day of January, 2023, and was carried by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA