

RESOLUTION NO. 2023-5846

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 LEVY AND COLLECT ASSESSMENTS WITHIN THE CITY OF YORBA LINDA STREET LIGHTING AND LANDSCAPING MAINTENANCE ASSESSMENT DISTRICT FOR FISCAL YEAR 2023/2024, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING CONCERNING THE LEVY OF ANNUAL ASSESSMENTS

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. 2023-5842, the City Council of the City of Yorba Linda initiated proceedings to levy and collect annual assessments in the District, and ordered the City Engineer to prepare the report required by California Streets and Highways Code, pursuant to the provisions of the Landscaping and Lighting Act of 1972; and

WHEREAS, by accompanying Resolution No. 2023-5845, the City Engineer's report 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 Streets and Highways Code Section 22624, the City Council hereby finds and declares that the public interest and necessity require the maintenance and servicing of landscaping and public lighting facilities in the City, and the City Council hereby declares its intention to levy and collect assessments within the Yorba Linda Lighting and Landscaping Maintenance Assessment District for Fiscal Year 2023/2024. Under said Act, before levying and collecting assessments in the assessment district, the City Council is required to adopt a resolution declaring its intention to do so.

Section 3. The existing improvements in the District are generally described as the construction, installation, operation, servicing, and maintenance of the landscaping of green belts, multi-purpose trails, median islands, parks, and slopes adjacent to public rights-of-way; and the servicing, maintenance, and operation of public street lighting and traffic signal facilities within the Assessment District.

Section 4. The Yorba Linda Lighting and Landscaping Maintenance District is Citywide, and the boundaries of the District are coterminous with the present boundaries of the City.

Section 5. Reference is hereby made to the Report of the City Engineer on file with the City Clerk for the Fiscal Year 2023/2024 (the "Engineer's Report"), which contains a full description of the improvements, the boundaries of the District and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the District.

Section 6. An assessment will be levied pursuant to said Act upon all property in the City of Yorba Linda Street Lighting and Landscaping Maintenance Assessment District for Fiscal Year 2023/2024, subject to an assessment under said Act, as described in the Engineer's Report. Parcels within the District 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. The District does not propose an increase in any applicable rate, nor does it propose a revision in methodology for the Fiscal Year 2023/2024 by which the assessment is calculated or to exceed an assessment formula or range, from that approved in the votes by the owners of parcels impacted in the assessment ballot proceeding for Fiscal Year 1997/1998, the ballot proceeding for the Fiscal Year 2003/2004 or any prior or subsequent individual zone proceedings, respectively. Per approval of the voters, an increase in the per-parcel assessment based on CPI or any other approved factor(s) will be levied during the Fiscal Year 2023/2024.

Government Code Section 53750(h)(1) provides that for purposes of Article XIIC and XIID of the California Constitution an assessment is "increased" if the District increases any applicable rate used to calculate the assessment or revises the methodology by which the assessment is calculated if that revision in methodology results in an increased amount being levied on any person or parcel. Government Code Section 54954.6(a)(1)(D) similarly provides that an "increased assessment" does not include an assessment that does not exceed an assessment formula or range previously adopted by the voters in the area where the assessment is imposed. The District does not propose an increase in any applicable rate, nor does it propose a revision in methodology for the Fiscal Year 2023/2024 by which the assessment is calculated or to exceed an assessment formula or range, from that approved in the votes by the owners of parcels impacted in the assessment ballot proceeding for Fiscal Year 1997/1998, the ballot proceeding conducted for the Fiscal Year 2003/2004 or any prior or subsequent individual zone proceeding, respectively. Therefore, pursuant to the foregoing definitions applicable to the proposed Fiscal Year 2023/2024 Citywide Yorba Linda Lighting and Landscaping Maintenance Assessment District assessment under the California Constitution and California statutory laws, there is no increase in the proposed Fiscal Year 2023/2024 assessments from the assessments imposed for Fiscal Year 2023/2024. The dollar amount of the assessment for some parcels may increase from prior years due to a change in use or other factor not related to the applicable rate, calculation methodology, assessment formula, or range previously approved in the above-referenced assessment ballot proceedings.

Section 7. Notice is hereby given that on **Tuesday, June 6, 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 consider all oral statements and all written protests and communication made or filed by any interested person

concerning the annual assessments for Fiscal Year 2023/2024 for the Yorba Linda Lighting and Landscaping Maintenance Assessment District.

Section 8. The City Clerk is hereby directed to give Notice of the Public Hearing referred to in Section 7 of this Resolution in accordance with applicable law.

Section 9. To the extent anything herein differs or is otherwise inconsistent with the City's prior action with respect to the approval of any individual Zone proceedings, and/or the levy of assessments for any individual Zone proceedings, this Resolution shall prevail as to any such inconsistencies.

Section 10. 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 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 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 sub-zones 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 16th day of May, 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 16th day of May, 2023, and was carried by the following roll call vote:

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA