# RESOLUTION NO. 2015-5296

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA DECLARING ITS INTENT TO ABATE THE USE OF GENERAL FUND SUBSIDIES IN THE STREET LIGHTING AND LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT ZONES FOLLOWING A FAILED PROPOSITION 218 BALLOT PROCEDURE

**WHEREAS**, the City of Yorba Linda currently operates a Street Lighting and Landscape Maintenance Assessment District ("LMAD") in accordance with the Landscaping and Lighting Act of 1972 (the ("Act"), codified as Streets and Highway Code § 22500 *et seq.*), and Proposition 218 (California Constitution Article XIII D); and

**WHEREAS**, in compliance with the Act, the City develops and approves an annual LMAD Engineer's Report which includes, amongst other things, the balance to levy and the respective assessment rates to be levied on identified parcels in the LMAD; and

**WHEREAS**, to conform with the provisions of Proposition 218, the Engineer's Report also identifies, calculates, and distinguishes the General and Special Benefits related to the improvements provided in the LMAD; and

**WHEREAS**, the identified General Benefits in the Engineer's Report are paid for by non-LMAD special assessment funds; and

**WHEREAS**, the amount of the special assessment levied on individual parcels are limited by both (i) the reasonable cost of the proportional Special Benefit(s) conferred on the parcel being assessed, excluding any identified General Benefit(s), and (ii) the maximum approved special assessment amount for an identified zone, as authorized pursuant to a Proposition 218 vote; and

**WHEREAS**, the City may only increase a special assessment in the LMAD beyond the currently-approved amount, which includes a Consumer Price Index escalator, following a successful ballot proceeding conducted in compliance with the specific requirements of Proposition 218; and

**WHEREAS**, there are currently forty-three (43) Zones and Sub-Zones within the LMAD, some of which operate in a deficit and require an additional General Fund contribution, above and beyond the required General Benefit contribution ("General Fund Subsidy"), in order to continue operations at the current (or even reduced) level of service in that Zone or Sub-Zone; and

**WHEREAS**, the City Council has established a Landscape Maintenance Citizen Advisory Committee ("LMCAC") to make recommendations to the City Council related to the operations of the LMAD; and

**WHEREAS**, the LMCAC is in the process of conducting outreach meetings to various Zones and Sub-Zones within the LMAD to garner input from the public on LMAD-related issues, including but not limited to the possibility of conducting a Proposition 218 ballot proceeding to help address funding issues associated with Zones and Sub-Zones in the LMAD, so that the LMCAC may ultimately make recommendations to the City Council on these matters; and

**WHEREAS**, in support of its efforts, the LMCAC has requested that the City Council consider the possibility of eliminating the General Fund Subsidies for those LMAD Zones or Subzones with a deficit in the event that a complete Proposition 218 ballot proceeding has been conducted, but fails.

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

SECTION 1. INCORPORATION OF RECITALS.

The above recitals are true and correct and incorporated herein.

SECTION 2. DECLARATION OF INTENT.

It is the intent of the City Council, upon a determination by the City Council that it is both feasible and prudent, to abate the use of General Fund Subsidies in LMAD Zones and/or Sub-Zones that have been identified as having a deficit, in the event that a Proposition 218 ballot proceeding is conducted in that respective Zone or Sub-Zone, but an increase in the respective assessment above the currently-approved amount fails to be authorized by the voters.

SECTION 3. SEVERABILITY.

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 portions 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.

SECTION 4. EFFECTIVE DATE.

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 3rd day of March, 2015.

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 3rd day of March, 2015, and was carried by the following roll call vote:

AYES: COUNCILMEMBERS: **HERNANDEZ, HUANG, LINDSEY, SCHWING**
NOES: COUNCILMEMBERS: **YOUNG**
ABSENT: COUNCILMEMBERS: **NONE**

MARCIA BROWN, CITY CLERK
CITY OF YORBA LINDA