

RESOLUTION NO. 4358-23

A RESOLUTION OF THE CITY OF OVIEDO, FLORIDA, RELATING TO THE DELIVERY AND FUNDING OF STREET LIGHTING SERVICES WITHIN THE CITY; AMENDING, RATIFYING AND CONFIRMING THE FINAL RATE RESOLUTION FOR FISCAL YEAR 2023-24; DETERMINING THAT CERTAIN REAL PROPERTY IS SPECIALLY BENEFITED BY STREET LIGHTING SERVICES; APPROVING THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; AND PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS, SCRIVENER'S ERRORS, CONFLICTS, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Oviedo (the "City") adopted Ordinance No. 1667, as codified in Article IV, Chapter 42, of the *Code of Ordinances of the City of Oviedo* (the "Assessment Ordinance"), and Resolution No. 3588-18 (the "Final Rate Resolution") pursuant to Sections 166.021, 166.041 and 197.3632, *Florida Statutes*, and other applicable provisions of the law; and

WHEREAS, the reimposition of a Street Lighting assessment for street lighting services, facilities and programs each fiscal year is an equitable and efficient method of allocating and apportioning Street Lighting Assessed Costs among Tax Parcels within the Street Lighting Service Area; and

WHEREAS, the City Council conducted a public hearing on August 20, 2018, and thereat, adopted Resolution No. 3588-18, the "Final Rate Resolution" which ratified and confirmed for FY2018-19, the "Preliminary Rate Resolution" previously adopted by City Council as Resolution No. 3578-18; and

WHEREAS, the City Council conducted a public hearing on August 19, 2019, and thereat, adopted Resolution No. 3783-19, amending, ratifying and confirming the Final Rate Resolution for FY2019-20; and

WHEREAS, the City Council conducted a public hearing on August 17, 2020, and thereat, adopted Resolution No. 3950-20, amending, ratifying and confirming the Final Rate Resolution for FY2020-21; and

WHEREAS, the City Council conducted a public hearing on August 16 2021, and thereat, adopted Resolution No. 4104-21, amending, ratifying and confirming the Final Rate Resolution for FY2022-22; and

WHEREAS, the City Council conducted a public hearing on August 15, 2022, and thereat, adopted Resolution No. 4235-22, amending, ratifying and confirming the Final Rate Resolution for FY2022-23; and

WHEREAS, Section 197.3632, *Florida Statutes*, provides that “a local government shall adopt a non-ad valorem assessment roll annually, at a public hearing held between January 1 and September 15”;and

WHEREAS, notice of such Public Hearing has been published and mailed to property owners recently added to the certified tax roll for the first time or other such reason required under Section 197.3632, *Florida Statutes*, affording each property owner the opportunity to be heard concerning the assessments; and

WHEREAS, proof of publication and an affidavit of mailing are attached hereto as Exhibits 1 and 2 respectively; and

WHEREAS, Section 197.3632, *Florida Statutes*, also provides that by September 15th of each year, the City shall certify a non-ad valorem assessment roll to the tax collector; and

WHEREAS, the Street Lighting Assessment Roll shall be available to the public at the office of the City Clerk; and

WHEREAS, a public hearing has been duly held on August 21, 2023 and comments and objections of all interested persons have been heard and considered.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS:

SECTION 1. Authority. This Resolution of the City of Oviedo, Florida (the “City”) is adopted pursuant to Ordinance No. 1667 (the “Assessment Ordinance”), Resolution No. 3588-18 (the “Final Rate Resolution”), Sections 166.021, 166.041 and 197.3632, *Florida Statutes*, and other provisions of law.

SECTION 2. Definitions. This Resolution is the Annual Assessment Rate Resolution. Capitalized terms not otherwise defined in this Resolution shall have the meanings defined in the Assessment Ordinance and the Final Rate Resolution.

SECTION 3. Findings. It is hereby ascertained, determined and declared that:

(A) The findings provided in the Final Rate Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.

(B) On August 23, 2018, the City Council adopted the Final Rate Resolution which described the Street Lighting Services, provided for the funding thereof through Street Lighting Assessments and the method of assessing the cost of such services against the real property located within the City that will be specifically benefited thereby, established a public hearing to consider imposition of the Assessments, directed preparation of the Street Lighting Assessment Roll and the provision of notices required by the Assessment Ordinance.

(C) The Street Lighting Assessment Roll has been filed at the offices of the City Clerk, City Hall, 400 Alexandria Boulevard, Oviedo, Florida, and made available for inspection.

(D) Notice of a public hearing has been published and mailed to each affected property owner notifying such property owner of the opportunity to be heard. The proof of publication and an affidavit of mailing are attached hereto as Exhibits 1 and 2 respectively.

(E) A public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by law.

(F) The Assessments contemplated hereunder will be imposed by the City Council, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.

(G) The benefits derived from the Street Lighting Services exceed the amount of the Assessments levied and imposed hereunder. The Assessment for any Tax Parcel subject thereto does not exceed the proportional benefits that such Tax parcel will receive compared to any other Tax Parcel.

(H) The City Council hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Street Lighting Services by fairly and reasonably allocating the benefit conveyed by Street Lighting Services and the Street Lighting Service Cost among specialty benefited property.

SECTION 4. Amendment, Ratification and Confirmation of the Final Rate Resolution and Previously Imposed Assessments.

(A) The Final Rate Resolution, is hereby ratified and confirmed.

(B) Any and all prior actions of the City Council associated with the imposition of Street Lighting Assessments or similar fees and charges of every nature whatsoever are hereby approved, ratified and confirmed in their entirety.

SECTION 5. Approval of Assessment Roll. The Street Lighting Assessment Roll, which is incorporated herein by reference, is hereby approved.

SECTION 6. Street Lighting Assessments.

(A) The Tax parcels described in the Street Lighting Assessment Roll are hereby found to be specially benefited by the provision of Street Lighting Services. The apportionment methodology for the Street Lighting Assessments, as set forth in Section 10 of the Preliminary Rate Resolution, as ratified and confirmed in the Final Rate Resolution is hereby approved. Accordingly, a Street Lighting Services Assessment in the amount of \$78.13 per EBU is hereby levied and imposed against each Tax parcel described in the Street Lighting Assessment Roll.

(B) The City Council recognizes that gated communities and private subdivisions within which street lights are located on private streets, as listed in Exhibit 3, pay for the street lights within their respective gated communities and private subdivisions. Based upon that

finding and the apportionment analysis and calculations relating thereto, residential parcels within the private subdivisions listed in Exhibit 3 shall receive a credit of 0.56 EBUs per parcel and be assessed \$34.38 per EBU.

(C) The Street Lighting Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption of this Resolution and shall attach to the property included on the Street Lighting Assessment Roll as of January 1, 2024, the lien date for ad valorem taxes.

SECTION 7. Collection of Assessments. The Street Lighting Assessments imposed hereunder shall be collected pursuant to the provisions of the Final Rate Resolution and Uniform Assessment Collection Act. Upon adoption hereof and of the Annual Rate Resolution for subsequent fiscal years, the City Manager shall cause the certification and delivery of the Street Lighting Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act. The Assessment Roll as delivered to the Tax Collector may be accompanied by a Certificate of Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Exhibit 4.

SECTION 8. Effect of Annual Assessment Rate Resolution. Adoption of this Annual Assessment Rate Resolution shall be the final adjudication of the issues presented herein and in the Final Rate Resolution (including, but not limited to, the method by which the Assessments are computed and apportioned, the Street Lighting Assessment Roll, and the rate of Assessment) unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of the City Council's adoption of this Resolution.

SECTION 9. Implementing Administrative Actions. The City Manager is hereby authorized and directed to take such actions as he may deem necessary and appropriate in order to implement the provisions of this Resolution. The City Manager may, as deemed appropriate, necessary and convenient, delegate the powers of implementation as herein set forth to such City employees as deemed effectual and prudent.

SECTION 10. Scrivener's Errors. Typographical errors and other matters of a similar nature that do not affect the intent of this Resolution, as determined by the City Clerk and City Attorney, may be corrected.

SECTION 11. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 12. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.

SECTION 13. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 21st day of August, 2023.

MEGAN SLADEK
MAYOR of the City of Oviedo, Florida

ATTEST:

ELIANNE RIVERA
CITY CLERK