

**RESOLUTION NO. 2021-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE DISTRICT NO. 3 “LMD #3” FOR FISCAL YEAR 2021-2022 AND GIVING NOTICE OF AND SETTING THE TIME AND PLACE OF THE HEARING ON THE LEVY OF THE PROPOSED ASSESSMENT.**

**WHEREAS**, on November 6, 1990, the City Council of the City of Fontana, (“City”) adopted Landscape Maintenance District No. 3 pursuant to the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code (the “Act”), for the maintenance and servicing of streets, landscaping, parkways and median islands; and

**WHEREAS**, in November, 1996, the voters of the State of California passed Proposition 218 which added Articles XIIC and XIID to the California Constitution requiring, among other things, new procedures for the approval of the levying of assessments against real property; and

**WHEREAS**, Article XIID of the California Constitution requires that assessments comply with stated procedural and approval provisions by July 1, 1997, unless an assessment district meets certain exemptions as set forth in Section 5 of the Article, which exemptions include the following:

“(a) any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage system or vector control.”

“(b) any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed;” and

**WHEREAS**, LMD #3 assessments proposed for Fiscal Year 2021-2022 are exempt from Proposition 218 because the assessments generate revenue for the operation and maintenance of streets and highways, all expenditures thereunder qualifying as street maintenance as defined by the State of California; and

**WHEREAS**, the items in LMD #3 are exempt from Proposition 218 for the operation and maintenance of streets and highways; and

**WHEREAS**, LMD #3 assessments are further exempt from Proposition 218 because they were approved previously by property owner consent pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment was initially imposed; and

**WHEREAS**, the Act also requires that the City comply with certain procedural and approval procedures before levying its annual assessments under an existing assessment district; and

**WHEREAS**, the adoption of this Resolution, among other things, is required in order to levy the proposed assessments for Fiscal Year 2021-2022 for LMD #3; and

**WHEREAS**, NBS has filed the required Annual Engineer's Report with the City Clerk in accordance with the Act, and such report has been presented to and was considered by the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Fontana, California, as follows:

**SECTION 1.** The City Council hereby declares its intention to levy and collect assessments for LMD #3 during Fiscal Year 2021-2022 pursuant to the Act. The area to be assessed is located in the City of Fontana, San Bernardino County, California. The boundaries of LMD #3 are described in exhibit attached hereto.

**SECTION 2.** The purpose of LMD #3 is for maintenance and servicing of landscaping, irrigation, parkways, and medians.

**SECTION 3.** The report filed by NBS, which is on file with the City Clerk and which has been considered by the City Council at the meeting at which this Resolution has been adopted, is hereby accepted. All interested parties are referred to that report for a full and detailed description of the work, the boundaries of the assessment district, and the proposed assessments upon assessable lots and parcels of land within LMD #3.

**SECTION 4.** On Tuesday, July 27, 2021, at the hour of 7:00 p.m., during the course of its regularly scheduled meeting, the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the City Council Chambers at 8353 Sierra Avenue, Fontana, California.

**SECTION 5.** The City Clerk shall give notice of the time and place of said hearing by publishing a copy of this Resolution once in an adjudicated newspaper of general circulation not less than ten (10) days before the date of the hearing.

**SECTION 6.** This Resolution is adopted pursuant to Section 22622 of the Streets and Highways Code.

Resolution No. 2021-

**APPROVED AND ADOPTED** 8<sup>th</sup> day of June, 2021.

**READ AND APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_  
City Attorney

I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting on the 8<sup>th</sup> day of June, 2021, by the following vote to wit:

**AYES:**  
**NOES:**  
**ABSENT:**

\_\_\_\_\_  
City Clerk of the City of Fontana

\_\_\_\_\_  
Mayor of the City of Fontana

**ATTEST:**

\_\_\_\_\_  
City Clerk