

RESOLUTION NO. 2021-31

A RESOLUTION OF THE CITY OF WESTLAKE, FLORIDA, RELATING TO THE PROVISION OF RESIDENTIAL SOLID WASTE SERVICES, IN THE CITY OF WESTLAKE, FLORIDA; APPROVING THE ASSESSMENT RATE FOR RESIDENTIAL SOLID WASTE SERVICES FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2021; IMPOSING A RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF WESTLAKE FOR THE FISCAL YEAR BEGINNING ON OCTOBER 1, 2021; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Westlake, Florida, enacted Ordinance No. 2021-02, on July 12, 2021, which authorized the imposition of a Residential Solid Waste Services Special Assessment, pursuant to the procedures set forth therein ("the Ordinance") for the provision of Residential Solid Waste Services for single-family residential properties and certain multi-family residential properties that receive residential Solid Waste Services within the City, and provided for findings of special benefit and the method of apportionment of the Residential Solid Waste Services Special Assessment; and,

WHEREAS, the imposition of a Residential Solid Waste Services Special Assessment for Residential Solid Waste Services for each Fiscal Year is an equitable and efficient method of allocating and apportioning Residential Solid Waste Services Assessed Costs among parcels of Assessed Property; and,

WHEREAS, the City Council desires to impose a Residential Solid Waste Services Special Assessment within the City for the Fiscal Year beginning on October 1, 2021 using the tax bill collection method; and,

WHEREAS, the City Council, on July 12, 2021, adopted Resolution No. 2021-22 (the "Initial Assessment Resolution"), referencing the Residential Solid Waste Services to be provided to Assessed Property, describing the method of apportioning the Residential Solid Waste Services Assessed Cost to compute the Residential Solid Waste Services Special Assessment for Residential Solid Waste Services against Assessed Property, estimating a rate of assessment, and directing the preparation of the Assessment Roll and provision of the notice to the affected landowners; and,

WHEREAS, in order to impose the Residential Solid Waste Services Special Assessment for the initial year of the special assessment, the Fiscal Year beginning October 1, 2021, the Ordinance requires the City Council to adopt a Final Assessment Resolution during its budget adoption process, which establishes the rate of assessment and approves the Assessment Roll for the upcoming Fiscal Year, with such amendments as the City Council deems appropriate, after hearing comments and objections of all interested parties; and

WHEREAS, the updated Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance and the Initial Assessment Resolution; and

WHEREAS, notice of a public hearing has been published and mailed, which provided notice to all interested persons of an opportunity to be heard. An affidavit regarding the notice of mailing is attached hereto as Appendix "A" and the proof of publication is attached hereto as Appendix "B"; and,

WHEREAS, a public hearing was held on September 13, 2021, and comments and objections of all interested parties have been heard and considered;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTLAKE, FLORIDA:

SECTION 1. The aforementioned "WHEREAS" clauses are hereby ratified as true and correct and incorporated herein.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of the Ordinance, the Initial Assessment Resolution, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 3. DEFINITIONS AND INTERPRETATION. This Resolution constitutes the Final Assessment Resolution as defined in the Ordinance. All capitalized terms in this Resolution shall have the meanings defined in the Ordinance and the Initial Assessment Resolution.

SECTION 4. IMPOSITION OF RESIDENTIAL SOLID WASTE SERVICES SPECIAL ASSESSMENT.

(A) The parcels of Assessed Property described in the Assessment Roll, as updated and which is hereby approved, are hereby found to be specially benefitted by the provision of the Residential Solid Waste Services described in the Initial Assessment Resolution, in the amount of the Residential Solid Waste Services Special Assessment set forth in the Assessment Roll, a copy of which was present or available for inspection at the above-referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined, and declared that each parcel of Assessed Property within the City will be specifically benefitted by the City's provision of Residential Solid Waste Services, facilities and programs in an amount not less than the Residential Solid Waste Services Special Assessment of such parcel, computed in the manner set forth in the Initial Assessment Resolution. Adoption of this Final Assessment Resolution constitutes a legislative determination that all assessed parcels derive a special benefit, as set forth in the Ordinance and the Initial Assessment Resolution, from the Residential Solid Waste Services to be provided, and a legislative determination that the Residential Solid Waste Services Special Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the Initial Assessment Resolution.

(B) The method of computing the Residential Solid Waste Services Special Assessment described in the Initial Assessment Resolution, as modified, amended, and supplemented herein, is hereby approved.

(C) For the Fiscal Year beginning October 1, 2021, the estimated Residential Solid Waste Services Assessed Cost to be assessed is \$241,596.60. The Residential Solid Waste Services Special Assessment to be assessed and apportioned among benefitted parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Residential Solid Waste Services Assessed Costs for the Fiscal Year commencing October 1, 2021, is hereby established at \$280.60 annually, per residential unit. This assessment rate is hereby approved. Except as otherwise provided herein, the Residential Solid Waste Services Special Assessment for Residential Solid Waste Services in

the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll. Interim special assessments as described in the Initial Assessment Resolution are approved.

(D) The Residential Solid Waste Services Special Assessment shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem Assessment. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims, until paid.

(E) The Assessment Roll as herein approved, together with the correction of any errors or omissions as provided for in the Ordinance, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance.

SECTION 5. CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION. The Initial Assessment Resolution adopted July 12, 2021, except as may be amended herein, is hereby confirmed.

SECTION 6. METHOD OF COLLECTION. As provided in the Initial Assessment Resolution, the Residential Solid Waste Services Special Assessment shall be collected on the annual property tax bills pursuant to the Uniform Assessment Collection Act.

SECTION 7. EFFECT ON ADOPTION OF RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Residential Solid Waste Services Special Assessment), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within twenty (20) calendar days from the date of this Final Assessment Resolution.

SECTION 8. SEVERABILITY. If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or

invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

SECTION 9. CONFLICTS. That all prior Resolutions or parts of resolutions in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 10. EFFECTIVE DATE. This Final Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED AND APPROVED by City Council for the City of Westlake, on this 13th day of September, 2021.

City of Westlake
Roger Manning, Mayor

Zoie Burgess, City Clerk

Approved as to Form and Sufficiency
Interim City Attorney

APPENDIX A
AFFIDAVIT OF MAILING

AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Zoie Burgess, who, after being duly sworn, deposes and says:

1. I, Zoie Burgess, as City Clerk of the City of Westlake, Florida ("City"), pursuant to the authority and direction received from the City Council, timely directed the preparation of the Assessment Roll and the preparation and mailing of notices in accordance with the Residential Solid Waste Services Special Assessment Ordinance in conformance with the Initial Assessment Resolution adopted by the City Council on July12, 2021 (the "Initial Assessment Resolution"). The Initial Assessment Resolution directed and authorized notice by First Class Mail to all affected owners pursuant to the Ordinance.

2. In accordance with the Ordinance, all necessary information for notification of the Residential Solid Waste Services Special Assessment was provided to the Property Appraiser of Palm Beach County to be included as part of the notice of proposed property taxes under section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the City expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

FURTHER AFFIANT SAYETH NOT.

Affiant

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing Affidavit of Mailing was sworn to and subscribed before me this day of _____, 2021 by Zoie Burgess, City Clerk, City of Westlake, Florida. He is personally known to me or has produced _____ as identification and did take an oath.

Printed Name: _____
Notary Public, State of Florida
My Council Expires: _____
Council No.:

APPENDIX B
PROOF OF PUBLICATION

**CERTIFICATE
TO
NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that, I am the City Manager of the City of Westlake, or authorized agent of the City of Westlake, Florida (the "City"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for residential Solid Waste Services (the "Non-Ad Valorem Assessment Roll") for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Palm Beach County Tax Collector by September 15, 2021.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Palm Beach County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this day of _____, 2021.

CITY OF WESTLAKE, FLORIDA

By: _____
Title: _____

[to be delivered to Palm Beach County Tax Collector on or before September 15]