

RESOLUTION NO. 2121-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, PURSUANT TO CHAPTER 170, FLORIDA STATUTES, DECLARING THAT THE CITY IS TO FUND CAPITAL IMPROVEMENTS IN AND FOR THE CITY, TO-WIT: UNDERGROUND ELECTRIC/CATV (BHN) FACILITIES ALONG VIA SALERNO/VIA CAPRI; FURTHER DECLARING THAT THE COST OF SAID IMPROVEMENTS SHALL BE PARTIALLY PAID BY SPECIAL ASSESSMENTS LEVIED AGAINST REAL PROPERTY SPECIALLY BENEFITTED BY SAID IMPROVEMENTS; SPECIFYING THE MANNER OF AND TIME FOR PAYING THE SPECIAL ASSESSMENTS; AND INVITING THE PUBLIC TO REVIEW THE PROJECT PLANS AND SPECIFICATIONS AND THE ASSESSMENT PLAT, ALL OF WHICH ARE ON FILE AT THE ELECTRIC UTILITY DEPARTMENT OF THE CITY OF WINTER PARK; CONFIRMING THE SPECIAL ASSESSMENTS FOR THE UNDERGROUNDING OF ELECTRIC/CATV (BHN) FACILITIES WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF WINTER PARK, CONSISTING OF PROPERTIES ADJACENT TO VIA SALERNO AND VIA CAPRI AVENUE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Winter Park, Florida has established a policy for undergrounding electric/CATV (BHN) facilities within the City; and

WHEREAS, the owners of the requisite number of lots within the area along Via Salerno/Via Capri have requested the undergrounding of electric/CATV (BHN) facilities (the "Project"); and

WHEREAS, home rule authority, Ordinance 2249, and Section 197.3632, Florida Statutes, allow the City Commission of the City of Winter Park to levy and collect special assessments to fund capital improvements and municipal services pursuant to the uniform method; and

WHEREAS, the expenses of the electric/CATV (BHN) undergrounding Project are to be defrayed by special assessments; and

WHEREAS, the benefits derived from the Project exceed the cost of the assessments levied hereunder. The assessment for each property does not exceed the proportional benefits that each property will receive compared to other property in the area; and

WHEREAS, the assessments provide an equitable method of funding the facilities by fairly and reasonably allocating the cost to specially benefited property; and

WHEREAS, Ordinance 2249, and Section 197.3632, Florida Statutes, establish procedures to be followed by the City of Winter Park prior to commencement of the Project; and

WHEREAS, on December 10, 2012, the City Commission, at a duly noticed meeting, adopted Resolution No. 2117-12 expressing its intent to use the Uniform Method for Collection of non-ad valorem assessment for more than one year pursuant to Section 197.3632, Florida Statutes, within the City of Winter Park; and

WHEREAS, Section 197.3632, Florida Statutes, requires that a public hearing be conducted with respect to the special assessment roll which has heretofore been filed with the City Clerk; and

WHEREAS, on February 11, 2013, the City Commission adopted Resolution No. 2120-13, ("Initial Resolution") providing for a public hearing to consider imposition of these special assessments and the method of collection, and notice of the public hearing has been published and mailed, as required by Section 197.3632, Florida Statutes, to provide notice to all interested persons of an opportunity to be heard in considering this Final Assessment Resolution for assessment of properties described as Via Salerno/Via Capri; and

WHEREAS, Section 197.3632, Florida Statutes, requires that at said public hearing the City Commission of the City of Winter Park hear and consider any and all written objections and testimony as to such special assessments, and to adjust said assessments when necessary on a basis of justice and right; and

WHEREAS, the City Commission of the City of Winter Park has heard and considered all objections as to such special assessments raised by the owners of property to be assessed and other interested persons; and

WHEREAS, the City Commission desires to confirm the approvals, authorizations and findings in the Initial Resolution with such amendments as provided herein, and to adopt the non-ad valorem assessment and authorize the levy, collection, and enforcement thereof on specially benefitted property located Via Salerno/Via Capri; and

WHEREAS, the City Commission intends for the non-ad valorem assessment roll for those properties, as finally adopted through this Final Assessment Resolution, to be certified by the City prior to September 15, 2013, subject to such adjustments as provided herein.

NOW, THEREFORE, be it resolved by the City Commission of the City of Winter Park, Florida as follows:

Section 1. The City of Winter Park shall provide public improvements consisting of the undergrounding of electric/CATV (BHN) facilities in the area described as Via Salerno/Via Capri. The exact location and description of such improvements and municipal services appear upon the plans and specifications on file with the Electric Utility Department of the City of Winter Park.

Section 2. The City Commission of the City of Winter Park, after hearing and considering all objections brought before it as to the special assessments to be charged against property owners for the undergrounding of electric/CATV (BHN) facilities and funding of capital improvements consisting of undergrounding of electric/CATV (BHN) facilities along Via Salerno/Via Capri, does hereby approve and confirm the special assessments as contained in the Special Assessment Rolls filed with the City Clerk of the City of Winter Park. All actions taken by the City Commission at its meeting on February 25, 2013 are ratified and confirmed. By being so approved and confirmed, such assessments shall become legal, valid and binding first liens upon the property against which such assessments are made, until paid.

Section 3. The estimated cost of this improvement to be paid by special assessments is \$18,886 (electric) and \$3,972 (BHN), representing an estimated unit cost of \$1,888 (electric) and \$397 (BHN) per adjacent parcel, which will be paid by special assessments established by the City Commission of the City of Winter Park in accordance with the provisions of Section 197.3632, Florida Statutes. Such assessments and the method and schedule for payment, are as set forth on Schedule A attached hereto, and may be paid to the City as follows:

In cash without interest, at anytime within 30 days after the aforesaid improvement has been completed, or

In ten (10) equal annual installments of principal and interest accrued at the rate of 4.25% per annum for electric undergrounding and the prime interest rate for CATV (BHN) undergrounding, such payments to commence upon the approval of the resolution and submittal to the appropriate agency(s) for inclusion in the tax roll(s) and annually thereafter.

If such annual installments are not paid when due, there shall be added a penalty of one percent (1%) thereof per month until paid. Such assessments shall constitute liens, and shall be enforceable as provided in Section 197.3632, Florida Statutes.

Section 4. The lands upon which the aforesaid special assessments shall be levied shall be all lots and lands adjoining and contiguous or bounding and abutting the improvements within the described Neighborhood Electric Assessment District (NEAD) which are specially benefitted thereby and further designated in Schedule A, which are the properties abutting Via Salerno/Via Capri.

Section 5. The public is invited to review Schedule A, the plans and specifications, and the estimate of the cost of the Project, all of which are on file with the Electric Utility Department of the City of Winter Park, Florida, all as required by Section 197.3632, Florida Statutes.

Section 6. The City Clerk shall cause such approved and confirmed special assessments to be duly recorded in a special book to be known as the "improvement lien book". The record of the lien in said book shall constitute prima facie evidence of its validity. The assessment shall constitute a lien against the assessed property upon adoption of the annual assessment for each Fiscal Year, 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 by the City Commission of the annual assessment resolution and shall attach to the property included on the Assessment Rolls as of the prior January 1, the lien date for ad valorem taxes.

Section 7. COLLECTION OF ASSESSMENT. The assessments shall be collected pursuant to the Uniform Assessment Collection Act, F.S. § 197.3632. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the City Clerk shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

Section 8. EFFECT OF FINAL RESOLUTION. The adoption of this Final Resolution shall be the final adjudication of the issues presented herein and in the Initial Resolution (including, but not limited to, the method by which the assessment will be computed, the Assessment Roll, the maximum annual assessment, the levy and lien of the assessment and the terms for prepayment of the assessment) unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 (twenty) days from the date of City Commission action on this Resolution.

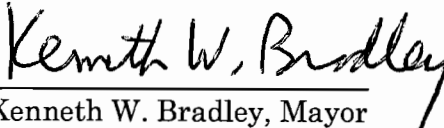
Section 9. PREPAYMENT NOTICE. The Electric Utility Department is hereby directed to provide notice by first class mail to the owner of each property described in the Assessment Roll of the opportunity to prepay all future annual assessments without additional financing cost. The notice shall be mailed to each property owner at the address utilized for the notice provided pursuant to Section 8 of the Initial Assessment Resolution.

Section 10. ASSESSMENT NOTICE. The City Clerk is hereby directed to record this Resolution as notice of the assessments in the Orange County Official Records. The preliminary Assessment Roll and each annual Assessment Roll shall be retained by the City Clerk and shall be available for public inspection.

Section 11. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or application of this Resolution.

Section 12. This Resolution shall become effective immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida, on the 25th day of February, 2013.


Kenneth W. Bradley, Mayor

Attest: 
Cynthia S. Bonham, City Clerk

SCHEDULE 'A'

ADDRESS	OWNER	MAILING ADDRESS	PARCEL
1247 Via Salerno	Eric/Susan Rosoff		32-21-30-1416-02-050
1431 Temple Dr	David/Julie Oshins		32-21-30-1416-02-040
1250 Via Capri	Shelly Heistand	P.O. Box 819	32-21-30-1416-02-011
1231 Via Salerno	Scott/Carrie Callahan		32-21-30-1416-02-260
1215 Via Salerno	Sue Gross		32-21-30-1416-02-240
1181 Via Salerno	Bob/Inevett Hahn		32-21-30-1416-02-221
1210 Via Capri	Matthew/Sandra McKeever		32-21-30-1416-02-070
1176 Via Capri	David/Margaret McIntosh		32-21-30-1416-02-090
1152 Via Capri	Thomas/Marilyn Burke		32-21-30-1416-02-110
1234 Via Capri	Jeffrey/Gail Rosenker		32-21-30-1416-02-012

