

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION**

cc: 12C
Amend No. _____

Date Prepared: December 7, 2010 Council Meeting Date: January 4, 2011

TO: Carl Swenson, City Manager
THROUGH: Susan Daluddung, Deputy City Manager
FROM: Scott Whyte, Economic Development Services Director
SUBJECT: Street Light Improvement District No. 1046, Terramar Parcel 9B.

RECOMMENDATION:

That the Mayor and Council approve the Petition for Formation, and adopt the Resolutions of Intention and Ordering Formation of the proposed Street Light Improvement District No. 1046, Terramar, located at Happy Valley Road and E/O 75th Avenue.

SUMMARY:

Pursuant to the provisions of A.R.S. §48-616, et seq., Mayor and Council are empowered to adopt a resolution ordering the formation of a Street Light Improvement District. A Petition, Resolution of Intention and Resolution Ordering the Improvements are attached for formation of City of Peoria Street Light Improvement District No. 1046, Terramar Parcel 9B, located at Happy Valley Road and E/O 75th Avenue. In this special situation, in which all of the property owners have presented a petition for formation, the ordinary publication and protest period are not required by law, and the Council may then immediately adopt a Resolution Ordering the improvements once the Resolution of Intention is first adopted. The Resolution ordering the improvements finalizes the formation of the Street Light Improvement District process.

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business

ORD. # _____ RES. # _____
LCON# _____ LIC. # _____
Action Date: _____

Council Communication
SLID 1046– Terramar Parcel 9B
January 4, 2011
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Under Arizona State law, commencing in October 2011, the residents will receive, on their property tax bill, an additional charge for operation of the street light system. In accordance with state statute, the City Engineer has prepared an assessment diagram and map listing each parcel of property within the district.

Therefore, based upon the earlier Resolution of Intention, it is my recommendation that the Mayor and Council adopt the proposed Resolutions.

ATTACHMENTS:

1. Petition for Formation
2. Proposed Resolution of Intention
3. Proposed Resolution Ordering the Improvements

CONTACT:

Traci Varland, Engineering Technician II, X7612

PETITION, WAIVER AND CONSENT TO FORMATION
OF A MUNICIPAL IMPROVEMENT DISTRICT
BY THE CITY OF PEORIA

[1046]

SLID#

[Terramar Parcel 9B]

Subdivision Name

To: Honorable Mayor and Council
City of Peoria, Arizona

Pursuant to Arizona Revised Statutes, Section 48-617, the undersigned property owner respectfully petitions the City Council of the City of Peoria, Arizona (City Council) to order the formation of a Municipal Street Light Improvement District under Arizona Revised Statutes, Title 48, Chapter 4, Article 2. In support of this petition, the undersigned states agrees to waive certain rights under the Arizona Improvement District Law and to consent to the formation and completion of the District.

1. Area of District. The proposed district is described by a map and by a legal description on Exhibit "A", which is attached hereto and incorporated herein by reference. The proposed district consists of 12.974 acres and is entirely within the corporate boundaries of the City of Peoria.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed district.
3. Purpose. The district is proposed to be formed for the purpose of the purchase of electricity for lighting the streets and public parks within the proposed district.
4. Public Convenience and Necessity. The necessity for the proposed district is the purchase of electricity for lighting the streets and public parks within the proposed district by the levying of special assessments in the proposed district.
5. Waiver and Consent. The petitioners with full knowledge of their rights being waived hereunder, hereby expressly waive:
 - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work;
 - (b) Any necessity for publication and posting of the Resolution of Intention and the Notice of Proposed Improvements pursuant to A.R.S. §48-578;

- (c) All protest rights whatsoever under A.R.S. §48-579(A) and (B), which provide for protests against the work;
- (d) All objections to the filing of and adoption by the City of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.

Further, the improvements described above are of more than local or ordinary public benefit.

In Witness whereof the parties have executed this Petition and waiver agreement as of the _____ day of _____ 20____.

<u>Richfield Investments</u> Print Property Owner Name <u>DOMINIC LEUNG</u> Print Name  Signature	Date: _____	Property (Tax Parcel Numbers) 201-09-768 thru 201-09-799, <u>inclusive</u>
 _____ Print Property Owner Name _____ Print Name _____ Address _____ Signature	Date: _____	Property (Tax Parcel Numbers) _____

Accepted and approved by:

CITY OF PEORIA, ARIZONA, an ARIZONA MUNICIPAL CORPORATION ATTEST:

By _____
Bob Barrett, Mayor

 City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

November 18, 2010

LEGAL DESCRIPTION FOR
TERRAMAR PARCEL 9B
STREET LIGHT IMPROVEMENT DISTRICT # 1046

All that part of "Terramar Parcel 9B - Replat", recorded in Book 1066 of Maps, Page 47, Maricopa County Records, a subdivision located in Southwest Quarter of Section 1, Township 4 North, Range 1 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the Southwest Corner of said "Terramar Parcel 9B - Replat", being a Brass Cap in handhole marking the Southwest Corner of said Section 1, from which the Brass Cap in handhole marking the South Quarter Corner of said Section 1 bears South 89°44'28" East, a distance of 2,635.44 feet;

Thence, along the boundary of said "Terramar Parcel 9B - Replat", the following courses:

Thence North 00°05'53" East, a distance of 659.25 feet;

Thence South 89°44'58" East, a distance of 659.09 feet to herein designated "Point A";

Thence South 00°07'06" West, a distance of 659.35 feet;

Thence North 89°44'28" West, a distance of 658.86 feet to the Point of Beginning;

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL OF LAND:

Commencing at said "Point A";

Thence North 00°07'06" East, a distance of 131.34 feet to the True Point of Beginning;

Thence North 89°45'28" West, a distance of 330.00 feet;

Thence North 00°07'06" East, a distance of 396.00 feet;

Thence South 89°45'28" East, a distance of 330.00 feet;

Thence South 00°07'06" West, a distance of 396.00 feet to the True Point of Beginning.

Containing 12.974 Acres, more or less.



RESOLUTION NO. 2011-06

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA DECLARING ITS INTENTION TO ORDER THE PURCHASE OF ELECTRICITY FOR LIGHTING THE STREETS AND PUBLIC PARKS WITHIN THE PROPOSED DISTRICT AND THAT THE COST OF THE PURCHASE OF ELECTRICITY FOR LIGHTING THE STREETS AND PUBLIC PARKS, BE ASSESSED UPON A CERTAIN IMPROVEMENT DISTRICT TO BE KNOWN AS CITY OF PEORIA STREETLIGHT IMPROVEMENT DISTRICT NO. 1046, TERRMAR PARCEL 9B; PROVIDING THAT THE COST OF THE ELECTRICITY REQUIRED TO OPERATE THE SYSTEM BE ASSESSED UNDER THE PROVISIONS OF TITLE 48, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, AS AMENDED; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, THAT:

SECTION 1. The public interest or convenience require and it is the intention of the Mayor and Council of the City of Peoria, Arizona to order the purchase of electricity for lighting the streets and public parks within the proposed district.

The estimate of the cost and expenses for the purchase of electricity for the operation of the streetlights on file with the Superintendent of Streets and the City Clerk is approved and adopted by the Mayor and Council of the City.

SECTION 2. The streetlights and the electricity, therefore, in the opinion of the Mayor and Council of the City, are of more than local or ordinary public benefit, and are of special benefit to the respective lots, pieces and parcels of land within the real property described herein. The Mayor and Council of the City make and order that the cost and expense for the purchase of electricity be chargeable upon a district to be known and designated as the City of Peoria Streetlight Improvement District No. 1046 and as described and bounded as set forth on Exhibits A and B attached, and declare that the district in the City benefited by the purchase of electricity for streetlights to be assessed, to pay the costs and expenses thereof in proportion to the benefits derived therefrom.

The City shall not assess the costs and expenses for the purchase of electricity for streetlights which are for the general public benefit against the respective lots, pieces and parcels of land located within the boundaries of the City of Peoria Streetlight Improvement District No. 1046 and if a portion of the costs and expenses for the purchase of electricity for streetlights is for the general public benefit, the City shall assess the boundaries of the City of Peoria Streetlight Improvement District No. 1046 only that portion of such costs and expenses which benefits the lots, pieces and parcels of land located within the boundaries of the City of Peoria Streetlight Improvement District No. 1046.

SECTION 3. The costs and expense for the purchase of electricity for streetlights shall be made and all proceedings therein taken; that the Superintendent of Streets of the City shall post or cause to be posted notices thereof; that the City Clerk shall certify to the passage of this Resolution of Intention; that the Engineer shall prepare duplicate diagrams of the City of Peoria Streetlight Improvement District No. 1046 described in Section 2 of this Resolution to be assessed to pay the costs and expenses thereof, under and in accordance with the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended.

SECTION 4. The majority of owners of all of the real property within the proposed district have executed a Petition for formation of a Streetlight Improvement District and the City Council has verified the ownership of the property. Publication and posting of the notice of the passage of the Resolution of Intention will be completed as prescribed by the State Statues.

SECTION 5. Any Resolutions or parts of Resolutions in conflict with the provisions of this Resolution are hereby repealed.

SECTION 6. The immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety and an emergency is declared to exist, and this Resolution will be in full force and effect from and after its passage and approval by the Mayor and Council of the City of Peoria, Arizona as required by law and is exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

Resolution No. 2011- 06
SLID 1046, Terramar Parcel 9B
January 4, 2011
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PASSED, ADOPTED AND APPROVED by the Mayor and Council of the
City of Peoria, Arizona, this 4th day of January, 2011.

Bob Barrett, Mayor

Date Signed : _____

ATTEST:

Wanda Nelson, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

LEGAL DESCRIPTION FOR
TERRAMAR PARCEL 9B
STREET LIGHT IMPROVEMENT DISTRICT # 1046

All that part of "Terramar Parcel 9B - Replat", recorded in Book 1066 of Maps, Page 47, Maricopa County Records, a subdivision located in Southwest Quarter of Section 1, Township 4 North, Range 1 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the Southwest Corner of said "Terramar Parcel 9B - Replat", being a Brass Cap in handhole marking the Southwest Corner of said Section 1, from which the Brass Cap in handhole marking the South Quarter Corner of said Section 1 bears South 89°44'28" East, a distance of 2,635.44 feet;

Thence, along the boundary of said "Terramar Parcel 9B - Replat", the following courses:

Thence North 00°05'53" East, a distance of 659.25 feet;

Thence South 89°44'58" East, a distance of 659.09 feet to herein designated "Point A";

Thence South 00°07'06" West, a distance of 659.35 feet;

Thence North 89°44'28" West, a distance of 658.86 feet to the Point of Beginning;

TOGETHER WITH THE FOLLOWING DESCRIBED PARCEL OF LAND:

Commencing at said "Point A";

Thence North 00°07'06" East, a distance of 131.34 feet to the True Point of Beginning;

Thence North 89°45'28" West, a distance of 330.00 feet;

Thence North 00°07'06" East, a distance of 396.00 feet;

Thence South 89°45'28" East, a distance of 330.00 feet;

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Containing 12.974 Acres, more or less.



Resolution No. 2011- 06

EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA

CITY CLERK'S OFFICE

RESOLUTION NO. 2011-07

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA ORDERING THE IMPROVEMENTS OF CERTAIN STREETS AND RIGHTS-OF-WAY WITHIN THE CORPORATE LIMITS OF THE TOWN AND CREATING AN IMPROVEMENT DISTRICT KNOWN AS THE CITY OF PEORIA STREETLIGHT IMPROVEMENT DISTRICT NO. 1046, TERRAMAR PARCEL 9B, PURSUANT TO TITLE 48, CHAPTER 4, ARIZONA REVISED STATUTES AND AMENDMENTS THERETO FOR THE PURPOSE OF PURCHASING ELECTRICITY, WHICH INCLUDES A CHARGE FOR THE USE OF LIGHTING FACILITIES AND OTHER RELATED ITEMS TOGETHER WITH ALL APPURTENANT STRUCTURES AS SHOWN ON THE PLANS, AND DECLARING AN EMERGENCY.

WHEREAS on the 4th day of January 2011, the Mayor and Council of the City of Peoria, Arizona, passed and adopted Resolution No. 2011-06, declaring its intention to order the purchase of electricity for lighting the streets and public parks within the proposed district and that the cost of the purchase of electricity for lighting the streets and public parks be assessed upon a certain improvement district, to be known as City of Peoria Streetlight Improvement District No. 1046; providing that the cost of the electricity required to operate the system be assessed under the provisions of Title 48, Chapter 4, Article 2, Arizona Revised Statutes, as amended; and declaring an emergency; and

WHEREAS, a copy of Resolution No. 2011-06 has been published in the Arizona Business Gazette, a newspaper published and generally circulated in the City, as required by law or alternatively a petition has been filed with the City Clerk having been signed by all the owners of the real property; and

WHEREAS, the Superintendent of Streets of the City caused to be posted along the streets of the District, no more than three hundred (300) feet apart, notices of the passage of Resolution No. 2011-06, said notices being headed "Notice of Proposed Improvement", each heading in letters at least one (1) inch in height. Said notices stated the fact of the passage of said Resolution of Intention No. 2011-06 or alternatively a petition has been filed with the City Clerk having been signed by all the owners of the real property; and

Resolution No. 2011-07
SLID 1046 – Terramar Parcel 9B
January 4, 2011
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WHEREAS, more than fifteen (15) days have elapsed since the date of the last publication of said Resolution of Intention No. 2011-06 and since the completion of the posting of said notices or alternatively a petition has been filed with the City Clerk having been signed by all the owners of the real property; and

WHEREAS, no protests against the proposed improvement and no objections to the extent of the District were filed with the Clerk of the City during the time prescribed by law; and

WHEREAS, the Mayor and Council of the City having acquired jurisdiction to order the improvements as described in Resolution No. 2011-06; and

WHEREAS, the City Engineer acting as District Engineer has prepared and presented to the Mayor and Council of the City duplicate diagrams of the property contained within the District ("the Diagram") and legal description copies of which are attached and incorporated as Exhibits A and B.

NOW THEREFORE IT IS RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, as follows:

Section 1. By virtue of the authority vested in the Mayor and Council of the City by Title 48, Chapter 4, Article 2, Arizona Revised Statutes and all amendments thereto, the Mayor and Council of the City orders the work or improvement done as described in Resolution No. 2011-06 and in accordance with the Plans and Specifications approved and adopted by the Mayor and Council of the City of Peoria, Arizona.

Section 2. The Superintendent of Streets of the City is authorized and directed to prepare and execute the notice of the passage of this Resolution, which is attached as Exhibit B. Such notice shall be posted and published as provided by law.

Section 3. That the Diagram, as prepared and presented to the Mayor and Council of the City is approved by the Mayor and Council of the City.

Section 4. That the Clerk of the City is authorized and directed to certify that the Diagram was approved by the Mayor and Council of the City on the 4th day of January 2011, and after such certification, the Clerk of the City is authorized and directed to deliver the Diagram to the Superintendent of Streets of the City.

Resolution No. 2011-07
SLID 1046 – Terramar Parcel 9B
January 4, 2011
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PASSED, ADOPTED AND APPROVED by the Mayor and Council of the
City of Peoria, Arizona on the 4th day of January, 2011.

Bob Barrett, Mayor

Date Signed: _____

ATTEST:

Wanda Nelson, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

LEGAL DESCRIPTION FOR
TERRAMAR PARCEL 9B
STREET LIGHT IMPROVEMENT DISTRICT # 1046

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Containing 12.974 Acres, more or less.



Resolution No. 2011- 07

EXHIBIT "B"

IS ON FILE IN THE

CITY OF PEORIA

CITY CLERK'S OFFICE

CITY OF PEORIA, ARIZONA

NOTICE

OF THE PASSAGE OF A RESOLUTION ORDERING THE IMPROVEMENT CONSISTING OF AUTHORIZING THE PURCHASE OF ELECTRICITY FOR LIGHTING THE STREETS AND PUBLIC PARKS FOR THE IMPROVEMENT DISTRICT KNOWN AS CITY OF PEORIA STREETLIGHT IMPROVEMENT DISTRICT NO. 1046, TERRAMAR PARCEL 9B.

This notice is given pursuant to the provisions of Title 48, Chapter 4, Article 2, Sections 48-571 to 48-619, both inclusive, Arizona Revised Statutes, as amended.

On the **4TH** day of **January** 2011, the Mayor and Council of the City of Peoria adopted Resolution No. 2011-07; ordering the improvements of certain streets and rights-of-way within the corporate limits of the town and creating an Improvement District known as the City of Peoria Streetlight Improvement District No. 1046, pursuant to Title 48, Chapter 4, Arizona Revised Statutes; and amendments thereto for the purpose of purchasing electricity, which includes a charge for the use of lighting facilities and other related items, together with all appurtenant structures as shown on the plans; and directing that this notice been given.

Any owner, or any other person having an interest in any lot, piece or parcel of land situated within the above-described assessment district, who claims that any of the provisions, acts or proceedings relative to the above described improvements are irregular, defective, illegal, erroneous or faulty, may file with the City Clerk, Room 150, 8401 West Monroe Street, Peoria, Arizona 85345, within 15 days from the date of the first publication of this notice, a written notice specifying in what way said acts or proceedings are irregular, defective, illegal, erroneous or faulty.

Further information concerning City of Peoria Streetlight Improvement District No. 1046 may be obtained by contacting Mr. Andrew Granger, Engineering Director, City of Peoria, Arizona, 8401 West Monroe, Peoria, Arizona 85345, (623) 773-7367.

DATED AND SIGNED this _____ day of _____, 2011.

Andrew Granger, P.E.
Superintendent of Streets
City of Peoria, Arizona