



AGENDA NO: 8.a
MEETING DATE: June 25, 2024

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 13, 2024

FROM: Cindy Cecil, PE – City Engineer

SUBJECT: Adoption of Resolution No. 45-24 Directing the Levy of the Annual Assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District

RECOMMENDED ACTION

Conduct the public hearing and approve the levy of the annual assessment for the Cloisters Landscaping and Lighting Maintenance Assessment District (LLMAD) by adopting Resolution No. 45-24.

ALTERNATIVE

Not adopt Resolution No. 45-24 and provide alternative, specific directions for staff.

FISCAL IMPACT

By adopting Resolution No. 45-24, \$148,944 will be collected through an assessment of all benefiting parcel owners in the Cloisters subdivision for the Cloisters LLMAD for the maintenance of the Cloisters Park and Open Space.

SUMMARY

At the May 14, 2024, City Council meeting, Council adopted Resolution No. 28-24 approving the Engineer’s Report describing the annual maintenance to be completed at the Cloisters Park and Open Space and declaring the City’s intent to levy an annual assessment to finance this maintenance. The assessment, projected at \$1,241.20 per assessable lot in the Cloisters subdivision for Fiscal Year (FY) 2024/25, will be collected by the County Assessor’s Office.

The true costs of maintaining Cloisters Park, Open Space, trails, as well as the medians and parkways within the district, far exceed the revenue received in the assessment amount. All maintenance costs in excess of the district’s available revenues will continue to be subsidized by the General Fund per City Council direction on May 24, 2004, which has been subsequently incorporated into annual budget adoption resolutions since as detailed in the May 14, 2024, City Council Staff Report. As part of the assessment process, the City ordered the preparation of an Engineer’s Report, approved May 14, 2024, adopted a resolution of intention to levy an assessment, and set June 25, 2024, as the public hearing date on the proposed levy of assessment. The required noticing was published in the local newspaper per State requirements. The Council must hold a public hearing before considering continuing the levy of the annual assessment.

Prepared By: <u>CC</u>	Dept Review: <u>GK</u>
City Manager Review: <u>YK</u>	City Attorney Review: <u>LNL</u>

BACKGROUND/DISCUSSION

Cloisters LLMAD was formed with the development of Tract 1996 in the Fall of 1996, just prior to the passage of Proposition 218. In 2004, a court determined, due to a lawsuit filed by three Cloisters residents, there are many special benefits associated with the Cloisters LLMAD. The Cloisters' lots directly benefit from the Cloisters open space and close proximity of the public park, bicycle pathway, right of way landscaping, Environmentally Sensitive Habitat restoration areas and coastal access. There was also created and reserved in favor of each owner in the Cloisters development, easements for view, open space, scenic, passive recreation and coastal access across the entirety of Lots 121, 122 and 123, which shall not be developed with any improvements or structures, unless necessary and proper for the restoration and maintenance of the Environmentally Sensitive Habitat Area. That court determined further special benefits include: improved aesthetic appeal of nearby parcels, improved dust control, enhanced adaptation of the urban environment within the natural environment, improved erosion resistance, improved drainage and flood control, enhanced crime deterrence and aid to police protection, increased nighttime safety on roads and highways, improved visibility for pedestrians and motorists, improved ingress and egress to property, reduced vandalism and other criminal acts and damage to improvements or property, improved traffic circulation, reduced nighttime accidents, and special enhancement to property value resulting from the above benefits.

The court also determined the City does not need to, nor is it required to, prepare an annual redetermination of the separation of special and general benefits. The court specially held:

“When the special assessment district was formed the owner of all of the parcels consented to its formation. Moreover, the owner did not object to the amount of the assessment, which the City based upon the cost of the special benefits being conferred on the properties within the assessment district, nor to the specific amount allocated to each parcel as its proportionate share. Because express consent to the amount and allocation of the assessment was given by petitioners' predecessor, and petitioner's purchased their properties with actual or constructive knowledge of the amount of the assessment, it is too late for them now to withdraw the consent and attack the amount of the assessment.”

Up until 2015, this required public hearing was advertised as a “protest hearing,” where those in the assessment district could file protests to the continuation. State law does not require a protest hearing so long as there are no increases in the assessment. Currently, there are no proposed increases to the assessment amount.

Staff continues to recognize the importance of proper maintenance of the Cloisters Park and Open Space, which are outlined in the Engineer's Report, but occasionally the level of maintenance does not meet the expectations of some residents. Due to funding limitations, resources required for District maintenance are utilized as efficiently as possible. The increase in the cost of goods and services now precludes a fund surplus for carryover to be set aside for capital projects. The fund surplus reserved for capital and larger maintenance projects is detailed in the Engineer's Report approved by City Council on May 14, 2024. Once the remaining surplus funds are exhausted, the City will propose capital improvements through the normal budget process with the use of General Funds, Measure Q & E Funds, or other sources such as grant funding.

CONCLUSION

Staff recommends continuation of the assessment of the property owners within the Cloisters LLMAD to fund the City's maintenance of the Cloisters Park and Open Space with supplemental funding coming from the general fund.

ATTACHMENT

1. Resolution No. 45-24