



M E M O R A N D U M
F i n a n c e D e p a r t m e n t

DATE: June 23, 2009

TO: City Council

FROM: Dave Warren
Director of Finance

**SUBJECT: RESOLUTION OF APPROVAL OF ENGINEER'S REPORTS FOR THE
CITY LANDSCAPE, LIGHTING AND MAINTENANCE
DISTRICTS/ORCHARD HILL AND COTTONWOOD**

RECOMMENDATION

That the City Council adopt a Resolution approving the Engineer's Reports for Landscaping, Lighting and Maintenance Districts 95-01 (Orchard Hill) and 99-01 (Cottonwood) for Fiscal Year 2009/2010.

BACKGROUND

At the regular meeting of May 12, 2009, the City Council adopted a Resolution declaring the intentions to provide for annual levy and collection assessments for the City's Landscaping, Lighting and Maintenance Districts (LLMD) as required by Division 15, Part 2, of the Streets and Highways Code of the State of California. The adoption of the said Resolution was step one of a two-step process required by the Streets and Highway Code. The Council was provided with a Draft Annual Engineer's Reports detailing the annual assessments; however, the adoption of those reports requires a public hearing. Copies of the reports are attached for your reference. Public hearing on these reports is scheduled for tonight's Council meeting.

ANALYSIS

This meeting is essentially step two of the required process for the Engineer's Reports and levying the assessments. The Engineer's Report for both Orchard Hill and Cottonwood present a status quo budget and levy calculation. The annual assessment and maintenance budget for the Orchard Hill LLMD have been reviewed by staff and deemed sufficient for the Fiscal Year 2009/2010. In the event that the cost of maintenance exceeded the annual levies, staff would be required to begin an extensive balloting process as required by Proposition 218 and its implementing legislation.

While all of the improvements to be maintained by the Orchard Hill LLMD have been constructed, the Cottonwood LLMD, on the other hand, is unique in the fact that not all of the landscape zones (specifically Duffey Park) have been completed by the developer due to complications which have been discussed in previous staff reports. The fact that Duffey Park has not been constructed has resulted in a surplus of revenues over expenses for the Cottonwood LLMD. The revenues collected are accounted for in a separate fund for the Cottonwood LLMD. Staff has continued to recommend that the levies remain at the level set forth in the Engineers Reports in anticipation of the Park being constructed. Discussions with special legal counsel has lead to the conclusion that, since the passage of Proposition 218, changes to the annual assessments is a complicated process and the most prudent approach would be to maintain a status quo budget and levies. Until the Park is constructed, revenues will continue to exceed expenditures, and as staff indicated in previous staff reports, any excess assessments will be refunded to the individual property owners.

As a result of the conditions placed on Cottonwood Phases 4 and 6, not only is the Park required to be completed, but also those phases will be sharing the cost of maintaining the Park in futures years. To date, the developer has completed some basic site improvements, and a significant amount of work needs to be done to complete the park.

FISCAL IMPACT

The assessments for the Orchard Hill LLMD will remain constant, and based on staff's experience with the LLMD, revenues will be sufficient to meet maintenance expenses, including a reasonable contingency for Fiscal Year 2009/2010. Last year, staff determined that property owners of the Cottonwood LLMD were due refunds equal to the assessments collected through June 30, 2008 less actual operating costs and the operating and capital acquisition reserves because Duffey Park has not been constructed yet. Staff has calculated the refund amount to be \$79.11 per parcel (single family) and issued refund checks to property owners. Refunds were not issued to Property owners who were delinquent in the payment of their assessments.

Staff anticipates further refunds will be due to property owners for Fiscal Year 2008/2009. Once the City's books are closed for Fiscal Year 2008/2009, staff will calculate the refund amounts and issue refund checks to property owners at a later date.

Dave Warren, Director of Finance

Reviewed and Approved:

John Driscoll, City Manager/City Attorney