



**DATE:** June 6, 2023

**TO:** Mayor and City Council

**FROM:** Maintenance Services Director

**SUBJECT:** Adopt a Resolution of Intention to Preliminarily Approve the Engineer's Report and Levy Assessments for Fiscal Year 2024 for Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit Located at Pacheco Way, Stratford Road and Ruus Lane, and Set June 27, 2023, as the Public Hearing Date

### **RECOMMENDATION**

That the City Council adopts a resolution (Attachment II) to preliminary approve the Engineer's Report and levy assessments for Fiscal Year 2024 for Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit located at Pacheco Way, Stratford Road, and Ruus Lane, and set June 27, 2023 as the Public Hearing date).

### **SUMMARY**

This report is being provided, as required by the Hayward Municipal Code, to preliminarily approve the Engineer's Report, to include the FY 2024 annual assessment and budget for Maintenance District No. 1 (MD 1).

MD 1 was formed in 1995 as a financial funding mechanism to fund the ongoing operation, maintenance, repair, and replacement of a Storm Water Lift Station (SWLS) in perpetuity. The SWLS was built by the developer as a condition of development for construction of the Stratford Village neighborhood. The SWLS is the only privately built SWLS in the City, built only to service the Stratford Village neighborhood. Following construction of the facility, the Alameda County Flood Control District (County) was asked to take over ownership and maintenance of the facility since the County operated similar facilities within the City and the County. The agreement signed by both parties calls for the City to act as an intermediary, using District funds to reimburse the County for annual expenses and supply District funds annually for a capital replacement fund.

The FY 2024 assessment charged to the 174 property owners is being recommended to be levied at the maximum amount allowed by law (\$243.92), which is the same as the previous year. The District's account balance is currently negative, and staff will be analyzing options to remedy the deficit account balance. The negative balance can be contributed to the following factors:

1. The District was formed without the inclusion of an annual inflation factor in its Maximum Base Assessment Rate calculation.

2. Maintenance & Operation (M&O) charges from the County are inconsistent, and in recent years have gotten larger.
3. The Countywide System Upgrade charge to this district is \$503,980.
4. The recent Proposition 218 Election to increase the assessment did not pass.
- 5.

## **BACKGROUND**

### Annual Report Compliance

In compliance with Section 10-10.25 of the Hayward Municipal Code, an annual Engineer's Report is required to be submitted to the Council. The report is attached (Attachment III) and includes:

1. Description of the improvements to be operated, maintained, and serviced;
2. FY 2024 recommended budget;
3. FY 2024 maximum base assessment rate;
4. FY 2024 recommended assessment rate; and
5. Map of the benefit zone (assessment diagram).

### Formation

On June 6, 1995, the Council ordered the formation of MD 1 to provide for the maintenance, operation, and capital repair and replacement of storm drainage improvements. A Storm Water Lift Station (SWLS) was constructed to pump storm water run-off outside the neighborhood and into a flood control channel (Ward Creek). The drainage basin includes 29.1 acres, of which 24.7 acres are residential, 1.9 acres are for a park site, and 2.5 acres are for the collector streets of Stratford Road and Ruus Lane. Pacheco Way does not drain into this basin system nor does the industrial property to the south. The total number of lots in the drainage basin is 174. The original assessment rate did not include an annual inflation factor, which impedes the District's ability for revenue to keep up with expenses.

Following construction of the facility, the Alameda County Flood Control District (County) was asked to take over ownership and maintenance of the facility since the County operated similar facilities within the City and the County. The agreement signed by both parties calls for the City to act as an intermediary, using District funds to reimburse the County for annual expenses and supplying annual District funds to be deposited into a capital replacement fund. The storm water pumping facility includes a masonry building that houses the Supervisory Control and Data Acquisition (SCADA) System, generator, and four pumps.

### Static, Unchangeable Maximum Base Assessment Rate

As part of any district formation, a base annual M&O budget is established, along with a capital replacement estimate. These figures form the basis for the Maximum Base Assessment (MBA) rate, which is the maximum charge that a parcel can be assessed annually. As costs generally increase over time by inflation, many district MBAs include an annual inflation factor in the original calculation so that the assessment revenue can keep up with increases in expenses. In the case of

this district, an inflation adjustment factor was not included in the original calculation; therefore, the MBA cannot be increased without holding a successful Proposition 218 ballot election.

### Countywide System Upgrade

In 2018, the County notified the City of its Countywide System Upgrade Project. Stratford Village's SWLS cost for this upgrade now totals \$503,980. During the FY 2019<sup>1</sup>, FY 2020<sup>2</sup>, and FY 2021<sup>3</sup> annual reports, staff advised the Council of the proposed County charges as the estimates were provided to the City. Since the last report, the County has informed the City of another \$42,281 consultant bill.

### Failed Proposition 218 Election

On May 4, 2021, the Council initiated a Proposition 218 election, with results tallied on June 22, 2021. The majority of the property owners who submitted ballots rejected a low-interest, long-repayment term \$379,000 transfer of funds to pay for needed capital improvements, and to add an annual inflation factor to the maximum amount that can be charged annually. The measure overwhelmingly failed, with 69% of ballots cast (45/65) rejecting the increased assessment and inclusion of an annual inflation factor.

## **DISCUSSION**

This district was established 26 years ago and did not include an inflation factor adjustment for revenue so that income could keep pace with expenditures. Over the years, the district has struggled to pay for basic M&O costs and contribute to a capital reserve, as seen below.

M&O is performed by the County under contract. Over the years, charges for M&O have been inconsistent. In FY 2017 and 2018, M&O charges had increased so much that the City delayed payment for one year to have discussions with the County.

In April 2018, the County alerted the City of additional Stratford Village SWLS District costs. The County advised that they had commissioned consultants to complete a Pump Station Equipment Condition Assessment and were purchasing a new SCADA system which required design and construction consultants. The consultant studies and construction were systemwide, with the Stratford Village SWLS District's charges totaling \$503,980 as shown on the following page To date, two (2) payments have been made, which resulted in the depletion of the District's capital reserve fund, leaving an outstanding balance of \$379,770.

---

<sup>1</sup> [URL](#) – PH 18-014, MD1 FY 2019 Annual Report (June 26, 2018)

<sup>2</sup> [URL](#) – PH 19-040, MD 1 FY 2020 Annual Report (June 4, 2019)

<sup>3</sup> [URL](#) – PH 20-050, MD 1 FY 2021 Annual Report (June 23, 2020)

Stratford Village SWLS District - Portion of Countywide System Upgrade<sup>4</sup>

Initial Consultant Fee (paid FY 2020)	\$87,597
Second Consultant Fee (paid FY 2021)	\$36,613
SCADA Construction	\$255,000
Equipment Rehabilitation (0-5 Years)	\$49,248
Equipment Rehabilitation (5-10 Years)	\$33,241
Third Consultant Fee <sup>5</sup>	\$42,281
<hr/>	
Total Cost	\$503,980
Less: Payments Made	(\$124,210)
<hr/>	
Remaining Unpaid Balance	\$379,770

(Legend: *Paid, Unpaid*)

For FY 2024, the District will collect a net annual amount of \$41,721. For FY 2024, the District will budget \$48,560 in annual expenses (which includes the County estimated M&O amount of \$44,856). The estimated FY 2024 ending balance is projected to be in a net negative position, as shown below.

**FY 2024 Budget** (Does not include \$379,770 *unpaid* estimate from above)

<u>Starting Balance</u>	<u>-\$26,075</u>
Net Revenue	\$41,721
<u>Net Expenditures</u>	<u>\$48,560</u>
<u>Difference</u>	<u>-\$6,840</u>
Ending balance	-\$32,915

This District does not currently have the funds, nor the ability to generate additional funds, to pay the outstanding Countywide System Upgrade Project costs. Staff has exhausted current options, which included a request for a long-term payment option from the County and/or a successful Proposition 218 Election. City staff will continue to work with Alameda County Flood Control District on solutions for the long-term solvency of the District. In addition to working with the County, staff is considering all remedies available to ensure that district assessments can adequately fund current and future maintenance, operation, and capital repairs as designed when the District was created. As part of this work, staff will lead a series of additional community meetings with a focus on community education that culminates with another Prop 218 election. To ensure the long-term fiscal and operational stability of the District, the City will consider other options, up to and including the possibility of dissolution of the District, if the Prop 218 election is unsuccessful.

**FISCAL IMPACT**

<sup>4</sup> Reference: Attachment IV – County FY 2022 Annual Report, Stratford Village Storm Water Lift Station, dated February 2021.

<sup>5</sup> Reference: Attachment V – County Invoice dated April 13, 2021.

Staff has evaluated the District's operating balance and confirms that the account has a negative balance which will continue to be negative through FY 2024.

## **PUBLIC CONTACT**

City staff: 1) mailed a postcard notice to property owners to let them know of the recommended FY 2024 assessment rate, and to alert them to three Public meetings where they could provide input (May 31, June 6, and June 27); 2) held a virtual community meeting via Zoom on May 31; and 3) will publish a legal notice in the East Bay Times on or before June 17, 2023.

## **NEXT STEPS**

Following this Council meeting, the City of Hayward is proposing to hold a public hearing on June 27, 2023, to provide an opportunity for any interested person to be heard. After the public hearing, the Council may adopt a resolution setting the annual assessment amount as originally proposed or as modified.

Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the Alameda County Auditor's Office to be included on the FY 2024 tax roll. Payment of the assessment for each parcel will be made in the same manner and at the same time as payments are made for property taxes. All revenue collected through the assessment must be placed in a special account and can only be used for the purposes stated within this report.

If the City Council adopts the attached resolution of intention, it will hold a noticed public hearing on June 27, 2023, to consider approving the Engineer's Report and order the levy of assessments for FY 2024.

*Prepared by:* Manny Grewal, Management Analyst

*Recommended by:* Todd Rullman, Maintenance Services Director

Approved by:



---

Kelly McAdoo, City Manager