



**DATE:** June 23, 2020

**TO:** Mayor and City Council

**FROM:** Maintenance Services Director

**SUBJECT:** Engineer's Report MD-1: Adopt a Resolution to Approve the Final Engineer's Report, Confirm the Maximum Base Assessment Rate, Confirm the Fiscal Assessment Rate, Confirm the Assessment Diagram, Order the Levy and Collection of Fiscal Assessment; and Adopt a Resolution to Approve Funding Recommendations and Appropriate Revenue and Expenditure Budgets for Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane, for Fiscal Year 2021

## **RECOMMENDATION**

That the City Council adopts two resolutions (Attachment II, III):

1. Approving the Engineer's Report,
2. Confirming the Maximum Base Assessment (MBA) amounts,
3. Confirming the Fiscal Assessment Rate,
4. Confirming the Assessment Diagram,
5. Ordering the Levy and Collection of the Fiscal Assessment,
6. Approving the Funding Recommendation, and
7. Appropriating Revenue and Expenditure budgets for Maintenance District No. 1 for Fiscal Year 2021.

## **SUMMARY**

Maintenance District No. 1 (MD No.1) was established in 1995 to pay for the operation, maintenance, repair, and replacement of a storm drain pumping facility near Stratford Road and Ruus Lane. The City subsequently signed an agreement with the Alameda County Flood Control and Water Conservation District (County) to transfer ownership of the facility to the County, and for the County to operate and maintain the facility. The City acts as an intermediary, whereas the City established the maintenance district and receives the annual fiscal assessment, and then annually reimburses the County for their operation, maintenance, and repair costs. If the City Council adopts the attached two resolutions (Attachment II and III), the Final Engineer's Report (Attachment IV) will be approved, the revenue and expenditure budgets will be appropriated, and the final Assessor's tax roll will be prepared and filed with the County Auditor's Office allowing the assessments to be included in the FY 2021 tax roll.

## **BACKGROUND**

In compliance with Section 10-10.25 of the Hayward Municipal Code, an annual Engineer's Report is required to be submitted to the City Council for MD No.1 and is included as Attachment IV.

On May 23, 1995, by way of Resolution 95-70, the City Council ordered the formation of MD No.1 to provide for the maintenance, operation, and capital replacement of storm drainage improvements. The Storm Water Lift Station (SWLS) was constructed to pump storm water run-off for the District. 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 parcels in the drainage basin is 174.

Because the County operated similar facilities within the City, the County was asked to take over ownership, maintenance, and operation of the SWLS. The August 18, 1995 agreement signed by both parties calls for the City to reimburse the County for annual maintenance and operations costs, and for the City to make an annual capital contribution to a capital replacement account maintained by the County. The agreement requires the County to provide an annual report to the City in December of each year, to provide a budget estimate for the following year. The FY 2021 report was provided in April 2020 and is included as Attachment V. The SWLS includes a masonry building that houses the Supervisory Control and Data Acquisition (SCADA) System, generator, and four pumps.

As part of any district formation, a base annual maintenance and operation budget is established, along with an estimate to replace all capital assets. These figures form the basis for the 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 Proposition 218 ballot election. For the ballot measure to pass, a total of 50% plus 1 of the weighted ballots returned to the City would need to be approved by property owners within the district.

## **DISCUSSION**

This district was established 25 years ago and did not include an inflation factor adjustment for revenue so that income can keep pace with expenditures. Over the years, the district has struggled to pay for basic maintenance and operation costs and contribute to the capital reserve. Maintenance and operations (M&O) are performed by the County via contract. Over the years, charges for M&O have been inconsistent, and in the recent past, charges from the County were double what was charged in previous years.

In April 2018, the County informed the City of additional costs for the MD No.1. The County had commissioned consultants to complete a Pump Station Equipment Condition Assessment and had signed a contract to design and construct a new SCADA system. The studies and construction were systemwide, with MD No.1's charges totaling \$384,157. As mentioned in both the FY 2019 and FY 2020 staff reports, these charges were incurred without any notice from the County to the City about the district's ability to pay. To date, a partial payment of the consultant fees was made by applying the entire balance of the district's capital reserve (\$87,597), leaving a balance due of \$296,560. In addition to that amount, equipment rehabilitation funds have been requested in the amount of \$82,489, bringing the grand total due to \$379,049.

With no funds available to pay the above bill, the City and the County have been in discussions over the past two years regarding a long-term payment plan. The district only generates enough annual revenue to fund annual maintenance and operation costs. The annual assessment rate is set to its maximum allowable amount at \$243.92, which generates an annual revenue of \$42,442.08. Annual M&O expenses over the past five years have averaged \$28,263. Adding in electrical and administrative expense results in the use of most of the remaining annual revenue. The City is also required to deposit \$5,500 annually to the capital reserve; however, has not done so since FY 2017 due to the low fund balance. The one-time additional expenses listed below are due in the next two years.

Outstanding charges (50% due in FY 2021 and 50% due in FY 2022):

1) Consultant fee (remaining balance)	\$41,560
2) SCADA construction	\$255,000
3) Equipment rehabilitation (0-5 years)	\$49,248
4) <u>Equipment rehabilitation (5-10 years)</u>	<u>\$33,241</u>
Total	\$379,049

This district does not have the funds, nor the ability to generate additional funds to pay the above. To fund the payment of the above costs, the City has the following three options:

- Option 1: Request Long-Term Payment Plan** – The City has requested that the County spread the payments for the above \$379,049 over ten years. In 2001, the County did allow the City to repay a \$37,001 SCADA expense over eight years. Staff is awaiting a reply. However, even by spreading out the payments over several years, the district will still require additional funding by either option 2 or 3 below to make the payments.
- Option 2: Conduct Proposition 218 Election** – The City can conduct a Proposition 218 election in FY 2021, which if successful, would increase the FY 2022 assessment rate. The election would require that the 174 property owners vote yes to increase their annual assessment rate. During a balloted election, property owners would be asked to increase their current assessment to cover the \$379,049 in outstanding charges, to increase their current assessment to cover the annual \$5,500 capital contribution, and to add an inflation factor to their annual assessment rate.

This option presents three challenges. First, the cost of conducting the election, including the legally required engineering study, is \$27,500. The District does not have the funds available to pay for the election, so the election funding would need to come from another source.

Second, the probability of a majority of the 174 property owners supporting and voting for an increase in their annual assessment rate is low, even with significant outreach. This matter is further exacerbated by the financial impacts of the current COVID-19 crisis. To fund the outstanding expenses, the annual assessment rate would need to be substantially increased. Considering the current outstanding balance due the County over the next two years, a successful Proposition 218 Election would need to increase the assessment rate as follows:

- (a) FY 2021, \$243.92 (current MBA)
- (b) FY 2022 \$1,372.07
- (c) FY 2023 \$1,379.60
- (d) FY 2024 \$290.38, increasing in subsequent years by an inflation factor.

Third, the property owners for MD No.1 are also a part of Landscape and Lighting Assessment District Zone 4 and will be charged annual assessments of \$243.92 and \$116.16, respectively for FY 2021.

3. **Option 3: Pay the bill with City funds** – In the absence of District property owners approving a large increase to their annual fiscal assessment rate, the City would be required to pay the outstanding expenses from either the Stormwater or General Fund. The City contribution would depend on whether a long-term payback agreement could be agreed upon by the County. In the Final Engineer’s Report (Attachment IV), a placeholder amount of \$370,000 is listed in the District’s budget summary, in the income section, as a “Loan/Payback Over 10 Years.” Once the City and the County have completed negotiations over the term of the payback, staff will come back to the City Council with a recommendation.

### **FISCAL AND ECONOMIC IMPACT**

Staff has evaluated the District’s operating balance and confirms that the account balance is not adequate. The fiscal impact to the City could be as much as \$379,049, depending on the decision to pay for the deficit balance from either the Stormwater or General Fund. Should this item require additional funding in the future, staff would present a recommendation to the City Council for approval.

There may be an economic impact to property owners due to COVID 19. Property assessments are included together in the Alameda County property tax bills. Due to COVID 19 and a State of California Order, an Alameda County property tax waiver is available for those who have been

impacted by COVID 19 (Attachment VI). Information is available at <https://treasurer.acgov.org/index.page> or by calling 510-272-6800.

## **STRATEGIC ROADMAP**

This agenda item is a routine operational item and does not relate to any of the projects outlined in the Council's Strategic Roadmap.

## **PUBLIC CONTACT**

City staff: 1) mailed a postcard notice to all affected property owners to provide details of their recommended FY 2021 assessment rate, and to alert them to two meetings where they could provide input (June 2 and June 23); 2) provided an online survey to measure maintenance satisfaction<sup>1</sup>; 3) published a legal notice in the East Bay Times on June 12, 2020 (Attachment VII); and 4) presented a Consent Item<sup>2</sup> to the City Council on June 2, 2020, whereas Resolution No. 20-067 was approved adopting a resolution of intention to primarily approve the FY 2021 Engineer's Report and set June 23, 2020 as the date for this public hearing.

## **NEXT STEPS**

If the City Council adopts the two attached resolutions (Attachment II and III), the Final Engineer's Report (Attachment IV) will be approved, the revenue and expenditure budgets will be appropriated, and the final Assessor's tax roll (Attachment VIII) will be prepared and filed with the County Auditor's Office allowing the assessments to be included in the FY 2021 tax roll.

*Prepared by:* Denise Blohm, Management Analyst

*Recommended by:* Todd Rullman, Maintenance Services Director

Approved by:



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Kelly McAdoo, City Manager

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<sup>1</sup> Online Survey: [www.hayward-ca.gov/benefitzone](http://www.hayward-ca.gov/benefitzone)

<sup>2</sup> City Council Consent Item 20-260 dated June 2, 2020:

(<https://hayward.legistar.com/LegislationDetail.aspx?ID=4548859&GUID=A53D1FD5-1596-44A5-BBF7-12E3AE14A1A6>)