



DATE: July 20, 2021

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 2022

RECOMMENDATION

That the Council adopts two resolutions (Attachment II and 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 2022.

SUMMARY

This report is being provided, as required by the Hayward Municipal Code, to approve the Final Engineer's Report, to include the FY 2022 annual assessment and budget. The Council approved the Preliminary Engineer's Report on July 13, 2021¹.

Maintenance District No. 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 flood control

¹ [URL](#) – Consent 21-153, MD-1 FY 2022 Preliminarily Approve Engineer's Report (July 13, 2021)

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 MD 1 funds to reimburse the County for annual expenses and supply MD 1 funds annually for a capital replacement fund.

The FY 2022 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. MD 1's account balance is negative, and staff will be analyzing options to remedy the deficit account balance. The negative account balance can be contributed to the following factors:

1. MD 1 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's charge to MD 1 is \$503,980.
4. Proposition 218 Election did not pass.

BACKGROUND

Annual Report Compliance

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

1. Description of the improvements to be operated, maintained, and serviced;
2. FY 2022 recommended budget;
3. FY 2022 maximum base assessment rate;
4. FY 2022 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 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.

Following construction of the facility, the 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.

Maximum Base Assessment Rate Can Not Be Increased

As part of a special benefit district formation, the annual M&O and capital replacement reserve are estimated in order to establish the charge rate. 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 MD 1, an inflation adjustment factor was not included in the original MBA calculation; therefore, the MBA cannot be increased without holding a successful Proposition 218 balloted election. The City held a Proposition 218 balloted election at a cost of \$27,500 on May 4, 2021, with results tallied on June 22, 2021. The balloted election resulted in the majority of property owners voting not to increase their annual assessment and not to include an annual inflation factor. Therefore, the FY 2022 assessment rate is the same as the previous year at \$243.92 and cannot be increased in the future without holding another Proposition 218 election.

Countywide System Upgrade

In 2018, the County notified the City of its Countywide System Upgrade Project. Stratford Village's SWLS proportional cost for this systemwide upgrade now totals \$503,980. During the FY 2019², FY 2020³, and FY 2021⁴ 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 an assessment increase to pay back a low-interest; twelve-year, \$379,000 transfer of funds needed to pay for capital improvements. The property owners also rejected adding an annual inflation factor to the maximum amount that can be charged each year. The measure overwhelmingly failed, whereas 69% of ballots cast (45/65) rejected the increased assessment and inclusion of an annual inflation factor.

² [URL](#) – PH 18-014, MD-1 FY 2019 Annual Report (June 26, 2018)

³ [URL](#) – PH 19-040, MD-1 FY 2020 Annual Report (June 4, 2019)

⁴ [URL](#) – PH 20-050, MD-1 FY 2021 Annual Report (June 23, 2020)

DISCUSSION

MD 1 was established 25 years ago and did not include an inflation factor adjustment to increase annual 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.

City of Hayward
 Maintenance District No. 1 - Stratford Village SWLS
 Fund 270, Project 3745
 Formed 1995, 174 Parcels

	FY 2016 Actual	FY 2017 Actual	FY 2018 Actual	FY 2019 Actual	FY 2020 Actual	FY 2021 Estimated	FY 2022 Proposed
Assessment							
a. Maximum Base Assessment Amount	243.92	243.92	243.92	243.92	243.92	243.92	243.92
b. Annual Per Parcel Assessment	243.92	243.92	243.92	243.92	243.92	243.92	243.92
c. # of Parcels	\$ 174	174	174	174	174	174	174
d. Total Amount Assessed for the District:	42,442.08	42,442.08	42,442.08	42,442.08	42,442.08	42,442.08	42,442.08
Income							
a. Annual Assessment Revenue	42,442	42,442	42,442	42,442	42,442	42,442	42,442
b. Minus County Tax Collection Fee (1.7%)	(722)	(722)	(722)	(722)	(722)	(722)	(722)
c. Adjustment for Delinquencies	-	(13)	(330)	378	(196)	-	-
d. Other	-	11	-	1,890	628	-	-
e. Total Revenue:	41,721	41,719	41,391	43,989	42,153	41,721	41,721
Services							
a. Utilities: PGE	1,512	1,745	1,542	1,768	1,625	1,900	2,100
b. Pump Station O&M - ACFCO	14,374	14,044	-	40,003	21,359	18,000	33,910
c. Pump Station - O&M - ACFCO - Past Due Amt	-	-	-	40,000	-	-	-
d. Pump Station - ACFCO Capital Reserve	-	5,500	-	-	-	-	-
e. SCADA Consultant	-	-	-	-	-	36,613	-
f. Proposition 218	-	-	-	-	-	27,500	-
g. Property Owner Noticing	159	178	84	77	73	100	103
h. Annual Reporting	1,120	1,067	1,159	411	2,168	1,002	1,050
i. City Administration	1,939	4,064	2,000	3,692	3,500	3,605	3,713
j. Total Expenditures:	19,103	26,598	4,785	85,951	28,724	88,720	40,876
Account Balance							
a. Beginning Account Balance	(17,030)	5,588	20,708	57,314	15,352	28,780	(18,220)
b. Net Change (Revenue - Expenditures)	22,618	15,121	36,606	(41,962)	13,428	(47,000)	844
c. Ending Account Balance:	5,588	20,708	57,314	15,352	28,780	(18,220)	(17,376)

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 that required design and

construction consultants. The consultant studies and construction were systemwide, with the Stratford Village SWLS District's charges totaling to \$503,980 as shown below. Payment for item 1 was made by zeroing out MD 1's capital reserve fund. Payment for item 2 was made this year and resulted in the account balance becoming negative.

Stratford Village SWLS District - Portion of Countywide System Upgrade

1) Initial Consultant fee (paid in FY 2020 with capital reserve)	\$87,597
2) Second Consultant fee (paid in FY 2021, resulting in negative balance)	\$36,613
3) SCADA construction	\$255,000
4) Equipment rehabilitation (0-5 years)	\$49,248
5) Equipment rehabilitation (5-10 years)	\$33,241
6) Third Consultant fee	\$42,281
Total	\$503,980

(Legend: *Paid, Unpaid*)

For FY 2022, MD 1 will collect a net annual amount of \$41,721. For FY 2022, MD 1 will budget \$40,876 in annual expenses (which includes the County estimated M&O amount of \$33,910.) The estimated FY 2022 net result is a positive \$844. This amount will help to offset the FY 2021 estimated negative balance, as shown below.

FY 2022 Budget (Does not include \$379,770 *unpaid* estimate from above)

<u>Starting Balance</u>	<u>-\$18,220</u>
Net Revenue	\$41,721
<u>Net Expenditures</u>	<u>\$40,876</u>
<u>Difference</u>	<u>\$844</u>
Ending balance	-\$17,376

MD 1 does not have the funds, nor the ability to generate additional funds to pay the outstanding Countywide System Upgrade Project costs of \$379,770. 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. For FY 2022, Maintenance Services Department staff will continue to engage the County to request a long-term payment plan, and work with other City staff to discuss, identify, and propose solutions.

FISCAL IMPACT

Staff has evaluated MD 1's account balance and confirms that the account has a negative balance which will continue to be negative through FY 2022. This negative ending fund balance does not impact the City's General Fund.

PUBLIC CONTACT

City staff: 1) published a legal notice in the East Bay Times on July 2, 2021; and 2) presented Consent Item 21-153 to the Council on June 13, 2021, whereas Resolution No. 21-141 was approved adopting a resolution of intention to primarily approving the FY 2022 Engineer’s Report and setting July 20, 2021 as the date for this public hearing.

NEXT STEPS

If the 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 V) will be prepared and filed with the County Auditor’s Office allowing the assessments to be included in the FY 2022 tax roll.

Prepared by: Denise Blohm, Management Analyst

Recommended by: Todd Rullman, Maintenance Services Director

Approved by:



Kelly McAdoo, City Manager