



**DATE:** June 25, 2024

**TO:** Mayor and City Council

**FROM:** Director of Maintenance Services

**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 2025

## **RECOMMENDATION**

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

1. Approving the Engineer's Report (Attachment IV)
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. 2 for Fiscal Year 2025.

## **SUMMARY**

This annual report is being provided, as required by the Hayward Municipal Code, to approve the annual assessment rate and expenditure budget. If the City Council adopts the attached resolutions, 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 2025 tax roll.

MD1 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 2025 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 operating at a minimum balance, and staff will be analyzing options to remedy the deficit account balance. The low 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 original 2018 Countywide System Upgrade estimate for this District was \$503,980.
4. The 2021 Proposition 218 Election to increase the assessment did not pass.

## **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 2025 recommended budget;
3. FY 2025 maximum base assessment rate;
4. FY 2025 recommended assessment rate; and
5. Map of the benefit zone (assessment diagram).

### Formation

On June 6, 1995, the Council ordered the formation of MD1 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 continues to impede the District's ability to generate ample revenue to keep pace with annual operating 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 pace 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 at the time was estimated to be \$503,980. Since FY 2019, this District's annual reports have advised the Council of the proposed County charges as the estimates were provided to the City. Including payments that have been made to date, the total current outstanding balance due to the County is \$220,924.

#### 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 that included a \$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**

The District was established 26 years ago and did not include an inflation factor adjustment for assessments so that revenues 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.

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 substantially 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 systemwide 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 estimated charges totaling \$503,980, as described below. From FY18-23, payments totaling \$283,056 were made, resulting in the depletion of the District's capital reserve and an outstanding balance due to the County of \$220,924.

Stratford Village SWLS District - Portion of Countywide System Upgrade

Initial Consultant Fee	\$87,597
Second Consultant Fee	\$36,613
Third Consultant Fee	\$255,000
SCADA Construction	\$42,281
Equipment Rehabilitation (0-5 Years)	\$49,248
Equipment Rehabilitation (5-10 Years)	\$33,241
Total Cost	\$503,980
<i>Less: Payments Made</i>	<i>(\$283,056)</i>
Remaining Unpaid Balance	\$220,924

For FY 2025, the District expects to collect a net annual amount of \$41,721 with an expenditure budget of \$50,585 which includes the County estimated M&O amount of \$20,000 and a \$23,000 estimate to conduct a Proposition 218 election.

This District does not currently have the funds, nor the ability to generate additional funds, to pay the outstanding Countywide System Upgrade Project costs. Over the past six years, staff has explored various options which included a request for a long-term payment option from the County and/or a successful Proposition 218 Election, both have been unsuccessful to date. 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.

In the Winter of 2024, staff will lead a series of community meetings with property owners that focuses on community education around the benefits of maintaining and operating the lift station, fiscal issues that plague MD1, and potential outcomes should no additional action be taken. These community meetings will culminate with another Prop. 218 election in February 2025. Considering the budgetary shortfall has been reduced from \$379,770, when the previous Prop. 218 election was held in 2021, to \$220,924, after recent payments have been made, staff is hopeful the reduced repayment terms when compared to the 2021 Prop. 218 election will be more palatable to the property owners. If unsuccessful, the City will consider all options to ensure the long-term fiscal and operational stability of the District, up to and including the possibility of dissolving the District or subsidizing the District from a City Operating or Capital fund.

## **FISCAL IMPACT**

Staff has evaluated the District's operating balance and confirms that the account is currently operating at a minimal balance. To address this issue, staff will lead a series of community meetings with property owners from December 2024 to January 2025 with a Prop 218 election in February 2025.

## **PUBLIC CONTACT**

City staff: 1) mailed a postcard notice to property owners to let them know of the recommended FY 2025 assessment rate, and to alert them to three Public meetings where they could provide input (May 29, June 4, and June 25); 2) held a virtual community meeting via Zoom on May 29; and 3) will publish a legal notice in the East Bay Times on or before June 15, 2024.

## **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 V) will be prepared and filed with the County Auditor's Office allowing the assessments to be included in the FY 2025 tax roll.

*Prepared by:* Manny Grewal, Management Analyst

*Recommended by:* Todd Rullman, Director of Maintenance Services

Approved by:



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Dustin Claussen, Interim City Manager