



DATE: June 21, 2022

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 2023 for Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit Located at Pacheco Way, Stratford Road and Ruus Lane, and Set July 5, 2022, as the Public Hearing Date

RECOMMENDATION

That the City Council adopts a resolution (Attachment II) setting July 5, 2022 as the public hearing date for the levying of assessments for Maintenance District No. 1.

SUMMARY

This report is being provided, as required by the Hayward Municipal Code, to preliminarily approve the Engineer’s Report, to include the FY 2023 annual assessment and budget.

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 2023 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 continue to analyze 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’s charge to this district is \$503,980.

4. Proposition 218 Election did not pass in FY 2021.

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 2023 recommended budget;
3. FY 2023 maximum base assessment rate;
4. FY 2023 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 2019¹, FY 2020², and FY 2021³ 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, whereas 69% of ballots cast (45/65) rejected 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 to \$503,980 as shown below. Payment for item 1 was made by zeroing out the District’s capital reserve fund.

Stratford Village SWLS District – Portion of Countywide System Upgrade⁴

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) <u>Third Consultant fee⁵</u>	<u>\$42,281</u>
Total	\$503,980

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

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

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

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

⁵ Reference: Attachment V – County Invoice dated April 13, 2021.

(Legend: *Paid, Unpaid*)

For FY 2023, the District will collect a net annual amount of \$41,721. For FY 2023, the District will budget \$50,723 in annual expenses (which includes the County estimated M&O amount of \$43,549.) The estimated FY 2023 net result is estimated to be negative, as shown below.

FY 2023 Budget (Does not include \$379,770 *unpaid* estimate from above)

<u>Starting Balance</u>	<u><i>-\$24,924</i></u>
Net Revenue	\$41,721
<u>Net Expenditures</u>	<u>\$50,723</u>
<u>Difference</u>	<u><i>-\$9,002</i></u>
Ending balance	<i>-\$33,926</i>

This District does not 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. To ensure the District's account doesn't carry a negative balance moving beyond FY 2023, staff is working to finalize a modest loan from the Storm Water Fund to ensure the baseline M&O functions continue uninterrupted until the final resolution of the funding shortage has been reached. 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 holding some additional focus groups with the community in MD1 that will inform future plans for the long-term fiscal stability of the District.

FISCAL IMPACT

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 2023.

PUBLIC CONTACT

City staff: 1) mailed a postcard notice to property owners to let them know of their recommended FY 2023 assessment rate, and to alert them to three Public meetings where they could provide input (June 15, June 21, and July 5); 2) held a virtual community meeting via Zoom on June 15; and 3) will publish a legal notice in the East Bay Times on June 24, 2022.

NEXT STEPS

Following this Council meeting, the City of Hayward is proposing to hold a public hearing on July 5, 2022, 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 2023 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 July 5, 2022, to consider approving the Engineer's Report and order the levy of assessments for FY 2023.

Prepared by: Liz Sanchez, Management Analyst

Recommended by: Todd Rullman, Maintenance Services Director

Approved by:



Kelly McAdoo, City Manager