



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of June 25, 2024

TO: Mayor and Members of the City Council

VIA: Dante Hall, City Manager

SUBMITTED BY: Mike Roberts, Public Works Director/City Engineer

SUBJECT: Landscaping and Lighting Assessment Districts (LLADs) – Hold Public Hearings for the City’s Five LLADs, Hold Public Hearing regarding Proposed Assessment Increase for the Victoria by the Bay LLAD, and Adopt Resolutions Confirming Diagrams and Assessments for the City’s five LLADs for Fiscal Year 2024/25

RECOMMENDED ACTION:

City staff is recommending City Council take the following actions:

- 1) Hold a Public Hearing and Adopt a Resolution Confirming Diagram and Assessments and Ordering Levy of Assessments for Fiscal Year (FY) 2024/25 for the City of Hercules Landscaping and Lighting Assessment District No. 83-2 pursuant to the Landscaping and Lighting Act of 1972;
- 2) Hold a Public Hearing and Adopt a Resolution Confirming Diagram and Assessments and Ordering Levy of Assessments for FY 2024/25 for the City of Hercules LLAD 2002-2 (Hercules Village) pursuant to the Landscaping and Lighting Act of 1972;
- 3) Hold a Public Hearing and Adopt a Resolution Confirming Diagram and Assessments and Ordering Levy of Assessments for FY 2024/25 for the City of Hercules LLAD 2004-1 (Baywood) pursuant to the Landscaping and Lighting Act of 1972;
- 4) Hold a Public Hearing and Adopt a Resolution Confirming Diagram and Assessments and Ordering Levy of Assessments for FY 2024/25 for the City of Hercules LLAD 2005-1 (Bayside) pursuant to the Landscaping and Lighting Act of 1972; and

5) Victoria by the Bay LLAD Action Items:

- a. Hold a Public Hearing to receive testimony regarding the proposed increase to the maximum assessment rate for the City of Hercules Landscaping and Lighting Assessment District No. 2002-1 (Victoria by the Bay LLAD) commencing with FY 2024/25;
- b. Prior to the conclusion of public testimony, request any remaining assessment ballots for the Victoria by the Bay LLAD be delivered to the City Clerk, close public testimony and declare the balloting period closed, and any ballots received after that time shall be considered invalid and not counted;
- c. Declare that the assessment ballots will be tabulated on June 25, 2024 outside City Council Chambers upon close of the balloting period and that any interested person may attend and watch the tabulation process;
- d. Announce the results of the ballot tabulation will be declared at the July 23, 2024 City Council meeting and this agenda item will be continued until that time;
- e. On July 23, 2024 adopt a Resolution declaring the results of the ballot tabulation regarding the proposed increase to the maximum assessment rate for the Victoria by the Bay LLAD commencing Fiscal Year 2024/25;
- f. On July 23, 2024 adopt a Resolution Approving the Final Engineer's Report, Confirming Diagram and Assessments and Ordering Levy of Assessments for FY 2024/25 for the Victoria by the Bay LLAD pursuant to the Landscaping and Lighting Act of 1972; and

EXECUTIVE SUMMARY:

This Council Agenda item, which consists of holding the public hearings and confirming the Engineer's Reports and assessments for FY 2024/25, is the final step in the annual process to levy assessments for the City of Hercules (City) Landscaping and Lighting Assessment Districts (LLADs). Per the Preliminary Engineer's Reports which were previously approved by City Council on April 23rd, all five of the City's LLADs are proposed to be assessed at or below the change in the Consumer Price Index (CPI) except the Victoria by the Bay LLAD, which is undergoing a Proposition 218 process to increase its assessments. These increases are needed to cure a financial structural deficit.

For the Victoria by the Bay LLAD, City Council will hold a Public Hearing this evening to receive testimony regarding the proposed assessment increase to the maximum assessment rate, accept assessments ballots until the conclusion of the public testimony portion of the Public Hearing, declare that the Victoria by the Bay LLAD assessment

ballots will be tabulated on June 25, 2024 outside City Council Chambers upon conclusion of the public testimony, and continue the item until July 23, 2024 at which time the results of the ballot tabulation will be declared, and the Victoria by the Bay LLAD Final Engineer's Report and assessments for FY 2024/25 will be approved in accordance with the results of the ballot tabulation.

BACKGROUND:

The City annually levies and collects special assessments to maintain certain improvements within the City's five LLADs. The LLADs provide for well-maintained, attractive landscaping and serviceable streetlighting along public streets as well as fire breaks adjacent to open space. They also provide for the upkeep of playgrounds, fields, park furniture, tennis courts, graffiti abatement, lighting, landscaping, water features, and trails in City parks. The expenses associated with the maintenance of these LLADs include labor, material, equipment, utilities, repairs, and administration.

Each LLAD provides continued maintenance, servicing, administration, and operations of various landscaping and lighting improvements and other improvements benefitting parcels within each LLAD. Each property is assessed only for the cost of the improvements from which benefit is received. City Council has followed a multi-step Council meeting process each year, including the preparation of annual Engineer's Reports, to approve the levy of assessments on parcels within each respective LLAD in accordance with the Landscaping and Lighting Act of 1972. The Victoria by the Bay LLAD is experiencing an operating and cumulative deficit, which is currently being covered by a de facto loan from the General Fund and needs to be addressed as part of the FY 2024/25 LLAD annual approval process.

Findings from 5-year financial projections for the City's five LLADs were presented to City Council on May 23, 2023 for review. In short, the 5-year financial projections showed that the operating budgets for LLAD No. 83-2 (comprised of eleven Benefit Zones), LLAD No. 2004-1 (Baywood), and LLAD No. 2005-1 (Bayside) are trending positively through FY 2027-28. This was in part due to successful Proposition 218 proceedings conducted between FY 2017/18 to FY 2021/22 that resulted in increased assessments for six (6) Benefit Zones of LLAD No. 83-2. The Victoria by the Bay LLAD and Hercules Village Landscaping and Lighting Assessment District No. 2002-2 are currently experiencing annual operating deficits primarily due to the need for higher-level tree pruning work, the need for increased irrigation watering due to climate change, and East Bay Municipal Utility District water rate increases which have far exceeded the maximum allowable increase to the annual LLAD assessments, which is based on the published CPI.

In addition to the 5-year financial projections, an independent evaluation of the Victoria by the Bay LLAD presented to City Council in October 2023 confirmed that its funding shortfalls would not be self-correcting. On October 19, 2023, notices and ballots were mailed to Victoria by the Bay LLAD property owners, in accordance with Proposition 218, to approve a two-step \$150 per year assessment increase for a total annual increase of \$300. Results from the ballot tabulation conducted on December 5, 2023 confirmed

property owners did not approve the proposed increase to their Victoria by the Bay LLAD assessments by a 77% to 23% margin.

Given all five of the City LLADs have been self-funded through LLAD assessments, balancing the operating budget and eliminating the fund deficit for the Victoria by the Bay LLAD requires either increasing assessment revenues or cutting cost by reducing levels of service. The financial status of the Victoria by the Bay LLAD was discussed in detail at the February 27, 2024 and March 26, 2024 City Council meetings. On April 9, 2024, City Council adopted resolutions initiating the FY 2024/25 annual approval process for the City's five LLADs and authorized Proposition 218 proceedings to notice and ballot property owners within the Victoria by the Bay LLAD again to approve a two-step fixed assessment increase to be implemented in FY 2024/25 and FY 2025/26. Also, City Council directed staff to prepare a job description for the previously recommended LLAD Coordinator Position to be considered for approval at a future Council meeting. If the assessment increase is not approved by Victoria by the Bay LLAD property owners, cost cutting measures for the in-tract residential parkway strips will be implemented during FY 2024/25 upon City Council direction.

On April 23, 2024, City Council adopted resolutions approving the Preliminary Engineer's Reports and setting a Public Hearing for June 25, 2024 for the LLADs. On May 8, 2024, notices and ballots were mailed to all affected property owners in the Victoria by the Bay LLAD, in accordance with Proposition 218, with instructions that ballots must be returned by mail by 5:00 PM on June 25, 2024, or in person by the conclusion of public testimony of the Public Hearing to be held at the June 25, 2024 City Council meeting. On May 21, 2024, City staff conducted a hybrid community workshop for the property owners within Victoria by the Bay LLAD to inform them about the mail balloting process, how to properly submit their ballot and the potential cost cutting measures should property owners oppose the assessment increase. Door hangers were placed on all the homes in Victoria notifying the occupants of the community workshop.

Ballots returned to the City will be tabulated outside City Council Chambers upon conclusion of public testimony this evening. Any interested parties may attend and observe the tabulation. If a majority of ballots returned do not oppose the proposed assessment increase, City Council may approve the assessment increase. If a majority of ballots returned oppose the proposed assessment increase, the currently authorized Victoria by the Bay LLAD assessment will continue to be imposed and cost cutting measures will be implemented at City Council's direction. Ballots are weighted according to the proportional financial obligation of the affected property. This means one vote for each dollar of assessment. The results of the ballot tabulation are anticipated to be reported to City Council on July 23, 2024.

ANALYSIS:

The Final Engineer's Reports provide that the maximum annual assessment per parcel may be increased each fiscal year by the prior year's increase in the CPI for San Francisco-Oakland-San Jose Area – All Urban Consumers. The prior year's increase in

the CPI was 2.37%. All LLADs/Zones are proposed to be assessed at their current maximum assessment rates in FY 2024/25, except for Benefit Zone Nos. 2 (Foxboro), 5A (Business Park), 5B (Commercial Properties), 8 (Trees and Flowers) of LLAD No. 83-2, Baywood Landscaping and Lighting Assessment District No. 2004-1, and the Victoria by the Bay LLAD. Below is a summary table of the LLADs/Zones recommended to be assessed **below** their respective maximum assessment rates for FY 2024/25.

LLAD/Zone Description	Recommendation for FY 2024-25 Assessment
LLAD No. 83-2 (Zone 2 - Foxboro)	No assessment increase
LLAD No. 83-2 (Zone 5A - Business Park)	2.37% increase
LLAD No. 83-2 (Zone 5B - Commercial)	No assessment increase
LLAD No. 83-2 (Zone 8 - Trees and Flowers)	2.37% increase
LLAD No. 2004-1 (Baywood)	7% increase

For the Victoria by the Bay LLAD, the City is proposing a two-step fixed assessment increase to be implemented in FY 2024/25 and FY 2025/26 to address the current annual operating deficit and cumulative fund deficit. The Victoria by the Bay LLAD maximum annual assessment for each single-family home would increase by \$150 for FY 2024/25 and would increase again by \$150 for FY 2025/26. Assuming favorable results, commencing in FY 2026/27, the maximum annual assessments for the Victoria by the Bay LLAD would be increased annually by the change in CPI to keep up with inflationary increases in maintenance costs. The current and proposed rates per Equivalent Residential Unit (ERU) for each LLAD and Zone are set forth in the table below.

LLAD ZONES/DISTRICTS	CURRENT ASSESSMENT*		PROPOSED ASSESSMENT* FY 2024/25		DIFFERENCE	
	NEIGHBORHOOD COMPONENT ASSESSMENT	CITYWIDE ASSESSMENT (ZONE 10)	NEIGHBORHOOD COMPONENT ASSESSMENT	CITYWIDE ASSESSMENT (ZONE 10)	NEIGHBORHOOD COMPONENT ASSESSMENT	CITYWIDE ASSESSMENT (ZONE 10)
Benefit Zone 1 (Cottage Ln, Coventry, and Olympian Hills)	\$85.21	\$149.51	\$87.23	\$153.04	\$2.03	\$3.53
Benefit Zone 1 (Other Parcels)	\$142.52	\$149.51	\$145.90	\$153.04	\$3.38	\$3.53
Benefit Zone 2 (Foxboro)	\$129.83	\$149.51	\$129.83	\$153.04	\$0.00	\$3.53
Benefit Zone 3&4 (Non-Residential Parcels)	\$93.00	\$149.51	\$95.20	\$153.04	\$2.20	\$3.53
Benefit Zone 3&4 (Residential Parcels)	\$139.04	\$149.51	\$141.24	\$153.04	\$2.20	\$3.53
Benefit Zone 5A (Business Park)	\$146.52	\$149.51	\$149.98	\$153.04	\$3.47	\$3.53
Benefit Zone 5B (Commercial Parcels)	\$140.07	\$149.51	\$140.07	\$153.04	\$0.00	\$3.53
Benefit Zone 5C (Misc. Parcels)	\$67.18	\$149.51	\$68.77	\$153.04	\$1.59	\$3.53
Benefit Zone 6 (Arbors Senior Housing Center)	\$35.17	\$149.51	\$36.00	\$153.04	\$0.83	\$3.53
Benefit Zone 6 (Westwood Duets)	\$195.67	\$149.51	\$198.19	\$153.04	\$2.52	\$3.53
Benefit Zone 6 (Other Condominiums)	\$118.21	\$149.51	\$120.04	\$153.04	\$1.83	\$3.53
Benefit Zone 7 (Bay Pointe, Bravo, Caprice)	\$86.07	\$149.51	\$88.10	\$153.04	\$2.03	\$3.53
Benefit Zone 7 (Other Parcels)	\$148.19	\$149.51	\$151.69	\$153.04	\$3.50	\$3.53
Benefit Zone 8 (Trees and Flowers)	\$125.44	\$149.51	\$128.40	\$153.04	\$2.97	\$3.53
Benefit Zone 9 (Country Run)	\$110.87	\$149.51	\$113.49	\$153.04	\$2.62	\$3.53
LLAD No. 2002-1 (Victoria by the Bay)	\$617.03	\$149.51	\$767.03	\$153.04	\$150.00	\$3.53
LLAD No. 2002-2 (Promenade)	\$758.90	\$149.51	\$776.86	\$153.04	\$17.96	\$3.53
LLAD No. 2004-1 (Baywood)	\$2,048.41	\$149.51	\$2,191.80	\$153.04	\$143.39	\$3.53
LLAD No. 2005-1 (Bayside)	\$276.54	\$149.51	\$283.08	\$153.04	\$6.54	\$3.53

*The rates shown above are for single-family homes, which equal one Equivalent Residential Unit. Condominiums and Apartment Units are assessed at 75% and 64% the amount of a single-family home respectively. The current assessment for the Victoria by the Bay LLAD reflects the authorized maximum assessment for FY 2024/25.

At the June 11th City Council Meeting, a LLAD Coordinator position was approved to provide better customer service to residents and higher-level oversight of the landscaping and tree trimming contracts. Due to the reassignment of existing staffing to Facilities Maintenance, the addition of the LLAD Coordinator position will be cost-neutral for all LLADs, except for LLAD No. 83-2 (Zone 10 – Citywide).

FISCAL IMPACT:

If assessments for the LLADs are not levied, there would be an estimated revenue loss of \$3.3 million for FY 2024/25 to fund the maintenance and operations associated with the City's public parks, landscaping, streetlighting, and open space areas. Conducting the public hearings and adoption of the attached resolutions is the third and final required Council action to approve the FY 2024/25 LLAD assessments. If the Victoria by the Bay LLAD property owners do not approve the proposed assessment increase, the City will need to cut an estimated \$218,600 corresponding to the maintenance of the in-tract residential parkway strips commencing in Fiscal Year 2024/25.

For FY 2024/25, Baywood LLAD No. 2004-1 will make an installment payment to repay a 10-year loan borrowed for a tree replacement project. Also, Benefit Zone Nos. 1 (Hercules by the Bay), 3 & 4 (Gems/Birds), 6 (Village Parkway) and 7 (Heights) associated with LLAD No. 83-2 will continue to repay their respective 10-year loans borrowed to replace failing wooden streetlight poles with new energy-efficient LED streetlights on metal poles.

ATTACHMENTS:

1. Resolutions Confirming Diagrams and FY 2024/25 Assessments for LLAD No. 83-2, LLAD No. 2002-1 (Victoria by the Bay LLAD), LLAD No. 2002-2 (Hercules Village), LLAD No. 2004-1 (Baywood), and LLAD No. 2005-1 (Bayside)
2. Resolution Declaring the Results of the Property Owner Protest Balloting Proceedings for LLAD No. 2002-1 (Victoria by the Bay LLAD)
3. FY 2024/25 Final Engineer's Reports for LLAD No. 83-2, LLAD No. 2002-1 (Victoria by the Bay), LLAD No. 2002-2 (Hercules Village), LLAD No. 2004-1 (Baywood), and LLAD No. 2005-1 (Bayside)