

Memo

To: Dante Hall, City Manager
Mike Roberts, City Engineer/Public Works Director

From: Andrew S. Belknap, Baker Tilly

Date: September 24, 2023

Subject: Victoria By the Bay Landscaping and Lighting Assessment District 2002-1
Fiscal and Operational Assessment

Baker Tilly was asked to complete an evaluation of the subject assessment district, and possible options for more efficient operations.

I. Background on Landscaping and Lighting Assessment Districts and LLAD 2002-1

The City of Hercules uses landscaping and lighting assessment districts (LLADs) to maintain public landscaping and lighting that benefits private property across the City. This practice is fairly common across California and is typically supported by annual engineering reports that align annual costs with annual assessments.

LLAD 2002-1 was formed in May 2002 in conjunction with the development of the Victoria by the Bay residential subdivision. It is used to pay for the maintenance and operation of certain landscaping and lighting improvements in the public right of way and neighborhood parks, by far the most prevalent area being the planter strip median between the development's roadways and the sidewalks. The improvements consist of trees, shrubs, groundcover and grass turf, irrigation systems and streetlighting which were installed with the subdivision development approximately twenty years ago. The neighborhood parks also have hardscape improvements such as benches, walkways, and various structures including gazebos and pergolas. A typical safeguard built into these types of assessment districts, which is the case with respect to LLAD 2002-1, is that costs cannot exceed the rate of general price level inflation, which is measured by the Consumer Price Index for the San Francisco Bay Area, without explicit taxpayer authorization via a Proposition 218 election.

Below is a picture of the typical median installation in Victoria by Bay and LLAD 2002-1. When this landscaping approach was designed water costs were not a design concern, and frankly it is impossible to design an efficient approach to turf irrigation for such a limited strip of turf landscaping, so overspray and waste is going to be a given. With Hercules' pattern of dry summers and falls, turf cannot survive without irrigation during the dry months.

Typical Median in Victoria by the Bay Community



This subdivision development is almost exclusively single family residential in nature, with approximately 794 units, most initially constructed and occupied in 2003-2006. The median sales price for a unit in the development is currently approximately \$1,078,000 (per neighborhoods.com). The current annual assessment for LMD 2002-1 is \$602.76. Along with some minimal public agency and general benefit contributions (less than \$20,000 annually) the LLAD raised approximately \$482,897 per year in 2022-23

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This amount is less than the cost of servicing the improvements in place, and for this reason for the last few years the City has been in the position of loaning LLAD 2002-1 General Fund monies, as shown in the table below, with figures provided from the City's Assessment District Engineer.

	Summary of LMD 2002 -1 Fiscal Performance				
	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023
Operating Revenues	\$437,842	\$441,068	\$459,794	\$470,269	\$482,898
Operating Expenditures	\$443,485	\$574,935	\$593,218	\$632,699	\$605,773
Surplus/(Deficit)	(\$5,643)	(\$133,867)	(\$133,424)	(\$162,430)	(\$122,875)
Ending Balance	\$206,232	\$72,365	(\$61,059)	(\$223,489)	(\$346,364)

Through fiscal year 2022-23 the City's General Fund was owed over \$346,000 in accumulated deficits from operations of LLAD 2022-1. In addition, for fiscal sustainability into the future the LLAD should rebuild reserve funds which are estimated to require another \$300,000 in funding, which will need to come from assessments. Because the landscaping, particularly the trees, is now maturing additional maintenance should be anticipated in the future.

II. Current Budget and Operations

The table below shows line-item budget costs for LLAD 2002-1 for 2018-19 through 2023-24 from information provided by the District Engineer. Overall costs have increased by 9.6% annually during this period but have been quite variable. Water costs are now the largest single expense category having nearly doubled between 2018 and 2021, before dropping somewhat. Contracted landscape costs which are now the second largest cost for the LLAD have increased by an average of 2% over this time period. Electricity costs have increased quite rapidly (by more than triple) but are still a relatively small part of total expenditures. Water and electricity cost increases appear to stem largely from rate increases, but some usage increases, especially in water, during the drought period are also likely. City personnel cost increases have averaged an 8% annual cost increase over this time period.

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LMD 2002-1 Historical Costs	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024
Total City Personnel Costs	\$ 79,422	\$ 81,138	\$ 85,780	\$ 91,844	\$ 113,047	\$ 116,769
Non-Personnel Costs						
Electricity	\$ 16,192	\$ 31,648	\$ 26,021	\$ 51,861	\$ 54,454	\$ 55,000
Water	\$ 142,495	\$ 205,548	\$ 254,063	\$ 210,862	\$ 205,548	\$ 250,000
Tree Trimming	\$ -	\$ -	\$ 2,250	\$ 45,134	\$ 4,400	\$ 25,000
Contracted Landscaping	\$ 161,374	\$ 198,472	\$ 167,841	\$ 174,348	\$ 167,556	\$ 172,583
Assessment engineering	\$ 834	\$ 7,173	\$ 7,016	\$ 4,159	\$ 5,569	\$ 5,736
Administrative allocation	\$ 22,438	\$ 25,996	\$ 26,455	\$ 27,692	\$ 28,000	\$ 28,840
Transfer to Major Roads	\$ 20,730	\$ 24,960	\$ 23,792	\$ 26,800	\$ 27,200	\$ 28,016
Total Non-Personnel Costs	\$ 364,063	\$ 493,797	\$ 507,438	\$ 540,856	\$ 492,727	\$ 540,175
Total Costs	\$ 443,485	\$ 574,935	\$ 593,218	\$ 632,699	\$ 605,773	\$ 656,944

The table below shows how water rate increases have outstripped the annual increase in the LLAD 2002-1 assessment over the last several years. East Bay Municipal Utility District water rate increases have consistently exceeded the rate of inflation during the last ten years.

Fiscal Year	East Bay Municipal Utility District Annual Increase	East Bay Municipal Utility District Cumulative Increase	Hercules LLADs Consumer Price Index Annual Increase	Hercules LLADs Consumer Price Index Cumulative Increase
FY 2014-15	9.50%	9.50%	2.45%	2.45%
FY 2015-16	8.00%	18.26%	2.53%	5.04%
FY 2016-17	7.00%	26.54%	3.02%	8.21%
FY 2017-18	9.25%	38.24%	3.44%	11.93%
FY 2018-19	9.00%	50.68%	3.56%	15.92%
FY 2019-20	6.50%	60.48%	3.53%	20.01%
FY 2020-21	6.25%	70.51%	2.91%	23.49%
FY 2021-22	4.00%	77.33%	1.57%	25.43%
FY 2022-23	4.00%	84.42%	5.19%	31.94%
FY 2023-24	8.50%	100.10%	5.30%	38.94%

Since the LLAD 2002-1 is generally limited to increasing costs within the rate of inflation, and because water has become such a large part of overall operational expense, this has created a very difficult situation for overall fiscal sustainability for the LLAD. Essentially the significant increases in water costs have increased the LLAD 2002-1 budget. Initially this had the effect of wiping out the LLAD's reserves. Subsequently the LLAD budget had to borrow from the City General Fund to maintain services.

The City mainly uses a contracted landscaper to handle day-to-day maintenance and a tree trimming contractor to prune the trees. City labor is used to manage the program (including

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overhead costs), monitoring the contractors, respond to resident complaints, repair street-lighting, and to try to optimize the irrigation system as best possible, since the issue of water use is well recognized as a cost escalator by the City.

Median landscape areas such as this are known to be areas of water waste and this is one reason the water utility, East Bay Municipal Utility District is trying to eliminate turf medians, by offering a rebate program for replacements to commercial customers. The program is explained below:

East Bay MUD Median Rebate

(<https://www.ebmud.com/water/conservation-and-rebates/rebates/lawn-conversion-rebate>)



Median Strip Rebate - \$2.50 / sq. ft.

**Commercial customers only.*

It's nearly impossible to irrigate lawn median strips efficiently, so we're offering double our standard rebate to convert these lawn strips to waterwise plants and drip irrigation.

Given that the water provider itself states that “it is nearly impossible to irrigate lawn median strips efficiently” it is no surprise that the City faces such an ongoing challenge in this area.

III. Solutions and Recommendations

a) The public policy rationale for requiring LLADs to cover full costs is strong

Before addressing solutions to this issue and appropriate recommendation one issue needs to be discussed and that is the question of “Why not assign responsibility for paying the costs associated with LLAD 2002-1 to the general City taxpayers?” The answer is that the landscaping maintained by the LLAD represents a special benefit to the property owners within the LLAD as documented in the annual engineers report. The latest Engineer’s Report states:

“The special benefits received by these may best be evaluated in terms of the property devaluation that would occur if the District maintenance activities were suspended or terminated. The resultant reduction in the quality of life could be significant. In contrast to the current conditions, one could find streets without lights, parks parched from lack of water, hillsides littered with debris, unkept community

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facilities with graffiti and traffic medians overtaken by weeds. The resulting losses to property in terms of the desirability of the City of Hercules as a place to live and work would be obvious. Clearly the continuation of the City maintenance effort is of special benefit to each property owner within the District.”

Since property valuation is a private benefit and it is at the center of the LLAD funding it is logical and appropriate that property owners be asked to fund the necessary corrections. It is neither fair nor appropriate for general City taxpayers to pick up the deficit for the LLAD 2002-1 situation. Doing so would burden the General Fund and the City’s ability to provide essential services, such as police, to all Hercules residents. Additionally, if LLAD 2002-1 were subsidized, it would raise an equity concern about how the other 4 districts are funded.

In fact, property owners with Victoria by the Bay have enjoyed significant property value gains since the Great Recession in 2008-late 2010. Data from market reports for average property sales from September of 2010 (approximately the end date of the Great Recession) shows that the average property in the development had a sale price of \$525,000 to \$575,000. Currently the median value in the development is \$1,078,000. Thus, the average property value has increased by approximately 87%.

During this same time period the LLAD 2002-1 assessment has increased by approximately 20% from approximately \$505 per year to \$603 per year.

b) Operation of the improvements

The main reason that costs for LLAD 2002-1 have increased has been utility rate increases mainly for water. There is nothing the City can do about rate increases. It can try to minimize the amount of water consumed, which it has done by monitoring the landscape contractor’s operations, but this also costs City staff time. It is known that this type of system is inherently inefficient, thus all that can be done is to see that the system is operated as efficiently as possible. However, there will be overspray and waste as a given from the nature of the system.

In terms of operations, the City is already using a contracted landscape vendor, which is less costly than using City staff members for maintenance. The contract has not been bid in more than six years and should be rebid for competitiveness sake. (The City states no base contract cost increases occurring on an annual basis and institutional knowledge are the reasons for not bidding the work.)

Overall operations are as efficient as possible given the type of landscaping installed. However, we would offer the following as recommendations:

1. Plan to rebid the landscape contract to insure competitiveness in the next year. Include tree trimming in the work bid since this is now a regular part of the maintenance regime.
2. Explore the East Bay Municipal District median rebate program to see if the City would or could qualify for the rebate support.

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3. Plan a turf and irrigation system replacement project for implementation once the current operations deficit and general fund loan have been paid off. Replace the turf with a no or low water surface such as decomposed granite or rock or a planting that is consistent with pedestrian traffic but uses little water and can be drip irrigated.
4. Work with the community to design the replacement project most in keeping with the needs and budget of the Victoria by the Bay community.
5. Use the incremental increase in the assessment used to pay off the general fund loan to fund the improvement project with the City advancing funds for the work if possible, to be repaid with the flow of funding from the assessment increment.

c) Further Recommendations

The current assessment level for LLAD 2002 -1 is inadequate to pay for maintenance and operations consistent with satisfactory operations of the installed improvements. The assessment level must be raised in three specific ways:

1. To eliminate the current operational deficit
2. To repay the City's General Fund for the funds advanced to maintain services over the previous five fiscal years
3. To rebuild the District reserve balances

The District Engineer will provide a recommendation on what the assessment increases need to be to accomplish this in the near future, but it is easy to see that to breakeven on operational expenses the annual assessment will need to increase significantly. It will probably be desirable for the City to provide a multi-year period to allow for repayment of the general fund loan and to rebuild reserves to avoid too much of an impact in any single year period.

It should be noted that the current assessment is not an unusually high LLAD assessment nor a large annual fee for this type of improvement given the setting and property values.

Because an assessment increase in this amount will exceed that allowed without voter approval the City will need to schedule a Proposition 218 compliant mailed ballot election in order to secure approval for the increase. Details on administration of the proper voter approved procedures may be found in: [Propositions 26 and 218 Implementation Guide, August 2021, by the League of California Cities](#)

At a later date the City Council should approve the Engineer's Report recommending assessments which fully cover operational costs, while rebuilding reserves and repaying the general fund loan. Further, as required by law a mailed ballot election to approve the assessment increase should be called and scheduled.

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If for some reason the property owners in the district do not approve of the assessment increase the City will have no option but to discontinue maintenance at least to the level consistent with ongoing LLAD 2002-1 revenues. In fact, the City should make it clear that eventually it will have to cut maintenance to a level that will also allow for repayment of the general fund loan to the maximum extent possible, since the improvements provide a private property benefit.

Irrespective of the loan repayment, maintenance reductions which will mean a reduction in irrigation water and regular maintenance will set the landscaping into a decline which will eventually lead to outright failure. Although it may be possible for a homeowners association of individual property owners to step into the maintenance breach, a significant decline in overall neighborhood aesthetics, and therefore private property values, is almost a forgone conclusion should this occur.

In our review we also noted that the City does not have any staff member devoted to the maintenance of administrative matters associated with the five landscape and lighting assessment districts which cover the City including the 10 separate zones in District No. 83-2 which further differentiate the district. These districts tend to be administratively complex and in addition to the annual engineer's report require annual administrative tasks relating to budgeting and tax collection.

While this type of assessment district structure is not unusual, it is quite unusual for a municipality to not have an administrative position in public works devoted to administration of assessment district business. It is recommended that Hercules consider establishing such a position.