



# Agenda Report

**MEETING DATE:** Tuesday, May 25, 2021

**TO:** City Council

**FROM:** PARKS & COMMUNITY SERVICES DIRECTOR CALUBAQUIB  
BEN HEISTEIN, ASSISTANT PARKS AND COMMUNITY SERVICES  
DIRECTOR  
MARIA ESTHER RODRIGUEZ, ASSISTANT PUBLIC WORKS AND  
UTILITIES DIRECTOR

**SUBJECT:** RESOLUTIONS CONSIDERING CONFIRMATION OF DIAGRAM,  
ASSESSMENTS, AND LEVYING ASSESSMENTS FOR FISCAL YEAR  
2021-2022 FOR BAY BREEZE LLMAD NO. PK-03-02, VISTA  
MONTANA LLMAD PK-03-03, AND GONZALES STREET ALLEYWAY  
LLMAD NO. PK-94-1

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## **STATEMENT OF ISSUES:**

At the April 13<sup>th</sup> City Council meeting, the City Council accepted the Engineer's Reports and set the public hearing to May 25<sup>th</sup>, 2021. The Engineer's Reports are on file in the City Clerk's office.

### **Bay Breeze LLMAD**

The total annual assessment for the district was \$62,542.44 last year. The proposed total assessment for 2021-2022 is \$63,774.24. This amount reflects the increase in the Consumer Price Index, representing a 2% increase, and is the maximum that can be charged in the Engineer's Report. A single public hearing is required.

### **Vista Montaña LLMAD**

The total annual assessment for the district was \$137,814.34 last year. The proposed total assessment for 2021-2022 is 140,570.94. This amount reflects the increase in the Consumer Price Index, representing a 2% increase, and is the maximum that can be charged in the Engineer's Report. A single public hearing is required. Staff is in the process of engaging district property owners on issues pertaining to service delivery and future assessments.

### **Gonzales Street Alleyway LLMAD**

The total annual assessment for the district was \$600 last year. There is no proposed increase for the 2021-2022 assessment. The proposed total assessment for 2021-2022 is \$600. A single public hearing is required.

**RECOMMENDED ACTION:**

Staff recommends that the City Council adopt a resolution confirming the diagrams, assessments, and levying the assessments for the Bay Breeze Subdivision Landscaping and Lighting Maintenance Assessment District No. PK-03-02, Vista Montaña Subdivision Landscaping and Lighting Maintenance Assessment District (LLMAD) No. PK-03-03, and the Gonzales Street Alley Landscaping and Lighting District (Gonzales LLMAD) No. PK-94-1.

**DISCUSSION:****Bay Breeze LLMAD**

The Bay Breeze Subdivision is located at the southwest corner of Ohlone Parkway and Harkins Slough Road. The Bay Breeze Landscaping and Lighting Maintenance Assessment District (LLMAD) program includes the following:

1. Maintenance and replacement of the street trees within the subdivision.
2. Operation, maintenance, repair, and replacement of the detention basins and the detention basin access roads within the subdivision.
3. Operation, maintenance, repair, and replacement of the perimeter fencing around the entire subdivision.
4. Maintenance and replacement of the plantings done as part of the wetland mitigation plan.
5. Maintenance of the environmental management parcel created within the subdivision.
6. Maintenance, repair, and replacement of the landscaping within the public right-of-way abutting and within the subdivision, including the Ohlone Parkway medians.
7. Operation, maintenance, repair and replacement of the sewer pump station.
8. Maintenance of the graffiti coatings on the public exposure of the perimeter walls along the District boundaries.

The Bay Breeze Subdivision LLMAD is comprised of 114 single family residential parcels. The annual costs for the operation, maintenance, and servicing of landscaping and street lighting improvements is apportioned to each parcel within the District in proportion to the EDU's (Equivalent Dwelling Unit) assigned to the parcel as a percentage of the total number of EDU's assigned to all parcels within the District.

**Vista Montaña LLMAD**

The Vista Montaña Subdivision is located off of East Lake Avenue and adjacent to Ann Soldo Elementary School and the Bay Village subdivision. The Vista Montaña Subdivision Landscaping and Lighting Maintenance Assessment District includes the following:

1. Regular maintenance, repair and replacement of all facilities within the agricultural buffer area (except the street and utilities) which includes but is not limited to, the landscaping, signage, perimeter wall, retaining walls, pedestrian path and erosion control plantings within or adjacent to the detention basins and drainage swale.
2. Operation, maintenance, repairs, and replacement of and power for the street lighting within the District.
3. Regular maintenance, repair, and replacement of the parkway strip and street trees

on Cipres, Roble, Arce, Manzana, Cirvelo, Cereze, and Secoya Streets and Vista Montaña, Franich, and Marcela Drives.

4. Operation, maintenance, repair, and replacement of the storm drain detention basins, drainage channel, drainage facilities, and erosion control measurers within the agricultural buffer, including the storm drain culvert crossing Highway 152 and the inlet structure on the west side of Highway 152.
5. Regular maintenance, repair, and replacement of the landscaping and perimeter wall along the Highway 152 frontage adjacent to the District boundaries, including graffiti removal.
6. Regular maintenance, repair, and replacement of the pedestrian/bike path connecting Secoya Street and McKenzie Avenue, adjacent to the District boundaries.
7. Regular maintenance, repair, and replacement of pedestrian pathways located at the end of Roble Street, at the end of Cirvelo Street, within the agricultural buffer area and parallel to Bridge Street, on the south side of the town homes parallel to Franich Drive and on the west side of the town homes parallel to Marcela Drive.

The Vista Montaña Subdivision LLMAD is comprised of two Zones: A and B. Zone A benefits all parcels within the District which includes, for example, the street lighting installed along Highway 152, the landscape improvements along Highway 152 and the agricultural buffer area. Zone B benefits those parcels within the single family residential area primarily and includes the maintenance of the street end caps, the park strips and street lighting.

The Assessment District is based on a total number of Equivalent Dwelling Units (EDU's) and maximum annual assessments are included in the Engineer's Report.

At last year's public hearing, concerns were brought up about the proposed CPI increase at the time. The Council Member for District 7, that includes Vista Montaña, had received concerns from some property owners regarding the quality of service to the landscape strip in front of their homes and expressed that they did not want an increase to their assessments. As a result, the Council voted to not increase assessments by CPI and staff proceeded to engage the property owners on their concerns.

On September 23, 2020, staff held a community meeting with district property owners to present the details of the scope of district services the City provides and the associated budget that limits the City's work. Staff also provided details regarding the LLMAD's reserve account, which is currently well below levels needed to afford inevitable repairs as the development nears the 20 year mark. At the meeting, the City also heard some of the community's concerns. Staff followed up with an online survey to hear feedback from more property owners about their knowledge of the LLMAD, satisfaction with City services, and to gauge support for possible next steps.

The options for moving forward that were presented included:

1. Maintain the *status quo* (with or without CPI increases) which would result in a gradual reduction of services due to the ever increasing cost of maintenance;

2. Conduct a new engineer's study to re-evaluate the cost of maintenance which would likely result in an increase in service quality at an increased cost;
3. Dissolve the LLMAD and let the property owners form a Homeowner's Association (HOA) to assume all district maintenance.

A second community meeting was held on February 24<sup>th</sup>, 2021 to present the results of the survey. Approximately 40 property owners filled out the survey, and only a few attended the meeting to go over results. Of the three options above, the consensus was divided between Option 1 and 2, with slightly more respondents indicating a preference for Option 1. Only a couple of property owners wanted Option 3. The survey also illustrated a general dissatisfaction with the level of maintenance the front-of-home park-strip landscaping received and satisfaction with the maintenance of most other areas.

Since Option 1 was an unsustainable solution and there was not a clear consensus in either direction, the City recommended to the community that a ballot be issued over whether to hire an engineer to complete a new study and look at re-apportioning the assessments. The homeowners will be under no obligation to adopt any increase in recommended assessments that result from the study.

The City is currently in the process of formatting ballots to issue to all property owners, in which case a simple majority would need to approve the hiring of a consultant engineer. Ballots are expected to be sent out during the month of May for this purpose.

Should an engineer be hired to complete a new study and recommend the assessments and level of service be increased, a formal ballot would be issued to the property owners so they could vote on it, as required by regulation. Should an engineer be hired, the process to study a reapportionment of assessments while engaging the community is expected to take six months to complete and would be an issue brought to the Council in Fiscal Year 2021-22.

At this time, the City is recommending that Council levy the proposed assessments, which recommends a 2% CPI increase for 2021-22 in order to maintain the status quo, while the community considers how they wish to move forward long-term.

### **Gonzales Street Alleyway LLMAD**

The Gonzales Street Alleyway LLMAD was established in order to assist the residents bordering the alleyway and adjoining small parcel to cooperatively maintain this parcel that is now owned by the City but benefits its neighbors. The annual cost of \$600 to maintain the area was spread among the 17 parcels with one parcel not immediately adjacent to the alley paying slightly less.

### **STRATEGIC PLAN:**

The Assessment District addresses the City Council's strategic goals of:

03-Infrastructure & Environment

06-Public Safety

## **FINANCIAL IMPACT:**

### **Bay Breeze LLMAD**

In 2020-2021 the assessment was \$548.43 per EDU and the total District assessment was \$62,542.44.

For fiscal year 2021-2022, the total annual assessment per EDU will be increased to \$559.43 and the total District assessment will be increased to \$63,774.24 which is the maximum allowed per the Engineer's Report and reflects the increase in the Consumer Price Index of 2%. This amount includes \$22,457.37 for annual maintenance and the remainder sum of \$41,316.87 will be placed in a reserve for replacement of trees, lights, sewer pump station and perimeter fencing (0354-958).

### **Vista Montaña LLMAD**

In fiscal year 2019-2020 the total annual assessment was \$137,814.34. The assessment for single family dwelling units was \$502.53 per unit, the assessment for townhomes was \$402.02 per unit and the assessment for apartments was \$138.63 per unit. For fiscal year 2020-21, the total assessment did not change, as Council did not approve the proposed assessments.

For 2021-2022 the total annual assessment will be increased to 140,570.94 to reflect the 2% increase in the Consumer Price Index and includes funds in the amount of \$95,106.94 for annual maintenance and \$45,464 for a reserve, which provides for replacement costs of such things as lighting or street trees based on current EDU's within the district (0354-959). The assessment for single family dwelling units will be \$512.58 per unit, the assessment for townhomes will be \$410.07 per unit, and the assessment for apartments will be \$141.40 per unit.

### **Gonzales Street Alleyway**

Of the \$600 total annual maintenance costs, \$432 of annual maintenance costs are allocated toward Plant care, mowing, and/or clearing and \$168 of annual maintenance costs are allocated toward general alleyway maintenance (672-XXXX).

## **ALTERNATIVE ACTION:**

### **Bay Breeze and Vista Montaña LLMADs**

The City Council agreed to the formation of a LLMAD in lieu of a Homeowners Association at the time of project approval. Per recorded CC&R's, (Conditions, Covenants & Restrictions), the maintenance responsibilities covered by the LLMADS are the obligation of the property owners, either through the LLMADs or the formation of an incorporated Homeowners Association. Should the City Council choose not to levy the assessments, property owners will be obligated to assume the cost of maintenance for this through the formation of a Homeowners Association.

**Gonzales Street Alleyway LLMAD**

Should the City Council choose not to levy the fee, the property owners of the 17 parcels would be responsible for the maintenance of the Gonzales Street Alleyway LLMAD.

**ATTACHMENTS AND/OR REFERENCES (If any):**

None