



## CITY OF BANNING STAFF REPORT

**TO:** CITY COUNCIL

**FROM:** Douglas Schulze, City Manager

**PREPARED BY:** Nate Smith, Deputy Director of Public Works/City Engineer  
Art Vela, Director of Public Works

**MEETING DATE:** February 11, 2025

**SUBJECT:** Discussion of Options and Obtain Direction Regarding Landscape Maintenance District (LMD) No. 1

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### **RECOMMENDATION:**

Discuss the background, operation and maintenance, and budget of Landscape Maintenance District No. 1 ("LMD No. 1" or "District") with City Council and obtain direction on several options.

### **BACKGROUND:**

LMD No. 1 in the City of Banning was established through the adoption of Resolution 1990-59 on August 14, 1990 (9 tracts), with another development, Tract No. 22913, being annexed into the District in 1992. An additional five tracts and three tentative tracts were annexed into LMD No. 1 (Annexation No. 1) when the City Council approved Resolution 2005-36 on May 10, 2005. Annexation No. 2, adding Tract No. 32370, occurred on November 14, 2023 when the City Council approved Resolution No. 2023-177. There are currently eleven (11) Zones and 1,034 assessment units (i.e. properties) in LMD No. 1. A map displaying the District and its' Zones is shown as Attachment 2.

LMD No. 1 provides a mechanism for the operation and maintenance of landscape medians and parkways, perimeter strips, landscaped hillsides with high visibility, side slopes adjacent to sidewalks and retention basins annexed into it. LMD No. 1 funds expenses (e.g. utility costs, landscape maintenance contractor, etc.) by revenues collected from the special benefit assessments paid for by each property owner within LMD No. 1. The District, by these special benefit assessments, provides funding for the operation and maintenance of certain landscape areas within the City of Banning, all of which were constructed as part of private development projects and many of which are located in the public right-of-way. The 1972 Act requires that assessments are to be levied according to benefit rather than according to assessed value.

Every year, Engineering Division staff prepare three staff reports as part of the levy and assessment process required by the Streets and Highways Code. After the initiation staff report, an Engineer's Report is prepared in house and the intention to levy assessments and approval of the Engineer's Report is brought before the City Council. Lastly, a Public Hearing confirming the assessment for the following fiscal year is held.

### **Budget Shortfalls**

Zones 1-5 of LMD No. 1 did not include a price increase or escalator to the yearly amounts paid by each homeowner. A maximum 5% escalator was introduced for Zones 6-11. This has left most of those tracts operating in a deficit each year as revenues do not pay for rising costs in utilities and the landscape

contractor services.

The annual assessments may be increased without further notice or public hearing by a percentage equal to the increase in the Consumer Price Increase (CPI) for all Urban Consumers in the Riverside-San Bernardino-Ontario, CA area, published by the United States Department of Labor, Bureau of Labor Statistics during the preceding calendar year, provided however, that any such increase shall not exceed five percent (5%) per fiscal year.

#### Previous Proposition 218 Attempt

In 2019, due to the revenue shortfall and the lack of funding for replacement projects, the Public Works Department hired Webb Municipal Finance, LLC (Webb) to analyze the existing LMD No. 1 structure, prepare a financial analysis in the form of a Financial Report, and determine the proper zones and assessment amounts for each tract in order to assure the LMD No.1 is operated with a balanced budget. The consultant prepared a detailed analysis and budget for all the existing tracts within LMD No. 1 and recommended that it be rezoned in a manner that allows each tract to pay only for benefits that it is receiving. Thus, ten (10) new Zones were developed to better reflect each tract's unique expenses and revenues and benefits bestowed to its' property owners residing within the Zone, as shown in Attachment 2, the LMD No.1 map. Zone No. 11 was annexed into the LMD No. 1 on November 14, 2023, and is comprised of Tract No. 32370, known as Canterbury.

Additionally, the Financial Report prepared by Webb analyzed the LMD No. 1 budget and recommended changes including some increases to the Assessment Units to ensure revenues were sufficient to support the rising expenditures. A Prop 218 hearing was recommended in the Financial Report to change the Assessments needed to balance the budget. Webb then prepared a "Proposition 218" Engineer's Report that presented the new escalated Assessment Unit rates for each Zone reflected on the Proposition 218 notice and ballot for each Zone. A Prop 218 public hearing was held on December 8, 2020 with the results tabulated showing a "No" vote for each of the ten Zones. Thus, the base Assessment Unit rate remained unchanged, with no increases despite rising costs. The exceptions were Zones 6 through 10, whose tracts were annexed into LMD No.1 in 2005, at which time, those property owners authorized the annual CPI adjustment. The newly annexed Zone 11 also has an annual CPI adjuster.

#### LMD Remedies/Revisions

Since the failed Prop 218 attempt, the Public Works Department has reduced landscape contractor services and water and electric costs in the Zones with annual operating deficits, as explained below. The guiding principle used by the Public Works Department is that each Zone should be self-sufficient with regard to its budget and not use public general funding. Despite these efforts, some Zones are still in deficit although services and utilities were cut to a minimum level. Currently, the aesthetics of the District do not meet the community's expectations.

On April 9, 2024, a workshop was held with the City Council and the Deputy Director of Public Works/City Engineer presented the LMD No. 1 Update and discussed the items below. Attachment 3 is the Agenda packet from that meeting. City Council members suggested the Public Works Department continue reducing services and costs.

#### Service Reductions

Since the Prop 218 Public Hearing held on December 8, 2020, certain operational adjustments (i.e. maintenance contract scope reduction for mowing, trash pickup, and shrub maintenance and reduction in watering) have been made to reduce costs. This has helped to reduce deficits in Zones 1,2,3,4,5, 8 and 9 this past year. Zones that have enough funds to support their budget have funds to install improvements such as mulch, irrigation upgrades, and plants. Unfortunately, this past year, vandalism of

sprinkler heads and stolen irrigation valves have cost about \$8,500 to replace.

For Fiscal Year (FY) 2024/2025, in the Zones that have a balanced budget (Zones 6,7,10 and 11) and in Richard Sanchez Park of Zone 1, mowing occurs weekly, and shrubs are maintained biweekly in the summer months. In the Zones with deficits, mowing occurs biweekly, and shrubs are maintained quarterly. The current landscape contractor for FY 2024/2025 is Mariposa Landscapes Inc., and their Bid Schedule/Scope of Work is shown as Attachment 4.

#### De-annexation/Dissolution of a Zone

If the City Council wanted to de-annex a Zone from the District, Engineering Division staff would need to follow the same process that was used to form the District. Therefore, each property owner needs to be sent a ballot to vote on the dissolution of the Zone/District. During the Public Hearing, the ballots received will need to be tabulated to determine if the dissolution passes or not by a majority vote.

De-annexation or dissolution would be considered on a very limited basis. Zones that have stormwater retention and water quality devices must be maintained to ensure the City's compliance with the Regional Water Quality Control Board permits. The City would also like to avoid de-annexation for 'out of sight, out of mind' areas, such as landscaping at the rear of a residential property that is separated from the property by a block wall. Some cases may require that the zones establish a Homeowners Association (HOA). Forming a HOA for existing communities, where no HOA currently exists, can be more complex compared to one established by a developer during the construction of the community. The formation of an HOA would require buy-in and significant participation from homeowners.

In order to have a HOA take over the operation and maintenance of the LMD, the City would need to enter into an agreement with the HOA and provide them with an encroachment permit allowing them to access public property for maintenance. Additional items that should be included in the agreement are insurance requirements and indemnification provisions. There would be a cost to the homeowners within a Zone for the formation of the HOA and for the HOA expenses, including maintaining the areas within the LMD.

#### Transfers to Parks Department

City Council may consider transferring portions of the LMD to another department to assume the funding, maintenance, and operations of portions of the LMD. This could be applicable to Richard Sanchez Park in Zone 1. This park was developed as an amenity to the surrounding tract of homes, and at the time of its creation, did not meet the minimum size requirements to be accepted as a public park by the City. If this facility were to be transferred from the LMD to the Parks Department, it would come with a permanent funding obligation need by the Parks Department and the City's General Fund.

#### New Zone 12

Engineering Division staff worked with the City's legal counsel to discuss alternatives and pathways to improve the maintenance and appearance of the LMD. One option discussed would be to provide a public subsidy for portions of the LMD that have a community appeal. This was described as landscape areas that serve a benefit to the community, such as roadway landscaping along major thoroughfares.

To implement this recommendation, the City would establish a new Zone 12 that would remove landscaping along major roadways from applicable individual zones within the public right of way and transfer them to Zone 12. Eligible roadway segments could include Wilson Street, Highland Home Road and Hargrave Street.

Any transference of portions of the LMD would require a new and permanent General Fund appropriation for the maintenance and operation of the landscaped areas. The estimated costs would need to be

established during the preparation of the Engineer's Report, but is estimated at between \$150,000 and \$200,000, with annual increases due to rising labor and utility costs. The City would also be responsible for any capital costs, including replacement of irrigation equipment or replacement/enhancement of plant materials.

### Additional Remedies

Other possibilities include holding another Proposition 218 Hearing and asking residents within LMD No. 1 to vote on increasing the base assessment and add an annual CPI escalator for Zones 1 through 5 or consider utilizing General funds.

### Recent Updates

Engineering Division staff met with the City Attorney's Office and together compiled a list of possible options for each Zone that the City Council can consider and provide directions to City staff as listed below.

#### Zone 1

- Option 1: Maintain status quo
  - Cessation of maintenance at Richard Sanchez Park, focus funding solely on storm water compliance of the retention basin, maintenance to ensure it functions.
- Option 2: Transfer maintenance costs of Richard Sanchez Park to the Parks Dept.
  - Required new general fund obligation to the Parks Dept. in perpetuity.
  - Prioritize LMD assessment to storm water basin, then street frontages.
- Option 3: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.
- Other Considerations:
  - Transfer of Mountain Ave. frontages to new Zone 12, as a General Fund perpetual obligation.
  - Some combination of the above options.

#### Zone 2

- Option 1: Maintain status quo
  - Cessation of maintenance to eliminate turf and replace with mulch, no landscaping.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.
- Other Considerations:
  - Transfer of Highland Home Road median and Wilson Street frontages to new Zone 12, as a General Fund perpetual obligation.
  - Some combination of the above options.

#### Zone 3

- Option 1: Maintain status quo
  - Cessation of maintenance to eliminate turf and replace with mulch, no landscaping
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 4

- Option 1: Maintain status quo
  - Cessation of maintenance on Alder Ct. to eliminate turf and replace with mulch, no landscaping and only maintain along Wilson Street.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 5

- Option 1: Maintain status quo
  - Cessation of maintenance and eliminate the watering of plant material within the tract, maintain on a necessary basis only.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 6 (annual operating surplus and reserves)

- Option 1: Maintain status quo
  - Utilize reserves over time to complete turf conversions and lower utility costs.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 7 (annual operating surplus and reserves)

- Option 1: Maintain status quo
  - Utilize reserves over time for continued tree pruning.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 8

- Option 1: Maintain status quo
  - Continue with minimal landscape services.
- Option 2: De-annexation and return the frontage along both sides of Charles Street to adjacent property owners.
  - Utilize reserves to connect irrigation to household utility.
- Option 3: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 9

- Option 1: Maintain status quo
  - Cessation of maintenance and eliminate landscaping and irrigation on Hargrave Street and Victory Ave., replace with mulch and removal of trail vinyl fencing.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 10 (annual operating surplus and reserves)

- Option 1: Maintain status quo
  - Utilize reserves over time for continued tree pruning.
- Option 2: Attempt Prop 218 adjustment to cover LMD costs within the Zone
  - Increase assessments within the Zone. No guarantee of passage.

#### Zone 11 (annual operating surplus and reserves)

- No actions. Recently annexed into LMD No. 1.

Each Zone could have its own action and Prop 218 Ballot as each is independent of the other.

If the City Council elects to reassess costs, add a CPI escalator and hold a Prop 218 balloting proceeding, a consultant will have to be obtained, similar to the work that Webb did in 2019 and 2020. The Engineering Division estimates consultant costs at approximately \$70,000 to complete the Prop 218 work, which would be an additional cost to the LMD.

#### **JUSTIFICATION:**

The City Council approved the formation of LMD No. 1 by adopting Resolution No. 1990-59 on August

14, 1990. Assessments collected from the property owners located within LMD No. 1 provide for the funding required to maintain landscape areas located within the public right-of-way directly benefiting said property owners. The District, with the exception of Zones 6,7,10 and 11, is operating in a deficit and some Zones will run out of reserves next Fiscal Year.

Therefore, staff are seeking direction from the City Council on how to proceed.

**FISCAL IMPACT:**

Any work within the LMD must be fully funded from each LMD Zone, and funds cannot be transferred across zones for work. Funds will not be expended to fully deplete reserve balances or expended in zones with structural deficits.

**ALTERNATIVES:**

This item is updating the City Council and staff are seeking direction on which option(s) to move forward with for each Zone within the District for FY 25/26.

**BUDGETED?:**

No

**CONTRACT/AGREEMENT:**

No

**ATTACHMENTS:**

1. [Att 1. LMD Options and Update Presentation, 1.28.25.pdf](#)
2. [Att 2. LMD No. 1 Map of Zones 1 thru 11 Combined.pdf](#)
3. [Att 3. April 9, 2024 Workshop Agenda Packet.pdf](#)
4. [Att 4. Mariposa reduced SOW, 05-30-2024.pdf](#)