



CITY COUNCIL

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Daniel Fox, City Manager
TITLE: **FORMATION OF NEW LANDSCAPING ASSESSMENT DISTRICT NO. 39-2019 TO REPLACE EXISTING DISTRICT NO. 39**
STRATEGIC GOAL: *Safe, Sustainable & Healthy Community*

RECOMMENDATION:

Adopt Resolution No. 2019-XX declaring intention to form Landscape Assessment District No. 39-3019, preliminarily approving the Engineer's Report, providing notice of public hearing and mailing of the ballot.

FINANCIAL SUMMARY:

Assessment District No. 39 was formed in 1985 (prior to incorporation of the City of Diamond Bar), and assessment rates have not increased since that time. However, costs to maintain the landscaping in the district has increased significantly over the past three decades resulting in an operating deficit in the district since FY 08/09. Annually, the operating deficits have been subsidized by the City's General Fund. Forming a new district with self-supporting assessments will relieve the General Fund of this burden.

As shown in the attached Engineer's Report, costs are annualized at \$504,255 (FY 19/20). Revenues from the current assessment rate of \$236.00 per parcel are \$294,764, causing the City's General Fund to subsidize this District in the amount of \$209,491. This shortfall is projected to increase in coming years. If approved by the property owners, the new assessments ranging from \$358.34 to \$387.39 per parcel would generate revenues of \$470,859, which would be supplemented by \$33,396 of General Fund for the requisite general benefit portion of the Assessment District.

BACKGROUND/DISCUSSION:

Assessment District No. 39 was created in 1985 upon the request of developers Bramalea Limited, Inc, and M. J. Brock and Sons, Inc. to pay for the maintenance and upkeep of certain landscape/open space areas and recreation features in the

neighborhood. At that time before the 1989 incorporation of the City of Diamond Bar, the County of Los Angeles formed the District and provided maintenance and administration. Upon incorporation in 1989, the City of Diamond Bar took possession of the District (the improvements as well as the annual assessment responsibilities), although the County was contracted to perform the actual maintenance for a period of time after that. Assessment Districts were structured to be self-supporting, and the County, then the City, had full authority to set assessments at levels sufficient to raise the required revenues in subsequent years.

In 1996 California voters approved Proposition 218, which changed the legal requirements of increasing assessments such as these. From that year forward any increase in assessments would need to be approved by a vote of the property owners within the District. This new requirement effectively froze assessment levels for most assessments across the State, including District No. 39. For a few years, cost increases were modest and fiscal reserves were sufficient to fund maintenance activities. Once the reserves were depleted, the City's General Fund was utilized to cover the shortfalls in the District.

The continuing operational deficit for the District is an unintended burden on the City's General Fund. The most straightforward remedy is to increase assessments for the District to levels adequate to cover costs. Other options include scaling back landscape services to fit within available revenues or dissolving the District and ceasing all services. In the former case, it is anticipated that residents in the area would see noticeable declines in the health and appearance of the landscaped areas. In the latter case, several complications would arise including identifying who would inherit the maintenance responsibilities (abutting property owners, homeowners' associations, or the City) and to what level they would perform that work.

In a study session on March 19, the City Council considered the details of these options and decided to pursue the option of increasing assessments to fund current levels of service through a ballot proceeding.

On April 16, 2019, the City Council adopted Resolution 2019-12 initiating Proposition 218 proceedings and approved a contract amendment with the City's assessment firm, SCI Consulting Group, to draft an Engineer's Report and assist the City in the Proposition 218 procedures and neighborhood outreach.

ENGINEER'S REPORT AND ASSESSMENT RATES:

The draft Engineer's Report is now complete and filed with the City for approval. The Report has estimated the annualized cost to perform the required services to be \$504,255 in FY 19/20 dollars. The proposed District No. 39-2019 is essentially the same as the existing District No. 39 (same boundaries and services), but the methodology for determining the assessment rates is slightly different than was used in the original 1985 District. The primary differences are that the General Benefit must be quantified in more specific terms, and additional scrutiny must be given to differing levels of benefit for the various types of properties in the District.

District No. 39-2019 is made up primarily of single-family homes, so there are no

practical differences in how they accrue benefits from the District's improvements. However, the improvements are not spread throughout the District evenly, so the Assessment Engineer has determined that three benefit zones are appropriate, each with different assessment rates. See Exhibit "B".

- Zone A lies south of Grand Avenue and has the greatest concentration of improvements such as a mini park, landscape slopes and brush-clearing areas. This zone has the highest assessment rate of \$387.39 for FY 19/20.
- Zone B lies north of Grand Avenue and south of Pantera Elementary School and has a similar concentration of mini parks, but less quantities of landscaped slopes and brush-clearing areas. This zone has a slightly lower assessment rate of \$377.70.
- Zone C lies at the north end of the District and has no nearby mini parks and no landscaped slope areas, although there are several brush-clearing areas. This has the lowest assessment rate of \$358.34.

One other significant difference brought about by Proposition 218 is that public-owned properties are no longer exempt from assessments unless it can be demonstrated that they receive no benefit from the improvements. In District No. 39-2019 there are several public-owned properties: Pantera Elementary School, Walnut Valley Water District tank site, Pantera Park, and City-owned open space. The Engineer's Report determined that the only property that receives any benefit from the District improvements is the school. The annual rate is proposed to be \$1,207.65.

The final item stemming from Proposition 218 is General Benefit, which is the amount of benefit received by properties outside the District or by the public at large and is typically expressed in terms of a percentage of overall benefit. For District No. 39-2019, the Engineer's Report determined the General Benefit to be 6.62%. Proposition 218 does not allow that portion of costs to be included in the assessments, and it must be paid from other sources. The most common source payment for City-managed districts like this is the General Fund. In summary, the Report identifies \$33,396 in General Benefit to be paid by the City's General Fund for FY 19/20.

Procedure

The task of increasing the assessment levels requires a ballot proceeding where the property owners would need to approve the increase. The procedure is laid out in Division 15, Part 2 of the California Streets and Highways Code as well as Section 53750 - 53754 of the Government Code (Proposition 218). It requires three steps: (1) adopt a resolution to initiate the proceedings and direct preparation of the Engineer's Report (completed on April 16, 2019), (2) adopt a resolution approving an Engineer's Report (which establishes assessment rates) and setting the date for a public hearing (tonight's action), and (3) conducting the public hearing at which time ballots will be tabulated and the outcome of the balloting proceeding will be known. The ballots, along with a formal notice, will be mailed to each property owner after the second resolution is adopted and at least 45 days prior to the public hearing. The ballots can be returned any time up to the close of the hearing. The dates for the key steps are as follows (with Council actions in **bold**):

Key Task	Dates
Resolution 1 – Initiate Process; Award SCI Contract	<i>(completed April 16)</i>
Mail Notice of Neighborhood Meetings	<i>(completed May 1)</i>
Conduct Two Neighborhood Meetings	<i>(completed May 14)</i>
Resolution 2 – Approve ER, set hearing date, authorize ballots	May 21 (tonight)
Mail ballot packets	May 31
Respond to inquiries, ballot requests	June 3 – July 16
Resolution 3 – Conduct hearing, tabulate ballots, order levies (if approved)	July 16

In accordance with the statutes, these proceedings are voted on by property owners (instead of registered voters). In addition, votes are weighted by the amount of the proposed assessment. For example, a property owner being assessed \$387.39 has slightly more voting power as an owner being assessed \$358.34.

This new assessment district is being structured to replace the existing district No. 39. Since the results of the ballot proceeding will not be known until July 16, the annual renewal processes for the existing district will continue so that it can be assessed in the event that the new district is not approved by the property owners.

Community Outreach

In addition to the required procedures, the City held two community meetings for the District to inform affected property owners of the issues and proposed actions and to listen to their feedback. The meetings were held on Tuesday, May 14, 2019 (one at 6:30 pm and a second one at 7:30 pm) at the Diamond Bar Center. Letters were sent to all property owners informing them of the proposed actions and inviting them to the meetings. Approximately 150 residents were in attendance. The presentation portion of the agenda included District Background and Overview, Types of Landscape Maintenance Work, District Funding Needs and Options, and Mail-in Ballot Process. In addition, City staff and the Consultant answered questions during the Q&A session.

LEGAL REVIEW:

City Attorney has reviewed and approved as to form.

PREPARED BY:

David G. Liu

David G. Liu, Public Works Director/City Engineer 5/21/2019

Dianna Honeywell

Dianna Honeywell, Finance Director

5/16/2019

Attachments:

1. 8.3.a Resolution No. 2019-XX for District No. 39-2019
2. 8.3.b Engineer's Report for District 39-2019
3. 8.3.c Exhibit A - Boundary and Work Areas of District No. 39-2019
4. 8.3.d Exhibit B - Zones of Benefits for District No. 39-2019