



THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: June 12, 2012

REPORT NO.: 12-077

ATTENTION: Honorable Council President and City Council

SUBJECT: Fiscal Year 2013 Annual Levy and Annual Update of Assessment Engineer's Reports for Park and Recreation Department Maintenance Assessment Districts

COUNCIL DISTRICTS: Citywide

CONTACT/PHONE NUMBER: Andrew Field, (619) 685-1307, MS 5D

REQUESTED ACTIONS:

This City Council action is to establish the Fiscal Year 2013 assessment levy, approve the Assessment Engineer's Reports, and authorize appropriation and expenditure of funds for the Maintenance Assessment Districts (commonly referred to as MADs) that are managed by the Park and Recreation Department.

STAFF RECOMMENDATION:

Staff recommends the City Council authorize the levy and collection of assessments within previously established districts for Fiscal Year 2013; approve the annual update to the property owner-approved Assessment Engineer's Report for each district; and authorize the appropriation and expenditure of district funds for Fiscal Year 2013, including the administrative fund, district operating funds, district capital funds, and developer deposit funds associated with new assessment district formation activities.

SUMMARY:

State law requires that the City Council annually approve the levy of assessments and adopt Fiscal Year 2013 updates to the Assessment Engineer's Reports for each of the 49 MADs administered by Park and Recreation Department prior to the County of San Diego levy deadline of August 10. In addition, this report identifies the contributions made by the City to provide general benefit for maintenance of parkland, library and fire station grounds, open space, and medians. This action also authorizes appropriation and expenditure of MAD funds in accordance with the Annual Appropriation Ordinance, including capital funds and developer deposit funds

collected in accordance with Council Policy 100-21. A companion item will discuss the Fiscal Year 2013 annual update for the seven MADs managed by the Economic Development Division.

## BACKGROUND:

### **Program Overview**

MADs are authorized by law to assess benefiting property owners for landscape and lighting maintenance and other service activities. These activities must provide a special benefit above the standard level of service provided by the City. Maintenance areas may include but are not limited to landscaped and paved medians, landscaped right-of-ways and slopes, open space, parks, ponds, flood control channels, monuments, decorative street lighting, decorative gates, community signage, and banners. MADs may also provide for cleaning of curbs and gutters, sweeping sidewalks, and security services.

The City of San Diego's Park and Recreation Department currently administers 49 of the 56 MADs located throughout the City. The Economic Development Division administers the remaining seven MADs, mostly in conjunction with existing Business Improvement Districts. MADs are authorized by the State of California and provided for in the Landscaping and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code), applicable provisions of Proposition 218 (Article XIII D of the California Constitution), and provisions of the San Diego Municipal Code §65.201 et seq.

Improvements to be maintained are identified in each district's Assessment Engineer's Report, which are provided as Attachment 1. The Assessment Engineer's Reports for the current and upcoming fiscal year are available for review at [www.sandiego.gov/park-and-recreation/general-info/engreports.shtml](http://www.sandiego.gov/park-and-recreation/general-info/engreports.shtml). Shared costs for all 49 MADs are budgeted in the MAD Management Fund, which allocates its costs across each district on a ratio based on prior year expenditures. Costs incurred within the MAD Management Fund include contract inspectors, analytical/budgetary support, accounting, assessment engineering, assessment enrollment, contract procurement, legal, information technology, vehicles, and communications.

State assessment law requires that the costs of maintaining the improvements to be apportioned to the properties within the district in proportion to the benefits received. In establishing benefit and apportioning maintenance costs, certain general guidelines assure conformity between similar districts and between similarly benefited properties within a district. These guidelines apply to the areas of benefit, allocation of costs, and apportionment of assessments.

The area of benefit is delineated by the district's boundaries and includes properties which benefit from the maintenance of improvements in the district. The City provides the general benefit, which is the common standard of services for activities such as safety lighting, street median maintenance, open space maintenance, and park maintenance as defined by the annual budget. MADs provide special benefits, which are a particular and distinct benefit over and above general benefits, including higher frequencies of standard services and additional services not otherwise provided by the City.



The Greater Golden Hill MAD was ordered to be dissolved on September 22, 2011, by the Court of Appeal for the State of California, Fourth Appellate District, Division One in *Greater Golden Hill Neighborhood Association v. City of San Diego*. The Court found that the formation of the Greater Golden Hill MAD was invalid under Article XIID of the Constitution of the State of California. The City Council ordered the district dissolved by vacating the 2007 resolution to form the Greater Golden Hill MAD through Resolution R-307362 on April 10, 2012.

*Greater Golden Hill Neighborhood Association v. City of San Diego* contained language regarding the calculation of general benefit that may have impacts on the remaining existing MADs. In consultation with the City's Assessment Engineers, the City Attorney's Office will release an attorney-client privileged memorandum on or before the Council meeting that will examine possible impacts to existing MADs as a result of the court's decision.

### **Annual Levy of Assessments**

Annually, staff requests that the City Council approve the assessment levy and Assessment Engineer's Report for each MAD. This action will allow the levy to be placed on the San Diego County Property Tax enrollment, and will meet the legal requirements necessary for each MAD to provide the maintenance and other services as described in the Assessment Engineer's Reports. Attachment 2 provides a list of the summarized assessment district levies and parcel count for the 49 Park and Recreation-administered MADs, with a grand total of 148,397 parcels in Fiscal Year 2013. Each of these districts is also included in the Proposed Fiscal Year 2013 Budget. The methodology to create the assessment levy is described in each district's Assessment Engineer's Report (Attachment 1).

For the Fiscal Year 2013 update, Park and Recreation Department retained EFS Engineering, Inc. to review all MADs and update the Assessment Engineer's Report for each district. Updates to the reports include:

- Modifying assessment rates within provisions for cost indexing, maximum assessment rate, and reserve limits
- Identifying property and land use changes that may impact the calculation of the assessment rate
- Reviewing the scope of services for improvements to comply with assessment methodology
- Incorporating general benefit rates proposed for Fiscal Year 2013
- Integrating the Proposed Fiscal Year 2013 Budget

### Assessment Rates

Each district has unique attributes that require individual review of the Assessment Engineer's Report. For example, some districts are not permitted to index assessments by the San Diego Consumer Price Index – All Urban Consumers (CPI), while others are permitted to increase at a rate higher than CPI. The maximum authorized assessment is indexed by applicable CPI or inflationary factors, but the Fiscal Year 2013 assessment may be an amount equal to or less than the maximum authorized assessment. The Fiscal Year 2013 CPI increase is 2.71%. A summary of assessment rate changes is provided in Attachment 3.

### Property and Land Use Changes

Land use changes occur routinely throughout the year and are incorporated into the Assessment Engineer's Report. Most MADs have apportionment methodology that relies on land use factors to calculate the assessment. Since the latest property information was not available at the time the Proposed Fiscal Year 2013 Budget was submitted to the City Council, discrepancies may exist in total assessment revenue reported in the Proposed Fiscal Year 2013 Budget as compared to the Assessment Engineer's Reports, primarily due to parcel and land uses changes.

### Modifications to Scope of Services

Improvements maintained by a MAD are delineated in each Assessment Engineer's Report, typically in the "Project Description" section. From time to time, clarification and explanatory language may be added to a report to explain the exact services provided by the MAD in question. Only minor language changes were implemented for the Fiscal Year 2013 cycle.

### City Contributions/General Benefit Calculation

Each MAD provides a special benefit, which is a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large (California Constitution Article XIID, Section 2). Special benefit is defined and quantified by the Assessment Engineer at the time of MAD formation and typically reflects maintenance and installation of improvements above City standards.

The formation of a MAD does not preclude the City from providing its standard level of services. For specific services that are provided by the MAD in lieu of the City at large, financial and in-kind contributions are made to MADs to provide general benefit for specific types of improvements as follows:

- Environmental Growth Fund for open space lands maintenance
- Gas Tax Fund for landscape and hardscape median maintenance
- General Fund for population-based park maintenance
- General Fund for fire station grounds and library grounds through a Service Level Agreement (SLA)
- Street Division provides in-kind services for energy and maintenance of standard street lights as defined in Council Policy 200-18 and the 2002 Street Design Manual

The amount of contribution is defined in the Proposed Fiscal Year 2013 Budget. Attachment 4 provides detailed information regarding the current rate for each general benefit contribution. Additional details for each type of general benefit contribution follows:

**Open space maintenance** receives an allocation from the Environmental Growth Fund, which is based upon the previous year's actual expenditures for open space within the Park and Recreation Department. Excluded from this calculation are park ranger and brush management services, as MADs typically do not provide these services. The open space maintenance contribution decreased between Fiscal Year 2012 and Fiscal Year 2013 as a result of decreased actual costs per open space acre.

**Median maintenance** receives an allocation from the Gas Tax Fund, which is normally based on the previous year's actual expenditures within the Gas Tax Median Program. As part of this program, the Park and Recreation Department maintains 92 landscape and hardscape street medians that are scattered throughout the City and generally are not located within the boundaries of an existing MAD. Median maintenance within a MAD receives an allocation from the Gas Tax Fund based on the cost to maintain each square foot of landscaped or hardscape median. For Fiscal Year 2013, the Gas Tax contribution was based on the Fiscal Year 2012 budget due to service reductions in the program that were taken in Fiscal Year 2011. As a result, the Gas Tax contribution level to the MADs remained the same between Fiscal Years 2012 and 2013. It is anticipated that the Gas Tax contribution will again be based on actual expenditures from the prior fiscal year for the Fiscal Year 2014 budget.

**Park maintenance** receives an allocation from the General Fund. The park maintenance contribution is for population-based parks in accordance with General Plan standards for each community planning area as defined by the Development Services Department, Planning Division. The amount of the contribution is based on the previous year's actual expenditures for parkland maintenance, excluding overhead, utilities, and capital improvements. Utilities (water, sewer, electrical) are also excluded since utility bills are paid directly from the General Fund for parks rather than passing through the MAD budget. Funding for park maintenance is budgeted in the Park and Recreation Department budget. The per-acre contribution for park maintenance decreased between Fiscal Year 2012 and Fiscal Year 2013 as a result of decreased actual costs per useable park acre.

**Library and fire station grounds maintenance** also receives an allocation from the General Fund from the Library Department and Fire-Rescue Department budgets under SLAs with each department. The amounts of contribution from these departments are based on actual maintenance costs for each location as provided for by the current landscape maintenance contract and stated in the SLA rather than based on prior year actual expenditures.

**Street lighting energy and maintenance** costs are split between the General Fund and the MAD, with the Street Division providing all maintenance services. Street lighting provided in excess of City standards (as defined in the Street Design Manual) may be funded by the MAD as a special benefit, while street lights installed per the City standards are funded by the General Fund. Since the Street Division maintains the City's street lighting network, all costs are incurred within its budget. As a result, there is no financial contribution from the Street Division to the applicable MAD. Instead, the MAD will fund appropriate energy and maintenance costs based on the most recent determination of special benefit street lights.

#### Proposed Fiscal Year 2013 Budget Integration

Assessment rates and general benefit rates are incorporated into the Proposed Fiscal Year 2013 Budget, which is also presented in each MAD's Assessment Engineer's Report as Exhibit B. The budgets in Exhibit B are unchanged from the Mayor's Proposed Fiscal Year 2013 Budget, aside from the land use changes that impact the apportionment methodology and may result in a changed parcel assessment amount. Assessable parcels owned by the City are funded from

Citywide Program Expenditures (General Fund) in accordance with Resolution R-288830 dated June 9, 1997 (see Attachment 5 for a list of City-owned parcels with assessment amount). Detailed budgets are presented in Exhibit B of each Assessment Engineer's Report (see Attachment 1), and the MAD Management Fund budget is presented in Attachment 6.

### Requested Annual Levy Actions

This action authorizes appropriation and expenditure of funds related to MAD activities, including the MAD administrative fund, district operating funds, district capital improvement funds, and developer deposit funds. The MAD administrative fund provides for all shared costs in the MAD program, including position expenses and costs associated with budgeting, finance, procurement, and accounting. A copy of the Fiscal Year 2013 Management Fund is provided in Attachment 6. Each of the 49 MADs has its own operating fund budget as presented in the Proposed Fiscal Year 2013 Budget and in the Assessment Engineer's Reports (Exhibit B). For those MADs authorized to have a capital improvement program, capital funds have been created for MAD-funded projects. Finally, deposit funds have been created for MAD formation activities in compliance with Council Policy 100-21.

To meet the County of San Diego's August 10, 2012, deadline for enrolling assessments in the annual property tax bill for Fiscal Year 2013 and to ensure consistency with the Proposed Fiscal Year 2013 Budget, the City Council must approve the assessment levy each July. If approved, assessments for each MAD would appear on tax bills for benefitting property owners in fall 2012. If this action is not approved and the levy of assessments is not authorized, existing districts will need to rely on their reserves to fund maintenance of improvements. Reserve levels vary in each district. Once reserves are depleted, maintenance activities would cease.

### FISCAL CONSIDERATIONS:

#### **Assessment Revenue**

Attachment 2 summarizes the Proposed Fiscal Year 2013 Assessment for all 49 Park and Recreation MADs; the total assessment amount is projected to be \$12,626,055. This attachment also provides a summary of assessment levies and parcels sorted by district.

Assessment rates and benefit units vary for each district based on the method of apportioning the benefit as described in the Assessment Engineer's Report. Some districts may have multiple assessment rates in defined zones of benefit based on the location of the property in relationship to the improvements. Attachment 3 provides a summary of assessment rate and benefit unit changes between Fiscal Year 2012 and Fiscal Year 2013 for each district, including assessment rate changes for specific zones of benefit.

The following table provides an overview of the nature of assessment rate changes between these two fiscal years for the 49 MADs:

<b>Type of Change between Fiscal Year 2012 and Fiscal Year 2013</b>	<b>Number of MADs<sup>1</sup></b>
Assessments Decreased	2
Assessments Increased by CPI to Maximum Authorized	12
Assessments Increased to an Amount Less than the Maximum Authorized	6
Assessments Reinstated after Suspension in FY 2012	2
Assessments Suspended (Reduced to or Held at \$0)	6
Assessments Unchanged/Can Be Increased	17
Assessments Unchanged/Cannot Be Increased	5

### **General Benefit/City Contributions**

City Contributions are provided to MADs for the purpose of providing general benefit for activities otherwise provided by the City but in this case performed by the MAD. The general benefit is included in the Proposed Fiscal Year 2013 Budget for each funding source. Estimated general benefit contributions are summarized in the table below. Most changes are due to reductions in rates as described in detail in Attachment 4.

<b>Maintenance Funding Source</b>	<b>Type of Maintenance Activity</b>	<b>FY 2012 Budget</b>	<b>FY 2013 Proposed</b>	<b>Change</b>
Environmental Growth Fund	Open Space	\$318,118	\$287,056	(\$31,062)
Gas Tax Fund <sup>2</sup>	Street Medians	\$1,279,795	\$1,268,498	(\$11,297)
General Fund	Park Grounds	\$647,118	\$560,258	(\$86,860)
General Fund	Library Grounds	\$24,874	\$25,371	\$497
General Fund	Fire Station Grounds	\$11,450	\$11,679	\$229
<b>TOTAL</b>		<b>\$2,281,355</b>	<b>\$2,152,862</b>	<b>(\$128,493)</b>

<sup>1</sup> The Kings Row/Village at Euclid MAD is divided into two zones of benefit. In Zone 1 (Kings Row), the assessment cannot be increased without a rebalot of property owners. In Zone 2 (Village at Euclid), the assessment can be increased by CPI. As a result, this table totals 50 districts even though there are only 49 MADs.

<sup>2</sup> The rate did not change for the Gas Tax contribution. The decrease in Fiscal Year 2013 is due to a recalculation of square footage estimates for certain MADs. See Attachment 4 for details.

### **City-Owned Parcels within MADs**

The City owns 1,196 assessable parcels located within the Park and Recreation-managed MADs, of which 353 parcels have been determined to receive benefit and will receive an assessment in Fiscal Year 2013.<sup>3</sup> Consequently, there will be a General Fund impact of \$147,281 (see Attachment 5 for a complete list of parcels). The City Council directed staff to pay assessments levied against City-owned parcels through Resolution R-288830 dated June 9, 1997. Assessments to property owned by the City are budgeted in the General Fund, Citywide Program Expenditures department budget.

### **Integration with the Proposed Fiscal Year 2013 Budget**

Budgets for the 49 existing MADs and the MAD Management Fund are included in Volume 1 of the Proposed Fiscal Year 2013 Annual Budget document (Schedule VIII, pages 184-185). These budgets are scheduled for City Council consideration in June 2012 as part of the Fiscal Year 2013 Budget Hearings.

The Assessment Engineer's Reports presented herein incorporate the proposed annual budget and incorporates the latest property information, which may result in changes to anticipated revenues, the majority of which are property assessments. A copy of each district's budget, including revenues, expenditures, and fund balances/reserves is provided in Exhibit B of the Assessment Engineer's Report (see Attachment 1). A copy of the MAD Management Fund's budget, including revenues, expenditures, and fund balances/reserves is provided in Attachment 6. The budgetary display includes Fiscal Year 2011 estimated actuals, Fiscal Year 2012 estimate, and Fiscal Year 2013 budget.

In accordance with California Streets and Highways Code §22569, reserves and fund balances are maintained at an amount no greater than 50% of the annual budget for each district. Staff reviews existing fund balances along with anticipated and actual revenues and expenditures to determine whether modifications to the assessment rate or estimated expenditures are necessary to ensure compliance.

### **EQUAL OPPORTUNITY CONTRACTING INFORMATION:**

This section is not applicable, as this action does not pertain to any contract or agreement.

### **PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

The City Council approved the Fiscal Year 2012 Assessment Engineer's Reports and annual levy of assessments for all existing Park and Recreation MADs on July 26, 2011, per Resolution R-306955. The City Council deliberated on the Fiscal Year 2013 Budget in June 2012. This action will update the Park and Recreation MADs for Fiscal Year 2013. A companion Council action will consider existing MADs managed by the Economic Development Division for the Fiscal Year 2013 assessment levy.

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<sup>3</sup> Note that many City-owned parcels are open space. In keeping with the methodology defined in the Assessment Engineer's Report, many of these parcels do not receive benefit and thus will have no assessment levied.



COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

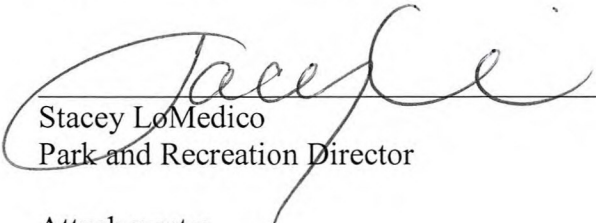
For those districts with a citizen advisory committee, staff presented the Proposed Fiscal Year 2013 Budget, which incorporates annual assessment rates shown in the Assessment Engineer's Reports. MAD citizen advisory committees are typically subcommittees of officially recognized planning committees, town councils, or other community based organizations, are also stakeholders in this process. For those districts without a citizen advisory committee, staff conducted publicly noticed meetings to discuss the Proposed Fiscal Year 2013 Budget and assessment rates. These meetings took place between October 2011 and February 2012 in accordance with Municipal Code §65.0210(a).

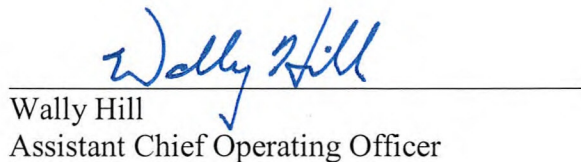
KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key Stakeholders: This action most directly affects property owners to be assessed in each of the 49 MADs, as they directly benefit from the maintained improvements and will see an assessment charge in the fall 2012 property tax bill. Other key stakeholders are the citizen advisory committees that serve as the "designated representatives" of assessed property owners to advise the City regarding the budget and operations of the existing MADs in accordance with Municipal Code §65.0209 and §65.0210. Staff works closely with these groups in developing annual MAD budgets and providing contract specifications for maintenance. The advisory committees met with staff to develop budgets during the October 2011 through February 2012 timeframe.

Projected Impacts: If the levy of assessments and Annual Assessment Engineer's Reports are not authorized, the City will be unable to maintain special benefits. In this scenario, existing districts will need to rely on their reserves to maintain improvements. Some MADs would remain in service longer than others since reserve levels vary. As reserves are depleted, maintenance activities would cease, and assets would be decommissioned. If the appropriation and expenditure of MAD funds is not authorized, all MAD services would immediately cease (including MAD formation funds authorized in Council Policy 100-21), and a contingency plan would need to be developed to decommission MAD assets. If all actions are approved, then assessments will be levied and maintenance services will be provided at budgeted levels.

Respectfully Submitted,

  
Stacey LoMedico  
Park and Recreation Director

  
Wally Hill  
Assistant Chief Operating Officer

Attachments:

1. Fiscal Year 2013 Assessment Engineer's Reports (includes Exhibit B, District Budget)
2. Assessment Levy Summary by MAD
3. Assessment Rate and Benefit Unit Summary by MAD
4. City Contributions to MADs for General Benefit
5. City-Owned Parcels and Assessments within Park and Recreation MAD Boundaries
6. Fiscal Year 2013 MAD Management Fund Budget