

# EL DORADO COUNTY 2021–2022 GRAND JURY

## EL DORADO HILLS COMMUNITY SERVICES DISTRICT MANAGEMENT OF LANDSCAPE AND LIGHTING ASSESSMENT DISTRICTS

Case #21-08 – June 30, 2022

### **SUMMARY**

The 2021-2022 El Dorado County (County) Grand Jury investigated the El Dorado Hills (EDH) Community Services District's (CSD) management of Landscape and Lighting Assessment Districts (LLAD).

The investigation focused on the following questions:

- Are the David Taussig and Associates (DTA) Annual Engineer's Reports (ER) for Fiscal Years (FY) 2019-2020, FY 2020-2021, FY 2021-2022 understandable and complete, and do they correctly calculate the LLADs' assessments?
- Is there a defined, functioning, and understandable LLAD complaint and assessment appeals process for parcel owners to follow?
- For LLAD improvements that generate rental income, is this income credited to the underlying LLAD to offset costs?
- Is there a conflict between the interests of EDH CSD Board (Board) and the individual LLADs?

### **BACKGROUND**

The EDH CSD is authorized as a local agency by the Landscaping and Lighting Act of 1972 (§22500 et seq. of the Streets and Highways Code), to create smaller districts in its boundaries for assessment purposes. An LLAD is a local community service district created and governed by those provisions.

LLAD parcel owners supply EDH CSD funding for maintenance and improvement of landscaping and lighting facilities, including parks within each LLAD's boundaries. The

amount paid by each parcel is not based on the value of the parcel; it is a benefit assessment based on the benefit the parcel receives from the improvements.

The EDH CSD was formed by the County Board of Supervisors (BOS) in 1962 for the provision of parks, fire services, median improvements, and other local services. Prior to the creation of LLADs in 1972, maintenance costs for parks and other improvements, such as landscaping, medians, and entrance signs, within the boundaries of the district were the responsibility of the CSD and paid from the General Fund. With the creation of LLADs, the maintenance costs are now paid by the specific LLAD assessments.

When a new housing development is built in EDH, the builder pays the County a park impact fee for each lot to be developed. These funds are set aside, held by the County, and distributed to the EDH CSD to pay for the building of a public park and/or other improvements within the new development. LLAD parcel owners' benefit assessments are used to pay for only the maintenance of these improvements, not for the initial construction.

The determination of the improvements that will be built usually occurs between the County (that determines land use, approves the housing development, and imposes the conditions and fees), the developer (that provides the land and funding to build the park) and EDH CSD (that may decide where new parks are needed in its boundaries, decides what facility and/or improvements are needed at the parks and frequently contracts for the design and construction of the parks). The County's standard conditions make the developer responsible for the maintenance, repair, and replacement of all landscaping improvements until maintenance is assumed by EDH CSD not less than 90 days after notice of completion. For smaller housing developments, the builder is NOT responsible for building the park and are only required to pay fees.

Before EDH CSD agrees to accept the improvements or the new park and assumes the maintenance responsibility, EDH CSD may require the developer to create a maintenance funding mechanism. The funding mechanism, known as an LLAD, is created by the parcel owners signing a Waiver and Consent document. Initially, the developer is the sole parcel owner if no parcels have been sold.

The LLAD formation document sets the boundaries, establishes an initial maximum assessment amount, approves the payment of annual assessments, lists if an annual inflationary factor will be applied to the maximum amount, and waives some of the rights originally conveyed to California parcel owners within Proposition 218, adopted in 1996. Proposition 218 required a vote by parcel owners (usually a developer at formation time), to approve annual assessment increases, however, when forming the LLAD, parcel owners can agree to waive the requirement to vote for subsequent increases. With this change, a vote by LLAD parcel owners would only be required to modify the provisions of the governing documents, such as boundary changes or the addition of new improvements.

A purchaser of a parcel within the LLAD must be informed during escrow of the existence of the LLAD, the maximum and annual assessments, and the provisions of the governing documents, and the parcel owner must sign off on these provisions prior to closing.

The maximum assessment is the highest assessment amount that can be charged annually. Many of the LLADs have a built-in cost-of-living accelerator that increases the maximum assessment ceiling using the San Francisco cost-of-living index. When four of the LLADs were created, their specific formation documents did not include a built-in accelerator. For these four LLADs, the maximum assessment can only be changed by a vote of that specific LLAD's parcel owners. Once built and accepted by the EDH CSD, LLAD assessments are expected to cover the costs of maintaining these improvements.

Each parcel owner can locate the LLAD assessment charge on their annual property tax statement. To calculate the LLAD assessment, California Constitution Article XIII D Section 4 states in part:

“Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel... All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.”

As specified within the Streets and Highways Code, Proposition 218 and the California Constitution Article XIII D, the ER shall list the improvements to be maintained, the maximum assessment, the special and general benefit calculation, and any major changes that affect the assessment.

The assessment process requires determining the special benefit percentage assignable to the parcel owners included in the LLAD and the general benefit percentage assignable to EDH CSD. These percentages are then used to apportion the overall annual budgeted maintenance and improvements/replacement costs between the special and general benefits. The special benefit assessment amounts are then increased to contribute funds to the deferred maintenance/replacement and operating reserves.

In the ER, once the special benefit is calculated, it is apportioned to the parcel depending on its type. A single-family home is considered 1 benefit unit and is assessed at 100% while a vacant lot is usually considered ¼ of a benefit unit and assessed at 25% of the special benefit assessment.

Here is an example for clarification purposes:

- Overall LLAD budgeted annual maintenance costs: \$10,000
- General benefit percentage: 20%
- Special benefit percentage: 80%
- Number of parcels: 103 (single-family homes: 99, vacant lots: 4)
- Total benefit units: 100 (99 + (4 x .25))

Based on this information, the general benefit calculation would be:

Costs x general benefit percentage or \$10,000 x 20% = \$2,000 in general benefits

The special benefit calculation would be:

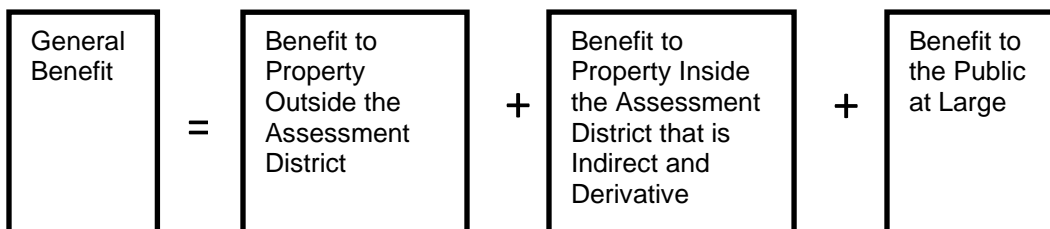
Costs x special benefit percentage or \$10,000 x 80% = \$8,000 in special benefits.

The special benefit assessment by parcel would be:

Special benefit divided by the number of benefit units: \$80 for each home and \$20 for each vacant lot.

Since only special benefits can be assessed, the general benefit is paid by EDH CSD transferring funds from its General Fund to the LLAD. In the example above, EDH CSD would transfer \$2,000 to the LLAD to pay for the general benefits. The general benefit is not a subsidy from the EDH CSD, but the required payment to the LLAD to cover the general benefit amount.

According to the ER, the formula to calculate the general benefit percentage is as follows:



The Benefit to Property Outside the Assessment District is based on calculating the number of homes outside the LLAD, but within the service radius of the park. Service radius is defined in the DTA reports as:

- Neighborhood Park – 0.5 miles
- Village Park – 1.0 miles
- Community Park – 2.0 miles

The DTA's ER reports referenced measure the service area starting with the outside boundaries of the park and extending to the appropriate service radius based on the type of park.

The Benefit to Property Inside the Assessment District that is Indirect and Derivative is measured using an approximate percentage of the land area within the district that is publicly owned such as major roads and similar facilities. From the ER, it states:

“While this “indirect and derivative” general benefit is difficult to calculate, one measure used to approximate it is the percentage of land area within the district that is publicly owned and used for regional purposes such as major roads, rail lines, and other similar facilities.”

The Benefit to the Public at Large is estimated by the proportionate amount of time that the LLAD's improvements are accessed by individuals that are not EDH residents, employees, customers, or property parcel owners.

The special benefit percentage is then determined by subtracting the general benefit percentage from 100%.

After preliminary approval of the ER by the Board, a public notice of the public hearing must be published in a local paper at least ten days before the Board hearing to approve the final assessments. This provides an opportunity for interested parties to bring forward concerns about assessments.

Once approved, the annual assessments are sent to the Auditor-Controller's Office no later than the second Monday in August for placement on the parcel owner's property tax statement. The assessment on the property tax statement is listed as: LLAD Asmt: El Dorado Hills CSD #XX. The XX designates the specific LLAD identification number.

To guide its planning for parks and recreation, EDH CSD has had park and recreation facility standards in place for more than ten years. The 2014 EDH CSD Capital Projects Fund Description document states:

“The California Subdivision Code required that new development provide parkland to meet the recreational needs of new residents. Under this

authority, the District requires five acres of land for every 1,000 new residents expected because of a new residential subdivision.”

The EDH CSD used this to create the goal of having five acres of parks for every 1,000 residents. Currently, in measuring this goal, EDH CSD counts only public parks, not parks funded by the local Homeowners’ Associations (HOA) within El Dorado Hills. If the HOA-funded parks were included, EDH CSD would almost double the amount of park acreage. This potential expansion to include HOA parks is currently being revisited within the EDH CSD Park and Recreation Facilities Master Plan.

In conjunction with the County, the EDH CSD Park and Recreation Facilities Master Plan is the guiding document used in determining the specifics of any new park, including its location, size, and type of improvements that will be built. New parks are public parks with the maintenance paid by funds from parcel owners’ assessments and the EDH CSD General Fund as calculated by the ER. EDH CSD may ask parcel owners for input for a new or existing park, but the eventual decision about the specific improvements is decided by the Board.

There are currently four annual ERs that cover EDH CSD LLADs. There is a consolidated report that covers 25 LLADs and three standalone reports that cover Lake Forest Park #36, Windsor Park #38, and Carson Creek LLAD #39. The ERs can be found on the EDH CSD

Website [https://www.eldoradohillscsd.org/about/administration\\_finance/index.php#outer-14](https://www.eldoradohillscsd.org/about/administration_finance/index.php#outer-14).

More information about the LLAD’s can be found in Attachment #1.

## **METHODOLOGY**

During this investigation, members of the Grand Jury:

- Attended Board meetings and LLAD community outreach meetings; and
- Visited LLAD parks within the EDH CSD.

### **Interviewed the following:**

- EDH CSD staff;
- Board members;
- DTA staff;

- Cameron Park CSD staff; and
- County Parks and Planning employees and other County officials.

**Reviewed the following:**

- EDH CSD Comprehensive Annual Budget Reports;
- EDH CSD Park Impact Fee Reports;
- EDH CSD Master Plan;
- Browning Reserve Group Report;
- Zuri Alliance Consolidated Services Agreement;
- DTA ERs for FY 2019-2020, FY 2020-2021, FY 2021-2022;
- Board meeting agendas and minutes:
- El Dorado County Treasurer-Tax Collector website <https://edcgov.us/taxcollector/>;
- EDH CSD website <https://www.eldoradohillscsd.org/>; and
- California State Constitution XIII C&D, Proposition 218 and numerous Landscape and Lighting Assessment legal decisions on assessments.

**DISCUSSION**

The Grand Jury focused on reviewing the EDH CSD Board approved ERs for Fiscal Years (FY) 2019-2020, FY 2020-2021, FY 2021-2022, and examining the issues related to individual LLADs. Issues in this discussion related to specific LLADs do not necessarily represent nor exclude similar or other issues in all LLADs.

**Engineer’s Reports (ER)**

Regarding the ERs, the Grand Jury discovered issues related to the consolidation of LLADs, specific improvements, boundary maps, upcoming deferred maintenance, usage surveys, the calculation of the Benefit to Property Outside the Assessment, assessment refunds and maximum assessments.

## Consolidated ER

The Consolidated ER lacks specifics about the improvements for each LLAD and only summarizes the special and general benefit calculation components without showing the actual calculations for the individual LLADs.

Under the Landscaping and Lighting Act of 1972, each LLAD sets up a benefit formula, and each parcel in the service area is assessed according to the benefit it receives from its improvements. The Grand Jury found that in the Consolidated ER, which covers 25 individual LLADs, assessments were calculated as if all LLADs were just one overall LLAD. Each LLAD has its own formation document and was created independently and should be treated as such because the special benefits are tied to its unique improvements. In a report submitted in April 2020 to the Board, the EDH CSD General Manager stated:

“LLADs are formed through a process conducted by a 3rd party consultant known as an Assessment Engineer. The formation process includes an analysis of the direct/specific benefit assignable to the parcel owners included in the LLAD, and an analysis of the indirect/general benefit that is assignable to all other members of the community.”

The challenge with consolidating LLADs is that each LLAD offers different benefits. While one LLAD may confer benefits such as lighting and medians, which provide more benefit to the people living in the immediate vicinity, another LLAD may include a village park with unique improvements, which is used by the greater community. Therefore, consolidation of the LLADs may have resulted in inaccurate benefit assessments.

## Specific Improvements

Within the consolidated ER, the specific improvements are incomplete for each LLAD.

Within the standalone ERs for Lake Forest LLAD #36, Windsor Park LLAD #38, and Carson Creek LLAD #39, the list of improvements lacks specifics as to quantities.

For Lake Forest LLAD #36, the turf square footage has been listed as “to be determined” for years and states that Park Frontage Improvements cannot be quantified.

For Windsor Park LLAD #38, quantities are not listed for the improvements.

For Carson Creek LLAD #39, major improvements such as tennis courts and court lights are missing; it does not list quantities for items; and it continues to use the old Carson Creek Park name, instead of its established name, Heritage Park.



The ER report for Carson Creek LLAD #39, specifically states:

“Proceeds from the assessments shall be used only for the eligible service and/or improvement items within the Assessment District, as listed above in Section 3.A.”

Since both the tennis courts and court lighting are not listed in Section 3.A., the assessments cannot be used to pay for the maintenance of either.

### Boundary Maps

In the consolidated report, the map is too small to read and identify the boundaries for each of the LLADs.

### Deferred Maintenance Projects

Across the ERs, major maintenance projects scheduled for the upcoming year are not listed. Streets and Highways Code Section 22622 requires the ERs to describe any proposed new improvements and/or substantial changes to the existing improvements. Without a section listing whether there are any expected changes for the upcoming year, the ER is incomplete.

The EDH CSD commissions a periodic report called the Browning Reserve Study to aid in determining when improvements or replacements are needed and estimating the cost. These cost estimates, along with the expected replacement date, are used to determine the budgeted annual deferred maintenance contribution to the reserves. The deferred maintenance reserve is used to fund major renovations such as improvements and replacements.

Each January, EDH CSD staff visit each LLAD to inspect improvements and look for issues, as well as to confirm the Browning asset replacement dates. Depending on this evaluation, the replacement date may be updated. This inspection, completed each year, identifies any major improvement projects expected for the upcoming year. These major improvement projects should be included in the ER.

### Usage Surveys

As described in the ERs, the Benefit to the Public at Large component is:

“... estimated by the proportionate amount of time that the district’s facilities are accessed by individuals who are not residents, employees, customers, or property parcel owners.”

The ERs do not reference any EDH LLAD-specific surveys used to calculate the Benefit to the Public at Large component for any LLAD. A community park versus a village park would be vastly different in its public usage due to its size and amenities it offers. Parks that have rental facilities, picnic or sports field rentals, or league play would have higher public use than parks that do not. Studies are needed to determine an accurate figure to use within the ERs to calculate the Benefit to the Public at Large component of the general benefit.

### Calculation of Benefit to Property Outside the Assessment

Heritage Park, a village park, is currently being built, and homes within both Four Seasons and Carson Creek subdivisions are within the one-mile service radius used to calculate the general benefit. When Four Seasons was built, no funding mechanism was put in place to provide maintenance funding for Heritage Park. As explained by the EDH CSD General Manager to the Board, in a submitted appeals document dated April 30, 2020:

“The Plan began with the Euer Ranch portion, more commonly known as Four Seasons. That gated age-restricted subdivision included the required trail system. However, for reasons unknown to CSD staff, the maintenance funding mechanism for a public park – and the public parkland dedication – were not completed.

“The formation of a LLAD when Four Seasons was constructed could have lessened the maintenance assessment impact on Heritage residents. However, staff have no clear understanding as to why that formation was delayed.”

In review, the Grand Jury found the approach used in the general benefit calculation, specifically the Benefit to Property Outside the Assessment District component for Carson Creek LLAD #39, to be misleading. In calculating the general benefit for the LLAD, the ER appropriately considered the number of parcels within the Four Seasons development, but then the ER reduced this component of the general benefit calculation by 50%, stating:

“...a 50% reduction factor is applied to these properties because they experience only half as much benefit as the properties in the district (since the properties outside the District are located on only one side of the park improvements, not both sides).”

The ER further reduced the Benefit to Property Outside the Assessment District component by another 50% with the justification that the Four Seasons parcels outside the LLAD but within the one-mile radius are in an age-restricted community. The ER also states, “the park amenities have been specifically constructed to serve people in this age group.”

The first 50% reduction regarding the location of the Four Seasons development ignores the one-mile service radius for a village park as stated in the ER. The Four Seasons development falls within that one-mile service radius. Further, the additional 50% reduction based on age is not justified since Carson Creek LLAD #39 is also an age-restricted development, and, upon inspection, the Grand Jury found no specific age-restricted amenities.

Lake Forest LLAD #36 and Windsor LLAD #38 had their Benefit to Property Outside the Assessment District reduced by the first 50% reduction factor for the same reasons listed above.

### Assessment Refunds

Carson Creek LLAD #39 has been assessed annually since FY 2019-2020 for a park that has not been completed. In FY 2021-2022, EDH CSD refunded the FY 2020-2021 assessment. On May 12, 2022, the Board agreed to refund the FY 2021-2022 assessment. The refund document proposal states:

“However, this will deplete the reserve funds to an inoperable level requiring the District to give LLAD #39 a loan of approximately \$41,000 for FY 2023 with a recoupment plan through FY 2024 assessments.”

Per EDH CSD General Manager, from the refund FY 2020 Assessment for Carson Creek LLAD #39 document:

“...deferred maintenance reserves will not be put in place until FY 2023 because the assets are new.”

The LLAD FY 2021-2022 Quarter 2 financials show a \$54,675 deferred maintenance reserve balance. This deferred maintenance reserve was funded by these refunded assessments. These funds should be used to pay for the refund instead of receiving a loan from EDH CSD.

### Maximum Assessments

The initial calculation of the maximum assessment found within the LLAD's formation document uses an estimate for eventual maintenance costs for improvements. Once the LLAD formation document is signed, the maximum assessment is set. The maximum assessment is the highest annual assessment that could be charged. In the case of the Carson Creek LLAD #39, its maximum assessment was calculated in 2015 based on 430 benefit units. Even though the park has not been completed, and EDH CSD has agreed to refund most of the annual assessments, it has not agreed to review the maximum assessment that has been increased for seven years. If the maximum

assessment was recalculated, it would be based on a higher number of benefit units, eliminate the last seven years of CPI increases, and have a different starting date, resulting in a lower maximum assessment.

## **EDH CSD-LLADS MANAGEMENT**

The Grand Jury focused on the review of LLAD management and examined issues related to some individual LLADs. The review of examples given regarding the issues related to specific LLADs does not necessarily represent nor exclude similar or other issues in all LLADs. Areas that were covered were assessment files, general benefit transfers, rental income, new consolidated services agreement, complaints and appeals process, EDH CSD website <https://www.eldoradohillscsd.org/>, and conflict of interest.

### Assessment File

The Auditor-Controller's Office provided the Grand Jury with only the Carson Creek LLAD #39 assessment files they said were received from EDH CSD. The Grand Jury used these files to audit the assessment information. The Grand Jury limited its review to data for the Carson Creek LLAD #39 for the years FY 2019-2020 and FY 2020-2021.

The Grand Jury found the following issues (not inclusive) within the Carson Creek LLAD #39 assessment files:

1. FY 2019-2020 -- Ten parcels listed within the EDH CSD assessment file had an assessment of \$90.54 while the corresponding property tax statement listed \$0.
2. FY 2019-2020 -- 12 homes within the EDH CSD assessment file had an assessment of \$362.16 while the corresponding property tax statement listed \$0. These homes were not within Carson Creek LLAD #39 and should not have been listed in the file.
3. Two homes were listed within the EDH CSD assessment file in FY 2019-2020 and were correctly assessed but then were not in the FY 2020-2021 EDH CSD assessment file. Both homes are within the Carson Creek LLAD #39. Further verification was done with their property tax statements through the El Dorado County Treasurer-Tax Collector website <https://edcgov.us/taxcollector/> confirming an assessment was listed for FY 2019-2020 and no assessment for FY 2020-2021 or for FY 2021-2022.
4. FY 2019-2020 – Eight parcels were not in the assessment file provided by EDH CSD. All eight appeared in the assessment file in FY 2020-2021. Six of these parcels had homes built prior to FY 2018-2019.

There is a risk that in finding this number of errors in one LLAD, there may be similar errors in the calculations of the other LLADs, resulting in incorrect charges to LLAD parcel holders.

The Grand Jury interviewed DTA, EDH CSD employees, and Board Members and found that the EDH CSD lacked a quality control policy/procedure to confirm the accuracy of the LLAD assessment file before it is transmitted to the Auditor-Controller's Office. The ER states:

“The undersigned hereby attests that the direct charge levies have been verified for accuracy and approved by the district.”

While DTA calculates the assessments, it is the responsibility of the Board to ensure the assessments are correct for all properties. Checks and balances should be implemented to meet this goal.

### General Benefit Transfer

The ER is completed annually and determines how much of the assessment will be levied on the parcel owner for the special benefit, and how much of the costs will be paid by EDH CSD for the general benefit for each LLAD.

From General, Capital, LLAD and CC&R Funds Budget for the Year Ending June 30, 2021, GENERAL BENEFITS VS. SPECIAL BENEFITS:

“Proposition 218 requires agencies levying a benefit assessment to separate the general benefits from the special benefits to ensure that property owners subject to the benefit assessment are not paying for general benefits. An assessment can fund special benefits but cannot fund general benefits. The general benefits for the assessments have been explicitly calculated and quantified and excluded from the assessments as described in the engineer's report. The assessments have been apportioned to each property based on the proportional special benefit received by each property. The general fund is contributing to the budget of each LLAD to cover any general benefits.”

The EDH CSD transfers the general benefit funds required by the ER to the LLAD at the end of Quarter 4. Beginning with FY 2018-2019, the amount listed in the ER for the Contribution from the General Fund versus the actual amount transferred to the LLAD in the EDH CSD Quarter 4 Financial Statement was not the same amount. For FY 2020-2021, the transfer was \$104,000 less than required by the ER.

## Rental Income

The Grand Jury investigated whether the rental income generated from LLAD improvements was credited to the specific LLAD. Currently, rental income is deposited exclusively to the EDH CSD General Fund. As shown below, there are currently four parks with picnic and/or sport field rental incomes.

<b>LLAD w/Rental Facilities</b>	<b>Park Name</b>	<b>Picnic Rental</b>	<b>Sport Field Rental</b>
LLAD Promontory #22	Kalitheia	Yes	Yes
LLAD Promontory #22	Promontory	Yes	Yes
LLAD Lake Forest #8	Lake Forest	Yes	No
LLAD Valley View #33	Valley View	Yes	Yes
LLAD Carson Creek #39 (once opened)	Heritage	Yes	No

During an interview with DTA, they agreed rental income should be credited to the related LLADs.

In response to the 2015-2016 Grand Jury Report about rental income, the Board stated:

“The funds collected from various park user fees such as picnic shelter reservations, tennis and bocci ball class participation fees, and athletic field rental income are deposited into the District's General Fund to offset the significant General Fund subsidy of the two LLADs where revenue is realized. Those two LLADs are Promontory and Lake Forest Park. From the General Fund source these revenues do indeed help offset the expenses for maintaining the park improvements. In the case of Promontory Park, as a community park, size and complexity, the General Fund subsidizes the maintenance budget and overhead expense by approximately 75%.”

As stated in the EDH CSD Parks and Recreation Facilities Master Plan, dated August 2021:

“Facility charges generate revenue for parks by charging for the use of facilities (e.g., sport fields, picnic shelters, meeting rooms, community garden plots). These charges may cover direct costs generated by facility use, such as field lighting or trash removal. Rates may also be set higher to subsidize parks maintenance and address the long-term impacts of facility use. The District currently has facility rental fees, park rental fees and field rental fees. The District can increase revenue for park services

by expanding rental facilities or by increasing rental fees and other facility-use charges.”

This Grand Jury found the response received from the EDH CSD did not directly address the issue that was presented in the 2015-2016 Grand Jury Report. LLAD costs are proportioned between the special and general benefit assessments. When rental income is not credited to the LLAD, it results in the special benefit assessment amount being higher than it should be. The increased usage of rental facilities decreases the life of improvements resulting in higher deferred maintenance costs and therefore, higher assessments for the LLAD. Because the LLAD is responsible for the maintenance of the improvements, the rental income should be deposited into the LLAD account.

### New Consolidated Services Agreement

On April 14, 2022, the CSD Board approved a Consolidated Services Agreement with Zuri Alliance, a private company, to outsource contract management and compliance of EDH CSD’s contracted services. The Grand Jury interviewed EDH CSD staff to understand the expected cost savings for the LLADs. The EDH CSD stated this change was to release EDH CSD employee resources for other EDH CSD work. The Grand Jury reviewed the contract and found it will cost EDH CSD an additional \$19,000 in the first year. The EDH CSD does not break out how much of this incremental cost would be charged to the LLADs.

### Complaints and Appeals Process

If a parcel owner wants to appeal their assessment, the process listed in the ER is incomplete. There is no form to complete, no address where to send the appeal, and no expected response timeframe. Additionally, the assessment appeals process is not listed within the EDH CSD website <https://www.eldoradohillscsd.org/>.

One parcel owner who submitted an appeal received a prompt reply from DTA, but the response did not have specific answers to the questions that were posed. The parcel owner escalated the appeal to the Board. In response, the Board addressed the appeal by denying the request without further explanation. It should be noted that all decisions made by the Board are final with no additional process to appeal the Board’s decision unless it is adjudicated in the Superior Court.

### EDH CSD Website

The EDH CSD [website https://www.eldoradohillscsd.org/about/administration\\_finance/landscape\\_lighting\\_assessment\\_districts\\_\(llads\).php](https://www.eldoradohillscsd.org/about/administration_finance/landscape_lighting_assessment_districts_(llads).php) has a page dedicated to LLADs, but it does not provide a means to send a specific LLAD question, concern, or complaint. Currently, EDH CSD maintains no complaint log to ensure that LLAD issues are addressed and resolved.

The Grand Jury found EDH CSD has been updating the website to contain more LLAD information, but it is scattered throughout the site. Currently, LLAD information is listed under the Finance and Administration section, within the Board meeting minutes, and on the LLAD-specific page. It would be helpful to LLAD parcel owners if LLAD-related information were consolidated within the LLAD specific page.

### Conflict of Interest

There is an inherent conflict that exists between EDH CSD and the LLADs because the Board's implementation of the EDH CSD Park and Recreation Facilities Master Plan may conflict with what the affected LLAD parcel owners want.

As reflected in EDH CSD's vision statement on its website  
<https://www.eldoradohillscsd.org/>:

“We will be recognized as the premier park, recreation, and local community services organization with a passion for providing excellent services and facilities and protecting the quality of life and environment of the community.”

Based on the Board's statement, the Grand Jury recognizes that it is the Board's responsibility to protect the quality of life of the entire community.

The Grand Jury has reviewed three separate issues relating to Heritage Park Carson Creek LLAD #39 wherein some of the LLAD parcel owners disagreed with the Board on actions taken, regarding lights on the tennis courts, the lack of a dawn-to-dusk ordinance, and the all-age abilities playground.

### Lighting

The Carson Creek LLAD #39, an age-restricted community, has been vocal in complaining about the 50-foot tennis court lights recently installed at Heritage Park. Parcel owners presented their concerns to the Board. When the Board did not address the concerns, the parcel owners collected more than 160 signatures on a petition to present to the Board. In addition, the parcel owners worked with Lennar, the home builder, concerning the lights in Heritage Park. Lennar presented a proposal to the Board to remove the lights at their cost. The Board did not bring the proposal to a vote; thus, no action was taken.

LLAD parcel owners attended Board meetings on the topic of Heritage Park. During these meetings, the Grand Jury witnessed parcel owners being treated disrespectfully. While the public was asked to limit



comments to three minutes and to not interrupt others, a Board Member would often interrupt, reducing the speaker's allotted time.

The Board continues to uphold the decision to keep the tennis court lights in Heritage Park, stating the lights were in the original park plan design and therefore, were expected to be built. In the Carson Creek LLAD #39 formation document dated November 13, 2014, no construction of the tennis court lights was listed. Only parking lot lights are in the Parkland Designation/Dedication agreement. On December 14, 2017, at the Board meeting, Lennar presented a conceptual park design with \$2.4 million construction costs, which was approved by the Board. The lighting for the tennis courts was listed as an added alternative (add-alt) with added costs.

Concerning the add-alts, in the August 8, 2019, Board Meeting Minutes, it was stated:

“[EDH CSD General Manager Kevin] Loewen commented on an upcoming meeting at Heritage Village Clubhouse to review add-alts and parking impacts.”

The Grand Jury was unable to determine when the tennis court lights moved from being an add-alt to being approved.

Finally, there is a strong concern expressed by an EDH CSD Board Member, that removing lights at the park would set a precedent incompatible with EDH CSD attitudes toward growth. An article in the Mountain Democrat, dated September 27, 2021, the EDH CSD Board Member stated:

“If we take down these lights, we’re going to say no to developing lights above our new high school football stadium. We’re not going to be able to develop Promontory Phase 2, we’re not going to [sic] have the opportunity to have soccer fields, baseball fields, football, bocce, etcetera if we caved to this request to make this a dark community south of 50 ...”

### *Dawn-to-Dusk*

On May 14, 2020, a motion was brought before the Board to change Heritage Park to a dawn-to-dusk park, consistent with other similar parks. The Board approved this change. While the Board has maintained that there would currently be no after-hours sporting events, they have also stated that this is a possibility “maybe in the future.” The document issued

to the Board, entitled “Heritage Village Park – Sport Court Lighting,” dated May 6, 2021, states:

“The lighting design for Heritage is intended for premier top level competitive play which is needed in the area by user groups.”

The document further states:

“Taking away the lights diminishes the investment and the opportunity to utilize the courts in a premier state.”

These remarks and the abovementioned installation of lights for the tennis courts raise serious concerns about whether EDH CSD will abide by the dawn-to-dusk park hours in the long-term.

### All-Ages Playground

In December 2019, a change order was issued modifying the Heritage Park playground to an all-inclusive playground with different elements and playground surface enhancements. This changed the original contract, costing an additional \$138,000 in park impact fees, paid by the developers. At the April 22, 2022, Board meeting, concerns were raised by parcel owners as to whether this was a proper location based on Carson Creek LLAD #39 being an age-restricted community. Another concern was raised about the limited parking and additional public parking not being nearby. These concerns were raised but not addressed in the Board meeting. This change increases the LLAD maintenance costs and was not in the original formation documents.

These examples illustrate that if LLAD parcel owners disagree with a decision made by the Board, there appears to be little recourse. Parcel owners can vote to change or dissolve the LLAD through a ballot measure or can campaign to elect new members to the Board. Parcel owners can also sue if the Board’s decision was deemed to be arbitrary and capricious, based on a conflict of interest, not supported by the ER.

This Grand Jury agrees with the 2015-2016 Grand Jury Report which recommended the formation of an LLAD Advisory Committee. In the Board’s response to the Grand Jury, the Board agreed to establish an LLAD Advisory Committee. There was one Advisory Committee meeting in February 2018, but there are no meeting minutes posted. In February 2018, and again in May 2018, a Board Member asked for the status on the LLAD Advisory Committee, but no further information was found within the Board Minutes. The LLAD Advisory Committee was never mentioned again in the Board Meeting Minutes.

## **FINDINGS**

- F1. The Consolidated ER does not show the ratio or calculation to determine the special and general assessment for each LLAD.
- F2. The Consolidated ER does not properly use the service radius to determine the special and general assessment for each LLAD.
- F3. The ERs are incomplete and lack the required information for improvements and do not list upcoming major maintenance projects for each LLAD.
- F4. Periodic surveys regarding park usage have not been conducted to determine if the special versus general benefit calculation for each LLAD is correct.
- F5. Heritage Park in the Carson Creek LLAD #39 has not been accepted by the EDH CSD, yet assessments have been collected and the maximum assessment has increased every year since FY 2015-2016.
- F6. There were differences found between the EDH CSD assessment file sent to the County Auditor-Controller and the property tax statements for Carson Creek LLAD #39 for FY 2019-2020 and FY 2020-2021.
- F7. The EDH CSD does not transfer the general benefit amount specified in the ER to the LLADs.
- F8. The LLADs do not receive credit for rental income for the usage of their improvements, and thus, the ER does not use the rental income in its assessment calculation.
- F9. The EDH CSD contracted with Zuri Alliance to outsource contract services that will impact LLAD assessments.
- F10. The LLAD parcel owners' complaint and assessment appeals process is unclear.
- F11. The EDH CSD created a webpage for LLADs; however, all of the information concerning LLADs is not consolidated on this page.
- F12. There is an inherent conflict that exists between EDH CSD and the LLADs.
- F13. The LLAD parcel owners do not have an LLAD Advisory Committee to represent their interests.

## **RECOMMENDATIONS**

- R1. The Board of Directors should require the ERs for each LLAD to include:
- The defined calculation for the special and general benefit using each LLAD's unique boundaries;
  - An itemized list of improvements;
  - Readable boundary maps (for each LLAD) that easily determine the boundaries;
  - Deferred maintenance projects for the next year;
  - Usage surveys for LLADs to review/adjust the public-at-large component of the general benefit calculation; and
  - Recalculation of the Benefit to Property Outside the Assessment amount to eliminate the 50% reductions.

These updates are to be completed with the FY 2023-2024 Final Engineer's Report.

- R2. The EDH CSD should utilize the Carson Creek LLAD #39 deferred maintenance reserve to fund the approved assessment refund for FY 2021-2022. This should be completed by December 31, 2022.
- R3. The EDH CSD should recalculate the maximum assessment for Carson Creek LLAD #39 using the current number of benefit units. This recalculation should be completed by June 1, 2023.
- R4. The EDH CSD should contract with an outside consulting firm to develop and implement a quality control process to ensure the annual assessment file sent to the County Auditor-Controller's Office is correct. This quality control process should be in place by June 1, 2023.
- R5. The EDH CSD should transfer the general benefit amount as calculated in the ER to the underlying LLAD.
- R6. The EDH CSD should change its internal processes and begin crediting rental income to the LLAD that generated the income. This should be completed by December 31, 2022.

- R7. The EDH CSD should provide the LLADs with more details on the financial effect the Zuri Alliance Consolidated Services agreement will have on their LLAD assessments. This should be completed by December 31, 2022.
- R8. The EDH CSD should create and publicize policies and procedures, including timeframes and record-keeping requirements, in one accessible online location, to address assessment complaints and appeals. These policies and procedures should be completed and publicized by June 1, 2023.
- R9. The EDH CSD should form an LLAD Advisory Committee with LLAD parcel owners to foster a productive environment between the EDH CSD and the LLADs. This LLAD Advisory Committee would provide input to park plans, financial plans, and ERs and be established by December 31, 2022.

## **GLOSSARY**

**Assessment:** The annual levy applied to parcels to fund the cost of maintenance and servicing of improvements/identified assets within the LLAD; collected as part of the property tax statement

**Assessment district:** “Shall consist of all territory which will benefit from the improvements and is to be assessed to pay the costs thereof.” (California Streets & Highways. Code §22503)

**Assessment file:** A file showing the amount to be assessed against each parcel of real property within the assessment district. This is sent to the County to be placed on property tax statements.

**Browning Reserve Study:** A study conducted by the Browning Reserve Group. A Browning Reserve Study conducts the following: 1) development of a reserve component inventory (verification only, not quantification); 2) condition assessment based upon on-site visual observation; 3) life and valuation estimates; 4) fund status; and 5) complete a funding plan.

**Community parks:** Larger parks provide a focal point and gathering place for a broader community, used by all sectors of the community. Community parks often include recreation facilities for organized sports and community activities, as well as passive recreation space. Because of their large service area, community parks require support facilities, such as parking and restrooms.

**Engineer’s Report (ER):** An annual study initiated by the Board and prepared by an Assessment Engineer’s evaluation of the costs of maintaining and/or replacing assets within the LLAD. These costs are used to determine the assessment for each parcel within the LLAD. The ER also calculates the EDH CSD special benefit amount.

**General benefit:** The amount that EDH CSD transfers to the LLAD to pay for the benefit received from the improvements.

**Improvements:** Those amenities which are included in the LLAD (e.g., landscaping, lighting, monument signs, park site, pathways).

**Landscape and Lighting Assessment District (LLAD):** A 1972 Act Landscaping and Lighting Assessment District is a flexible tool used by local government agencies to pay for landscaping, lighting, and other improvements, and services in public areas.

**LLAD boundary:** The units/property(ies) that are located within a defined mapped LLAD area.

**Neighborhood Park:** A small park designed primarily for non-supervised, non-organized recreation activities. Located within walking and bicycling distance of most users, the parks serve people living within ½-mile from the park. Neighborhood parks provide access to basic recreation opportunities for nearby residents, enhance neighborhood identity and preserve open space.

**Reserves report:** A study, prepared by the Browning Group, which provides the CSD with a 30-year Reserve Funding Plan, which includes replacement schedules and costs for CSD equipment and facilities.

**Special benefit:** A particular and distinct benefit over and above the “general benefits” conferred on a real property located in the Assessment Districts.

**Village Park:** A village park provides active and passive recreational opportunities for a larger and more diverse user group. Usually moderate in size, village parks serve residents in a 1-mile radius, or residents within both walking and driving distances. Village parks can accommodate large groups as well as individual activities.

## **REQUESTS FOR RESPONSE**

This Grand Jury Report is an account of an investigation or review. It contains findings and recommendations, and names those who should respond to each finding and each recommendation pertaining to matters under the respondent's control.

Please review *How to Respond to an El Dorado County Grand Jury Report*, a separate document included with this report.

Responses are requested in accordance with California Penal Code §933 and §933.05.

- Responses to all findings and recommendations are requested from the EDH CSD Board of Directors.

## ATTACHMENTS

### Engineer's Reports:

<b>Engineer's Report #1 Consolidated report contains the following LLADs</b>		
LLAD #1 Stonegate	LLAD #2 Oaktree	LLAD #3 Oakridge
LLAD #5 Green Valley Hills	LLAD #6 La Cresta	LLAD #7 Crescent Ridge
LLAD #8 Lake Forest	LLAD #10 Francisco Oaks	LLAD #11 Marina Hills
LLAD #13 Highland Hills 3	LLAD #14 Wild Oaks	LLAD #15 Silva Valley
LLAD #16 Bass Lake A & B	LLAD #18 Creekside Greens	LLAD #19 Roadway
LLAD #20 Highland Hills 1, 2 & 4	LLAD #22 Promontory	LLAD #23 Hollow Oaks
LLAD #25 Highland View, Sterlingshire Village	LLAD #29 North Commercial Blvd.	LLAD #31 Hawk View
LLAD #33 Valley View	LLAD #34 Bell Ranch	LLAD #40 Bass Lake North
LLAD #41 Saratoga Estates		

Engineer's Report #2	LLAD #36 Lake Forest Park Only
Engineer's Report #3	LLAD #38 Windsor Park Only
Engineer's Report #4	LLAD #39 Carson Creek Only

### LLADs with Parks

<b>LLAD Name</b>	<b>Park within LLAD</b>	<b>Park Address</b>	<b>Type of Park</b>	<b>Size (Acres)</b>
Promontory #22	Promontory Park	2700 Alexandria	Community	18.7
Promontory #22	Kalitheia Park	4900 Gillette Dr.	Village	3.8
Wild Oaks #14	Wild Oaks Park	2510 El Dorado Hills	Nature Area	10.5
Creekside Greens #18	Creekside Greens Park	4721 Concordia	Neighborhood	1.71
Silva Valley #15	Fairchild Village Park	3045 Brackenwood	Neighborhood	2.46
Highland View #25	Murray Homestead	3700 Amer Way	Neighborhood	4.0



Valley View #33	Valley View Sports Park	1661 Blackstone	Sports Park	5
Hollow Oaks #23	Laurel Oaks Park	5031 Whistlers Bend Way	Sports Park	1.7
Lake Forest #36	Lake Forest Park	1821 Francisco	Village	9.76
Windsor #38	Windsor Point Park	4005 Windsor Point	Neighborhood	1.14
Carson Creek #39	Heritage Park	Palmdale/ Carson Crossing	Village	4.65

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