

From: [Renee Sheehan](#)
To: [Trish Spencer](#); [Tony Daysog](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [City Clerk](#)
Subject: [EXTERNAL] proposed change of landscaping & lighting district 1986 MOU
Date: Tuesday, May 2, 2023 7:28:44 PM

Dear Alameda City Council and Mayor,

Please vote no of the proposal to unilaterally disregard the agreement with our landscaping and lighting district.

1100 and 1200 block of Bay St., have had a special L and L district since 1986. We have agreed to assess every resident on the block to be able to pay for enhanced care of our city trees. Originally, the focus was on the elms and Dutch elm disease. In more recent years, the focus was on replacement of the elms with a variety of trees that are compatible with stately homes and neighborhood ambiance, and paying extra for larger trees than normally the city would routinely provide. Also it has paid for anti aphid and anti Dutch elm disease injections. The district members have been in agreement with being assessed for the special needs over and beyond routine maintenance. The city should bare the expense of removing trees that are at the end of their useful life, just as they do elsewhere in the city. We want the original MOU to continue, with our district reps deciding on special expenditures and making the decisions about additional assessments. We believe Bay St neighbors in this district will aim to have a cordial and productive relationship with city staff going forward. Maintaining the district as described in the 1986 MOU is in the best interests of Alameda as a whole in addition to Bay St.....the city prides itself on lovely historic neighborhoods with tree lined streets.

Thank you for your consideration,
Renee and Bill Sheehan
1236 Bay St.

From: [Dee Keltner](#)
To: [Trish Spencer](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [City Clerk](#); [Erin Smith](#); [Tony Daysog](#); [Tracy Jensen](#)
Subject: [EXTERNAL] Engineer Budget -Item 5G. L&LD. 84-2. Zone 7
Date: Tuesday, May 2, 2023 5:14:35 PM

I am 100% in support of the email sent by one of our neighbors, Gig Codiga. There is no need for me to speak, as a hardworking District member and representative over the Past 37 years, I cannot add one more thing. Our original desire has not changed, it remains as strong as ever, to support and enhance the ongoing care of our trees as we have done willingly all these years.

Tree issues and expenses for other streets are covered by the city, not the residents. The city should be grateful to our District for enhancing the longevity of our old Elms and caring enough to spend upwards of \$300,000.

Please do the right thing. This is our money, not the city's

Sincerely
Dee Keltner
1137 Bay St
Alameda 94501

Dee Keltner

From: [Tom Geary](#)
To: [CityCouncil-List](#); [City Clerk](#)
Cc: julieconner26@gmail.com; [Lynn Mire](#)
Subject: [EXTERNAL] Yes In My Backyard
Date: Tuesday, May 2, 2023 4:50:04 PM

Dear Members of the City Council and Mayor,

I'm sure you're getting inundated about an item on the agenda this evening.

For nearly 40 years, our neighborhood has worked hard to preserve the trees that make this street so charming. To have the foresight to set up a dedicated fund, effectively in perpetuity, to keep the trees of Bay Street looking amazing? How rare is that?

I hear about an initiative like this, and I say to myself, *what a great idea* (and then, if I am being truly honest, *why didn't I think of that?*) You probably feel the same way.

Don't our communities need more of this kind of transformative thinking, rather than less?

Given this backdrop, I am shocked to learn that someone wants to gut this initiative. How and why is undercutting a thoughtful agreement, made 40 years ago in good faith by all parties, suddenly a priority?

Nationally, we've seen all kinds of precedents get nullified, from Roe with Dobbs, to all kinds of LGBTQ civil liberties. I'm not equating our neighborhoods trees with those far more important initiatives, but I wish there were more presumption of positive intent, especially for issues settled decades ago.

To put it another way, in the absence of an *actual issue* (say, fraud or misuse of funds), how about giving this agreement and our neighborhood, the benefit of the doubt?

Most sincerely,

Tom Geary. 1200 Bay Street
Moved to Alameda in 1968, at age 3.

Tom Geary | Founder & Creative Director | School of Thought
544 60th Street, Oakland, CA, 94609
C 415.596.4154 D 415.685.4475

Brand Strategy | Campaigns | Videos | Sites | Event Activations

From: [Alice Lewis](#)
To: [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [City Clerk](#); [Trish Spencer](#); [td4722](#)
Cc: [Si Lewis](#); [Alice Lewis](#); [Julie Conner](#)
Subject: [EXTERNAL] Subject: Unilateral (by the City) Changing of 1968 Landscaping & Lighting District (1986) Agreement
Date: Tuesday, May 2, 2023 4:41:44 PM

Dear Members of the Alameda City Council and Mayor:

Tonight: Please Vote No on the Staff recommendation to unilateral toss the agreement with Landscaping and Lighting District, a violation of our contractual agreement.

The block of 1100 and 1200 Bay Street has been operating as a special zone in a Landscape & Lighting District since 1986 ("L&L District). The Resolution creating the District is clear that assessments and use of the resulting funds would be with the agreement of the residents. We have a legal agreement with the city signed in 1988 that gives the L&L District the ability to decide how much to assess ourselves and how to spend the money we have charged ourselves. This assessment has been collected by the City via a special property tax assessment each year. The L&L District has not charged the members in the L&L District an assessment for the last two years, as there is no reason to over fund the account - there are sufficient funds to support the L&L District obligations for many years.

The City Staff is proposing to change the process. Via letter dated April 13, 2023, the Public Works Director informed the L&L District that the City intends to use our assessment fund to cover the removal of nine sick elms on our block to the tune of \$50,000 (not a part of the L&L District responsibility - that is the City's responsibility and consistent with past practices) and to reinstate an annual special assessment of \$150 (not the right of the City to make this decision and not necessary to meet L&L District obligations).

A city attorney has informed the representatives of the L&L District that the City views the 1988 legal agreement to be invalid and no longer plans to abide by its terms. [Note the signers of that agreement had 100% support and authority by the L&L District members. Just because they are no longer alive does not invalidate the agreement. If that were true many past contracts would be invalid.]

Thank you for all of your time and effort serving Alameda. We appreciate it and are proud of our island home.

Sincerely,

Alice and Josiah “Si” Lewis

1128 Bay Street

Alameda, CA 94501

From: [Gig Codiga](#)
To: [Trish Spencer](#); [td4722](#); [Marilyn Ezzy Ashcraft](#); [Malia Vella](#); [City Clerk](#)
Subject: [EXTERNAL] Unilateral (by the City) Changing of 1968 Landscaping & Lighting District (1986) Agreement
Date: Tuesday, May 2, 2023 12:56:21 PM

Dear Members of the Alameda City Council and Mayor

Tonight: Vote No on the Staff recommendation to unilateral toss the agreement with Landscaping and Lighting District, a violation of our contractual agreement.

Context: The block of 1100 and 1200 Bay Street has been operating as a special zone in a Landscape & Lighting District since 1986 ("L&L District). The Resolution creating the District is clear that assessments and use of the resulting funds would be with the agreement of the residents. We have a legal agreement with the city signed in 1988 that gives the L&L District the ability to decide how much to assess ourselves and how to spend the money we have charged ourselves. This assessment has been collected by the City via a special property tax assessment each year. The L&L District has not charged the members in the L&L District an assessment for the last two years, as there is no reason to over fund the account - there are sufficient funds to support the L&L District obligations for many years.

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Best Regards
Be Well

Gig Codiga
650-922-0554

From: [Julie Conner](#)
To: [Jennifer Ott](#); [Erin Smith](#)
Cc: ITYCOUNCIL-List@alamedaca.gov; [Marilyn Ezzy Ashcraft](#); [CityCouncil-List](#); [Len Aslanian](#); [Emily Antenen](#)
Subject: [EXTERNAL] Fwd: Time Sensitive: Assessment District No. 84-2, Zone 7
Date: Tuesday, May 2, 2023 9:18:13 AM
Attachments: [MOU with City.pdf](#)
[Resolution re- Zone 7.pdf](#)
[Bay St District to City Manager and PW Director.pdf](#)

Please see the attached Letter with attachments from Zone 7 of the Landscape & Lighting Assessment District No. 84-2.

May 2, 2023

To: City Manager Jennifer Ott
Public Works Director Erin Smith

From: The Residents of the 1100-1200 Block of Bay Street (Island City Landscaping and Lighting District 84-2, Zone 7) ("Bay Street District" or "District").

We write to respectfully request postponement of [5-G](#) on tonight's City Council Agenda with respect to the 1100-1200 Block of Bay Street .

Prior to any action being taken, we would like to better understand the basis for the City's (i) abrupt change in the course of dealing with the Bay St. District, reversing 37 years of established processes and breaching a signed Memorandum of Understanding and (ii) position articulated in Public Work Director Erin Smith's letter dated April 13, 2023 to the property owners in the Bay St. District (attached, "April 2023 Letter").

As you may know, the City created the Bay Street District in 1986 at the request of the property owners on the 1100-1200 Block of Bay Street in order to provide for *enhanced* maintenance for its Elm trees, then threatened by Dutch Elm Disease. The Public Notice reflecting the City's October 27, 1986 Resolution approving formation of the District confirms that its purpose was "to provide for *enhanced* maintenance" and that "the annual levy of special assessments for the enhanced maintenance shall annually by determined *by the property owners* and City staff" (the "1986 Resolution," attached, emphasis added).

In 1988, the City and the Bay St. District entered into a Memorandum of Understanding (the "MOU," attached) reflecting the agreement between the City and the Bay St. District about the process by which the 1986 Resolution would be implemented:

- "Each year, the [Bay St.] district shall present a budget" to the City.
- The City would "inform the [Bay St.] District's representative that there is work scheduled to be done on the trees."
- The Bay St. District would "agree to the work and/or to offer to augment [the work] at the [Bay St.] District's expense."
- "In no event, should the City of Alameda unilaterally spend the money of the assessment district."

Review of the correspondence between the City and the Bay St. District evidences that the City and the Bay St. District have consistently followed the process set forth in the MOU for the past 37 years, with the Bay St. District, providing the City with an annual proposed budget and the amount of the assessment needed to fund it. In each case, as was the explicit intent of the parties in forming the district, the Bay Street District paid the difference between the maintenance services ordinarily provided by the City and the cost of the enhancements or special services requested by the Bay Street District. The record confirms that the Bay Street District and City have acted consistently with the MOU for 37 years, adhering both to its letter and spirit: the City has honored the Bay St. District's decisions on how to spend its assessment funds and on what amount to assess the Bay St. District's members. The following are illustrative of the City's and the residents' adherence to the terms of the MOU:

- On March 1, 1988, the Bay St. District Representative wrote then Public Works Director Robert Warnick to provide him with the budget for the fiscal year 1989-90, stating that the budget included the cost of supplementing the tree replacement budget of the city (“4 trees at \$300 per tree minus \$87.50 per tree from the City”), tree spraying, and special
- In a letter dated July 26, 1995 to Public Works Director Warnick, the Bay St. District proposed a budget for 1995/96 to cover tree replacement (1 tree at \$300 minus \$87.50 City shared cost), tree spraying, and special pruning and requested a \$50 per property owner assessment.
- In a letter dated February 22, 2008, the District representative informed Marge McLean, in the Department of Public Works, of the proposed budget for the use of the assessment fees to cover trimming of elm suckers, injection of aphid control for red lindens and tree improvements warranted by the wire undergrounding and of the decision by the Bay St. District to reduce the annual assessment each Bay Street property owner.
- In all years, to the extent represented in the correspondence, the City assessed the District members the assessment fee identified by the District representative.

This course of conduct between the parties continued throughout the decades, and the Bay St. District continued to supplement the City’s expenditures on the trees on the block for the enhanced work that was budgeted. In all instances, the District determined the District’s budget for the following year and the assessment fee to be charged.

Public Works Director Smith’s letter to the residents of the Bay St. District, dated April 13, 2023 (“PW Director Smith’s letter”), marks a departure from the 1986 Resolution and established precedent, and breaches the MOU. PW Director Smith’s letter informs the property owners that nine trees need to be removed at the estimated cost of \$50,000, to be paid from the Bay St. District’s “assessment reserves” and informs us that the City will be imposing a \$150 per property assessment going forward. During the past 37 years, the City has paid for removal of trees it deems unsafe and paid for tree replacements. The District has supplemented this budget solely to plant larger replacement trees.

It is our understanding that this abrupt change in course may be due to a breakdown in the relationship between the Public Works Department and our Bay St. District occasioned in part by interactions with a Bay St. District representative. We inform you by this correspondence that this representative has resigned, and the District is committed to an engaged, thoughtful and respectful interaction with the City.

We respectfully ask you to postpone placing the Resolution related to District 7 on the June 20 council agenda, burdening Zone 7 with the cost of the tree replacement needs previously borne by the City and increasing the yearly assessment without our consent. We look forward to discussing the pressing matters outlined above – namely (i) the disregard of the original terms under which the District was formed and the consistent course of dealings over 37 years and (ii) the entirely new assessment regime articulated in the April 2023 Letter – with the City and our new Bay Street District representatives.

Feb 19, 1988

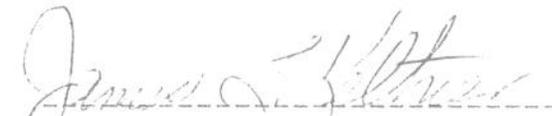
MEMORANDUM OF UNDERSTANDING

A general agreement between the City of Alameda and the residents of the 1100-1200 of Bay Street was reached in July of 1986 whereby an assessment district was established. The City of Alameda shall hereinafter be known as the City. The assessment district shall hereinafter be known as the District.

In November 1986 the City Council approved the establishment of the assessment district. An initial tentative budget of \$50 per home was established. Each year the district shall present a budget to the city by February of each year. There is a total of 38 homes comprising the District.

The procedure established between the City and the District, prior to the commencement of any work, is as follows:

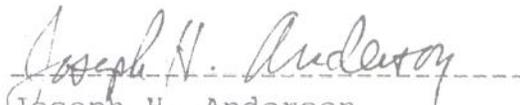
- 1) The City is to inform the District's representative that there is work scheduled to be done on the trees.
- 2) The representative is to agree to the work and/or to offer to augment, at the District's expense, any additional work.
- 3) The District's representative should sign a request by the City to spend any of the District's money. In no event should the City of Alameda unilaterally spend the money of the assessment district.
- 4) If the City does perform work outside of the City's normal maintenance, replacement and trimming program without authorization nor approval from the District representative the work should be performed at the City's expense.



James T. Keltner
1128 Bay St. 522-1924



Mayor, City of Alameda



Joseph H. Anderson
1200 Bay St. 522-7393



Interim City Manager



Robert E. McPeak
1150 Bay St. 522-3413

Bill Sheehan was requested to investigate the size/cost/availability of LINDEN trees.

Since the meeting, Bill has been told by the California Agriculture Dept. that Lindens are highly recommended. They are resistant to oak root fungus. They do best when planted from 15 gallon containers and given a two year adjustment period with little or no fertilizer and no pruning. They will then achieve medium growth with regular watering and fertilizing. They do get aphids. MOST IMPORTANT, according to the Agriculture Dept., is to select trees with a good, upright shape and no major branches near the bottom of the tree. These will then grow into shapely trees with a canopy.

Also note, 15 gallon trees are budgeted in the City budget.

PUBLIC NOTICE

PUBLIC NOTICE

CITY OF ALAMEDA RESOLUTION NO. 11049
PRELIMINARILY APPROVING ENGINEER'S REPORT ON ESTIMATED COST OF DISTRICT, PRELIMINARILY CONFIRMING DIAGRAM AND ASSESSMENTS, ORDERING LEVY OF ASSESSMENTS AND PROVIDING FOR NOTICE OF HEARING THEREON
ISLAND CITY LANDSCAPING AND LIGHTING DISTRICT 84-2
ANNEXATION NO. 86-2

WHEREAS, on October 27, 1986, one hundred percent of the property owners on Bay Street south of San Antonio Avenue, petitioned and requested the City Council to undertake proceedings under Division 15, Part 2 of the California Streets and Highways Code to annex property to the Island City Landscaping and Lighting District 84-2; and

WHEREAS, consent is given to said annexation and all rights to hearing and notice and the filing of an Engineer's Report are waived; and

WHEREAS, the stated purpose in the petition of the assessment district is to provide enhanced maintenance of improvements within the public right-of-way; and

WHEREAS, the annual levy of special assessments for the enhanced maintenance shall annually be determined by the property owners and City staff;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Alameda that:

1. The area shown on the assessment diagram Exhibit A is hereby annexed with the Island City Landscaping and Lighting District 84-2 and that it is the intention of this Council to levy and collect assessments with the Island City Landscaping and Lighting District 84-2, Annexation 86-2, for the fiscal year 1987-88.

2. Reference is hereby made to the attached Engineer's Report, for a preliminary description of the improvements, the boundaries of the proposed maintenance assessment district and the proposed assessments upon assessable lots and parcels of land within said district.

3. Notice is hereby given that on Tuesday, the 2nd day of June, 1987, at the hour of 7:30 o'clock p.m. in the regular meeting place of this Council, City Hall, Santa Clara Avenue and Oak Street, Alameda, California, a hearing by the Council will be held on the question of the final levy of the proposed assessment.

4. Prior to the conclusion of said hearing, any interested person may file a written protest with said Clerk, or, having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection. A protest by a property owner shall contain a description sufficient to identify the property owned by such owner.

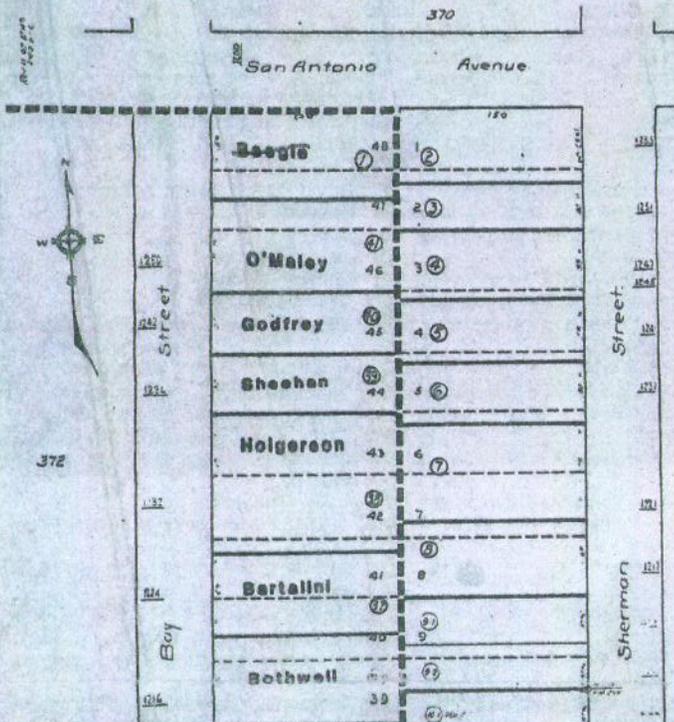
5. The City Clerk shall cause notice of said hearing to be given by publishing a copy of this resolution once, at least ten (10) days prior to the date of hearing above specified, in the Times-Star, a newspaper published and circulated in the City of Alameda.

ASSESSOR'S MAP 72

Code Area No 21-000

372

Map of Boy Side Tract (A 1137)
Parcel Map 259 (A 849 25)
Scale 1"=50'



PUBLIC NOTICE

PUBLIC NOTICE

ASSESSOR'S MAP 72

P.M. 188 (A 1137 Pg 82)

Code Area No 21-000

372

Plat of the Encinal San Antonio (A 1137 Pg 182)
P.M. 520 (A 84 Pg 181)

