



September XX, 2022

Dear Honorable Judge Vicki Ashworth,

On behalf of the El Dorado Hills Community Services District (District), I am pleased to provide the following responses to the Grand Jury Report dated June 27, 2021 [*sic*] entitled, “El Dorado Hills Community Services District Management of Landscape and Lighting Assessment Districts” (Report).

In compliance with PC 933.05, the District is responding to each Finding (F) and Recommendation (R) of the Grand Jury.

**INTRODUCTION:**

By way of preliminary comment on the Report, the District expresses its dismay at the slipshod process and/or calculated ignorance demonstrated by the Grand Jury that led to the report addressed here. As the discussion to follow shows, the District wholly disagrees with the vast majority of the Grand Jury’s Findings and Recommendations. At the outset, however, the District wishes to highlight three aspects of the Grand Jury process and report that are particularly troubling.

First, at all times during the course of the investigation, District personnel and its elected officials cooperated fully with the Grand Jury by appearing before it and providing them with extensive documentation as requested. Both the substantial hours of oral testimony and the documentation provided by the District – which has either previously been provided through other Grand Jury reviews or which is publicly available on the District website - proved the inaccuracy of many of the inquiries made by the Grand Jury during its investigation. Despite this level of cooperation, the Grand Jury persisted in rendering Findings unsupported by the applicable facts. This is clearly demonstrated by the fact that the District wholly disagrees with ten of the thirteen Findings made by the Grand Jury and has provided as support for its disagreements with the Grand Jury’s Findings documentary evidence establishing the inaccuracy of those findings.

Second, it was particularly distressing to discover that the Grand Jury has destroyed all of the documents on which it relied in support of its Findings. As the current Grand Jury foreperson, Marisa Nickles, admitted in an email to District General Manager Kevin Loewen dated July 17, 2022, “[a]ll records related to the 2021-2022 Grand Jury investigations have been destroyed.”

Given that the date of the Grand Jury report at issue here is June 27, 2022 (although misdated “2021” by the Grand Jury) and Ms. Nickles’ email to Mr. Loewen was dated July 17, 2022, this means that the Grand Jury’s records and documents related to the subject investigation were destroyed *in less than 30 days following issuance of the Report*. In light of the fact that Penal Code section 929 provides that the “evidentiary material, findings, and other information relied upon, or presented to, a grand jury for its final report in any civil grand jury investigation” may be made available to the public upon proper application to the Presiding Judge of this Court, the Grand Jury’s destruction of all files related to this report is irresponsible and renders any and all Findings and Recommendations contained in the Report suspect and lacking in transparency and credibility.

Finally, the Grand Jury report contains legal errors such as referring to a policy dispute between the District and a neighborhood group as a “*conflict of interest*.”

Despite these numerous infirmities, and pursuant to its statutory duties under Penal Code sections 933 and 933.05, the District submits this response to the Report as follows:

## **FINDINGS**

- F1.** The Consolidated ER does not show the ratio or calculation to determine the special and general assessment for each LLAD.

### **District Response to F1**

**F1. The Respondent Disagrees Wholly With The Finding.** The assessment engineering consulting services related to the creation of the Landscape and Lighting Assessment Districts (LLADs) specifically identified the ratio and calculations used in the reports that were completed by SCI Consulting Group (SCI); who continued to serve as the Assessment Engineering firm for the District until 2018. In 2018, DTA was selected as the Assessment Engineer for the LLADs.

DTA reviewed the formation documents and previous Engineer’s Reports prepared by SCI Consulting Group and found them to follow industry standards and legal requirements for LLADs. Once an LLAD assessment methodology is established, it cannot be changed. Therefore, the same calculations from the original reports created by SCI have been carried forward in the Engineer’s Reports prepared by DTA.

The reference in F1 to the “*Consolidated ER*” (engineering reports) lacks the reference to the formation engineering report(s) for each LLAD, which do in fact include the “*ratio*” or “*calculation to determine the special and general assessment for each LLAD*”, and which are ‘carried forward’ in the annual review process by the District’s engineering firm(s).

The methodology and practices performed by the District and its Assessment Engineer(s) is standard industry practice. For benefit share percentages of the LLADs, those values are established through the Assessment Engineering analysis at the time the LLAD is created, known as the LLAD Formation Report. However, older LLADs were not required to have a share of General Benefit at the time of formation until a 2008 California Supreme Court Ruling in Silicon Valley Taxpayers Association Inc. V. Santa Clara County Open Space Authority. The older LLADs then received a standard application of General/Specific (Direct/Indirect) Benefit apportionment. This is a reason why you see most of the District's LLADs combined into one Annual Engineer Assessment Review and Update Document.

- F2.** The Consolidated ER does not properly use the service radius to determine the special and general assessment for each LLAD.

District Response to F2

**F2. The Respondent Disagrees Wholly With The Finding.** DTA reviewed the service radius in the formation documents and previous Engineer's Reports prepared by earlier District engineering firms, such as SCI Consulting Group, and found them to follow industry standards and legal requirements for LLADs. Once an LLAD is created, it is not possible to change the assessment methodology or service radius parameters set forth in the formation documents, thus the calculations outlined in the formation document are still applicable and have been carried forward in the Engineer's Reports prepared by DTA.

Please reference District Response to F1 for more information, and also please keep in mind that this Finding is calling into question virtually all LLADs in California; calling into question all agencies and their assessment engineering work.

- F3.** The ERs are incomplete and lack the required information for improvements and do not list upcoming major maintenance projects for each LLAD.

District Response to F3

**F3. The Respondent Disagrees Wholly With The Finding.** Detailed information on current and upcoming maintenance projects for each LLAD is outlined and reviewed on an annual basis during open public meetings on an annual basis during the development and adoption of the EDHCS D budget. As the District prides itself on transparency, future Engineer's Reports will begin incorporating this detailed information.

- F4.** Periodic surveys regarding park usage have not been conducted to determine if the special versus general benefit calculation for each LLAD is correct.

District Response to F4

**F4. The Respondent Disagrees Wholly With The Finding.** While the District does perform park usage surveys vis-à-vis the Parks & Facilities Master Plan process, it does not perform LLAD-specific surveys to ascertain usage for the purposes indicated in this finding. There

is no lawful basis for this Finding to be considered a requirement, nor a Recommendation to implement. Furthermore, this would be a practice against industry standards and practices. To perform the body of work indicated in this Finding would be futile at best, as there is no mechanism for modifying the special/general benefit calculations to the fully formed LLAD(s). That is, there is no mechanism other than forming a new or overlaying LLAD. Doing so would be duplicative, cumbersome, and unreasonable for those residents already paying into their respective LLAD. Furthermore, as indicated in R1 and R2, *“Once an LLAD is created, it is not possible to change the assessment methodology or service radius parameters set forth in the formation documents, thus the calculations outlined in the formation document are still applicable and have been carried forward in the Engineer’s Reports.”*

- 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.

District Response to F5

**F5. The Respondent Disagrees Wholly With The Finding.** Prior to receiving the Grand Jury Report, the District had in fact recorded acceptance of the Heritage Park property. Assessments, as per industry standards and practices, had been collected in anticipation of the funds being needed for maintenance and replacement of the assets to be brought online. It should be noted that on many occasions the District has conveyed, publicly and to the Grand Jury, that assessments were collected in anticipation of the park coming online, but the COVID-19 Pandemic stalled completion. In terms of the maximum assessment increasing, this is inaccurate, as written by the Grand Jury. To be clear, the Maximum Levy Available has increased, i.e., the ceiling of assessment, as per the formation engineer report dictates would occur upon an inflationary factor basis. However, the Actual Assessment has not tracked the same path as the ceiling, as you can see in the table below.

	FY20 2019/2020	FY21 2020/2021	FY22 2021/2022
<b>Carson Creek LLAD:</b>			
Maximum Assessment	\$ 380.91	\$ 397.66	\$ 409.59
Budgeted Assessment	\$ 380.91	\$ 90.00	\$ 15.74
Actual Assessment	\$ 362.16	\$ 75.50	\$ 15.74

The table below will depict the actual inflation of the maximum assessable amount for Hawkview LLAD, a shell LLAD as compared to the Carson Creek LLAD to further show the erroneous lens in which this Finding – and later Recommendation (R3) is being viewed. It is referred to as a shell LLAD because the funding mechanism is in place in the event the HOA fails and continuation of maintenance of common areas is implemented. If the inflationary factor(s) are not implemented, then the formation year values would remain, thus creating an underfunded maintenance mechanism. Several people described this

inflationary necessity to the Grand Jury. However, we continue to see a forceful effort to implement Findings and Recommendations not based on facts, but are contrary to common assessment district law, and appear to be a derivative of special interests of one particularly small group of members of the Carson Creek LLAD.

	FY20 2019/2020	FY21 2020/2021	FY22 2021/2022
<b>Carson Creek LLAD:</b>			
Maximum Assessment	\$ 380.91	\$ 397.66	\$ 409.59
Budgeted Assessment	\$ 380.91	\$ 90.00	\$ 15.74
Actual Assessment	\$ 362.16	\$ 75.50	\$ 15.74
<b>Hawkview LLAD (Shell):</b>			
Maximum Assessment	\$ 763.82	\$ 790.30	\$ 814.01
Budgeted Assessment	\$ -	\$ -	\$ -
Actual Assessment	\$ -	\$ -	\$ -

**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.

District Response to F6

**F6. The Respondent Disagrees Wholly With The Finding.** The Grand Jury Report lacked specificity sufficient to determine the accuracy of this Finding. There were no APN numbers or addresses provided from which to verify the assertions made in the Finding, and as such, we cannot agree. A written email request was made asking for the additional specificity needed on this item to the two Grand Jurors that were emailing the District during their investigative process. The District’s email stated the following:

*“We are working on the required responses to the Grand Jury Report and would appreciate the backup information relevant to the Report. In particular, under the heading of Assessment File on page 12, enumerated #1 - #4, all speak to very specific information from which conclusions were made. The District would appreciate the opportunity to also verify these purported errors to:*

1. *Compare against the parcel data file that the County produced for a fee to the assessment engineer, and which was utilized to prepare the assessment file(s).*
2. *To rectify any errors, as is permitted per the law*
3. *To learn and improve upon errors, if they are in fact errors on the part of the CSD. If they are errors otherwise, we'd like to track those down and have the process corrected for the future.”*

The response from the newly seated Grand Jury stated as follows:

*"... I am the foreperson for the 2022-2023 El Dorado County Grand Jury. I am responding to your email addressed to [name redacted], dated July 12, 2022, which included your request for additional information regarding the Grand Jury Report. Unfortunately, we are unable to release the information that you are requesting. Pursuant to Penal Code 929, any non-privileged information relied upon or presented to the Grand Jury during its investigation, shall not be released to the public unless explicitly approved by the court. Additionally, all records related to the 2021-2022 Grand Jury investigations have been destroyed.*

*I appreciate your diligence in responding to the recommendations within the report."*

This response is particularly disturbing as Penal Code 933(c) allows the District 90 days from the date of the publicly published Grand Jury report to provide the presiding judge responses to each of the Findings and Recommendations. Thus, the District sought advice from its legal counsel to assist in securing the information necessary to make a sufficient response to this F6:

*"I am writing on behalf of the El Dorado Hills Community Services District ("District") as its General Counsel, and am responding specifically to your July 17, 2022 email to District General Manager Kevin Loewen regarding the District's request for all non-privileged documents and other materials on which the Grand Jury based its recent report regarding the District.*

*I have read Penal Code section 929 referenced in your email. Respectfully, I interpret the code section differently than you. That code section reads in relevant part:*

*"As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public part or all of the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation ..."*

*Rather than being a prohibition against the release of non-privileged information as characterized in your email, the code section grants permission to the grand jury to release such information subject only to obtaining the consent of the presiding or supervising judge. Since, as you state in your email, the grand jury is expecting "diligence in responding to the recommendations in [its]report," I would expect that the grand jury would cooperate in obtaining the appropriate permission to allow release of the requested information and the District is hereby requesting that the grand jury take the expected and appropriate step to obtain the court's consent for such release.*

*That being said, the District finds the statement in your email that "all records related to the 2021-2022 Grand Jury investigation have been destroyed" to be troublesome*

*and to demonstrate a lack of good faith and transparency on the part of the grand jury. If the grand jury now lacks any of the supporting documentation for the findings in its report, there is little reason to ascribe any credibility to its recommendations since those recommendations cannot be backed up with any corroborating documentation.*

*This letter will serve as the District's formal demand that the grand jury seek the consent of the presiding or supervising judge for release of all non-privileged documentation on which it bases the findings and recommendations in its report. If the grand jury refuses or is unable to comply with this demand, the District will take such failure into account in its response to the report."*

The District is not contending it is perfect, i.e. error-free, and if the District's submittal to the County for an assessment was inaccurate, e.g. standard industry practices and procedures were not followed or human error occurred, then the District would take steps to rectify any and all errors.

At the time of this Grand Jury Response being finalized, the District received the Assessment Roll file from the County. Given the particular interest given to the Carson Creek/Heritage Park LLAD within the Grand Jury report, the District took additional steps in trying to understand Finding 6 in their report. Within the Carson Creek/Heritage Park file dataset - developed, maintained, and sold by the County Assessor's Office - District staff found 76 Lots/Parcels listed as vacant, which would result in an assessment of 0.25 (one-quarter) of the full assessment amount. District Management personally visually inspected and photographically documented 36-of-76 parcels appear to be occupied; 2 parcels appear to be parking lot; 4 parcels appear to be model homes, and the remainder appear to be vacant/unimproved parcels. District Staff cross-referenced the parcel data file through a paid service – Core Logic – to confirm the apparently occupied parcels do in fact have home sale values/data entered and recorded with the County, however, the designation of the parcel has remained "Vacant". This would appear to be the smoking gun –the County data files are not current/accurate (42 of 76 homes improperly assessed by the County), in which the District is being accused of submitting inaccurate assessment information to the County. The District does not assert any knowledge as to how or why the County data files are inaccurate, i.e. whom is holding the smoking gun, but one can plainly see that the County owns the gun. To further support this discovery made by the District, staff also pulled the permit(s) tied to the parcels with discrepant recordation. Those permits indicate there are parcels (homes) which were permitted and completed as far back as 2018. See *Attachment A* for supportive data to the District's discoveries.

As recent as September 2022, an email from the County Assessor's Office stated the following about this matter:

*First, here is some information about how the Assessor's data is collected, the laws we are subject to, and most importantly the dates and timeframes of the data.*

*The Assessor's Office is bound by State law to deliver the assessment roll for data as of lien date January 1<sup>st</sup> of each year. Our office turns that data over to the Auditor's Office by July 1<sup>st</sup> of each year. The data that we turn over to the Auditor is called the Assessor's Roll. As you know, the Roll Year data that is turned over to the Auditor's Office is what the districts use for creating charges on the tax bills.*

*At the same time that we "close our roll" a capture of that data is created in what is called the Agency CD (it is not actually a CD though). You might be familiar with this file. I am not clear on all of the details about how the Auditor's Office gets this data file to the agencies/districts but a vendor called ParcelQuest is involved in this too. I see in your spreadsheet that you had a column titled "Recording Date in RealQuest". Is your district using RealQuest to provide the Roll Close data in July?*

*The spreadsheet you provided had 33 parcels marked as a discrepancy.*

*We determined that four parcels needed updating in our system; we did in fact have an error at roll close time. This problem of not updating the parcels in a timely manner has been brought to the appropriate section of our office and we expect that a daily procedural change as well as a data check in June of each year will go into effect to prevent this in the future. We apologize for these errors. The parcels with these errors were: 117-670-013-000, 117-670-074-000, 117-670-083-000, 117- 742-012- 000....*

- F7.** The EDH CSD does not transfer the general benefit amount specified in the ER to the LLADs.

District Response to F7

**F7. The Respondent Disagrees Wholly With The Finding.** The general benefit calculated in the Engineer's Report is a budgeted amount, not actual. Per industry standards, the general benefit is a percentage of the LLAD's actual expenses. As per standard accounting practices, this amount is not determined until the end of the fiscal year when the District can determine the final expenditures. The general benefit is then applied to the LLAD account as calculated in the Engineer's Report.

- 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.

District Response to F8

**F8. The Respondent Agrees With the Finding.**

- F9.** The EDH CSD contracted with Zuri Alliance to outsource contract services that will impact LLAD assessments.



#### District Response to F9

**F9. The Respondent Agrees With the Finding. Although it should be noted that “impact” could be a positive one, i.e., in the favor of the LLAD members.** Furthermore, the District has contracted service providers for a variety of needs, such as landscape maintenance, janitorial, security, specialized turf care, arboreal, and more. The notation of an additional contractor as having an *impact* on LLAD assessments is incomplete on the part of the Grand Jury, and continues to lend a hand toward the slipshod, deliberately ignorant approach, or quite possibly the insertion of un-vetted commentary from members of the public that have made similar statements on social media and other public venues.

**F10.** The LLAD parcel owners’ complaint and assessment appeals process is unclear.

#### District Response to F10

**F10. The Respondent Disagrees Wholly With The Finding.** District policies and procedures are all accessible on the District website: [ElDoradoHillsCSD.org](http://ElDoradoHillsCSD.org). The policies contained therein include the Community Relations, Complaints by Constituents (1230.10) policy that was requested and provided to the Grand Jury vis-à-vis email during their investigation. This policy addresses the complaint procedure(s) in general for all aspects of the District’s services. It should be noted the search function on the District’s website will assist virtual visitors in locating files. For “assessment complaints and appeals” in particular, the annual LLAD Engineer Reports have included the following section, which is industry standard practice:

##### *Appeals of Assessments Levied on Property*

*If a property owner deems an assessment on their property to be in error, he or she may file a written appeal with the Engineer of the EDHCS. The appeal is limited to being corrected for the current fiscal year during such year. The Engineer will review the appeal and any relevant information in a prompt manner upon receipt of the appeal. If the Engineer finds a modification to the Assessment is necessary, the Assessment Roll will be updated to reflect such changes. Should the Assessment Roll already be filed with the County, the Engineer has the authority to refund the property owner the difference. Should there still be a dispute after the Engineer’s review, the property owner can appeal to the Board directly. All decision made by the Board are final and cannot be overturned.*

Please note that the previously cited Section of the Engineer Report(s) is also indicated within the Table of Contents of the Engineer Report.

**F11.** The EDH CSD created a webpage for LLADs; however, all of the information concerning LLADs is not consolidated on this page.

#### District Response to F11

**F11. The Respondent Agrees With the Finding.** In an effort to be transparent, the District takes great pride in making our documents publicly available and accessible through our

District website (ELDoradoHillsCSD.org). There are many ways to display and organize documents and we recognize it is impossible to meet the needs of each individual or group. With that, the District links visitors to other pages with pertinent information from the LLAD webpage, e.g. the District Budget.

**F12.** There is an inherent conflict that exists between EDH CSD and the LLADs.

District Response to F12

**F12. The Respondent Wholly Disagrees With the Finding.** The conflict of interest statutes are based upon the premise that a public official may not serve two masters simultaneously. Prior to a thorough response on this Finding, it should be noted that a finding of a conflict of interest on this matter would translate into a similar conflict for the County Board of Supervisors' traffic impact mitigation fees or other fee programs of the County.

On page 16 of the Grand Jury report, the finding on this issue is discussed under the heading "Conflict of Interest." It is clear from the discussion that follows there is no statutory "conflict of interest" between the District and Heritage Park Carson Creek LLAD #39 homeowners as the phrase is defined in its technical, legal sense. As set forth in Government Code sections 1090 to 1099, a conflict of interest arises when a member of the governing body of a public agency and/or an employee of a public agency has a financial interest in a matter on which the public agency has acted. The Grand Jury report fails to identify any such conflict of interest and, therefore, the use of the phrase "conflict of interest" in the report is both erroneous and improper.

Further, it is evident from the Grand Jury report that the Grand Jury did not find an actual conflict of interest but merely a disagreement between the District and a select few Heritage Park homeowners with respect to certain aspects of the design and construction of Heritage Park. As noted on page 16 of the report, "the Grand Jury has reviewed three separate issues relating to Heritage Park Carson Creek LLAD #39, where in some of the LLAD parcel owners *disagreed* with the Board on actions taken, ..." (Emphasis added)

A disagreement over policy or direction does not create a "conflict." Moreover, to the extent any homeowners within the District's jurisdiction disagree on the policies adopted or direction taken by the District Board, their remedy is to voice such disagreement during the public comment portion of District Board meetings and ultimately, through the exercise of their franchise in electing District Board members. With respect to the former, Respondent strongly disagrees with the comment in the Grand Jury report that Heritage Park homeowners were treated disrespectfully during District Board public meetings. This is a patently false statement. All members of the public are given three minutes in which to voice their positions on issues before the District Board during the public comment section of meeting. Unfortunately, there have been several Heritage Park homeowners that often refused to honor the time limit and acted in a confrontational and disrespectful manner toward District Board Directors, often engaging in *ad hominem* rather than

addressing actual issues before the Board, as well as acting in a manner disruptive to the regular order of Board meetings.

With respect to the specific issues of disagreement identified in the Grand Jury report, the report misstates or omits relevant facts. As noted in other sections of this response, this seems to be another example of the slipshod or deliberate ignorance of the Grand Jury.

Lighting:

With respect to the issue of lighting at Heritage Park, the Grand Jury report implies that the plan to install the present lighting at the tennis courts was unknown to Heritage Park homeowners. This is simply untrue.

The EDHCSD Board of Directors ("Board") approved the project at a regular meeting on December 14, 2017. The meeting agenda and agenda packet provided the project description, location, design, and proponent. The agenda and agenda packet were accessible on the District's website and at the District office starting December 11, 2017. The agenda was also posted at El Dorado Hills fire stations. Agenda item 22 reads "Review and Approve Carson Creek Conceptual Park Design and Initial Cost Estimate."

The agenda packet has a project agenda report, a project design plan, and a project cost estimate. The agenda report explains the project is executed pursuant to a condition of approval for the Carson Creek Specific Plan and recommends the Board approve the project design and cost estimate. The project design plan indicates the project will have "lighted tennis courts (3)," "(2) each lighted pickle ball courts," and "(2) each lighted bocce courts," as well as lit walkways and entrance. The project cost estimate accounts for the same – tennis court lights, bocce court lights, pickle ball court lights, and site area lighting.

The December 14, 2017, meeting minutes read "Sean MacDiarmid, Lennar Homes ... displayed a site map/phasing plan to Board and audience members. .... Steve Furhman, Furhman Leamy Land Group, provided additional background. GM Loewen recommended the Board vote to approve moving the project forward. Discussion was held." The Board unanimously voted to approve the conceptual design and cost estimate for the Project. Project approval was both preceded by and followed by public notice. The public was on notice of project approval, including the plan to install lighting at the tennis courts, pickle ball courts, and bocce courts on December 14, 2017.

Further notice of the project was given at a regular Board meeting held July 11, 2019, when the Board approved the contract with Environmental Landscape Solutions ("ELS") to build the project. The agenda and agenda packets were accessible on the District's website and at the District office starting July 8, 2019. The agenda was also posted at El Dorado Hills fire stations. Agenda item 12 reads "Carson Creek 'Heritage' Village Park: Award of Contract to ELS." The meeting agenda and agenda packet provided the project description, location, design, and proponent. The same project design plan approved by

the Board on December 14, 2017 was incorporated into the ELS contract. The ELS bid expressly accounted for tennis court lighting, bocce court lighting, and pickle ball court lighting, as well as other park lighting. The meeting minutes state that the ELS contract was unanimously approved as part of the consent calendar; no Board Director or member of the public objected or requested discussion. For these reasons, the public was on further notice of the project on July 11, 2019.

*Dawn-to-Dusk:*

The Grand Jury report on this issue amounts to nothing more than rank speculation. The report admits as much when it concludes its discussion of this issue with the comment that “serious concerns exist about whether EDH CSD will abide by the dawn-to-dusk park hours in the long-term”. The fact remains the District Board has voted to establish dawn-to-dusk operating hours at Heritage Park. There has been no action by the District Board to rescind this decision. It is irresponsible of the Grand Jury to make “Findings” based on its unsubstantiated speculation about what may occur in the future.

*All-Ages Playground:*

The position of several of the Heritage Park homeowners, which have expressed their opposition on this issue - a playground for kids and others with non-typical motor or cognitive development - is a disgrace to the entire El Dorado Hills community. The all-abilities access playground at Heritage Park will be the first of its kind in the region giving disabled children, who would otherwise have no place to go and play, the opportunity to enjoy multiple park amenities. Opposition by those select Heritage Park homeowners to this playground amounts to nothing more than naked NIMBY-ism. This group of homeowners have frequently commented at District Board meetings they do not want these park amenities near their homes because they already have tennis courts, a club house, and other amenities in their gated community. While a select group of Heritage Park area residents may not wish to be gracious members of the El Dorado Hills community, this will not serve to deter the District from serving all of its constituents, particularly the most vulnerable such as disabled children. The Grand Jury should be embarrassed to have included this finding in its report because it amounts to an endorsement of the narrow-mindedness of a specific subset of Heritage Park homeowners toward this vulnerable population.

- F13. The LLAD parcel owners do not have an LLAD Advisory Committee to represent their interests.

District Response to F13

**F13. The Respondent Agrees With the Finding.** Although, an Advisory Committee was sought-out by the District after a prior Grand Jury report made a Recommendation to do so. Formation of such a Committee was unsuccessful, as there was insufficient interest from the Community at that time. The District will again solicit community interest for this with the same parameters for a Committee of the Board of Directors, as per District Policy(ies).

## RECOMMENDATIONS

- R1.** The Board of Directors should require the ERs for each LLAD to include:
- 1) The defined calculation for the special and general benefit using each LLAD's unique boundaries;
  - 2) An itemized list of improvements;
  - 3) Readable boundary maps (for each LLAD) that easily determine the boundaries;
  - 4) Deferred maintenance projects for the next year;
  - 5) Usage surveys for LLADs to review/adjust the public-at-large component of the general benefit calculation; and
  - 6) 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.

### District Response to R1.1 – R1.6

**R1.1-R1.3 The Recommendation Has Been Implemented.** The calculations for special and general benefit are established in the Final Engineer Reports when the formation of the LLAD was formed. The Formation Reports contain list(s) of improvements and boundary maps. A reference to the original Final Engineers Report will be made in future annual assessment reviews, with a link to the website which houses those documents for public accessibility.

**R1.4 The Recommendation Will Not Be Implemented Because it is Not Warranted.** Deferred maintenance projects are already prepared as one element of the District's Annual Budget, and are clearly identified as to which LLAD the project will occur. This budgetary document is publicly posted at the time of its review and approval, and it is posted to the District's website.

**R1.5 The Recommendation Will Not Be Implemented Because it is Not Reasonable.** The District employs standard industry practices, and usage surveys are not a requirement for the annual assessment updates to the LLADs and would bring forth additional cost burdens to the LLADs through such efforts. In addition to cost burdens, it would be counterproductive to perform surveys of use for the purposes "to review/adjust the public-at-large component of the general benefit calculation" for the simple fact the LLAD and its benefit sharing is not the matter of business at-hand during the annual assessment update process. Changing the benefit share is a substantial structural change to the LLAD and would require a formal vote from the residents within each respective LLAD.

Essentially, performing this Recommendation is equivalent to reforming the LLAD, and is both outside the purview of the Grand Jury and will not be implemented.

**R1.6 The Recommendation Will Not Be Implemented Because it is Not Reasonable.** Recalculating the benefit(s) portion of the LLAD, as recommended by the Grand Jury in this statement, “Recalculation of the Benefit to Property Outside the Assessment amount to eliminate the 50% reductions”, is again a Recommendation to reform the LLAD. This is outside the purview and scope of the Grand Jury and will not be conducted. Furthermore, standard industry practices are employed by the District.

- 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.

District Response to R2

**R2. This Recommendation Has Been Implemented.** This Recommendation is a moot point, as the refund has already occurred. The Grand Jury was informed and aware of the fact the District Board of Directors had already made the recommendation and approved refunding the assessment due to the continued delay in bringing this park asset online, yet for some unknown reason, a Recommendation is still provided within this Grand Jury Report?

- 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.

District Response to R3

**R3. The Recommendation Will Not Be Implemented Because it is Not Reasonable.** As stated previously, the Recommendation to recalculate an approved formation and final engineers report is equivalent to reforming the LLAD. As an alternative, the members of the LLAD could seek a voter initiative to agree to annexation into the Master CFD of the District, which would then include a recalculation of benefits and “assessments”. As it currently stands, the District implements standard and lawful practices for the methodology and calculations for benefit share(ing). A move in the direction of the Recommendation would call into question all formation methodologies for assessment districts of agencies across the State of California.

The Assessment Engineer’s report defines the maximum assessment each year. However, the maximum assessment is just a ceiling at which the District’s operating budget for that LLAD cannot exceed. The LLADs operating budget is established based on the expenditures and reserves necessary to maintain the assets of the LLAD. The Engineer’s report establishes the operating budget. However, the spread of the assessments over the parcels does not take place until July-August when the Assessment Engineer’s receive the County Roll that defines the number of assessed units within each LLAD. The

Assessment Engineers use this County report to spread the operating budget across all parcels as defined in the formation documents. In response to the Recommendation, the recalculation is automatically done in July-August of each Fiscal Year.

- 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.

District Response to R4

**R4. This Recommendation Will Not Be Implemented Because it is Not Warranted.** The District employs legal and standard industry practices for this matter. This Recommendation would result in the cost(s) applicable to each LLAD increasing, however, it could absolutely be implemented. The issue which the Grand Jury attempts to describe in their report appears to fall upon erroneous data provided by the County to the District. In fact, the County produced data which was not current, as it relates to the timing in which a property was improved and/or occupied. Furthermore, the data the County produced – tax roll data – was purchased by the District from the County. This was all described to the Grand Jury during the interviewing process. In addition to this, as more thoroughly described in the Findings (above), the Grand Jury lacked in their own specificity in purported errors, refused to supply backup data to their claims, and asserts that the relevant documents to support their claims were destroyed. Any Recommendation based on such a lack of foundation and support would equally lack in the ability of the District in performance of the Recommendation.

The quality control is already in place. A third party Engineer Firm is used and District staff and Board Directors review and sign off on/approve the final assessments. Furthermore, the findings of the District (see response to Finding #6 and Appendix A) support the necessity for the County to do more to update their data files and to audit their own materials, which they sell to special districts vis-à-vis their assessment-engineering firms.

- R5.** The EDH CSD should transfer the general benefit amount as calculated in the ER to the underlying LLAD.

District Response to R5

**R5. This Recommendation Has Been Implemented.** The District currently contributes the calculated general benefit share to each LLAD, after actual expenditures are accounted for. The District employs legal and standard industry practices for this matter. The general benefit calculated in the Engineer's report is a budgeted amount, not actual. The general benefit is a percentage of the LLAD's expenditures. This amount is not determined until the end of the year when the District can determine the final expenditures and applies the special benefit percentage based on those actual expenditures. The general benefit is applied as calculated in the Engineer's report. However, it is applied based on actuals, not the budgeted expenditures. This information can be found by reviewing the District's

annual budgets that are brought forth every year for public review and Board Director approval during public meetings.

- 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.

District Response to R6

**R6. This Recommendation Has Not Yet Been Implemented, But Will Be Implemented by December 31, 2022.** The District is looking to establish policies and procedures to implement this recommendation, which will include cost accounting for time and materials to the LLADs that generate rental/reservation revenue.

- 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.

District Response to R7

**R7. This Recommendation Has Not Yet Been Implemented, But Will Be Implemented During the Fiscal Year 23-24 LLAD Budget Process.** The District produces a quarterly financial report that is publicly posted and reviewed by the Board of Directors. Costs associated with all accounts of the District, including LLADs, are available in those reports and will continue to be available. With the Consolidated Services agreement being so new to the District, expenditures will need to occur prior to reporting upon them. This is to ensure accuracy and transparency of the financial effect for each LLAD. As such, one element of the budgetary process for FY 23-24 will include that pertinent information.

- 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.

District Response to R8

**R8. The Recommendation Will Not Be Implemented Because it is Not Warranted.** District Policies and procedures are all accessible online at one website, <https://www.eldoradohillscsd.org/>. Further, they are all located in one section of that website, [https://www.eldoradohillscsd.org/about/administration\\_\\_\\_finance/index.php](https://www.eldoradohillscsd.org/about/administration___finance/index.php). As previously outlined in the District response to F10; The policies contained therein include the Community Relations, Complaints by Constituents policy that was requested and provided to the Grand Jury during their investigation. This policy addresses the complaint procedure(s) in general for all aspects of the District's services. It should be noted the search function on the District's website will assist in locating files for those having difficulty while searching. For "assessment complaints and appeals" in particular, the annual LLAD Engineer Reports have included the following Section:



### *Appeals of Assessments Levied on Property*

*If a property owner deems an assessment on their property to be in error, he or she may file a written appeal with the Engineer of the EDHCSD. The appeal is limited to being corrected for the current fiscal year during such year. The Engineer will review the appeal and any relevant information in a prompt manner upon receipt of the appeal. If the Engineer finds a modification to the Assessment is necessary, the Assessment Roll will be updated to reflect such changes. Should the Assessment Roll already be filed with the County, the Engineer has the authority to refund the property owner the difference. Should there still be a dispute after the Engineer's review, the property owner can appeal to the Board directly. All decision made by the Board are final and cannot be overturned.*

Please note the previously cited Section of the Engineer Report(s) is also indicated within the Table of Contents of the Engineer Report.

To recreate a procedure that is already well written would be duplicative and possibly confusing or contradictory.

In terms of creating a policy for record-keeping and timeframes related to responding to a complaint beyond the District Policy and the LLAD Appeals of Assessments Levied on Property, this would again be duplicative and unnecessary. The District's email and telephone system keeps a record of traffic, thus satisfying the recordkeeping requirement, if needed. The timeframes for responding to complaints and specified in District Policy 1230.10.

- 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.

### District Response to R9

**R9. This Recommendation Has Not Yet Been Implemented, But Will Be Implemented by December 31, 2022.** The District attempted to form an LLAD Advisory Committee in response to the 2016 Grand Jury Report, Recommendation #7, and will again solicit interest for this with the same parameters for a Committee of the Board of Directors, as per District Policy(ies).

## **ATTACHMENTS**

Appendix A depicts Carson Creek LLAD (Heritage Park LLAD) Parcel Discrepancy Research.

- A.1.** County Assessor Tax Roll information provided to the District's Assessment Engineering Firm, with the application of the assessment per the property designation as occupied or vacant.
- A.2.** District Staff additional information input to cross-reference vacant-designated parcel data collected from the County vis-à-vis Core Logic and El Dorado County Gotnet, and data collected from visual and photographic inspections made by District Management on August 9, 2022.
- A.3.** Parcel Research from sources including Core Logic and the El Dorado County Gotnet application.