



CITY COUNCIL AGENDA STATEMENT



June 23, 2020

File ID: 20-0244

TITLE

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 18M (OTAY RANCH VILLAGE 3) CLARIFYING AMBIGUITIES IN THE RATE AND METHOD OF APPORTIONMENT FOR SUCH COMMUNITY FACILITIES DISTRICT, MAKING CERTAIN DETERMINATIONS REGARDING THE ADMINISTRATION OF SUCH SPECIAL TAX, AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)

RECOMMENDED ACTION

Council adopt the resolution.

SUMMARY

On June 3, 2020, the City received an appeal from HomeFed, challenging taxes assessed against a mixed-use site within Otay Ranch Village 3. The appeal was submitted pursuant to the appeal procedures set forth in the Rate and Method of Apportionment (RMA) for Community Facilities District (CFD) No. 18M (Otay Ranch Village 3) and staff recommends Council take the following actions to clarify ambiguities in the RMA and made determinations regarding the appeal:

1. Levy Special Tax for parcels 644-061-08 and 644-061-09 based on the Multi-Family Property designation and classify the non-residential portion of mixed-use property as Exempt Property for tax year 2019-20 and thereafter.
2. Determine that HomeFed shall receive a refund in the amount of \$64,997.94 for the overpayment of special taxes in fiscal year 2019-20.

ENVIRONMENTAL REVIEW

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

On November 15, 2016 the City Council in its capacity as the legislative body of CFD No. 18M (the “District”), adopted Ordinance No. 3381 authorizing the levy of a special tax in the District to fund the maintenance of landscaping, storm water, walls, fencing and trails within Otay Ranch Village 3.

The City has received an official notice of appeal from Development Planning & Financing Group dated June 4, 2020 on behalf of HomeFed Corporation (“Developer”) requesting that the City reconsider its determination of the CFD No. 18M special taxes levied on the Village 3 mixed-use/community purpose site for tax year 2019-20 and thereafter (Attachment 1). The site consists of two lots 644-061-08 and 644-061-09 (the “Affected Lots”). Developer asserts that the intent of the RMA was to levy the special tax for the Affected Lots based on the Multi-Family Property designation only, rather than the both Multi-Family Property and the Non-Residential Property designations.

City staff has reviewed the formal appeal and consulted with the Developer, outside counsel (Best, Best and Kreiger) and the City’s CFD Administrator (Spicer Consulting Group). Staff concurs with the recommendations of the CFD Administrator set forth in his letter dated June 9, 2020 (Attachment 2) that: 1) the Affected Lots be taxed only based on the Multi-Family Property designation and that the non-residential portion of mixed-use property should be classified as Exempt (as defined in the RMA) and 2) that the Developer shall be refunded the overpayment amount of \$64,997.94. The CFD Administrator has determined that there are adequate funds generated by the annual special tax levy to issue this refund and meet the current and future maintenance obligations of the district.

Based upon the preliminary budget included in the RMA and the initial calculation of the special tax levy by land use, the proposed clarification and refund will bring the total levy for the CFD in-line with the original formation assumptions. The district will continue to collect sufficient funds to meet maintenance obligations. Further, this change does not increase the levy of taxes on other properties within the district, as they will continue to be assessed pursuant to the RMA.

The RMA for CFD 18M (Attachment 3) provides for “the City Council or its designee to interpret the Rate and Method of Apportionment of Special Tax for purposes of clarifying any ambiguities and make determinations relative to the administration of the Special Tax and any landowner appeals.” Therefore, staff recommends that the Council adopt a resolution to clarify that the levy of special tax for the Affected Lots shall be based solely on the Multi-Family Property designation and that the non-residential portion of the mixed-use property should be classified as Exempt for the 2019-20 tax levy and thereafter and to refund the Developer \$64,993.

DECISION-MAKER CONFLICT

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 1,000 feet of the boundaries of the property which is the subject of this action. Consequently, this item does not present a disqualifying real property-related financial conflict of interest under California Code of Regulations Title 2, section 18702.2(a)(7) or (8), for purposes of the Political Reform Act (Cal. Gov’t Code §87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

In the current year the City will recover the full cost of staff and contractor time via the special tax collected for district administration activities, resulting in no net fiscal impact to the General Fund or Development

Service Fund. The resolution appropriates \$64,997.94 from the available fund balance of CFD No. 18M. There are sufficient funds available to issue this refund without impacting service delivery within the District.

ONGOING FISCAL IMPACT

Approving the resolution limits the assessment of special taxes on the Affected Lots to the Multi-Family designation only in all future levies. This change is consistent with the original budget of the District.

ATTACHMENTS

1. CFD 18M Appeal Letter (6-4-2020)
2. CFD 18M Memo from Spicer Consulting Group (6-9-2020)
3. CFD 18M Special Tax Report

Staff Contact: Kim Elliott, Facilities Financing Manager