



CITY COUNCIL AGENDA STATEMENT



March 26, 2019

File ID: 18-0518

TITLE

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 14M-2 (EASTERN URBAN CENTER/MILLENIA) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE CERTAIN SERVICES AND SETTING THE PUBLIC HEARING TO CONSIDER THE ESTABLISHMENT OF THE PROPOSED DISTRICT

- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ADOPTING A BOUNDARY MAP SHOWING THE BOUNDARIES OF THE TERRITORY PROPOSED FOR THE INCLUSION IN PROPOSED COMMUNITY FACILITIES DISTRICT NO. 14M-2 (EASTERN URBAN CENTER/MILLENIA)

RECOMMENDED ACTION

Council adopt the resolutions.

SUMMARY

The City of Chula Vista is conducting proceedings to consider the formation of Community Facilities District No. 14M-2 (Eastern Urban Center/Millenia) ("CFD No. 14M-2" or the "District"). CFD No. 14M-2 will fund the maintenance and replacement of: (a) public roadway frontages and medians, public transit facilities, and the pedestrian bridge over Eastlake Parkway (including landscaping, enhanced paving, rodent control, trash receptacles, graffiti removal, etc.); (b) public urban parks (including planting/irrigation, site amenities/features, athletic facilities, etc.); and (c) facilities that are directly related to storm water detention and water quality control. The City has retained the services of Spicer Consulting Group (SCG) as special tax consultant and Best, Best and Krieger, LLP (BBK) as legal counsel to provide assistance during the proceedings. This action initiates the formal proceedings to consider the establishment of CFD No. 14M-2.

ENVIRONMENTAL REVIEW

The Development Services Director 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 the creation of government funding mechanism is not considered a project; 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

Background

On February 11, 2014, the City Council approved Resolution No. 2014-022 to form and establish Community Facilities District (CFD) No. 14M (Eastern Urban Center/Millenia). CFD No. 14M (“the original CFD”) was established to levy taxes to fund the maintenance and replacement of specified facilities listed in the Summary section of this agenda statement. The original CFD provided for two improvement areas. Improvement Area 1 was coterminous with the boundary of the original CFD and provided for the maintenance/replacement of: (a) public roadway frontages and medians, public transit facilities, and the pedestrian bridge over Eastlake Parkway (including landscaping, enhanced paving, rodent control, trash receptacles, graffiti removal, etc.); (b) public urban parks (including planting/irrigation, site amenities/features, athletic facilities, etc.); and (c) facilities that are directly related to storm water detention and water quality control. Improvement Area 2 was limited to the boundaries of the public urban parks within the Eastern Urban Center/Millenia development (Millenia). Special taxes levied on Improvement Area 2 were allocated to urban park facilities only. Millenia is currently under development and the special tax is being levied pursuant to the adopted Rate and Method of Apportionment (the “RMA”) for the original CFD.

During the fall of 2016, the City began issuing permits for a new residential product type in the southeastern portion of Millenia. This new product, referred to as a “detached condominium,” is not defined in the RMA prepared for the original CFD, and therefore no special taxes may be levied on this product. To date, approximately 149 “detached condominium” units have been permitted. The loss in special tax revenue resulting from the untaxed “detached condominium” units, together with shifts in the number of units among other residential product types, totals approximately \$35,000 annually, in fiscal year (FY) 2018-2019¹ dollars.

Upon identifying this issue, the City promptly convened a team to determine the best path forward. After thorough consideration of all alternatives, the City selected an overlay CFD as the preferred taxing mechanism. The City retained SCG and BBK to assist in the formation of the new overlay CFD (i.e., CFD No. 14M-2), with the following initial objectives:

1. Mitigate the projected \$35,000 annual funding shortfall; and
2. Incorporate the “detached condominium” units into a new RMA to authorize the levy of special taxes on future units of this type.

After ensuring that no existing residents were improperly taxed, the team worked with Meridian Development and their consultants to review the original CFD budget. The objective of this review was to determine the extent of the special tax shortfall in the original CFD for the purposes of establishing new tax

¹ Using FY 2018-2019 dollars allows for the determining the new tax rates for CFD No. 14M-2 to maintain consistency with the tax rates in CFD No. 14M Improvement Area 1. Both maximum tax rates will escalate at the same rate for FY 2019-2020 upon determination of the annual maximum tax escalator.

rates for CFD No. 14M-2. During this review, it was determined that several facilities contained in the original CFD’s budget had since been removed, reconfigured, or reduced in scope. These changes, together with the budget implications in FY 2013-2014 dollars, are presented in Table 1 below.

Table 1

Facility	Description	Unit Cost	Original CFD Budget (FY 13-14 \$)		Updated Facilities Information (FY 13-14\$)		Budget Savings (Updated - Original)
			Quantity	Annual Cost	Quantity	Annual Cost	
Bioretention Basins	Inspection/Ongoing Maintenance	\$591.42	154	\$91,079	130	\$76,885	(\$14,194)
	Replacement (3 times per 100 years)	\$50.72	154	\$7,810	130	\$6,594	(\$1,216)
Street M Underground Detention	-	\$5,445	2	\$10,890	0	\$0	(\$10,890)
New Bioretention Maintenance Requirements	Periodic Inspection and Maintenance	\$1,000	7	\$7,000	0	\$0	(\$7,000)
	Add 2" Mulch	\$0.35	20,910	\$7,319	0	\$0	(\$7,319)
	Bioretention Annualized Replacement	\$0.30	20,910	\$6,273	0	\$0	(\$6,273)
Totals:				\$130,371		\$83,479	(\$46,892)

Adjusting for inflation, budgetary savings of approximately \$51,313 is projected for the original CFD (current dollars). These savings mitigate the projected \$35,000 shortfall in special tax revenues for the original CFD in full.

Additional mitigation against future cost increases has also been identified in the original CFD, including a seven percent (7%) maintenance reserve and approximately \$22,345 budgeted for Wolf Canyon storm water detention basins (the “basins”). The maintenance of the basins was included in both the original CFD and CFD 12M (Otay Ranch Village 7). Taken together, the basin maintenance budgets in the two existing CFDs exceed the total annual cost for the associated maintenance activities. This budgetary redundancy provides an additional buffer against future cost increases in excess of the annual indexing of the special taxes.

Based on the above, staff does not recommend increasing the special tax rates provided in the original CFD, as the identified budget savings fully mitigate the shortfall and additional cost overrun buffers are provided. CFD No. 14M-2 will establish a new rate for the “detached condominium” product (“Detached Residential Property”) consistent with the benefit unit factors provided in the original CFD’s RMA.

CFD No. 14M-2’s boundary map was designed to coincide with the limits of Improvement Area 1 of the original CFD. However, certain areas were excluded as described below:

1. “Detached condominiums” permitted prior to CFD No. 14M-2 were excluded; and
2. Units currently occupied, or projected to be occupied prior to the adoption of CFD No. 14M-2, were also excluded.

Also, the five public urban parks included in Improvement Area 2 are not within the boundaries of CFD No. 14M-2.

The specific characteristics of CFD No. 14M-2 are described in the paragraphs that follow.

Description of CFD No. 14M-2

On January 13, 1998, Council adopted the “City of Chula Vista Statement of Goals and Policies regarding the establishment of Community Facilities Districts” (the “Goals and Policies”). The approval of this document ratified the use of CFDs as a public financing mechanism for (1) the construction and/or acquisition of public infrastructure, and (2) the financing of authorized public services. Taxes levied by maintenance districts, such as CFD No. 14M-2, are currently excluded from the 2% maximum tax criterion set forth in the Goals and Policies.

On April 28, 1998, Council, acting under its Charter authority, enacted the “Chula Vista Community Facilities District Ordinance” (the “Ordinance”). The Ordinance adopted the Mello-Roos Act with modifications to accomplish the following: (1) incorporate all maintenance activities authorized by the “Landscaping & Lighting Act of 1972” (the “1972 Act”); (2) include certain maintenance activities not listed in the Mello-Roos Act or the 1972 Act; and (3) establish an operating reserve fund for open space districts.

The proposed RMA for CFD No. 14M-2 (Attachment 1) accounts for the considerations and conditions described above and is recommended for Council approval.

Area of Benefit

CFD No. 14M-2 encompasses a portion of the Millenia project, a 206-acre Urban Village located in the southeastern portion of the City of Chula Vista. Millenia is currently being developed, and at buildout will include up to 2,983 multi-family residential units and 3.487 million square feet of commercial uses, consisting of office, hospitality, retail, and civic uses. Millenia will also accommodate a fire station (1.07 acres), a public school (8.54 acres), and five public urban parks (10.91 acres). The District covers approximately 82.59 acres (or approximately 40%) of the Millenia project. Of the 82.59 acres, 53.63 acres (or approximately 65%) are owned by SLF IV-Millenia, the master developer of the Millenia project. A reduced copy of the boundary map is presented in Attachment 2.

The City will remove CFD 14M-2 properties from the original CFD through recordation of a notice of cessation of special tax for the original CFD. This action will remove the original CFD from title for the impacted properties.

Taken together, the budgets for CFD No. 14M-2, CFD 14M Improvement Area 1, and CFD 14M Improvement Area 2 will be consistent with the total budget of the original CFD, accounting for the reduction, removal, and reconfiguration of storm water facilities detailed in Table 1, and the addition of \$22,000 per year in administrative expenses for CFD No. 14M-2.

Land Use Types

Consistent with the original CFD, the CFD 14M-2 RMA establishes tax rates for Developed Property, Approved Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable Community Purpose Facility (CPF) Property. Within the category of Developed Property, the proposed RMA establishes four land use classes: (1) Apartment Property; (2) Attached Residential Property; (3) Detached Residential Property; and (4) Non-Residential Property. The Attached Residential Property land use class will apply to parcels classified as Multi-Family Property in the original CFD. The Detached Residential Property land use class will apply to the “detached condominium” product previously discussed.

Description of the Improvements to be Maintained

The District will fund the maintenance and replacement of: (a) public roadway frontages and medians, public transit facilities, and the pedestrian bridge over Eastlake Parkway (including landscaping, enhanced paving, rodent control, trash receptacles, graffiti removal, etc.); (b) public urban parks (including planting/irrigation, site amenities/features, athletic facilities, etc.); and (c) facilities that are directly related to storm water detention and water quality control. The facilities to be maintained and replaced are consistent with the Improvement Area 1 facilities, as described in the original CFD’s RMA. A complete list of maintenance services is presented in Attachment 3.

Cost Estimate

The estimated annual budget for CFD No. 14M-2 is approximately \$360,186, as summarized in Table 2 below.

Table 2

Description	Annual Budget
Facility Maintenance	\$ 248,404
Facility Replacement	\$ 64,942
CFD Administration	\$ 22,000
Maintenance Reserve	\$ 24,840
Total Annual Budget	\$360,186

Attachment 4 contains a detailed annual budget for the District at build out.

Maximum Special Tax Rate

The maximum special tax rates for Developed Property in FY 2018-2019 are presented in Table 3 below.

Table 3

Land Use Type	Description	Maximum Special Tax
1	Apartment Property	\$206.82 per Dwelling Unit
2	Attached Residential Property ²	\$275.76 per Dwelling Unit

² See Multi-Family Property in the original CFD.

3	Detached Residential Property ³	\$344.70 per Dwelling Unit
4	Non-Residential Property	\$1,377.71 per Acre

In some instances, a Developed Property may contain more than one land use type (e.g. mixed-use developments including a residential use above a non-residential use). The maximum special tax that may be levied shall be levied only on the residential component of a mixed-use project.

The maximum special tax for Approved Property and Undeveloped Property is \$4,359.00 per acre. Developed Taxable Property Owner Association Property and Taxable CPF Property will be classified as Non-Residential Property, while undeveloped Taxable Property Owner Association Property and Taxable CPF Property will be classified as Undeveloped Property.

All proposed rates are consistent with and/or proportional to the current maximum special tax rates in CFD 14M Improvement Area 1.

Collection of Taxes

The Method of Apportionment in the proposed RMA was designed to ensure taxes levied in Improvement Area 1 of the original CFD and CFD 14M-2 are consistent and proportional. An initial Overall Special Tax Requirement will be calculated, equal to the Special Tax Requirement for CFD 14M Improvement Area 1. The Developed Properties in both CFD 14M Improvement Area 1 and CFD 14M-2 will then be assessed proportionately up to 100% of the Maximum Special Tax for Developed Properties. If additional funds are necessary to meet the Special Tax Requirement, then Approved Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable CPF Property may be taxed. In all cases, the levy for each land use class will be proportional between CFD 14M Improvement Area 1 and CFD 14M-2. An example levy calculation is provided as Attachment 5.

Resolutions

There are two resolutions on tonight’s agenda, which, if adopted, will accomplish the following:

The RESOLUTION OF INTENTION is the jurisdictional resolution declaring the intention of the City Council to establish the proposed CFD No. 14M-2, authorize the levy of a Special Tax, order the preparation of a Community Facilities District Report for CFD No. 14M-2, and set the time and place for the public hearing.

The RESOLUTION ADOPTING THE BOUNDARY MAP is the formal action adopting the map and setting forth the boundaries of the proposed CFD No. 14M-2.

Future Actions

The public hearing and consideration of the adoption of a resolution forming and establishing CFD No. 14M-2, and submitting the authorization for the levy of special taxes to the qualified electors are scheduled for the City Council meeting of May 7, 2019 at 5:00 P.M.

³ New land use created with CFD 14M-2 to address “detached condominiums” constructed in Millenia project.

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, all costs of formation of the District will be borne by the original CFD and the ongoing administration costs will be funded by the special tax levy of CFD No. 14M-2. The City will recover the full cost of staff time expended in district formation and administration activities in perpetuity, resulting in no net fiscal impact to the General Fund or Development Services Fund.

ONGOING FISCAL IMPACT

In future years, the City will recover the full cost of staff time expended in administrative activities in perpetuity, resulting in no net fiscal impact to the General Fund or Development Services Fund.

ATTACHMENTS

1. Rate and Method of Apportionment
2. Proposed Boundary Map
3. Description of Services
4. Cost Estimate
5. Example Levy Calculation

Staff Contact: Scott Barker, Transportation Engineer, Development Services Department