



CITY COUNCIL AGENDA STATEMENT



May 21, 2019

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19-0281

TITLE

ORDINANCE OF THE CITY OF CHULA VISTA ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 14M-2 (EASTERN URBAN CENTER/MILLENIA), AUTHORIZING THE LEVY OF A SPECIAL TAX IN SUCH COMMUNITY FACILITIES DISTRICT (SECOND READING AND ADOPTION)

RECOMMENDED ACTION

Council adopt the ordinance.

SUMMARY

On March 26, 2019, City Council initiated proceedings for the formation of Community Facilities District No. 14M-2 ("CFD No. 14M-2" or the "District") by adoption of Resolutions 2019-036 and 2019-037. The recommended action is the next step in the proceedings to establish CFD No. 14M-2. 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.

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 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.

Relationship with CFD No. 14M

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 annual administration of the original CFD, City staff determined that a new residential product type had been introduced within Millenia (i.e., “detached condominium”). Because this product type is not defined in the Rate and Method of Apportionment (RMA) prepared for the original CFD, no special taxes could be levied on it, potentially resulting in a budget shortfall for the original CFD. After convening a team to complete a thorough consideration of all alternatives, the City determined that establishing an overlay CFD was the preferred taxing mechanism to accommodate the levy of special taxes on the new detached condominium product type. During a review of the original CFD’s budget, the City determined that several facilities have since been removed, reconfigured, or reduced in scope. The budget savings associated with these facility changes fully mitigate the loss in special taxes due to the development of detached condominiums in Millenia. Therefore, no special tax rate increases are necessary for CFD No. 14M-2.

Description of CFD No. 14M-2

CFD No. 14M-2 will establish a new special tax rate for the “detached condominium” product (i.e., Detached Residential Property) consistent with the benefit unit factors provided in the original CFD’s RMA. CFD No. 14M-2’s boundary map (Attachment 1) 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 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.

On March 26, 2019 the City adopted Resolution No. 2019-036 declaring its intention to establish CFD No. 14M-2 and to authorize the levy of a special tax. Resolution No. 2019-036 also directed the preparation of a Community Facilities District Report (the “Special Tax Report”), which is contained in Attachment 2. At the same hearing, the City approved Resolution No. 2019-037 adopting the CFD No. 14M-2 boundary map. This boundary map was recorded on April 5, 2019 in the Office of the County Recorder (document 2019-7000131, book 47, page 83).

CFD No. 14M-2 will provide the necessary funding for the operation and maintenance of public landscaping, storm water quality, walls, a trail, a pedestrian bridge, lighting, and park facilities by levying an annual special tax which is collected from the property owners within CFD No. 14M-2 in conjunction with property tax assessment or via direct billing. All expenses related to the district administration, including levying and collecting the special taxes, are also funded from such special taxes. The following sections provide additional detail on CFD 14M-2. Refer to the Special Tax Report (Attachment 2) for further background information.

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 (6.55 acres), and five public urban parks (10.91 acres). The District covers approximately 90.04 acres (or approximately 40%) of the Millenia project. Of the 90.04 acres, 53.71 acres (or approximately 60%) are owned by SLF IV-Millenia, the master developer of the Millenia project.

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 certain facilities included in the original CFD budget, 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 1 below.

Table 1

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

Refer to Attachment 4 for additional details on the District budget and the budget for CFD 14M Improvement Areas 1 and 2.

Maximum Special Tax Rate

The maximum special tax rates for Developed Property in FY 2018-2019 are presented in Table 2 below.

Table 2

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

2	Attached Residential Property ¹	\$275.76 per Dwelling Unit
3	Detached Residential Property ²	\$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 and 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 and Ordinance

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

The RESOLUTION OF FORMATION is the formal action of the City Council forming and establishing CFD No. 14M-2 and authorizing submittal of the levy of special taxes to the qualified electors of the District.

The RESOLUTION DECLARING SPECIAL ELECTION RESULTS is the action whereby the City Council formally approves the results of a special election by qualified electors regarding the proposed levy of special taxes.

The ORDINANCE AUTHORIZING THE LEVY OF SPECIAL TAX in which the City Council formally authorizes the levy of special taxes on taxable properties located within CFD No. 14M-2 pursuant to the RMA for the District.

¹ See Multi-Family Property in the original CFD.

² 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. Recorded Boundary Map
2. Special Tax Report
3. Description of Services
4. Cost Estimate
5. Example Levy Calculation

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