



# City of Chula Vista

## Legislation Details (With Text)

<b>File #:</b>	17-0038	<b>Name:</b>	Formation of Freeway Commercial 2 Maintenance CFD No. 19M
<b>Type:</b>	Public Hearing	<b>Status:</b>	Passed
		<b>In control:</b>	City Council
<b>On agenda:</b>	5/16/2017	<b>Final action:</b>	5/16/2017

**Title:** CONSIDERATION OF THE FORMATION AND ESTABLISHMENT OF COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), CONDUCTING A SPECIAL ELECTION THEREIN, AND AUTHORIZATION TO LEVY A SPECIAL TAX THEREIN

A. RESOLUTION NO. 2017-074 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA FORMING AND ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), AND AUTHORIZING SUBMITTAL OF THE LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF SUCH COMMUNITY FACILITIES DISTRICT

B. RESOLUTION NO. 2017-075 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), DECLARING THE RESULTS OF A SPECIAL ELECTION IN SUCH COMMUNITY FACILITIES DISTRICT

C. ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), AUTHORIZING THE LEVY OF A SPECIAL TAX IN SUCH COMMUNITY FACILITIES DISTRICT (FIRST READING)

**Sponsors:**

**Indexes:** 1. Operational Excellence, 3. Healthy Community, 5. Connected Community

**Code sections:**

**Attachments:** 1. Item 5 - Attachment 1 - Recorded Boundary Map, 2. Item 5 - Attachment 2 - CFD Report, 3. Item 5 - Resolution A, 4. Item 5 - Resolution A - Exhibit B, 5. Item 5 - Resolution B, 6. Item 5 - Ordinance C, 7. Item 5 - Ordinance C - Exhibit A

Date	Ver.	Action By	Action	Result
5/16/2017	1	City Council	adopt	Pass

CONSIDERATION OF THE FORMATION AND ESTABLISHMENT OF COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), CONDUCTING A SPECIAL ELECTION THEREIN, AND AUTHORIZATION TO LEVY A SPECIAL TAX THEREIN

A. RESOLUTION NO. 2017-074 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA FORMING AND ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), AND AUTHORIZING SUBMITTAL OF THE LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF SUCH COMMUNITY FACILITIES DISTRICT

B. RESOLUTION NO. 2017-075 OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), DECLARING THE RESULTS OF A SPECIAL ELECTION IN SUCH COMMUNITY FACILITIES DISTRICT

C. ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), AUTHORIZING THE LEVY OF A SPECIAL TAX IN SUCH COMMUNITY FACILITIES DISTRICT (FIRST READING)

### **RECOMMENDED ACTION**

Council conduct the public hearing, instruct the City Clerk to tabulate the ballots, adopt the resolutions, and place the ordinance on first reading.

### **SUMMARY**

On April 11, 2017, the City Council approved the Resolution of Intention to Form Community Facilities District No. 19M (Freeway Commercial 2) ("CFD No. 19M") (Resolution 2017-051) and set the public hearing for May 16, 2017.

CFD No. 19M will fund the maintenance and replacement of (a) landscaping, including, but not limited to, trees, shrubs, grass, other ornamental vegetation located in or on slopes, parkways and medians; (b) facilities that are directly related to storm water conveyance, including, but not limited to pipes and drainage inlets, the Poggi Canyon channel and detention basin or parks; (c) walls and fencing; and (d) parks.

The public hearing and adoption of the two resolutions and the ordinance above, will continue the formal proceedings leading to the establishment of CFD No. 19M and authorization of the levy of the special tax.

### **ENVIRONMENTAL REVIEW**

#### **Environmental Notice**

The Project was adequately covered in previously adopted/certified Final Second Tier Environmental Impact Report (EIR 02-04) and Addenda to EIR 02-04 for the Otay Ranch Planning Area Twelve Freeway Commercial Sectional Planning Area (SPA) Plan.

#### **Environmental Determination**

The Director of Development Services has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the project was adequately covered in the previously adopted/certified Final Second Tier Environmental Impact Report (EIR 02-04) and Addenda to EIR 02-04 for the Otay Ranch Planning Area Twelve Freeway Commercial Sectional Planning Area (SPA) Plan. Thus, no further environmental review or documentation is necessary.

### **BOARD/COMMISSION RECOMMENDATION**

Not Applicable.

### **DISCUSSION**

On January 13, 1998, the City Council adopted the "City of Chula Vista Statement of Goals and Policies regarding the establishment of Community Facilities Districts" (the "Goals and Policies"). This

document establishes 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 CFDs, such as CFD No. 19M, 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.

Village II Town Center, LLC and SunRanch Capital Partners, LLC (collectively referred to as the “Developer”) have requested that the City conduct proceedings to consider the approval of the establishment of CFD No. 19M covering that area within Otay Ranch known as Freeway Commercial 2. Freeway Commercial 2 is located north of the Otay Ranch Town Center at the Intersection of Town Center Drive and Olympic Parkway and consists of approximately thirty-six (36) acres. The conditions of approval of the tentative map for Freeway Commercial 2 require that said CFD be formed prior to approval of the final subdivision map.

CFD No. 19M will fund the maintenance and replacement of (a) landscaping, including, but not limited to, trees, shrubs, grass, other ornamental vegetation located in or on slopes, parkways and medians; (b) facilities that are directly related to storm water conveyance, including, but not limited to pipes and drainage inlets, the Poggi Canyon channel and detention basin or parks; (c) walls and fencing; and (d) parks and trails. The City has retained the services of NBS Government Finance Group (“NBS”) as special tax consultant and Best, Best and Krieger, LLP as legal counsel to provide assistance during the formation proceedings, including the preparation of this report and associated resolutions and ordinance.

CFD No. 19M will provide the necessary funding for the operation and maintenance of public landscaping areas and public park amenities. On an annual basis, the property owners within CFD No. 19M will have to pay a “special tax” that will be collected with their property taxes or via direct billing. All expenses related to the administration of CFD No. 19M, including levying and collecting the special taxes, are also funded from these special taxes.

Required resolutions were adopted at the meeting of the City Council on April 11, 2017 to initiate the proceedings to establish CFD No. 19M and the boundary map of the proposed CFD No. 19M (the “Boundary Map”) was recorded with the San Diego County Recorder’s Office at least 15 days prior to this public hearing. Tonight’s action will continue the formal proceedings to establish CFD No. 19M.

### **Area of Benefit**

The proposed boundaries of CFD No. 19M encompass parcels located within Otay Ranch known as Freeway Commercial 2. The area is approximately thirty-six (36) acres located just south of Olympic Parkway between SR-125 and Eastlake Parkway and north of Otay Ranch Town Center. The Developer owns 100% of the property within the proposed boundaries of CFD No. 19M. The project is proposed for approximately 600 multi-family units, 15,000 square feet of mixed-use commercial space, 300 hotel rooms in two hotels, and a two-acre highly-amenitized public park. The Boundary

Map was approved by Council on April 11, 2017 by Resolution 2017-050 and filed with the San Diego County Recorder's Office on April 18, 2017. A reduced copy of the Boundary Map is presented in **Attachment 1**.

### **Cost Estimate**

The estimated annual budget for CFD No. 19M, included with **Attachment 2**, is approximately \$299,560. This budget includes \$268,246 for landscape, walls and fencing, and a highly-amenitized park; and \$11,314 that is set aside for the replacement of the amenities as they reach the end of their useful life. In addition, the budget includes \$20,000 for CFD administration (e.g. preparing reports, levying and collecting taxes, public assistance, etc.) by the Finance Department or their designee.

### **Proposed Special Tax and CFD Report**

A copy of the CFD Report - Community Facilities District No. 19M (Freeway Commercial 2) (the "CFD Report") prepared by the Special Tax Consultant, NBS Government Finance Group, is included as **Attachment 2**, and is on file and available for public review in the City Clerk's Office. This report incorporates the "Rate and Method of Apportionment for City of Chula Vista Community Facilities District No. 19M (Freeway Commercial 2)" ("RMA") (previously approved by Council on April 11, 2017) that establishes the procedures for levying the special taxes in CFD No. 19M. The special tax rates and methodology for levying the annual special tax are described in the CFD Report and enumerated in the RMA. All capitalized terms used below and not defined in this statement shall have the meanings given to such terms in the RMA.

CFD No. 19M has six proposed categories of taxable property, as follows:

Single Family Attached Property with Density ≤19 DU/acre	Residential property consisting of one or more Dwelling Unit(s) that may or may not share common walls with one or more other Dwelling Unit(s), including, but not limited to, duplexes, triplexes, townhomes, and condominiums with a density of 19 or fewer Dwelling Units per acre.
Single Family Attached Property with Density >19 DU/acre	Residential property consisting of one or more Dwelling Unit(s) that may or may not share common walls with one or more other Dwelling Unit(s), including, but not limited to, duplexes, triplexes, townhomes, and condominiums with a density of greater than 19 Dwelling Units per acre.
Multi-Family Property	Residential Property consisting of two or more for-rent Dwelling Units that share common walls, including, but not limited to, apartments and Residential Property that are not for sale to an end user and are under common management.
Non-Residential Property	Developed property for which a building permit(s) has been issued for a structure or structures for non-residential use, excluding Hotel Property.
Hotel Property	Developed property for which a building permit(s) has been issued for purposes of constructing one or more structures comprising of individual sleeping or living units for the accommodation of transient guests.
Undeveloped Property	Parcels not classified as Developed Property.

There are properties which will not be taxed and are included in an "Exempt Category". These

properties include:

- (i) Public Property,
- (ii) Property Owner Association Property,
- (iii) Community Purpose Facility (CPF) Property, and
- (iv) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, including but not limited to property designated for open space, trails, pathways, parks or park and recreation related facilities.

Developed Property are those parcels for which a building permit has been issued prior to March 1<sup>st</sup> preceding the Fiscal Year in which the Special Tax is being levied. The proposed maximum special tax rate in the Rate and Method of Apportionment (RMA) on all Developed Property was determined by dividing the estimated annual budget at build out (plus a capital replacement allocation, initially equal to 20.9% of the annual budget) by the total estimated development (EDUs) at build out.

### **Collection of Taxes**

At the beginning of each fiscal year, the City shall determine the amount of the Special Tax Requirement for CFD No. 19M. Then, the special taxes will be levied on all Taxable Property within CFD No. 19M until such time as the total amount of Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied proportionately on each Assessor's Parcel of Developed Property within CFD No. 19M, up to 100% of the applicable Maximum Special Tax.

If additional monies are needed to satisfy the Special Tax Requirement beyond the 100% of the Maximum Special Tax already levied on Developed Property, the remaining amount needed to satisfy the Special Tax Requirement shall then be levied proportionately on each Assessor's Parcel of Undeveloped Property at up to 100% of the Maximum Special Tax on Undeveloped Property.

The Maximum Special Tax shall be subject to an annual escalation as follows.

$$\begin{array}{lcl} \text{Maximum Special Tax} & = & \text{Maximum Special Tax Component for Labor +} \\ & & \text{Maximum Special Tax Component for Water +} \\ & & \text{Maximum Special Tax Component for Asset Replacement} \end{array}$$

For a full description of the RMA of the Special Tax, see **Attachment 2**.

Labor Annual Percentage Change	This component shall be equal to the annual percentage change for the July immediately preceding the current Fiscal Year and compared to the previous year's Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).
Water Annual Percentage Change	This component shall be equal to the annual percentage change for the July immediately preceding the current Fiscal Year and compared to the previous year's Otay Water District Commodity Rate.
Asset Replacement Annual Percentage Change	This component shall be equal to the annual percentage change for the July immediately preceding the current Fiscal Year and compared to the prior year's Engineering News Record Construction Cost Index for the Los Angeles Area.

The Fiscal Year 2017-2018 Maximum Special Tax shall be equal to the Fiscal Year 2017-2018 Maximum Special Tax rates listed in the Table below. In each subsequent Fiscal Year, the Maximum Special Tax Components shall be increased by the escalation factor outlined above in Section C (1, 2, and 3) of the RMA, provided the Maximum Special Tax Component for Labor, the Maximum Special Tax Component for Water and the Maximum Special Tax Component for Asset Replacement shall never be less than two percent (2%) and not greater than six percent (6%) than the maximum amounts in the preceding Fiscal Year, respectively.

For example, when calculating the Maximum Special Tax for Fiscal Year 18/19, the following adjusted tax components will be summed:

- The Maximum Special Tax Component for Labor (17/18) increased by percentage change in the CPI-W between July 2017 and July 2016,
- The Maximum Special Tax Component for Water (17/18) increased by percentage change in Otay Water District Commodity Rate between July 2017 and July 2016, and
- The Maximum Special Tax Component for Asset Replacement (17/18) increased by the percentage change in the Construction Cost Index for the Los Angeles Area between July 2017 and July 2016.

### **Proposed Maximum Special Taxes**

The proposed Maximum Special Taxes for any Assessor's Parcel classified as Developed Property or Undeveloped Property for fiscal year 2017-18 are as follows:

Land Use Class	Maximum Special Tax Component			Fiscal Year 2017-2018 Maximum Special Tax
	Labor	Water	Asset Replacement	
Single Family Attached Property with Density of ≤19 DU/acre	\$803.23 per DU	\$223.47 per DU	\$43.30 per DU	\$1,070.00 per DU
Single Family Attached Property with Density of >19 DU/acre	\$481.94 per DU	\$134.08 per DU	\$25.98 per DU	\$642.00 per DU
Multi-Family Property	\$2,614.63 per acre	\$727.41 per acre	\$140.96 per acre	\$3,483.00 per acre

Land Use Class	Maximum Special Tax Component			Fiscal Year 2017-2018 Maximum Special Tax
	Labor	Water	Asset Replacement	
Non-Residential Property	\$0.32 per building square foot	\$0.09 per building square foot	\$0.02 per building square foot	\$0.43 per building square foot
Hotel Property	\$4,329.94 per acre	\$1,204.62 per acre	\$233.44 per acre	\$5,768.00 per acre
Undeveloped Property	\$7,314.65 per acre	\$2,034.99 per acre	\$394.36 per acre	\$9,744.00 per acre

At buildout, the maximum annual special tax rates generate a total cost estimate of \$299,721. The difference between the two total cost estimates is attributable to a rounding adjustment. When the final maximum annual special tax rates were finalized, the maximum annual special tax rates were rounded up to the nearest dollar. As a result of this rounding adjustment, the buildout cost estimate is \$161.00 higher than the annual cost estimate.

### **Public Hearing and Election Procedure**

Tonight, following this public hearing, an election will be held for the landowners to vote on the authorization to levy special taxes within CFD No. 19M. Once the votes are cast, Council will be requested to certify the results of the election. If the ballot measure is approved by at least 2/3 of the qualified electors (i.e., the landowners) voting on the measure, CFD No. 19M will be authorized to levy such special taxes. Council will then be requested to introduce the Ordinance authorizing the levy of special taxes within CFD No. 19M.

### **Resolutions and Ordinance**

There are two resolutions, that if adopted, and one ordinance, that if adopted following introduction and waiver of the first reading thereof today, will accomplish the following pertaining to the establishment of CFD No. 19M:

Resolution (A), RESOLUTION FORMING AND ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 19M is the formal action forming and establishing CFD No. 19M and authorizing submittal of the levy of special taxes to the qualified electors of CFD No. 19M, and performs the following:

- Sets the name of CFD No. 19M;
- Identifies the CFD Report prepared by NBS as the report to be used for all future proceedings;
- Establishes a Special Tax to be levied within CFD No. 19M. The Special Tax is set forth in the RMA, which will be approved by the adoption of this Resolution;
- Implements the provisions of the Local Agency Special Tax and Bond Accountability Act which

became effective on January 1, 2001 by specifying that:

- Each special tax shall be levied for the specific purposes set forth in the Resolution;
  - The proceeds of the levy of each such special tax shall be applied only to the specific applicable purposes set forth in the Resolution;
  - CFD No. 19M shall establish a separate account into which the proceeds of each such special tax shall be deposited; and
  - The City Manager or his or her designee, acting for and on behalf of CFD No. 19M, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.
- Submits two (2) ballot propositions to the qualified electors of CFD No. 19M to (A) levy special taxes and (B) establish an appropriations limit for the CFD No. 19M; and
  - Describes the type of services to be financed by CFD No. 19M.

Resolution (B), RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION IN COMMUNITY FACILITIES DISTRICT NO. 19M makes official the results of the canvass of the ballots submitted by the qualified electors of CFD No. 19M; and

Ordinance (C), ORDINANCE AUTHORIZING THE LEVY OF A SPECIAL TAX authorizes the levy of the special tax, sets forth procedures for levying and collecting the special taxes, and authorizes the special taxes to be secured by the lien imposed pursuant to Sections 3114.5 and 3115.5 of the Streets and Highways Code of the State of California, which lien shall be a continuing lien and shall secure each levy of the special taxes. The City Council will be asked to introduce this ordinance and waive the first reading today.

### **Future Actions**

Future actions include enacting the Ordinance (second reading), and the levy of special taxes.

### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council members and has found no property holdings within 500 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)(11), 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.

### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. Once CFD No. 19M is formed, the proceeds will serve three City Strategic Plan majors goals: Operational Excellence and Healthy Community by ensuring a new and dedicated revenue stream to provide for the ongoing maintenance the public improvements, park, and facilities being constructed in association with the development of Freeway Commercial 2, and Connected Community by way of maintaining the



pedestrian facilities associated with the development.

### **CURRENT YEAR FISCAL IMPACT**

All costs of formation of the CFD No. 19M are borne by the Developer and the on-going administration will be funded entirely by CFD No. 19M. The City will recover the full cost of staff time expended in formation of CFD No. 19M and administration activities in perpetuity.

Staff anticipates that the majority of the CFD No. 19M administration will be contracted out. The CFD No. 19M administration cost is estimated not to exceed \$20,000 annually.

### **ONGOING FISCAL IMPACT**

The costs to administer CFD No. 19M, if established, shall be paid from the proceeds of special taxes to be levied within CFD No. 19M. There is, therefore, no ongoing fiscal impact on the City's General Fund or Development Services Fund by this action.

### **ATTACHMENTS**

1. Recorded Boundary Map
2. CFD Report

*Staff Contact: Paul Oberbauer, Senior Civil Engineer, Development Services Department*