



# CITY COUNCIL STAFF REPORT



May 17, 2022

## ITEM TITLE

Open Space Maintenance Districts: Initiating Proceedings, Approving the Engineer's Report, Declaring the Intention to Levy Assessments for Fiscal Year 2022/23

**Report Number:** 22-0142

**Location:** No specific geographic location

**Department:** Finance

**Environmental Notice:** The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

## Recommended Action

Adopt the following resolutions and set a public hearing for June 21, 2022:

- A. Initiating Proceedings for the levy and collection of Assessments for Fiscal Year 2022/23 for Open Space Districts 1 thru 11, 14, 15, 17, 18, 20, 23, 24, 26, 31, 33, Eastlake, Town Center and Bay Boulevard of the City of Chula Vista pursuant to the Landscaping and Lighting Act of 1972
- B. Approving the Engineer's Report, declaring the intention to levy and collect assessments; and setting a Public Hearing regarding the Fiscal Year 2022/23 assessments for Open Space districts 2 through 8, 11, 14, 15, 17, 18, 20 (Zones 1 through 6, 8 and 9), 23, 24, 26, 31, 33, Eastlake Maintenance District No. 1 (Zones A, B, and D), and Bay Boulevard Maintenance District
- C. Approving the Engineer's Report, declaring the intention to levy and collect assessments; and setting a public hearing regarding the Fiscal Year 2022/23 assessments for Open Space District 9, Open Space District 10, Eastlake Maintenance District No. 1 (Zone E), and Town Center Maintenance District
- D. Approving the Engineer's Report, declaring the intention to levy and collect assessments; and setting a public hearing regarding the Fiscal Year 2022/23 assessments for Open Space District 1
- E. Approving the Engineer's Report, declaring the intention to levy and collect assessments; and setting a public hearing regarding Fiscal Year 2022/23 assessments for Open Space District Eastlake Maintenance District No. 1 (Zone C)
- F. Approving the Engineer's Report, declaring the intention to levy and collect assessments; and setting a public hearing regarding the Fiscal Year 2022/23 assessments for Open Space District 20, Zone 7

## SUMMARY

The City administers and maintains 36 Open Space Districts and associated zones that have been established over the last 30 years. The Open Space Districts provide a financing mechanism to maintain the public open space areas associated with each specific development. The City Council's approval of the levy is required by the first week of August in order to meet the annual deadline established by the San Diego County Auditor-Controller. This item represents the initial step in an annual two-step process. Specifically, it declares the intention to levy and collect assessments, approves the Fiscal Year 2022-23 Engineer's Report, and sets the date of the public hearing, which is step two in the annual process. These efforts provide for the levy of assessments to provide maintenance services, as detailed below and ensures that the County Auditor-Controller deadlines are met for all of the City's Open Space Districts and their associated zones.

## **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 the proposed activity consists of reporting and creating governmental fiscal/funding mechanism which does 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**

Open Space Districts (OSDs) were established in conjunction with each development to ensure a financing mechanism was available for the funding of perpetual maintenance of common open space areas. The City levies annual assessments within each OSD to cover the costs of maintenance associated with each OSD area of maintenance. Once City Council approves the annual assessments, they are sent to the County for inclusion on the secured property tax bills of each affected parcel.

Each year the City Council must take two actions before levying the annual assessments. Tonight's item is the first step and includes Council approval of the Engineer's Report on Open Space Districts, declaration of the City's intention to levy the annual assessments and setting of the date and time for a public hearing. The second action, scheduled for June 21, 2022, is conducting the public hearing, consideration of public testimony, authorization to levy annual assessments and confirmation of the amount to be collected.

Pursuant to California State law and Municipal Code, the City Engineer has prepared and filed the annual report for all existing OSDs. Attachment 1 lists the names and locations of the OSDs. The annual report provides Council the opportunity to review the history of the OSDs. The report includes information regarding:

- The proposed budgets
- Funds remaining in the account
- The proposed assessment (based upon prior year assessment plus an inflation factor)

- The collectible (the amount needed from each property owner to provide sufficient funds for the following fiscal year's maintenance)

### **Improvements and Services**

The facilities and items to be maintained by the Open Space Districts currently exist and will remain, in general, of the following:

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|--|---|
| ▪ Irrigation                                     | ▪ Fertilization                         |
| ▪ Aerification                                   | ▪ Pest Control                          |
| ▪ Insect infestation control                     | ▪ Removal of weeds, trash and litter    |
| ▪ Removal of noxious plant material              | ▪ Trail maintenance                     |
| ▪ Public walkway cleaning                        | ▪ Low flow and brow channel maintenance |
| ▪ Weed abatement                                 | ▪ Slopes and Canyons                    |
| ▪ Pedestrian light maintenance                   | ▪ Signage within trails/canyons         |
| ▪ Pruning of trees and shrubs                    | ▪ Repair of irrigation equipment        |
| ▪ Irrigation equipment upgrades                  | ▪ Brush clearance                       |
| ▪ Encroachment trims                             | ▪ Fencing maintenance                   |
| ▪ Replacement of dead or diseased plant material | ▪ Retaining walls                       |

### **Assessments & Collectibles**

The City of Chula Vista Municipal Code makes the distinction between the assessment and the amount that the City may collect against the assessment (i.e., the collectible). Each year, the prior year's maximum assessment amount is adjusted by an inflation factor, pursuant to the Municipal Code. This inflation factor is based upon the lower of two inflation factors: 1) the San Diego Metropolitan Consumer Price Index (CPI), and 2) the Governor's California 4th Quarter per Capita Personal Income Index. In the mid-1990's (and for all Open Space Districts established after that date), Council approved the assessments with an inflation factor. Since that date, Council may annually adjust the assessment by this inflation factor without this adjustment being construed as an increase, and thus being subject to an OSD balloting, per Proposition 218.

The assessments for FY 2022-23 are proposed at the FY 2021-22 amounts adjusted by the inflation factor of 0.79% pursuant to the Municipal Code. This index is the lower of the two inflation factors mentioned above and represents the percentage change in the Governor's California 4th Quarter per Capita Personal Income Index.

The collectible is the amount to be actually collected from the property owner and is equal to, or lower than, the proposed assessment. The collectible is based on the budget, the reserve requirement for operating and asset replacement activities, prior year's savings and fund balance, and interest income.

Illustrated in Attachment 2 are the proposed Assessments and Collectibles for FY 2022-23. The proposed FY 2022-23 Collectibles per EDU are preliminary and will be updated with actual amounts at the public hearing on June 21, 2022. The current amounts in the table are based upon estimated fund balances and EDUs at this time. The Collectibles per EDU are set at the Assessment per EDU to allow for the collection of up to the maximum amount allowable.

Town Centre LMD: A downtown Property and Business Improvement District (PBID) replaced Town Centre Landscape Maintenance District (LMD) in 2001. At that time, it was anticipated that the Town Centre LMD would be dissolved. However, the City determined that there was some potential long-term exposure for the City based on the remote possibility that the current PBID might not receive sufficient support for re-approval in the future. If the PBID was not re-approved at some future date, and if the Town Centre LMD was dissolved, there would no longer be a funding mechanism for downtown landscape maintenance.

Based on this possibility, the Town Centre LMD remains open as a “contingent” district. This means that the City will set the maximum assessment amount for the District on an annual basis, even though property owners will not be billed any sum on the tax roll. Should the PBID not be re-approved, the Town Centre LMD will be in place to provide the necessary funding mechanism for downtown landscape maintenance.

The current PBID was renewed with the adoption of Council Resolution No. 2016-122, for a period of ten (10) years. Given this, the Town Centre LMD will remain a “contingent” district.

### **Standard Notice Process for Annual Levy**

Upon approval by City Council, the public hearing will be noticed pursuant to Government Code 6061, which requires that a notice be published in a newspaper of general circulation at least 10 days before the public hearing. Tonight’s resolution approves this report and sets the date and time for a public hearing to consider the levy of assessments and the collection of the funds.

### **DECISION-MAKER CONFLICT**

Staff has reviewed the property holdings of the City Council and has found that potential conflict exists; in that members have property holdings within 500 feet of the Open Space District listed below by City Council member. Consequently, pursuant to California Code of Regulations Title 2, sections 18700 and 18702.2(a)(7), this item presents a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov’t Code § 87100, et seq.) for the member identified below:

Mayor Salas: For Open Space District 9, Open Space District 10, Eastlake Maintenance District No. 1 (ELMD#1) Zone E, and Towne Center Maintenance District which is the subject of Resolution C of this action.

Council Member McCann: For Open Space District 1 which is the subject of Resolution D of this action.

Council Member Padilla: For Eastlake Maintenance District No. 1 (ELMD#1) Zone C, which is the subject of Resolution E of this action.

Mayor Salas and Council Member McCann: For Open Space District 20, Zone 7 which is the subject of Resolution F of this action.

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**

For Fiscal Year 2022-23, the full cost of providing landscape maintenance services in the Open Space Districts totals \$3,707,151. In addition to the landscape maintenance services costs, \$368,200 in planned projects will be included in Fiscal Year 2022-23. All landscape maintenance costs and planned project expenditures are recovered through the OSD collectibles and reserves of each Open Space District. Given this, there is no direct impact to the General Fund.

### **ONGOING FISCAL IMPACT**

There are no direct ongoing fiscal impacts to the General Fund.

### **ATTACHMENTS**

1. City of Chula Vista Open Space Districts
2. Historical and Proposed FY 2022-23 Assessments/Collectibles
3. Open Space Districts Annual Administration Report

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