What is a Mello-Roos Community Facilities District?

WHAT…… WHY…… HOW…… WHO…… WHERE…… WHEN……

HISTORY OF CFDs

In 1978, Proposition 13 was enacted by Californians, which limited the ability of many public agencies to finance new projects by limiting the tax rate on real estate to 1%, changing the value on property to their 1975 value and limiting the annual increase in value to 2% (except for a change in ownership).

General Obligation Bond passage cannot fill the funding gap. Although General Obligation Bonds continued to be passed at the State and local levels, the need for funding could not be filled by this source of funds as Californians began to ask for new growth to pay for itself.

In 1982, Senator Henry Mello and Assemblyman Mike Roos spearheaded the passage of the "Mello-Roos Community Facilities District Act of 1982." This Act authorized local governments and developers to create Community Facilities Districts (CFDs) for the purpose of selling tax-exempt bonds to fund public improvements and collect revenues to pay for public improvements. Also authorized is the collection of revenue to fund services and maintenance.

Mello-Roos Community Facilities District Act of 1982

Allows any county, city, school district, special district or joint powers authority to establish a CFD.

A CFD can fund / finance public facilities (schools, streets, sewers, storm drains) and services (maintenance of parks, storm drains, landscaping, street lighting).

A CFD must be approved by a 2/3rds margin of the qualified voters in the CFD. If less than 12 voters, the vote is held by acre owned.

A Notice of Special Tax Lien is recorded once the CFD is formed. Such Notice appears on the title report of all property within the CFD.

CFD Special Taxes are collected on the property tax bill with payment due December 10^{th} and April 10^{th}. The Special Tax appears as a separate line item clearly identified by the CFD name and public entity which has formed the CFD. The Special Tax is subject to the same penalties that apply to property taxes.

HOW ARE THEY USED?

New development impacts the existing infrastructure. Local governments require developers to put in the necessary regional infrastructure to support the new homes. The developer then adds the cost of this infrastructure to the price of each new home.

Many developers opt to establish a CFD to allow them to sell their homes for a lower price. Prior to home sale the developer is the only “voter” and hence has the power to create the CFD. The cost is then passed on to the homeowner in the form of annual special taxes. Without the CFD, the homeowner would have paid more for the home, paid a higher mortgage payment and also incurred higher general property taxes as a result of the increased cost of the home.

WHAT IS THE BASIS FOR THE SPECIAL TAX?

Special Taxes can be levied on both residential and non-residential property. Typically Special Taxes are levied on residential properties in a CFD based on the square footage of the lot or the home and/or the type of home (i.e. single family or multi-family).

The Act allows flexibility in this area and the methods widely vary among CFDs.

The Rate and Method of Apportionment, which is approved during the formation process, specifies exactly how the CFD will levy the Special Tax including how to classify each property and determine the amount of the Special Tax, the number of years the Special Tax will be levied, and how to prepay the Special Tax.

The amount of the Special Tax may vary from year to year. The Rate and Method of Apportionment (**or "RMA"**) establishes the maximum Special Tax that can be levied in any year.

HOW ARE HOMEBUYERS NOTIFIED OF A CFD?

California Civil Code Section 1102.6 requires a seller of real property with a CFD to provide a "Notice of Special Tax" to the buyer. The Notice of Special Tax provides specific information about the CFD including:

- The name of the CFD in which the property is located.
- How much the Special Tax is for the current fiscal year.
- If and to what extent the Special Tax may increase annually.
- The number of years the Special Tax will be levied.
- The name and number of the public agency to inquire with additional questions.

FROM THE STATE TO LOCAL LEVEL

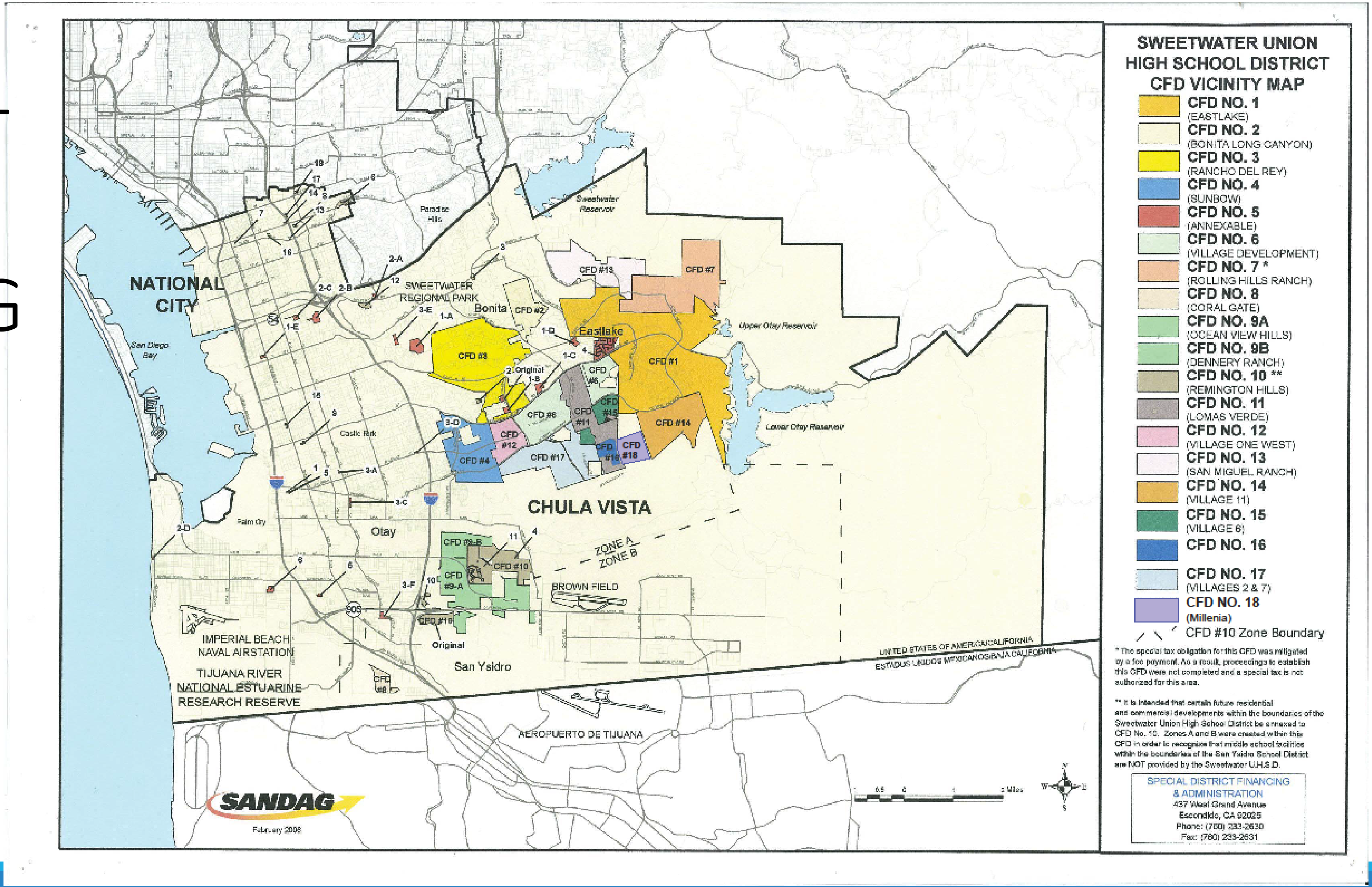
SUHSD – HISTORY OF CFDs

The first CFD, CFD No. 1 was formed in 1986 and currently contains 9,306 homes with the projection of an additional 235 homes. In the next two year period the District formed 4 additional CFDs which, together with CFD No. 1, are currently projected at build-out to contain 17,215 homes.

The District recognized that this massive amount of new homes would have crippled the existing facilities of the District. The collection of authorized developer fees at that time ($0.84 per residential square foot in 1986) along with State Funding would not provide the funds needed to construct new facilities in these areas.

The District was supported by both the City of Chula Vista and the development community to find the funding for these facilities through the formation of CFDs.   The emphasis was to ask new growth to pay for itself and to not pass this impact onto the existing homeowners in the form of General Obligation Bond debt.

SUHSD – MAP OF EXISTING CFDS



SUHSD – HOW ARE THEY USED?

The Special Tax is levied after a building permit is issued* and levied for a period of 25 to 30 years depending on which CFD the property is located.

Special Taxes are collected annually and pay for:

- Debt Service Payments due each March 1st and September 1st
- Replenish Reserve Funds if needed
- Administration of the CFDs
  - CFD Administration Activities include: Annual update of the CFD data and calculation of the Special Tax; Application onto the County of San Diego Property Tax Bill; San Diego County charges, Bank fees and charges; Report Preparation: Annual Continuing Disclosure, Arbitrage Calculation Compliance, California Debt and Investment Advisory Commission Filing; Compliance with Mitigation Agreement requirement to maintain standing in State Program; Property Owner Inquiry and Prepayment requests; Annual Accounting.
- Authorized Construction Projects (“pay-as-you-go”)

* CFD No. 1 has a separate Special Tax on property within a Final Map which is levied per acre until a build permit is issued.

SUHSD – WHAT IS THE BASIS FOR THE SPECIAL TAX?

Each CFD has a separate RMA (Rate and Method of Apportionment) which specifies how the Special Tax is applied to the property within the CFD. The RMA was created at the time of formation and the Special Tax Rates negotiated with the developer of the CFD. The CFDs within SUHSD were not formed to fund 100% of the school facilities needs as projected at the time of formation.

The impact of the property within a CFD is determined through the use of student generation rates and a facilities cost per student. These two elements, when multiplied, provide a cost per dwelling unit. The total projected impact within the CFD is then allocated among the homes using a projected interest rate to arrive at an annual Special Tax.

The resulting Special Tax rate has been expressed either as a Special Tax per square foot (CFDs 4, 5, 6, and 11-18), a Special Tax per dwelling unit (CFDs 1, 3, 9A, 9B and 10) or per residential lot (CFD 2).

SUHSD – HOW ARE HOMEBUYERS NOTIFIED OF A CFD?

California Civil Code Section 1102.6 requires a seller of real property within a CFD to provide a "Notice of Special Tax" to the buyer. At the time a home is resold, an existing homeowner or realtor can request a Notice of Special Tax from the District.

In addition, first time home sales within the City of Chula Vista that are within a CFD are mandated by the City to submit and have reviewed the "Notice of Special Tax." The City of Chula Vista currently has formed 24 CFDs. The City of Chula Vista has CFDs that fund both facilities and services. A single dwelling unit in the City of Chula Vista can possibly be within 5 CFDs – only one of which is formed by SUHSD.

Also, the City of Chula Vista requires that at the time of original sale the developer calculate the overall tax burden to the new homebuyer. If the overall tax burden is in excess of 2% of the sales price of the home, the developer must partially prepay one of the City of Chula Vista CFDs down to the point of 2% at a minimum. The 2% test includes the CFDs formed by the SUHSD, if applicable.