



THE CITY OF SAN DIEGO

## REPORT TO THE CITY COUNCIL

DATE ISSUED: March 26, 2013

REPORT NO.: 13-30

ATTENTION: Honorable Council President and City Council

SUBJECT: Civita Maintenance Assessment District

COUNCIL DISTRICT: 7

CONTACT/PHONE NUMBER: Andrew Field, (619) 685-1307, MS 5D

### REQUESTED ACTIONS:

At the first of two City Council meetings, propose the formation of a new maintenance assessment district (MAD) to be known as the Civita MAD; preliminarily approve the Assessment Engineer's Report; and authorize the intention to levy and collect assessments for Fiscal Year 2014, establish the maximum authorized assessments, and set maximum assessment indexed annually to the San Diego Regional Consumer Price Index-Urban (CPI-U) plus 4%.

Upon affirmative findings at the public hearing (meeting #2), authorize the consideration of protests, order the formation of the Civita MAD, approve the Assessment Engineer's Report, confirm assessments, and order the improvements, maintenance, and/or services; adopt the annual budget for the Civita MAD in Fiscal Year 2014; authorize the City Comptroller to establish an interest-bearing fund for the Civita MAD; authorize the City Comptroller to appropriate and expend the Civita MAD fund once established; and authorize an agreement with the Civita Public Maintenance Corporation for a contract to administer goods and services.

### STAFF RECOMMENDATION:

Staff recommends the City Council authorize the resolutions and commence the balloting process for the proposed Civita MAD.

## DESCRIPTIVE SUMMARY OF ITEM:

This City Council action is to start the process to form the Civita MAD. This new MAD would be located within the footprint of the Civita development, which was entitled under the name Quarry Falls. The Civita MAD is proposed to maintain enhanced landscape and hardscape improvements in the public right-of-way within the footprint of the Civita development, initially including portions of Civita Boulevard and Via Alta, and eventually, the MAD will incorporate additional landscaping along public rights of way. The Civita MAD will also maintain future improvements as they are constructed, including providing an enhanced level of service at the future population-based parks. Under the guidelines of Proposition 218, all property owners receiving direct and special benefit from the improvements within the district have an opportunity to vote in favor or in opposition to the formation of this MAD. This request for new district formation is developer-initiated.

## SUMMARY:

### **Background**

The City of San Diego's Park and Recreation Department currently administers 49 of the 57 existing MADs located throughout the City. These districts provide landscape and lighting maintenance to identified community focal areas in accordance with each district's Assessment Engineer's Report. MADs are authorized by the State of California and provided for in the Landscaping and Lighting Act of 1972 (Part 2 of Division 15 of the California Streets and Highways Code), applicable provisions of Proposition 218 (Article XIID of the California Constitution), and provisions of the San Diego Municipal Code §65.201 et seq.

Under the provisions of these laws, the City may assess properties based on the amount of special benefit each property will receive provided property owners approve the MAD formation. To form a new district, the City issues ballots to property owners. Each ballot is weighted based on the amount of maximum annual assessment for the parcel. If a majority of the ballots returned are in favor of forming an assessment district, the district may be formed by resolution of the City Council. Assessments are levied in the following year, typically appearing on the property tax bill.

The Civita mixed-use development, entitled under the name Quarry Falls, is scheduled for phased construction as the existing quarry winds down operation. Construction started in 2011 with multi-family and townhome construction on the west side of the project area. New phases are planned over the next 15 years, including additional residential and commercial development. Complete build-out of Civita is expected by 2027. The vesting tentative map, specific plan, environmental impact report, conditional use permit amendment, and site development permit for Civita were approved (under the Quarry Falls name) by the City Council on October 21, 2008, per Resolutions R-304292, R-304293, R-304294, R-304295, and R-304296. Changes to zoning were approved on November 10, 2008, per Ordinance O-19807.

Funding for the engineering and balloting of this district has been provided by Quarry Falls LLC, the developer of the project as provided by Council Policy 100-21 for developing communities.

## **Location of Services**

If approved, the proposed Civita MAD would be located primarily within the Mission Valley community planning area, with a small portion of the northern end of the development within the Serra Mesa community planning area. The Civita MAD would be wholly located within the proposed Civita development, which is generally bounded by Friars Road on the south, Interstate 805 on the east, Phyllis Place on the north, and Mission Center Road on the west. Aquatera, an existing multi-family residential complex located along the north side of Civita Boulevard and east side of Mission Center Road, is not planned for inclusion within the Civita MAD because the property owner intends to maintain adjacent parkway landscaping along the north side of Civita Boulevard. As a result, the footprint of the Civita MAD will match the footprint of the proposed Civita development. A map is provided in the Assessment Engineer's Report (Attachment 1).

## **Proposed Services**

Services to be provided by the Civita MAD would include but are not limited to maintenance of medians, parkways, sidewalks, street trees, greenbelts, parks, and beautification measures within the public rights of way, on City-owned properties, and on landscape easements in favor of the City. Specific roadways to be included within the Civita MAD include Civita Boulevard, Via Alta, Westside Drive, Russell Park Way, Qualcomm Way (north of Friars Road), Community Lane, and Franklin Ridge Road. A map depicting the location of improvements is also provided in the Assessment Engineer's Report (Attachment 1).

The Civita MAD is anticipated to maintain the future Central Park, Creekside Park, and Franklin Ridge Pocket Park. These parks are proposed to be future population-based parks per General Plan standards. The largest of these parks is known as Central Park, but it also appears in certain planning documents as Quarry Falls Park. The Civita MAD would maintain this park through a contribution from the General Fund for the standard level of service for park maintenance, and assessments may be used to fund a higher level of service. Once constructed, Central Park is estimated to be approximately 14.31 acres; together with the other parks in the development, the total park acreage is proposed to be approximately 18.54 acres. Construction of the park is not part of the initial phase of the Civita project.

The proposed Civita MAD would include but is not limited to the following maintenance services and improvements within the commercial core and adjacent residential areas:

- Capital Improvements – installation and replacement of:
  - Decorative concrete paving
  - Tree grates
  - Trash cans
  - Community monuments and signage
  - Street lights
  - Banners
  - Holiday/seasonal decorations

- Maintenance:
  - Sidewalk, and Gutter Sweeping
  - Street Tree Well Maintenance (cleaning, watering, fertilizing, pruning)
  - Street Tree Trimming and Planting
  - Sidewalk Power Washing
  - Litter Pick Up
  - Trash Receptacle Service
  - Graffiti Removal
  - Streetscape Cleaning
  - Entry Monuments/Gateway Cleaning
  - Decorative Street Lighting
  - Tree Grates
  - Street Furniture
  - Pet Waste Stations

**Schedule of Civita Development**

The initial phase includes the westernmost segment of Civita Boulevard and southernmost portion of Via Alta as described in the following table. The timetable of development may change based on market conditions and unforeseen issues.

<b>Project</b>	<b>Number of Units</b>	<b>Estimated Dates (from start to full occupancy)</b>
Circa 37	306	April 2011 – October 2012
Origen – Social Garden and Sky Loft	200	September 2012 – September 2014
Apartment #2A	330	September 2012 – September 2014
Apartment #2B	280	September 2014 – September 2016
Apartment #2C	330	September 2016 – September 2018

Assessments would be collected only for developed parcels in a phased approach based on turnover of improvements to be maintained by the Civita MAD. Undeveloped parcels would not be assessed until they are converted into separate, legal parcels, developed/improved for active use, and permitted for construction. Land uses within the Civita development will change over the life cycle of the project. Each fiscal year, City staff and the Assessment Engineer will review development patterns and phasing schedules of the Civita development and adjust parcel assessments to reflect the state of development anticipated to occur during the coming assessment cycle as part of the annual update to the Assessment Engineer’s Report each spring.

**Ballot Process**

This action authorizes the ballot protest proceedings, which consists of two parts: formation of the Civita MAD and determination of whether the City or Civita Public Maintenance Corporation should administer contracts for goods and services.

If the City Council authorizes the balloting period, City Clerk and Park and Recreation staff will facilitate the mail ballot process. State law requires a minimum 45-day balloting period. Staff will return to the City Council after this period for a noticed public hearing. After the hearing is closed, staff will request permission from the City Council to open and tally ballots received under the direction of the City Clerk.

The first question on the ballot is whether or not to form the proposed new district. This question will include the estimated first year assessment, maximum authorized assessment, and cost-indexing provisions (San Diego Regional Consumer Price Index-Urban [CPI-U] plus 4%). There are two possible outcomes:

- If a weighted majority of ballots received (weighted by each parcel's maximum authorized assessment) are in favor of district formation, the proposed Civita MAD would be created with City Council approval. If approved, the City Council would also authorize the Fiscal Year 2014 assessment levy and budget.
- If a weighted majority of ballots are in opposition to district formation, then the proposed Civita MAD will be abandoned. The services proposed by this district will not be provided.

The second question on the ballot is whether or not Civita Public Maintenance Corporation should be the administrator of contracts for goods and services for the proposed Civita MAD in accordance with Municipal Code §65.0212 et.seq. If the Civita MAD is formed, there are two possible outcomes:

- If a weighted majority of ballots (weighted by parcel area) are returned in favor of Civita Public Maintenance Corporation providing contract administration, the City Council may approve the proposed agreement between the City and Civita Public Maintenance Corporation for administration of contracts for goods and services.
- If the weighted majority of ballots are returned in favor of forming the proposed Civita MAD yet are opposed to Civita Public Maintenance Corporation providing contract management, then City staff will administer contracts for goods and services.

To ensure a balloting period of at least 45 days as required by California Constitution Article XIID, Section 4(e), the balloting period is scheduled occur between two City Council meetings: the resolution of intention to form the district and the public hearing. The levy occurs after the 30-day contest period per Municipal Code §65.0227.

To meet the County of San Diego's deadline to enroll assessments in the annual property tax bill, the Civita MAD must be approved by the property owners and the City Council prior to the deadline of August 10, 2013. If the district is approved within this timeframe, staff will endeavor to levy assessments for the Civita MAD via the County property tax enrollment system. If not, City staff will levy assessments by manual invoice as set forth in Municipal Code §65.0219 and §65.0221.

## **Administration of Contracts for Goods and Services**

In accordance with Municipal Code §65.0212 et.seq, Quarry Falls LLC has expressed an interest in having the Civita Public Maintenance Corporation, a non-profit corporation, administer contracts for goods and services on behalf of the Civita MAD.

If the majority of property owners in the proposed Civita MAD request via the ballot process that their contracts for goods and services be administered by the Civita Public Maintenance Corporation in accordance with Municipal Code §65.0212, the City will enter into an agreement with Civita Public Maintenance Corporation. This agreement would be an initial one-year term with up to four one-year options to renew. Currently, the only other non-profit MAD agreement administered by Park and Recreation Department is with the Bird Rock Community Council, which administers contracts for the Bird Rock MAD.

City staff and the Civita Public Maintenance Corporation wish to enter into a maintenance agreement with an initial term that would extend from the official date of Civita MAD formation until June 30, 2014. Four additional one-year terms (for a combined total of five one-year terms) may be approved if mutually agreeable to both the City and Civita Public Maintenance Corporation.

The agreement with Civita Public Maintenance Corporation is provided in Attachment 2. Key provisions include:

1. Civita Public Maintenance Corporation will administer contracts for goods and services for the Civita MAD in accordance with state and local laws and the Civita MAD Assessment Engineer's Report.
2. Civita Public Maintenance Corporation will perform duties set forth in the Scope of Services (Article I, Section B). Civita Public Maintenance Corporation will be reimbursed for these services after the City receives a properly prepared reimbursement request. The City will inspect the work of Civita Public Maintenance Corporation on a quarterly basis.
3. The agreement calls for the Civita Public Maintenance Corporation to receive a working capital advance that consists of three months (25%) of the annual budget, with monthly reimbursement requests processed thereafter for the term of the agreement. This working capital advance would be made available from assessments collected in the Civita MAD fund.
4. Civita Public Maintenance Corporation will be compensated for administration in an amount not to exceed 15% of estimated expenditures. The City will be compensated for administration in an amount not to exceed 4% of estimated expenditures or \$3,500, whichever is greater.
5. The initial one-year agreement term with Civita Public Maintenance Corporation may be extended by up to four one-year options to renew for a total of five years. The Mayor

would have the authority to exercise option years based on Civita Public Maintenance Corporation performance and the desire to continue the contractual relationship.

These key agreement terms are set for the duration of the agreement and may be extended through the four one-year options. However, if mutually desirable by the City and Civita Public Maintenance Corporation and if allowable per Municipal Code §65.0212, terms may be renegotiated and incorporated into a new agreement. Any such amendments or modifications to the agreement would require City Council approval.

If the Civita MAD is formed yet the agreement with Civita Public Maintenance Corporation is not approved by the property owners or by the City Council, City staff would administer contracts for goods and services in lieu of the non-profit corporation. Funds allocated for the non-profit corporation in the Fiscal Year 2014 proposed budget would instead be used to fund a portion of a position to provide administration of contracts for goods and services.

#### FISCAL CONSIDERATIONS:

##### **Assessments**

If approved by property owners, approximately \$85,042 will be assessed to the owners of developed property within the proposed Civita MAD in Fiscal Year 2014. The assessment rate, overall assessment revenue, and number of parcels are all likely to increase as development of Civita continues and new maintenance areas are brought on-line. The Fiscal Year 2014 assessment rate per equivalent benefit unit is \$299.80, and the maximum authorized assessment rate per equivalent benefit unit is \$299.80 (subject to cost-indexing provisions).

##### **Maximum Authorized Assessment and Cost-Indexing Provisions**

The maximum authorized assessment as set forth in the Assessment Engineer's Report is indexed annually to the San Diego Regional Consumer Price Index-Urban (CPI-U) plus 4%. Refer to the Assessment Engineer's Report (Attachment 1) for an explanation on how the maximum authorized assessment for each fiscal year is calculated.

##### **Assessments on City-Owned Parcels**

Currently, the City currently owns no assessable parcels in the proposed MAD. Consequently, there will be no initial General Fund impact in Fiscal Year 2014. However, as the Civita project is built out, there will be future obligations created for the General Fund if the City takes ownership of the proposed parks. At least four public parks are planned be created as shown in the following table, with an assessment calculated based on the current maximum authorized assessment:

<u>Park Name</u>	<u>Lot Number(s)</u>	<u>Acreage*</u>	<u>Estimated Future Assessment</u>
Central Park (including finger parks at cul-de-sacs)	P4, P6, P7, P8, P16, P17, P18, P20, P27, P29	14.31	\$429.00
Creekside Park	P1, P3	1.35	\$40.46
Franklin Ridge Pocket Park	P26	0.20	\$6.00
Phyllis Place Park	P30, P31	<u>2.68</u>	<u>\$80.34</u>
<b>TOTAL</b>		<b>18.54</b>	<b>\$555.80</b>

\* All acreage amounts are estimates and may change as development of Civita progresses.

If these parks become owned by the City, assessments to these parcels would need to be funded by the General Fund. Once the timeline for construction and City ownership becomes known, a future annual budget request will be made to fund parcel assessments for these future public properties.

### **General Benefit Obligations**

Only special benefits as defined by the Assessment Engineer may be assessed to property owners. General benefits, which are provided to the public at large and/or properties outside the district boundaries, may not be assessed. If formed, the Civita MAD would receive two forms of general benefit: the City standard level of service and other public benefits.

#### City Contributions for Standard Level of Service

The City standard level of service represents the budgeted allocation for maintaining specific types of public facilities and improvements (e.g., medians, street trees, sidewalks, standard street lights, population-based parks, etc.) as well as providing specific types of services (e.g., street sweeping and graffiti removal on public property). While most of these services will be provided on an in-kind basis, some services warrant a financial contribution to the district from other funding sources. A more thorough explanation of general benefit calculations for MADs is provided in Report to City Council 12-077. The Assessment Engineer's Report indicates that the Civita MAD is planned to maintain two amenities that are eligible for this type of City contribution: maintenance of population-based parkland and maintenance of street medians.

It is intended that the Civita MAD maintain Central Park, Creekside Park, and Franklin Ridge Pocket Park once they are built and opened to the public. (The fourth park, Phyllis Place Park, will be maintained directly by the City after it is opened.) These three population-based parks are to be maintained with General Fund using assessment revenue to increase the level of service. The timeline for construction of the parks is contingent upon the timeline for issuing residential final occupancy permits as provided by the public park development agreement. Once constructed, the general benefit contribution to fund the three parks (for a total of 15.86 acres) is estimated to be approximately \$93,205 based on the proposed Fiscal Year 2014 general benefit contribution of \$5,876.75 per acre for parkland (utility charges associated with the park are not



part of this figure and would be billed directly to the City). However, park construction will be phased based on the progression of residential development. As these new park facilities are scheduled for construction and opening, staff will incorporate a new facility request in a future proposed annual budget to provide for this maintenance allocation.

This district is also intended to maintain landscaped and hardscape medians. In accordance with standard practice, funds for the Gas Tax contribution for the general benefit for median maintenance will be requested as part of the Fiscal Year 2014 annual budget process in the amount of \$8,809. The amount requested from the Gas Tax Fund in Fiscal Year 2014 will be calculated based upon the square footage of medians to be maintained multiplied by the general benefit reimbursement rate (which is proposed to be \$0.2786 per square foot of landscaped median and \$0.0190 per square foot of hardscaped median in Fiscal Year 2014). A cost estimate for this general benefit will become known as new medians are installed and square footage quantities are calculated.

### Other Public Benefits

Assessment Law prohibits levying assessments to pay for “general benefits” conferred to the public at large or properties located outside the District. As noted in the Civita Assessment Engineer’s Report, the following District amenities confer some level of “general benefit”: Mission Center Road and Friars Road parkway landscaping; and Central Park. These public benefits have been quantified in the Assessment Engineer’s Report at a total cost of \$4,762 per year (as adjusted for inflation) at the time when those improvements have been constructed.

It is anticipated that this cost will be provided through another funding source available to the Civita Public Maintenance Corporation and will not result in an obligation to the General Fund as set forth in Article I Section B(2) of the proposed agreement. These other public benefits will not accrue in the Fiscal Year 2014 since the described improvements have not yet been accepted into the Civita MAD.

### **Fiscal Year 2014 Proposed Budget**

The Proposed Fiscal Year 2014 budget for the proposed Civita MAD is \$85,042, which would include funding for the following expenditure categories:

- Administration of contract for goods and services (by Civita Public Maintenance Corporation or City staff depending on property owners’ selection of a non-profit corporation)
- Contract services for landscape, tree, and related maintenance
- Supplies
- Special Districts Administration by City (for overall district administration and required City costs incurred per the agreement with the non-profit corporation)
- Utilities (water, storm drain fee, electrical)
- Initial Contribution to District Reserve to ensure cash flow sustainability

The budget contemplates an allocation for a capital improvement program consistent with the assessment apportionment methodology. As these capital funds are realized, they will be proposed for specific equipment outlay or will be budgeted and appropriated to specific City capital improvement projects through future City Council actions. The proposed capital and maintenance budget for the proposed Civita MAD is provided in Exhibit B of the Assessment Engineer's Report (Attachment 1).

### **Fiscal Impact of Agreement to Administer Contracts for Goods and Services**

With respect to the agreement with the Civita Public Maintenance Corporation to administer contracts in the Civita MAD, if the MAD is formed, funding would become available for this purpose once the initial property assessments are received. Under the terms of the agreement, Civita Public Maintenance Corporation will annually be provided up to 15% of total estimated annual expenditures to administer contracts for goods and services. For the Fiscal Year 2014 proposed budget, \$9,480 is allocated to the Civita Public Maintenance Corporation for the purpose of administrating contracts for goods and services, and \$3,500 is allocated to the City for administrative services associated with the annual budget processing, property tax enrollment and collections, assessment engineering services, on-site inspections, reimbursement processing, and related services for the Civita MAD.

### **EQUAL OPPORTUNITY CONTRACTING INFORMATION:**

This action is with the Civita Public Maintenance Corporation, a non-profit organization, and therefore exempt from workforce report analysis. Any resultant agreement from this action is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

### **PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

The vesting tentative map, specific plan, environmental impact report, conditional use permit amendment, and site development permit for Civita were approved (under the Quarry Falls name) by the City Council on October 21, 2008, per Resolutions R-304292, R-304293, R-304294, R-304295, and R-304296. Changes to zoning were approved on November 10, 2008, per Ordinance O-19807. The Planning Commission heard and approved the Civita project on September 18, 2008.

Two agreements between the City and Quarry Falls LLC related to Civita were approved by the City Council on November 27, 2012. A Reimbursement Agreement (Ordinance O-20219) provides for the reimbursement of costs of land acquisition, design, construction, and funding for certain improvements identified within the agreement. A Park Development Agreement (Ordinance O-20220) provides for the development and conveyance of park infrastructure associated with Civita, including the parks identified for future maintenance by the Civita MAD.

New Maintenance Assessment District formation is performed in accordance with California Constitution Article XIID (Proposition 218); the Landscaping and Lighting Act of 1972 (Streets and Highways Code Division 15, Part 2, Chapters 1-6); the San Diego Maintenance Assessment

District Ordinance (Municipal Code Division 2, Article 5, Chapter VI); Council Policy 100-21; Council Resolution R-288830 (dated June 9, 1997); and Council Resolution R-290239 (dated June 15, 1998).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Quarry Falls LLC conducted and attended multiple public meetings through the process to obtain its permit to construct the Civita (Quarry Falls) development. This effort culminated in the September 18, 2008, hearing at the Planning Commission and the October 21, 2008, hearing at the City Council where the project was approved. Representatives from Quarry Falls LLC attended the Mission Valley Community Planning Board meeting of March 6, 2012, to provide a status update on the project and advise them of the developer's intention to form the Civita MAD to maintain improvements within Civita.

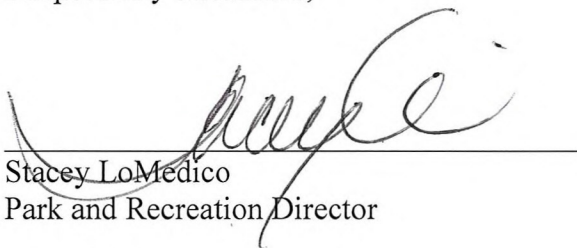
The Civita Public Maintenance Corporation is proposed to serve as the designated community representative to advise the City regarding the proposed Civita MAD in accordance with Municipal Code §65.0209 and §65.0210.

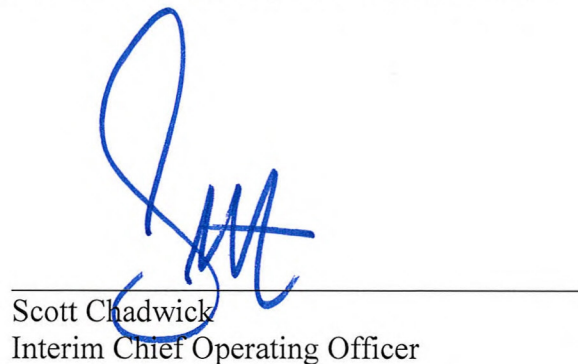
KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders in this process include: property owners to be assessed in the proposed Civita MAD; Quarry Falls LLC, the developer; and Civita Public Maintenance Corporation, which is proposed to administer contracts for goods and services for the proposed Civita MAD in accordance with Municipal Code §65.0212 et seq.

Creation of the MAD will provide maintenance and care for a variety of public improvements within the Civita development.

Respectfully Submitted,

  
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Stacey LoMedico  
Park and Recreation Director

  
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Scott Chadwick  
Interim Chief Operating Officer

Attachments:

1. Civita MAD Assessment Engineer's Report (including boundary and maintenance map)
2. Agreement with Civita Public Maintenance Corporation for Administration of Contracts for Goods and Services for the Civita MAD