



THE CITY OF SAN DIEGO

Report to the City Council

DATE ISSUED: May 24, 2016 REPORT NO. 16-060

ATTENTION: Honorable Council President and City Council

SUBJECT: Authorization to Levy Assessments on an Ongoing Basis and Annual Update of Assessment Engineer's Reports / Annual Reports for Park and Recreation Department Maintenance Assessment Districts (MADs); and approval for a Non-Profit Agreement for the Bird Rock Maintenance Assessment District

REQUESTED ACTION:

This City Council action is to: 1) authorize ongoing authorization to levy assessments; 2) establish Fiscal Year 2017 assessments; 3) approve the Assessment Engineer's Reports / Annual Reports; and, 4) authorize appropriation and expenditure of funds for the Maintenance Assessment Districts (commonly referred to as MADs) that are managed by the Park and Recreation Department; and approve a maintenance agreement with the Bird Rock Development Corporation (d.b.a. Bird Rock Community Council).

STAFF RECOMMENDATION:

Staff recommends approval to authorize the levy and collection of assessments per Municipal Code §62.0211; approve the annual update to the property owner-approved Assessment Engineer's Report/Annual Report for each district; and authorize the appropriation and expenditure of district funds for Fiscal Year 2017, including the management fund, district operating funds, district capital funds, formation fund and developer deposit funds associated with new assessment district formation activities and approve the maintenance agreement with the Bird Rock Development Corporation (d.b.a. Bird Rock Community Council) for provision of goods and services in the Bird Rock MAD.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

City Council authorization to levy assessments for the existing 55 MADs per Muni Code §62.0211 for the life of the districts and adopt Fiscal Year 2017 updates to the Assessment Engineer's Reports /Annual Reports for each of the 55 MADs administered by the Park and Recreation Department prior to the County of San Diego enrollment deadline of August 10, 2017. In addition, this report identifies the contributions made by the City to provide general benefit for maintenance of and improvements to parkland, library and fire station grounds, open space, parkways and medians. This action also authorizes appropriation and expenditure of MAD funds in accordance with the Annual Appropriation Ordinance, including capital funds and developer deposit funds collected in accordance with Council Policy 100-21.

Program Overview – MADs are authorized by the state Constitution and local law to assess benefiting property owners for maintenance of landscaping, lighting and other public improvements that confer special benefit. Specific authority is provided for in the City of San Diego Maintenance Assessment District Procedural Ordinance, which is found in San Diego

Municipal Code §65.201 et seq and applicable provisions of Proposition 218 (Articles XIIC and XIID of the California Constitution). .

Maintenance and improvement areas within MADs may include but are not limited to landscaped and paved medians, landscaped right-of-ways and slopes, open space, parks, ponds, flood control channels, monuments, decorative street lighting, decorative gates, community signage, and other public improvements and enhancements that confer special benefit. MADs may also provide for cleaning of curbs and gutters, sweeping sidewalks, and security services.

The City of San Diego's Park and Recreation Department currently administers 55 MADs located throughout the City. The Economic Development Division of the Planning, Neighborhoods & Economic Development Department administers the remaining 8 MADs, mostly in conjunction with existing Business Improvement Districts.

Attachment 1 provides a complete list of all Park and Recreation MADs including the Council District and community planning area. Each of the districts described herein were created by prior Council action and prior property owner ballot processes.

Separation of General and Special Benefits

Assessments collected through the MADs may only fund activities that provide a "special benefit." During the district formation process, the Assessment Engineer separates and quantifies the special benefits, determines areas of benefit, and apportions assessments based on relative special benefit. This determination is based on the nature of improvements/services to be maintained or provided by the district. The costs of maintaining the improvements apportioned to the properties within the district must be in proportion to the special benefits received by such properties.

Special benefits may include higher frequencies of services or services not otherwise provided by the City. Proposition 218 defines special benefit as follows

"Special benefit" means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute "special benefit." (Article XIID, §2(i)).

Or: "Special benefit" means a particular and distinct benefit over and above general benefits conferred on properties located in a district or to the public at large. Special benefit includes incidental or collateral effects that arise from certain improvements or activities of districts even if those incidental or collateral effects benefit property or persons not assessed. Special benefit excludes general enhancement of property value.

"General benefits" can be characterized as benefits associated with the City's standard level of service provided to the public at large as well as benefits that accrue to persons and/or properties located outside the district. The Assessment Engineer separates and quantifies the amount of "general benefit" as part of the district formation process. General benefits are funded by sources other than assessments. These other sources are defined in the "City Contributions and General Benefit Calculation" section later in this report.

As part of the district formation process, the Assessment Engineer prepares the Assessment Engineer's Report, analyzes the improvements for each MAD, and establishes a boundary for the area of benefit. Only properties that benefit from the maintenance of improvements in the district are included within the MAD boundary, and each property is entitled to a weighted vote at the time of district formation.

Levy of Assessments and Updates to Assessment Engineer's Reports / Annual Report

In accordance with San Diego Municipal Code §65.201 et seq., state and local law, Assessment Engineer's Reports / Annual Reports are updated annually thereafter as described in this report. The Fiscal Year 2017 Assessment Engineer's Reports / Annual Reports listed on **Attachment 2** can be found on the City's webpage at www.sandiego.gov/park-and-recreation/general-info/engreports.shtml. The methodology to create the assessment levy is described in each district's Assessment Engineer's Report and cannot be modified as part of the annual update process. An explanation of the budget chart found in Exhibit B of each Assessment Engineer's Report is provided in **Attachment 3**.

As part of this action, staff requests that the City Council approve the assessment levy for the MADs for the life of the districts per Municipal Code §65.0211. This action will allow the levy to be placed on the San Diego County Property Tax enrollment prior to its deadline of August 10, and will meet the legal requirements necessary for each MAD to provide the maintenance and other services as described in the Assessment Engineer's Reports / Annual Reports. **Attachment 4** provides a list of the summarized assessment district levies and parcel count for the 55 Park and Recreation-administered MADs. Each of these districts is also included in the Proposed Fiscal Year 2017 Budget.

For the Fiscal Year 2017 update, Park and Recreation Department retained EFS Engineering, Inc. to review all MADs and update the Assessment Engineer's Report / Annual Report for each district. Updates to the reports include:

- Modifying assessment rates within provisions for cost indexing, maximum assessment rate, and reserve limits
- Identifying property and land use changes that may impact the calculation of the assessment rate
- Reviewing the scope of services for improvements to comply with assessment methodology
- Incorporating general benefit rates proposed for Fiscal Year 2017
- Integrating the Proposed Fiscal Year 2017 Budget

Assessment Rates

Each district has unique attributes that require individual review of the Assessment Engineer's Report, especially the calculation of the district's assessment rates. Some districts are permitted to index assessments by the San Diego Regional Consumer Price Index – All Urban Consumers (CPI) as calculated by the federal Bureau of Labor Statistics. Others are permitted to increase at a rate higher than CPI. Still other districts have no provisions for any inflationary increases to the assessment rate.

In cases where an inflationary adjustment is permissible, the maximum authorized assessment is indexed by applicable CPI or inflationary factors. The Fiscal Year 2017 assessment may be an amount equal to or less than the maximum authorized assessment.

The Fiscal Year 2017 CPI base indexing factor is 2.45%, based on the annual change in the “Second Half” values as shown in the following table:

**Change in Consumer Price Index All Urban Consumers
San Diego, Fiscal Years 2009-2017
U.S. Bureau of Labor Statistics**

Calendar Year	Fiscal Year	First Half	Second Half	Increase
2007	FY 2009	231.870	234.772	2.25%
2008	FY 2010	242.440	242.185	3.16%
2009	FY 2011	240.885	243.655	0.61%
2010	FY 2012	244.242	246.686	1.24%
2011	FY 2013	252.451	253.368	2.71%
2012	FY 2014	256.637	257.285	1.55%
2013	FY2015	258.955	261.679	1.71%
2014	FY2016	265.251	265.039	1.28%
2015	FY2017	267.346	271.526	2.45%

A summary of assessment rate changes for all districts is provided in **Attachment 5**.

Property and Land Use Changes

Land use changes occur routinely throughout the year and are incorporated into the Assessment Engineer’s Report / Annual Report. Most MADs have apportionment methodology that relies on land use factors and the City’s Trip Generation Manual (2003) to calculate the assessment. Since the latest property information was not available at the time the Proposed Fiscal Year 2017 Budget was submitted to the City Council in April, discrepancies may exist in total assessment revenue reported in the Proposed Fiscal Year 2017 Budget as compared to the Assessment Engineer’s Reports / Annual Reports, primarily due to parcel and land uses changes.

Modifications to Scope of Services

Improvements maintained by a MAD are delineated in each Assessment Engineer’s Report / Annual Report, typically in the “Project Description” section. Minor changes to modify services/activities may be approved by City Council as defined in Municipal Code 65.0215. From time to time, clarification and explanatory language may be added to a report to explain the exact services provided by a MAD Only minor, clarifying language changes were implemented for the annual update cycle.

City Contributions and General Benefit Calculation

The formation of a MAD does not remove the City obligation to provide a standard level of services. For specific services that are provided by the MAD in lieu of the City at large, financial and in-kind contributions are made to MADs to provide general benefit for specific types of improvements as follows:

- Environmental Growth Fund for open space lands maintenance
- Gas Tax Fund for landscape and hardscape median maintenance

- General Fund for population-based park maintenance
- General Fund for fire station grounds and library grounds through a Service Level Agreement (SLA)
- General Fund or non-assessment assessment contribution for external public special benefits as defined by FY 2017 Assessment Engineer Reports.
- Street Division provides in-kind services for energy and maintenance of standard street lights as defined in Council Policy 200-18 and the 2002 Street Design Manual

The amount of contribution is defined in the Proposed Fiscal Year 2017 Budget. **Attachment 6** provides detailed information regarding the current rate for each general benefit contribution. Additional details for each type of general benefit contribution follows:

Open space maintenance receives an allocation from the Environmental Growth Fund, which is based upon the previous year's actual expenditures for open space within the Park and Recreation Department. Excluded from this calculation are park ranger and brush management services, as MADs typically do not provide these services. The open space maintenance contribution decreased between Fiscal Year 2016 and Fiscal Year 2017.

Median maintenance receives an allocation from the Gas Tax Fund, which is normally based on the previous year's actual expenditures within the Gas Tax Median Program. As part of this program, the Park and Recreation Department maintains 92 landscape and hardscape street medians that are scattered throughout the City and generally are not located within the boundaries of an existing MAD. Median maintenance within a MAD receives an allocation from the Gas Tax Fund based on the cost to maintain each square foot of landscaped or hardscape median. The Gas Tax contribution increased between Fiscal Year 2016 and 2017 as a result of an increased rate of reimbursement per square foot of landscape.

Park maintenance receives an allocation from the General Fund. The park maintenance contribution is for population-based parks in accordance with General Plan standards for each community planning area as defined by the Development Services Department, Planning Division. The amount of the contribution is based on the previous year's actual expenditures for parkland maintenance, excluding overhead, utilities, and capital improvements. Utilities (water, sewer, electrical) are also excluded since utility bills are paid directly from the General Fund for parks rather than passing through the MAD budget. Funding for park maintenance is budgeted in the Park and Recreation Department budget. The per-acre contribution for park maintenance increased between Fiscal Year 2016 and Fiscal Year 2017 as a result of increased actual costs per useable park acre.

Library and fire station grounds maintenance also receives an allocation from the General Fund from the Library Department and Fire-Rescue Department budgets under SLAs with each department. The amounts of contribution from these departments are based on actual maintenance costs for each location. The maintenance costs are identified within the current landscape maintenance contract and stated in the SLA rather than based on prior year actual expenditures.

Street lighting energy and maintenance costs are split between the General Fund and the MAD, with the Street Division providing all maintenance services. Street lighting provided in excess of City standards (as defined in the Street Design Manual) may be funded by the MAD as a special benefit, while street lights installed per the City standards are funded by the General Fund. The MAD will fund appropriate energy and maintenance costs based on the most recent determination of special benefit street lights.

External benefits are benefits received by the general public who do not pay an assessment into the district, yet experience some level of special benefit above and beyond what the City provides from assessment district services or amenities. Assessment law specifies that only special benefits may be assessed and recent court rulings have rendered that special benefits received by the general public must be funded by sources other than assessments collected from parcel owners in the district. Examples of other sources of funding are General Fund contributions to Parks, Library and Street light maintenance and Gas Tax contributions to median maintenance. In Fiscal Year 2015, the Assessment Engineer further separated and quantified these External benefits. This resulted in an additional contribution from the General Fund identified as “General Fund Benefit Offsets.”

Proposed Fiscal Year 2017 Budget Integration

Assessment rates and general benefit rates are incorporated into the Proposed Fiscal Year 2017 Budget, which is also presented in each MAD’s Assessment Engineer’s Report Annual Report as Exhibit B. The budgets in Exhibit B are unchanged from the Mayor’s Proposed Fiscal Year 2017 Budget, aside from the land use changes that impact the apportionment methodology and may result in a changed parcel assessment amount.

Shared costs for all 55 Park and Recreation MADs are budgeted in the Park and Recreation MAD Management Fund, which allocates its costs across each district on a ratio based on prior year expenditures. Costs incurred within the MAD Management Fund include contract inspectors, analytical/budgetary support, accounting, assessment engineering, assessment enrollment, contract procurement, legal, information technology, vehicles, and communications. The MAD Management Fund budget is presented in **Attachment 7**.

All publicly-owned parcels (including those owned by the City) are assessed based on the proportional special benefit conferred to the property as quantified by the Assessment Engineer. Assessable parcels owned by the City are funded from Citywide Program Expenditures (General Fund) in accordance with Resolution R-288830 dated June 9, 1997. **Attachment 8** provides a list of City-owned parcels with an assessment levy as a result of this action.

Requested Annual Budget

This action authorizes appropriation and expenditure of funds related to MAD activities, including the MAD administrative fund, district operating funds, district capital improvement funds, and developer deposit funds. The MAD Management Fund provides for all shared costs in the MAD program, including position expenses and costs associated with budgeting, finance, procurement, and accounting. Each of the 55 MADs has its own operating fund budget as presented in the Proposed Fiscal Year 2017 Budget and in the Assessment Engineer’s Reports / Annual Reports (Exhibit B) and some MADs are authorized to have capital improvement programs for MAD funded projects. Finally, deposit funds have been created for MAD formation activities in compliance with Council Policy 100-21.

In accordance with the City of San Diego Maintenance Assessment District Procedural Ordinance, which is found in San Diego Municipal Code §65.201 et seq and Government Code §53753, the City Council must conduct two meetings on this item. The first meeting is to be held in June to consider approving the Assessment Engineer’s Reports / Annual Reports for existing districts and adopting the Resolution of Intention to levy assessments. At this initial meeting, the City Council gives notice of the time and the place for a public hearing related to the levy of the proposed assessment. Publication of this notice must be completed

at least 10 days prior to the date of hearing, hence why approximately four weeks must elapse between the initial meeting and the public hearing. At the second meeting (public hearing) in July, the City Council considers all objections or protests, if any, to the proposed assessment, and determines whether to authorize levy of the assessment.

To meet the County of San Diego’s August 10, 2016, deadline for enrolling assessments in the annual property tax bill for Fiscal Year 2017 and to ensure consistency with the Proposed Fiscal Year 2017 Budget, the City Council must approve the assessment levy each July. If approved, assessments for each MAD would appear on tax bills for benefitting property owners in fall 2017. If this action is not approved and the levy of assessments is not authorized, existing districts will need to rely on their reserves to fund maintenance of improvements. Reserve levels vary in each district. Once reserves are depleted, special benefit maintenance activities would cease.

Attachment 9 is the Agreement for the Bird Rock Maintenance Assessment District.

CITY STRATEGIC PLAN GOAL(S)/OBJECTIVE(S):

Goal #2: Work in partnership with all of our communities to achieve safe and livable neighborhoods.

Objective #3: Invest in infrastructure.

Objective #4: Foster services that improve quality of life.

Objective #5: Cultivate civic engagement and participation.

FISCAL CONSIDERATIONS:

Assessment Revenue - Attachment 4 summarizes the Proposed Fiscal Year 2017 Assessment for all 55 Park and Recreation MADs; the total assessment amount is projected to be \$13,924,946. This attachment also provides a summary of assessment levies and parcels sorted by district.

Assessment rates and benefit units vary for each district based on the method of apportioning the benefit as described in the Assessment Engineer’s Report. Some districts may have multiple assessment rates in defined zones of benefit based on the location of the property in relationship to the improvements. **Attachment 5** provides a summary of assessment rate and benefit unit changes between Fiscal Year 2016 and Fiscal Year 2017 for each district, including assessment rate changes for specific zones of benefit.

The following table provides an overview of the nature of assessment rate changes between these two fiscal years for the 55 MADs:

Type of Change between Fiscal Year 2016 and Fiscal Year 2017	Number of MADs
Assessments Raised by CPI	14
Assessments Unchanged	18
Assessments Suspended	4
Assessments Reinstated	1
Assessments Increased	9
Assessments Decreased	9

General Benefit/City Contributions

City Contributions are provided to MADs for the purpose of providing general benefit for activities otherwise provided by the City but in this case performed by the MAD. The general benefit is included in the Proposed Fiscal Year 2017 Budget for each funding source. Estimated general benefit contributions are summarized in the table below. Most changes are due to rate changes as shown in **Attachment 6**.

Maintenance Funding Source	Type of Maintenance Activity	FY2016 Budget	FY2017 Proposed	Change
Environmental Growth Fund	Open Space	\$286,626.00	\$261,869.00	(\$24,757.00)
Gas Tax Fund	Street Medians	\$1,183,382.00	\$1,214,719.00	\$31,337.00
General Fund	Park Grounds	\$856,834.00	\$873,858.00	\$17,024.00
General Fund	Library Grounds	\$26,924.00	\$27,461.00	\$537.00
General Fund	Fire Station Grounds	\$15,174.00	\$15,424.00	\$250.00
General Fund	External Benefit Contribution	\$1,036,703.00	\$928,635.00	(\$108,068.00)
TOTAL		\$3,405,643	\$3,321,966.00	(\$83,677)

City-Owned Parcels within MADs

The City owns 1,256 assessable parcels located within the Park and Recreation-managed MADs.¹ Consequently, there will be a General Fund impact of \$172,976.24 (see **Attachment 8** for a complete list of parcels). The City Council directed staff to pay assessments levied against City-owned parcels through Resolution R-288830 dated June 9, 1997. Assessments to property owned by the City are budgeted in the General Fund, Citywide Program Expenditures department budget.

Integration with the Proposed Fiscal Year 2017 Budget

Proposed budgets for the 55 existing MADs and the MAD Management Fund are included in Volume 1 of the Proposed Fiscal Year 2017 Budget document (Schedule VIII, pages 193-194). These proposed budgets were approved during City Council consideration as part of the Fiscal Year 2017 Budget Hearings.

The Assessment Engineer's Reports / Annual Reports presented herein incorporate the proposed annual budget and incorporates the latest property information, which may result in changes to anticipated revenues, the majority of which are property assessments. A copy of each district's budget, including revenues, expenditures, and fund balances/reserves is provided in Exhibit B of the Assessment Engineer's Report / Annual Reports. A copy of the MAD Management Fund's budget, including revenues, expenditures, and fund

¹ Note that many City-owned parcels are open space. In keeping with the methodology defined in the Assessment Engineer's Report, many of these parcels do not receive benefit and thus will have no assessment levied.

balances/reserves is provided in **Attachment 7**. The budgetary display includes Fiscal Year 2015 unaudited actuals, Fiscal Year 2016 estimate, and Fiscal Year 2017 budget.

MAD Reserves/Fund Balance

In accordance with , reserves and fund balances are maintained at an amount no greater than 50% of the annual budget for each district. Staff reviews existing fund balances along with anticipated and actual revenues and expenditures to determine whether modifications to the assessment rate or estimated expenditures are necessary to ensure compliance.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (if applicable):

This section is not applicable, as this action does not pertain to any contract or agreement.

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS:

The City Council approved the Fiscal Year 2016 Assessment Engineer’s Reports / Annual Reports and annual levy of assessments for all existing Park and Recreation MADs on July 21, 2015. This action will update the Park and Recreation MADs for Fiscal Year 2017. A companion Council action will consider existing MADs managed by the Planning, Neighborhoods & Economic Development Department, Economic Development Division.

COMMUNITY PARTICIPATION AND OUTREACH EFFORTS:

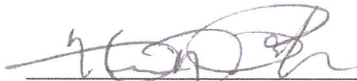
For those districts with a citizen advisory committee (designated representatives), staff presented the Proposed Fiscal Year 2017 Budget, which incorporates annual assessment rates shown in the Assessment Engineer’s Reports / Annual Reports. MAD citizen advisory committees are typically subcommittees of officially recognized planning committees, town councils, or other community based organizations. In addition, staff conducted a publicly noticed meeting to discuss the Proposed Fiscal Year 2017 Budget and assessment rates for all districts. This meeting took place on February 2, 2016 in accordance with Municipal Code §65.0219(a).

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key Stakeholders: This action most directly affects property owners to be assessed in each of the 55 MADs, as they directly benefit from the maintained improvements and will see an assessment charge in the fall 2016 property tax bill. Other key stakeholders are the citizen advisory committees that serve as the “designated representatives” of assessed property owners to advise the City regarding the budget and operations of the existing MADs in accordance with Municipal Code §65.0212. Staff works closely with these groups in developing annual MAD budgets and providing contract specifications for maintenance. The advisory committees met with staff to develop budgets during the October 201 through February 201 timeframe.

Projected Impacts: If the levy of assessments and Annual Assessment Engineer’s Reports / Annual Reports are not authorized, the City will be unable to maintain special benefits. In this scenario, existing districts will need to rely on their reserves to maintain improvements. Some MADs would remain in service longer than others since reserve levels vary. As reserves are depleted, maintenance activities would cease, and assets would be decommissioned. If the appropriation and expenditure of MAD funds is not authorized, all MAD services would immediately cease (including MAD formation funds authorized in Council Policy 100-21), and a contingency plan would need to be developed to decommission MAD assets. If all actions are approved, then assessments will be levied and maintenance services and improvements will be provided at budgeted levels.

Respectfully Submitted,



Herman D. Parker
Park and Recreation Director



David Graham
Deputy Chief Operating Officer

Attachments:

1. List of MADs, Council Districts, and Community Planning Areas
2. Fiscal Year 2017 Assessment Engineer's Reports /Annual Reports (includes Exhibit B, District Budget) and Original Year of Formation
3. Understanding the Budget (Exhibit B) in the Assessment Engineer's Report
4. Assessment Levy Summary by MAD
5. Assessment Rate and Benefit Unit Summary by MAD
6. City Contributions to MADs for General Benefit
7. Fiscal Year 2017 MAD Management Fund Budget
8. City-Owned Parcels and Assessments within Park and Recreation MAD Boundaries
9. **Agreement with Bird Rock Development Corporation**