

Ventura County Grand Jury 2017 - 2018



Final Report

Seabridge Community Facilities District No. 4

May 10, 2018

This page intentionally blank

Seabridge Community Facilities District No. 4

Summary

The 2017-2018 Ventura County Grand Jury (Grand Jury) opened an investigation after receiving complaints from residents of Oxnard’s Seabridge community regarding taxes assessed under Community Facilities District No. 4 (CFD No. 4).

Grand Jury research showed that in recent years, CFD No. 4 assessments have increased as much as 27 percent. The Grand Jury also found the Memorandum of Understanding (MOU) between the City of Oxnard (City) and Ventura County (County) includes an annual payment of \$100,000 for the added value the Channel Islands Harbor provides to Seabridge property owners.

Over a period of three consecutive fiscal years (2013-2015), the bill the City received from the County for Harbor Patrol costs increased by 18 percent. The Grand Jury concluded that during this period, the City underbudgeted for County services it received.

A City-sponsored report on CFD No. 4’s reserve fund stated the reserve-fund balance was established for extraordinary or infrequently occurring expenses. The Grand Jury concluded County Harbor Patrol – Capital Equipment, Parks Landscaping, Hardscaping and Structures and storm drain filters are ordinary and frequently occurring expenses and should not be paid using the CFD No. 4 reserve fund.

Increases in CFD No. 4 assessments were also reportedly due to the unlikely event that the Army Corps of Engineers (Corps) would stop providing dredging services of the harbor entrance at no cost to the County. However, the Grand Jury found that in the history of Seabridge, this has not happened. The Grand Jury concluded the City is collecting assessments from Seabridge residents for services that are provided by the Corps without charge.

The City report concluded should the reserve-fund balance increase in 2015, it would be appropriate to consider a reduction in the annual fees or taxes levied on residents of CFD No. 4. No action has been taken to date. The Grand Jury found that an updated report is in the process of being completed.

The Grand Jury recommends the Ventura County Board of Supervisors consider directing the County CEO to ensure that Channel Islands Harbor Patrol budgets clearly explain the expenditure of \$100,000 charged annually to CFD No. 4.

Background

Community Facilities Districts (CFD), more commonly known as Mello-Roos, are special districts established by local governments in the State of California (State) as a means of obtaining funding to finance public improvements and

services such as streets, roads, water, and sewer systems so that homes and commercial space can be built. (Ref-01)

In September 2002, the Seabridge Project (Seabridge) was incorporated into a Memorandum of Understanding (MOU) between Oly/Mandalay Bay (OMB), the County, and the City.

OMB, the County, and the City then formed CFD No. 4 to levy special taxes for the unfunded costs associated with Seabridge.

The Seabridge development consists of 135.3 acres of residential, retail, and commercial property within an area known as the Mandalay Bay Phase IV Specific Plan area. There are 501 taxable units in the Seabridge development.

Methodology

The Grand Jury examined State regulations, and County and City ordinances, as well as documents from OMB related to the development and maintenance of CFD No. 4. The Grand Jury conducted witness interviews and internet research.

Facts

- FA-01.** In December 2004, the City adopted Resolution No. 12,739, establishing CFD No. 4 and Ordinance No. 2677 to levy a special tax assessment to pay unfunded costs relating to the infrastructure and maintenance of Seabridge. (Att-01)
- FA-02.** CFD No. 4 is a non-bonded district for services and maintenance with no sunset clause. Annual assessments can increase up to a maximum of 2 percent each year. (Ref-02)
- FA-03.** The MOU between the City and the County includes an annual payment of \$100,000 for the added value the Channel Islands Harbor provides to Seabridge property owners. (Ref-03)
- FA-04.** The Grand Jury could not locate a budget expenditure related to the \$100,000 the County receives annually for the added value the harbor brings to Seabridge. (Ref-04)
- FA-05.** Proposition 218 was approved by State voters in November 1996 as "...a means of curbing perceived abuses in the use of assessments and property-related fees, specifically the use of these revenue-raising tools to pay for general governmental services rather than property-related services." (Ref-05)
- FA-06.** A Ventura County Star article, dated April 19, 2018, reported: "Currently, Seabridge residents pay \$1.6 million every year to the District; half of that goes toward Harbor Patrol." It further reported: "This past year, residents saw their Community Facilities District payments increased by 27 percent." (Ref-06)
- FA-07.** Over a period of three consecutive fiscal years, the Channel Islands Harbor Patrol's (Harbor Patrol) budget increased 18 percent.

- FA-08.** In fiscal year 2013-2014, the City budgeted \$543,000 for Harbor Patrol services. The actual costs for that fiscal year were \$678,000.
- FA-09.** In fiscal year 2014-2015, the City budgeted \$545,000 for Harbor Patrol services. The actual costs for that fiscal year were \$654,000.
- FA-10.** In fiscal year 2015-2016, the City budgeted \$720,000 for Harbor Patrol services. The actual costs for that fiscal year were \$736,000.
- FA-11.** The City reported the 2015 CFD No. 4 budget showed some improper charges. The City later corrected its statement regarding improper charges by indicating the comment was referring to a Land Maintenance District and not CFD No. 4.
- FA-12.** In September 2014, the City completed the CFD No. 4 Seabridge at Mandalay Bay Evaluation of Reserve Fund report. The report showed a reserve-fund balance of \$2.9 million. The report recommended a reserve-fund balance of \$2.6 million, two times larger than CFD No. 4's annual operating budget. (Att-02)
- FA-13.** The Reserve Fund Summary includes costs related to County Harbor Patrol capital equipment, seawall and public walkways/docks, harbor entrance dredging, parks, landscaping, hardscaping, structures, and storm drain filters. (Att-02)
- FA-14.** The Reserve Fund Summary states, "The Reserve Fund balance is supposed to be established for extraordinary or infrequently occurring expenses." (Att-03)
- FA-15.** The City increased reserve-fund assessments in the unlikely event that the Corps stopped providing dredging of the harbor entrance at no cost to the County.
- FA-16.** In the history of Seabridge, the Corps has never charged for Channel Islands Harbor dredging services.
- FA-17.** The reserve-fund report concluded, "If the Reserve Fund is able to rise next year; then, it would be appropriate [for the City and County] to consider a reduction in the annual fees or taxes." This has not been done to date. The City is completing an updated evaluation of the CFD No. 4 reserve fund. (Att-03)
- FA-18.** On February 13, 2018, Seabridge residents delivered a petition to the City requesting that a ballot measure entitled Ordinance Reducing Special Tax in Community Facilities District No. 4 be placed on the ballot for the November 6, 2018, general election. The City Council unanimously approved the petition. (Att-04)

Conclusions

- C-01.** The Grand Jury concluded there is no expenditure within the Channel Islands Harbor Patrol's budget related to the \$100,000 charged by the County annually to CFD No. 4. (FA-03, FA-04, FA-05)

- C-02.** The Grand Jury concluded that during a three-year period, the City underbudgeted for County services. As a result, CFD No. 4 reserve funds were used to address the budget shortfalls. (FA-06, FA-07, FA-08)
- C-03.** The Grand Jury concluded County Harbor Patrol – Capital Equipment, Parks Landscaping, Hardscaping and Structures and storm drain filters are ordinary and frequently occurring expenses and should not be paid using the CFD No. 4 reserve fund. (FA-12, FA-13)
- C-04.** The Grand Jury concluded the City is collecting assessments from Seabridge residents for dredging services already provided by the Corps without charge. (FA-14, FA-15)
- C-05.** The Grand Jury concluded that fluctuations in the City’s budget pass-through and shortfalls created a dependency on the CFD No. 4 reserve-fund account. This dependency prevented a reduction in the annual assessments. (FA-06, FA-07, FA-08, FA-10, FA-11, FA-13)
- C-06.** Seabridge CFD No. 4 assessment has increased in recent years by as much as 27 percent. The Grand Jury concluded this is in conflict with the Seabridge MOU, which limits annual assessment increases to no more than 2 percent above the previous year. (FA-01, FA-02, FA-09, FA-10)

Recommendations

- R-01.** The Grand Jury recommends the Ventura County Board of Supervisors consider directing the County CEO to ensure that Channel Islands Harbor Patrol budgets clearly explain the expenditure of \$100,000 charged annually to CFD No. 4. (C-01)
- R-02.** The Grand Jury recommends the City consider avoiding the regular use of CFD No. 4 reserve funds to balance its budget. (C-02, C-03)
- R-03.** The Grand Jury recommends the City revise the list of potential issues that might require funding from the CFD No. 4 reserve-fund account, ensuring that the list only includes extraordinary or infrequently occurring expenses. (C-02, C-03)
- R-04.** The Grand Jury recommends the City review the need for the CFD No. 4 assessment for Channel Islands Harbor dredging services. (C-04)
- R-05.** The Grand Jury recommends that the City strive to eliminate fluctuations in County pass-through funds and budgeting shortfalls. (C-02, C-05)
- R-06.** The Grand Jury recommends the City adhere to the MOU restrictions limiting annual assessment increases to the 2 percent escalator. (C-06)

Responses

Responses Required From:

Ventura County Board of Supervisors (C-01, C-04, R-01)

City Council, City of Oxnard (C-02, C-03, C-05, R-02, R-03, R-04, R-05)

References

- Ref-01.** California Tax Data, Mello-Roos
http://www.californiataxdata.com/A_Mello_Roos/index.asp
Accessed on April 24, 2018
- Ref-02.** Seabridge Memorandum of Understanding, Page 4, Section 5
https://www.oxnard.org/wpcontent/uploads/2016/05/CIH_Seabridge-MOU.pdf
Accessed on April 24, 2018
- Ref-03.** Seabridge Memorandum of Understanding, Page 4, Section 5
https://www.oxnard.org/wpcontent/uploads/2016/05/CIH_Seabridge-MOU.pdf
Accessed on April 24, 2018
- Ref-04.** County of Ventura Adopted Budget Fiscal Year 2017-2018
www.ventura.org/.../adopted-budget-fy-2017-2018
Accessed on April 24, 2018
- Ref-05.** Proposition 218
www.californiataxdata.com./pdf/Proposition218.pdf
Accessed on April 24, 2018
- Ref-06.** Why Seabridge voters will face choice on ballot. Ventura County Star, April 19, 2018
www.vcstar.com/videos/news/2018/04/19/channelislandsharborpatrolcostscausesseabridgediscontentandballotmeasure/533576002/
Accessed on April 25, 2018

Attachments

- Att-01.** Rate and Method of Apportionment for Community Facilities District No. 4 (Seabridge at Mandalay Bay) of the City of Oxnard
- Att-02.** CFD No. 4, Reserve Fund Summary
- Att-03.** City of Oxnard CFD No. 4 – Conclusions and Recommendations Seabridge at Mandalay Bay Evaluation of Reserve Fund
- Att-04.** Calling of Election for Initiative Measure For CFD No. 4 (Seabridge at Mandalay Bay)
- Att-05.** City of Oxnard CFD No. 4 (Seabridge at Mandalay Bay) 2014-2018 Fiscal Year Cost Recovery Analysis

Glossary

TERM

DEFINITION

CFD No. 4

Community Facilities District Number 4

City

City of Oxnard

Corps

Army Corps of Engineers

County

County of Ventura

Grand Jury

2017-2018 Ventura County Grand Jury

Harbor Patrol

Channel Islands Harbor Patrol

MOU

Memorandum of Understanding

OMB

Oly/Mandalay Bay

Attachment 01

**Rate and Method of Apportionment for
Community Facilities District No. 4
(Seabridge at Mandalay Bay)
of the City of Oxnard**

Resolution No. 12,739

**RATE AND METHOD OF APPORTIONMENT FOR
COMMUNITY FACILITIES DISTRICT NO. 4
(SEABRIDGE AT MANDALAY BAY)
OF THE CITY OF OXNARD**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 4 (Seabridge at Mandalay Bay) of the City of Oxnard ("CFD No. 4") and collected each Fiscal Year commencing in Fiscal Year 2004-2005, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property" and "Undeveloped Property" as described below. All of the real property in CFD No. 4, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"**Acre or Acreage**" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map.

"**Act**" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"**Administrative Expenses**" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 4: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the City, CFD No. 4 or any designee thereof of complying with City, CFD No. 4 or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 4 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 4 for any other administrative purposes of CFD No. 4, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"**Assessor's Parcel**" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"**Assessor's Parcel Map**" means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

Attachment 02

CFD No. 4, Reserve Fund Summary

RESERVE FUND SUMMARY

TABLE 3

Item	Total \$
1. County Harbor Patrol – Extraordinary Charges	100,000
2. County Harbor Patrol – Capital Equipment	100,000
3. Seawall and Public Walkways/Docks	300,000
4. Tract Waterway Dredging	0
5. Harbor Entrance Dredging	960,000
6. Main Channel Circulation Pump Station	301,000
7. Tract Waterway Circulation Pump Station	125,000
8. Parks Landscaping, Hardscaping and Structures	200,000
9. Storm Drain Filters	173,000
10. Legal and Consulting	0
Subtotal	2,259,000
Contingencies @15%	339,000
Grand Total Reserve Fund	2,598,000

Attachment 03

**City of Oxnard CFD No. 4
Conclusions and Recommendations Seabridge at Mandalay Bay
Evaluation of Reserve Fund**

SECTION 3 CONCLUSIONS AND RECOMMENDATIONS

The annual administration and operations of the Seabridge Development has resulted in a beautiful community and great place to live. The Reserve-fund balance is supposed to be established for extraordinary or infrequently occurring expenses. It is important to maintain an amount that can cover all of the expenses that have been listed herein.

Table 3 indicates that a reasonable reserve fund is estimated at \$2,598,000 in 2014 dollars. It is important to note that inflation will more than likely occur in the future years. We have therefore recommended that this reserve fund should be tied to the Consumer Price Index for all urban consumers (CPI-U), for the Los Angeles, Riverside, Orange County, California Area with 1982-84 = 100. The June 2014 index is 243.528.

It is a good financial practice to keep the reserve so that the City does not have to go back to the property owners and raise the fees to cover these unusual expenses. On the other hand, now that a suitable Reserve Fund is established, it might be possible to reduce the annual fees. If you observe Table 2, you will notice that the reserve fund is down from what it was 2 years prior. We therefore recommend that the annual fees remain steady one more year, to make sure that the reserve fund does not reduce further. If the Reserve Fund is able to rise next year, then it would be appropriate to consider a reduction in the annual fees or taxes.

If you have any questions or comments, feel free to contact me at (805) 981-0706, ext. 104, or via e-mail at pjr@penfieldsmith.com. Thank you for this opportunity to be of service.


Sincerely,

PENFIELD & SMITH

Patrick J. Reeves, P.E.
Principal Engineer

Attachment 04

**Calling of Election for Initiative Measure
for CFD No. 4 (Seabridge at Mandalay Bay)**

	<p align="center">CITY COUNCIL AGENDA REPORT</p>	<p>TYPE OF ITEM: Info/Consent AGENDA ITEM NO.: <u>1</u></p>
---	--	---

DATE: April 3, 2018

TO: City Council

FROM: Michelle Ascencion
City Clerk



SUBJECT: Calling of Election for Initiative Measure for CFD No. 4 (Seabridge at Mandalay Bay).

CONTACT: Michelle Ascencion, City Clerk
Michelle.Ascencion@oxnard.org, 385-7805

RECOMMENDATION:

That the City Council (acting as the legislative body of Community Facilities District No. 4 (Seabridge at Mandalay Bay) of the City of Oxnard) adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 4 (SEABRIDGE AT MANDALAY BAY) OF THE CITY OF OXNARD ORDERING AN ELECTION TO BE HELD ON NOVEMBER 6, 2018 TO CONSIDER THE ADOPTION OF A MEASURE ENTITLED "ORDINANCE REDUCING SPECIAL TAX IN COMMUNITY FACILITIES DISTRICT NO. 4 (SEABRIDGE AT MANDALAY BAY)", REQUESTING THE COUNTY CLERK TO CONDUCT THE ELECTION, AND AUTHORIZING THE BOARD OF SUPERVISORS TO CANVASS THE RETURNS.

BACKGROUND

On February 2, 2018, the City Clerk received a notification letter that a Notice of Intention to Circulate a Petition for Community Facilities District No. 4 (Seabridge at Mandalay Bay) had been posted and published as required by Elections Code Sections 9302 and 9303.

The initiative proponent delivered the completed petitions to the City Clerk's office on February 13, 2018, which were forwarded to the Ventura County Elections Division for signature verification. On March 2, 2018, the Elections Division finalized its count of the signatures and

Attachment 05

**CITY OF OXNARD
CFD No. 4 (Seabridge at Mandalay Bay)
2014-2018 Fiscal Year Cost Recovery Analysis**

CITY OF OXNARD
CFD 4 (Seabridge at Mandalay Bay)
2014-2018 Fiscal Year Cost Recovery Analysis

Description	2017/18 Levy	2016/17 Levy	2016/17 Actuals	Net Under/Over Budget	2015/16 Levy	2015/16 Actuals	Net Under/Over Budget	2014/15 Levy	2014/15 Actuals	Net Under/Over Budget	2013/14 Levy	2013/14 Actuals	Net Under/Over Budget
Park Maintenance	\$192,600.00	\$336,000.00	\$209,417.40	\$126,582.60	\$241,770.00	\$179,863.54	\$61,906.46	\$213,907.00	\$148,816.48	\$65,090.52	\$120,089.30	\$119,868.92	\$220.38
Contingency for Special Projects	\$100,000.00		400.00	(\$400.00)			\$0.00			\$0.00			\$0.00
Utilities	\$51,000.00		44,011.46	(\$4,011.46)		\$43,973.89	(\$43,978.89)		46,802.67	(\$46,802.67)		52,836.10	(\$52,836.10)
Materials and Supplies	\$11,000.00		15,456.81	(\$15,456.81)		\$7,080.80	(\$7,080.80)		5,742.84	(\$5,742.84)		1,336.95	(\$1,336.95)
Operations and Field Staff	\$107,629.00			\$0.00		\$0.00	\$0.00			\$0.00			\$0.00
Maintenance Services			880.81	(\$880.81)	29,606.00	21,794.86	\$7,811.14	40,000.00	45,420.00	(\$5,420.00)		39,840.00	(\$39,840.00)
Flood and Storm Protection Services	124,960.00	45,000.00	0.00	\$45,000.00	45,100.00	0.00	\$45,100.00	45,100.00	0.00	\$45,100.00		0.00	\$0.00
Code Enforcement-Harbor Patrol	800,000.00		741,424.00	(\$71,424.00)	719,520.00	735,935.00	(\$16,415.00)	545,148.86	654,032.00	(\$108,883.14)	543,318.00	677,791.00	(\$134,473.00)
Police Protection Services	25,000.00	750,000.00	24,577.24	\$75,422.76	85,000.00	26,334.71	\$58,665.29	85,000.00	86,731.43	(\$1,731.43)	85,000.00	63,800.82	\$21,199.18
Waterway Repairs	187,250.00	77,500.00	57,057.31	\$20,442.69	158,412.00	63,283.53	\$95,128.47	0.00	42,554.40	(\$42,554.40)	169,182.00	30,556.40	\$138,625.60
Ambulance/Paramedic Services	0.00	0.00	0.00	\$0.00	0.00	0.00	\$0.00	0.00	0.00	\$0.00		0.00	\$0.00
Contingency Special Tax Req.	0.00	0.00	0.00	\$0.00	0.00	0.00	\$0.00	0.00	0.00	\$0.00		0.00	\$0.00
Subtotal	\$1,599,439.00	\$1,208,500.00	\$1,093,225.03	\$115,274.97	1,279,408.00	1,078,271.33	201,136.67	929,155.86	1,030,099.82	(100,943.96)	917,589.30	986,030.19	(68,440.89)
Agency Administration Costs	\$40,182.65	\$51,550.00	\$84,849.96	(\$33,298.96)	\$54,850.00	54,849.96	0.04	\$54,850.00	49,848.00	5,002.00	49,850.00	49,850.00	0.00
Indirect and Fixed Charges	\$42,816.00			\$0.00		0.00	0.00			0.00			0.00
County Collection Fees (1)	3,873.58	3,275.00	3,081.02	\$193.98	2,560.00	2,635.64	(75.64)	2,537.00	2,621.03	(84.03)	3,500.00	1,600.36	1,899.64
Administrative Costs	3,300.00	3,300.00	3,459.84	(\$159.84)	0.00	3,231.40	(3,231.40)	0.00	3,911.37	(3,911.37)	3,500.00	3,911.37	(411.37)
Administrative Expenses	207.58	0.00	0.00	\$0.00	150.00	0.00	150.00	5.00	0.00	5.00	0.00	0.00	0.00
Other costs	1,536.00	0.00	0.00	\$0.00	0.00	0.00	\$0.00	\$57,392.00	56,380.40	1,011.60	\$58,850.00	55,361.73	\$1,488.27
Subtotal	\$91,915.81	\$58,125.00	\$91,390.82	(\$33,265.82)	\$57,560.00	\$60,717.00	(\$3,157.00)	\$57,392.00	56,380.40	\$1,011.60	\$58,850.00	55,361.73	\$1,488.27
Del. management charges	\$0.00	\$0.00		\$0.00	\$0.00		\$0.00	\$0.00		\$0.00			\$0.00
Manual adjustments	0.00	0.00		\$0.00			\$0.00			\$0.00			\$0.00
Special tax levy credit	(180,000.00)	(80,000.00)		(330,894.00)									
Rounding adjustments	0.00	(2.08)		(2.22)				(4.40)					
Subtotal	(\$180,000.00)	(\$80,002.08)		(\$330,896.22)				(\$4.40)					
Total Annual Levy/Budget	\$1,511,354.81	\$1,186,622.92	\$1,184,615.85	\$2,007.07	\$1,003,271.78	\$1,138,988.33	(\$132,716.55)	\$986,543.46	1,086,480.22	(\$99,936.76)	\$974,439.30	1,041,391.92	(\$66,952.62)
County Apportionment(2)	\$1,507,481.23	\$1,183,347.92			\$1,003,711.78			\$984,006.46			\$970,939.30		
Parcels Levied	501	501			501			501			501		
Total Expected Special Tax(3)	\$1,653,677.52	\$1,653,677.52			\$1,621,241.66			\$1,589,452.61			\$1,589,452.61		
Total Maximum Special Tax(3)	\$1,898,947.68	\$1,898,947.68			\$1,861,722.22			\$1,825,217.86			\$1,825,217.86		

(1) Total Annual Levy reduced by the collection fee taken by the County Auditor-Controller.
 (2) Amount to be disbursed by Tax Collector if 100% collection is made.
 (3) Estimated Tax.

Fund/Account	6/30/2017	6/30/2016	6/30/2015	6/30/2014	6/30/2013
Total Fund Equity	\$2,843,616.57	\$2,790,915.12	\$2,892,780.11	\$2,944,659.13	\$3,006,979.06
Reserve Requirement	\$2,664,793.00	\$2,664,793.00	\$2,618,600.00	\$2,598,000.00	N/A