



City of Sacramento City Council

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915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 10/2/2012

Report Type: Consent

Title: Administrative Matter: Amendments of Resolution Nos. 2012-115 and 2012-204 to reflect the correct title of the boundary map for Community Facilities District No. 2012-01 (Clean Energy).

Report ID: 2012-00825

Location: Citywide

Recommendation: Pass a Resolution amending Resolution Nos. 2012-115 and 2012-204 to reflect the correct title of the boundary map for the Community Facilities District No. 2012-01 (Clean Energy).

Contact: Yvette Rincon, Sustainability Program Manager, (916) 808-5827, General Services Department

Presenter: None

Department: General Services Dept

Division: Office of the Director

Dept ID: 13001021

Attachments:

- 1-Description/Analysis
 - 2-Resolution
 - 3-Exhibit A-Reso 2012-115 Correction
 - 4-Exhibit B Reso 2012-115 Exhibit A Map Correction
 - 5-Exhibit C Reso 2012-204 Correction
-

City Attorney Review

Approved as to Form
Joseph Cerullo
9/24/2012 11:58:53 AM

Approvals/Acknowledgements

Department Director or Designee: Reina Schwartz - 9/20/2012 3:08:40 PM

Description/Analysis

Issue: On May 15, 2012, Council adopted Resolution No. 2012-115 declaring its intent to establish a community facilities district for the Clean Energy Sacramento Program. On June 19, 2012, Council adopted Resolution No. 2012-204, thereby establishing the district, providing for a levy of voluntary special tax, and authorizing a validation action. Both resolutions refer to the title of the boundary map for the district; however, the references were not consistent. The proposed resolution amending Resolution Nos. 2012-115 and 2012-204 will correct those inconsistencies.

Policy Considerations: This action ensures an accurate public record for the Community Facilities District No. 2012-01 (Clean Energy).

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): Correction of a resolution is not a “project” subject to CEQA because (a) it has no potential to cause a significant effect on the environment and (b) it pertains to creation of a government-funding mechanism not involving a commitment to a specific project that may result in a potentially significant physical impact on the environment. (Cal. Code Regs., title. 14, §§ 15061(b)(3) & 15378(b)(4).)

Sustainability: Implementation of the Clean Energy Sacramento Program is one of the implementation actions identified in the 2011 Sustainability Plan and a voluntary implementation item in the City’s Climate Action Plan.

Commission/Committee Action: None

Rationale for Recommendation: This action ensures an accurate public record for the Community Facilities District No. 2012-01 (Clean Energy).

Financial Considerations: There is no financial impact to the City as a result of this report.

Emerging Small Business Development (ESBD): No goods or services are being purchased as a result of this report.



RESOLUTION NO. 2012-___

Adopted by the Sacramento City Council

October 2, 2012

AMENDING RESOLUTION NOS. 2012-115 AND 2012-204 TO REFLECT THE CORRECT TITLE OF THE BOUNDARY MAP FOR COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY), CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

BACKGROUND

- A. On May 15, 2012, the City Council adopted Resolution No. 2012-115, thereby declaring its intent to establish a community facilities district within the City's jurisdictional boundaries in accordance with the Mello-Roos Community Facilities District Act of 1982, set forth in sections 52211 through 53368.3 of the California Government Code, and particularly in accordance with sections 53313.5, subdivision (l), and 53328.1, subdivision (a).
- B. On June 19, 2012, the City Council adopted Resolution No. 2012-204, thereby establishing Community Facilities District No. 2012-01 (Clean Energy), providing for the levy of a special tax on each property annexed to the district with the owners' unanimous consent, and authorizing the filing of a lawsuit to validate the legality of the district and the special tax.
- C. Both resolutions refer to the title of the boundary map for the district, but the references are not consistent. This resolution corrects those inconsistencies, so that the public record for the district will be accurate.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The second sentence in section 3 of Resolution No. 2012-115 is hereby amended to read as follows:

The Territory includes the entire current jurisdictional boundaries of the City and is more particularly described and shown on a map titled "Proposed Boundary Map, Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California" now on file in the office of the City Clerk (the "Clerk"), which map is hereby approved by the Council.

This amendment is marked in the copy of Resolution No. 2012-115 attached as Exhibit A to this resolution.

Section 2. Resolution No. 2012-115 is hereby amended by replacing Exhibit A with the map attached to this resolution as Exhibit B and titled as follows:

PROPOSED BOUNDARY MAP
COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY)
CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

Section 3. The second sentence in Background paragraph B of Resolution No. 2012-204 is hereby amended to read in its entirety as follows (with the City Clerk to add the recording information when it is available):

Titled "Proposed Boundary Map, Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California," the Boundary Map is attached to the Resolution of Intention as Exhibit A and was recorded on _____, 2012, in the Book of Maps of Assessment and Community Facilities Districts maintained by the Sacramento County Clerk/Recorder in Book ____ at Page _____.

This amendment marked in the copy of Resolution No. 2012-204 attached as Exhibit C to this resolution. The copy does not include the amended boundary map described in Section 2 above.

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- Exhibit A: Resolution 2012-115 Showing Corrected Language
- Exhibit B: Resolution 2012-115 Exhibit A Boundary Map Correction
- Exhibit C: Amended Resolution No. 2012-204 (not including the corrected boundary map) with changes marked



RESOLUTION NO. 2012-115

Adopted by the Sacramento City Council

May 15, 2012

DECLARING INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY), CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND TO LEVY SPECIAL TAXES THEREIN TO FINANCE THE ACQUISITION AND INSTALLATION OF ENERGY-EFFICIENCY, WATER-CONSERVATION, AND RENEWABLE-ENERGY IMPROVEMENTS PERMANENTLY AFFIXED TO REAL PROPERTY

BACKGROUND

- A. The City Council (the “Council”) of the City of Sacramento (the “City”) has duly considered the advisability and necessity of establishing a community facilities district within the City’s jurisdictional boundaries and levying special taxes therein to finance the acquisition, installation, and improvement of energy-efficiency, water-conservation, and renewable-energy improvements permanently affixed to privately or publicly owned real property (the “Authorized Improvements”), all in accordance with the Mello-Roos Community Facilities Act of 1982 as amended by Senate Bill No. 555 (Statutes 2011, chapter 493) (the “Act”). The Act is set forth in chapter 2.5 (beginning with section 53311) of part 1 in division 2 of title 5 of the California Government Code.
- B. In section 8 of Senate Bill No. 555, the California Legislature made the following findings:

“The Legislature finds and declares that global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of the state, and that action taken by the state to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act. California has a tradition of environmental leadership and wishes to be at the forefront of national and international efforts to reduce emissions of greenhouse gases. In furtherance of these efforts to reduce emissions of greenhouse gases, the Legislature declares that a public purpose will be served by providing the legislative body of a local agency with the authority to use special taxes pursuant to the Mello-Roos Community Facilities Act of 1982 to finance the installation of energy efficiency and renewable energy improvements that are affixed, as specified in Section 660 of the Civil Code, to residential, commercial, industrial, or other property.

“The Legislature further finds and declares that the growing population, climate change, and the need to protect and grow California’s economy while protecting

and restoring our fish and wildlife habitats make it essential that the state manage its water resources as efficiently as possible. Section 2 of Article X of the California Constitution declares: "It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of those waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare." Former Governor Schwarzenegger, in his Executive Order S-06-08, proclaimed a condition of statewide drought and ordered implementation of additional actions to promote water conservation which will contribute to achieving long-term reductions in water use. Former Governor Schwarzenegger called for a 20-percent per capita reduction in urban water use statewide by the year 2020. Reduced water use through conservation provides significant energy and environmental benefits, and can help protect water quality, improve stream flows, and reduce greenhouse gas emissions. There are many water conservation practices that produce significant energy and other resource savings that should be encouraged as a matter of state policy. The Legislature also declares that a public purpose will be served by providing the legislative body of a local agency with the authority to use special taxes pursuant to the Mello-Roos Community Facilities Act of 1982 to finance the installation of water conservation improvements that are attached to residential, commercial, industrial, or other property."

- C. The Council has determined that establishing the community facilities district is consistent with and follows the local goals and policies concerning the use of the Act that have been adopted by the Council and are now in effect.
- D. The Council is fully advised in this matter.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Council acknowledges the legislative findings contained in paragraph B of the Background and finds that the statements in paragraphs A, C, and D of the Background are true.
- Section 2. The Council intends, and hereby proposes, to establish a community facilities district in accordance with section 53328.1 of the Act, to be known and designated as "Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California" (the "Community Facilities District").
- Section 3. As authorized by section 53328.1 of the Act, the Community Facilities District will initially contain only territory proposed for annexation to the Community Facilities District in the future (the "Territory"). The Territory includes the entire current jurisdictional boundaries of the City and is more particularly described and shown on a map titled "Proposed Boundary Map, Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California"

~~now on file in the office of the City Clerk (the "Clerk"), which map is hereby approved by the Council. The Territory includes the entire current jurisdictional boundaries of the City and is more particularly described and shown on a map entitled "Proposed Boundaries of Territory Proposed for Annexation in the Future to Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California" now on file in the office of the City Clerk (the "Clerk"), which map is hereby approved by the Council.~~ A reduced copy of the map is attached to this resolution as Exhibit A. The Council finds that the map is in the form and contains the matters prescribed by section 3110 of the California Streets and Highways Code. The Council hereby authorizes and directs the Clerk to certify the adoption of this resolution on the face of the map and to record a copy of the map with the Sacramento County Clerk/Recorder in accordance with section 3111 of the California Streets and Highways Code.

- Section 4. The Council hereby finds that any property included within the Territory that is currently in agricultural use will, if annexed into the Community Facilities District, nonetheless be benefited by the Authorized Improvements.
- Section 5. The Council intends, in accordance with the Act, to facilitate the financing on a parcel-by-parcel basis of the acquisition, installation, and improvement of the Authorized Improvements shown on Exhibit B to this resolution as may be approved, in any particular instance, by the City or the City's authorized program administrator.
- Section 6. The cost of financing the acquisition, installation, and improvement of the Authorized Improvements includes all expenses incidental to the acquisition, installation and improvement, including but not limited to the following: the costs of planning and designing the Authorized Improvements, together with the costs of any environmental evaluations thereof; a proportionate share of the costs associated with the creation of the Community Facilities District, the issuance of bonds or the making of alternative financing arrangements, the determination of the amount of any special taxes, or the collection or payment of any special taxes; and any costs otherwise incurred to carry out the authorized purposes of the Community Facilities District. A representative list of incidental expenses proposed to be incurred is set forth on Exhibit C to this resolution.
- Section 7. The Council intends (a) that a parcel within the Territory may be annexed to the Community Facilities District and subjected to the special tax only with the unanimous written approval of the owner or owners of the parcel when it is annexed (the "Unanimous Approval Agreement"); (b) that the rate of special tax for each parcel will be established in an amount required to finance or refinance (including the payment of interest) the Authorized Improvements approved for the parcel and to pay the parcel's appropriate share of the Community Facilities District's administrative expenses; (c) that the maximum annual rate, method of apportionment, and manner of collection of the special tax must be specified in the Unanimous Approval Agreement for each parcel; and (d) that the special-tax revenues may also be used to repay the appropriate portion of any funds

the City advances for the Community Facilities District and to repay under any agreement (which will not constitute a City debt or liability) any advances of funds or reimbursement for the lesser of the value or cost of work in-kind provided by any person for the purposes of the Community Facilities District.

- Section 8. Upon recordation of a Notice of Special Tax Lien in accordance with sections 53328.1(a)(4) and 53328.3 of the Act and section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax will attach to each parcel annexed to the Community Facilities District, and this lien will continue in effect until the special-tax obligation is prepaid and permanently satisfied and the lien is cancelled in accordance with law or until the City no longer levies the special tax. The method of prepayment of the special-tax obligation, if any, will be as set forth in the Unanimous Approval Agreement.
- Section 9. The Council intends that the proposed special tax will be collected through the regular secured property-tax bills for Sacramento County. The Council further intends that the proposed special tax will be subject to the same enforcement mechanism and the same penalties and interest for late payment as regular ad valorem property taxes, although the Council reserves the right to use any other lawful means of billing, collecting, and enforcing the special tax, including direct billing, supplemental billing, and, when lawfully available, judicial foreclosure of the special-tax lien.
- Section 10. As required by the Act, (a) the maximum authorized special tax for financing the acquisition, installation, and improvement of the Authorized Improvements that may be levied against any parcel used for private residential purposes (which use begins when a certificate of occupancy or final inspection for private residential use is issued) is specified as a dollar amount and may not increase by more than 2% each year; (b) the special tax may not be levied against such a parcel after the last tax date set forth in the Unanimous Approval Agreement; and (c) the special tax may not be increased on such a parcel, as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District, by more than 10% or by the amount specified in the Unanimous Approval Agreement, whichever is less.
- Section 11. in accordance with sections 53325.7 and 52238.1(a)(2) of the Act, the Council intends to establish the appropriations limit (as defined by section 8(h) of Article XIII B of the California Constitution) for the Community Facilities District for the 2012-2013 fiscal year and for subsequent fiscal years as the sum of the amounts stated as the appropriations limit in each approved Unanimous Approval Agreement. The amount contributing toward the appropriations limit of the Community Facilities District in each Unanimous Approval Agreement will be subject to adjustment following the fiscal year in which the Unanimous Approval Agreement is fully executed, as provided in section 53325.7 of the Act.
- Section 12. At 6:00 p.m. on Tuesday, June 19, 2012, in the Council Chambers of New City Hall at 915 I Street, Sacramento, California, the Council will hold a public

hearing to consider the establishment of the Community Facilities District, the designation of Authorized Improvements, the specification of the Territory, and all other matters as set forth in this resolution. At the public hearing, any persons interested may appear and be heard, and the testimony of all interested persons for or against the establishment of the Community Facilities District, the specification of Authorized Improvements, the extent of the Territory, the establishment of the appropriations limit, or any other matter set forth in this resolution will be heard and considered.

- Section 13. Any protests to the proposals in this resolution may be made orally or in writing by any interested persons, except that any protests pertaining to the regularity or sufficiency of these proceedings must be in writing and must clearly set forth the irregularities and defects to which objection is made. The Council may waive any irregularities in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. Any written protest not personally presented at the public hearing by the author of the protest must be filed with the Clerk at or before the time fixed for the public hearing in order to be received and considered. Any written protest may be withdrawn in writing at any time before the conclusion of the public hearing.
- Section 14. After the conclusion of the public hearing, if written protests by 50% or more of the registered voters residing and registered within the Territory have been filed and not withdrawn, or if written protests have been filed and not withdrawn by the owners of one-half or more of the land area that is within the Territory and not exempt from the special tax, then no further proceedings to form the Community Facilities District may be undertaken for at least one year from the date of the Council's determination that a majority protest exists. If the majority protest is only against the furnishing of a specified type or types of Authorized Improvements, or against levying a specified special tax, or against any aspect of the issuance of debt, then only those elements need be eliminated from the proceedings.
- Section 15. The public hearing may be continued from time to time but must be completed within 30 days. If, however, the Council finds that the complexity of the Community Facilities District or the need for public participation requires additional time, then the public hearing may be continued from time to time for a period not to exceed six months.
- Section 16. At the public hearing, the Council may modify this resolution by eliminating any of the Authorized Improvements, by reducing the Territory, by reducing the authority to incur indebtedness to be repaid by the special tax, or by making any other changes that reduce the authorizations proposed by this resolution.
- Section 17. - At the conclusion of the public hearing, the Council may abandon these proceedings or may, after passing upon all protests, determine to proceed with establishing the Community Facilities District. If the Council determines to proceed with establishment, then the election procedure will consist of the execution of Unanimous Approval Agreements as provided in sections 53329.6 and 53355.5 of the Act.

- | Section 18. -The City’s Sustainability Program Manager (the “Manager”) is hereby directed to study the Community Facilities District and, at or before the time of the public hearing, to cause to be prepared and filed with the Clerk a report that contains the following: copies of Exhibits B and C to this resolution, a recommended form of Unanimous Approval Agreement, recommendations for appropriate procedures and criteria for processing and evaluating applications for participation and inclusion in the Community Facilities District from the owners of property within the Territory, and an estimate of the related incidental expenses. The Clerk shall submit the report to the Council for review and shall make it available for inspection by the public. In addition, the Clerk shall make the report part of the record of the public hearing. The Manager may retain consultants to prepare the report.

- | Section 19. -The Clerk shall give notice of the time and place of the public hearing by publishing a Notice of Public Hearing in the form required by the Act once in the *DAILY RECORDER*, a newspaper of general circulation published in the area of the Community Facilities District, in accordance with section 6061 of the California Government Code, and publication must be completed at least seven days before the date of the hearing.

- | Section 20. -This resolution takes effect when adopted and supersedes Resolution No. 2012-105, which is hereby rescinded.

Adopted by the City of Sacramento City Council on May 15, 2012 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.

Mayor Kevin Johnson

Attest:

Shirley Concolino, City Clerk



**PROPOSED BOUNDARY MAP
COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY)
CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA
SHEET 1 OF 1**

CLERK'S MAP FILING STATEMENT:

FILED IN THE OFFICE OF THE CLERK OF CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, THIS ____ DAY OF _____, 2012.

CITY CLERK,
CITY OF SACRAMENTO, CALIFORNIA

CLERK'S MAP CERTIFICATE:

I HEREBY CERTIFY THAT THE MAP SHOWING THE BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY), CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AT A MEETING THEREOF, HELD ON THE ____ DAY OF _____ 2012, BY ITS RESOLUTION NO. _____

CITY CLERK,
CITY OF SACRAMENTO, CALIFORNIA

COUNTY RECORDER'S FILING STATEMENT:

FILED THIS ____ DAY OF _____, 2012 AT THE HOUR OF ____ O'CLOCK ____ M., IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA,

COUNTY RECORDER
OF THE COUNTY OF SACRAMENTO, CALIFORNIA

BY: _____
DEPUTY DOCUMENT NO. _____

— Boundary Line

ASSESSOR PARCELS WITHIN BOUNDARY:
FOR PARTICULARS OF LINES AND DIMENSIONS
OF PARCELS, REFER TO SACRAMENTO COUNTY
ASSESSOR PARCEL MAP BOOKS SHOWING ALL
PARCELS WITHIN THE CITY OF SACRAMENTO.





RESOLUTION NO. 2012-204

Adopted by the Sacramento City Council

June 19, 2012

RESOLUTION OF FORMATION ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2012-01 (CLEAN ENERGY), CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, AND PROVIDING FOR THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE THE ACQUISITION, INSTALLATION, AND IMPROVEMENT OF ENERGY-EFFICIENCY, WATER-CONSERVATION, AND RENEWABLE-ENERGY IMPROVEMENTS PERMANENTLY AFFIXED TO REAL PROPERTY; AND AUTHORIZING VALIDATION ACTION

BACKGROUND

- A. On May 15, 2012, the City Council duly adopted Resolution No. 2012-115 (the “**Resolution of Intention**”) declaring its intent to establish a community facilities district within the City’s jurisdictional boundaries in accordance with the Mello-Roos Community Facilities Act of 1982, set forth in sections 53311 through 53368.3 of the California Government Code (the “**Act**”), and particularly in accordance with sections 53313.5(l) and 53328.1(a) (the “**District**”). The District is to be named “Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California,” and its purpose is to finance or refinance (including the payment of interest) the acquisition, installation, and improvement of energy-efficiency, water-conservation, and renewable-energy improvements permanently affixed to privately or publicly owned real property (the “**Authorized Improvements**”). Reference is made to the Resolution of Intention for further particulars and for additional defined terms.
- B. In the Resolution of Intention, the City Council approved the boundary map showing the territory proposed for annexation to the District in the future (the “**Territory**”), in accordance with section 53328.1(a) of the Act and California Streets and Highways Code section 3110 (the “**Boundary Map**”). [Titled “Proposed Boundary Map, Community Facilities District No. 2012-01 \(Clean Energy\), City of Sacramento, County of Sacramento, State of California,” the Boundary Map is attached to the Resolution of Intention as Exhibit A and was recorded on _____, 2012, in the Book of Maps of Assessment and Community Facilities Districts maintained by the Sacramento County](#)

~~Clerk/Recorder in Book _____ at Page _____. Entitled "Proposed Boundaries of Community Facilities District No. 2012-01 (Clean Energy), City of Sacramento, County of Sacramento, State of California," the Boundary Map is attached to the Resolution of Intention as Exhibit A and was recorded on September 19, 2012, in the Book of Maps of Assessment and Community Facilities Districts maintained by the Sacramento County Clerk/Recorder in Book 114 at Page 0010.~~

- C. The Resolution of Intention fixed the following time and place for the City Council to hold a public hearing to consider the establishment of the District, the specification of Authorized Improvements, the extent of the Territory, the establishment of the appropriations limit for the District, and all other matters set forth in the Resolution of Intention: Tuesday, June 19, 2012, at 6:00 p.m., in the Council Chambers at New City Hall at 915 "I" Street, Sacramento, California (the "**Public Hearing**").
- D. The City's Sustainability Program Manager has submitted a report to the City Clerk describing the following as directed by the Resolution of Intention: the Authorized Improvements; the incidental, financing, and administrative costs of the District; the form of the proposed Unanimous Approval Agreement; recommendations for appropriate procedures and criteria for processing and evaluating applications for participation and inclusion in the District from the owners of property within the Territory; and an estimate of the related incidental expenses (the "**Hearing Report**"). The Hearing Report is incorporated herein by this reference and made a part of the record of the Public Hearing.
- E. At or shortly after the time set by the Resolution of Intention, the City Council conducted the Public Hearing. All persons interested, including all taxpayers, property owners, and registered voters within the Territory, were given an opportunity to appear and to be heard, and the City Council heard and considered the testimony for and against the matters set forth in the Resolution of Intention, including the establishment of the District, the levy of the special tax, the extent of the Territory, the financing of any of the Authorized Improvements, and the establishment of the appropriations limit for the District.
- F. All registered voters residing within the boundaries of the Territory, and all owners of land within the boundaries of the Territory, were allowed to submit written protests to any matter set forth in the Resolution of Intention and were permitted to withdraw their protests before the close of the Public Hearing.
- G. There is on file with the City Clerk a proof of publication of the Notice of Public Hearing in the *DAILY RECORDER*.
- H. The City Council also desires to authorize the City Attorney, acting through Orrick, Herrington & Sutcliffe LLP, to file a validation action on behalf of the City to seek a judgment of the Sacramento County Superior Court that the special taxes authorized by the District, the procedures employed to establish the District, and the documents and agreements associated with the contemplated financings are lawful, valid, and binding.
- I. The City Council is fully advised in this matter.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Council finds that the above recitals are true.
- Section 2. Except to the extent it is inconsistent with this resolution, the Resolution of Intention is reaffirmed, and its provisions and findings are incorporated herein by this reference.
- Section 3. The City Council accepts the proof of publication of the Notice of Public Hearing and finds, based thereon, that proper notice of the Public Hearing has been given in accordance with the Act and that the Public Hearing was conducted with proper and legal notice in all respects.
- Section 4. The City Council finds and determines that, at the close of the Public Hearing, the written protests, if any, to any of the matters set forth in the Resolution of Intention—including the establishment of the District; the levy of the special tax; the extent of the Territory; the acquisition, construction, or installation of any of the Authorized Improvements; and the establishment of the appropriations limit for the District—were submitted by less than 50 percent of the registered voters residing within the Territory and by the owners of less than one-half of the area of land in the Territory. Thus, the City Council finds that it is not precluded by the Act from proceeding further in this matter, and it determines and orders that all protests to the matters set forth in the Resolution of Intention are hereby overruled.
- Section 5. The City Council hereby establishes the District in accordance with the Act and particularly in accordance with sections 53313.5(l) and 53328.1(a).
- Section 6. The City Council orders (a) that a parcel within the Territory may be annexed to the District and subjected to the special tax only with the unanimous written approval of the owner or owners of the parcel when it is annexed (the **“Unanimous Approval Agreement”**), which, as provided in section 53329.6 of the Act, will constitute the election required by the California Constitution; (b) that the rate of special tax for each parcel will be established in an amount required to finance or refinance (including the payment of interest) the Authorized Improvements approved for the parcel and to pay the parcel’s appropriate share of the District’s incidental, financing, and administrative expenses; (c) that the maximum annual rate, method of apportionment, and manner of collection of the special tax must be specified in the Unanimous Approval Agreement for each parcel; and (d) that the special-tax revenues may also be used to repay the appropriate portion of any funds the City advances for the District and to repay under any agreement (which will not constitute a City debt or liability) any advances of funds or reimbursement for the lesser of the value or cost of work in-kind provided by any person for the purposes of the District.

- Section 7. Once a Unanimous Approval Agreement for one or more parcels has been signed by all of the parcel owners and by the City, City staff are authorized and directed to record a Notice of Special Tax Lien against the parcels with the Sacramento County Clerk/Recorder in accordance with section 3114.5 of the Streets and Highways Code. Upon recordation of the Notice of Special Tax lien, a continuing lien to secure each levy of the special tax will attach to the affected parcels. The lien will continue in force until the special-tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until levy and collection of the tax ceases.
- Section 8. The special tax is to be collected in the same manner as ordinary ad valorem property taxes are collected and is to be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as are provided for ad valorem taxes collected on the secured property-tax roll of the County of Sacramento, except that that the City Council hereby reserves the right to enforce the collection of delinquent special taxes through judicial foreclosure, including the City's assigning to a trustee the ability to pursue judicial foreclosure in the City's name for the benefit of the holders of any debt (as defined in the Act) secured in whole or in part by the special-tax revenues.
- Section 9. The City's Treasurer's Office, 915 I Street, Sacramento, California 95814 (Phone: 916-808-5168), is designated to prepare annually the current roll of special-tax levy obligations for each parcel within the District that is subject to the special tax and to estimate future special-tax levies.
- Section 10. The City Council hereby approves the form of Unanimous Approval Agreement contained in the Hearing Report and directs its use with such changes as the City's Sustainability Program Manager may approve with the consent of the City Attorney.
- Section 11. In accordance with sections 53325.7 and 52238.1(a)(2) of the Act, the City Council hereby establishes the appropriations limit (as defined by section 8(h) of article XIII B of the California Constitution) for the District for the 2012-2013 fiscal year and for subsequent fiscal years as the sum of the amounts stated as the appropriations limit in each approved Unanimous Approval Agreement. The amount contributing toward the appropriations limit of the District in each Unanimous Approval Agreement will be subject to adjustment following the fiscal year in which the Unanimous Approval Agreement is fully subscribed, as provided in section 53325.7 of the Act.
- Section 12. The authorization to finance or refinance the acquisition, construction, and installation of Authorized Improvements covers all costs incidental to the acquisition, construction, and installation, including the costs of planning and design, the costs of any environmental evaluations, all costs associated with establishing the District and financing the Authorized Improvements, the costs of determining the amount of special taxes, the costs of collecting or paying the special taxes, and costs otherwise incurred to carry out the authorized purposes of the District.

- Section 13. The City Council finds and determines that all proceedings it has conducted and approved with respect to the establishment of the District, up to and including the adoption of this resolution, are valid and in conformity with the Act. As provided in the Act, this determination is final and conclusive for all purposes and is binding upon all persons.
- Section 14. The City's special counsel, Orrick, Herrington & Sutcliffe LLP, working with the City Attorney's Office, is hereby authorized and directed to file and prosecute on the City's behalf, against all persons interested in the matter, a civil validation action under California Government Code sections 53511 and 53328.1(c) and California Code of Civil Procedure section 860 and following, seeking a declaration of the Sacramento County Superior Court that the special tax, contracts, obligations, or evidences of indebtedness arising out of the establishment and implementation of the District, and all matters, agreements, and procedures related thereto, are in all respects legal, valid, and binding.
- Section 15. This resolution takes effect immediately upon its adoption.

Adopted by the City of Sacramento City Council on June 19, 2012 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.

Mayor Kevin Johnson

Attest:

Shirley Concolino, City Clerk