

**Meeting Date:** 2/10/2015

**Report Type:** Consent

**Report ID:** 2015-00003

**Title:** The Creamery Community Facilities District No. 2014-08 Ordinance to Levy a Special Tax (Passed for Publication 02/03/2015; Published 02/06/2015)

**Location:** District 4

**Recommendation:** 1) Pass an Ordinance levying a special tax solely within and relating to the District; and 2) pass a Resolution establishing an accounting fund for collecting special tax proceeds for Fiscal Year (FY) 2015-16.

**Contact:** Diane Morrison, Program Specialist, (916) 808-7535; Mark Griffin, Program Manager, (916) 808-8788, Department of Finance

**Presenter:** None

**Department:** Finance

**Division:** Public Improvement Finance

**Dept ID:** 06001321

**Attachments:**

- 1-Description/Analysis
- 2-Background
- 3-Schedule of Proceedings
- 4-Resolution
- 5-Ordinance

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**City Attorney Review**

Approved as to Form  
Michael W. Voss  
1/27/2015 1:57:12 PM

**Approvals/Acknowledgements**

Department Director or Designee: Leyne Milstein - 1/21/2015 12:41:44 PM

## Description/Analysis

**Issue:** Under the conditions of approval for The Creamery Development Project (Project), the property owner initiated proceedings to create a community facilities district that will fund the maintenance of public improvements. Establishing The Creamery Community Facilities District No. 2014-08 (District) will satisfy the conditions by authorizing the City to levy special taxes in an amount sufficient to provide funding for maintenance and repair of landscaped areas within public rights-of-way that are above the City standard and maintenance and repair of landscaping and amenities for the open space reserved as a future connection of the 10<sup>th</sup> street corridor.

On December 16, 2014, the City Council passed a resolution of intention to form the District. On January 20, 2015, the City Council passed a resolution to conduct a special mailed-ballot election with regard to formation of the District. On January 26, 2015, the property owners voted in favor of forming the district.

**Policy Considerations:** Approval of the ordinance will create a source of funding to provide maintenance and repair of the landscaped areas and amenities within the Project that exceed City standards.

**Environmental Considerations:** Under California Environmental Quality Act guidelines, formation of a district and continuing administrative activities do not constitute a project and are therefore exempt from review.

**Rationale for Recommendation:** By a unanimous vote, the property owner approved the levy of a special tax within the District. The attached ordinance will implement that approval in accordance with the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311-53368.3).

**Financial Considerations:** The property owners will pay all costs associated with the District. The maximum special tax for each parcel shall be the amounts shown below for Fiscal Year (FY) 2015-16.

Developed Parcels	
Single Family Residential Units	\$ 331 per dwelling unit
Condominium Units	\$ 331 per dwelling unit
Multifamily Residential Units	\$ 331 per dwelling unit
Mixed Use Residential Units	\$ 331 per dwelling unit
Final Use Parcels	\$4,670 per acre
Undeveloped Parcels	\$4,670 per acre

The formation process sets the base rates, which coincide with the special tax amounts shown above. The special tax is anticipated to be levied for FY 2015-16.

A new accounting fund will need to be established for the collection of special tax proceeds within the District beginning in FY2015-16.

**Local Business Enterprise (LBE):** Not applicable.

## **Background**

The Project consists of 17 lots totaling approximately 8.31 gross acres located within the Alkali Flats neighborhood of the City of Sacramento, County of Sacramento. The project site was the former Crystal Creamery production site. The north block of the project site is generally bounded by D and 10<sup>th</sup> Streets, Television Circle, and the railroad. The south block is generally bounded by D, E, 10<sup>th</sup> and 11<sup>th</sup> Streets. A map of the project is included as Exhibit A to the Resolution.

On October 28, 2008, Council approved entitlements to allow for development of 217 residential units and 121,836 square feet of commercial space (Ordinance 2008-051, Resolutions 2008-704 through 707). All but one of the structures approved for demolition was demolished before work on the project stopped in late 2008. The approved project was not constructed and the site has remained vacant. The new owner, Lewis Land Developers, went to the Planning and Design Commission on May 29, 2014, and received approval for a new project.

The new project proposes to develop approximately 7.5 net acres. The Project has reserved an area for a future connection of 10<sup>th</sup> Street through the site, although the timing for the construction is not expected to occur in the near future.

The tentative map will create 117 single family lots and 10 common lots, with an overall density of 15.6 dwelling units per acre. The project is comprised of four models with a total of twelve variations. The purpose of the common lots would be to allow private vehicular drives throughout the development and to provide landscaped paseos. The common areas will be maintained by a Homeowner's Association.

## SCHEDULE OF PROCEEDINGS

### THE CREAMERY COMMUNITY FACILITIES DISTRICT (CFD) NO. 2014-08

Nov. 20, 2014	City Clerk certification of registered voters
Dec. 8, 2014	100% Consent Waivers due to City
Dec. 16, 2014	City Council <ul style="list-style-type: none"><li>o Adopt Resolution of Intention (sets hearing date)</li></ul>
Dec. 17, 2014	Mail Notice of Hearing and Record Boundary Map
Jan. 9, 2015	City Clerk publish Notice of Public Hearing
Jan. 20, 2015	City Council <ul style="list-style-type: none"><li>o Conduct Public Hearing</li><li>o Approve Resolution of Formation</li><li>o Approve Resolution Calling Special Election</li></ul>
Jan. 21, 2015	Mail Ballots
Jan. 26, 2015	Ballots Due
Feb. 3, 2015	City Council <ul style="list-style-type: none"><li>o Adopt Resolution Declaring Results of Special Election</li><li>o Pass for Publication Ordinance to Levy Tax</li></ul>
Feb. 4, 2015	Record Notice of Special Tax
<b>Feb. 10, 2015</b>	<b>City Council</b> <ul style="list-style-type: none"><li>o <b>Adopt Ordinance to Levy Special Tax</b></li></ul>

**RESOLUTION NO.**

Adopted by the Sacramento City Council

**ESTABLISHING AN ACCOUNTING FUND FOR THE  
CREAMERY COMMUNITY FACILITIES DISTRICT 2014-08**

**BACKGROUND**

- A. The Creamery Community Facilities District 2014-08 (District) formation was approved by City Council on January 20, 2015. Fiscal Year (FY) 2015-16 is the first year that landowners within the District will be subject to the special tax. A new accounting fund needs to be created in accordance with Article IX, section 114, of the City Charter.
- B. The District will levy special taxes in an amount sufficient to provide funding for maintenance and repair of landscaped areas within the public rights-of-way that are above the City standard and maintenance and repair of landscaping and amenities for the open space reserved as a future connection of the 10th street corridor.

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

- Section 1 The Background statements A and B are true and correct.
- Section 2 The Finance Director is authorized and directed to create a new accounting fund to be known as The Creamery CFD 2014-08.

## ORDINANCE NO.

Adopted by the Sacramento City Council

### LEVYING A SPECIAL TAX FOR THE PROPERTY-TAX YEAR 2015-2016 AND FOLLOWING TAX YEARS SOLELY WITHIN AND RELATING TO THE CREAMERY COMMUNITY FACILITIES DISTRICT NO. 2014-08 FOR THE MAINTENANCE OF AREAS IN AND AROUND THE CREAMERY DEVELOPMENT PROJECT

#### BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

1. On January 20, 2015, the City Council adopted Resolution No. 2015-0016 (the "**Resolution**"), thereby establishing The Creamery Community Facilities District No. 2014-08 (the "District").
2. In accordance with section 53328 and 53340 of the California Government Code (the "**Code**") and the Rate and Method of Apportionment of Special Tax attached as Exhibit B to the Resolution (the "**RMA**"), a special tax is hereby levied on all taxable parcels within the District for the 2015-2016 tax year and for all subsequent years in the amount of the maximum authorized tax. This amount may be adjusted annually by resolution of the City Council, subject to the maximum authorized special tax limit.
3. The Manager of the Public Improvement Finance Division of the Finance Department or his or her designee (the "**Manager**"), with the aid of the appropriate officers and agents of the City and without further action by the City Council is authorized and directed (a) to calculate the Special Tax Requirement (as required in section 5 of the RMA) each year; (b) to prepare the annual special-tax roll in the amount of the Special Tax Requirement in accordance with the RMA; and (c) to provide to the Sacramento County Auditor-Controller all information in proper form, and in proper time, that is necessary and appropriate to effect the correct and timely billing and collection of the special tax on the secured property-tax roll of Sacramento County (the "**County**"). As provided in section 53340 of the Code and in the RMA, the special tax is to be collected in the same manner and at the same time as ad valorem taxes.
4. The appropriate officers and agents of the City are authorized to make adjustments to the special-tax roll before the final posting of the special taxes to the County tax roll each year, as may be necessary to achieve a correct match of the special tax levy with the assessor's parcel numbers used by the County in sending out property-tax bills. The County may deduct its reasonable and agreed charges for collecting the special tax from the amounts collected, before remitting the special tax collections to the City.
5. Any taxpayer may contest the levy of the special tax by filing a written notice of appeal in accordance with section 7 of the RMA, which is supplemented as follows:
  - a. The Manager shall serve as the CFD Administrator for purposes of section 7 of the RMA.

- b. A taxpayer may file a notice of appeal with the Manager not more than two years after the end of the tax year for which the taxpayer is contesting the levy, and the taxpayer's failure to do so within that time constitutes a bar to appeal. The notice of appeal must specify in detail the grounds of the appeal, which are limited to (1) clerical errors in assigning an amount of tax to a parcel and (2) an error in defining the use of a parcel or its classification. No other appeals are allowed.
  - c. Not more than 30 days after an appeal is filed, the Manager shall review the appeal, meet with the taxpayer (if necessary), and mail the taxpayer a written decision on the appeal. If the Manager finds that the special tax should be modified, then the Manager shall correct the special-tax levy or grant the taxpayer a credit against the next year's special-tax levy, as appropriate under the circumstances. The Manager's failure to timely mail a written decision will constitute a decision denying the appeal.
  - d. If the taxpayer disagrees with the Manager's decision, and if the taxpayer is current on payments of the special tax, then the taxpayer may appeal to the City Council by filing a written notice of appeal with the City Clerk not more than 30 days after the Manager mails the notice of decision or has failed to timely mail a written decision, and the taxpayer's failure to do so constitutes a bar to further appeal. The notice of appeal must specify in detail the grounds of appeal. The City Council shall, in accordance with chapter 1.24 of the City Code, either hear the appeal itself or refer the appeal to a hearing officer. The hearing on the appeal from the Manager's decision is to be conducted not more than 30 days after the taxpayer files the appeal with the City Council, and the City Council or the hearing officer, as appropriate, shall mail a written decision to the taxpayer not more than 30 days after the hearing concludes. The decision of the City Council or the hearing officer will be final for all purposes. The failure of the City Council or the hearing officer to hear the appeal or to render a decision within the specified time will constitute a denial of the appeal.
6. The filing of an appeal under section 7 will not relieve the taxpayer of the obligation to pay the special tax when due.
  7. If for any reason a court with jurisdiction finds any portion of this ordinance to be invalid or finds the special tax to be inapplicable to any particular parcel, then the balance of this ordinance and the application of the special tax to the remaining parcels will not be affected.
  8. In accordance with section 32(c) of the City Charter, after the City Council has passed this ordinance for publication the City Clerk shall have the title of this ordinance, and only the title, published at least once in a newspaper of general circulation that is published in the City and designated by the City Council as the official newspaper of the City, with the publication to occur at least three days before the City Council adopts this ordinance.