

Meeting Date: 5/19/2015

Report Type: Consent

Report ID: 2015-00013

Title: (Pass for Publication) The Creamery Infrastructure Community Facilities District (CFD) No. 2015-02, Declare Results of Special Mail Ballot Election and Pass For Publication an Ordinance to Levy a Special Tax

Location: District 4

Recommendation: 1) Pass a Resolution declaring results of the special mailed ballot election, and, if an election is in the affirmative; 2) review an Ordinance to levy a special tax on land within the CFD; and 3) pass for publication the ordinance title as required by section 32(c) of the Sacramento City Charter for adoption on May 26, 2015.

Contact: Sheri Smith, Program Specialist, (916) 808-7204; 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 Levy of Special Tax

City Attorney Review

Approved as to Form

Michael W. Voss

5/11/2015 9:11:57 AM

Approvals/Acknowledgements

Department Director or Designee: Leyne Milstein - 5/5/2015 5:24:25 PM

Description/Analysis

Issue: On April 23, 2015, Council passed Resolution 2015-0101 calling for a special mailed ballot election on whether to levy a special tax within the boundaries of the Creamery Community Facilities District No. 2015-02 (Improvements) (CFD) and on whether to issue bonds supported exclusively by the special tax to partially reimburse the developer for the cost of public infrastructure. The vote was in the affirmative. Staff recommends that City Council adopt the resolution declaring the results of the election and pass for publication an ordinance levying the special tax.

Policy Considerations: The procedures under which this district is being formed are set forth in Title 5, Division 2, Chapter 2.5 of the Government Code, Sections 53311-53368.3, entitled "The Mello-Roos Community Facilities Act of 1982. Formation of the CFD is consistent with the City's Policies and Procedures for Use of Special Assessment and Mello-Roos Community Facilities District Financing for Infrastructure and Public Facilities, as amended, adopted August 9, 1994 by Resolution 94-491 (Mello-Roos Policy).

Environmental Considerations: Under the California Environmental Quality Act Guidelines, the formation of a community facilities district does not constitute a project and is therefore exempt from review.

Rationale for Recommendation: The recommended actions are required by the Mello-Roos Community Facilities Act of 1982 and by the City Charter to complete the formation process for the CFD.

Financial Considerations: The Developer will fund fees and improvements and be reimbursed at a later time if and when sufficient bond proceeds and special taxes are available. Reimbursements will be limited to fees and public improvements and otherwise comply with the Mello-Roos Policy. The special taxes will be used for the sole purpose of funding reimbursements and administrative expenses. Both uses may be paid by bond proceeds or directly from special taxes. There are no obligations placed on other funds of the City.

The bond sale for this district is anticipated to occur near the end of calendar year 2015 or early 2016, depending on market conditions and will not exceed \$5 million. One bond sale is planned.

Local Business Enterprise (LBE): Not applicable.

BACKGROUND

The proposed CFD consists of approximately 8.31 gross developable acres with approximately 117 single-family lots located within the Alkali Flats neighborhood. The project site was the former Crystal Creamery production site. The north block of the project site is generally bounded by D Street, 10th Street, Television Circle and the railroad. The south block is generally bounded by D, E, 10th and 11th Streets.

Purpose of the CFD

The proposed CFD will finance certain development fees and public improvements within the public right-of-way and adjacent public-utility easements of the major public roads intersecting, serving and/or bordering the district boundary. A full description of the improvements, fees and incidental expenses is on file with the Public Improvement Finance Division of the Finance Department, designated by the City Clerk as the repository of documents related to special districts. Construction of the financed improvements is estimated to be completed in 2016 and one bond sale is proposed.

CFD Special Election Proceedings

The proposed district will be formed in compliance with the Mello-Roos Community Facilities District Act of 1982. As part of the formation proceedings a special election on the special tax is required. In this case, where there are fewer than 12 registered voters, the vote was by landowners with each landowner having one vote for each acre or portion of an acre owned within the proposed CFD. There is one landowner within this proposed CFD. The City is prohibited from levying the tax unless at least two-thirds of the votes cast are in favor of formation.

The ballot question has three parts:

- Should the City be authorized to levy a special tax to pay for fees and infrastructure?
- Should the City be authorized to incur debt of \$5 million to be funded by the levy?
- Should the appropriation limit of the CFD be set at \$5 million?

The appropriation limit is the amount that can be appropriated in any one year.

The ballots were due May 12, 2015. The results of the election are detailed in the attached resolution.

Special Tax Formula

The special tax is applied to both developed and undeveloped properties. The initial maximum annual special-tax for single-family parcels in Fiscal Year (FY) 2015/16 ranges from \$2,225 to \$2,650 per residential unit, depending on parcel size. The initial maximum annual special tax for undeveloped parcels in FY2015/16 is \$37,100 per acre. Each maximum annual special tax escalates two percent annually to compensate for inflation.

SCHEDULE OF FORMATION PROCEEDINGS
CREAMERY COMMUNITY FACILITIES DISTRICT
(CFD) NO. 2015-02 (IMPROVEMENTS)

March 17, 2015	City Council – Initiate Proceedings <ul style="list-style-type: none">○ Pass Resolution Approving Agreement for Bond Counsel Services○ Pass Resolution of Intention To Form CFD and Levy Special Tax (sets hearing date and approves boundary map)○ Pass Resolution of Intention to Incur Bonded Indebtedness
March 18, 2015	Mail Notice of Public Hearing & Record Boundary Map
April 10, 2015	Publish Notice of Hearing
April 23, 2015	City Council – Public Hearing and Notice for a Special Election <ul style="list-style-type: none">○ Conduct Public Hearing○ Pass Resolution of Formation○ Pass Resolution to Incur Debt○ Pass Resolution Calling Special Election
April 24, 2015	Mail Special Election Ballots
May 12, 2015	Special Election Ballots Due
May 19, 2015	City Council <ul style="list-style-type: none">○ Pass Resolution Declaring Results of Special Election○ Pass for Publication Ordinance to Levy Tax
May 20, 2015	Record Notice of Special Tax
May 26, 2015	City Council <ul style="list-style-type: none">○ Adopt Ordinance to Levy Special Tax

RESOLUTION NO.

Adopted by the Sacramento City Council

May 19, 2015

DECLARING RESULTS OF SPECIAL MAILED-BALLOT ELECTION WITHIN THE CREAMERY COMMUNITY FACILITIES DISTRICT NO. 2015-02 (IMPROVEMENTS), CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

BACKGROUND

- A.** On Thursday, April 23, 2015, the City Council duly adopted Resolution No. 2015-0099 (the “**Resolution of Formation**”) and Resolution No. 2015-0100 (the “**Resolution Deeming it Necessary to Incur Bonded Indebtedness**”) and, collectively, the “**Formation Resolutions**”), thereby forming a community facilities district under the Mello-Roos Community Facilities Act of 1982, set forth at Government Code sections 53311 through 53368.3 (the “**Act**”), known and designated as the “Creamery Community Facilities District No. 2015-02 (Improvements), City of Sacramento, County of Sacramento, State of California (the “**CFD**”).
- B.** To confer the authority contained in the Formation Resolutions on the City Council, a two-thirds approving vote by the qualified electors within the CFD is required.
- C.** A special, mailed-ballot election has been conducted under the City Council’s Resolution No. 2015-0101, adopted April 23, 2015.
- D.** A Certificate of Clerk re: Preparation and Distribution of Ballots, Receipt of Executed Ballots, and Declaring Election Results (the “**Certificate of Election Results**”), dated May 11, 2015, executed by the City Clerk, has been filed with the City Council.
- E.** The City Council has received, reviewed and hereby accepts the Certificate of Election Results and wishes by this resolution to declare the results of the special mailed-ballot election.

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

- Section 1.** The City Council finds that the statements in the Background are true.
- Section 2.** The City Council hereby finds and determines and declares that the ballot measure submitted to the qualified electors of the CFD has been passed and approved by those qualified electors in accordance with Government Code sections 53328 and 53355.
- Section 3.** The City Council hereby authorizes and directs the City Clerk to cause a

Notice of Special Tax Lien to be prepared and to be recorded with the County Recorder of the County of Sacramento (the “**County Recorder**”) in accordance with the provisions of California Streets and Highways Code Section 3114.5 and California Government Code Section 53328.3. The Notice of Special Tax Lien shall be recorded in the County Recorder’s office within fifteen days of the date of adoption of this resolution.

Section 4. This resolution takes effect when adopted.

ORDINANCE NO.

Adopted by the Sacramento City Council

May 26, 2015

LEVYING A SPECIAL TAX FOR THE FISCAL YEAR 2015-2016 AND FOLLOWING FISCAL YEARS SOLELY WITHIN AND RELATING TO THE CREAMERY COMMUNITY FACILITIES DISTRICT NO. 2015-02 (IMPROVEMENTS), CITY OF SACRAMENTO COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

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

1. On April 23, 2015, the City Council adopted Resolution No. 2015-0099 (the “**Resolution of Formation**”), thereby establishing the Creamery Community Facilities District No. 2015-02 (Improvements), City of Sacramento, County of Sacramento, State of California (the “**CFD**”).
2. In accordance with sections 53328 and 53340 of the Government Code (the “**Code**”), the Resolution of Formation, and the Rate and Method of Apportionment of Special Tax attached as Exhibit D to the Resolution of Formation (the “**RMA**”), a special tax is hereby levied on all taxable parcels within the CFD for the 2015-2016 fiscal year and for all subsequent fiscal years in the amount of the maximum authorized special tax under the Resolution of Formation until collection of the special tax by the City Council ceases and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Code. This amount may be adjusted annually, subject to the maximum authorized special tax under the Resolution of Formation.
3. The City Treasurer or designee in the instance of the use of debt financing, or the Finance Director or designee when no debt has been issued, is the Manager of the District (the “**Manager**”). The Manager serving as the Administrator for the purposes of the RMA, 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 appropriate amount of the special tax (pursuant to and as provided in the Resolution of Formation and the RMA) each year; (b) to prepare the annual special-tax roll in accordance with the Resolution of Formation and 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, the Resolution of Formation, and the RMA, the special tax is to be collected in the same manner and at the same time and be subject to the same enforcement mechanism, and the same penalties and interest for late payment, as regular *ad valorem* taxes; provided, that the City Council has reserved the right to utilize 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.

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 appeal 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. 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.
 - b. 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.
 - c. 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 5 of this ordinance 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.