



City Council Report

915 I Street, 1st Floor

Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2018-01738

February 5, 2019

Consent Item 12

Title: (Pass for Publication) Sacramento Services Community Facilities District No. 2018-05 (CFD No. 2018-05) Ordinance to Levy a Special Tax on Future Annexed Land

Location: Citywide

Recommendation: 1) Pass a Motion by a majority vote allowing the City Council to review and adopt an ordinance to levy a special tax without the Law and Legislation Committee's prior review (Council Rules of Procedure, chapter 13, section B.1.i(ii)); 2) review an ordinance to levy a special tax on land to be annexed into CFD No. 2018-05 at a future date; and 3) pass for publication the ordinance title as required by section 32(c) of the Sacramento City Charter for adoption on February 12, 2019.

Contact: Eric Frederick, Program Specialist, (916) 808-5129; Sheri Smith, Special Districts Manager, (916) 808-7204, Department of Finance.

Presenter: None.

Attachments:

1-Description/Analysis

2-Schedule of Proceedings

3-Ordinance

Description/Analysis

Issue Detail: In 2014, Section 53340 of the Mello-Roos Community Facilities Act of 1982 (Act) was amended to allow parcels being annexed into an existing community facilities district to be taxed by ordinance at specific special tax rates with the unanimous approval of property owners in the area to be annexed.

On December 11, 2018, Council passed a Resolution of Intention (Resolution No. 2018-0480) to create a “future annexation area” and allow development projects to annex into CFD No. 2018-05 administratively using the unanimous approval process. On January 22, 2019, Council adopted a Resolution Establishing Territory as a Future Annexation Area to CFD No. 2018-05 (Resolution No. 2019-0031), thereby establishing the “future annexation area” of CFD No. 2018-05.

CFD No. 2018-05 was formed solely to fund the maintenance of roadway facilities, transit facilities, parks, bikeway and pedestrian paths, storm water drainage facilities, landscape areas, and any other services authorized under the Act and the City’s charter and will not finance capital improvements or issue bonds. No new or additional services beyond those already authorized under CFD No. 2018-05 will be provided in the territory proposed to be annexed to CFD No. 2018-05; however, services need not be shared in common between CFD No. 2018-05 and the territory proposed to be annexed in the future. No special tax or lien is imposed until required by project entitlements.

Staff recommends that Council pass a motion bypassing review of the attached ordinance by the Law and Legislation Committee pursuant to Council Rules of Procedure, chapter 13, section B.1.i(ii), and pass for publication the ordinance levying the special tax.

Policy Considerations: The recommended action will provide a mechanism to fund services provided by the City for project areas annexed to CFD No. 2018-05 with flexibility to customize special tax rates based on the specific cost of services provided. As required by the Act, these services will not supplant services already available within that territory prior to annexation. Further, the unanimous approval process allows future development projects to be annexed into CFD No. 2018-05 administratively without additional Council action and allows special tax rates to be set at levels appropriate to the services provided to each portion of annexed territory.

Economic Impacts: None.

Environmental Considerations:

California Environmental Quality Act (CEQA): Under CEQA Guidelines, the formation of a community facilities district and continuing administrative activities do not constitute a project and are therefore exempt from review (14 Cal. Code Regs. §15378(b)(4) & (5)).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable. The City Council must pass a motion to bypass the Law and Legislation Committee.

Rationale for Recommendation: The recommended actions are necessary to allow for future annexations to CFD No. 2018-05 using the unanimous approval process permitted under the Act.

Financial Considerations: The property owners will pay all costs associated with annexing to CFD No. 2018-05. The maximum special tax rates for properties located in CFD No. 2018-05 are outlined in the Rate and Method of Apportionment of Special Tax (included as Exhibit C to both Resolution No. 2018-0480 and Resolution No. 2019-0031) but may vary for each annexation depending on the services needed in the territory being annexed. There is no impact on the General Fund or any other funds of the City as a result of this action.

Local Business Enterprise (LBE): Not applicable.

**ATTACHMENT 2
SCHEDULE OF FORMATION PROCEEDINGS**

**ESTABLISHING TERRITORY AS A FUTURE ANNEXATION AREA TO THE
SACRAMENTO SERVICES COMMUNITY FACILITIES DISTRICT NO. 2018-05
CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA**

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|-------------------------|--|
| December 11, 2018 | City Council - Passed Resolution of Intention to Create a Future Annexation Area CFD (set hearing date and approved boundary map) |
| December 18, 2018 | Boundary Map Recorded |
| January 11, 2019 | Published Notice of Hearing |
| January 22, 2019 | City Council – Public Hearing <ul style="list-style-type: none">o Conducted Public Hearingo Passed Resolution Creating Future Annexation Area |
| February 5, 2019 | City Council – Consent <ul style="list-style-type: none">o Pass for Publication Ordinance to Levy Special Tax at Varying Rates |
| February 12, 2019 | City Council – Consent <ul style="list-style-type: none">o Adopt Ordinance to Levy Special Tax at Varying Rates |

ORDINANCE NO.

Adopted by the Sacramento City Council

_____, 2019

Providing for a Levy of Special Taxes on Parcels that will be Annexed to the Sacramento Services Community Facilities District No. 2018-05 City of Sacramento, County of Sacramento, State of California at the Rate to be Approved Unanimously by the Owner of Each Parcel to be Annexed

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

1. On November 27, 2018, the City Council adopted Resolution No. 2018-0462 (the "**Resolution of Formation**"), thereby establishing the Sacramento Services Community Facilities District No. 2018-05, City of Sacramento, County of Sacramento, State of California (the "**CFD**"). On December 11, 2018, the City Council adopted Ordinance No. 2018-0053, which levied a special tax solely within and relating to the CFD. On January 22, 2019, the City Council adopted Resolution No. 2019-0031 establishing the future annexation area for the CFD.
2. In accordance with section 53340 of the California Government Code (the "**Code**"), the Resolution of Formation, and the Rate and Method of Apportionment of Special Tax attached as Exhibit C to the Resolution of Formation (the "**RMA**"), a special tax is hereby authorized to be levied on all taxable parcels that will be annexed to the CFD at the rate or rates to be approved unanimously by the owner or owners of each parcel or parcels to be annexed to the CFD.
3. The City's Special Districts Manager, his/her designee, or such other person or department as the City may designate as administrator of the CFD (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 appropriate amount of the special tax 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, to effect the correct and timely billing and collection of the special taxes 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 taxes shall 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 taxes, including direct billing and supplemental billing.

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 to correctly match the special tax levy with the assessor's parcel numbers used by the County when sending out property-tax bills. The County may deduct its reasonable and agreed charges for collecting the special taxes from the amounts collected, before remitting the special-tax collections to the City.
5. Except as set forth in the RMA, properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD in excess of the maximum tax specified in the Resolution of Formation.
6. Any taxpayer may appeal the levy of the special tax by filing a written notice of appeal in accordance with section J 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) errors 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 shall 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.

7. The filing of an appeal under section 6 of this ordinance will not relieve the taxpayer of the obligation to pay the special tax when due.
8. 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 taxes to the remaining parcels will not be affected.
9. 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.