

Meeting Date: 7/29/2014

Report Type: Consent

Report ID: 2014-00215

Title: Curtis Park Village Community Facilities District (CFD) No. 2014-02 (Improvements), Adopt Ordinance to Levy a Special Tax (Passed for Publication 07/22/2014; Published 07/24/2014)

Location: District 5

Recommendation: Pass an Ordinance to levy a special tax on land within the CFD; and pass a Resolution creating an accounting fund for the CFD.

Contact: 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-Ordinance, Levy of Special Tax
- 5-Resolution, Creating an Accounting Fund

City Attorney Review

Approved as to Form
Michael W. Voss
7/23/2014 4:32:52 PM

Approvals/Acknowledgements

Department Director or Designee: Leyne Milstein - 7/16/2014 3:36:25 PM

Description/Analysis

Issue: On June 24, 2014, City Council passed a resolution calling for a special mailed ballot election on whether to levy a special tax within the boundaries of the Curtis Park Village Community Facilities District No. 2014-02 (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. On July 22, 2014, the City Council passed for publication an ordinance levying the special tax. Staff recommends that City Council adopt the ordinance and pass a resolution creating an accounting fund for the CFD.

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" (Act). 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 No. 94-491 (Mello-Roos Policy).

In accordance with Article IX, section 114, of the City Charter, City Council must approve by resolution any new accounting funds.

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

Rationale for Recommendation: The recommended actions are required by the Act and by the City Charter.

Financial Considerations: PDC Construction Company (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 improvements that construct 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. One bond sale is planned. It is anticipated to occur in calendar year 2015, depending on market conditions, and will not exceed \$13 million.

There are no obligations placed on other funds of the City.

Local Business Enterprise (LBE): Not applicable.

BACKGROUND

The CFD consists of approximately 54 gross developable acres encompassing 273 single-family homes in the Curtis Park Village project, 2.2 acres and 91 units dedicated to affordable senior housing, and 2.5 acres in a flex zone with up to 245 multi-family units. The affordable senior housing and multi-family units will be exempt from payment of the CFD special tax. The boundaries of the CFD also include a 6.2 acre open area to include a park and detention basin. Outside of the boundaries of the CFD, the Curtis Park Village project consists of 12.3 acres for retail commercial use and 4.9 acres dedicated to right-of-way easements.

The Developer proposes to construct the financed improvements in two phases with one bond sale being proposed. Construction of the financed improvements is estimated to be completed by 2016.

Purpose of the CFD

The 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. The CFD will also fund an off-site improvement to the southbound off-ramp of state Highway 99 at 12th Avenue (Sutterville Road).

CFD Special Election Proceedings

The CFD has been 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 was held and the required two-thirds majority was achieved. In this case, where there were 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 are two landowners within the CFD.

An entire schedule for the CFD proceedings is provided on Attachment 3.

Special Tax Formula

The initial maximum annual special-tax for developed, single-family parcels in Fiscal Year (FY) 2014/15 ranges from \$2,400 to \$3,600 per residential unit, depending on floor space and location. The initial maximum annual special-tax for other land use parcels, final map parcels, and undeveloped parcels in FY2014/15 is \$25,040 per acre. Each of the maximum annual special taxes escalates two percent annually to compensate for inflation.

Tax Burden on the Land

City policy limits tax burdens to two percent of the sales price. The price points expected in the Curtis Park Village project result in a total tax burden, including property taxes and all other taxes and assessments, of between 1.47 and 1.56 percent.

Boundary Map



SCHEDULE OF FORMATION PROCEEDINGS

CURTIS PARK VILLAGE COMMUNITY FACILITIES DISTRICT (CFD) NO. 2014-02 (IMPROVEMENTS)

- | | |
|----------------------|---|
| May 20, 2014 | 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 |
| May 20-28, 2014 | Mail and Publish Notice of Hearing and Record Boundary Map |
| June 24, 2014 | 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 |
| June 25, 2014 | Mail Special Election Ballots |
| July 14, 2014 | Special Election Ballots Due |
| July 22, 2014 | City Council <ul style="list-style-type: none">▪ Pass Resolution Declaring Results of Special Election▪ Pass for Publication Ordinance to Levy Special Tax |
| July 23, 2014 | Record Notice of Special Tax |
| July 29, 2014 | City Council <ul style="list-style-type: none">▪ Adopt Ordinance to Levy Special Tax▪ Pass Resolution Creating an Accounting Fund |

ORDINANCE NO.

Adopted by the Sacramento City Council

July 29, 2014

LEVYING A SPECIAL TAX FOR THE FISCAL YEAR 2014-2015 AND FOLLOWING FISCAL YEARS SOLELY WITHIN AND RELATING TO THE CURTIS PARK VILLAGE COMMUNITY FACILITIES DISTRICT NO. 2014-02 (IMPROVEMENTS), CITY OF SACRAMENTO COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

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

1. On June 24, 2014, the City Council adopted Resolution No. 2014-0224 (the Resolution of Formation), thereby establishing the Curtis Park Village Community Facilities District No. 2014-02 (Improvements), City of Sacramento, County of Sacramento, State of California (the CFD).
2. In accordance with section 53328 and 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 D to the Resolution of Formation (the RMA), a special tax is hereby levied on all taxable parcels within the CFD for the 2014-2015 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 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 8 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 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.

RESOLUTION NO.

Adopted by the Sacramento City Council

July 29, 2014

**ESTABLISHING AN ACCOUNTING FUND FOR THE
CURTIS PARK VILLAGE COMMUNITY FACILITIES DISTRICT 2014-02
(IMPROVEMENTS)**

BACKGROUND

- A. Curtis Park Village Community Facilities District 2014-02 (Improvements) (the District) formation was approved by City Council on July 22, 2014. FY2014/15 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 partial reimbursement to the developer for public improvements and fee-related public improvements, and for administrative expenses.

**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 City Manager is authorized and directed to create a new accounting fund to be known as the Curtis Park Village CFD 2014-02 (Improvements).