

RESOLUTION NO. 2015-0101

Adopted by the Sacramento City Council

April 23, 2015

CALLING 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 Tuesday, March 17, 2015, the City Council duly adopted Resolution No. 2015-0070 (the “**Resolution of Intention**”) and Resolution No. 2015-0071 (the “**Resolution to Incur Bonded Indebtedness**”), thereby initiating proceedings to form 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**”), to be 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. Both the Resolution of Intention and the Resolution to Incur Bonded Indebtedness fixed April 23, 2015, at 6:00 p.m. as the date and time for a public hearing on the matters proposed in each (collectively, the “**Public Hearing**”).
- C. At the close of the Public Hearing on February 24, 2015, the City Council determined that there was no majority protest under section 53324 of the Act.
- D. At the conclusion of the Public Hearing, and as authorized by sections 53325.1 and 53351 of the Act, respectively, the City Council duly adopted Resolution No. 2015-0099 establishing the CFD (the “**Resolution of Formation**”) and Resolution No. 2015-0100 deeming it necessary to incur bonded indebtedness (the “**Resolution Deeming it Necessary to Incur Bonded Indebtedness**”).
- E. Before the City Council may proceed with implementing the authorizations in the two resolutions, the following propositions must be submitted to, and approved by, the qualified electors of the CFD: the levy of the special tax within the CFD as provided by the Resolution of Formation, the establishing of an appropriations limit for the CFD as provided by the Resolution of Formation, and the incurring of indebtedness as provided by the Resolution Deeming it Necessary to Incur Bonded Indebtedness. These propositions may be combined into a single ballot measure under section 53353.5 of the Act.

- F. A Certificate Re: Registered Voters and Landowners (the “**Certificate re: Landowners**”) has been filed with the City Clerk and submitted to the City Council, certifying that at some time during the 90 days preceding the close of the Public Hearing, there were fewer than twelve persons registered to vote within the territory of the CFD and that as of the close of the Public Hearing there were no persons registered to vote within the territory of the CFD.
- G. A Certificate of Clerk re: Receipt of Property Owner Waiver and Consent Forms, has been submitted by the City Clerk, stating that each landowner, or an authorized representative of each landowner, within the CFD has filed with the City Clerk a properly executed Waiver, Consent and Appointment (as defined below) in the form attached to this resolution as Exhibit B.

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 accepts the Certificate re: Landowners and finds, in accordance therewith, that there has been a time, during the 90 days preceding the close of the public hearing, when there were fewer than twelve registered voters residing within the boundaries of the CFD and that as of the close of the Public Hearing there were no persons registered to vote within the territory of the CFD. Accordingly, under section 53326(b) of the Act, the qualified electors of the CFD for the proposed special election are the owners of land within the CFD.
- Section 3. The City Council further finds and determines that the owners of land within the CFD are the landowners set forth in the attachment to the Certificate re: Landowners and that the attachment correctly sets forth the amount of property owned by each landowner and the number of votes to which each landowner is entitled pursuant to section 53326(b), being the number of acres owned rounded up to the next whole acre.
- Section 4. The City Council approves the form of “Waiver and Consent Shortening Time Periods and Waiving Various Requirements for Conducting a Mailed-Ballot Election and Appointment of Representative to Act for Property Owner in Voting and Casting Ballot” (the “**Waiver, Consent and Appointment**”) by which the time limits and related requirements respecting preparation and distribution of election materials are waived, a copy of which is attached to this resolution as Exhibit B. The City Council finds that the rights, procedures, and time periods waived in the Waiver, Consent and Appointment are solely for the protection of the qualified electors and may be waived by the qualified electors under section 53326(a) and 53327(b) of the Act and under other provisions of law dealing with

waiver generally, and that the Waiver, Consent and Appointment constitutes a full and knowing waiver, by any qualified elector who has executed the form, of those rights, procedures and time periods.

- Section 5. The City Council further finds and determines, based on a Certificate of Clerk re: Receipt of Property Owner Waiver and Consent Forms, provided this date by the City Clerk, that each owner of land within the CFD, or an authorized representative of each owner of land within the CFD, has filed with the City Clerk a properly executed Waiver, Consent and Appointment. Accordingly, the City Council is establishing the procedures and time periods for this special mailed-ballot election without regard to statutory schedules.
- Section 6. As authorized by sections 53325.7, 53326, and 53351 of the Act, the City Council hereby calls a special mailed-ballot election to be held within the boundaries of the CFD on May 12, 2015, for the purpose of submitting to the qualified electors of the CFD the propositions to levy a special tax within the CFD, to establish the appropriations limit for the CFD, and to incur indebtedness, all as provided in the Resolution of Formation and the Resolution Deeming it Necessary to Incur Bonded Indebtedness. As authorized by section 53326 of the Act, the election shall be conducted by mailed-ballot but personal service of the ballots to authorized representatives of each landowner is permitted as set forth in the Waiver, Consent and Appointment forms on file with the City Clerk. The City Clerk is directed to either mail or make personal service of the ballots, in the form of the attached to this resolution as Exhibit A, to each landowner within the CFD or, if one has been appointed pursuant to a Waiver, Consent and Appointment, to the landowner's authorized representative.
- Section 7. As authorized by section 53353.5 of the Act, the propositions to levy a special tax within the CFD, to establish the appropriations limit for the CFD, and to incur indebtedness will be combined into a single ballot measure. The exact form of the single ballot measure to be submitted to the qualified electors of the CFD is as set forth in the form of special election ballot attached to this resolution as Exhibit A.
- Section 8. Under the Act and Elections Code sections 307 and 320, the City Clerk is hereby designated as the official to conduct the special mailed-ballot election in accordance with the following procedures:
- (a) The special election shall be held and conducted, and the votes canvassed and the returns made, and the results determined, as provided in this resolution; and in all particulars not prescribed by this resolution the special election shall be held and conducted and the votes received and

canvassed in the manner provided by law for the holding of special elections consistent with the Act.

- (b) All owners of land within the CFD as of the close of the Public Hearing shall be qualified to vote upon the proposition to be submitted at the special election.
- (c) The special election shall be conducted as a mailed-ballot election, in accordance with the provisions of the Act and the prior proceedings of the City Council taken under the Act, and there shall be no polling places for the special election. All ballots shall be delivered or mailed by the City Clerk to the landowners, and all voted ballots are required to be received by the City Clerk not later than 5:00 p.m. on the date of the election in order to be counted. However, if at any time the City Clerk determines that all votes have been cast, the City Clerk shall immediately declare the election closed.
- (d) Each voter desiring to vote in favor of the proposition to be submitted at the special election shall mark a cross (x) or similar mark in the blank space next to the word "YES" on the ballot to the right of the proposition; and each voter desiring to vote against the proposition shall mark a cross (x) or similar mark in the blank space next to the word "NO" on the ballot to the right of the proposition. The cross (x) or similar mark may be marked with either pen or pencil.
- (e) The City Clerk shall commence the canvass of the returns of the special election, and report the returns to the City Council no later than the City Council meeting of May 19, 2015.
- (f) The City Council may thereupon declare the results of the special election, and shall cause to be spread upon its minutes a statement of the results of the special election as ascertained by the canvass.

Section 15. This resolution takes effect when adopted.

Table of Contents:

Exhibit A - Ballot

Exhibit B - Waiver

Adopted by the City of Sacramento City Council on April 23, 2015, by the following vote:

Ayes: Members Ashby, Carr, Harris, Jennings, Schenirer and Warren

Noes: None

Abstain: Member Hansen

Absent: Mayor Kevin Johnson

Vacant: District 6

Attest:

Shirley Concolino

Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City
Clerk, email=sconcolino@cityofsacramento.org, c=US
Date: 2015.05.05 15:58:35 -07'00'

Shirley Concolino, City Clerk

EXHIBIT A

CREAMERY COMMUNITY FACILITIES DISTRICT NO. 2015-02 (IMPROVEMENTS),
CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

SPECIAL ELECTION BALLOT

(Mailed-Ballot Election)

This ballot is for the use of the authorized representative of the following owner of land within the Creamery Community Facilities District No. 2015-02 (Improvements), City of Sacramento, County of Sacramento, State of California” (the “CFD”):

<u>Name of Landowner</u>	<u>Number of Acres Owned</u>	<u>Total Votes</u>
[]	[]	[]

According to the provisions of the Mello-Roos Community Facilities Act of 1982, and resolutions of the City Council (the “**Council**”) of the City of Sacramento (the “**City**”), the above-named Landowner is entitled to cast the number of votes shown above under the heading “Total Votes,” representing the total votes for the property owned by the Landowner.

In order to be counted, this ballot must be executed and certified below and be returned to the City Clerk, by mail or in person, to be received by the City Clerk prior to 5:00 p.m. on May 12, 2015, at the Office of the City Clerk, 915 “I” Street, New City Hall, Fifth Floor, Sacramento, California 95814.

Mailing by that time will not be sufficient. This ballot must be received by the time stated in order to be counted.

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the City Clerk and obtain another.

BALLOT MEASURE

MARK "YES" OR "NO"
WITH AN "X":

"Shall the Sacramento City Council, acting through the Creamery Community Facilities District No. 2015-02 (Improvements), City of Sacramento, County of Sacramento, State of California (the "CFD"), be authorized to incur debt with a principal amount not exceeding \$5,000,000 and to annually levy a special tax within the CFD to finance the acquisition and construction of certain public facilities and to finance certain governmental fees for public facilities, and shall the appropriations limit for the CFD during fiscal year 2015-16 be established in the amount of \$5,000,000, all as described in Resolution No. 2015-0099 [Insert No. of Resolution of Formation] and Resolution No. 2015-0100 [Insert No. of Resolution Deeming it Necessary to Incur], both adopted on April 23, 2015?"

YES:

NO:

Certification for Special Election Ballot

The undersigned is the above-named Landowner or the authorized representative of the above-named Landowner and is a person legally authorized and entitled to cast this ballot on behalf of the above-named Landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2015.

Signature

Print Name

EXHIBIT B
WAIVER AND CONSENT
SHORTENING TIME PERIODS AND WAIVING VARIOUS
REQUIREMENTS FOR CONDUCTING A MAILED-BALLOT ELECTION
AND APPOINTMENT OF REPRESENTATIVE TO ACT FOR PROPERTY OWNER
IN VOTING AND CASTING BALLOT

CREAMERY COMMUNITY FACILITIES DISTRICT NO. 2015-02 (IMPROVEMENTS) CITY OF
SACRAMENTO, COUNTY OF SACRAMENTO,
STATE OF CALIFORNIA

I [We], _____

(print name[s])

(referred to in this document collectively as the "Undersigned") declare [check one]:

_____ **The Undersigned are ALL of the owners...**

OR

_____ **The Undersigned is the authorized representative of, and in executing this document is acting for, ALL of the owners (and has attached hereto evidence of the Undersigned's authority to act for ALL of the owners in this regard), which owners are listed here:** _____

_____ **(the "Owners")**

of the real property listed below by Assessor's Parcel Number ("APN"), which is within the Creamery Community Facilities District No. 2015-02 (Improvements), City of Sacramento, County of Sacramento, State of California (the "Community Facilities District"). The APN's are:

_____ The Undersigned understands that a special mailed-ballot, landowner election will be held to determine whether the authority to levy an annual special tax on property within the Community Facilities District, including the above-numbered parcels, to finance certain public facilities and certain governmental fees, and to incur indebtedness to be secured and repaid by the special tax, and to establish an appropriations limit for the Community Facilities District all as set forth in two resolutions to be considered by the City Council of the City of Sacramento on April 23, 2015 (the Resolution of Formation and the Resolution Deeming it Necessary to Incur Bonded Indebtedness), will be conferred upon that Council. The Undersigned, on behalf of the above-

referenced Owners, requests that the election be conducted at the earliest possible date. The Undersigned is the person legally entitled and authorized to cast the ballot attributable to the above-referenced parcels in the landowner, mailed-ballot election.

The Undersigned, on behalf of the above-referenced Owners, hereby waives any and all minimum time periods relative to the election pursuant to Government Code Section 53326(a).

The Undersigned, on behalf of the above-referenced Owners, hereby waives the preparation and distribution of an impartial analysis of the ballot measure, as well as arguments in favor and against, under the authority of Government Code Section 53327(b).

The Undersigned, on behalf of the above-referenced Owners, hereby waives the requirement to publish notice of the election under Government Code Section 53352.

The Undersigned, on behalf of the above-referenced Owners, hereby waives the requirements regarding the time to mail ballots to the qualified electors under Elections Code Section 4101, and agrees that either mailed service or personal service of the ballot will be sufficient.

The Undersigned, on behalf of the above-referenced Owners, hereby waives the requirements regarding identification envelopes for the return of mailed ballots contained in Government Code Section 53327.5.

The Undersigned, on behalf of the above-referenced Owners, hereby waives any and all defects in notice or procedure in the conduct of the election, whether known or unknown (except the right to vote and to have the ballots fairly counted), and states that the election is being expedited, pursuant to this Waiver, Consent, and Appointment, at the particular instance and request of the Undersigned.

The Undersigned, on behalf of the above-referenced Owners, hereby consents to the levy and collection of the special tax on the above-referenced parcels and hereby waives any and all rights to challenge the inclusion of the above-referenced parcels in the Community Facilities District and any and all other proceedings related thereto.

Finally, the Undersigned, on behalf of the above-referenced Owners, hereby authorizes _____ [if the Undersigned will cast the ballot, enter "N/A"] to act in all respects for the above-listed property and for the above-referenced owners in casting the votes and executing the ballot assigned to the above-listed property.

The Undersigned declare[s] under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Appointment and Waiver and Consent is

signed by each of the Undersigned on the date following each signature.

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____

[Attach Notary Certificate]