



City Council Report

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Sacramento, CA 95814

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August 21, 2018

Consent Item 14

Title: (Pass for Publication) Railyards Community Facilities District (CFD) No. 2018-01 (Improvements): Results of Special Mail Ballot Election and an Ordinance to Levy a Special Tax

Location: District 3

Recommendation: 1) Pass a Resolution declaring results of the special mailed ballot election; and if the election is in the affirmative, do all of the following: 2) pass a Motion 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.b(ii)), 3) review the ordinance to levy a special tax on land within the CFD, and 4) pass for publication the ordinance title as required by section 32(c) of the Sacramento City Charter for adoption on August 28, 2018.

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Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Schedule of Proceedings
- 4-Resolution – Declaring Election Results
- 5-Ordinance – Levy of Special Tax

Description/Analysis

Issue Detail: On August 14, 2018, Council passed Resolution 2018-0341 calling for a special mailed ballot election on whether to levy a special tax within the boundaries of the Railyards Community Facilities District No. 2018-01 (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, pass a motion bypassing review by the Law and Legislation Committee, 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).

Economic Impacts: None

Environmental Considerations:

California Environmental Quality Act (CEQA): Under the CEQA Guidelines, the formation of community facilities districts does not constitute a project and is therefore exempt from review. (CEQA Guidelines section 15378(b)(4)).

Sustainability: Not applicable.

Commission/Committee Action: Not applicable.

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 initially fund the construction of the public improvements and pay development fees associated with the public improvements. Later, if and when sufficient bond proceeds and special taxes are available, the City will reimburse the Developer consistent with the City's Mello-Roos Policy or any subsequent update to such policy and with associated agreements. The bond proceeds and special taxes will be used for the sole purposes of (a) funding construction-cost and development-fee reimbursements to the

Developer and (b) paying the City's administrative expenses. This may be done from bond proceeds, directly from special taxes on a pay-as-you-go basis, or from a combination of proceeds and taxes.

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 Background

The proposed CFD consists of an approximately 244-acre historic Union Pacific Railroad (UPRR) site planned for mixed-use. The Railyards project area is generally bounded by North B Street and the Sacramento River Water Treatment Plant to the north, the Sacramento River to the west, I Street and H Street to the south and 7th and 12th streets to the east. It is located on the north side of Downtown and south of the River District and once serving as the western terminus of the 1860s Transcontinental Railroad.

To date, a number of improvements have occurred in the area including track relocations, station renovations, and backbone infrastructure totaling almost \$337 million have been completed. These improvements have been funded through State Proposition 1C grant funds, Measure A, UPRR, and property owner funding. Despite the magnitude of this initial investment, much of it from public sources, the City and Downtown Railyard Venture, LLC recognize that the Railyards Project development still faces an extraordinary infrastructure funding burden.

Purpose of the CFD

The proposed CFD will finance through the issuance of bonds or the incurrence of other debt, 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 maximum principal amount of debt proposed to be incurred for the purposes of the proposed district is \$75 million.

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 at the incurrence of debt is required. In this case, where there are fewer than 12 registered voters, the vote is 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 this proposed CFD. The City is prohibited from levying the tax or incurring related debt unless at least two-thirds of the votes cast are in favor of formation and the debt.

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 \$75 million to be funded by the levy; and
- Should the appropriation limit of the CFD be set at \$75 million?

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

The ballots were due August 15, 2018. The vote was in the affirmative with more than 2/3 of the votes cast with a yes vote.

Special Tax Formula

The Rate and Method of Apportionment of the special tax is attached as Exhibit D to the Resolution of Intention and to the Resolution of Formation. The special tax is applied to both developed and undeveloped properties. The Initial Maximum Annual Special Tax in FY2018/19 is \$18,948.60 per acre and escalates two percent annually to compensate for inflation.

SCHEDULE OF FORMATION PROCEEDINGS

PROPOSED CITY OF SACRAMENTO RAILYARDS COMMUNITY FACILITIES DISTRICT (CFD) NO. 2018-01 (IMPROVEMENTS)

- | | |
|------------------------|--|
| July 3, 2018 | City Council – Initiate Proceedings <ul style="list-style-type: none">○ 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 |
| July 11, 2018 | Record Boundary Map |
| July 23, 2018 | Mail Notice of Public Hearing |
| July 31, 2018 | Publish Notice of Hearing |
| August 14, 2018 | 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 |
| August 15, 2018 | Special Election Ballots Due |
| August 21, 2018 | City Council <ul style="list-style-type: none">○ Pass Resolution Declaring Results of Special Election○ Pass for Publication Ordinance to Levy Tax |
| August 22, 2018 | Record Notice of Special Tax |
| August 28, 2018 | City Council <ul style="list-style-type: none">○ Adopt Ordinance to Levy Special Tax○ Pass Resolution Creating Accounting Fund |

RESOLUTION NO.

Adopted by the Sacramento City Council

August 21, 2018

Declaring Results of Special Mailed-Ballot Election Within the City of Sacramento Railyards Community Facilities District No. 2018-01 (Improvements)

BACKGROUND

- A. On Tuesday, August 14, 2018, the City Council duly adopted Resolution No. 2018-0339 (the “**Resolution of Formation**”) and Resolution No. 2018-0340 (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 “City of Sacramento Railyards Community Facilities District No. 2018-01 (Improvements)” (the “**CFD**”).
- B. To confer on the City Council the authority contained in the Formation Resolutions, 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. 2018-0314, adopted August 14, 2018.
- 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 August ____, 2018, 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 sections 53328 and 53355 of the Act.
- 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

Levying a Special Tax for Fiscal Year 2018-2019 and Following Fiscal Years Solely Within, and Relating to, the City of Sacramento Railyards Community Facilities District No. 2018-01 (Improvements)

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

1. On August 14, 2018, the City Council adopted Resolution No. 2018-____ (the "**Resolution of Formation**"), thereby establishing the City of Sacramento Railyards Community Facilities District No. 2018-01 (Improvements) (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 2018-2019 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 the City Treasurer's designee (in the instance of the use of debt financing) or the Finance Director or the Finance Director's designee (when no debt has been issued) is the Manager of the CFD (the "**Manager**"). The Manager shall serve as the "Administrator" of the RMA (i.e. as "the City official responsible for determining the Annual Costs and providing for the levy and collection of the Special Tax"; section 2 of the RMA) with the aid of the appropriate officers and agents of the City. The Manager is hereby authorized and directed, without further action by the City Council, to do the following:
 - (a) calculate the appropriate amount of the special tax each year (as authorized by, and as provided in, the Resolution of Formation and the RMA);
 - (b) prepare the annual special-tax roll in accordance with the Resolution of Formation and the RMA; and
 - (c) 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**").

4. 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 to be subject to the same enforcement mechanism and the same penalties and interest for late payment as regular *ad valorem* taxes, except that the City Council reserves 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.
5. The appropriate officers and agents of the City are hereby 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-upon charges for collecting the special tax from the amounts collected before remitting the special-tax collections to the City.
6. 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.

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 tax to the remaining parcels will not be affected.