



City of Rialto

Legislation Text

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For City Council Meeting [October 22, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Administrator

FROM: Sean Grayson, Acting Public Works Director

Request City Council to Adopt (1) **Resolution No. 7567** Stating Intention of the City Council of the City of Rialto to Establish City of Rialto Community Facilities District No. 2019-2 (Foothill/Spruce) and to Authorize the Levy of Special Taxes within said District, and (2) **Resolution No. 7568** of the City Council of the City of Rialto to Incur Bonded Indebtedness in the Amount of Not to Exceed \$7,000,000 within Proposed City of Rialto Community Facilities District No. 2019-2 (Foothill/Spruce), setting a Public Hearing for **December 10, 2019**.

BACKGROUND:

Mello-Roos Districts

Community facilities district (CFD) financing is a commonly used method of financing infrastructure and services for new development when requested by a developer. Commonly referred to as a "Mello-Roos District," this land-secured financing permits the City to issue bonds to pay for public infrastructure and service costs associated with development. Debt service on the bonds is paid from special taxes levied on real property within the CFD boundary. The bonds are issued on a tax-exempt basis at the federal and state level, providing low cost financing for a portion of the overall project costs, with some or all of this benefit and cost passed along to the homebuyers or property owners.

City Council Policy

The Mello-Roos Act provides that prior to initiating the CFD proceedings, the City Council must adopt a statement of local goals and policies concerning the use of the Mello-Roos Act. On November 1, 2005, the City Council adopted a policy for new development and annexations, which requires all new residential development to mitigate for all capital and operating costs imposed upon the City by that development. The policy also establishes general standards for the establishment of community facilities districts to finance infrastructure and services. Among these, the effective tax rate shall not exceed 2% of the expected value of each home, the aggregate special taxes net of administrative costs must equal or exceed 110% of annual bond debt service, and the Developer must provide disclosures to homebuyers acceptable to the City.

On August 8, 2017, the City Council supplemented its policies upon adoption of Resolution No. 7176 establishing a Debt Issuance and Management Policy in compliance with Government Code Section 8855 (i). For CFD's, this policy requires a minimum value to lien ratio of 3:1 prior to the issuance of bonds among other standards.

The City's combined statement of policies related to the formation of CFD's and the issuance of debt are attached hereto as **Exhibit A**.

The City has adopted three active CFD's:

- CFD 87-1 and 87-2 encompassing the Las Colinas community in northwest Rialto. CFD 87-1 paid for certain infrastructure costs and the bonds have since been retired and the levy extinguished. CFD 87-2 paid for police and fire services required by the Project. Since approval of the Utility Tax, the City has annually set the levy for the 2,128 parcels encompassed within this CFD at \$0. The special tax was approximately \$200 per unit.
- CFD 2006-1 encompasses the Elm Park residential community of 130 homes. Lewis Investment Company and Shea Homes voted to create the CFD to finance infrastructure (Special Tax "A") and Police/Fire/Public Works services (Special Tax "B"). The City set the original Special Tax B at \$612 per unit, and it has since inflated to \$847 per unit. The Special Tax B continues in perpetuity, while the Special Tax A will cease once the bonds are defeased. The City currently levies Special Tax A (infrastructure) at approximately \$2,600 - \$3,100 per unit depending upon the home's square footage.
- On December 13, 2016, the City Council adopted Ordinance No. 1581 forming CFD 2016-1. This recently created master CFD annexes all residential projects in order to mitigate operating fiscal impacts as a condition of project approval (i.e. projects without infrastructure financing components). Since formation, the CFD has annexed the Serrano Place Project by RC Hobbs, the Adams Grove Project by Crestwood Communities, and the Etiwanda Homes Project by 642 N. Linden LLC. All future residential projects without infrastructure CFD elements will annex to this CFD. The current annual levy for these projects is approximately \$300 per unit for a single-family residence and \$227 per unit for a multi-family residence.

The City Council adopts Resolutions each fiscal year to levy the special tax, with adjustments for inflation as authorized by the original formation documents.

In accordance with the City policy, new residential developments must prepare a fiscal impact report to identify the revenues and expenses associated with the City's public service obligations to that residential development. New residential development generally does not generate sufficient direct and indirect revenue to support the City's public service costs at the current service level standard. In order to mitigate the negative fiscal impacts and help ensure the City maintains its current service standard, the City conditions residential projects in two ways. For projects without infrastructure CFD components, the City will annex them into master CFD 2016-1. For projects with infrastructure components, the City will form a distinct CFD with levies for both infrastructure and services.

Developer Petition to form CFD

Christopher Development Group requested the City facilitate formation of a Community Facilities District to finance a portion of its public project costs. On May 14, 2019, the City Council approved a Deposit and Reimbursement Agreement with Christopher Development Group to initiate formation of a Community Facilities District and select the financing team. The financing team consists of Fieldman, Rolapp & Associates, Inc. (Financial Advisor), Willdan (Special Tax Consulting), and Aleshire & Wynder (Bond Counsel). The Deposit and Reimbursement Agreement required Christopher Development Group to deposit \$87,250 with the City to pay the full cost of forming the District. In accordance with the Agreement, Christopher Development Group made the initial deposit to the City of \$43,125. The Developer will post supplemental deposits as needed.

Subsequently, the City received a petition (**Exhibit B**) from the property owner within the proposed CFD boundary (**Exhibit C**) to establish the CFD for the purpose of financing public facilities (via payment of development impact fees) in connection with a planned 184-unit residential development project within the Foothill Boulevard Specific Plan. The petitions authorize the levy of special taxes, the issuance of bonds, and establish an appropriation limit for the CFD.

ANALYSIS/DISCUSSION:

The Project

Christopher Development Group, Inc. proposes to develop a 16-acre project site into a private residential neighborhood consisting of 66 detached single-family dwelling units, 118 attached townhome dwelling units, private streets, recreational amenities, and landscaping. The project includes the subdivision of the project site into 7 residential condominium lots and 2 common lots for the private streets and recreational amenities. The City has approved all land use entitlements (other than construction permits) for the Project, with conditions of approval established in Master Case No. 2018-0057, Environmental Assessment Review No. 2018-0066, Tentative Tract Map No. 2018-003, and Precise Plan of Design No. 2018-0062.

On June 11, 2019, the City Council adopted Resolution No. 7527 approving a Fee Credit and Reimbursement Agreement with Christopher Development Group. The Fee Credit and Reimbursement Agreement grants credits and reimbursements for construction of Foothill Boulevard improvements. The proposed CFD financing excludes these credits and reimbursements from the definition of eligible expenditures.

CFD Formation Process

State law requires that the City take certain prescribed actions before establishing a CFD. A Developer that has an interest in the property can petition the local governing body to establish a CFD. The governing body must then act within 90 days of receiving a CFD petition to adopt a Resolution of Intention (ROI) (**Exhibit D**) to form the CFD and levy a special tax.

The ROI serves the following purpose:

1. Accepts the landowner's petition, if any, to form the CFD;
2. Designates a name for the CFD;
3. Establishes the CFD's boundaries;
4. Identifies what public assets or services are to be funded by the CFD;
5. Declares the intention to conduct proceedings, form the CFD, levy taxes and issue debt;
6. Sets the date of the public hearing; and
7. Describes the voting procedure.

The City Council must hold a public hearing not less than 30 days and not more than 60 days after adopting the ROI pursuant to Section 53321(e). Adoption of the ROI is not an action that binds the governing body to establish and form a CFD nor does it bind the City to levy special taxes. The City shall complete the public hearing within 60 days; however, the City may continue the public hearing for a period of 30 days or up to 6 months pursuant to Section 53325.

The City holds the public hearing to consider formation of the CFD; declare if the CFD serves the public interest, convenience and necessity; consider the levy of taxes; approve the Rate & Method of

Apportionment (RMA) that identifies the specific tax rate on affected parcels; and, establishes the specific tax formula to be applied to each parcel in the CFD. At the conclusion of the public hearing, the City Council may either approve or disapprove the formation of the CFD. The legislative body has complete discretion to form the CFD or abandon the proceedings after the public hearing.

Resolution of Necessity to Incur Debt

The Resolution of Necessity to Incur Bonded Indebtedness (**Exhibit E**) states the not-to-exceed amount for bonds to be issued by the CFD and declares that the special taxes to be levied within the CFD are to be used for direct payment of public facilities and services, as well as the payment of the debt service on the bonds of the CFD. The maximum bond issue is \$7 million, although the current funding requirement is approximately \$4.7 million. The City will only issue debt to support the actual funding requirement while satisfying all other elements of the City's policies regarding land secured financings. The resolution also sets a public hearing for December 10, 2019.

The proposed CFD will meet all requirements of the City's adopted local goals and policies.

Noticing Requirements

The Resolutions direct the City Clerk to provide notice in accordance with state law. The ROI requires that the City publish notice in accordance with Government Code Section 6061, providing the text or a summary of the Resolution, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed district, and a description of the proposed voting procedure for the election. Additionally, the City must send a copy of the Notice of Public Hearing by first class mail to each landowner within the proposed CFD as shown on the last equalized assessment roll at least 15 days before the hearing.

The City must also publish notice regarding the public hearing to consider the proposed issuance of bonds. The City must publish this notice in accordance with Section 6061 of the Government Code, not less than 7 days prior to the hearing.

The Public Hearing Notice that satisfies the publishing requirements for both requirements is attached hereto as **Exhibit F**.

Public Hearing Scheduled for December 10, 2019

City Council adoption of both resolutions commences the process to consider the establishment of the CFD, the special taxes and incurring bonded indebtedness. The formation of the CFD will occur after the public hearing. At that hearing, the Council will be presented with information regarding the CFD, the special taxes, and public facilities and services. The public will also have the opportunity to comment on the CFD. After the conclusion of the public hearing, and if the Council agrees to the formation of the CFD, the Council may take the following actions:

1. Adopt a resolution establishing the CFD.
2. Call a special election.
3. Conduct the election.
4. Adopt a resolution declaring the results of the election.
5. Introduce for first reading an ordinance authorizing the levy of special taxes.

The adoption of the two resolutions under consideration this evening does not commit the City Council to

establish the CFD nor authorize the levy of special taxes or the issuance of bonds.

Rate and Method of Apportionment

The Rate and Method of Apportionment (RMA) attached hereto as **Exhibit G** identifies the City's methodology for annually apportioning the special tax to the individual units. The RMA sets the annual base year Special Tax A that pays for the facilities component of the CFD between \$1,274 and \$1,708 depending on the size of the home and whether it is attached or detached. The Special Tax B portion that will annually pay for police/fire/public works services is \$300 unit. The Special Tax B component will run in perpetuity and increase annually by the lesser of the percent change in the Consumer Price Index (CPI) or three percent (3.00%). The expected Effective Tax Rate for all property tax secured obligations is 1.86% which is less than the Council adopted rate of 2%.

ENVIRONMENTAL IMPACT:

Formation of a CFD is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

GENERAL PLAN CONSISTENCY:

The City of Rialto has identified several goals and objectives within the City's recently adopted General Plan through which the City looks to improve the community. The proposed action is consistent with the following goals and objectives contained in the General Plan:

Goal 3-1: Strengthen and diversify the economic base and employment opportunities and maintain a positive business climate.

Policy 3-1.2: Encourage a variety of businesses to locate in Rialto, including retail, high technology, professional services, clean industries, logistics-based businesses, and restaurants/entertainment uses to promote the development of a diversified local economy.

Goal 3-3: Attract, expand, and retain commercial and industrial businesses to reduce blighted conditions and encourage job growth.

Goal 3-6: Require that all developed areas within Rialto are adequately served with essential public services and infrastructure.

Policy 3-6.1: Coordinate all development proposals with other affected public entities to ensure the provision of adequate public facilities and infrastructure services.

Goal 3-7: Upgrade public infrastructure as an inducement to promote private investment.

LEGAL REVIEW:

The City Attorney's office prepared the Resolutions and participated in the preparation of related documents by the City's financing team, including the financial advisor, special tax consultant, and bond counsel.

FINANCIAL IMPACT:

Operating Budget Impact

The City commissioned Stanley R. Hoffman and Associates to prepare a fiscal impact analysis for the project (**Exhibit H**). The analysis identified an annual deficit of \$250 per unit to maintain the City's current public service standard. However, the Developer has chosen to include a \$300/unit rate for the Special Tax B portion of the CFD that will supplement existing City revenues to pay for police/fire/public works services. Consequently, the proposed CFD includes a service component that will generate \$55,200 per year for the general fund for the first year of build-out of the project. The City will deposit the annual levies into the General Fund, and the City Council may then budget public service enhancements. The special tax levy also pays for annual administration of the CFD. The Special Tax B that pays for public services increases annually thereafter at a rate equal to the lesser of three percent (3.00%) or the Consumer Price Index (CPI).

The proposed public service levy intends to provide General Fund revenue to supplement public services such as public safety and maintain the current service standards. When combined with normal and customary expected revenues from residential development, the CFD levy will allow the City to maintain services at the current service standard. If General Fund revenues decline (due to recession or other factors) or General Fund costs exceed revenue growth, then the City may not have the ability to maintain the current service standard. Conversely, if revenue growth exceeds expenditure growth then the City may maintain or expand current service standards. The methodology is based upon reasonable assumptions and actual outcomes will vary based upon future actions.

Capital Improvement Budget Impact

The infrastructure component of the CFD will generate funds to pay the City development impact fees which are paid by the developer at building permit issuance. The project expects to pay approximately \$3.7 million in development impact fees using the proceeds from the CFD bonds. The City can then program these funds into capital projects.

Licensing

There is no business license required because of this action.

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt a Resolution Stating Intention of the City Council of the City of Rialto to Establish City of Rialto Community Facilities District No. 2019-2 (Foothill/Spruce) and to Authorize the Levy of Special Taxes Within Said District.
2. Adopt a Resolution Stating Intention of the City Council of the City of Rialto to Incur Bonded Indebtedness in the Amount of Not to Exceed \$7 million within proposed City of Rialto Community Facilities District No. 2019-2 (Foothill/Spruce).
3. Set a Public Hearing for December 10, 2019 and direct the City Clerk to publish public notice in accordance with the provisions of the two Resolutions and provide mailed notice as required by law.