



City of Rialto

Legislation Text

File #: 22-803, Version: 1

For City Council Meeting [September 13, 2022]

TO: Honorable Mayor and City Council

APPROVAL: Marcus Fuller, City Manager

FROM: Marcus Fuller, City Manager/Acting City Engineer

Request City Council to: (1) Hold a Public Hearing on the Proposed Modifications to City of Rialto Community Facilities District No. 2020-1 (El Rancho Verde); (2) Adopt **Resolution No. 7973** Calling a Special Election to Modify the Rate and Method of Apportionment of the Special Tax Relating to said Community Facilities District, Eliminate the Designation of Improvement Areas, Remove Territory from the Boundaries of the Community Facilities District, Increase the Special Tax Rates, Increase the Maximum Bonded Indebtedness, and Revise the Appropriations Limit of Said Community Facilities District; (3) Hold the Special Election; (4) Adopt **Resolution No. 7974** Canvassing the Results of the Special Election Held Within Community Facilities District No. 2020-1 (El Rancho Verde) Regarding Certain Modifications to the District; (5) Adopt **Resolution No. 7975** Approving Certain Modifications to the City of Rialto Community Facilities District No. 2020-1 (El Rancho Verde), and Approving the Execution and Delivery of an Amended and Restated Funding and Acquisition Agreement in Connection Therewith; (6) Introduce for First Reading **Ordinance No. 1670** Repealing Ordinance No. 1648 and Authorizing the Levy of Special Taxes Within the City of Rialto Community Facilities District No. 2020-1 (El Rancho Verde); and (7) Authorize the City Manager to Execute All Documents and Actions Necessary.

(ACTION)

BACKGROUND

The Project and the Pre-Annexation and Development Agreement

In August 2012, the City entered into a Pre-Annexation and Development Agreement ("Development Agreement") with Lytle Development Company, El Rancho Verde Golf, LLC and Pharris Sycamore Flats LLC ("Lytle Creek") that provides for a master planned development, known as the Lytle Creek Ranch. The development consists of approximately 2,447 acres with planned land uses including, but not limited to, 8,407 residential units, 849,420 square feet of industrial and commercial land uses, 21 acres of neighborhood parks, 23.5 acres of Paseo's and greenbelts, a 35.7 acre Sports Park, 27.2 acres of linear open space/recreation land, trails and walkways, 900 acres of natural open space preserved in perpetuity, public schools, public streets and walkways and other amenities that are of benefit to the development and the City.

Developer Petition to form CFD

The business entities consisting of Lytle Development Company and El Rancho Verde Golf, LLC (Owner) previously made a request to the City to explore formation of a Community Facilities District to finance public infrastructure project costs, development impact fees and a special tax for mitigating

the project's impact on City services. As a result of the Owner's request, on July 25, 2017, the City Council approved a Deposit and Reimbursement Agreement to initiate formation of a Community Facilities District and selected a financing team to assist the City and the Owner in this process. The financing team consisted of Fieldman, Rolapp & Associates, Inc. (Financial Advisor), and Willdan (Special Tax Consulting).

Formation of the CFD

On July 14, 2020, the City Council held a Public Hearing and took action to approve and establish Community Facilities District No. 2020-1 (El Rancho Verde), (the "District").

The District was established to provide a portion of the financing for the public improvements associated with the construction of the single-family residential units. Due to the extraordinary costs for the public improvements for this initial phase of the Lytle Creek Ranch project, use of a CFD was anticipated and included in the Development Agreement.

Request for Modification of CFD

On May 26, 2022, the City Council approved a request by Lennar Homes to initiate the process to modify the District to (i) eliminate the designation of Improvement Areas; (ii) modify the Original RMAs to consolidate into one rate and method of apportionment and increase certain special tax rates; (iii) increase the maximum bonded indebtedness for the District to \$50,000,000; (iv) modify the boundaries of the District to eliminate certain non-taxable property; and (v) revise the appropriations limit for the District. On such date the City Council also adopted a resolution approving the execution of a Deposit and Reimbursement Agreement with Lennar Homes of California, LLC. and approving the contracts of various consultants to facilitate the modification process.

On August 9, 2022, the City Council adopted a resolution of consideration relating to the Proposed Modifications to the District and set a public hearing for September 13, 2022.

ANALYSIS/DISCUSSION

Lennar Homes is making progress with construction of the new residential development at Lytle Creek. Lennar Homes, through its consultant John Zimmerman, has provided a request to the City to consider modification of the District. A copy of their request is included as **Attachment 1**.

Lennar Homes is pursuing a modification of the District to increase the maximum bonded indebtedness to cover increasing costs of the public improvements. Specifically, the District modification is being requested to, among other things, adjust the special tax rates to reflect the product, pricing and land use assumptions of Lennar Homes and increase the CFD special taxes to cover increases in development costs.

The District was established with two separate Improvement Areas to allow for original Developer to sell portions of the residential development to different builders. Lennar Homes is now under contract with the original Developer for the entire residential development and there is no longer a need to have two separate Improvement Areas. The District was established with a total bonded indebtedness of \$20 million in each of the two Improvement Areas for a total bonded indebtedness of \$40 million.

The District was established with an estimated cost of public improvements to be financed at \$25.3 million. Due to rising costs of construction and inflation, the current estimated cost of public

improvements to be financed has increased to \$33.4 million and there is a need to increase the total maximum authorized indebtedness to account for increasing interest rates in the bond markets. Potentially the total bonded indebtedness may be established at \$50 million.

Effective Tax Rate

The District was established with an overall Effective Tax Rate at approximately 1.9%, below the City's policy establishing a 2% maximum Effective Tax Rate.

The Effective Tax Rate expresses the relationship between a home's value and all forms of property taxes (ad valorem and fixed rate) that are levied on a property, excluding charges for services such as sewer and trash. Common examples of property-based taxes (ad valorem) is the standard 1% property tax levy as well as taxes for school/college/water bonds. Common types of fixed rate levies include vector, lighting, landscape and City Services.

The Effective Tax Rate is calculated by taking the total amount of taxes and dividing it by the value of the home. At the time the District was established, the Effective Tax Rate was calculated at the previously lower cost of public improvements to be financed through the special taxes and the anticipated home prices determined in 2020.

The Effective Tax Rate with the modified District will remain at less than the maximum 2% allowed by the City and is possible with a higher total bonded indebtedness due to the increasing cost of new homes.

As part of requirements for the modified District, prior to bonds being sold the District Administrator will select a consultant to prepare a new Price Point analysis to confirm the Effective Tax Rate remains below 2% based on the home sale prices. If the Effective Tax Rate exceeds 2% at the time bonds are ready to be sold, special taxes will be reduced to the amount needed to achieve a 2% Effective Tax Rate. This calculation is done once at the time bonds are ready to be sold.

Proposed Financing Structure

For the proposed modification of CFD 2020-1, the following is a general summary of the proposed financing structure.

1. *Bond Term and Type of Bonds to be sold*: The term of any bond issue will not exceed 35 years. While it is expected the bond issues will be tax-exempt, the Owner has also requested the option of selling taxable bonds. In no case will the Special Tax A tax rate (described below) that is used to pay for the debt service on any bonds sold increase beyond what is allowed by the CFD formation documents.

2. *Amended Boundary Map*: The physical locations of zones can be found on the Amended and Restated Boundary and Zone Maps that are included in the Resolution of Consideration ("ROC") as Exhibit A.

3. *Special Tax A*: This is the tax that will be assessed on properties to pay for the debt service on bonds issued and the revenues used for constructing public improvements and paying development impact fees. The Special Tax A varies in amount based on the size of the residential home. The annual tax rate for the five zones range from \$2,330 to \$3,530 depending on the size of the single family home. A more complete list of Special Tax A rates for all zones can be found in the

Amended and Restated Rate and Method which is part of the ROC and attached as Exhibit D. Special Tax A will annually increase by 2%. Special Tax A is levied on developed property and will remain for so long as is needed to pay for all principal and interest on bonds, but not more than 50 years commencing with FY 2023-2024.

4. *Special Tax B (No change)* - This tax will be levied on each residential property once it is developed in order to mitigate the impacts on City services created by the development. No change is proposed for Special Tax B which is \$341 per single family unit for FY 2023/24. Special Tax B increases on an annual basis by the lesser of CPI or 3%. This tax will remain on the property in perpetuity.

5. *Pay Go (No. change)* - Due to the extraordinary costs of public improvements that are required it is expected that bond revenues will not be sufficient to pay for the costs of public improvements. For this reason, the developer has requested that any excess amounts of Special Tax A that are not used for debt service and administrative costs be paid to the developer for a period of 30 years, or until all eligible public improvements have been paid for, whichever occurs first. This type of payment to a developer from special taxes is commonly known as Pay-Go. The 30 year time period begins in the first fiscal year in which Special Taxes have been levied.

Modification Process

State law requires the City take certain prescribed actions before modifying a CFD. One of the first steps is for a property owner, or a delegated representative, petition the local governing body to modify the CFD. As noted previously, a petition from the Owner has been received by the City. The governing body must then act within 90 days of receiving the CFD modification petition to adopt a Resolution of Consideration (ROC) to modify the CFD.

Today's actions begin by holding a public hearing on the Proposed Modifications. At the hearing, the Council will be presented with information regarding the Proposed Modifications to the District. The public will also have the opportunity to comment on the Proposed Modifications to the District. After the conclusion of the public hearing, and if the Council agrees to the modifications to the District, the Council may consider and approve a resolution setting the election on the Proposed Changes, conduct the election, consider and approve a resolution canvassing the election, and if approved by a 2/3 vote, consider and approve the resolution of change approving and implementing the Proposed Modifications to the District and approving a form of amended and restated funding and acquisition agreement with Lennar as presented to the Council, and conduct the first reading of an ordinance repealing the original ordinance relating to the District and levying the revised special tax.

At the following Council meeting, the Council may conduct the second reading and adopt the ordinance. The City Clerk will record an Amended Notice of Special Tax Lien and a Notice of Cessation of Special Tax on parcels which are no longer in the District.

It is the intent of the District to issue one or more series of bonds in the future as development warrants. The proposed maximum bond authorization is \$50,000,000. Currently, it is not expected that bonds will be authorized for issuance or sale until the development is well underway and the Facilities are at or near completion, at which time documents relating to the issuance and sale of the bonds will be brought to the Council for its approval. The District will determine the timing and amount of bonds to be sold.

On behalf of the City, Webb Associates, as special tax consultant, has prepared a CFD Report describing the proposed modifications to the District; a copy is included as **Attachment 2**.

Although the City of Rialto formed the District, the debt issuances are not obligations of the City, but rather obligations of the District. Finally, the finances and bonds of the District are unrelated to, do not rely upon, and do not impact the credit rating of the City.

ENVIRONMENTAL IMPACT

The proposed action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(b) of the State CEQA Guidelines, a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

GENERAL PLAN CONSISTENCY

The City 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:

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 has reviewed and recommends approval of this staff report, resolutions, and agreements.

FINANCIAL IMPACT

Operating Budget Impact

Previous action approved a Deposit and Reimbursement Agreement to allow for receipt of \$52,000 from Lennar Homes for the City to cover its costs in retaining the special consultants to analyze the requested modification of the District. There is no cost to the City.

Capital Improvement Budget Impact

No impact.

Licensing

The proposed action will require the payment of a business license tax from the two vendors, who are currently licensed to operate in Rialto.

RECOMMENDATION

Staff recommends that the City Council:

- (1) Hold Public Hearing on the Proposed Modifications to the District.
- (2) Consider the adoption of a Resolution Calling a Special Election to Modify the Rate and Method of Apportionment of the Special Tax Relating to said Community Facilities District, Eliminate the Designation of Improvement Areas, Remove Territory from the Boundaries of the Community Facilities District, Increase the Special Tax Rates, Increase the Maximum Bonded Indebtedness, and Revise the Appropriations Limit of Said Community Facilities District
- (3) Hold Election
- (4) Consider the adoption of the following resolutions:
 - Resolution Canvassing the Results of the Special Election Held Within Said Community Facilities District Regarding Certain Modifications to the City of Rialto Community Facilities District No. 2020-1 (El Rancho Verde)
 - Resolution of Change Approving Certain Modifications to the City of Rialto Community Facilities District No. 2020-1 (El Rancho Verde), and Approving the Execution and Delivery of an Amended and Restated Funding and Acquisition Agreement in Connection Therewith
- (5) Introduce for First Reading of the Ordinance Repealing Ordinance No. 1648 and Authorizing the Levy of Special Taxes Within the City of Rialto Community Facilities District No. 2020-1 (El Rancho Verde)
- (6) Authorize the City Manager to Execute All Documents and Actions Necessary