



PUBLIC HEARING

City of San Bernardino Request for Council Action

Date: September 4, 2024

To: Honorable Mayor and City Council Members

From: Rochelle Clayton, Acting City Manager;
Kenneth Chapa, Director of Economic Development

Department: Economic Development

Subject: **Public Hearing on Annexation No. 28 to Community Facilities District 2019-1 (Ward 5)**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Hold a Public Hearing; and
2. Adopt Resolution No. 2024-190 of the Mayor and City Council of the City of San Bernardino, California, calling an election to submit to the qualified electors the question of levying the amended special tax within the area proposed to be annexed to Community Facilities District No. 2019-1 (Maintenance Services) (Annexation No. 28, Tax Zone 29); and
3. Hold a special landowner election and canvass the election; and
4. Adopt Resolution No. 2024-191 of the Mayor and City Council of the City of San Bernardino, California, declaring election results for Community Facilities District No. 2019-1 (Maintenance Services) (Annexation No. 28, Tax Zone 29); and
5. Introduce, read by title only, and waive further reading of Ordinance No. MC-1642 of the Mayor and City Council of the City of San Bernardino, California, amending Ordinance No. MC-1522 and levying special taxes to be collected during Fiscal Year 2024-2025 to pay annual costs of the maintenance and servicing of landscaping, lighting, water quality improvements, graffiti, streets, street sweeping, parks and trail maintenance, a reserve fund for capital replacement, and administrative expenses with respect to City of San Bernardino Community Facilities District No. 2019-1 (Maintenance Services); and

6. Schedule the adoption of Ordinance No. MC-1642 for September 18, 2024.

Executive Summary

The recommended action is the second step of the annexation process for the proposed development into Community Facilities District (CFD) No. 2019-1 (Maintenance Services). The property owner has petitioned the City to annex into the City's CFD to mitigate its impacts for maintenance service of public facilities as a result of the new development. The City Council approved the Resolution of Intention on July 17, 2024, setting today the time and place of the public hearing. The special taxes will be levied annually to offset general fund expenditures related to maintenance of public improvements within and for the benefit of the development.

Background

On December 7, 2022, the Mayor and City Council adopted Resolution No. 2022-263, a Resolution of Intention to annex territory into Community Facilities District No. 2019-1 (Maintenance Services) of the City of San Bernardino (the "Resolution of Intention"), pursuant to the provisions of the "Mello-Roos Community Facilities Act of 1982".

On July 17, 2024, the Mayor and City Council was presented with a request to adjust the rates previously approved on December 7, 2022, to include additional maintenance of slopes and open space. The Mayor and City Council adopted Resolution No. 2024-152, declaring its intent to amend Resolution No. 2022-263 and adjust the rates previously approved. A public hearing was set for September 4, 2024, on the proposed amendment to Tax Zone 29 of CFD No. 2019-1.

The Resolution of Intention was adopted by the Mayor and City Council in response to a petition filed by the property owner of approximately 24.83 gross acres of a vacant residential lot within the City, requesting that the City assist them in amending CFD No. 2019-1 Tax Zone 29 under the Mello-Roos Act. The proposed project will remain unchanged and consist of 20 detached single-family lots. The State legislature enacted the Mello-Roos Act in 1982 to assist public agencies in financing certain public improvements by either issuing tax exempt securities that are repaid by annual levy of special taxes, or to provide for the financing of on-going public services. The landowner requested the City amend CFD No. 2019-1 Tax Zone 29 to levy a special tax to cover the costs associated with the maintenance of public improvements. The public facilities and services proposed to be financed within CFD No. 2019-1 Tax Zone 29 are the following:

1. Maintenance of median landscaping and other public improvements installed within the public right-of-way; and
2. Public lighting and appurtenant facilities, including streetlights within public rights-of-way and traffic signals; and
3. City and County costs associated with the setting, levying and collection of the

special tax, and in the administration of the District including the contract administration and for the collection of reserve funds.

Tax Zone 29 is located at the intersection of Ohio Street and N Little League Drive, as shown in Attachment #13.

The amended maximum annual special tax for this development has been calculated to be \$954 per unit for FY 2024/25. Special Tax rate is proposed to escalate each year at the greater of Consumer Price Index (CPI) or 2%. The property owners have agreed to initiate and conduct the CFD annexation proceedings pursuant to the Mello-Roos Act of 1982. The property owners have submitted a "Consent and Waiver" form on file in the City Clerk's Office to initiate and conduct proceedings pursuant to the Mello-Roos Act in 1982, for the annexation into the CFD and consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election.

In order to amend CFD No. 2019-1 Tax Zone 29 pursuant to the provisions of California Government Code Section 53311 et seq., the City must adopt a series of three statutorily required Resolutions and an Ordinance which are summarized below.

- Resolution declaring City intent to amend the rate and method of apportionment of special taxes within Community Facilities District No. 2019-1 Tax Zone 29 (the special tax applies only to properties within the annexation area), adopted July 17, 2024.
- Resolution calling an election to submit to the qualified electors the question of levying an amended special tax within Community Facilities District No. 2019-1 Tax Zone 29.
- Resolution declaring the results of the election and directing the recording of the notice of special tax lien.
- Amend the Ordinance and order the levy and collection of special taxes in the District.

With the adoption of the Resolutions and the first reading of the amended Ordinance, the adoption of the amended Ordinance would be scheduled for September 18, 2024.

Discussion

The Resolution of Intention called for a public hearing to be held on September 4, 2024, on the issue of amending the special tax for CFD No. 2019-1 Tax Zone 29. Under the Mello-Roos Act, the Mayor and City Council must hold the public hearing and consider any protests against the formation of the CFD. If the owners of one half or more of the land within the boundaries of the CFD file written protests against the establishment of the CFD, the Council may not create the CFD. If a majority protest is not filed, the Mayor and City Council may adopt the resolution establishing the CFD.

The adoption of Resolution No. 2019-178 on July 17, 2019, established CFD 2019-1, pursuant to the requirements of Government Code Section 53325.1. After a CFD is

formed, the Mello-Roos Act requires that for any annexations into the CFD an election be held on the question of whether the proposed special taxes should be levied. The election requires a two-thirds vote in favor of levying the special tax. The landowners filed waivers with respect to the conduct of the election pursuant to Government Code Sections 53326(a) and 53327(b), meaning that the time limits and procedural requirements for conducting an election under the Mello-Roos Act do not have to be followed. Accordingly, City staff has already mailed the election ballots to the landowners and required the ballots to be returned by the close of the public hearing. If the Mayor and City Council adopt Resolution No. 2024-____, it may immediately proceed to the opening of the ballots and adopt Resolution No. 2024-____ declaring the results of the election.

2021-2025 Strategic Targets and Goals

This project is consistent with Key Target No 1. Improved Operational & Financial Capacity and Key Target No. 4: Economic Growth & Development. This project will contribute to ensure that the City is clean and attractive and provide infrastructure designed for long term economic growth.

Fiscal Impact

All costs associated with annexation into the CFD have been borne by the Developer. By annexing into the CFD, the costs of maintaining improvements located within the development will be financed through special taxes levied on the parcels within CFD No. 2019-1 and not through the City's General Fund.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California:

1. Hold a Public Hearing; and
2. Adopt Resolution No. 2024-190 of the Mayor and City Council of the City of San Bernardino, California, calling an election to submit to the qualified electors the question of levying the amended special tax within the area proposed to be annexed to Community Facilities District No. 2019-1 (Maintenance Services) (Annexation No. 28, Tax Zone 29); and
3. Hold a special landowner election and canvass the election; and
4. Adopt Resolution No. 2024-191 of the Mayor and City Council of the City of San Bernardino, California, declaring election results for Community Facilities District No. 2019-1 (Maintenance Services) Tax Zone 29; and
5. Introduce, read by title only, and waive further reading of Ordinance No. MC-1642 of the Mayor and City Council of the City of San Bernardino, California, amending Ordinance No. MC-1522 and levying special taxes to be collected during Fiscal Year 2024-2025 to pay annual costs of the maintenance and servicing of landscaping, lighting, water quality improvements, graffiti, streets, street sweeping, parks and trail maintenance, a reserve fund for capital replacement, and administrative expenses with respect to City of San Bernardino Community

- Facilities District No. 2019-1 (Maintenance Services); and
6. Schedule the adoption of Ordinance No. MC-1642 for September 18, 2024.

Attachments

- Attachment 1 - Resolution No. 2024-190- Resolution Calling Election
- Attachment 2 - Exhibit A Description of Territory
- Attachment 3 - Exhibit B Rate and Method of Apportionment
- Attachment 4 - Exhibit C Special Election Ballot
- Attachment 5 - Exhibit D Full Text of Proposition
- Attachment 6 - Resolution No. 2024-191- Resolution Declaring Election Results
- Attachment 7 - Exhibit A Certificate of Election Results
- Attachment 8 - Ordinance No. MC-1642
- Attachment 9 - Exhibit A Description of Services
- Attachment 10 - Exhibit B Parcel List
- Attachment 11 - Petition
- Attachment 12 - PowerPoint Presentation
- Attachment 13 - Project Map
- Attachment 14 - Publication Notice

Ward:

Fifth Ward

Synopsis of Previous Council Actions:

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| June 5, 2019 | Mayor and City Council adopted Resolution No. 2019-81, a Resolution of Intention to form Community Facilities District No. 2019-1 (Maintenance Services) of the City of San Bernardino (the "Resolution of Intention"), pursuant to the provisions of the "Mello-Roos Community Facilities Act of 1982. |
| July 17, 2019 | Resolution No. 2019-178 was adopted establishing Community Facilities District No. 2019-1; Resolution No. 2019-179 was adopted declaring election results for Community Facilities District No. 2019-1; and first reading of Ordinance No. MC-1522 levying special taxes to be collected during FY 2019-20 to pay annual costs of maintenance, services and expenses with respect to Community Facilities District No. 2019-1. |
| August 7, 2019 | Final reading of Ordinance No. MC-1522 levying special taxes to be collected during FY 2019-20 to pay annual costs of maintenance, services and expenses with respect to Community Facilities District No. 2019-1. |
| December 7, 2022 | Mayor and City Council adopted Resolution No. 2022-263, a Resolution of Intention to annex territory into Community Facilities District No. 2019-1 (Maintenance Services) of the City of San Bernardino (the "Resolution of Intention"), pursuant to the provisions |

of the “Mello-Roos Community Facilities Act of 1982”.

January 18, 2023 Mayor and City Council adopted Resolution No. 2023-001 calling an election to submit to the qualified electors the question of levying a special tax within the area proposed to be annexed to Community Facilities District No. 2019-1 (Annexation No. 28), and adopted Resolution No. 2023-002 declaring election results for Community Facilities District No. 2019-1 (Annexation No. 28); and introduced Ordinance No. MC-1608 amending Ordinance No. MC-1522.

July 17, 2024 Mayor and City Council adopted Resolution No. 2024-152 amending Resolution No. 2022-263 and adjust the special tax rates previously approved within Community Facilities District No. 2019-1 (Maintenance Services) Tax Zone 29 of the City of San Bernardino (the “Resolution of Intention”), pursuant to the provisions of the “Mello-Roos Community Facilities Act of 1982”.