



PUBLIC HEARING

City of San Bernardino Request for Council Action

Date: December 7, 2022

To: Honorable Mayor and City Council Members

From: Robert D. Field, City Manager;
Daniel Hernandez, Agency Director of Public Works,
Operations and Maintenance

Department: Public Works

Subject: **Public Hearing on Annexation No. 25 to Community
Facilities District 2019-1 (Ward 4)**

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. 2022-247 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 a special tax within the area proposed to be annexed to Community Facilities District No. 2019-1 (Maintenance Services) (Annexation No. 25); and
3. Hold a special landowner election and canvass the election; and
4. Adopt Resolution No. 2022-248 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. 25); and
5. Introduce, read by title only, and waive further reading of Ordinance No. MC-1606 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 2022-2023 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-1606 for January 18, 2023.

Background

On November 2, 2022, the Mayor and City Council adopted Resolution No. 2022-232, 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". A public hearing was set for December 7, 2022, on the proposed annexation of the said territory into the community facilities district. As required by the Resolution of Intention, a boundary map was recorded on November 3, 2022, at 1:33 p.m. in Book 90 Page 74, Document No. 2022-0364711 of Maps of Assessment and Community Facilities Districts with the San Bernardino County Recorder.

The Resolution of Intention was adopted by the Mayor and City Council in response to a petition filed by the property owner of approximately 15.51 gross acres of a vacant residential lot within the City, requesting that the City assist them in annexing their properties into CFD No. 2019-1 under the Mello-Roos Act. The proposed project will consist of 133 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 annex into CFD No. 2019-1 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 the territory to be annexed to the District are the following:

1. Public lighting and appurtenant facilities, including streetlights within public rights-of-way and traffic signals; and
2. Maintenance of streets, including pavement management; and
3. Maintenance and operation of water quality improvements, including storm drainage and flood protection facilities; and
4. Maintenance of Parks; and
5. Graffiti abatement; and
6. 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.

The proposed area to be annexed into the CFD will be included in Tax Zone 26 and is located at the northwest intersection of E. Highland Avenue and N. Palm Avenue, as shown in Attachment #12.

The maximum annual special tax for this development has been calculated to be \$249 per unit for FY 2022/23. This tax rate includes a Maximum Special Tax A of \$204 per unit per year for maintenance services of public facilities and a Maximum Annual Special Tax B (Contingent) of \$45 per unit per year. Special Tax B (Contingent) is for the maintenance and operation of the improvements described in Exhibit "B" attached hereto. If the Property Owners Association (POA) were to default of its obligation to maintain such improvements, the City would be able to collect funds to pay for those services. Annual Special Tax A and Annual Special Tax B (Contingent) rate are 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 annex property to CFD No. 2019-1 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 annex territory to Community Facilities District No. 2019-1 including the boundary of the area to be annexed and the rate and method of apportionment of special taxes within the annexation area (the special tax applies only to properties within the annexation area), adopted November 2, 2022.
- Resolution calling an election to submit to the qualified electors the question of levying a special tax within the area proposed to be annexed to the District.
- 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 final adoption of the amended Ordinance would be scheduled for January 18, 2023.

Discussion

The Resolution of Intention called for a public hearing to be held on December 7,

2022, on the issue of the annexation of territory into CFD No. 2019-1. Under the Mello-Roos Act, the Mayor and City Council must hold the public hearing and consider any protests the formation of the CFD. If the owners of one half or more of the land within the proposed boundaries of the CFD file written complaints 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.

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. 2022-247, it may immediately proceed to the opening of the ballots and adopt Resolution No. 2022-248 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

The individual property owners in the CFD will be responsible for annual payments of special taxes. It is estimated, upon full completion of the development, there will be an annual collection of special tax revenues of approximately \$27,176 from Special Tax A to be used to pay for maintenance costs within the development.

On March 1 of each year, every taxable unit for which a building permit has been issued within the boundaries of the CFD, will be subject to the special tax for the ensuing Fiscal Year. If the anticipated costs of maintaining the facilities in any given Fiscal Year, prior to buildout of the project, exceeds the special tax revenues available from parcels for which building permits have been issued, then the special tax may also be applied to property within recorded final subdivision maps, as well as other undeveloped property within the boundaries of the CFD.

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. 2022-247 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 a special tax within the area proposed to be annexed to Community Facilities District No. 2019-1 (Maintenance Services) (Annexation No. 25); and
3. Hold a special landowner election and canvass the election; and
4. Adopt Resolution No. 2022-248 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. 25); and
5. Introduce, read by title only, and waive further reading of Ordinance No. MC-1606 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 2022-2023 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-1606 for January 18, 2023.

Attachments

Attachment 1 - Resolution No. 2022-247- 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 - Resolution No. 2022-248- Resolution Declaring Election Results
Attachment 6 - Exhibit A Certificate of Election Results
Attachment 7 – Ordinance No. MC-1606
Attachment 8 - Exhibit A Description of Services
Attachment 9 - Exhibit B Parcel List
Attachment 10 – Signed Petition & Waiver
Attachment 11 - PowerPoint Presentation

Attachment 12 - Project Map

Ward:

Fourth Ward

Synopsis of Previous Council Actions:

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.
November 2, 2022	Mayor and City Council adopted Resolution No. 2022-232, 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".