



CONSENT CALENDAR

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: **Resolution Declaring Intent to Annex Territory:
Community Facilities District No. 2019-1 (Maintenance
Services): Annexation No. 30, Tax Zone No. 31
(Popeyes LL) (Ward 5)**

Recommendation:

Adopt Resolution No. 2022-267 of the Mayor and City Council of San Bernardino, California, declaring its intention to annex territory into Community Facilities District No. 2019-1 (Maintenance Services) of the City of San Bernardino, adopting a map of the area to be proposed (Annexation No. 30) and authorizing the levy of a special taxes therein.

Background

On June 5, 2019, the Mayor and City Council approved Resolution No. 2019-81 establishing Community Facilities District No. 2019-1 (Maintenance Services) of the City of San Bernardino (the "CFD No. 2019-1" or "District") for the purpose of levying special taxes on parcels of taxable property to provide certain services which are necessary to meet increased demands placed upon the City.

Discussion

On July 17, 2019, the Mayor and City Council adopted Resolution No. 2019-178, establishing CFD No. 2019-1 pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 ("Act"). CFD No. 2019-1 allows for the levy of special taxes on parcels of taxable property for the purpose of providing certain services which are necessary to meet increased demands placed by development upon the City.

Development projects are subject to conditions of approval that require projects to form/annex a maintenance district. These districts apply an annual fee or special tax upon properties within the District which provide the revenue to offset the cost of maintenance of the public improvements necessary to serve the development.

The Developer has agreed to initiate and conduct the CFD annexation proceedings pursuant to the Act. To that end, the Developer has submitted a "Consent and Waiver" form, which is on file in the City Clerk's office that authorizes the City to (1) hold the election and declare election results; (2) shorten election time requirements; (3) waive analysis and arguments; (4) waive all notice requirements relating to the conduct of the election immediately following the public hearing.

The public facilities and services proposed to be financed within the territory to be annexed to the District are the following:

1. Maintenance of streets, including pavement management; and
2. 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 development includes approximately 0.57 gross acres of a vacant commercial lot. The property is located on the intersection of W Little League Dr and Palm Ave right at the I-215 North. At build out, this development will include a Popeyes restaurant as a new Tax Zone No. 31 within CFD No. 2019-1, as shown in the boundary map and included in the Resolution of Intention as Exhibit "D". In order to annex into CFD No. 2019-1, a Resolution of Intention to annex property must be approved to identify the facilities to be maintained and establish the maximum special tax for this Tax Zone. The Resolution of Intention shall also set the date and time for the public hearing.

The rate and method of apportionment of the special tax for this Tax Zone, (Tax Zone No. 31), is included as Exhibit "C" to the Resolution of Intention. The maximum annual special tax for this development has been calculated to be \$4,812 per acre for FY 2022/23. This tax rate includes a Maximum Special Tax A of \$2,957 per acre per year for maintenance services of public facilities and a Maximum Annual Special Tax B (Contingent) of \$1,855 per acre 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%. Exhibit "B" attached to the staff report is a maintenance exhibit to illustrate which services are being maintained by the CFD and by the POA.

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).

- 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 Resolution of Intention, the Public Hearing would be scheduled for January 18, 2023.

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. Upon full completion of the development, it is estimated that there will be an annual collection of special tax revenues of approximately \$1,671 from Special Tax A to be used to pay for maintenance costs.

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

Adopt Resolution No. 2022-267 of the Mayor and City Council of San Bernardino, California, declaring its intention to annex territory into Community Facilities District No. 2019-1 (Maintenance Services) of the City of San Bernardino, adopting a map of the area to be proposed (Annexation No. 30) and authorizing the levy of a special taxes therein.

Attachments

Attachment 1 – Resolution 2022-267 Resolution of Intention
Attachment 2 – Exhibit A - Description of Territory
Attachment 3 – Exhibit B - Description of Services
Attachment 4 – Exhibit C - Rate and Method of Apportionment
Attachment 5 – Exhibit D - Boundary Maps
Attachment 6 – Exhibit E - Petition
Attachment 7 – Exhibit F - Notice of Public Hearing
Attachment 8 – Exhibit G - Special Election Ballot
Attachment 9 – Project Map
Attachment 10 – Maintenance Exhibit

Ward:

Fifth 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.