

RESOLUTION NUMBER R- 294259

ADOPTED ON NOV 21 2000

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 4 (BLACK MOUNTAIN RANCH VILLAGES), AUTHORIZING THE LEVY OF SPECIAL TAXES, AND CALLING ELECTIONS THEREIN.

WHEREAS, the City Council of City of San Diego (the "Council") has heretofore adopted Resolution No. R-293975 stating its intention to form Community Facilities District No. 4 (Black Mountain Ranch Villages) ("Community Facilities District No. 4" or the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "Act"); and

WHEREAS, a copy of Resolution No. R-293975 setting forth a description of the proposed boundaries of Community Facilities District No. 4, the facilities and incidental expenses to be financed by the District (the "Facilities" and "Incidental Expenses," respectively) and the rate and method of apportionment of the special tax proposed to be levied within the District is on file with the City Clerk and except to the extent amended by this resolution is incorporated herein by reference; and

WHEREAS, notice was published and mailed to all landowners of the land proposed to be included within the District as required by law relative to the intention of the Council to form proposed Community Facilities District No. 4 and to levy a special tax and to incur bonded indebtedness within the District; and

WHEREAS, on November 21, 2000, this Council opened a noticed public hearing as required by law relative to the proposed formation of Community Facilities District No. 4, the levy of special taxes therein and the issuance of bonded indebtedness by the District; and

WHEREAS, at the November 21, 2000 public hearing there was filed with this Council a report containing a description of the facilities necessary to meet the needs of the District and an estimate of the cost of such facilities as required by Section 53321.5 of the Act (the "Facilities Report"); and

WHEREAS, at the November 21, 2000 public hearing all persons desiring to be heard on all matters pertaining to the proposed formation of Community Facilities District No. 4 and the levy of the special taxes and the issuance of bonded indebtedness were heard and a full and fair hearing was held; and

WHEREAS, at the public hearing, evidence was presented to the Council on the matters before it, and the proposed formation of the District and the levy of special taxes within the District was not precluded by a majority protest of the type described in Section 53324 of the Act, and this Council at the conclusion of the hearing is fully advised as to all matters relating to the formation of the District, the levy of the special taxes and the issuance of bonded indebtedness; and

WHEREAS, the Council has determined that there have been fewer than twelve registered voters residing in the proposed boundaries of Community Facilities District No. 4 for the period of 90 days prior to November 21, 2000 and that the qualified electors in Community Facilities District No. 4 are the landowners within the District; and

WHEREAS, on the basis of all of the foregoing, the Council has determined at this time to proceed with the establishment of Community Facilities District No. 4 and to call elections within the District to authorize (i) the levy of special taxes pursuant to the applicable rate and method of apportionment of the special tax for the District, as set forth in Attachment "C" to Resolution No. R-272753, (ii) the issuance of bonds for the District to finance the Facilities and Incidental Expenses, and (iii) the establishment of an appropriations limit for Community Facilities District No. 4; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That each of the above recitals is true and correct.
2. That a community facilities district to be designated "Community Facilities District No. 4 (Black Mountain Ranch Villages)" is hereby established pursuant to the Act. The Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.
3. That the boundaries of Community Facilities District No. 4 are established as shown on the map designated "Map of Proposed Boundaries of Community Facilities District No. 4 (Black Mountain Ranch Villages)," which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County of San Diego Book of Maps of Assessment and Community Facilities Districts in the County Recorder's Office in Book No. 37, Page No. 67 on October 25, 2000 (the "Map").
4. That the types of Facilities and Incidental Expenses authorized to be provided for Community Facilities District No. 4 are those set forth in Resolution No. R-293975. The estimated cost of the Facilities and Incidental Expenses to be financed is set forth in the Facilities Report, which estimates may change as the Facilities are designed and bid for construction and acquisition.

The City is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The Council finds that the proposed Facilities are necessary to meet the increased demand that will be placed upon public infrastructure as a result of new development within the District.

5. That except where funds are otherwise available, it is the intention of the Council, subject to the approval of the eligible voters within the District, to levy the proposed special taxes at the applicable rates set forth in Attachment "C" to Resolution No. R-293975 on all non-exempt property within the District sufficient to pay for (i) the Facilities; (ii) the principal and interest and other periodic costs on the bonds proposed to be issued by the District to finance the Facilities and Incidental Expenses, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iii) the Incidental Expenses. The District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the creation of the District, the issuance of bonds, the levying and collecting of the special tax, the completion and inspection of the Facilities and the annual administration of the bonds and the District. The rate and method of apportionment of the special tax applicable to the District is described in detail on Attachment "C" to Resolution No. R-293975 and incorporated herein by this reference, and the Council hereby finds that Attachment "C" contains sufficient detail to allow each landowner within the District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Facilities Report, which is incorporated by reference herein, the special tax is based on the expected demand that each parcel of real property within Community Facilities District No. 4 will place on the Facilities and on the benefit that each parcel will derive from the right to access the Facilities and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor's parcel for a period not to exceed fifty years from Fiscal Year 2000-01. The special tax is apportioned to each parcel on the foregoing bases pursuant to Section 53325.3 of the Act and such special tax is not on or based upon the ownership of real property.

The Financing Services Department of the City of San Diego, 202 C Street, MS7B, San Diego, California 92101, telephone number (619) 533-4519, will be responsible for preparing annually, or

authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

6. That in the event that a portion of the property within Community Facilities District No. 4 shall become for any reason exempt, wholly or partially, from the levy of the special tax specified in the applicable rate and method of apportionment contained in Attachment "C" to Resolution No. R-293975, the Council shall, on behalf of Community Facilities District No. 4, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within the District which is not delinquent or exempt in order to yield the required debt service payments on any outstanding bonds or to prevent the District from defaulting on any other obligations or liabilities; provided, however, that in no event shall the special tax on a residential property increase as a result of a default by more than 10 percent. The amount of the special tax will be set in accordance with the rate and method of apportionment of the special tax attached as Attachment "C" to Resolution No. R-293975.

7. That upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the District ceases.

8. That consistent with Section 53325.6 of the Act, the Council finds and determines that the land within Community Facilities District No. 4, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within Community Facilities District No. 4 and will be benefited by the Facilities proposed to be provided within Community Facilities District No. 4.

9. That it is hereby further determined that there is no ad valorem property tax currently being levied on property within proposed Community Facilities District No. 4 for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of Community Facilities District No. 4 as are proposed to be provided by the Facilities to be financed by Community Facilities District No. 4.

10. That written protests against the establishment of the District have not been filed by one-half or more of the registered voters within the boundaries of the District or by the property owners of one-half or more of the area of land within the boundaries of the District. The Council hereby finds that the proposed special tax has not been precluded by a majority protest pursuant to Section 53324 of the Act.

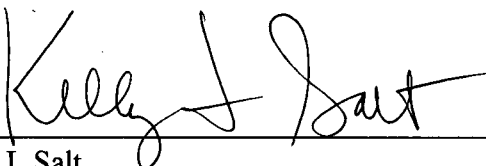
11. That an election is hereby called for Community Facilities District No. 4 on the propositions of levying the special tax on the property within the District and establishing an appropriations limit for the District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness for the District, pursuant to Section 53351 of the Act. The propositions to be placed on the ballot are attached hereto as Attachment A.

12. That the date of the foregoing elections for Community Facilities District No. 4 shall be November 21, 2000, or such later date as is consented to by the City Clerk and the landowners within the District. The City Clerk shall conduct the elections. Except as otherwise provided by the Act, the elections shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the elections shall be conducted in accordance with the provisions of law regulating elections of the City of San Diego insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there are not more than twelve registered voters within the territory of Community Facilities District No. 4, and, pursuant to Section 53326 of the Act, each landowner who is the owner of record on the date hereof, or the authorized representative thereof, shall have one vote for each acre or portion thereof that he or she owns within the District.

13. That the preparation of the Facilities Report is hereby ratified. The Facilities Report, as submitted, is hereby approved and made a part of the record of the public hearing regarding the formation of Community Facilities District No. 4, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

APPROVED: CASEY GWINN, City Attorney

By   
Kelly J. Salt  
Deputy City Attorney

KJS:pev  
11/3/00  
Or.Dept.FinSvcs  
R-2001-792  
Form=r&t.frm

**ATTACHMENT "A"**

**SAMPLE**

**OFFICIAL BALLOT**

**COMMUNITY FACILITIES DISTRICT NO. 4  
(BLACK MOUNTAIN RANCH VILLAGES)**

**SPECIAL TAX AND SPECIAL BOND ELECTION**

November 21, 2000

This ballot represents \_\_\_\_\_ votes.

To vote, stamp a cross (+) in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

**PROPOSITION A:** Shall Community Facilities District No. 4 (Black Mountain Ranch Villages) (the "District") incur an indebtedness and issue bonds in the maximum principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. R-293975 of the City Council of the City of San Diego?

YES \_\_\_\_\_

NO \_\_\_\_\_

**PROPOSITION B:** Shall a special tax with a rate and method of apportionment as provided in Resolution No. R-293975 of the City Council of the City of San Diego for the District be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. R-293975, including the payment of the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses?

YES \_\_\_\_\_

NO \_\_\_\_\_

**PROPOSITION C:** For each year commencing with Fiscal Year 2000-01, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for Community Facilities District No. 4 be an amount equal to \$5,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

*R-294259*