

RESOLUTION NUMBER R-295881

ADOPTED ON DECEMBER 11, 2001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2 CALLING AN ELECTION ON A PROPOSITION TO ALTER THE EXISTING RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX AND AMEND THE LIST OF ELIGIBLE FACILITIES FOR IMPROVEMENT AREA NO. 1 OF COMMUNITY FACILITIES DISTRICT NO. 2.

WHEREAS, an owner of more than 25% of the property within Improvement Area No. 1 [Improvement Area No. 1] of Community Facilities District No. 2 (Santaluz) [the District], has filed a written petition with the District requesting that the rate and method of apportionment of the special tax [the Rate and Method], currently described in Ordinance No. 0-18788 adopted by the City Council acting as the legislative body of the District [the City Council] on April 10, 2000, [Ordinance No. 0-18788] and approved by the qualified electors within Improvement Area No. 1 of the District at a special election held on March 14, 2000, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code [the Act], should be changed as set forth in Exhibit A to Resolution R-295675, adopted on November 5, 2001, [the Amended Rate and Method] and the list of eligible facilities should be amended to include the list set forth in Exhibit B thereto [collectively, the Amendments]; and

WHEREAS, the boundaries of the District and Improvement Area No. 1 are as depicted on the boundary map recorded with the County Recorder in the book of maps of assessment and community facilities districts in Book 34, Page No. 9 on February 18, 2000 [the Map]; and

WHEREAS, the City Council has determined in accordance with the requirements of Section 53331 of the Act that the public convenience and necessity require the District to consider the Amendments; and

WHEREAS, the City Council has adopted Resolution R-295675 [the Resolution of Consideration] expressing its intention to consider the proposed Amendments and has conducted a public hearing on this date, as required by Section 53338 of the Act after mailing a public notice as required by Section 53335 of the Act; and

WHEREAS, the proposed Amendments have not been precluded by a majority protest pursuant to Section 53337 of the Act; and

WHEREAS, the City Council now desires to submit to the qualified electors within Improvement Area No. 1 of the District a proposition regarding the proposed Amendments substantially in the form set forth in Section 3 below; NOW, THEREFORE,

BE IT RESOLVED, by the City Council as follows:

1. The above recitals are true and correct.
2. The City Council finds and determines that written protests to the proposed Amendments, or any other matters set forth in the Resolution of Consideration, are insufficient in number and in amount under the Act, and the City Council hereby further orders and determines that all protests to the proposed Amendments, or the extent thereof, or any other matters set forth in the Resolution of Consideration, are hereby overruled.
3. A special election on the proposed Amendments shall be and is hereby called and ordered to be held in Improvement Area No. 1 of the District on the date established pursuant to Section 5 below, at which election there shall be submitted the following proposition:

PROPOSITION A: Shall the amended and restated rate and method of apportionment of special tax set forth in Resolution R-295675 of the City Council of the City of San Diego for Improvement Area No. 1 of Community Facilities District No. 2 replace the existing rate and method of apportionment for Improvement Area No. 1 and shall the list of facilities eligible to be financed by Improvement Area No. 1 be changed to include all of the facilities set forth in Resolution R-295675?

4. If the proposition described in Section 3 receives the approval of more than two-thirds (2/3) of the votes cast on such proposition, then such proposition will take effect.

5. The City Council hereby submits to the qualified electors within Improvement Area No. 1 of the District at a special election the ballot proposition set forth in Section 3 of this resolution.

(a) The special election shall be conducted, the votes canvassed and the returns made, as herein provided, and in all particulars not prescribed by this resolution in the manner provided by law regulating elections of the City and consistent with the Act.

(b) If the City Clerk determines that the requirements of Sections 53326 and 53327 of the Act have been waived by all landowners of record within Improvement Area No. 1 of the District as of this date, then the special election shall be held by mail ballot on January 8, 2002. If such waivers are not received by the election date listed above, then the election shall be held within not sooner than ninety days following the adoption of this resolution, on a date selected by the City Clerk. The ballots for the special election shall be distributed by mailed delivery to the landowners of record within Improvement Area No. 1 of the District as of this date. Each landowner shall have one vote for each acre or portion thereof that he, she, or it owns within

Improvement Area No. 1 of the District, which number of votes to be voted shall be specified on the ballot provided to such landowner.

(c) On the ballots to be used at the special election, in addition to all other matters required by law to be printed thereon, shall appear the proposition set forth in Section 3 hereof.


(d) Voted ballots must be received by the City Clerk at 202 C Street, San Diego, California 92101, by 5:00 p.m. on the election date, at which time the special election shall be closed. The City Clerk shall immediately thereafter commence the canvass of the returns of the special elections and at the conclusion thereof shall declare the results of the special election and shall certify the results to the City Council.

(e) After receipt of the canvass of the returns, the City Council shall meet and declare the results of the special election, and shall cause to be spread upon its minutes a statement of the results of the special election as determined by the canvass.

7. This Resolution shall be effective upon its adoption.

APPROVED: CASEY GWINN, City Attorney

By



Kelly J. Salt
Deputy City Attorney

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