

RESOLUTION NUMBER R- 296742

ADOPTED ON JUN 25 2002

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SAN DIEGO ACTING AS THE LEGISLATIVE BODY OF  
COMMUNITY FACILITIES DISTRICT NO. 3 (LIBERTY  
STATION) DETERMINING THE NECESSITY TO INCUR  
BONDED INDEBTEDNESS OF COMMUNITY FACILITIES  
DISTRICT NO. 3 (LIBERTY STATION) AND CALLING  
ELECTIONS THEREIN

WHEREAS, on May 7, 2002, the City Council of the City of San Diego [City Council] adopted Resolution No. R-296472 stating its intention to form Community Facilities District No. 3 of the City of San Diego [Community Facilities District No. 3 or the District] pursuant to the Mello-Roos Community Facilities Act of 1982, as amended [Act]; and

WHEREAS, on May 7, 2002, the City Council also adopted Resolution No. R-296473 stating its intention to incur bonded indebtedness within proposed Community Facilities District No. 3 in the amount of \$30,000,000 to be secured by special taxes levied within proposed Improvement Area No. 1 and proposed Improvement Area No. 2 to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of the types of public facilities identified in Attachment "B" to Resolution No. R-296472 and incorporated herein by this reference [Facilities], and (2) the incidental expenses to be incurred in financing the Facilities and forming and administering the District, as identified in Attachment "B" to Resolution No. R-296472 [Incidental Expenses]; and

WHEREAS, notice was published as required by law and also mailed to existing landowners relative to the intention of the City Council to form proposed Community Facilities

District No. 3 and to incur bonded indebtedness of the District secured by special taxes to be levied within each proposed Improvement Area of Community Facilities District No. 3; and

WHEREAS, on June 25, 2002, this City Council held a noticed public hearing to determine whether it should proceed with the formation of Community Facilities District No. 3, issue bonds of the District to pay for the Facilities and Incidental Expenses and authorize the rate and method of apportionment of a special tax to be levied within each Improvement Area of Community Facilities District No. 3 for the purposes described in Resolution No. R-296472; and

WHEREAS, at said hearing, all persons desiring to be heard on all matters pertaining to the formation of Community Facilities District No. 3, the designation of the Improvement Areas, the levy of a special tax within each Improvement Area and the issuance of bonds of the District to pay for the cost of the proposed Facilities and Incidental Expenses were heard and a full and fair hearing was held; and

WHEREAS, the City Council subsequent to such hearing adopted Resolution No. R- 296710 establishing Community Facilities District No. 3 and designating each of the Improvement Areas [Resolution of Formation]; and

WHEREAS, the City Council desires to make the necessary findings to incur bonded indebtedness of the District, to declare the purpose for said debt, and to authorize the submittal of certain propositions to the voters of each Improvement Area, being the landowners within such Improvement Areas, all as authorized and required by law; NOW, THEREFORE,

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

1. It is necessary to incur bonded indebtedness of Community Facilities District No. 3 in a maximum aggregate principal amount not to exceed \$30,000,000 to be secured by the levy of special taxes within Improvement Area No. 1 and Improvement Area No. 2.

2. The indebtedness is to be incurred for the purpose of financing the costs of purchasing, constructing, modifying, expanding, improving, or rehabilitating the Facilities, as described in Resolution No. R-296472 and the Resolution of Formation, financing the Incidental Expenses, and carrying out the powers and purposes of Community Facilities District No. 3, including, but not limited to, financing the costs of selling the bonds, establishing and replenishing bond reserve funds and paying remarketing, credit enhancement and liquidity facility fees and other expenses of the type authorized by Section 53345.3 of the Act.

3. The whole of the property within the District, other than property exempted from the special tax pursuant to the provisions of the rate and method of apportionment for each Improvement Area attached to the Resolution of Formation as Attachment "C," shall pay for the bonded indebtedness of the District pursuant to the levy of the special tax authorized by the Resolution of Formation.

4. The maximum term of the bonds to be issued shall in no event exceed forty (40) years.

5. The bonds shall bear interest at the rate or rates not to exceed the maximum interest rate permitted by law, payable annually or semiannually, or in part annually and in part semiannually, except the first interest payment may be for a period of less than six months, with the actual rate or rates and times of payment to be determined at the time or times of sale thereof.

6. The bonds may bear a variable or fixed interest rate, provided that such variable rate or the fixed rate shall not exceed the maximum rate permitted by Section 53531 of the Act, or any other applicable provision of law limiting the maximum interest rate on the bonds.

7. Pursuant to Section 53351 of the Act, a special election is hereby called for each Improvement Area of Community Facilities District No. 3 on the proposition of incurring the bonded indebtedness of the District. The propositions relative to incurring bonded indebtedness

for Improvement Area No. 1 and Improvement Area No. 2 shall be in the form set forth in Attachments "A" and "B," respectively, of the Resolution of Formation. The election in each Improvement Area on the proposition of incurring bonded indebtedness shall be consolidated with the election and on the propositions to levy a special tax and to establish an appropriations limit for the District, which propositions shall be in the forms set forth in Attachments A and B of the Resolution of Formation.

8. The date of the special elections for each Improvement Area of Community Facilities District No. 3 shall be June 25, 2002, or such later date as is consented to by the City Clerk of the City of San Diego and the landowners within the District and the polls shall be open for said election between the hours of 10:00 a.m. and 5:00 p.m. The election shall be conducted by the City Clerk. Except as otherwise provided by the Act, the election 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. The City Clerk is authorized to conduct the elections following the adoption of the Resolution of Formation and this resolution, and all ballots shall be received by, and the City Clerk shall close the election by, 5:00 p.m. on the election day; provided the elections shall be closed at such earlier time as all qualified electors have voted as provided in Section 53326(d) of the Act. It is hereby found based on information provided by the Registrar of Voters of the County of San Diego that there are fewer than 12 registered voters within the territory of Community Facilities District No. 3 and, pursuant to Section 53326 of the Act, the ballots for the special elections shall be distributed in person by the City Clerk to the authorized representative of the landowners, or, if determined appropriate by the City Clerk, by mail with return postage prepaid to the landowners of record within Community Facilities District No. 3 as of the close of the June 25, 2002 hearing regarding the formation of the

District. Each landowner shall have one vote for each acre or portion thereof that he or she owns within Community Facilities District No. 3, as provided in Section 53326 of the Act.

APPROVED: CASEY GWINN, City Attorney

By Kelly J. Salt  
Kelly J. Salt  
Deputy City Attorney

KJS:pev  
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Or.Dept:Fin.Svcs  
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