

RESOLUTION NUMBER R- 296892

ADOPTED ON JUL 30 2002

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SAN DIEGO, CALIFORNIA ACTING IN ITS CAPACITY AS  
THE LEGISLATIVE BODY OF COMMUNITY FACILITIES  
DISTRICT NO. 4 CALLING AN ELECTION ON  
PROPOSITIONS TO ALTER THE EXISTING RATE AND  
METHOD OF APPORTIONMENT OF THE SPECIAL TAX  
AND INCREASE THE AUTHORIZED BONDED  
INDEBTEDNESS OF THE DISTRICT

WHEREAS, the owners of more than 25% of the property within Community Facilities District No. 4 (Black Mountain Ranch Villages) [District], have filed a written petition with the District requesting that the rate and method of apportionment of the special tax [Rate and Method], currently described in Ordinance No. 0-18905 adopted by the City Council acting as the legislative body of the District [City Council] on December 5, 2000 [Ordinance No. 18905] and approved by the qualified electors within the District at a special election held on November 21, 2000 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code [Act], be changed and replaced by a new rate and method of apportionment as set forth in Exhibit A to Resolution No. R-296736 [Amended Rate and Method] and that the authorized indebtedness that the District is authorized to issue be increased to \$30,000,000 [collectively, the Amendments] ; and

WHEREAS, the boundaries of the District 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. 67 on October 25, 2000 [Map]; and

WHEREAS, the City Council has determined in accordance with the requirements of Section 53331 and 53345 of the Act that the public convenience and necessity require the District to consider the Amendments; and

WHEREAS, on June 25, 2002, the City Council, acting in its capacity as the legislative body of the District, adopted Resolution No. R-296736 [Resolution of Consideration] expressing its intention to consider the proposed Amendments and has conducted a public hearing on July 30, 2002 regarding the proposed Amendments as required by Sections 53338 and 53348 of the Act after mailing and publishing a public notice as required by Sections 53335 and 53346 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, acting in its capacity as the legislative body of the District, now desires to submit to the qualified electors within the District propositions regarding the proposed Amendments substantially in the form set forth in Section 4 below; NOW,

THEREFORE,

BE IT RESOLVED, that the City Council of the City of San Diego, acting in its capacity as the Legislative Body of Community Facilities District No. 4 does hereby determine and order as follows:

1. That the above recitals are true and correct.
2. That 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 any other matters set forth in the Resolution of Consideration, are hereby overruled.

3.

(a) It is necessary to incur bonded indebtedness of the District in a maximum aggregate principal amount not to exceed \$30,000,000 to be secured by the levy of special taxes as described in the Amended Rate and Method.

(b) The bonded 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-293975, financing the Incidental Expenses as described in Resolution No. R-293975, and carrying out the powers and purposes of the District, 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.

(c) The whole of the property within the District, other than property exempted from the special tax pursuant to the provisions of the Amended Rate and Method, shall pay for the bonded indebtedness of the District pursuant to the levy of the special tax authorized by the Amended Rate and Method.

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

(e) 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.

(f) 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.

4. That a special election on the proposed Amendments shall be and is hereby called and ordered to be held in the District on the date established pursuant to Section 5 below, at which election the following propositions shall be submitted to the qualified electors:

PROPOSITION A: Shall the amended and restated rate and method of apportionment of special tax set forth in Resolution No. R-296736 adopted by the City Council of the City of San Diego as the legislative body of Community Facilities District No. 4 (Black Mountain Ranch Villages) [District] replace the existing rate and method of apportionment for the District and be levied for the purposes set forth in Resolution No. R-293975?

PROPOSITION B: Shall Community Facilities District No. 4 (Black Mountain Ranch Villages) incur an indebtedness and issue bonds in the maximum principal amount of \$30,000,000, 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?

5. That if a proposition set forth in Section 3 receives the approval of more than two-thirds of the votes cast on such proposition, then such proposition will take effect.

6.

(a) The City Council hereby submits to the qualified electors within the District at a special election the ballot propositions set forth in Section 3 of this resolution.

(b) 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 the Act and the laws regulating elections of the City.

(c) 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 the District and, pursuant to Section 53326 of the Act, each landowner shall have one vote for each acre or portion thereof that he, she or it owns within the District. 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 the District as of July 30, 2002, then the special election shall be held on July 30, 2002 with ballots being personally delivered by the City Clerk to the qualified electors. If such waivers are not received by July 30, 2002, then the election shall be held on a date selected by the City Clerk which is more than 90 days following July 30, 2002. The polls shall remain open on the day of the election from 9:00 a.m. to 5:00 p.m.; provided that, if the election is held on July 30, 2002, the polls shall be open from the time of the close of the public hearing to 5:00 p.m., and provided, further, that the polls may be closed once all ballots have been received.

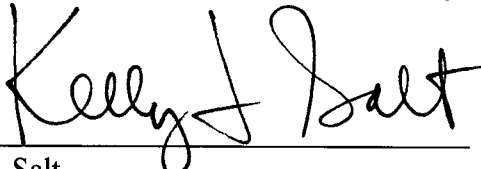
(d) On the ballots to be used at the special election, in addition to all other matters required by law to be printed thereon, there shall appear the propositions set forth in Section 3 hereof.

(e) 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.

(f) 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

KJS:pev  
7/15/02  
Or.Dept:Fin.Svcs  
R-2003-139  
Form=r&t.frm