

RESOLUTION NUMBER R- 304266

DATE OF FINAL PASSAGE OCT 27 2008

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, ORDERING JUDICIAL FORECLOSURE OF DELINQUENT SPECIAL TAXES AND SPECIAL ASSESSMENTS PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, THE IMPROVEMENT BOND ACT OF 1915 AND THE REFUNDING ACT OF 1984 FOR 1915 IMPROVEMENT ACT BONDS, ORDERING THAT THE TAX COLLECTOR BE CREDITED WITH THOSE INSTALLMENTS.

WHEREAS, the City of San Diego, a California municipal corporation [City] has conducted special district proceedings from time to time, resulting in the issuance and sale of special tax and improvement bonds pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code section 53311, *et seq.*) [Mello-Roos Act], the Improvement Bond Act of 1915 (California Streets & Highways Code section 8500, *et seq.*) [1915 Act], and refunding bonds pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds (California Streets & Highways Code section 9500, *et seq.*) [1984 Act]; and

WHEREAS, pursuant to the Mello-Roos Act, the 1915 Act and the 1984 Act, the City has duly and regularly issued and filed and recorded the unpaid special taxes, assessments and reassessments [taxes and assessments], which taxes and assessments and each installment thereof and interest and penalties thereon constitute a lien against the parcel of land against which it was made until the same are paid, and which liens secure Mello-Roos Act, 1915 Act or 1984 Act bonds [Bonds]; and

WHEREAS, certain installments of the taxes and assessments have not been paid when due, and certain installments of the taxes and assessments may not be paid in the future; and

WHEREAS, pursuant to Section 53356.1(a) of the Mello-Roos Act, Section 8830(a) of the 1915 Act, and Section 9350 of the 1984 Act, the City is authorized to order the delinquent amounts collected by an action brought in the Superior Court to foreclose the liens thereof; and

WHEREAS, pursuant to Section 53356.1(b) of the Mello-Roos Act and Section 8830(b) of the 1915 Act, the City has covenanted for the benefit of owners of the Bonds to file such foreclosure actions in its own name on their behalf, and to order the County Auditor to credit delinquent installments upon the secured tax roll, thus relieving the County Tax Collector of further duty and regard thereto; and

WHEREAS, the City is in the process of retaining special counsel [Special Counsel] to prosecute such judicial foreclosure actions; NOW, THEREFORE,

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

1. The Council finds that the Mello-Roos Act, the 1915 Act, and the 1984 Act authorizes the filing of judicial foreclosure lawsuits to collect delinquent special tax special assessment installments, and hereby orders that the delinquent special tax and special assessment installments listed on Exhibit A attached hereto, and all future delinquent special tax and special assessment installments as to such parcels, be collected by action brought in the appropriate Superior Court to foreclose the liens thereof.

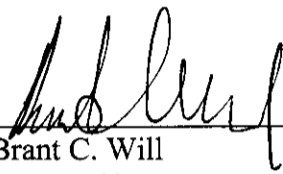
2. The Council finds that the Mello-Roos Act, the 1915 Act, and the 1984 Act provides for the payment of the costs and attorneys fees for prosecution of the foreclosure lawsuits authorized by the Council, and hereby authorizes Special Counsel to require payment of all costs and all attorneys fees incurred in the applicable foreclosure lawsuit as a condition of such redemption.

(R-2009-442)

3. City personnel in conjunction with Special Counsel and other City consultants are authorized and directed to: 1) record applicable notices of intent to remove the delinquent special tax and assessment installments from the tax rolls, and 2) request that the County Auditor remove current and future delinquent special tax and assessment installments from the tax rolls.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
\_\_\_\_\_  
Brant C. Will  
Deputy City Attorney

BCW:jdf  
10/07/2008  
Or.Dept: Debt Management  
R-2009-442

(R-2009-442)

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~OCT 20 2008~~

ELIZABETH S. MALAND  
City Clerk

By *Jana Richardson*  
Deputy City Clerk

Approved: 10.27.08  
(date)

*JSL*  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

OCT 27 2008  
CITY CLERK  
ELIZABETH S. MALAND

**EXHIBIT A**

<u>Special District</u>	<u>Assessor's Parcel No.</u>	<u>Tax Year Periods <sup>(1)</sup></u>	<u>No. of Delinquent Installments</u>	<u>Total Delinquent Amount <sup>(2)</sup></u>
Reassessment District No. 1999-1	646-180-37-00	2006 – 2008	6	\$ 13,781.89
Assessment District No. 4096 (Piper Ranch)	646-240-57-00	2006 – 2008	4	\$ 13,735.54
CFD No. 2 (Santaluz) – Improvement Area No. 1	269-232-03-00	2006 – 2008	4	\$ 14,054.12
	303-114-40-00	2006 – 2008	3	\$ 10,461.76
<b>TOTAL</b>				<b>\$ 52,033.31</b>

(1) A Tax Year Period is from July 1 to June 30 and consists of two installment payment deadlines:  
December 10 and April 10

(2) Total Delinquent Amounts do not include late payment penalties.

R. 304266