

ORDINANCE NUMBER O- 19756 (NEW SERIES)

DATE OF FINAL PASSAGE MAY 18 2010

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO, STATE OF CALIFORNIA, LEVYING SPECIAL TAXES WITHIN CITY OF SAN DIEGO RENEWABLE ENERGY, ENERGY EFFICIENCY AND WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1

WHEREAS, on March 23, 2010, this City Council (City Council) of the City of San Diego (City), adopted a resolution entitled "Resolution of Intention to Establish City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1" (Resolution of Intention) stating its intention to establish, for the public purposes set forth in the Resolution of Intention, the "City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1" (Special Tax District), pursuant to Chapter 6, Article 1, Division 26 of the San Diego Municipal Code (Code), which Code incorporates the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et. seq.*, of the California Government Code (Act), to finance and refinance the acquisition, installation and improvement of renewable energy, energy efficiency and water conservation improvements to or on real property and in buildings, whether such real property or buildings are privately or publicly owned; and

WHEREAS, the Resolution of Intention stated the intention of the City Council to undertake the proceedings to form the Special Tax District under the alternate procedures established by section 61.2613 of the Code, pursuant to which a special tax district may initially consist solely of territory proposed for annexation to the special tax district in the future, with the condition that a parcel or parcels within that territory may be annexed to the special tax district and subjected to the special tax only following an election (Election) at which the qualified elector or two-thirds or more of the qualified electors of the first individual parcel or parcels to be annexed vote in favor of the levy of the special taxes and the bonded indebtedness to be incurred by the Special Tax District, and,

thereafter, with the unanimous approval of the owner or owners of such parcel or parcels at the time that such parcel or those parcels are annexed or in compliance with other procedures established by the Code; and

WHEREAS, notice was published as required by the Code relative to the intention of this City Council to form the Special Tax District, to provide for certain facilities and to incur bonded indebtedness for the Special Tax District in an amount not to exceed \$200,000,000; and

WHEREAS, this City Council held noticed public hearings as required by the Code relative to (i) the determination to proceed with the formation of the Special Tax District and the approval of the rate and method of apportionment of the special tax to be levied within the Special Tax District to finance the costs of the facilities and (ii) the issuance of not to exceed \$200,000,000 of bonded indebtedness for the Special Tax District; and

WHEREAS, at the public hearings, all persons desiring to be heard on all matters pertaining to the formation of the Special Tax District and the levy of special taxes were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held; and

WHEREAS, subsequent to the hearings, this City Council adopted resolutions entitled “Resolution of the City Council of the City of San Diego Establishing City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1 and Authorizing the Levy of Special Taxes and Calling an Election Therein” (Resolution of Formation) and “Resolution of the City Council of the City of San Diego Determining the Necessity to Incur Bonded Indebtedness for City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1 and Calling an Election Therein” (Resolution of Necessity), which resolutions defined the public facilities to be financed by the Special Tax District (Facilities), established the Special Tax District, authorized the levy of a special tax with the Special Tax District and determined the necessity to incur bonded indebtedness for the Special Tax District, respectively.

WHEREAS, section 61.2613 of the Code provides that, notwithstanding the provisions of section 53340 of the Act, after adoption of the resolution of formation for a special tax district pursuant to section 61.2613, the City Council may, by ordinance, provide for the levy of the special taxes on parcels that will annex to the special tax district at the rate or rates to be approved at the Election and, thereafter, by unanimous approval of the owner or owners of each parcel or parcels to be annexed to the Special Tax District or pursuant to other procedures established by the Code, and for apportionment and collection of the special taxes in the manner specified in the Resolution of Formation, and that no further ordinance shall be required even though no parcels may then have annexed to the Special Tax District; NOW, THEREFORE,

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

Section 1. The above recitals are all true and correct.

Section 2. By the passage of this Ordinance, this City Council hereby authorizes and levies special taxes within the Special Tax District (and all improvement areas established in the Special Tax District) pursuant to the Code, at the rate or rates to be approved at the Election and, thereafter, by unanimous approval (each, a Unanimous Approval) of the owner or owners of each parcel or parcels to be annexed to the Special Tax District (and all improvement areas established in the Special Tax District) or pursuant to other procedures established by the Code, and in accordance with the Rate and Method of Apportionment (Rate and Method of Apportionment) set forth in the Resolution of Formation, which Unanimous Approvals, Rate and Method of Apportionment and Resolution of Formation are by this reference incorporated herein. The special taxes are hereby levied commencing in the first fiscal year in which a parcel or parcels annexes to the Special Tax District (and all improvement areas established in the Special Tax District) and in each fiscal year thereafter until payment in full of any bonds issued by the City for the Special Tax District (and all improvement areas established in the Special Tax District) (Bonds), as contemplated by the Resolution of Formation and the Resolution of Necessity, and all costs of administering the Special

Tax District (and all improvement areas established in the Special Tax District), or such longer period provided for in the Unanimous Approvals or pursuant to other procedures established by the Code.

Section 3. The Chief Financial Officer of the City subject to approval by the City Council, is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied in such fiscal year for each parcel of real property within the Special Tax District (and all improvement areas established in the Special Tax District), in the manner and as provided in the Resolution of Formation.

Section 4. The Special Tax District initially consists solely of territory proposed for annexation to the Special Tax District in the future. A parcel or parcels within the territory of the Special Tax District may be annexed to the Special Tax District and subjected to the special tax only following the Election at which the qualified elector or two-thirds or more of the qualified electors of the first individual parcel or parcels to be annexed vote in favor of the levy of the special taxes and the bonded indebtedness to be incurred by the Special Tax District, and, thereafter, with the Unanimous Approval of the owner or owners of such parcel or parcels at the time that such parcel or those parcels are annexed, or pursuant to other procedures established by the Code. In no event shall the special taxes be levied on any parcel within the Special Tax District in excess of the lesser of the maximum special tax specified in the Rate and Method of Apportionment or in the Unanimous Approval applicable to such parcel or pursuant to other procedures established by the Code.

Section 5. All of the collections of the special tax shall be used as provided for in the Code, in the Resolution of Formation and the applicable Unanimous Approval or other annexation proceedings, including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of any debt service reserve fund for the Bonds, the payment of the costs of the Facilities, the payment of the costs of the City in administering the Special Tax District (and all

improvement areas established in the Special Tax District), and the costs of collecting and administering the special tax.

Section 6. The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that this City Council may provide for other appropriate methods of collection by resolutions of this City Council. In addition, the provisions of section 53356.1 of the Act shall apply to delinquent special tax payments. The Chief Financial Officer of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of San Diego in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured property tax roll of the County of San Diego for the first fiscal year in which a parcel or parcels annexes to the Special Tax District (and all improvement areas established in the Special Tax District) and for each fiscal year thereafter until the Bonds are paid in full or such longer period of time provided in the Unanimous Approvals or such other procedures established by the Code.

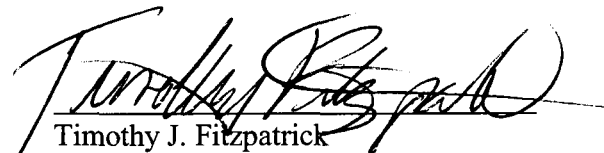
Section 7. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the Special Tax District (and all improvement areas established in the Special Tax District), in each case by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Special Tax District (and all improvement areas established in the Special Tax District) shall not be affected.

Section 8. This Ordinance relating to the levy of the special tax within the Special Tax District shall take effect 30 days following its final passage, and the specific authorization for adoption is pursuant to the provisions of section 61.2613 of the Code.

Section 9. A full reading of this Ordinance is dispensed with prior to its final passage, a written or printed copy having been available to this City Council and the public a day prior to its final passage.

Section 10. This Ordinance shall take effect and be in force on the thirtieth day from the date of final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Timothy J. Fitzpatrick
Deputy City Attorney

TJF:jdf
04/13/2010
04/27/2010 REV.
Or.Dept:Debt Mgmt.
O-2010-98

RECEIVED
MAY 11 2010
CITY CLERK'S OFFICE

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of ~~MAY 11~~ 2010

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 5-18-10
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor