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RESOLUTION NUMBER R- 307414

DATE OF FINAL PASSAGE MAY 07 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING AND DIRECTING THE CITY CLERK TO FILE A NOTICE OF SPECIAL TAX LIEN AND AUTHORIZING THE CITY ATTORNEY TO APPOINT THE LAW FIRM OF ORRICK, HERRINGTON & SUTCLIFFE LLP TO FILE A JUDICIAL VALIDATION ACTION ON BEHALF OF THE CITY BOTH IN RELATION TO THE FORMATION OF THE CONVENTION CENTER FACILITIES DISTRICT AND RELATED MATTERS.

WHEREAS, the Council of the City of San Diego (City) has conducted proceedings under and pursuant to the terms and provisions of the San Diego Municipal Code Chapter 6, Article 1, Division 27 (Division) and, as provided therein, under the provisions of the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following of the California Government Code – the Act), as modified by the Division, to form its Convention Center Facilities District No. 2012-1, City of San Diego, County of San Diego, State of California (District) to authorize a special tax and to authorize the issuance of debt to finance the proposed contiguous expansion and upgrade of the existing San Diego Convention Center, and to establish the appropriations limit for the Convention Center Facilities District, all as set forth in the City Council’s Resolutions No. R-307243 and No. R-307244 adopted by the City Council on January 24, 2012 (collectively, the Formation Resolutions); and

WHEREAS, a special, mailed-ballot election has been conducted pursuant to the Division and the City Council has declared that the ballot measure submitted to the qualified electors of the District has been passed and approved by those qualified electors in accordance with section 61.2710 of the Division; and

WHEREAS, due to the successful election, the City is required to file a Notice of Special Tax Lien with the County Recorder of San Diego County in accordance with the provisions of Streets and Highways Code section 3114.5 and section 53328.3 of the Act within 15 days; and

WHEREAS, the Notice of Special Tax Lien shall state that no special tax may be levied until such time as the City has obtained a final validation judgment determining that the special tax was lawfully authorized and is valid; and

WHEREAS, the City Council has previously authorized the City Attorney to appoint Orrick, Herrington & Sutcliffe LLP (Orrick) to the assist the City in forming the District and, due to the complex legal issues involved with the formation the District, the Mayor is requesting an additional authorization of \$20,000 for a total authorized amount of \$115,000, for legal services related to the formation of the District; and

WHEREAS, the City Council has been advised by the Chief Operating Officer, the City Attorney and Orrick that it is necessary and appropriate to have certain aspects of the District and the proceedings related to the District validated by an action brought under California Government Code sections 53356.1(f), and 53359 and California Code of Civil Procedure Sections 860 et seq.; and

WHEREAS, the Mayor has requested that the City Attorney's office appoint Orrick to file the validation action on behalf of the City; and


WHEREAS, once the District is validated and the levy is imposed the formation and validation costs paid by the General Fund would be reimbursable from the revenues of the District or bond proceeds; NOW, THEREFORE,

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

1. That the City Clerk is authorized and directed to cause a Notice of Special Tax Lien to be prepared and to be recorded with the County Recorder of the County of San Diego in accordance with the provisions of section 3114.5 of the Streets and Highways Code and section 53328.3 of the Act. The Notice shall be recorded in the County Recorder's office within fifteen days of the date of final passage of this Resolution and shall bear a statement indicating that no special tax shall be levied until the City has obtained a final validation judgment determining that the special tax was lawfully authorized and is valid. If a final validation judgment is issued finding the special tax to be lawfully authorized and valid, an Amended Notice of Special Tax Lien will be recorded that will supersede the original notice. In the event that the special tax is found not to be valid, a Notice of Cessation of Special Tax Lien will be filed within 60 days of the final determination by the relevant court.
2. That the City Attorney is authorized to initiate a civil validation action for the District and to appoint Orrick to file and to prosecute on behalf of the City a civil validation action under the authority of California Government Code sections 53356.1(f), and 53359 and California Code of Civil Procedure Sections 860 and following, against all persons interested in the matter of the District and the Formation Resolutions, the election procedures, the authorization to levy the special tax, the authorization to issue bonds and all matters related thereto, seeking a declaration of the Superior Court of California in and for the County of San Diego that all of those matters are in all respects legal, valid and binding.

3. That the Chief Financial Officer is authorized to appropriate and expend an additional amount not to exceed \$20,000 for Orrick to complete the formation work on the District, contingent upon the City Comptroller first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with City Treasurer.
4. That the Chief Financial Officer is authorized to appropriate and expend up to \$100,000 for Orrick to file and prosecute the validation action on behalf of the City, contingent upon the City Comptroller first furnishing one or more certificates certifying that the funds necessary for expenditure are, or will be, on deposit with City Treasurer .
5. That nothing in this Resolution shall constitute an approval of a project, a commitment to proceed with a project, or a commitment or authorization to issue bonds for financing a project.

APPROVED: JAN I. GOLDSMITH, City Attorney

By  \_\_\_\_\_  
Brant Will  
Deputy City Attorney

BCW:jdf  
04/25/12  
Or.Dept:Mayor  
Document No.:357854\_2

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of ~~MAY 07 2012~~.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 5-7-12  
(date)

  
JERRY SANDERS, Mayor

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

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JERRY SANDERS, Mayor