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RESOLUTION NUMBER R- 307667

DATE OF FINAL PASSAGE SEP 13 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO 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 levied the annual installment by submitting the Special Taxes (Mello Roos Act), the Special Assessments (1915 Act), and the Reassessments (1984 Act) (Taxes and Assessments) to the County Auditor and Controller for inclusion on annual property tax bills. Each installment constitutes a lien against the applicable parcel of land covered by the bond documents until the liens are paid. These 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 (delinquent amounts) 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 removed from the county tax roll and collect on these delinquent amounts 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 and Controller 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 directs the City Attorney to prosecute such judicial foreclosure actions; and

WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego 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 Taxes and Assessments, and interest and penalties thereon for non-payment of delinquent Taxes and Assessments and hereby orders that the delinquent Taxes and Assessments, and all future delinquent Taxes and

Assessments, be collected by action brought in the appropriate Superior Court to foreclose, so long as such Taxes and Assessments remain delinquent at the time that the foreclosure lawsuit is filed. The following parcels are delinquent in their payments:

Parcel No. 303-200-18-00

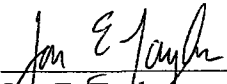
Parcel No. 303-210-08-00

Parcel No. 646-150-31-00

2. The Council finds that the Mello-Roos Act, the 1915 Act, and the 1984 Act provides for the payment of the costs and attorney's fees for prosecution of the foreclosure lawsuits authorized by the Council. These costs and fees shall be paid by the delinquent property owners through the recovery process or the Delinquency Fund. The Council hereby authorizes the City Attorney to require payment of all costs and all attorney's fees incurred in the applicable foreclosure lawsuit as a condition of such redemption which shall be used to reimburse the Delinquency Fund.

3. City personnel in conjunction with the City Attorney's Office 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 and Controller remove current and future delinquent special tax and assessment installments from the tax rolls.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 

Jon E. Taylor
Deputy City Attorney

JET:bas
08/17/2012
Or.Dept:City Attorney
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