

DATE ISSUED: December 31, 2002

REPORT NO. 03-002

ATTENTION: Honorable Mayor and City Council
Docket of January 7, 2003

SUBJECT: Proposed Annexation of Improvement Area No. 4 to Community Facilities
District No. 2 (Santaluz).

REFERENCE: None

SUMMARY

Issue -Should the City Council adopt three resolutions, on behalf of the property owners within the proposed Improvement Area No. 4 of Community Facilities District No. 2 (Santaluz) ("District"):

- 1) Declaring the City's intention to annex territory to Community Facilities District No. 2 (Santaluz), designating the annexed territory as Improvement Area No. 4 within the District, authorizing the levy of special taxes to pay the costs of acquiring or constructing certain facilities and expenses of the District, authorizing payment of debt service on bonded indebtedness, and approving the form of a Purchase and Finance Agreement between the City and the property owners;
- 2) Declaring the City's intention to incur bonded indebtedness within the proposed Improvement Area No. 4 of Community Facilities District No. 2 (Santaluz) in an aggregate principal amount not to exceed \$10.5 million; and
- 3) Stating for the record that the final Environmental Impact Reports have been reviewed and considered prior to approving the project and directing the City Clerk to file a Notice of Determination?

Manager's Recommendation - Adopt the resolutions.

Other Recommendations - None.

Fiscal Impact - None. In accordance with Council Policy 800-03, "Public Infrastructure Financing Assessment Districts and Community Facilities", all costs related to determining financial feasibility of the proposed annexation to Community Facilities District No. 2 (Santaluz), including financial advisory services, legal counsel, special tax consulting, appraisal services, and City staff have been funded by the property owners within the proposed improvement area. If the annexation to the District is approved and bonds are issued, all costs related to financing the improvements and all incidental

expenses related to annexation and administration of the improvement area will be borne by the property owners within Improvement Area No. 4 of the District.

BACKGROUND

The geographic boundaries of the proposed annexation territory are within the Black Mountain Ranch Community (Subarea 1 of the North City Future Urbanizing Area). The bulk of the public facilities proposed to be financed are described in the Black Mountain Ranch Public Facilities Financing Plan (PFFP), as approved by the City Council. Provision of major public facilities within this and the surrounding subareas is generally governed by the associated PFFP. These documents provide that public facilities projects that benefit a population larger than the local/adjacent development can be financed by a number of methods, such as Development Impact Fees, Facilities Benefit Assessments, Assessment Districts, and Community Facilities Districts.

The Mello-Roos Community Facilities Act of 1982 (the "Act") was enacted by the California State Legislature to aid growing areas of the State in the financing of certain essential public facilities which normally accompany major development projects. The Act permits cities to create defined areas within their jurisdiction and, by a two-thirds majority vote within the defined area, impose special taxes on the property owners for the purpose of financing needed public improvements. The Act defines the area subject to a special tax as a Community Facilities District (CFD), and the qualified electors are defined to be the registered voters residing within the district. If there are fewer than twelve registered voters within the district, the qualified electors are defined as the owners of the land within the district, with each landowner entitled to one vote per acre, or portion thereof.

Once a CFD is formed, the district is empowered to levy a special tax that may be utilized to directly finance certain public facilities and services, or may be pledged to support debt service on bonds issued to finance needed public facilities. Special taxes are calculated and levied against each assessor's parcel of land within the district pursuant to the Rate and Method of Apportionment of Special Tax. The special tax is levied on an annual basis, and is collected in the same manner as ordinary ad valorem property taxes.

Previous Council actions formed Community Facilities District No. 2 (Santaluz), established three Improvement Areas therein, authorized the levy of special taxes, and authorized the issuance of up to \$62,200,000 of Improvement Area No. 1 bonds, \$3,000,000 of Improvement Area No. 2 bonds, and \$4,800,000 of Improvement Area No. 3 bonds. To date, a total of \$60,370,000 of bonds have been issued, and approximately \$36,000,000 of public improvements have been acquired by the City.

In June, 2002, the property owners, who currently are developing the land within the proposed Improvement Area No. 4 of Community Facilities District No. 2, submitted an application to the City for public financing of certain infrastructure, including Community Park improvements; improvements to El Camino Real; and certain offsite water and sewer improvements.

Following review and approval of the application for public financing, in October, 2002, the

property owners submitted a petition requesting that the City Council institute proceedings to annex additional territory into Community Facilities District No. 2 (Santaluz) as Improvement Area No. 4, authorize the issuance of bonded indebtedness, and authorize the levy of special taxes to finance certain public facilities to be acquired by the City. Adoption of the above referenced resolutions will begin the formal legislative proceedings requisite to the annexation of Improvement Area No. 4 into Community Facilities District No. 2.

DISCUSSION

Council Policy 800-03 allows the use of assessment or community facilities district proceedings to finance improvements which are a requirement of development permits or agreements. To be eligible for Community Facilities District financing, the facilities to be financed must be large in scope, and the public financing mechanism must provide some other extraordinary benefit which otherwise would not be realized through the normal subdivision process. These criteria can be met if the public financing mechanism will result in provision of the proposed improvements in a more timely fashion, or if public financing will facilitate a project that multiple developments are responsible for providing. The proposed creation and annexation of Improvement Area No. 4 of Community Facilities District No. 2 will accelerate the improvement of El Camino Real, a necessary major transportation link in the City, and will provide funding for the initial improvements and early utilization of a 30 acre Community Park, which will provide benefits to the Black Mountain Ranch, Torrey Highlands, and Rancho Penasquitos communities.

In addition, Council Policy 800-03 provides that Council consideration of a developer request for assessment or community facilities district financing will only be made following completion of an overall feasibility analysis. As part of the preliminary evaluation of the annexation proposal, and in accordance with Council Policy 800-03, the City commissioned a feasibility analysis, prepared by the independent financial advisory firm of Fieldman, Rolapp & Associates. The analysis discusses various aspects of the proposed district and financing mechanism, and sets forth certain recommendations related to the City's consideration of approving Community Facilities District financing for the project. After review of this analysis, City staff and the financial advisor are recommending that the City proceed with the formation of the proposed Improvement Area No. 4 annexation to Community Facilities District No. 2.

Adoption of the two Resolutions before the City Council today will authorize the following actions:

Resolution #1:

Formal action declaring the City's intention to annex territory to Community Facilities District No. 2 (Santaluz), establish the boundaries of the property to be annexed to the district, designate the annexed territory as Improvement Area No. 4, identify the types of facilities to be financed, approve the Rate and Method of Apportionment of special taxes, authorize the levy of special taxes within the District, set the time and place for a public hearing on the annexation, establish voting procedures, and approve the Purchase and Finance Agreement between the City and property owners to facilitate the City's acquisition of the public facilities to be financed by the

district.

Resolution #2:

Formal action declaring the City's intention to incur bonded indebtedness within Community Facilities District No. 2, Improvement Area No. 4, in a maximum aggregate principal amount of \$10.5 million, to finance (a) the purchase, construction, modification, expansion, improvement or rehabilitation of certain public facilities, and, (b) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the District, and to set the time and place for a public hearing on the proposed debt issuance for Improvement Area No. 4.

ALTERNATIVE

Do not approve the aforementioned resolutions to begin the formal legislative proceedings to initiate the proposed annexation to Community Facilities District No.2.

Respectfully submitted,

Mary Vattimo
City Treasurer

Approved: Patricia T. Frazier
Deputy City Manager

