

A RESOLUTION OF THE COUNCIL OF THE CITY OF LOS ANGELES OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES

WHEREAS, the Policies and Procedures for Mello-Roos and Special Assessment Districts (the “Policies”) of the City of Los Angeles (the “City”) define the policies which govern the City’s participation in the establishment of community facilities districts under the Mello-Roos Community Facilities Act of 1982 (the “Act”) for purposes of issuing bonds to provide funds for infrastructure improvements in both new developments and existing properties;

WHEREAS, the Policies provide an application process pursuant to which requests for financing under the Act will be considered;

WHEREAS, pursuant to the Policies, Los Angeles Streetcar, Inc. (“LASI”) has submitted to the City an application for financing under the Act;

WHEREAS, the Act provides that proceedings for the establishment of a community facilities district shall be instituted by the legislative body of a local agency when there is filed with such legislative body a written request for the establishment of such a district containing the information specified in the Act and signed by two members of such legislative body;

WHEREAS, there has been filed with the Council (the “City Council”) of the City a Written Request to Create a Community Facilities District (the “Written Request”) signed by two members of the City Council requesting the institution of proceedings for the establishment of a community facilities district (the “Community Facilities District”);

WHEREAS, the Policies require that the applicant for financing under the Act advance funds to cover all City and consultant costs associated with developing such financing;

WHEREAS, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district;

WHEREAS, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the

proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds;

WHEREAS, the City and LASI have entered into a Deposit and Reimbursement Agreement, dated as of June 1, 2012 (the “Deposit Agreement”), that provides for the advancement of funds by LASI to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to LASI of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

WHEREAS, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Los Angeles does determine and order as follows:

Section 1. The City Council hereby finds that the Written Request is signed by two members of the City Council and contains the information required by the Act to be contained therein.

Section 2. The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the “Boundary Map”) on file with the City Clerk of the City (the “City Clerk”), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the Los Angeles County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

Section 3. The name proposed for the Community Facilities District is “City of Los Angeles Community Facilities District No. 9 (Downtown Streetcar)”.

Section 4. The public facilities (the “Facilities”) proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption “Facilities” on Exhibit A hereto, which is by this reference incorporated herein. The incidental expenses proposed to be incurred are identified under the caption “Incidental Expenses” on Exhibit A hereto. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

Section 5. Except where funds are otherwise available, a special tax sufficient to pay for all Facilities, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the special tax (the “Rate and Method”), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The conditions under which the obligation

to pay the special tax may be prepaid and permanently satisfied are specified in the Rate and Method. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

Section 6. The tax year after which no further special tax will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax levied in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered “used for private residential purposes” not later than the date on which an occupancy permit for private residential use is issued.

Section 7. Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

Section 8. The City Council hereby fixes _____, _____, 2012, at 10:00 a.m., or as soon thereafter as the City Council may reach the matter, at the John Ferraro Council Chamber, Room 340, 200 North Spring Street, Los Angeles, California, as the time and place when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District.

Section 9. The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Act. The City Clerk is also directed to give notice of said public hearing by first-class mail to each registered voter within the proposed Community Facilities District and to each landowner within the proposed Community Facilities District. Said notice shall contain the same information as is required to be contained in the published notice described in this Section.

Section 10. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the proposed Community Facilities District at a special election. The proposed voting procedure shall be by mailed ballot among the registered voters of the proposed Community Facilities District, with each voter having one vote.

Section 11. Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities is hereby directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the public facilities by type which will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing the Facilities. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

Section 12. LASI has heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

Section 13. The officers and employees of the City are hereby authorized and directed to take all actions and do all things which they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

Section 14. This Resolution shall take effect immediately upon its passage.

PASSED and ADOPTED by the Council of the City of Los Angeles this ____ day of _____, 2012, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED AS TO FORM

CARMEN A. TRUTANICH, City Attorney

By: _____
Marilyn L. Garcia,
Assistant City Attorney

I certify that the foregoing Resolution was adopted by the Council of the City of Los Angeles at its meeting on _____, 2012.

JUNE LAGMAY, City Clerk

By: _____
Deputy City Clerk

C.F. _____