



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: JULY 24, 2018

FROM: FINANCE DEPARTMENT WARDS: 4

SUBJECT: CANCELLATION OF THE SPECIAL TAX LIEN RELATED TO CERTAIN PARCELS WITHIN COMMUNITY FACILITIES DISTRICT NO. 2013-1 (KUNNY RANCH); AGREEMENT WITH MPLC KUNNY RANCH, LLC REGARDING PAYMENT OF CERTAIN DEVELOPMENT FEES WITH RESPECT TO SUCH PARCELS; AND AMENDED AND RESTATED FUNDING AGREEMENT FOR COMMUNITY FACILITIES DISTRICT 2013-1 (KUNNY RANCH) BETWEEN THE CITY OF RIVERSIDE AND MPLC KUNNY RANCH, LLC – RESOLUTION

ISSUES:

Adopt a resolution approving the cancellation of the special tax lien for eight parcels located within Community Facilities District 2013-1 (Kunny Ranch); an agreement by MPLC Kunny Ranch, LLC acknowledging its continued obligation to pay certain development impact fees related to such parcels after cancellation; and an Amended and Restated Funding Agreement with MPLC Kunny Ranch, LLC.

RECOMMENDATIONS:

That the City Council:

1. Adopt the attached Resolution approving:
 - a) Cancellation of the special tax lien related to eight parcels within Community Facilities District No. 2013-1 (Kunny Ranch);
 - b) Agreement with MPLC Kunny Ranch, LLC Regarding Payment of Certain Development Fees and Cancellation of Special Tax Lien; and
 - c) Amended and Restated Funding Agreement for Community Facilities District 2013-1 (Kunny Ranch) with MPLC Kunny Ranch, LLC.
2. Authorize the City Manager, or his designee, to execute the Agreements with MPLC Kunny Ranch, LLC, including making minor and non-substantive changes.

DISCUSSION

MPLC Kunny Ranch, LLC (the “Landowner”) is currently developing 81 residential units located in Alessandro Heights with 74 lots primarily accessed by Golden Star Avenue (Tract Map No. 33029), and eight lots accessed at the intersection of Bradley Street and Harbart Drive (Tract Map No. 33029-1) (collectively “the Project”). In 2013, by petition of the Landowner, the City formed Community Facilities District 2013-1 (Kunny Ranch) (the “CFD”) to fund certain City Facilities and School Facilities of the Riverside Unified School District (“RUSD”).

The City Council previously completed formation proceedings pursuant to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982,” (the “Act”) to form the CFD. Following the formation of the CFD, a Notice of Special Tax Lien to secure the levy of special taxes on all non-exempt real property within the CFD was recorded on December 4, 2013, as Document No. 2013-0565395 in the office of the County Recorder of the County of Riverside (the “Special Tax Lien”).

The Landowner has requested that the City cancel the Special Tax Lien on the eight parcels located within Tract Map No. 33029-1 as the owner desires to sell such parcels as the housing and infrastructure improvements are not expected to occur in the same time frame relative to the remaining development within Tract Map No. 33029.

The Act authorizes the City to record a cancellation of the Special Tax Lien. To ensure that all applicable development fees are paid, the City will require the owner to enter into an agreement acknowledging and agreeing to the payment of such development impact fees to both the City and RUSD at issuance of building permits for each parcel for which the Special Tax Lien is cancelled.

As part of the CFD formation proceedings, the City adopted a Funding Agreement (the “Original Funding Agreement”) that provided a reimbursement mechanism to the Landowner for certain development impact fees due at building permit for the Project to be paid from the levy of special taxes and issuance of special tax bonds by the CFD. Among the provisions of the Original Funding Agreement was that reimbursements related to certain City development impact fees would be paid not from the issuance of special tax bonds, but from annual special tax payments. This provision was added due to certain federal tax law restrictions applicable to the use of tax-exempt bond proceeds to pay for City improvements from such development impact fees. Staff has since determined that this approach is administratively burdensome. The Amended and Restated Funding Agreement eliminates the provision for annual special tax payments and provides that the reimbursements may be financed from special tax bonds issued on a taxable basis.

Adoption of the Resolution approves the forms of the notice of cancellation of the Special Tax Lien, the agreement regarding payment of development fees, the Amended and Restated Funding Agreement, and directs the City Manager to finalize, execute and deliver such notice and agreements in consultation with the City Attorney.

FISCAL IMPACT:

The actions here have no fiscal impact to the City of Riverside. Development impact fees are still due from the eight parcels for which the Special Tax Liens are cancelled. Development impact fees for the remainder of the Project will be paid at building permit prior to the issuance

of bonds by the Landowner, or the Landowner will receive a credit related to such payments due upon the issuance of bonds. Annually thereafter, costs incurred for staff time to administer the district are reimbursed from the annual levy of special taxes on the property owners. Bonds to be issued by CFD 2013 -1 will be the sole responsibility of the property owners through a levy of special taxes; the City has no responsibility for the debt service associated with these bonds.

Prepared by:	Adam Raymond, Chief Financial Officer/City Treasurer
Certified as to	
Availability of funds:	Edward Enriquez, Assistant CFO/Deputy City Treasurer
Approved by:	Lea Deeing, Assistant City Manager
Approved as to form:	Gary G. Guess, City Attorney

Attachments:

1. Resolution
2. Agreement Regarding Payment of Certain Development Fees
3. Amended and Restated Funding Agreement