

**SUBMITTAL TO THE BOARD OF SUPERVISORS,
COMMUNITY FACILITIES DISTRICT'S LEGISLATIVE BODY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

856



FROM: County Executive Office

SUBMITTAL DATE:
January 13, 2004

SUBJECT: Resolution No. CFD 2004-1 "A Resolution of the Legislative Body of Community Facilities District No. 88-8 ("A" Street - North) of the County of Riverside Calling a Special Election to Submit to the Qualified Electors of the Community Facilities District the Question of Authorizing the Legislative Body to reserve to Itself the Right and Authority to Allow the Tender of Bonds in Payment of Special Taxes, and Designating the Registrar of Voters of the County as the Election Official".

RECOMMENDED MOTION: That the Board of Supervisors conduct a Public Hearing, and if appropriate adopt Resolution No. CFD 2004-1.

BACKGROUND: On December 23 2003, the Board of Supervisors, acting *ex officio* as the legislative body (the "Legislative Body") of Community Facilities District 88-8 (the "District"), adopted Resolution No. CFD 2003-18 (the "Resolution of Consideration") authorizing the Legislative Body to accept the tender of bonds from the property owners of the District as payment or partial payment of their special taxes, subject to the provisions of Section 53344.1 of the Government Code.

Pursuant to the Resolution of Consideration, a public hearing was set by the Legislative Body for January 27, 2004, to consider the Change Proceedings and all other matters set forth in the Resolution of Consideration, and to provide any interested persons or taxpayers the opportunity to appear and be heard, either for or against the Change Proceedings. Provided there is no majority protest at the conclusion of the public hearing, the attached resolution may be adopted to call a special election of the qualified electors of the District to authorize the Change Proceedings.

Jerry Norris

Jerry Norris, Senior Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ n/a	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ n/a	Budget Adjustment:	No
	Annual Net County Cost:	\$ n/a	For Fiscal Year:	2004
SOURCE OF FUNDS: n/a				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE.

County Executive Office Signature *Brona King*

- Dep't Recomm.: Consent
- Per Exec. Ofc.: Consent
- Policy
- Policy

Prev. Agn. Ref.: | **District:** 1 | **Agenda Number:** 8.1

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL

JAN 16 2004

Departmental Concurrence

BY *[Signature]*

COUNTY OF RIVERSIDE
OFFICE EXECUTIVE

RESOLUTION NO. CFD 2004-01

A RESOLUTION OF THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 88-8 ("A" STREET-NORTH) OF THE COUNTY OF RIVERSIDE CALLING A SPECIAL ELECTION TO SUBMIT TO THE QUALIFIED ELECTORS OF THE COMMUNITY FACILITIES DISTRICT THE QUESTION OF AUTHORIZING THE LEGISLATIVE BODY TO RESERVE TO ITSELF THE RIGHT AND AUTHORITY TO ALLOW TENDER OF BONDS IN PAYMENT OF SPECIAL TAXES AND DESIGNATING THE REGISTRAR OF VOTERS OF THE COUNTY AS THE ELECTION OFFICIAL

WHEREAS, the Board of Supervisors (the "Board of Supervisors") of the County of Riverside (the "County") has established Community Facilities District No. 88-8 ("A" Street-North) of the County of Riverside (the "Community Facilities District") under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Code"); and

WHEREAS, the Board of Supervisors of the County, acting ex officio as the legislative body (the "Legislative Body") of the Community Facilities District, by the adoption of Resolution No. 90-087 on May 8, 1990, authorized the sale and issuance of special tax bonds (the "1990 Bonds") in an aggregate principal amount not to exceed \$24,000,000, and the 1990 Bonds were issued on June 6, 1990; and

WHEREAS, on December 23, 2003, the Legislative Body adopted Resolution No. CFD 2003-18 (the "Resolution of Consideration") declaring the Legislative Body has determined that the public convenience and necessity require that the Legislative Body be authorized to reserve to itself, the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of Section 53344.1 of the Code and to those conditions as the Legislative Body 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 in full payment or partial 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 (the "Change Proceedings"); and

WHEREAS, pursuant to the Resolution of Consideration, a public hearing (the "Public Hearing") was held by the Legislative Body on January 27, 2004, at the hour of 9:00 A.M. or as soon thereafter as the matter could be heard, at the regular meeting place of the Board of Supervisors, 4080 Lemon Street, 1st Floor, Riverside, California 92501, at which Public Hearing the Legislative Body considered the Change Proceedings and all other matters as set forth in the Resolution of Consideration, and at the above-mentioned time and place for the Public Hearing, any persons interested, including all taxpayers, property owners and registered voters within the Community Facilities District were given an opportunity to appear and be heard, and the testimony of all interested persons or taxpayers for or against the Change Proceedings, and any other matters set forth in the Resolution of Consideration, were heard; and

WHEREAS, by the conclusion of the Public Hearing the Legislative Body was fully advised in the premises, and was authorized to proceed as hereinafter provided; and

WHEREAS, on the basis of all of the foregoing, the Legislative Body has determined at this time to proceed with the Change Proceedings as provided by the Resolution of Consideration, and to submit to the qualified electors of the Community Facilities District the proposition (the "Proposition") in

substantially the form attached hereto as Exhibit A, with appropriate changes to reflect the matters described herein, to authorize the Change Proceedings; and

WHEREAS, the Legislative Body has determined, based on a Certificate of the Registrar of Voters dated January 20, 2004, which is attached hereto and marked as Exhibit B, that there are two registered voters residing in the Community Facilities District and that the qualified electors with respect to the Community Facilities District are the owners of the land within the Community Facilities District; and

WHEREAS, the Legislative Body is fully advised in the premises;

NOW, THEREFORE, IT IS HEREBY RESOLVED, FOUND, DETERMINED AND ORDERED, by the Legislative Body of Community Facilities District No. 88-8 ("A" Street-North) of the County of Riverside in regular session assembled on January 27, 2004 as follows:

Section 1. All of the above recitals are true and correct.

Section 2. The Legislative Body hereby affirms the Resolution of Consideration, notice of which was published and mailed prior to the Public Hearing as required by law, and, confirms all of its findings and determinations contained in the Resolution of Consideration. To the extent required by Section 53325.1(a) and Section 53338 of the Code, all of the findings and determinations made in the Resolution of Consideration are incorporated herein and made a part hereof.

Section 3. The Legislative Body finds and determines that written protests to the Change Proceedings or on any other matters set forth in the Resolution of Consideration are insufficient in number and in amount under the Act to require abandonment of these proceedings, and the Legislative Body hereby further orders and determines that all protests to the Change Proceedings and the other matters set forth in the Resolution of Consideration are hereby overruled and denied. The proposed Change Proceedings have not been precluded by majority protest pursuant to Sections 53324 and 53337 of the Code.

Section 4. The Legislative Body finds and determines that all prior proceedings had and taken by the Legislative Body with respect to the formation of the Community Facilities District, are valid and in conformity with the requirements of the Act, and the Legislative Body determines to proceed to submit the question of the Change Proceedings to the qualified electors of the Community Facilities District.

Section 5. The Legislative Body hereby declares that the question of the Change Proceedings shall be submitted to the qualified electors within the Community Facilities District, in accordance with and subject to the Act.

Section 6. The Registrar of Voters of the County, as stated in Exhibit B, has certified that there are fewer than 12 registered voters within the Community Facilities District. Consistent with the terms of the Act and said certificate, the Legislative Body determines that the qualified electors are the owners of land within the Community Facilities District. The Proposition shall be submitted to the owners of land within Community Facilities District as the qualified electors of the Community Facilities District, with each acre or portion thereof within an ownership representing one (1) vote. The Registrar of Voters has, as stated in Exhibit C has agreed to hold the election on May 4, 2004, and the special election shall be and is hereby called and ordered to be held on May 4, 2004, at which election there shall be submitted to the qualified electors, the Proposition. The ballots for the special election are to be distributed either by mail or hand delivery to each of the owners of land within the Community Facilities District in accordance with Section 53327.5 of the Code.

Section 7. The Registrar of Voters of the County is hereby designated as the election official for the purposes of conducting the election in the Community Facilities District and is hereby requested to take all steps necessary to hold the election in accordance with the Act and the following specifications:

(a) The special election is to be held on May 4, 2004, and notice of the special election shall be published in accordance with the Act and applicable Elections Code provisions.

(b) The ballot for the special election may be distributed to the qualified electors by mail with return postage prepaid or by hand delivery of the Registrar of Voters.

(c) Each landowner shall have one vote for each acre or portion thereof that he, she or it owns within the Parcels which number of votes to be voted shall be specified on the ballot provided to such landowner, as provided in Section 53326(b) of the Code.

(d) On the ballots to be used at said special election, in addition to all other matters required by law to be printed thereon, shall appear the Proposition. Each voter to vote for the Proposition shall mark the ballot card in the space opposite the word "YES" or to vote against the Proposition shall mark the ballot card in the space opposite the word "NO."

(e) The ballots to be used at the special election must be received in the Office of the Registrar of Voters of the County by 5:00 p.m. on May 4, 2004, at which time such election shall be closed and the election shall be closed on any earlier date or time if all the qualified voters have voted.

(f) The Registrar of Voters of the County shall commence the canvass of the returns of the special election as soon as practicable following the date on which such special election shall close pursuant to the elections Code and at the conclusion thereof shall determine the results of such special election and shall certify said results to the Legislative Body.

(g) The Legislative Body shall declare the results of said special election as soon as practicable and at a regular meeting following the date of the election, and shall cause to be spread upon its minutes a statement of the results of said special election as ascertained by said canvass.

Section 8. The Registrar of Voters of the County shall cause to be distributed to the owners of the Parcels, a certified copy of this Resolution.

Section 9. If two-thirds (2/3) of the votes cast upon the Proposition are cast in favor of the Change Proceedings, as determined by the Legislative Body after the canvass of the returns of the election, the Legislative Body shall have the right and authority to allow any interested owner of property within the Community Facilities District, to tender to the Community Facilities District 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, as provided in the ballot and this Resolution and subject to the provisions of Section 53344.1 of the Code and to those conditions as the Legislative Body may impose.

Section 10. The Clerk of the Legislative Body is to provide a certified copy of this Resolution and the Resolution of Consideration to the Registrar of Voters within three business days following its adoption.

Section 11. The officers of the County and their authorized representatives, are, and each of them acting alone is, hereby authorized to execute any and all documents and agreements and do and perform any and all acts and things, from time to time, consistent with this Resolution and necessary or appropriate to carry the same into effect and to carry out its purpose. Such authorization shall include recordation of a notice of the changes pursuant to Section 53338 of the Code and Section 3117.5 of the Streets and Highways Code.

Section 12. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this 27TH day of January, 2004.

Chairman, Legislative Body of Community
Facilities District No. 88-8 ("A" Street-North) of
the County of Riverside

ATTEST:
Nancy Romero,
Clerk of the Legislative Body of Community
Facilities District No. 88-8 ("A" Street-North)
of the County of Riverside

By: _____
Deputy