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**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: Executive Office

SUBMITTAL DATE:
March 22, 2005

SUBJECT: Ordinance No. 709.1 Amending Ordinance No. 709 of the County Of Riverside Authorizing the Levy of a Special Tax within Community Facilities District No. 89-4 of the County Of Riverside Pursuant to the Amended and Restated Rate and Method of Apportionment of Special Tax.

RECOMMENDED MOTION: That the Board of Supervisors of the County of Riverside, introduce Ordinance No. 709.1 amending Ordinance No. 709 and Authorizing the Levy of a Special Tax within Community Facilities District No. 89-4 of the County Of Riverside pursuant to the Amended and Restated Rate and Method of Apportionment of Special Tax, and then adopt Ordinance No. 709.1 at the next succeeding Board meeting, which in this case will be March 29, 2005.

BACKGROUND: On October 5, 2004, the Legislative Body (the "Legislative Body") of Community Facilities District No. 89-4 of the County of Riverside (the "District") pursuant to the provision of the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") adopted Resolution No. CFD 2004-16 (the "Resolution of Consideration") calling for a public hearing to be held on November 9, 2004, to consider among other issues amending the rate and method of apportionment of special tax for the District, to provide a tax rate for residential uses and to lower the rate for commercial and non-residential uses and to allow the District and to change the types of public facilities to be financed and the purposes for which the bonds of the District may be issued, including the authorization to pay in full all amounts necessary to pay, repay or defease the obligation to pay the bonds outstanding of the District.

(Continued on Page 2)


Jerry Norris, Senior Management Analyst

FORM APPROVED
COUNTY COUNSEL

Departmental Concurrence
MAR 15 2005
[Signature]

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2005

SOURCE OF FUNDS: Community Facilities District 89-4	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 

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: | **District:** 3 | **Agenda Number:**

**ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD**

3.2

The Legislative Body also adopted Resolution No. CFD 2004-17 (the "Resolution to Incur Bonded Indebtedness"), calling for a public hearing to be held on November 9, 2004, to consider an increase the authorization to issue debt in an amount not to exceed \$12,000,000.

The Legislative Body held the noticed public hearing on November 9, 2004, and subsequent to the hearing Resolution Nos. CFD 2004-25 and CFD 2004-26 calling a consolidated special election submitting to the qualified electors of the District the following propositions (i) whether the authorized bonded indebtedness for the District should be increased to \$12,000,000, (ii) whether the rate and method of apportionment of special tax for the District should be revised to provide rates to be levied on parcels developed for residential purposes and for a reduction in the rates to be levied on parcels of developed for commercial or non-residential purposes, and (iii) whether the types of public facilities and purposes for which bonds of the District may be issued should be changed (collectively, the "Propositions").

Pursuant to the terms of the Resolutions Calling Election and the provisions of the Act, the special election was held on March 1, 2005, and the Propositions were approved by more than two-thirds (2/3) of the votes cast at the election.

The Act requires that the levy of a special tax be adopted by an ordinance, the adoption of Ordinance No. 709.1 will authorize the levy of a special tax within the District pursuant to the Amended and Restated Rate and Method of Apportionment of Special Taxes (the "Amended Rate and Method") approved by the qualified electors at the special election. The special taxes are to be levied pursuant to the Amended Rate and Method commencing in fiscal year 2006 and in each fiscal year thereafter for the period necessary to satisfy the special tax requirement as defined in the amended Rate and Method.

Therefore we ask that Ordinance be introduced and at the Board's next meeting the Chairman of the Board of Supervisors be authorized to sign this Ordinance and that the Clerk of the Board of Supervisors attest to the Chairman's signature and then cause the same to be published within fifteen (15) days after its passage at least once in The Press-Enterprise, a newspaper of general circulation published and circulated in the area of the District.

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COUNTY OF RIVERSIDE

ORDINANCE NO. 709.1

**ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,
AMENDING ORDINANCE NO. 709 AND AUTHORIZING
THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY
FACILITIES DISTRICT NO. 89-4 OF THE COUNTY OF
RIVERSIDE PURSUANT TO THE AMENDED AND
RESTATED RATE AND METHOD OF APPORTIONMENT
OF SPECIAL TAX**

WHEREAS, the Board of Supervisors (the "Board of Supervisors") of the County of Riverside, California (the "County") adopted Resolution No. 91-219 which established Community Facilities District No. 89-4 of the County of Riverside ("CFD No. 89-4") pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") being Chapter 2.5, Part 1, Division 2, Title 5 of the California Government Code (the "Code"); determined the validity of the proceedings establishing CFD No. 89-4 and called a special election for May 28, 1991 on the propositions of incurring bonded indebtedness, levying a special tax and establishing an appropriations limit for CFD No. 89-4; and,

WHEREAS, on June 4, 1991, the Board of Supervisors, acting *ex-officio* as the Legislative Body of CFD No. 89-4 (the "Legislative Body") adopted Resolution No. 91-307 determining the result of said special election; and,

WHEREAS, the Board of Supervisors adopted Ordinance No. 709 on June 11, 1991, authorizing the levy of a special tax within CFD No. 89-4 pursuant to a Rate and Method of Apportionment of Special Tax that is set forth in Exhibit A to said Ordinance; and,

WHEREAS, on October 5, 2004, Legislative Body adopted Resolution No. CFD 2004-16, a resolution of consideration pursuant to Section 53334 of the Code, commencing proceedings for the consideration of a proposed increase in the amount of the authorized bonded indebtedness of to be incurred by CFD No. 89-4, proposed revisions of the Rate and Method of Apportionment of Special Tax for CFD No. 89-4 to provide new rates of special tax to be levied on parcels of

1 residential property and for a reduction in the rate of special tax to be levied on parcels of
2 commercial or non-residential property, and proposed changes in the public facilities to be
3 financed and the purposes for which bonds of CFD No. 89-4 may be issued (a) to include the
4 design, construction and acquisition of an additional approximately 3,000 lineal feet of sewer
5 main of Eastern Municipal Water District in Jackson Avenue and Murrieta Hot Springs Road, and
6 (b) to authorize CFD No. 89-4 to pay in full all amounts necessary to pay, repay or defease the
7 obligation to pay the outstanding bonds of CFD No. 89-4 which are secured by special taxes that
8 are levied on parcels of taxable property in CFD No. 89-4, as authorized by subdivision (g) of
9 Section 53313.5 of the California Government Code; and,

10 **WHEREAS**, on October 5, 2004, the Legislative Body also adopted Resolution No. CFD
11 2004-17 declaring the necessity for the CFD No. 89-4 to incur a bonded indebtedness in an
12 increased aggregate principal amount of not to exceed \$12,000,000; and,

13 **WHEREAS**, on November 9, 2004, the Legislative Body conducted concurrent public
14 hearings with respect to such matters; and,

15 **WHEREAS**, on November 9, 2004, the Legislative Body adopted Resolution No. CFD
16 2004-25 calling a special election on March 1, 2005, for submitting to the qualified electors of
17 CFD No. 89-4 (i) the proposition regarding increasing the authorized bonded indebtedness of
18 CFD No. 89-4 to \$12,000,000, (ii) the proposition regarding the revisions of the Rate and Method
19 of Apportionment of Special Tax for CFD No. 89-4 to provide new rates of special tax to be
20 levied on parcels of residential property and for a reduction in the rate of special tax to be levied
21 on parcels of non-residential property to pay principal and interest on the bonds of CFD No. 89-
22 4, and (iii) the proposition regarding the proposed changes in the types of public facilities to be
23 financed and the purposes for which the bonds of CFD No. 89-4 may be issued to include
24 additional sewer facilities and to authorize CFD No. 89-4 to pay in full all amounts necessary to
25 pay, repay or defease the obligation to pay the outstanding bonds of CFD No. 89-4 which are
26 secured by special taxes that are levied on parcels of taxable property in CFD No. 89-4; and,

27 **WHEREAS**, on November 9, 2005, the Legislative Body also adopted Resolution No.
28 CFD 2004-26 determining that it was necessary for CFD No. 89-4 to incur a bonded indebtedness

1 in an increased aggregate principal amount not to exceed \$12,000,000 for the purposes of
2 providing public facilities which are necessary to the development of the property therein, and to
3 pay in full all amounts necessary to pay, repay or defease the obligation to pay the outstanding
4 bonds of CFD No. 89-4 which are secured by special taxes that are levied on parcels of taxable
5 property in CFD No. 89-4, calling a special election on March 1, 2005 for submitting to the
6 qualified electors of CFD No. 89-4 the proposition of CFD No. 89-4 incurring such bonded
7 indebtedness, and determining that such election would be consolidated with the special election
8 called by Resolution No. CFD 2004-25; and,

9 **WHEREAS**, the Legislative Body has received a certificate from the Registrar of Voters
10 of the County of Riverside, who pursuant to the Resolution No. CFD 2004-25 was authorized to
11 conduct the consolidated special elections within and for CFD No. 89-4 and act as the election
12 official for such elections, with respect to the canvass of the ballots returned and the results of the
13 consolidated special elections, certifying that more than two-thirds of the votes cast upon the
14 propositions submitted to the voters in the consolidated special elections were cast in favor of all
15 such propositions; and,

16 **WHEREAS**, on March 22, 2005, the Legislative Body adopted Resolution No. CFD
17 2005-03 declaring that more than two-thirds of the votes voted in the consolidated special
18 elections within CFD No. 89-4 on all such propositions were voted in favor thereof, and such
19 propositions carried; and,

20 **WHEREAS**, by Resolution No. CFD 2005-03, the Legislative Body also determined that
21 the effect of the results of the consolidated special elections within and for CFD No. 89-4 is that
22 the Legislative Body is authorized (i) to have the CFD No. 89-4 incur a bonded indebtedness in
23 an amount not to exceed \$12,000,000 for the purposes of (a) financing the design, construction
24 and acquisition of an additional approximately 3,000 lineal feet of sewer main of Eastern
25 Municipal Water District in Jackson Avenue and Murrieta Hot Springs Road, and (b) paying in
26 full all amounts necessary to pay, repay or defease the obligation to pay the outstanding bonds of
27 CFD No. 89-4 which are secured by special taxes that are levied on parcels of taxable property in
28 CFD No. 89-4, and (ii) after CFD No. 89-4 has incurred such a bonded indebtedness and issued

1 bonds therefore, to annually levy special taxes on taxable property within CFD No. 89-4 in an
2 amount sufficient to pay the principal of and interest on such bonds at the special tax rates and
3 pursuant to the methodology for determining and apportioning such special taxes which are set
4 forth in the Amended and Restated Rate and Method of Apportionment of Special Tax for CFD
5 No. 89-4 which is attached as Exhibit "A" to the Resolution No. CFD 2004-16 adopted by the
6 Legislative Body on October 5, 2004;

7 **NOW THEREFORE**, be it ordained by the Board of Supervisors of the County of
8 Riverside, California, as follows:

9 **Section 1.** The preceding recitals are true and correct.

10 **Section 2.** Section 2 and Exhibit A of Ordinance No. 709.1 are amended by causing
11 said Exhibit A to be deleted therefrom in its entirety and in place and stead thereof to substitute
12 the Exhibit A attached hereto, marked as Exhibit A, and entitled "Amended and Restated Rate
13 and Method of Apportionment of Special Tax for Community Facilities District No. 89-4 of the
14 County of Riverside."

15 **Section 3.** Section 5 is deleted and is amended to read as follows:

16 "All of the collections of the special tax shall be used as provided for in the Act,
17 Resolution No. 91-219 and Resolution No. CFD 2004-16. The special tax shall
18 be levied only as long as needed for its purposes as described in Resolution No.
19 CFD No. 2004-16."

20 **Section 4.** Except as specifically amended by Sections 2 and 3, above, all provisions
21 of Ordinance No. 709, adopted on June 11, 1991, shall remain in full force and effect.

22 **Section 5.** The special taxes when levied and collected shall be used only for the
23 purposes provided for in Resolution No. CFD 2004-16 and the Amended and Restated Rate and
24 Method of Apportionment and shall be levied only so long as needed for such purposes as
25 provided in such resolution and the Amended and Restated Rate and Method of Apportionment.

26 **Section 6.** The Chairman of the Board of Supervisors shall sign this Ordinance and
27 the Clerk of the Board shall attest to the Chairman's signature and then cause the same to be
28 published in the Press-Enterprise, a newspaper of general circulation published and circulated in

1 the County of Riverside.

2 **Section 7.** This Ordinance shall take effect immediately upon its final passage in
3 accordance with the provision of Section 25123(c) of the Code, and the specific authorization for
4 its adoption is Section 53340 of the Government Code.

5 **ADOPTED** this ____ day of March, 2005.

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Chairman of the Board of Supervisors

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ATTEST:

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Clerk to the Board of Supervisors

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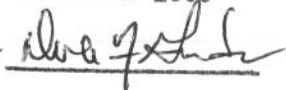
FORM APPROVED
COUNTY COUNSEL

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MAR 15 2005

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BY



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CERTIFICATION

I, Nancy Romero, Clerk to the Board of Supervisors of the County of Riverside, certify that the foregoing ordinance was introduced and adopted by the Board of Supervisors at a regular meeting held on the ____ day of March, 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the County of Riverside this ____ day of _____, 2005.

Clerk to the Board of Supervisors