



RESOLUTION NO. 082-2014

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

RESOLUTION TO REAPPORTION SPECIAL TAXES FOR CERTAIN LAND WITHIN COMMUNITY FACILITIES DISTRICT NO. 2001-1 (PROMONTORY SPECIFIC PLAN) AND SUBMITTING AMENDED LEVY OF TAX TO QUALIFIED ELECTORS

WHEREAS, the County of El Dorado (the "County") has previously conducted proceedings to establish Community Facilities District No. 2001-1 (Promontory Specific Plan) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code; and

WHEREAS, the Board of Supervisors (the "Board") adopted its Resolution of Formation, Resolution No. 181-2001 (the "Resolution of Formation"), on June 26, 2001, officially forming the CFD, and approved the Rate and Method of Apportionment of Special Tax attached to the Resolution of Formation as Exhibit C (as subsequently amended, the "RMA"); and

WHEREAS, on June 14, 2005, this Board adopted its Resolution Ordering Change to Rate and Method of Apportionment of Special Taxes, Resolution No. 168-2005, and thereby approved a change to the RMA in accordance with the request and affirmative vote made by landowners in the CFD affected by such change, which change authorized the taxation of certain parcels owned by such landowners and thereafter referred to in the RMA as the "Eligible Redesignation Parcels" to be classified and taxed as "Developed Parcels" at an earlier date than would otherwise be the case under the RMA as constituted prior to such change, upon receipt by the County from the owner of the subject Eligible Redesignation Parcel or Parcels of a "Redesignation Request" (as said term is defined in the RMA); and

WHEREAS, the Board has received written communication (the "Petition") from the authorized representative of the owners of certain parcels referred to as Village 7-1, Village 7-2, Village 8 and Lots D-1 and H in the Village Center (the "Affected Parcels," as further described in Exhibit A) indicating that the development plan for the Affected Parcels has changed since the 2001 projection on which the RMA was based and requesting that the RMA be revised. The proposed revision (the "First Amendment" attached hereto as Exhibit B) is attached to said request and would, if approved, reallocate and redesignate the special tax rate for such parcels shown on Attachment 1 of the RMA as applicable to the Affected Parcels, to conform the special tax to current development plans for such parcels and conform such rate to present residential special tax rates based on similar land uses; and

WHEREAS, this Board finds that the RMA was established to create consistency in application of the special tax to actual development and was not intended to preclude a revised development plan, the long term purpose of the CFD and RMA being to establish an equitable and consistent tax among all developed property; and

WHEREAS, this Board finds that the existing special tax rates for the Affected Parcels is no longer consistent with the projected development of such parcels and that the RMA as presently constituted does not provide a methodology for reapportioning and conforming the special tax rate to changes in land use resulting from revised development plans; and

WHEREAS, the RMA provides that interpretations of the RMA may be made by resolution of the Board for purposes of clarifying any vagueness or ambiguity as it relates to the special tax rate, the method of apportionment, the classification of properties or any definition applicable to the CFD and the Board finds the RMA is vague and ambiguous with respect to methodology for conforming the special tax rate to changes in land use resulting from revised development plans and such methodology was inadvertently not included in the provisions of the RMA and should have been provided for; and

WHEREAS, this Board finds that public convenience and necessity will be facilitated if the proposed changes to the RMA were made through an amendment to the RMA as requested and that the overall taxing ability of CFD at buildout will not be materially affected by such changes, therefor the Board desires to provide the requested reapportionment of the special tax for the Affected Parcels by redesignating the special tax rate for such parcels from the special tax rate shown on Attachment 1 of the RMA, to conform the special tax to the changed development plan for such parcels; and

WHEREAS, this Board finds that the reapportionment of the special tax on the Affected Parcels (i) only affects the Affected Parcels and is not applicable to any other property in the CFD, (ii) will facilitate the best interests of the CFD by facilitating orderly development contemplated within the CFD in accordance with approved land uses, (iii) will serve the purpose of creating a fair and consistent distribution of the special tax on future development of the Affected Parcels and thereby establish a special tax rate which will be consistent and equitable with special taxes on other developed property; (iv) will result in an increase in the total maximum special tax at buildout and will not be adverse to bondholders, and (v) has been requested by the owners of 100% of the Affected Parcels; and

WHEREAS, under Sections 53312.5 and 53315 of the Act, this Board, as the legislative body for the CFD, is empowered with the authority to liberally construe the provisions of the Act in order to effectuate its purposes, and is further empowered with the authority to take any actions or make any determinations that are necessary or convenient to carry out the purposes of the Act and not otherwise prohibited, and the Board finds that the actions approved herein are authorized under the Act; and

WHEREAS, by the Certificate re Registered Voters and Landowners (the "Certificates"), which certificates are on file with the Clerk of this Board (the "Clerk"), representatives of the owners of the Affected Parcels have certified that, based upon their own personal knowledge and familiarity with the Affected Parcels, (a) there are no registered voters residing on any of the Affected Parcels and (b) the two entities which are the record owners of the Affected Parcels (the "Affected Owners") are (1) Russell-Promontory LLC, owning 294.69 acres, and (2) Standard Pacific Corp., owning 17.6 acres; and

WHEREAS, on the basis of the Petition of Russell-Promontory LLC and the Petition of Standard Pacific Corp. and the Certificates, the Board finds that such entities are the qualified electors for purposes of voting on such amendment, and Jones Hall, as special counsel to the County for CFD No. 2001-1 ("Special Counsel"), has prepared Special Election Ballots – RMA Change (the "Special Election Ballots") for each of the Affected Owners, specifying 295 votes and 18 votes, respectively, together with Consent and Waivers – 2014 RMA Change (the "Consent/Waivers") for each Affected Owner; and

WHEREAS, the two completed and executed Special Election Ballots, each marked "Yes" to indicate support for the ballot measure, and the two dated and executed Consent/Waivers have been submitted to and are on file with the Clerk, and Special Counsel has advised this Board that it may proceed with conduct of the public hearing, the special election and the adoption of this resolution, which approves and adopts the First Amendment, without further legal proceedings; and

WHEREAS, on the basis of the Petition, the Certificate, the unanimous “Yes” ballots and the two dated and executed Consent/Waivers, this Board finds that the owners of one hundred percent (100%) of the property within CFD No. 2001-1 which are affected by the adoption and approval of the First Amendment have requested such adoption and voted affirmatively for such adoption and approval; and

WHEREAS, this Board wishes to approve and adopt the amendment to the RMA (the "First Amendment") attached hereto as Exhibit B and finds such approval and adoption necessary and convenient to carry out the purposes of the CFD as contemplated by the Act and as requested and approved by one hundred percent (100%) of the owners of the Affected Parcels.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. This Board finds and determines that the foregoing recitals are true and correct.
2. The First Amendment attached hereto as Exhibit B is hereby approved and adopted and for all future purposes of the CFD shall amend and supplement the RMA approved in the Board's "Resolution Ordering Change to Rate and Method of Apportionment of Special Taxes," Resolution No. 168-2005 adopted by the Board on June 14, 2005 and such 2005 RMA, including the First Amendment shall constitute the Rate and Method of Apportionment of Special Tax of the CFD, unless changed by future action of this Board in accordance with the Mello-Roos Community Facilities Act of 1982.
3. This Board hereby finds and declares that the First Amendment affects only the Affected Parcels, and the ballot measure submitted to the two entities owning all of the Affected Parcels, being the qualified electors entitled to vote in the election, has been passed and approved by unanimous “Yes” vote of said landowners, as the qualified voters.
4. This Board hereby further finds that the actions and determinations made herein are necessary and convenient to carry out the purpose of the Act and the financing contemplated by the CFD and are not otherwise prohibited by law and that the actions taken hereby are final and in accordance with the Act.
5. The Clerk, in coordination with Special Counsel, is hereby directed to cause the preparation and recordation an Amended Notice of Special Tax Lien with the County Recorder of the County of El Dorado within 15 days after the adoption of this resolution.
6. This resolution shall take effect from and after its adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado, State of California, at a regular meeting of said Board held on the ____ day of _____, 2014, by the following vote of said Board:

Ayes:
Noes:
Absent:

Attest:
James Mitrisin
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Norma Santiago, Chair, Board of Supervisors

Attach: Exhibit A – List of Affected Parcels
Exhibit B – First Amendment to the Rate and Method of Apportionment of Special Tax

**EXHIBIT A
LIST OF AFFECTED PARCELS**

<u>Owner</u>	<u>APN</u>	<u>Acres</u>
Russell-Promontory, LLC	124-390-01-100	4.60
Russell-Promontory, LLC	124-390-02-100	11.93
Russell-Promontory, LLC	124-390-04-100	9.64
Russell-Promontory, LLC	124-390-05-100	0.77
Russell-Promontory LLC	124-390-06-100	126.65
Russell-Promontory LLC	124-390-07-100	0.95
Russell-Promontory LLC	124-390-08-100	45.71
Russell-Promontory LLC	124-400-01-100	63.24
Russell-Promontory LLC	124-400-02-100	31.20
Standard Pacific Corp.	124-070-62-100	8.00
Standard Pacific Corp.	124-390-03-100	9.60

EXHIBIT B

Community Facilities District No. 2001-1
(Promontory Specific Plan)
El Dorado County, California

FIRST AMENDMENT TO THE
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

This First Amendment to Rate and Method of Apportionment amends the Rate and Method of Apportionment of Special Tax for the El Dorado County Community Facilities District No. 2001-1 (Promontory Specific Plan) set forth as Exhibit A to the Amended Notice of Special Tax Lien recorded in the office of the County Recorder of the County of El Dorado on August 17, 2005 as Document No. 2005-0068319 (the "Original RMA").

Amendments made to the Original RMA contained herein only affect certain parcels in CFD No. 2001-1. Parcels affected by this First Amendment are within **Villages 7 & 8** comprising a portion of the "Single Family Residential" land use and parcels **D-1 and H** comprising a portion of the "High Density Residential" land use identified in Attachment 1 to the Original RMA. Such parcels are referenced in the **Revised Map 1** attached hereto and are further identified by the Assessor Parcel Numbers listed in **Schedule A** hereto.

1. Amended Definitions

The following defined terms in the Original RMA are revised and restated as follows:

"Developed Parcel" means a Parcel receiving one of the following development approvals from the County where right-of-way for streets and other public facilities are dedicated:

<u>Land Use</u>	<u>Development Approval</u>
Single Family Residential	- Final Subdivision Map
Multi-Family Residential	- Building Permit
Condominium	- Building Permit
Commercial	- Building Permit

Any Developed Parcel with a designated land use other than those indicated above will be classified as Commercial for the purpose of the Special Tax Formula. A Developed Parcel also includes all Large Lot Parcels and Original Parcels for which a Redesignation Request was submitted to the County before July 1 of the Fiscal Year and approved by the Administrator. For the purposes of this Special Tax Formula, Villages 1, 2, 3, 6-2, and 6-3 are to be considered Developed Parcels at the formation of the CFD. For the purposes of this Special Tax Formula, Village 7-1, Village 8, Lot D-1 and Lot H are to be considered Developed Parcels as of June 2014.

"Maximum Annual Special Tax" means the greatest amount of Special Tax that can be levied against a Taxable Parcel in any Fiscal Year as shown in the **Revised Attachment 1**, as adjusted annually after the Base Year in accordance with the Tax Escalation Factor. For Taxable Parcels that have been designated Developed Parcels by the County due to a Redesignation Request, the Maximum Annual Special Tax shall be determined

by the County in accordance with Attachment 1, based upon the planned number of residential units, rather than by their acreage as either Large Lot Parcels or Original Parcels. All parcel changes that result in a change to acreage on redesignated parcels prior to a Final Subdivision Map shall have the planned number of lots or units spread pro-rata based on acreage, unless the County determines that another method of allocation is more appropriate.

2. Revision to Attachment 1

Attachment 1 to the Original RMA is amended as follows:

Delete: Village 7.

Add:

Specific Plan Parcels Identified by Village	Planned Residential Lots	Base Year Maximum Annual Special Tax
Single Family Residential Uses		<i>per unit</i>
Village 7-1	24	\$1,400
Village 7-2	104	\$1,800
High-Density Residential		<i>per unit</i>
Lot D-1	63	\$820
Lot H	64	\$820

3. Revision to Map 1

Map 1 to the Original RMA is amended, as attached hereto.

SCHEDULE A

List of Affected Parcels

<u>Owner</u>	<u>APN</u>	<u>Acres</u>
Russell-Promontory, LLC	124-390-01-100	4.60
Russell-Promontory, LLC	124-390-02-100	11.93
Russell-Promontory, LLC	124-390-04-100	9.64
Russell-Promontory, LLC	124-390-05-100	0.77
Russell-Promontory LLC	124-390-06-100	126.65
Russell-Promontory LLC	124-390-07-100	0.95
Russell-Promontory LLC	124-390-08-100	45.71
Russell-Promontory LLC	124-400-01-100	63.24
Russell-Promontory LLC	124-400-02-100	31.20
Standard Pacific Corp.	124-070-62-100	8.00
Standard Pacific Corp.	124-390-03-100	9.60

REVISED MAP 1

[to be attached]