



Legislation Text

File #: 23-2059, **Version:** 2

Department of Transportation recommending the Board consider the following:

- 1) Approve Final Passage (Second Reading) of Ordinance **5191** to repeal Ordinances 4785 and 4787 and dissolve the Missouri Flat Community Facilities District (CFD) Number 2002-01; and
- 2) Approve and authorize the Board Chair to sign the Notice of Cessation of Special Tax Lien due to the dissolution of the Missouri Flat CFD. (Cont. 1/9/2024, Item 44)

FUNDING: Missouri Flat Community Facilities District.

DISCUSSION / BACKGROUND

On January 9, 2024, the Board heard the introduction (First Reading) of Ordinance 5191, to repeal Ordinances 4785 and 4787 and dissolve the Missouri Flat Community Facilities District (CFD) Number 2002-01 and continue this matter to February 27, 2024 for Final Passage (Second Reading).

Consistent with Board Policy A-3, "Ordinances - New or Amended," the Board provided conceptual approval on September 26, 2023, Item 27, Legistar 23-1379, to repeal Ordinances 4785 and 4787 and dissolve the Missouri Flat Community Facilities District (CFD) Number 2002-01 allowing the Department of Transportation (Transportation) to create a new County-owned Special Revenue Account for depositing funds to complete the Missouri Flat Master Circulation and Funding Plan (MC&FP) improvements in the Missouri Flat area. Known as tax increment financing, this type of funding mechanism allows for the issuance of bonds in order to build infrastructure improvements in a specific area to facilitate development, and then pay back the cost of the improvements bonds through the additional taxes generated due to commercial development and sales. The MC&FP proposed the creation of a Mello-Roos Community Facilities District as a mechanism for issuing bonds and establishing a special tax that would be levied on properties in the Missouri Flat area. The Board adopted Resolution 074-2002 in 2002, establishing the CFD, authorizing the levy of a special tax within the district, and preliminarily establishing an appropriations limit. In 2008, the County implemented the CFD through two related ordinances. Ordinance 4785 provides for annual contributions towards Missouri Flat roadway improvements for development improvements and requires the County to annually contribute to the CFD funds sufficient to pay debt services on any bonds issued. Ordinance 4787 levies the special tax on property located within the Missouri Flat area.

Under Ordinance 4785, the County is required to annually contribute to the CFD funds sufficient to pay debt service on any bonds and other expenses of the CFD which would otherwise be funded by the special tax during the fiscal year in an amount that does not exceed the Tax Increment Revenues, defined to be an amount equal to 85% of the total sales and property tax increment generated within the Missouri Flat Area. Further, the County was required to create a special reserve account to be used for debt service purposes and deposit tax increments until the special reserve account attained a minimum balance of \$1,500,000.

Under Ordinance 4787, the CFD was authorized to incur bonded indebtedness in an amount not to exceed \$35,000,000 and impose a special tax to repay those bonds; however, the CFD never issued

any bonds under this authority. Instead, the County financed past transportation projects identified in the MC&FP using a combination of Traffic Impact Mitigation (TIM) / Traffic Impact Fee (TIF) funds, state grant funds, the 85% tax increment set aside, and other discretionary funds, such as General Fund and Tribe Funds.

The CFD has not provided any function other than to act as a pass-through of the total tax increment generated by the MC&FP to the County. The MC&FP was established through Board adoption prior to the ordinances for creation of the CFD in 1998. The CFD Special Reserve Account currently holds \$1,500,000, which cannot be utilized for any other purpose, as required by Ordinance 4785. Dissolving the CFD would allow the County to make use of this funding for the Diamond Springs Parkway Phase 1B project. The recommended dissolution of the CFD would not affect the other components of the MC&FP, including the 85% tax increment set aside. The CFD has not issued any bonds, and Transportation is not anticipating requesting bonds to be issued at this time. Per Government Code section 53338.5, the Board may, by ordinance, dissolve any CFD provided that the district is not obligated to pay any outstanding debt and has no authorization to levy any special tax. The new Ordinance repeals Ordinances 4785 and 4787 and will dissolve the CFD.

On April 11, 2022, the Notice of Special Tax Lien was recorded for the CFD to levy the special tax for the purpose of paying principal and interest on bonds. Under Government Code Section 53330.5, "When the legislative body determines that the special tax shall cease to be levied, the legislative body shall direct the clerk to record a Notice of Cessation of Special Tax that shall state that the obligation to pay the special tax has ceased (...)." Upon dissolution of the CFD, the Board Chair shall sign and record the Notice of Cessation of Special Tax Lien to lift the special tax levy that currently burdens the properties within the CFD.

Furthermore, Transportation will create a County-owned Special Revenue Account in which to deposit the \$1,500,000 from the CFD Special Reserve Account and direct the 85% tax increment revenue to be transferred into the Special Revenue Account to be used for purposes consistent with phase I of MC&FP.

ALTERNATIVES

The Board could choose not to repeal the existing Ordinances and leave the CFD in place; however, this would jeopardize the funding plan initiated from prior Board action.

PRIOR BOARD ACTION

See Discussion / Background section.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel

CAO RECOMMENDATION / COMMENTS

Approve as recommended.

FINANCIAL IMPACT

On September 26, 2023 (Item 27, Legistar 23-1379), the Board conceptually approved to repeal Ordinances 4785 and 4787 and dissolve the Missouri Flat CFD and allow Transportation to create a new County-owned Special Revenue Account for depositing the \$1,500,000 funds originally accrued as additional funding for the Diamond Springs Parkway Phase 1B Project (Project). This Project is

included in Transportation's 2023 Capital Improvement Program (CIP) as number 72334/36105011, which the Board approved on June 6, 2023 (Legistar 23-0851, Item 56). When the updated costs are factored into the current 2023 CIP budget for the Project, it shows MC&FP funding needs to be decreased by 7% for a total of approximately 36% and To Be Determined funding to increase by 4% for a total of approximately 17%. For FY 2023-24, there is approximately \$7,000,000 available in Tribe Fund reserves. The amount of interest that would accrue in the Tribe account without the use of these funds is approximately \$280,000, which is recommended to be paid by the MC&FP. Use of Tribe Funds would not impact any other current or planned projects; however, it would make a portion of these funds unavailable for projects that have not yet been identified for the five-year loan period.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will publish a Summary Ordinance in the appropriate local newspaper(s) following Board approval of the Final Passage (Second Reading) of the Ordinance.
- 2) The Clerk of the Board will obtain signatures on the Ordinance and transmit a copy of the Ordinance to Transportation Fairlane Engineering, Attn: Shanann Findley.
- 3) The Clerk of the Board will obtain signatures on the Notice of Cessation of Special Tax Lien and file with the Recorder's Office.

STRATEGIC PLAN COMPONENT

Infrastructure

CONTACT

Rafael Martinez, Director
Department of Transportation