

DATE: December 10, 2013

TO: Mayor and City Council Members

FROM: Jim Francis, Finance Director
Bruce C. Cline, City Attorney

SUBJECT: **RESOLUTION NO. 9285 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOLSOM, CALIFORNIA DECLARING ITS INTENT TO ESTABLISH CITY OF FOLSOM COMMUNITY FACILITIES DISTRICT NO. 2013-1 (WATER FACILITIES AND SUPPLY) PURSUANT TO THE CITY OF FOLSOM COMMUNITY FACILITIES FINANCING LAW AND TO LEVY A SPECIAL TAX IN CONNECTION THEREWITH**

BACKGROUND / ISSUE

The City of Folsom's annexation of the Folsom Planning Area ("FPA") was approved by LAFCO on January 18, 2012, which comprises 3,585 acres bounded by Highway 50, the Sacramento-El Dorado County line, White Rock Road, and Prairie City Road. Measure W adopted by the voters in 2004 requires that a water source be secured to serve the FPA and provides that the water supply not be paid for by Folsom residents north of Highway 50. On December 11, 2012, the City Council approved a Water Supply Agreement with certain FPA owners. The Water Supply agreement outlined, in detail, the source of water to be utilized in the FPA, including identifying a water supply, reimbursement of costs to make the water available and reimbursement of costs already incurred by the City for facilities and water conservation projects to make available the FPA Water Supply. The City filed a Validation Action to have the Superior Court for the County of Sacramento validate the City's action. On October 16 2013, the Court entered judgment in favor of the City validating the agreement.

On July 9 2013, the City Council adopted Ordinance No. 1179 establishing the City of Folsom Community Facilities Financing Law (Chapter 3.110 of the Folsom Municipal Code), which incorporates most provisions of the Mello-Roos Community Facilities Act of 1982 (Section 53311 et seq. of the California Government Code).

A consortium of property owners within the FPA ("Property Owner Group") requested the City conduct proceedings to consider the formation of Community Facilities District No. 2013-1 (Water Facilities and Supply) ("CFD No. 2013-1") under the recently adopted Chapter 3.110. The purpose of this formation would be to fund the purchase of the water supply and to repay a portion of the water facilities costs in the amount of \$1,798,125. A copy of the Petitions submitted are attached as Attachment 2. The petitions submitted far exceed the 10% of the property owners in the district as required by the Mello Roos statutes.

The City has retained the services of Mandell Municipal Counseling as special legal counsel and NBS as special tax consultant to provide assistance during the proceedings and have worked closely with the City Manager, the Finance Director, the City Attorney and the FPA owners group representatives. Tonight's action will initiate the formal proceedings to consider the formation of CFD No. 2013-1.

POLICY/RULE

The City Council may adopt a Resolution of Intention to form a Community Facilities District under Folsom Municipal Code Chapter 3.110 for purposes of funding the purchase of a water supply and repayment of costs.

Measure W was approved on November 2, 2004, and requires that the City identify and secure the source of water supply(ies) to serve the FPA. The FPA water supply cannot cause a reduction in the water supplies designated to serve existing water users north of Highway 50 and the FPA water supply will not be paid for by Folsom residents north of Highway 50. The formation of CFD No. 2013-1 will not cause a reduction in the water supply for water users north of Highway 50, and CFD No. 2013-1 will be paid for by the FPA owners and future Folsom residents south of Highway 50.

ANALYSIS

As referenced in the background section of this staff report, the FPA owners are required to pay for the cost of water to serve the FPA. All owners in the FPA are required to be served by Folsom water except approximately 171 acres known as Folsom Heights, which is in the El Dorado Irrigation District water service area. As set forth in the Water Supply agreement, the FPA owners must pay the full cost of the water supply and reimburse the City for costs it incurs or has incurred to make the FPA water supply available. These costs include Water Systems Optimization (\$2,298,125) and upgrade to the water treatment plant (\$13,392,000). The Water Supply Agreement required an initial payment by the FPA owners of \$500,000 on the Water System Optimization costs and the balance (\$1,798,125) in some other funding mechanism. The Water Supply Agreement required a funding mechanism for the water treatment plant upgrades. The FPA owners have petitioned the City to create this CFD to pay the \$1,798,125 of these charges. Other components related to water facilities costs will be addressed in the Financing Plan for the FPA.

The details of the calculation of CFD charges is outlined in the RATE, METHOD OF APPORTIONMENT, AND MANNER OF COLLECTION OF SPECIAL TAX to CFD No. 2013-1 (RMA), submitted as part of Attachment 1. The RMA provides for two components: water supply and water facilities (\$1,798,125).

The Water Supply component is an assessment to each property owner in the FPA based on the number of equivalent dwelling units (EDU's) assigned to each property owner. The owners have agreed to and the City concurs with the EDU numbers to be assigned to their properties.

Each owner of the property will be required to make all CFD payments to the City, until such time as a water meter is activated for a parcel. When a meter is activated on a dwelling or commercial property, the CFD assessment on that property terminates and the water rates will pay for that portion of the water supply. The CFD for the water supply is perpetual, until replaced by water metered rates. Staff is currently working with HDR to work on the water rate structure and it is envisioned that there will be a surcharge paid by water customers such as that currently paid by east area residents.

The water designated for the FPA is currently being sold to Golden State Water Company. The amount paid by Golden State Water offsets the majority of the cost of the water. Should water be sold on a temporary basis in the future, then any proceeds would offset the CFD costs to the FPA owners. As the Golden State water has an escalator each year, the escalator has also been built in to the RMA so the City or residents north of Highway 50 are never required to pay for this water.

The second component is an assessment to pay for the water facilities in the sum of \$1,798,125. The RMA is drafted to provide that this sum would be a ten (10) year assessment to be paid by each FPA owner. The sum due by each owner would be accelerated when that owner obtained a final map. This sum would therefore not ultimately be passed on to future home owners or commercial property owners.

The CFD has an administrative cost component so the City's costs to oversee the district, collect the assessments, and other tasks associated with the water are fully covered.

There is one resolution on tonight's agenda, which, if adopted, will accomplish the following:

The RESOLUTION OF INTENTION is the jurisdictional resolution declaring the intention of the City Council to authorize the formation of CFD No. 2013-1, to authorize the levy of a Special Tax, and to set the time and place for the public hearing on the proposed formation and Special Tax authorization.

Future Actions

The public hearing and consideration of the adoption of a resolution submitting the authorization for the levy of special taxes to the qualified electors are scheduled for the City Council meeting of **January 14, 2014, at 6:30 P.M.** It is expected that all FPA owners will sign waivers to forgo the election process. Assuming that is the case, the next actions of the City Council will be to hold the public hearing, authorize the levy and approve an ordinance (1st and 2nd Reading) for this CFD. The City Council has the sole discretion to continue with the CFD process until final approval.

FINANCIAL IMPACT

The Property Owner Group is responsible for all costs associated with the formation of CFD No. 2013-1. The City will recover the full cost of staff time expended on the CFD No. 2013-1

formation; thus there will be no fiscal impact for formation. The on-going administration will be funded entirely by CFD No. 2013-1; therefore there is no future year fiscal impact.

ENVIRONMENTAL REVIEW

This action is exempt from environmental review pursuant to CEQA Guidelines §15061(b)(3).

ATTACHMENTS

1. Resolution No. 9285 – A Resolution of the City Council of the City of Folsom, California Declaring its Intent to Establish City of Folsom Community Facilities District No. 2013-1 (Water Facilities and Supply) Pursuant to the City of Folsom Community Facilities Financing Law and to Levy a Special Tax in Connection Therewith
2. Petitions Submitted by Folsom Plan Area Property Owners


RECOMMENDATION / CITY COUNCIL ACTION

Staff recommends that the City Council Adopt Resolution No. 9285 – A Resolution of the City Council of the City of Folsom, California Declaring its Intent to Establish City of Folsom Community Facilities District No. 2013-1 (Water Facilities and Supply) Pursuant to the City of Folsom Community Facilities Financing Law and to Levy a Special Tax in Connection Therewith.

Submitted,



Jim Francis, Chief Financial Officer



Bruce C. Cline, City Attorney

Attachment 1

Resolution No. 9285 – A Resolution of the City Council of the City of Folsom, California Declaring its Intent to Establish City of Folsom Community Facilities District No. 2013-1 (Water Facilities and Supply) Pursuant to the City of Folsom Community Facilities Financing Law and to Levy a Special Tax in Connection Therewith