



# CITY OF CARSON

## Legislation Text

File #: 2018-158, Version: 1

### Report to Mayor and City Council

Tuesday, September 18, 2018

Discussion

#### SUBJECT:

**CONSIDER RESOLUTION NO. 18-083 DECLARING INTENTION TO ESTABLISH THE CITY OF CARSON COMMUNITY FACILITIES DISTRICT NO. 2018-01 (MAINTENANCE AND SERVICES) AND FUTURE VOLUNATARY ANNEXATION AREAS (CITY COUNCIL)**

#### I. SUMMARY

On August 7, 2018, the City entered into an agreement with NBS Government Finance Group ("NBS") for Community Facilities District(s) ("CFD") formation services. The proposed City-wide CFD will establish a mechanism for new multi-family residential with 5 or more units (Multi-Family Residential) and industrial projects to fund ongoing maintenance and services as may be required by their individual development agreements or conditions of approval. Existing developed properties will not be impacted. The annexation of individual projects to the City-wide CFD would be voluntary as one choice to mitigate the impacts of the development on municipal services.

The Mello-Roos Community Facilities Districts Act of 1982, as amended (Gov. Code § 53311 et seq.) (the "Act") provides that before initiating a CFD proceeding, the City must adopt a statement of local goals and policies concerning the CFDs. The City adopted policies on April 17, 2012, therefore satisfying this requirement. The proposed CFD, below, meets all requirements of the City's adopted local goals and policies.

In order to form the City of Carson Community Facilities District No. 2018-01 (Maintenance and Services) ("CFD NO. 2018-01") and establish the future annexation area, the City must take a series of actions including adopting the Resolution of Intention to Establish CFD No. 2018-01 and Future Annexation Area (Exhibits No. 2, 2a, and 2b), which Resolution of Intention authorizes the recordation of CFD No. 2018-01 Boundary Map (Exhibit No. 2c), and sets November 7, 2018 for a public hearing to consider formation of CFD No. 2018-01, and calling for a special election pursuant to the Act.

#### II. RECOMMENDATION

TAKE the following action:

1. ADOPT Resolution 18-083, Intention to Establish Community Facilities District No. 2018-01 (Maintenance and Services) and Future Annexation Area, directing staff to record the Boundary Map by October 3, 2018, and setting November 7, 2018 for a public hearing to consider formation of Community Facilities District No. 2018-01, and calling for a special election pursuant to the Mello-Roos Community Facilities Districts Act of 1982 (Government Code Section 53311 et seq.).

### **III. ALTERNATIVES**

TAKE any other action the City Council deems appropriate.

### **IV. BACKGROUND**

The Act establishes funding mechanisms for cities to form CFDs in order to pay for the provision of certain services. The levy of the annual special taxes on properties within the CFD is used to pay for City services.

One of the first steps in establishing a CFD is the adoption of local goals and policies in accordance to Section 53312.7(a) of the Government Code. Accordingly, the City adopted Land Secured Financing Policy (Exhibit 1) on April 17, 2012, which establishes written goals and policies concerning eligible public services and facilities for one or more future CFDs.

#### **Community Facilities District No. 2018-01 (Maintenance and Services)**

The purpose of CFD No. 2018-01 is to fund municipal services associated with new industrial and Multi-Family Residential developments. Unlike Development Impact Fees which provide initial infrastructure costs only, CFD No. 2018-01 is intended to pay for ongoing services. As permitted by the Act, CFD No. 2018-01 may provide one or more of the following eligible services to new projects (Exhibit 2a):

- Law enforcement services;
- Street sweeping / Sidewalk cleaning and maintenance;
- Maintenance of parks, parkways and open space;
- Maintenance of roadways;
- Flood and storm protection services; and
- Other eligible services permitted by the Act.

Based on the City's status as a low-property-tax City, new development exacerbates the current strain on the City's budget to provide services. The creation and levy of special taxes, upon voter approval, within CFD No. 2018-01 will help address current fiscal strains and ongoing budgetary deficits to better prepare the City for anticipated future high density growth by funding the additional services required as property develops or redevelops with

a more intense use. The initial formation of CFD No. 2018-01 includes the property located at 17706 S. Main Street (APN: 7339-002-003) ("Property") with JJ.ER LLC (CalPak) (see page 28 and 29).

The owner(s) of the Property have filed a petition (including waivers shortening the election noticing period) with the City Clerk's Office to have the Property included within the boundaries of the proposed CFD No. 2018-01 for purposes of levying special taxes to finance the supplemental services associated with the new development. The Property will be subjected to the tax assessments based on the respective tax zones. As the sole initial Property, JJ.ER LLC will be subject to Tax Zone No. 1 under the Rate and Method of Apportionment. The basis for the Tax Zone No. 1 special tax rates was previously established through two separate agreements (described below) with JJ.ER LLC and are incorporated in the Rate and Method of Apportionment of Special Tax (Exhibit 2b).

In consideration of future projects, the Act also allows for an alternate and independent procedure for forming a CFD whereby the CFD establishes territory proposed for annexation in the future. In particular, CFD No. 2018-01 will establish a city-wide Future Annexation Area for all properties located in the City (Exhibit No. 2c). Annexation into CFD No. 2018-01 will be one of several available mandatory financing options for all new Multi-Family Residential and industrial projects to pay for services provided by or paid by the City related to the development.

The tax zones and assessment amounts for future projects will be evaluated on a case-by-case basis based on the actual costs of providing additional and supplemental services for the project. In other words, if a property is subject to CFD annexation, the City will have discretionary powers to charge a developer (per project basis) the amount it determines to be appropriate for services provided. NBS is currently preparing a Fiscal Impact Analysis to create a general base rate on a per acre basis for industrial uses and a per unit basis for residential uses. However, each time a project is proposed to be annexed into this CFD No. 2018-01, as part of NBS's scope of work, a separate tax zone will be established to set a special tax rate that is commensurate with the costs related to that tax zone. The actual costs may be higher or lower than the base rate recommended by the Fiscal Impact Analysis report. If NBS finds a project to have higher (or lower) costs of service compared to the base CFD rate, then the City is able to charge the project the higher (or lower) rate.

#### Initial Formation via Existing Agreements

The City entered into the following agreements with JJ.ER LLC: (1) Development Impact Fees and Community Facilities District Participation Agreement and (2) Reimbursement Agreement.

JJ.ER, LLC initially proposed the construction of a 102,000 sq. ft. industrial building, however, their development was subject to a City moratorium concerning the establishment, expansion, or modification of logistics facilities (Interim Urgency Ordinance No. 17-1615U, extended by Interim Urgency Ordinance Nos. 17-1618U and 18-1805U, collectively, the "Moratorium"). JJ.ER, LLC filed a request for an exception to the Moratorium on May 30, 2017. On June 20, 2017, the City Council approved the exception to the Moratorium provided that JJ.ER, LLC participate in one or more future CFD's to pay

for ongoing costs associated with the project. JJ.ER, LLC agreed to participate in one or more future CFD's to pay for ongoing costs associated with the project. These costs amount to \$9,189.21 annually, and include landscape maintenance, street sweeping and sidewalk cleaning maintenance, street maintenance, and law enforcement services. The petition (including waivers shortening the election noticing period) from JJ.ER, LLC (Exhibit No. 3) memorializes their commitment.

#### Future developments subject to CFD No. 2018-01

Industrial and Multi-Family Residential developments subject to the City's project approval authority will be specifically conditioned to fund certain maintenance items and services. One option for funding those obligations will be annexation into CFD No. 2018-01. It is currently anticipated that up to 10 projects per fiscal year will be annexed to CFD No. 2018-01. The annexation is effected by the unanimous approval of the landowner(s) of the parcel(s) within the territory and subject to the special tax. Although annexation to CFD No. 2018-1 is the preferred option to fund ongoing maintenance and service obligations, staff recommends that the City provide applicants of future Multi-Family Residential and industrial developments with additional option(s) to satisfy their development's potential impact on the City. These options may include: (1) requiring a maintenance covenant for the life of the project that would run with the land, and/or (2) requiring an up-front lump-sum payment for services that would reasonably cover the costs of those services provided by CFD No. 2018-01. The City will continue to consult with NBS to best determine the options available depending on the analysis of the future project and the projects' impacts.

#### Formation Process and Next Steps

Subject and subsequent to tonight's actions, the City Council will be asked to consider the following legislative steps:

##### *Tonight's action:*

- 1) Adopt Resolution 18-083 - Intention to Establish Community Facilities District No. 2018-01 (Maintenance and Services) and Future Annexation Area.** Adoption of this resolution: (1) authorizes staff to record the Boundary Map by October 3, 2018, and (2) sets November 7, 2018 as the date for the public hearing for the Council to consider items identified for steps 2 to 5 below in sequential order.

*At the November 7, 2018 Public Hearing, the Council will be asked to consider and take action on the following:*

- 2) Adopt the Resolution of Formation.** This resolution: (a) incorporates the JJ.ER, LLC Property in the initial boundaries of CFD No. 2018-01; (b) establishes the Future Annexation Area, without additional hearing, as prescribed by the Act; and (c) identifies the types of public services financed under CFD No. 2018-01.
- 3) Adopt the Resolution Calling for the Election for CFD No. 2018-01.** After adopting the above Resolution of Formation, the City Clerk will open the ballots and state the results of the special mailed-ballot election, in accordance with the Act and all applicable provisions of the Elections Code. The only voters in this election will be the

property owner(s) of the subject Property.

**4) Adopt the Resolution Declaring the Results of the Election for CFD No. 2018-01.**

Next, the City Clerk will confirm the results of elections. If the results of the election affirm the formation of CFD No. 2018-01 and the Resolution Declaring the Results of the Election is adopted, the City Council would then:

**5) Introduce Reading of Ordinance Levying Special Tax within CFD No. 2018-01.**

This Ordinance authorizes the levy of a special tax on the Property (JJ.ER, LLC) on the secured property tax roll of Los Angeles County that is within the boundaries of CFD No. 2018-01.

*On November 20, 2018 and/or after:*

**6) Second Reading of Ordinance Levying Special Tax within CFD No. 2018-01.**

The Ordinance is published the day after the second reading and is effective thirty days after adoption.

## **V. FISCAL IMPACT**

There is no immediate fiscal impact as a result of these actions. The aforementioned agreements with JJ.ER, LLC as well as other existing and upcoming agreements with Multi-Family Residential and industrial developers will cover the entire costs of forming CFD No. 2018-01, including staff time and consultant services. CFD No. 2018-01 will be fiscally self-sustaining. Ongoing administration fees will be paid by owners of properties annexed into CFD No. 2018-01 through the levy of annual special taxes. Future annexation costs will be offset by future developer fees.

Properties within CFD No. 2018-01 are subject to the Annual Special Tax Requirement. This amount is determined by the City to pay for (1) the Administrative Expenses, (2) the Annual Services Costs for each Tax Zone, (3) any amount required to establish or replenish any reserve or replacement fund established in connection with the District, and (4) reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

Additionally, per the Rate and Method of Apportionment, special taxes are levied at the time the property is classified as Developed Property, defined as the issuance of building permit for new construction by the City prior to June 1 of the preceding Fiscal Year. If a building permit has been issued after June 1 of the preceding Fiscal Year, the City may directly bill to meet the Annual Special Tax Requirement, as prorated based on the date the building permit is issued and the end of the Fiscal Year.

The formation of CFD No. 2018-01 will ultimately have future fiscal neutral impacts of increased revenues and expenses. JJ.ER LLC will increase City revenues and expenses by approximately \$9,189.21 annually. Increased revenues and expenses will be accounted for in a separate restricted fund.

At the proposed November 7, 2018 public hearing where Council will be asked to consider adoption of the Resolution of Formation, NBS's Fiscal Impact Analysis report will be

included to provide further details about the increased revenues and expenses to the City. This report will provide a base dollar amount for future projects subject to CFD No. 2018-01 (Maintenance and Services) on a per acre basis for industrial uses and a per unit basis for residential uses.

## **VI. EXHIBITS**

1. City of Carson City Council Policy on Land Secured Financing, adopted April 17, 2012 (pgs. 7-17)
2. Resolution No. 18-083 - Intention to Establish Community Facilities District No. 2018-01 (pgs. 18-23)
  - 2a. Exhibit A - Description of Services (pg. 24-25)
  - 2b. Exhibit B - Rate and Method of Apportionment of Special Tax (pgs. 26-32)
  - 2c. Exhibit C - CFD No. 2018-01 - Boundary Map(s) (pgs. 33-35)
3. Petition / Unanimous Waiver Form (JJ. ER LLC) - 17706 S. Main Street (pgs. 36-39)

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