



AGENDA ITEM NO. 1F
 COUNCIL MEETING 10/3/13
 APPROVED BY

[Signature]

DEPARTMENT DIRECTOR

CITY MANAGER

[Signature]

September 26, 2013

FROM: PATRICK N. WIEMILLER, Director
 Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
 Public Works Department, Traffic and Engineering Services Division *[Signature]*

AL
 ANN LILLIE, Senior Engineering Technician
 Public Works Department, Traffic and Engineering Services Division

SUBJECT: ADOPT ORDINANCE TO DISSOLVE COMMUNITY FACILITIES DISTRICT NO. 2005-1 (VESTING TRACT MAP NO. 5350/RUNNING HORSE) AND THE LEVY OF THE SPECIAL TAX AND ORDERING THE RECORDATION OF AN ADDENDUM TO THE NOTICE OF SPECIAL TAX LIEN (COUNCIL DISTRICT 3) (PROPERTY BOUNDED BY WEST WHITES BRIDGE AVENUE, SOUTH HUGHES AVENUE, WEST CHURCH AVENUE AND SOUTH MARKS AVENUE)

RECOMMENDATION

Adopt Ordinance to Dissolve Community Facilities District No. 2005-1 (Vesting Tract Map No. 5350/Running Horse) and the Levy of a Special Tax, Order the Recordation of an Addendum to the Notice of Special Tax Lien, and Direct the City to Refund the Remaining Deposit to Running Horse LLC upon Dissolution of CFD No. 2005-1.

EXECUTIVE SUMMARY

On May 20, 2005, Running Horse LLC petitioned the Council of the City of Fresno ("Council") to form Community Facilities District No. 2005-1 ("CFD No. 2005-1"), Vesting Tract Map No. 5350 (Running Horse), for the purpose of issuing and selling special tax bonds to finance the cost and expense of acquiring, constructing and installing certain public improvements and certain development fees. In accordance with the City of Fresno ("City") policy and the Deposit and Reimbursement Agreement, Running Horse LLC deposited funds to cover expenses incurred by the City to initiate and conduct the proceedings to form CFD No. 2005-1. On June 21, 2005, Council adopted the Resolutions 2005-223 thru 227, and set the noticed public hearing for July 26, 2005. At the noticed public hearing Council adopted Resolutions 2005-336 thru 339 approving the formation of CFD No. 2005-1, authorizing the levy of a special tax, preliminarily establishing an appropriations limit, and deeming it necessary to incur indebtedness. To this date no action has been taken by Council on the issuance and sale of bonds.

The Council may abandon the proceedings for the issuance and sale of the special tax bonds and dissolve CFD No. 2005-1 based on the following: (1) special tax bonds have not been issued or sold, (2) CFD No. 2005-1 is not obligated to pay any outstanding debt, and (3) CFD No. 2005-1 has no authorization to levy any special tax.

Presented to City Council

Date 9/26/13Disposition Approved
Bill No. B-30 intro.
laid over

The City Clerk, or designee, shall cause to be recorded an addendum to the Notice of Special Tax Lien in the office of the County Recorder of the County of Fresno dissolving CFD No. 2005-1 and the Levy of the Special Tax.

The City shall refund any remaining funds of the deposit to Running Horse LLC upon dissolution of CFD 2005-1.

BACKGROUND

On May 20, 2005, Running Horse LLC petitioned the Council of the City of Fresno ("Council") to form Community Facilities District No. 2005-1 ("CFD No. 2005-1"), Vesting Tract Map No. 5350 (Running Horse), for the purpose of issuing and selling special tax bonds to finance the cost and expense of acquiring, constructing and installing certain public improvements and certain development fees associated with the proposed three phase residential development, surrounding an 18-hole championship golf course. In accordance with the City of Fresno ("City") policy and the Deposit and Reimbursement Agreement, Running Horse LLC deposited funds to cover expenses incurred by the City to initiate and conduct the proceedings to form CFD No. 2005-1. On June 21, 2005, Council adopted the Resolutions 2005-223 thru 227, and set the noticed public hearing for July 26, 2005. At the noticed public hearing Council adopted Resolutions 2005-336 thru 339 approving the formation of CFD No. 2005-1, authorizing the levy of a special tax, preliminarily establishing an appropriations limit, and deeming it necessary to incur indebtedness. At that time Council did not take any action on the issuance and sale of bonds and not taken any action since. The Council may abandon the proceedings for the issuance and sale of the special tax bonds and dissolve CFD No. 2005-1 based on the following: (1) special tax bonds have not been issued or sold, (2) CFD No. 2005-1 is not obligated to pay any outstanding debt, and (3) CFD No. 2005-1 has no authorization to levy any special tax.

If adopted by the Council, the attached ordinance would dissolve Community Facilities District No. 2005-1 and the levy of a special tax, direct the City Clerk, or designee, to Notice the Ordinance dissolving CFD No. 2005-1 and cause to be recorded an addendum to the Notice of Special Tax Lien, Document No. 2006-0008358, in the office of the County Recorder of the County of Fresno dissolving CFD No. 2005-1 and the levy of the special tax. The City shall refund any remaining funds, which have not been spent and which are not held to cover future payments for which the City is obligated, to Running Horse LLC pursuant the Deposit and Reimbursement Agreement, a copy of which is on file in the City Clerk's Office, upon dissolution effective date.

The attached ordinance has been approved as to form by the City Attorney's Office.

FISCAL IMPACT

All costs have and will be borne by the appropriations allocated for the proceedings to form Community Facilities District No. 2005-1. No City funds have or are to be used.

Attachments: Location Map
 Ordinance

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BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, DISSOLVING COMMUNITY FACILITIES
DISTRICT NO. 2005-1 (RUNNING HORSE) AND
ORDERING THE RECORDATION OF AN ADDENDUM TO
THE NOTICE OF SPECIAL TAX LIEN RELATING TO
COMMUNITY FACILITIES DISTRICT NO. 2005-1

WHEREAS, on May 20, 2005, Running Horse LLC, the developer of Vesting Tentative Tract Map No. 5350, petitioned the Council of the City of Fresno ("Council") to initiate and conduct proceedings to form Community Facilities District No. 2005-1 (Running Horse) ("CFD No. 2005-1") for the purpose of issuing and selling special tax bonds to finance the cost and expense of acquiring, constructing and installing certain public improvements and certain development fees associated with the proposed three phase residential development, surrounding an 18-hole championship golf course, located in the general area bounded by West Whites Bridge Avenue, South Hughes Avenue, West Church Avenue and South Marks Avenue, pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, commencing with Section 53311 of the California Government Code; and

WHEREAS, on June 7, 2005, in accordance to City of Fresno ("City") policy, Running Horse LLC deposited funds to cover expenses incurred by the City to initiate and conduct the proceedings to form CFD No. 2005-1; and

WHEREAS, on June 21, 2005, Council adopted resolutions (1) approving the Deposit and Reimbursement Agreement, accepting the petition and determining to initiate and conduct the proceedings , (2) approving the CFD 2005-1 Map Boundaries, (3) of the intent to form CFD No. 2005-1, authorize the levy of a special tax and issuance of special tax bonds, and set the noticed public hearing, (4) declaring the

1 of 4

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: ESB

Ordinance No.

intent to incur bonded indebtedness, and (5) approving the 85th Amendment to the Annual Appropriations Resolution 2004-209; and

WHEREAS, on July 26, 2005, Council held a noticed public hearing and approved the resolutions forming CFD No. 2005-1, authorizing the levy of the special tax, preliminarily establishing an appropriations limit, deeming it necessary to incur indebtedness, calling the special mailed-ballot election and declaring the results; and

WHEREAS, it was noted ON July 26, 2005 at the public hearing that the Council would not take any action on the issuance and sale of bonds at that time; and

WHEREAS, on September 16, 2005, the Notice of Special Tax Lien for CFD No. 2005-1 was recorded in the office of the County Recorder of the County of Fresno as Document No. 2005-0217135; and

WHEREAS, on September 26, 2013, the Council abandons the initiation of proceedings for the issuance and sale of the special tax bonds and dissolves CFD No. 2005-1 based upon the findings that CFD No. 2005-1 is not obligated to pay any outstanding debt and is not authorized to levy any special tax pursuant to the Section 53338.5 of the California Government Code; and

WHEREAS, any monetary amounts deposited by Running Horse LLC, which have not been spent and which are not held to cover future payments for which the City is obligated will be returned to Running Horse LLC.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

1. The name of the District to be dissolved is "Community Facilities District No. 2005-1 (Vesting Tract Map No. 5350/Running Horse), City of Fresno, County of Fresno, State of California and is referred in this Ordinance as "CFD No. 2005-1".

2. The Council Dissolves CFD No. 2005-1 and the Levy of the Special Tax, pursuant Section 53338.5 of the California Government Code, based on the following determinations:

- i. There have been no special tax bonds issued or sold for CFD No. 2005-1.
- ii. CFD No. 2005-1 is not obligated to pay any outstanding debt.

iii. CFD No. 2005-1 has no authorization to levy any special tax.

3. The City Clerk or designee is hereby authorized and directed to notice the ordinance dissolving CFD No. 14 and the levy of the special tax in a newspaper of general circulation in the area of CFD No. 14 within 15 days after adoption.

4. The City Clerk, or designee, shall record an addendum to the Notice of Special Lien, Document 2005-0008358, in the Office of the County Recorder of the County of Fresno dissolving CFD No. 14 and the levy of the special tax pursuant Sections 53338.5 and 3114.5 of the California Government Code.

5. The City shall refund any remaining deposit to Running Horse LLC once all costs relating to CFD No. 2005-1 are incurred.

6. This Ordinance shall become effective thirty (30) days from and after the date of final passage pursuant to the City Charter, Article VI, Section 610.

7. The City shall be liable for any existing outstanding debt discovered after the dissolution of CFD No. 2005-1 becomes effective.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2013.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2013
Mayor Approval/No Return: _____, 2013
Mayor Veto: _____, 2013
Council Override Vote: _____, 2013

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Raj Singh Badhesha, Deputy