


DATE SUBMITTED 10/31/18
 SUBMITTED BY COMMUNITY DEVELOPMENT DIRECTOR
 DATE ACTION REQUIRED 11/7/18

COUNCIL ACTION (X)
 PUBLIC HEARING REQUIRED (X)
 RESOLUTION (X)
 ORDINANCE 1ST READING ()
 ORDINANCE 2ND READING ()
 CITY CLERK'S INITIALS SO

**IMPERIAL CITY COUNCIL
 AGENDA ITEM**

<p>SUBJECT: PUBLIC HEARING/DISCUSSION/ACTION: ADOPTING AN AMENDMENT TO THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND CERTIFYING THE RESULTS OF THE NOVEMBER 7, 2018 SPECIAL ELECTION FOR IMPROVEMENT AREA NO. 2 MONTERREY PARK</p> <p style="margin-left: 40px;">1. APPROVAL OF RESOLUTION TO AMEND THE RATE METHOD</p> <p style="margin-left: 40px;">2. APPROVAL OF RESOLUTION CERTIFYING THE RESULTS OF THE NOVEMBER 7, 2018 SPECIAL ELECTION</p>	
<p>DEPARTMENT INVOLVED: COMMUNITY DEVELOPMENT/FINANCE</p>	
<p>BACKGROUND/SUMMARY:</p> <p>The City of Imperial has received a petition by Jupiter Ventures I, LP, a California limited partnership (the "Owner"), which owns all of the taxable land within Improvement Area No. 2, requesting that the City initiate proceedings to approve an amended rate and method of apportionment for Improvement Area No. 2 to exclude the special tax for Improvements.</p> <p>Please see attachments.</p>	
<p>FISCAL IMPACT:</p>	<p>ADMIN SERVICES SIGN INITIALS _____</p>
<p>STAFF RECOMMENDATION: Council conduct the Public Hearing and call a special landowner election and to approve the two resolutions.</p>	<p>DEPT. INITIALS _____</p>
<p>MANAGER'S RECOMMENDATION:</p>	<p>CITY MANAGER'S INITIALS <u></u></p>
<p>MOTION:</p> <p>SECONDED: APPROVED () REJECTED () AYES: DISAPPROVED () DEFERRED () NAYES: ABSENT: REFERRED TO:</p>	

NOTICE OF PUBLIC HEARING ON INTENTION TO APPROVE A FIRST AMENDED AND RESTATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR IMPROVEMENT AREA NO. 2 OF CITY OF IMPERIAL COMMUNITY FACILITIES DISTRICT NO. 2006-1 (MONTERREY PARK)

NOTICE IS HEREBY GIVEN that on October 3, 2018, the City Council (the “City Council”) of the City of Imperial (the “City Council”) adopted its Resolution No. 2018-60 (the “Resolution of Intention”), declaring its intention to approve a First Amended and Restated Rate and Method of Apportionment of Special Tax (the “First Amended Rate and Method”) for Improvement Area No. 2 (“Improvement Area No. 2”) of City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) (“CFD No. 2006-1” or the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”).

Capitalized terms that are not otherwise defined herein shall have the respective meanings ascribed to them in the Resolution of Intention and the exhibits thereto.

The Resolution of Intention specifies the First Amended Rate and Method. The proposed First Amended Rate and Method eliminates the special tax requirement for facilities, but continues the Special Tax Requirement for Services at the rates set forth in the original Rate and Method of Apportionment for Improvement Area No. 2, which includes a Maximum Special Tax for Services within Improvement Area No. 2 for Developed Property to be \$159.35 per unit and \$637.42 per acre for Undeveloped Property.

To satisfy the Special Tax Requirement, the Board shall first levy the Special Tax proportionately on each Parcel of Developed Property at up to 100% of the applicable Assigned Special Tax as needed. If additional moneys are needed to satisfy the Special Tax Requirement for Services, the Special Tax shall be levied proportionately on each parcel of Undeveloped Property at up to 100% of the Maximum Special Tax for Undeveloped Property, at up to 100% of the Maximum Special Tax for Services.

The foregoing is only a summary of the Resolution of Intention which is on file with the City Clerk. The full text of the Resolution of Intention should be referred to by any interested party for greater detail.

PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING WILL BE HELD ON NOVEMBER 7, 2018, AT THE HOUR OF 6:30 P.M., OR AS SOON THEREAFTER AS SUCH MATTER CAN BE HEARD, AT A REGULAR MEETING OF THE CITY COUNCIL TO BE HELD IN THE CITY COUNCIL MEETING ROOM LOCATED AT 420 SOUTH IMPERIAL AVENUE, IMPERIAL, CALIFORNIA 92251, AT WHICH TIME THE CITY COUNCIL WILL HEAR ALL EVIDENCE AND TESTIMONY BY ALL INTERESTED PERSONS, PROPERTY OWNERS, VOTERS AND TAXPAYERS FOR OR AGAINST (1) THE APPROVAL OF THE FIRST AMENDED RATE AND METHOD AND (2) ANY OTHER MATTERS AS SET FORTH IN THE RESOLUTION OF INTENTION.

ALL PERSONS INTERESTED, INCLUDING PROPERTY OWNERS, TAXPAYERS AND REGISTERED VOTERS, MAY APPEAR AT THE HEARING AND PRESENT EVIDENCE AND TESTIMONY ORALLY OR IN WRITING FOR OR AGAINST ITEMS (1) AND (2) ABOVE. EACH INDIVIDUAL WISHING TO SPEAK WILL BE LIMITED TO A THREE MINUTE ORAL PRESENTATION. ANY PROTEST PERTAINING TO THE REGULARITY OR SUFFICIENCY OF THE PROCEEDINGS RELATING TO THE PROPOSED ISSUES DESCRIBED IN ITEMS (1) AND (2) ABOVE MUST BE IN WRITING AND SHALL CLEARLY STATE THE IRREGULARITIES OR DEFECTS TO WHICH OBJECTION IS MADE, AND SHALL BE FILED WITH THE CITY CLERK ON OR BEFORE THE TIME SET FOR THE HEARING. IF THE OWNERS OF ONE-HALF (1/2) OR MORE OF THE AREA OF LAND WITHIN IMPROVEMENT AREA NO. 2 AND NOT EXEMPT FROM THE SPECIAL TAX FILE WRITTEN PROTESTS AGAINST ANY OF ITEMS (1) AND (2) ABOVE, AND PROTESTS ARE NOT WITHDRAWN SO AS TO REDUCE THE VALUE OF THE PROTESTS TO LESS THAN A MAJORITY, THE CITY COUNCIL SHALL ABANDON THAT PORTION OF THE PROCEEDINGS PERTAINING TO SUCH ITEM(S) AND NO FURTHER PROCEEDINGS WITH RESPECT TO SUCH ITEM(S) SHALL BE TAKEN FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE DETERMINATION BY THE CITY COUNCIL. THE CITY COUNCIL MAY MODIFY THE PROCEEDINGS IF SUCH MAJORITY PROTESTS ARE ONLY AGAINST A SPECIFIED ISSUE.

UNDER THE ACT, THE CITY COUNCIL MAY EITHER CONCLUDE THE PUBLIC HEARING ON NOVEMBER 7, 2018 OR MAY CONTINUE THE PUBLIC HEARING TO A LATER DATE IF THE COMPLEXITY OF THE PROPOSED CHANGES OR THE NEED FOR PUBLIC PARTICIPATION REQUIRES ADDITIONAL TIME. IF THE CITY COUNCIL DETERMINES TO SUBMIT THE QUESTION OF THE APPROVAL OF THE FIRST AMENDED RATE AND METHOD, AN ELECTION WILL BE HELD WITHIN IMPROVEMENT AREA NO. 2 TO APPROVE THE FIRST AMENDED RATE AND METHOD. AT SUCH AN ELECTION, EACH LANDOWNER WITHIN IMPROVEMENT AREA NO. 2 SHALL BE ENTITLED TO CAST ONE VOTE FOR EACH ACRE OR PORTION THEREOF OWNED WITHIN IMPROVEMENT AREA NO. 2. FOR THE PROPOSITION TO BE ADOPTED, TWO-THIRDS OF THE VOTES CAST ON THE PROPOSITION AT THE ELECTION MUST FAVOR PASSAGE.

INQUIRIES

The full text of the Resolution of Intention, which includes the proposed First Amended Rate and Method may be obtained from the person specified below.

For any questions relating to the proceedings, or any particulars, please contact the following designated person:

Mr. Othon Mora, MCM, CBO
Community Development Director
City of Imperial
400 South Imperial Avenue, Suite A
Imperial, California 92251
(760) 355-1152

DATED: October __, 2018

Debra Jackson
CITY CLERK OF THE CITY OF IMPERIAL

RESOLUTION NO. 2018-62

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
IMPERIAL, ACTING AS THE LEGISLATIVE BODY OF
COMMUNITY FACILITIES DISTRICT NO. 2006-1
(MONTERREY PARK) OF THE CITY OF IMPERIAL,
APPROVING AN AMENDED RATE AND METHOD OF
APPORTIONMENT FOR IMPROVEMENT AREA NO. 2
THEREIN AND CALLING AN ELECTION THEREIN**

WHEREAS, on February 1, 2006, the City Council of the City of Imperial (the “City Council”) adopted Resolution No. 2006-03 stating its intention to (i) form the City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) (“Community Facilities District No. 2006-1” or the “District”), and Improvement Area Nos. 1 and 2 (the “Improvement Areas”) therein, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the “Act”) and (ii) to incur bonded indebtedness within the District in the amount not to exceed \$23,000,000 to finance the facilities and improvements identified therein (collectively, the “Improvements”) and the incidental expenses to be incurred in financing the Improvements and forming and administering the District and the Improvement Areas therein (the “Incidental Expenses”); and

WHEREAS, the Resolution of Intention also called a public hearing for March 15, 2006 on the formation of the District and the Improvement Areas therein and the incurrence of bonded indebtedness thereby; and

WHEREAS, a notice calling a public hearing on March 15, 2006 was published as required by law relative to the intention of the City Council to establish the District and the Improvement Areas therein and to incur bonded indebtedness within the District and the Improvement Areas therein; and

WHEREAS, on March 15, 2006, the City Council conducted a noticed public hearing to determine whether it should proceed with the establishment of the District and the Improvement Areas therein, issue bonds by the District on behalf of each Improvement Area to pay for the Improvements and Incidental Expenses and authorize a rate and method of apportionment of a special tax for each Improvement Area (each a “Rate and Method”) to be levied within each Improvement Area for the purposes described in the Resolution of Intention; and

WHEREAS, at the March 15, 2006 public hearing, all persons desiring to be heard on all matters pertaining to the establishment of the District and the Improvement Areas therein, the levy of special taxes in accordance with each Rate and Method and the issuance of bonds within the District on behalf of each Improvement Area to pay for the cost of the proposed Improvements and Incidental Expenses were heard and a full and fair hearing was held; and

WHEREAS, after the March 15, 2006 public hearing, the City Council called a special election within the District and the Improvement Areas therein relating to the levying of a special tax within each Improvement Area and the incurring of bonded indebtedness by the District on behalf of

each Improvement Area, which were approved by more than two-thirds vote by the qualified electors on March 15, 2006; and

WHEREAS, on April 5, 2006, the City Council adopted Ordinance No. 716 (the “Ordinance of Formation”) which formed the District and the Improvement Areas therein, authorized the levying of a special tax within each Improvement Area in accordance with the Rate and Method applicable to such Improvement Area, and authorized bonded indebtedness to be issued by the District on behalf of each Improvement Area in an aggregate principal amount not to exceed \$23,000,000; and

WHEREAS, in 2007, the District issued its City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) (Improvement Area No. 1) 2007 Special Tax Bonds in the aggregate principal amount of \$10,620,000 (the “2007 Bonds”), which were refunded by the District’s City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) (Improvement Area No. 1) Special Tax Refunding Bonds, Series 2016A, issued in the aggregate principal amount of \$7,370,000 (the “2016 Bonds”); and

WHEREAS, no bonds have been issued by the District secured by special taxes within Improvement Area No. 2; and

WHEREAS, the District has received a petition signed by Jupiter Ventures I, LP, a California limited partnership (the “Owner”), which owns all of the taxable land within Improvement Area No. 2, which petition meets the requirements of Section 53332 of the Act, requesting that the District initiate proceedings to approve an amended and restated rate and method of apportionment for Improvement Area No. 2 to exclude the special tax for Improvements.

WHEREAS, on October 3, 2018, the City Council, acting as the legislative body of Community Facilities District No. 2006-1, adopted Resolution No. 2018-60, stating its intention to consider the approval of the first amended and restated rate and method for Community Facilities District No. 2006-1 attached as Attachment “A” to Resolution No. 2018-60 (the “First Amended Rate and Method”); and

WHEREAS, a notice calling a public hearing on November 7, 2018 was published as required by law relative to the intention of the City Council to consider the approval the First Amended Rate and Method; and

WHEREAS, on November 7, 2018, this City Council conducted a noticed public hearing to determine whether it should proceed with the approval of the First Amended Rate and Method; and

WHEREAS, at the November 7, 2018 public hearing all persons desiring to be heard on all matters pertaining to the approval of the First Amended and Rate and Method were heard and a full and fair hearing was held; and

WHEREAS, the City Council has determined that there have been fewer than twelve registered voters residing in Improvement Area No. 2 for the period of 90 days prior to November 7, 2018 and that the qualified electors in Improvement Area No. 2 are the landowners within Improvement Area No. 2; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the approval of the First Amended and Rate and Method.

NOW, THEREFORE, the City Council, acting in its capacity as the legislative body of the District, does hereby resolve, determine and order as follows:

1. Each of the above recitals is true and correct.
2. The City Council hereby adopts the First Amended Rate and Method attached as Attachment "A" to Resolution No. 2018-60 as the rate and method for Improvement Area No. 2 of Community Facilities District No. 2006-1. Except where funds are otherwise available, it is the intention of the City Council, subject to the approval of the eligible voters within Improvement Area No. 2, to levy the proposed special taxes at the rates for Improvement Area No. 2 set forth in Attachment "A" to Resolution No. 2018-60 on all non-exempt property within Improvement Area No. 2. The First Amended Rate and Method is described in detail in Attachment "A" to Resolution No. 2018-60 which is incorporated herein by this reference, and the City Council hereby finds that Attachment "A" to Resolution No. 2018-60 contains sufficient detail to allow each landowner within Improvement Area No. 2 to estimate the maximum amount that may be levied against each parcel. The special tax shall be levied on each assessor's parcel for as long as it is needed to meet the Special Tax Requirement for Services (as defined in the First Amended Rate and Method), as determined at the sole discretion of the City Council.
3. Written protests against the approval of the First Amended Rate and Method have not been filed by one-half or more of the registered voters within the boundaries of Improvement Area No. 2 or by the property owners of one-half or more of the area of land within the boundaries of Improvement Area No. 2. The City Council hereby finds that the approval of the First Amended Rate and Method has not been precluded by a majority protest pursuant to Section 53337 of the Act.
4. An election is hereby called within Improvement Area No. 2 on the proposition of approving the First Amended Rate and Method. The proposition to be placed on the ballot for Improvement Area No. 2 is attached hereto as Attachment "A." Following certification of a landowner vote in favor of the adoption of the First Amended Rate and Method, the District shall record an amended and restated notice of special tax lien for Improvement Area No. 2.
5. The date of the foregoing election within Improvement Area No. 2 shall be November 7, 2018, or such later date as is consented to by the City Clerk and the landowners within Improvement Area No. 2. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the election shall be conducted in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.
6. It is hereby found that there are not more than twelve registered voters within the territory of Improvement Area No. 2, and, pursuant to Section 53326 of the Act, each landowner who is the owner of record on the date hereof, or the authorized representative thereof, shall have one vote for each acre or portion thereof that he or she owns within Improvement Area No. 2.

7. This Resolution shall be effective upon its adoption.

The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED and ADOPTED this 7th day of November, 2018.

Geoff Dale, Mayor

ATTEST:

Debra Jackson, City Clerk

ATTACHMENT “A”

SAMPLE

BALLOT

**COMMUNITY FACILITIES DISTRICT NO. 2006-1 (MONTERREY PARK)
OF THE CITY OF IMPERIAL**

SPECIAL ELECTION

November 7, 2018

This ballot represents ___ votes.

To vote, write or stamp a cross (“+” or “X”) in the voting square after the word “YES” or after the word “NO”. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Imperial and obtain another.

PROPOSITION A: Shall a special tax as set forth in the first amended and restated rate and method of apportionment as provided in Attachment “A” to Resolution No. 2018-60 of the City Council of the City of Imperial for Improvement Area No. 2 of the City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) be levied to pay for the Services for Improvement Area No. 2 of Community Facilities District No. 2006-1?

YES_____

NO_____

RESOLUTION NO. 2018-63

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF IMPERIAL, ACTING IN ITS CAPACITY AS
THE LEGISLATIVE BODY OF CITY OF IMPERIAL
COMMUNITY FACILITIES DISTRICT NO. 2006-1
(MONTERREY PARK) AND IMPROVEMENT AREA
NO. 2 THEREIN, CERTIFYING THE RESULTS OF
THE NOVEMBER 7, 2018 SPECIAL ELECTION**

WHEREAS, the City Council of the City of Imperial (the "City Council"), acting as the legislative body of City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) (the "District"), called and duly held an election on November 7, 2018 within the boundaries of Improvement Area No. 2 of the District ("Improvement Area No. 2") pursuant to Resolution No. 2018-62 for the purpose of presenting to the qualified electors within Improvement Area No. 2 the proposition attached hereto as Attachment "A"; and

WHEREAS, there has been presented to the City Council a certificate of the City Clerk canvassing the results of the election, a copy of which is attached hereto as Attachment "B";

NOW, THEREFORE, the City Council, acting in its capacity as the legislative body of the District, does hereby resolve, determine and order as follows:

1. Each of the above recitals is true and correct and is adopted by the legislative body of the District.
2. Proposition A presented to the qualified electors within Improvement Area No. 2 on November 7, 2018 was approved by more than two-thirds of the votes cast at the election held within Improvement Area No. 2, and Propositions A has carried. The City Council is hereby authorized to levy on the land within Improvement Area No. 2 the special tax as set forth in the First Amended Rate and Method for Improvement Area No. 2 attached as "Attachment A" to Resolution No. 2018-60 adopted by the City Council on October 3, 2018.
3. The City Clerk is hereby directed to record in the Office of the County Recorder within fifteen days of the date hereof an amended and restated notice of special tax lien for Improvement Area No. 2 which Bond Counsel to the District shall prepare in the form required by Streets and Highways Code Section 3114.5.
4. This Resolution shall be effective upon its adoption.

The City Clerk shall certify the adoption of this resolution.

PASSED, APPROVED and ADOPTED this 7th day of November, 2018.

Geoff Dale, Mayor

ATTEST:

Debra Jackson, City Clerk

ATTACHMENT A

SAMPLE

BALLOT

**COMMUNITY FACILITIES DISTRICT NO. 2006-1 (MONTERREY PARK)
OF THE CITY OF IMPERIAL**

SPECIAL ELECTION

November 7, 2018

This ballot represents ___ votes.

To vote, write or stamp a cross (“+” or “X”) in the voting square after the word “YES” or after the word “NO”. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Imperial and obtain another.

PROPOSITION A: Shall a special tax as set forth in the first amended and restated rate and method of apportionment as provided in Attachment “A” to Resolution No. 2018-60 of the City Council of the City of Imperial for Improvement Area No. 2 of the City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) be levied to pay for the Services for Improvement Area No. 2 of Community Facilities District No. 2006-1?

YES _____

NO _____

ATTACHMENT B

**CERTIFICATE OF CITY CLERK
AS TO THE RESULTS OF THE CANVASS OF THE ELECTION RETURNS**

I, Debra Jackson, City Clerk of the City of Imperial, do hereby certify that I have examined the returns of the Special Tax and Bond Election for Improvement Area No. 2 of City of Imperial Community Facilities District No. 2006-1 (Monterrey Park) (the "District"). The election was held in the chambers of the City Council at 420 South Imperial Avenue, Imperial, California 92251, on November 7, 2018. I caused to be delivered ballots to each qualified elector. Sixty-six (66) ballots were returned.

I further certify that the results of said election and the number of votes cast for and against Proposition A is as follows:

PROPOSITION A

YES: 66

NO: 0

TOTAL: 66

Dated this 7th day of November, 2018.

Debra Jackson
Debra Jackson, City Clerk
City of Imperial