Chapter 14.36

SPECIAL TAX FINANCING LAW FOR SUSTAINABLE ENERGY DISTRICTS

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Section 14.36.010 Title.
This Chapter may be cited as the “Special Tax Financing Law.” (Ord. 7068 § 2, 2010)

Section 14.36.020 Purpose -- Special tax.
This Chapter provides an alternative method of financing certain public and private capital facilities and municipal services. Section 4 of Article XIII A of the California Constitution (Proposition 13) allows two thirds of the qualified electors of the City to impose a special tax within the City, provided the special tax is not an ad valorem tax on real property or a transaction tax or a sales tax on the sale of real property within the City. The tax imposed by this chapter is a special tax which is authorized for elector approval by Section 4 of Article XIII A of the California Constitution.

The City of Riverside (the “City”) is a California charter city and municipal corporation duly organized and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter of the City (the “Charter”).

The City Council of the City acting under and pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 200 of the Charter, finds that the public interest and necessity require the establishment by this Chapter of a law for financing certain public and private capital facilities and services. (Ord.
Section 14.36.030  Full authority.
   This Chapter is full authority for the City to undertake the matters specified herein. (Ord. 7068 § 2, 2010)

Section 14.36.040  Additional authority.
   This Chapter is adopted pursuant to Section 200 of the Charter of the City. In proceedings had pursuant to this Chapter, which are a municipal affair, any general laws referred to in this Chapter are deemed a part of this Chapter.
   The provisions of this Chapter shall not affect or limit any other provisions of law authorizing or providing for the furnishing of public and private capital facilities or services, or the raising of revenue for these purposes. The City may use the provisions of this Chapter instead of or in conjunction with any other method of financing a part or all of the cost of providing the authorized kinds of public and private capital facilities and municipal services. (Ord. 7068 § 2, 2010)

Section 14.36.050  Actions and determinations -- Proceedings.
   The City Council may take any actions or make any determinations which it determines are necessary or convenient to carry out the purposes of this Chapter and which are not otherwise prohibited by law. Any procedure not expressly set forth in this Chapter, but deemed necessary or convenient to carry out any of its purposes, is authorized. (Ord. 7068 § 2, 2010)

Section 14.36.060  Compliance with Chapter.
   Any proceedings taken or special taxes levied pursuant to this Chapter shall not be held invalid for failure to comply with the provisions of this Chapter provided such failure is not a constitutional defect. (Ord. 7068 § 2, 2010)

Section 14.36.070  Nonexclusiveness of remedies.
   The remedies provided in this Chapter for the enforcement of any levy pursuant to this Chapter are not exclusive, and additional remedies may be provided at any time. (Ord. 7068 § 2, 2010)

   The Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311 of Part 1, Division 2, Title 5 of the California Government Code) (the “Act”), as amended from time to time, is incorporated in and made a part of this Chapter. Except as otherwise provided by this Chapter, the purposes, mode and manner of levying and collecting special taxes shall be as prescribed in the Act. (Ord. 7068 § 2, 2010)

Section 14.36.090  Administrative Appeals procedures.
   The City Council may provide by separate resolution for such appeals procedures as it may deem appropriate to facilitate the levy and enforcement of the special taxes. Such procedures may provide for the appeal of confirmed special taxes to the Finance Director or other official of the City responsible for the collection of the special taxes and grounds upon and times within which such appeals must be made. There shall be no appeal to the City Council from the decision of the appointed official or other official of the City. The taking of an administrative appeal under this Chapter shall be a precondition to bringing any action under Section 14.36.100 of this Chapter. (Ord. 7068 § 2, 2010)
Section 14.36.100 Limitation of actions.

The validity of any special tax levied under this Chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the effective date of any ordinance or resolution providing for the levy of such special tax. Thereafter, a special tax may be contested only for the purpose of challenging the accuracy of computation of the special tax. Any appeal from a final judgment in the action or proceeding shall be perfected within 30 days after the entry of judgment.

The validity of any bonds issued under this Chapter shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the effective date of any ordinance or resolution authorizing the issuance of such bonds. Any appeal from a final judgment in the action or proceeding shall be perfected within 30 days after the entry of judgment. (Ord. 7068 § 2, 2010)

Section 14.36.110 Definitions.

Unless the context otherwise requires, the terms defined in this Chapter shall have the following meanings. Terms defined in the Act but not defined in this Chapter have the meaning given them in the Act.

A. “Act” means the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311 of Part 1, Division 2, Title 5 of the California Government Code), as amended from time to time.
B. "City Council" means the City Council of the City of Riverside.
C. “City” means the City of Riverside.
D. “Services” means, in addition to the “Services” defined in Section 53317 of the Act, operation and maintenance of any improvements that may be financed under this Chapter or the Act, and any related studies, testing or monitoring. (Ord. 7068 § 2, 2010)

Section 14.36.120 Name and nature of districts.

The name of any district created under this Chapter shall be substantially as follows: “City of Riverside Special Tax District No. ____ (______).” (Ord. 7068 § 2, 2010)

Section 14.36.130 Elections.

For purposes of any election herein, unless otherwise waived by unanimous action of all qualified electors, the time for the conduct of the election shall be not less than 30 nor more than 120 days from the adoption of the Resolution of Formation or other resolution ordering such election. For purposes of any such election, the City Clerk shall be the election official responsible for conducting and canvassing such election. (Ord. 7068 § 2, 2010)

Section 14.36.140 Authorized facilities.

In addition to the facilities that may be financed under the Act, special taxes may be levied and bonds may be issued to finance and refinance the acquisition, installation and improvement of energy efficiency and renewable energy improvements to or on real property and in buildings, whether such real property or buildings are privately or publicly owned. Work on privately owned buildings and on privately owned real property may only be financed by a special tax levy if all of the votes cast on the question of levying the special tax are in favor of levying the special tax, or with the prior written consent to the special tax of all of the owners of each property that may be subject to the special tax, in which case the prior written consent shall be deemed to constitute a unanimous vote in favor of the special tax and any associated bonded indebtedness. (Ord. 7068 § 2, 2010)

Section 14.36.150 Authorized services.

It is hereby specifically provided that in proceedings under this Chapter to finance
Section 14.36.160 Alternate procedure for forming special tax districts.

A. As an alternate and independent procedure for forming a special tax district, the City Council may form a special tax district that initially consists solely of territory proposed for annexation to the special tax district in the future, with the condition that a parcel or parcels within that territory may be annexed to the special tax district and subjected to the special tax only with the unanimous approval of the owner or owners of such parcel or parcels at the time that such parcel or those parcels are annexed. In such case, the City Council shall follow the procedures set forth in the Act for the formation of a community facilities district, with the following exceptions:

1. The City Council shall not be obligated to specify the rate or rates of special tax in the resolution of intention or the resolution of formation, provided that the rate of special tax applicable to a parcel or parcels shall be specified in the unanimous approval described in this Section relating to such parcel or parcels.

2. In lieu of approval pursuant to an election held in accordance with the procedures set forth in this Chapter and in Sections 53326, 53327, 53327.5 and 53328 of the Act, the appropriations limit for the special tax district, the applicable rate, method of apportionment and manner of collection of special tax and the authorization to incur bonded indebtedness for the special tax district shall be specified and approved by the unanimous approval of the owner or owners of each parcel or parcels at the time that such parcel or parcels are annexed to the special tax district. No additional hearings or procedures are required, and such unanimous approval shall be deemed to constitute a unanimous vote in favor of the appropriations limit for the special tax district, the authorization to levy the special tax on such parcel or parcels and the authorization to incur bonded indebtedness for the special tax district.

3. This subsection establishes the applicable protest provisions in the event the City forms a special tax district pursuant to the procedures set forth in this Section. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be annexed to the special tax district in the future, or if the owners of one-half or more of the area of land proposed to be annexed in the future and not exempt from the special tax, file written protests against establishment of the special tax district, and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings to form the special tax district shall be undertaken for a period of one year from the date of decision of the City Council on the issues discussed at the hearing. If the majority protests of the registered voters or of the landowners are only against the furnishing of a specified type or types of facilities or services within the district, or against levying a specified special tax, those types of facilities or services or the specified special tax shall be eliminated from the resolution of formation.

4. The City Council shall not record a notice of special tax lien against any parcel or parcels in the special tax district until such time as the owner or owners of such parcel or parcels have given their unanimous approval of such parcel or parcels’ annexation to the special tax district, at which time the notice of special tax lien shall be recorded against such parcel or parcels as set forth in Section 53328.3 of the Act.

B. Notwithstanding the provisions of Section 53340 of the Act, after adoption of the resolution of formation for a special tax district described in subdivision (a) hereof, the City Council may, by ordinance, provide for the levy of the special taxes on parcels that will annex to the special tax district at the rate or rates to be approved by unanimous approval of the owner or owners of each parcel or parcels to be annexed to the special tax district and for apportionment and collection of the special taxes in the manner specified in the resolution of formation. No further ordinance shall be required even though no parcels may then have annexed to the
special tax district.

C. Notwithstanding the provisions of Section 14.36.100, an action to determine the validity of any special taxes levied pursuant to this Chapter and authorized pursuant to the procedures set forth in this Section shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure but shall, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, be commenced within 30 days after the adoption of the resolution of formation if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment. (Ord. 7068 § 2, 2010)

Section 14.36.170 Alternate procedure for approving issuance of bonds.

A. As an alternate and independent procedure for conducting an election on the proposition to authorize bonded indebtedness for a special tax district formed pursuant to Section 14.36.160, and in lieu of the procedure set forth in this Chapter and in Sections 53353.5, 53354 and 53355 of the Act, the proposition to authorize bonded indebtedness may be approved by the owner or owners of a parcel or parcels of property at the time that the parcel or parcels are annexed to the special tax district pursuant to the unanimous approval described in 14.36.160. No additional hearings or procedures are required, and such unanimous approval shall be deemed to constitute a unanimous vote in favor of such proposition.

B. Notwithstanding the provisions of Section 14.36.100, an action to determine the validity of any bonds issued pursuant to this Chapter and authorized pursuant to the procedures set forth in this Section 14.36.170 shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure but shall, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, be commenced within 30 days after the effective date of the resolution described in Section 53351 of the Act if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment. (Ord. 7068 § 2, 2010)

Section 14.36.180 Refunding bonds -- Use of savings.

Bonds may be issued under this Chapter to refund any outstanding special tax bonds, whether fixed lien bonds or any other improvement or special tax bonds, including ad valorem assessment or revenue bonds. Any savings achieved through the issuance of refunding bonds may be used by the City in any manner that it determines to be in the best financial interests of the City. (Ord. 7068 § 2, 2010)

Section 14.36.190 Authority to advance funds.

In connection with the issuance of bonds pursuant to this Chapter, the City Council may determine and may declare in the resolution authorizing the issuance of the bonds that it will obligate itself to advance available surplus funds in the amount of any delinquent special taxes as an advance recoverable upon payment of delinquent special taxes. For purposes of this section, “available surplus funds” shall mean any surplus moneys held by the City at the end of each fiscal year in excess of the amounts required to pay lawful municipal obligations of the City for that fiscal year, all as determined by the City Council in its sole discretion, whose determination shall be final and binding. (Ord. 7068 § 2, 2010)

Section 14.36.200 Liberal construction.

This Chapter is to be liberally construed. (Ord. 7068 § 2, 2010)
Section 14.36.210  Chapter controlling.
   To the extent that the provisions of this Chapter are inconsistent with the provisions of any general statute or special act or parts thereof the provisions of this Chapter shall be deemed controlling.  (Ord. 7068 § 2, 2010)

Section 14.36.220  Savings clause.
   The provisions of this Chapter shall not apply to any person, association, corporation or to any property as to whom or which it is beyond the power of the City Council to impose the tax herein provided. If any sentence, clause, section or part of this Chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of the City Council of the City of Riverside that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.  (Ord. 7068 § 2, 2010)