

TO: Andrew P. Powers, City Manager

FROM: Jaime Boscarino, Finance Director

DATE: June 18, 2024

**SUBJECT: 1994-1 Community Facilities District (Janss Marketplace)
Prepayment and Defeasance of 2012 Special Tax Refunding
Bonds**

RECOMMENDATION:

1. Adopt resolution providing for the acceptance of prepayments of the special taxes levied in the 1994-1 Community Facilities District, providing for the defeasance of the 2012 Special Tax Refunding Bonds and authorizing execution of all documents necessary to effectuate the transactions.
2. Find that this action is not a project as defined under the California Environmental Quality Act.

LEVINE ACT ITEM: No

FINANCIAL IMPACT:

No Additional Funding Requested. Staff time and costs to accept prepayments, defease bonds, and prepare release of lien are fully offset by revenue from property owners.

BACKGROUND:

In 1994, the property owners of the Janss Marketplace mall (Attachments #1 and #2) petitioned the City to establish a community facilities district to fund construction of a public parking structure, pedestrian walkways, and other public improvements. City Council approved the creation of the 1994-1 Community Facilities District (District) and the issuance of the 1994 Special Tax Bonds to fund the improvements. The property owners voted to accept a continuing property lien to secure an annual special tax levy used to pay principal and interest on the 1994 Special Tax Bonds.

As part of the financing, the City leased the property to be improved from the property owner, contracted with the property owner to construct the improvements

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with bond proceeds, and entered into an agreement with the property owner to manage the public parking structure and pedestrian walkways. Because the improvements were financed with tax-exempt debt proceeds, private use of the improvements is restricted. Federal tax law limits the amount of private business use that may be conducted in facilities financed with tax-exempt debt. As a general rule, no more than ten percent of the bond proceeds may be used in a trade or business of a non-state or local governmental person.

In August 2012, the 1994 Special Tax Bonds were refunded by the 2012 Special Tax Refunding Bonds (Outstanding Bonds). The Outstanding Bonds have a final maturity date of September 1, 2031, and a remaining principal amount of \$12,685,000 (\$1,310,000 of such principal is due on September 1, 2024). The bond agreements allow the property owners in the District to prepay the special taxes, and the prepayment amount must include interest on the Outstanding Bonds through the next interest payment date.

DISCUSSION/ANALYSIS:

The property owners have notified the City that they intend to prepay their special taxes in full. They have requested the City use the proceeds of the prepayment to redeem the Outstanding Bonds maturing on or after September 1, 2025, on September 1, 2024, and to cancel the special tax lien upon opening of escrow with the prepayment funds.

Following redemption of the Outstanding Bonds, the private use restriction imposed by the Internal Revenue Service on tax-exempt debt will be extinguished. The lease agreement and the operating agreement between the City and the property owner require public use of the facilities and remain in effect beyond the life of the debt. The lease agreement will expire in 2050 unless terminated earlier, while the operating agreement automatically renews every five years unless terminated and was last renewed in 2020. Thus, the private use restriction of the improvements will remain. After the bonds have been defeased, the City has the option to amend and/or terminate the agreements. Any change in the agreements will be brought before City Council at a later date.

The property owners have entered into a deposit agreement with the City and provided an initial deposit of \$25,000 to cover the costs of consultants associated with the prepayment. The City has engaged Jones Hall as bond counsel and Fieldman, Rolapp, and Associates as municipal advisor to assist the City with the transaction.

The property owners intend to prepay to the City an amount that, together with the interest earned on the prepayment and funds on deposit with the fiscal agent, will be sufficient to pay and redeem all of the Outstanding Bonds on September 1, 2024, and, if necessary, March 1, 2025 (as described in the following

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paragraph). Willdan Financial Services (Willdan), the current special tax consultant for the District, will calculate the prepayment amount for each parcel within the district pursuant to the Rate and Method of Apportionment. The prepayment funds will be placed in escrow with an independent certified public accountant confirmation that the amount on deposit is sufficient to repay the debt.

It is possible the City may not receive, on a timely basis, the apportionment of the second installment of tax year 2023-24 special taxes from the County paid by one of the property owners. As a result, the City may not be able to pay the scheduled debt service due on the Outstanding Bonds on September 1, 2024, without using money in the debt service reserve fund for the Outstanding Bonds. In such event, (1) the City would only redeem on September 1, 2024, a portion of the Outstanding Bonds maturing on or after September 1, 2025, (2) the City would redeem the remaining Outstanding Bonds on March 1, 2025, after receiving the full special tax apportionment from the County and (3) the City would set aside moneys sufficient to pay interest on the Outstanding Bonds on March 1, 2025, so that it is not expected to be necessary to levy special taxes in the District for tax year 2024-25.

The attached resolution (Attachment #3) authorizes actions required to complete the prepayment of the debt and the cancellation of the special tax lien:

1. The City Manager or the Finance Director (Designated Officer) is authorized to accept the prepayment.
2. Bank of New York Mellon Trust Company is appointed escrow agent. A Designated Officer is authorized to execute one or more Escrow Agreements in substantially the same form as Attachment #4.
3. Causey Demgen and Moore is appointed as independent certified public accountant to verify the escrowed funds are sufficient to repay the debt.
4. The City Clerk is authorized to record one or more Notices of Cancellation of Special Tax Lien upon funds being placed in escrow with Bank of New York Mellon Trust and verified by Causey Demgen and Moore.

Upon receipt of the prepaid special taxes, execution of the Escrow Agreement, and confirmation by the independent auditor that the amount is sufficient to prepay the Outstanding Bonds, the City will have a Notice of Cancellation of Special Tax Lien recorded with Ventura County for those property owners who have pre-paid the special tax. The prepayment funds will be held in escrow until the Outstanding Bonds are called and the bondholders repaid. As described above, the redemption of the Outstanding Bonds and the recordation of the Notice of Cancellation of Special Tax Lien may happen in two stages, depending upon when the City receives the apportionment of the second installment of tax year 2023-24 special taxes from the County.

COUNCIL GOAL COMPLIANCE:

Meets the following City Council goals:

I. Maintain a strong local employment base geared toward retaining high quality businesses; Sustain a healthy business community; and, Diversify the local economy, with a specific emphasis on small businesses and high technology/biomedical jobs.

PREPARED BY: Jane Adelman, Debt and Investment Analyst

Attachments:

Attachment #1 – Vicinity Map

Attachment #2 – Site Plan

Attachment #3 – Resolution Providing for Prepayment and Defeasance of
Debt

Attachment #4 – Draft Escrow Agreement