

RESOLUTION NO. 20
SOUTHSIDE COMMUNITY FACILITIES DISTRICT NO. 1

A RESOLUTION OF THE DISTRICT BOARD OF THE SOUTHSIDE COMMUNITY FACILITIES DISTRICT NO. 1, A COMMUNITY FACILITIES DISTRICT OF ARIZONA, APPROVING A TENTATIVE BUDGET FOR FISCAL YEAR 2013-2014 PURSUANT TO ARS §48-716; SETTING A PUBLIC HEARING DATE ON SAID TENTATIVE BUDGET; FILING STATEMENTS AND ESTIMATES OF THE EXPENSES OF THE DISTRICT TO BE REPAID THROUGH SPECIAL ASSESSMENTS AGAINST PROPERTY OWNERS WITHIN THE DISTRICT, AND THE AMOUNT OF ALL OTHER OPERATION EXPENDITURES PROPOSED TO BE PAID FROM THE ASSESSMENT BOND REVENUES AND OTHER SOURCES; PROVIDING FOR NOTICE OF FILING THE STATEMENTS AND ESTIMATES, AND NOTICE OF A PUBLIC HEARING ON THE PORTIONS OF THE STATEMENTS AND ESTIMATES NOT RELATING TO DEBT SERVICE ON GENERAL OBLIGATION BONDS; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on March 23, 2006, the Council of the Town of Prescott Valley (“Town”) approved Resolution No. 1417 declaring its intention to form the Southside Community Facilities District (SCFD) No. 1 within Sections 27, 28 and 34, R1E, T14N, and Section 3, R1E, T13N, G&SRM, in accordance with ARS §48-701 et seq. (see Exhibit “A” attached hereto and expressly made a part hereof), based on a General Plan filed with the Town Clerk and a petition signed by the owners of substantially more than twenty-five percent (25%) of land area within SCFD No. 1; and

WHEREAS, after a public hearing, the Town Council adopted Resolution No. 1425 on April 27, 2006, calling an election for June 27, 2006 by the registered voters and landowners within SCFD No. 1, asking whether to a) form SCFD No. 1, b) issue bonds and levy ad valorem taxes therefor, and c) levy ad valorem taxes for operation and maintenance expenses; and

WHEREAS, at the election, a majority of the votes equal to the number of acres cast by qualified electors and a majority of the votes cast by qualified electors were in favor of each proposition, and the Town Council approved Resolution No. 1447 on June 29, 2006 ordering formation of SCFD No. 1 and indicating (among other things) that SCFD No. 1 would be governed by a Board comprised of the Mayor and Common Council acting “ex officio”; and

WHEREAS, soon after formation of SCFD No. 1, discussions with property owners within SCFD No. 1 led to re-evaluation of the proposal to issue bonds based on ad valorem taxes and a conclusion that a fixed assessment was preferable to an annual levy that would have the potential to change as secondary assessments were adjusted; and

WHEREAS, on October 11, 2007, the SCFD No. 1 Board approved Resolution No. 1 which, among other things, declared the Board's intention to improve property located within SCFD No. 1 by constructing sanitary sewer mains and water distribution mains (“Improvements”) financed through an assessment levied on said property and sale of assessment bonds; and

WHEREAS, at the same meeting the SCFD No. 1 Board approved Resolution No. 2 establishing interim procedures for SCFD No. 1 and approving an Intergovernmental Agreement (“IGA”) with the Town whereby the Town would (a) pay certain SCFD No. 1 expenses in anticipation of SCFD No. 1 selling bonds and reimbursing the expenses from bond proceeds, (b) providing for on-going operation of SCFD No. 1, and (c) making a contribution towards upsizing the Improvements in anticipation of (i) possible future annexation of a portion of the Prescott Country Club, and (ii) connection to nearby commercial properties located outside of SCFD No. 1; and

WHEREAS, on November 8, 2007, the SCFD No. 1 Board held a public hearing on a Feasibility Report related to the Improvements, and then approved Resolution No. 3 adopting the Feasibility Report and ordering construction of the Improvements; and

WHEREAS, on November 29, 2007, the SCFD No. 1 Board approved Resolution No. 5 adopting a development agreement with the Town and Willow Lake Partnership by which SCFD No. 1 would arrange for construction of an extension of the Improvements to the Willow Lake Partnership property, the Town would ensure payment towards that extension (separate from any assessments of SCFD No. 1 owners), and Willow Lake Partnership would reimburse the Town for any such payments; and

WHEREAS, on December 20, 2007, the SCFD No. 1 Board approved Resolution No. 6 adopting a development agreement with the Town and Lynx Creek Villages, LLC and Chino Dental, LLC by which SCFD No. 1 would arrange for construction of a portion of the Improvements on and for the benefit of the Lynx Creek Villages, LLC and Chino Dental, LLC property, the Town would ensure payment towards said construction (separate from any assessments of SCFD No.1 owners), and Lynx Creek Villages, LLC and Chino Dental, LLC would reimburse the Town for such payments; and

WHEREAS, on January 10, 2008, the SCFD No. 1 Board approved Resolution No. 4 adopting a construction contract for the Improvements based on the low bid of \$1,988,571.50; and

WHEREAS, on February 14, 2008, the SCFD No. 1 Board adopted Resolution No. 7 which, among other things, approved an Assessment Diagram and Method of Assessment provided by the SCFD No. 1 Engineer, and authorized assessment bonds up to three million five hundred thousand dollars (\$3,500,000) aggregate principal amount to cover assessments not paid in cash by SCFD No. 1 property owners during the 30-day cash collection period; and

WHEREAS, a Limited Offering Memorandum was subsequently approved for issuing three million twenty-five thousand dollars (\$3,025,000) in SCFD No. 1 assessment bonds. The proceeds were then used to construct the improvements and to create a reserve fund. After the improvements were completed, the SCFD No. 1 Board adopted Resolution No. 12 setting a December 3, 2009 hearing to recapitulate the assessment. After statutory notice, the hearing was held and Resolution No. 13 was adopted recapitulating the assessment and providing for cash reimbursements/assessment payment reductions based on surplus funds; and

WHEREAS, because of reduced values for undeveloped commercial property (as a result of the worldwide economic recession), in 2010 one or more parcel owners indicated they would not make their annual assessment payments. One such owner attempted to sell the parcel as a whole or in parts, but was unsuccessful. On July 13, 2010, the Dissemination Agent filed a Reporting of Material Event indicating that an unscheduled draw had been made on the \$267,587.50 reserve fund in the amount of \$33,515.14 in order to make the July 1, 2010 bond payment. On January 7, 2011, a Reporting of Material Event was filed indicating that an additional draw had been made in the amount of \$18,442.50 for the January 1, 2011 payment. On July 18, 2011, a Reporting of Material Event was filed indicating that a draw had been made in the amount of \$35,725.78 for the July 1, 2011 payment. On January 18, 2012, a Reporting of Material Event was filed indicating that a draw had been made in the amount of \$20,982.62 for the January 1, 2012 payment. On July 3, 2012, a Reporting of Material Event was filed indicating that a draw had been made in the amount of \$34,390.28 for the July 1, 2012 payment. On January 2, 2013, a draw in the amount of \$19,964.66 was made, and the Treasurer does expect a draw will be necessary for the July 1, 2013 payment; and

WHEREAS, partial defeasance of bonds in approximate amounts of \$55,000.00 in 2010 and \$418,000.00 in 2012 resulted in credits against the reserve fund which (in addition to the unscheduled draws) has reduced the reserve to \$47,586.98; and

WHEREAS, ARS §48-721(B) provides that such assessments are first liens on the property assessed (subject only to general property taxes and prior special assessments). In the event of delinquent assessments, collection procedures set forth in ARS §§48-601 through 48-607 (including sale of delinquent property) apply as nearly as practicable. However, in no event is SCFD No. 1 or the Town required to purchase the delinquent land at the sale if there is no other purchaser. A delinquent assessment has since been placed at auction (including at the March 2011 and 2012 auctions), but there was no purchaser; and

WHEREAS, going forward, it is understood that draws on the reserve fund to make bond payments may continue to the extent current owners do not make their assessment payments, any delinquent assessments are not sold at auction, subsequent purchasers do not bring delinquent assessments up-to-date or other funds do not become available for bond payment; and

WHEREAS, in accordance with ARS §48-716, the SCFD No. 1 Treasurer has now submitted to the SCFD No. 1 Board a proposed budget for Fiscal Year 2013-2014 which includes statements and estimates of expenses of SCFD No. 1 to be repaid through special assessments against property owners within SCFD No. 1, and the amount of all other operation expenditures to be paid from the assessment bond revenues and other sources; and

WHEREAS, the SCFD No. 1 Board desires to (a) approve said Tentative Budget for Fiscal Year 2013-2014, (b) publish notice of having filed the required statements and estimates, and (c) set a date (and publish a notice thereof) for a public hearing to receive comment on the Tentative Budget; and

WHEREAS, after said public hearing (and on or before October 1), the SCFD No. 1 Board expects to adopt a Final Budget by resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE SOUTHSIDE COMMUNITY FACILITIES DISTRICT NO. 1, AS FOLLOWS:

1. That that certain proposed budget prepared by the SCFD No. 1 Treasurer for Fiscal Year 2013-2014, attached hereto and expressly made a part hereof as Exhibit "B", is hereby tentatively approved.

2. That a public hearing date of July 11, 2013, beginning at or after 5:25 p.m. in the Auditorium of the Prescott Valley Public Library at 7401 East Civic Circle, Prescott Valley, Arizona, is hereby set to consider said Tentative Budget, and said notice (attached hereto and expressly made a part hereof as Exhibit "C") shall be published once in the Daily Courier no later than ten (10) days prior to said hearing date.

3. That if any provision in this Resolution is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

4. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the District Board of the Southside Community Facilities District No. 1 this 6th day of June 2013.

Harvey C. Skoog, Chairman, District Board
Southside Community Facilities District No. 1

ATTEST:

Diane Russell, District Clerk
Southside Community Facilities District No. 1

APPROVED AS TO FORM:

Ivan Legler, District Counsel
Southside Community Facilities District No. 1

EXHIBIT "A"

SCFD No. 1 Map and Legal Description

EXHIBIT "B"

FY 2013-2014 SCFD No. 1 Budget

EXHIBIT "C"

SCFD No. 1 Published Notice