

CITY OF EMERYVILLE

Special Tax Analysis

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1. INTRODUCTION

1.1 Purpose of this Report

This report is intended to provide an introduction and evaluation of parcel tax and community facilities district options that the City of Emeryville (the “City”) may consider implementing to fund services within the community.

1.2 City Background

The City was established in 1896 as a general law city and, with the passage of Measure U on November 4, 2014 established as a charter city.

1.3 Legislative Context

In order to increase revenue collections, the City must comply with the requirements set forth in Article XIII of the California Constitution. This report specifically focuses on the special tax options of parcel tax and community facilities district. The approval method, approval threshold and requirements for the basis of the charge are shown in the table below.

REVENUE MECHANISM OVERVIEW			
Type	Approved by	Approval Threshold	Required Findings
Special Tax	Registered Voters	2/3 Ballots Cast*	Method must be reasonable, not assessed value/benefit/cost based

*Super majority approval required if the City puts the tax measure on the ballot; majority approval required if a Parcel Tax measure is put on the ballot by a citizen’s initiative. There are efforts underway to retroactively repeal the ability to approve a Parcel Tax by a majority of voters via a citizen’s initiative. Please check with legal counsel for the latest updates.

2. SPECIAL TAXES

2.1 Background

A Special Tax may be established under either the Voter-Approved Special Taxes¹ law under California’s Government Code (“Parcel Tax”) or the Mello-Roos Community Facilities District Act of 1982² (“CFD”). Special Taxes involve identifying specific services to be provided and the tax may not be based on the value of the property.

Special Taxes describe a family of charges levied against a parcel of land under a reasonable methodology that is approved by a super-majority vote of registered voters³. Parcel taxes are local agency-wide while CFDs may be established over an identified boundary that is a subset of the agency boundary. Both the Parcel Tax and CFD structure options include a uniform rate that could be levied on a per parcel, per building square foot or per acre basis as examples. The Parcel Tax and CFD also include the added option of taxing different land uses differently, i.e. per unit for residential and per building square foot for non-residential. Since Special Taxes are not benefit or cost based, they can include provisions for age or income-based exemptions.

2.2 Formation Process

The Special Tax formation process consists of three main efforts: developing tax method and rates, outreach and engagement, and the legal formation proceedings.

TAX DEVELOPMENT

The tax development effort consists of first identifying services to be provided and estimating the cost of the services. From there, various tax methods are modeled and evaluated to determine the most reasonable approach.

OUTREACH & ENGAGEMENT

Outreach and engagement efforts are highly recommended. They can run in advance of, or concurrently with, the tax development process. Often polling is used to test tax rates to determine the rate that is likely to achieve the super majority approval required. The scope of outreach and engagement efforts can vary broadly.

FORMATION PROCEEDINGS

Parcel taxes are introduced by resolution of the Board at least 90 days prior to the target election date. Working with the County registrar of voters to ensure all procedural and substantive requirements are met is recommended. The CFD formation process consists of two resolutions considered by the Board at least 30 but not more than 60 days apart, followed by an election at least 90 but not more than 180

¹ California Government Code Section 50075

² California Government Code Section 53311

³ See note in Section 1 about Citizen’s Initiatives

days later. CFDs have the option to be approved by a mailed ballot election on the date of the District's choosing, in coordination with the County election official.

2.3 Special Tax Usage

Both Parcel Taxes and CFDs are commonly used throughout California and Alameda County to raise revenue for local government agencies. Parcel taxes are more commonly used for services funding, including public safety, library services, park and rec services, though several have added revenue bonds for capital needs. CFDs are most commonly used in a development context where the landowner/developer is the voter and development related infrastructure is being financed. It is becoming more common for these developer CFDs to also fund services related to the negative fiscal impact to the general fund for the development, including public safety, road maintenance and park and rec services. It is noted that the CFD law has a discrete list of services that can be funded. There are a few CFDs that have been approved by registered voters that fund services, finance infrastructure or both. Below are some recent examples:

PARCEL TAXES

There were 42 parcel taxes on the November 2024 ballot, 28 of which passed including the following in Alameda County:

- Berkeley Measure X library tax (addition to existing parcel tax)
- Berkeley Measure Y parks & landscaping (increase to existing parcel tax)
- Oakland Measure MM fire prevention (new parcel tax)
- Oakland Measure NN police (renewal of existing parcel tax)
- Albany Measure C sidewalks (replace existing parcel tax)

There are several other local parcel taxes in effect:

- Albany Measure K paramedic, ALS & fire protection
- Piedmont Measure F public safety, park and rec & fire protection
- Berkeley Measure FF sidewalk & street repairs
- Berkeley Measure FF emergency response & preparedness
- Union City Measure (1997) paramedic tax

CFDS

There are relatively few examples of City/Agencywide CFDs as this tool is primarily used in a development context:

- Altadena Library District CFD for library infrastructure and services
- Santa Cruz Library Authority CFD for library infrastructure
- EBRPD CFD for park maintenance and services

3. PARCEL TAX & CFD COMPARISON

The following sections provide a comparison of the Parcel Tax and CFD as tools to aid in the evaluation of each as options for increasing revenue.

3.1 Term

The term of the Parcel Tax and CFD are both flexible. The most advantageous for the City is typically to set the term in perpetuity, or until ended by voters, to ensure funds for services are available on an ongoing basis without the need to renew the funding via voter approval. This may not be politically feasible and polling can aid in determining what term voters may be more comfortable with. The term should be considered if there is a desire for debt financing as the revenue must be in place for the term of the debt.

3.2 Methodology

Both the Parcel Tax and CFD allow for flexibility in how the special tax methodology is designed. The tax may be spread on a per parcel basis, a per building square foot basis, or establish different rates based on other factors such as land use and development status. It is noted that the more complex the methodology the harder it is to explain in the ballot measure language.

3.3 Exemptions

Both the Parcel Tax and CFD allow the City to provide for exemptions. Generally, property that is owned by public agencies or otherwise not subject to general taxation is exempt from special taxes, though there are exceptions where property exempt from general taxation are subject to parcel taxes. In addition, the Parcel Tax or CFD tax measures can include other types of exemptions such as age-based or income-based exemptions.

3.4 Cost Increase/Inflators

Both the Parcel Tax and CFD can include provisions for the rates to increase by the desired inflationary adjustment. The inflator can be a flat percentage, tied to a specific index such as CPI, or tied to a specific index with a minimum and/or maximum boundary (i.e. CPI up to a max of 4%). It is noted that the amount of revenue may increase annually if the special tax is based on building square footage and the total building square footage grows year over year in the City, functioning somewhat as an inflator without having to include that provision in the measure language. The average increase in building square footage within the City is approximately 500,000 building square feet over the last 5 years. At \$0.18 per building square foot, that is a \$90,000 increase to revenue without increasing the rate, or the equivalent of an approximately 2.5% inflator.

3.5 Boundary

The Parcel Tax may be established only with a boundary that is coterminous with the City boundary. The CFD boundary may be established as coterminous with the City boundary, or may be a subset of the City boundary. Only voters within the CFD boundary are considered eligible voters.

3.6 Special Tax Lien

The CFD requires, whether for services funding or debt financing, that a lien be recorded on every taxable parcel in the CFD boundary to allow for the annual levy and collection of special taxes. There is an initial cost to record the lien with the County Recorder's office. It is also noted that the first couple of years after the lien is recorded may require some outreach and interaction with the real estate community as the lien will show up on title reports during real estate transactions, including mortgage refinancing. This is not an insurmountable obstacle, and East Bay Regional Parks District has a District-wide CFD that local realtors may be accustomed to.

The Parcel Tax has no requirement to record a lien.

3.7 Debt Financing

While the primary focus of this analysis is funding for services, operations and maintenance activities on an ongoing basis, it is noted that both the Parcel Tax and the CFD have the ability to finance capital needs.

The Parcel Tax may serve as the revenue stream for revenue bonds at any time. It is not required to specifically indicate the potential for debt issuance in the measure and as long as the capital needs are in line with specific services included in the measure, the debt is allowable.

The CFD must indicate the potential for debt issuance during the formation process as there are additional resolutions and requirements that must be met. The debt would typically be issued as a limited obligation bond of the City.

4. SPECIAL TAX MODELING

As noted above, both the Parcel Tax and CFD have similar flexibility in setting the special tax methodology, therefore the modeling that follows is appropriate to be used with either funding tool.

4.1 Revenue Targets

The City requested that special taxes be modeled to target between \$3.5 million and \$5 million in half million-dollar revenue increments.

The revenue growth that may be expected under various example scenarios is shown in the table below:

REVENUE GROWTH					
Initial Revenue Target	Increase Scenario	Year 2	Year 3	Year 4	Year 5
\$3.5M	3%	\$3,605,000	\$3,713,150	\$3,824,545	\$3,939,281
\$4M	2%	4,080,000	4,161,600	4,244,832	4,329,729
\$3.5M	0% (bldg. sq ft)	3,590,000	3,680,000	3,770,000	3,860,000

4.2 Tax Per Parcel

The tax rates per parcel at the various revenue targets are shown in the table below:

TAX PER PARCEL				
Taxable Parcels	\$3.5M Revenue	\$4M Revenue	\$4.5M Revenue	\$5M Revenue
4,859	\$721	\$824	\$927	\$1,030

4.3 Tax Per Building Square Foot

The tax rates per building square foot at the various revenue targets are shown in the table below:

TAX PER BUILDING SQUARE FOOT				
Taxable Parcels	\$3.5M Revenue	\$4M Revenue	\$4.5M Revenue	\$5M Revenue
19,331,876	\$0.18	\$0.21	\$0.23	\$0.26

4.4 Tax by Land Use

One structure option for the tax rates by land use at the various revenue targets are shown in the table below:

TAX BY LAND USE				
Residential Per Unit	\$3.5M Revenue	\$4M Revenue	\$4.5M Revenue	\$5M Revenue
7,872	\$50	\$75	\$100	\$125
Non-Residential Per Bldg Sq Ft	\$3.5M Revenue	\$4M Revenue	\$4.5M Revenue	\$5M Revenue
11,692,206	\$0.27	\$0.29	\$0.32	\$0.34

5. RECOMMENDATIONS

Of the Parcel Tax and CFD options, NBS recommends the City engage in polling to test the Parcel Tax at various rates. Unless there is a desire to implement the tax within a boundary that is a subset of the City boundary, the CFD does not offer an advantage over the Parcel Tax.