



Agenda Item E.2
DISCUSSION/ACTION ITEM
Meeting Date: May 5, 2009

TO: Mayor and Councilmembers

FROM: Daniel Singer, City Manager
Tim W. Giles, City Attorney

SUBJECT: Tax Allocation Agreement with the County of Santa Barbara for Sanitary District Services

RECOMMENDATION:

- A. Adopt Resolution 09-___, entitled "A Resolution of the City Council of the City of Goleta, California Approving the Property Tax Allocation Agreement between the City of Goleta and County of Santa Barbara Board of Supervisors for Detachment of Properties from Goleta West Sanitary District"; and
- B. Authorize the Mayor to execute that Allocation Agreement.

BACKGROUND:

On February 9, 2009, after receiving public testimony and staff input, the City Council adopted Resolution 09-06, initiating an application with the Local Agency Formation Commission (LAFCO) to detach territory within the incorporated City of Goleta from the Goleta West Sanitary District. The Council further directed the City Manager and City Attorney to begin negotiations with Goleta West Sanitary District (GWSD) about the detachment proposal and the transfer and logistics of said proposal and appointed an ad-hoc sub-committee made up of Mayor Aceves and Councilmember Easton to assist in deliberations.

Since that action was taken by the Council, staff and the sub-committee have been working to further the City's application and respond to various requests for information and clarification by LAFCO, the County, and GWSD.

DISCUSSION:

California Revenue & Taxation Code (Section 99 (B)(5)), provides in part that "In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county...in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of

property tax revenues.” At issue, therefore, are the future property tax revenues paid by properties which are subject to this detachment. The law requires the City and County (acting on behalf of GWSD), to negotiate to determine the amount of future property tax revenues to be exchanged between and among the City and the GWSD.

As a part of the City’s detachment application to LAFCO, the City proposed that: 100% of property tax that is currently paid by City residents to GWSD should be allocated to the City; and the City will be responsible for providing these properties with all of the services they currently receive from GWSD. The properties will receive no services from GWSD after detachment. As a result of lengthy and detailed negotiations with the County, the attached Resolution and accompanying Tax Allocation Agreement now reflect that very formula. Any other allocation would represent a question of inequity among our local taxpayers.

Similarly, the City’s application to LAFCO proposes an identical distribution of District assets and reserves, such that 100% of the taxes and associated interest and assets generated by properties within the City of Goleta would remain with Goleta. Put a different way, current property tax revenues received by GWSD from within Goleta are approximately 78% of the total annual allocation, whereas approximately 22% comes from properties within the District boundaries, but outside of the City of Goleta. GWSD currently has approximately \$30,000,000 in designated reserves.

A significant issue raised by the County regarding the City’s proposed detachment concerns a contractual obligation GWSD has to share in the costs of a mandated sewer treatment plant upgrade at the Goleta Sanitary District facility. The plant upgrade is currently estimated to cost around \$50 million to construct and complete. To pay for the plant upgrade, Goleta Sanitary District has entered into contractual agreements with the entities which send effluent to the plant, including GWSD. Since the formula is based on contractual capacity by each entity using the plant, there is a corresponding monetary obligation on GWSD’s part to pay approximately 40% of the \$50 million cost (or \$20 million). The relative effluent flow generated within the City of Goleta is roughly 50% with the balance being generated from within the GWSD boundary, but outside the City limits.

Although the City would take on the contractual obligation to pay for the portion of the plant upgrade serving City residents upon detachment, deducting the relative costs of \$10 million from the City’s share of GWSD reserves would leave GWSD with a reserve deficit. Briefly, that deficit is caused under the following scenario whereby 22% of the \$30 million in reserves (or \$6.6 million) is left with the District, but their fair share of the treatment plant upgrade is estimated to cost \$10 million. As a result, the accompanying resolution, as well as the resolution before the County Board of Supervisors, suggests taking the treatment plant funds “off the top” of the \$30 million reserve level to, first and foremost, guarantee the construction of the new plant. This commitment helps Goleta Sanitary District achieve a timely plant upgrade, addresses environmental concerns, and is simply a prudent thing to do as it represents the most essential use for the reserves that have been set aside by GWSD.

Making this commitment, however, comes at considerable cost to Goleta tax payers, in that agreeing to taking the plant upgrade costs “off the top” also means that Goleta taxpayers will be subsidizing a regional project upgrade beyond the proportionate cost for the service.

Goleta’s commitment to fund more than its “fair share” of the treatment plant upgrade must be seen as more than just a good faith effort or gift of public resources. It represents a continued obligation to improve service delivery to the area, upgrade the quality of discharge going into our ocean, and an effort to work regionally and cooperatively on important local issues. That said, however, the attached Resolution supporting the Tax Allocation Agreement and ensuring Goleta’s commitment to the plant upgrade in the amount of \$20 million from current District reserves, is contingent upon a reciprocal gesture on the part of the County of Santa Barbara to amend the existing Revenue Neutrality Agreement (Section 4.12) to reflect an equitable tax allocation.

At this time, Council is therefore asked to adopt the attached resolution and approve the Tax Allocation Agreement. Staff will continue the efforts to complete the City’s LAFCO application on detachment.

GOLETA STRATEGIC PLAN:

This action is consistent with the Goal in the Goleta Strategic Plan entitled, “Advance Goleta’s Interests at the Local Level,” and is consistent with the Objective to “Participate in Sanitary District Merger Discussions.”

ALTERNATIVES:

Should the County of Santa Barbara determine to take action other than that recommended by County staff, the Council should also discuss alternative actions.

Legal Review By:

Reviewed By:

Approved By:

Tim W. Giles
City Attorney

Michelle Greene
Administrative Services
Director

Daniel Singer
City Manager

Attachments:

1. Resolution No. 09-__ entitled "A Resolution of the City Council of the City of Goleta, California Approving the Property Tax Allocation Agreement between the City of Goleta and County of Santa Barbara Board of Supervisors for Detachment of Properties from Goleta West Sanitary District".
2. Tax Allocation Agreement.

ATTACHMENT 1

Resolution No. 09-__ entitled “A Resolution of the City Council of the City of Goleta, California Approving the Property Tax Allocation Agreement between the City of Goleta and County of Santa Barbara Board of Supervisors for Detachment of Properties from Goleta West Sanitary District”

RESOLUTION NO. 09-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA APPROVING THE PROPERTY TAX ALLOCATION AGREEMENT BETWEEN THE CITY OF GOLETA AND COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS FOR DETACHMENT OF PROPERTIES FROM GOLETA WEST SANITARY DISTRICT

WHEREAS, the City of Goleta (“City”) is a municipal corporation in Santa Barbara County; and

WHEREAS, Santa Barbara County (“County”) is a political subdivision of the State of California; and

WHEREAS, Goleta West Sanitary District (“District”) is a special district formed pursuant to the Sanitary District Act of 1923; and

WHEREAS, District provides wastewater collection services in Santa Barbara County, including services within a portion of City; and

WHEREAS, District was in existence and received an allocation of property tax revenues prior to the enactment of California Proposition 13; and

WHEREAS, District continues to receive an allocation of property tax revenues; and

WHEREAS, City has filed an application with Santa Barbara Local Agency Formation Commission (“LAFCO”) for detachment of properties with the jurisdiction limits of City from District and such application is currently pending before LAFCO (In Re City of Goleta Detachment from the Goleta West Sanitary District, LAFCO Case No. 09-1) (herein referred to as the “Proceeding”); and

WHEREAS, California Revenue and Taxation Code section 99 (B)(5) provides, in pertinent part, that “In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county . . . in which the districts are located shall, on behalf of the district . . ., negotiate any exchange of property tax revenues.”; and

WHEREAS, The Proceeding, if approved, would affect the service area and service responsibilities of District; and

WHEREAS, California Revenue and Taxation Code section 99(B) requires City and County to negotiate to determine the amount of property tax revenues to be exchanged between and among City and District; and

WHEREAS, County has consulted with District and has provided the District with the opportunity to comment on the negotiations; and

WHEREAS, the properties subject to the detachment, if the detachment is approved, would receive no future service from District; and

WHEREAS, the properties subject to the detachment, if the detachment is approved, would in the future receive all of the services currently provided by District from the City; and

WHEREAS, County and City have negotiated and desire to determine the amount of property tax revenue to be exchanged between and among City and District pursuant to the Property Tax Allocation Agreement Between The City Of Goleta And County Of Santa Barbara Board Of Supervisors (“Agreement”) attached hereto as Exhibit “A” and incorporated herein by this reference; and

WHEREAS, County, on behalf of District, and City lack statutory authority to agree to a distribution or reallocation of the assets of District, including any reserve funds; and

WHEREAS, distribution and reallocation of the assets of District, including any reserve funds is within the jurisdiction of LAFCO; and

WHEREAS, District operations are funded by fees which are set and charged based on use of the system; and

WHEREAS, District reserves have accumulated from property taxes collected and other sources; and

WHEREAS, City’s detachment application to LAFCO requests that District reserves which have been collected from property taxes to be allocated to City in proportion to the amount of property taxes currently allocated to District from properties within the City; and

WHEREAS, District has a current contractual obligation to fund capital upgrades to the Goleta Sanitary District treatment facility, such obligation is calculated based upon a proportion of the flow of wastewater into the facility, approximately 40.7%, the total cost of such upgrades are currently projected to be approximately \$50,000,000; and

WHEREAS, City’s detachment application to LAFCO requests that the District’s contractual obligation to fund the capital upgrades to the Goleta Sanitary District treatment facility be allocated to the City based upon the flow of wastewater generated within the City; and

WHEREAS, the proposed allocation of reserves and contractual obligation for the Goleta Sanitary District treatment plant upgrades has the potential to deplete all reserves of the District and leave the District insufficient current assets to fulfill its remaining contractual obligation to the Goleta Sanitary District; and

WHEREAS, the capital improvements have been completed by the District within the City of Goleta in recent years and capital improvement projects have been identified for construction outside of the City of Goleta in coming years; and

WHEREAS, the parties desire to avoid an impact to District which would leave the District insufficient current assets to fulfill its remaining contractual obligation to the Goleta Sanitary District; and

WHEREAS, the parties desire to recognize the proportionate share of capital improvement which need to be constructed outside the City; and

WHEREAS, a contested detachment application proceeding before LAFCO would result in an avoidable expenditure of public funds; and

WHEREAS, County and City are parties to a Revenue Neutrality Agreement (“RNA”); and

WHEREAS the RNA at section 4.12 states:

Change in property tax allocation factors. In the event that the property taxes currently received by Goleta West Sanitary District are reallocated, City and County shall share in the manner set forth in this paragraph. As an incentive for the future annexation of the neighborhood known as Isla Vista, any increased property tax revenues that may result from a change in the allocation factor (“the revenues”) shall be shared, 70% to the County and 30% to the City, so long as the City boundaries do not include Isla Vista. In the event that the City annexes Isla Vista, the City shall be entitled to 70% of the revenues and the County shall be entitled to 30%. County’s share of the revenues shall be transferred in its entirety to the County Fire District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA AS FOLLOWS:

SECTION 1.

The foregoing recitals are true and correct and are incorporated herein by this reference.

SECTION 2.

All ad valorem property taxes currently allocated to District for properties which are detached from the District through the Proceeding should and shall be reallocated to City as provided in the Agreement, Exhibit A.

SECTION 3.

The Agreement is hereby approved and authorized to be executed by the Mayor.

SECTION 4.

In order to avoid the a situation where the reserves of the District are insufficient to fulfill its remaining contractual obligation to the Goleta Sanitary District for treatment plant upgrades and in recognition of the proportionate need for capital improvements outside the City, the City the City extends the following conditional offer to revise its application for detachment:

- a. Assets of the District in the amount of \$20,000,000 be transferred to Goleta Sanitary District to be held in escrow with any interest thereon applied to any increases in the obligation of District and City for treatment plant upgrade, such interest to be applied to future obligations of District and City in proportion to their obligations for any cost increases in the treatment plant upgrades;
- b. Any contractual obligations for treatment plant upgrades beyond the funds allocated herein shall be allocated to City in proportion to the flow of wastewater generated from properties detached from the District;
- c. Remaining reserve funds which were generated by property tax payments shall be allocated to City in proportion to the assessed value of property detached from the District.

SECTION 5.

In order to recognize that reserves generated from properties located within the City and detached from the District are being allocated to meet obligations necessary to serve properties within the District which are not being detached from the District, the foregoing offer is subject to the following contingencies:

- a. District and its Directors avoiding the unnecessary expenditure of public resources by agreeing to not oppose the detachment, which shall include not opposing the application before LAFCo, not soliciting taxpayer protests and not taking any action to hinder or thwart the implementation of the detachment by City;
- b. County committing to revise the RNA to delete section 4.12 and replace it with the following language:

- a. Change in property tax allocation factors. In the event that the property taxes currently received by Goleta West Sanitary District are reallocated, such property taxes shall not be subject to being shared by the entity receiving such allocation.

SECTION 6.

A copy of this resolution shall be transmitted to LAFCO upon adoption.

SECTION 7.

The Clerk of the Board shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 5th day of May, 2009, by the following called votes:

ROGER S. ACEVES, MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH CONSTANTINO
CITY CLERK

TIM W. GILES
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, Deborah Constantino, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 09-___ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the 5th day of May, 2009, by the following vote of the Council:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

(SEAL)

DEBORAH CONSTANTINO
CITY CLERK

ATTACHMENT 2

Tax Allocation Agreement

**PROPERTY TAX ALLOCATION AGREEMENT
BETWEEN THE CITY OF GOLETA
AND
COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS**

THIS AGREEMENT is made and entered into this 5th day of May, 2009, by and between the **CITY OF GOLETA**, (herein referred to as "City"), and **the COUNTY OF SANTA BARBARA BOARD OF SUPERVISORS**, (herein referred to as "County") acting on behalf of the **GOLETA WEST SANITARY DISTRICT** (herein referred to as "District") pursuant to California Revenue and Taxation Code section 99.

RECITALS

WHEREAS, City is a municipal corporation in Santa Barbara County; and

WHEREAS, County is a political subdivision of the State of California; and

WHEREAS, District is a special district formed pursuant to the Sanitary District Act of 1923; and

WHEREAS, District provides wastewater collection and other services in Santa Barbara County, including a portion of City; and

WHEREAS, District was in existence and received an allocation of property tax revenues prior to the enactment of California Proposition 13; and

WHEREAS, District continues to receive an allocation of property tax revenues; and

WHEREAS, City has filed an application with Santa Barbara Local Agency Formation Commission ("LAFCO") for detachment of properties with the jurisdiction limits of City from District and such application is currently pending before LAFCO (In Re City of Goleta Detachment from the Goleta West Sanitary District, LAFCO Case No. 09-1) (herein referred to as the "Proceeding"); and

WHEREAS, California Revenue and Taxation Code section 99 (B)(5) provides, in pertinent part, that "In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues."; and

WHEREAS, The Proceeding, if approved, would affect the service area and service responsibilities of District; and

WHEREAS, California Revenue and Taxation Code section 99(B)(5) requires City and County to negotiate to determine the amount of property tax revenues to be exchanged between and among City and District; and

WHEREAS, County has consulted with District and has provided District with the opportunity to comment on the negotiations; and

WHEREAS, County and City have negotiated and desire to determine the amount of property tax revenue to be exchanged between and among City and District.

AGREEMENT

City and County agree as follows:

1. ALLOCATION OF PROPERTY TAX REVENUES

All ad valorem property taxes currently allocated to District for properties which are detached from the District through the Proceeding should and shall be reallocated to City.

2. APPLICATION OF INDEPENDENT AGREEMENTS

This Agreement is not intended to and does not effect of any independent agreements to any tax revenues which are allocated pursuant to this agreement, including the Revenue Neutrality Agreement by and between the County of Santa Barbara and the City of Goleta.

3. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this Agreement shall be construed as a whole according to its common meaning or purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties.

4. GOVERNING LAW

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in Superior Court of Santa Barbara County.

5. MODIFICATION OF AGREEMENT

The terms of this Agreement may be modified only upon mutual written consent of City and County.

6. CAPTIONS

The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

7. AUTHORIZATION

Each party has expressly authorized the execution of this Agreement on its behalf and has the authority to bind said party and its respective administrators, officers, agents and employees.

8. PARTIAL INVALIDITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

9. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY: Attention: City Manager
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

With a copy Attention: City Attorney
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

TO COUNTY: Attention: Chief Executive Officer
County of Santa Barbara
105 East Anapamu Street, Suite 201
Santa Barbara, CA 93101

With a copy Attention: County Counsel
County of Santa Barbara
105 East Anapamu Street, Suite 201
Santa Barbara, CA 93101

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first above written.

**COUNTY OF SANTA BARBARA
BOARD OF SUPERVISORS**

CITY OF GOLETA

Joseph Centeno,
Chair of the Board

Roger S. Aceves,
Mayor

ATTEST:

ATTEST:

Michael Allen,
Chief Deputy Clerk of the Board

Deborah Constantino,
City Clerk

**APPROVED AS TO
ADMINISTRATION:**

**APPROVED AS TO
ADMINISTRATION:**

Michael F. Brown,
County Executive Officer

Daniel Singer,
City Manager

APPROVED AS TO FORM

APPROVED AS TO FORM

Dennis Marshall,
County Counsel

Tim W. Giles,
City Attorney