

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION TO INTERPRET RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES TO AUTHORIZE ALTERNATE FORM OF PREPAYMENT OF SPECIAL TAX OBLIGATION FOR CERTAIN PARCELS WITHIN COMMUNITY FACILITIES DISTRICT NO. 2005-1 (CANNERY PARK)

The City of Stockton (the "City") has previously conducted proceedings to establish Community Facilities District No. 2005-1 (Cannery Park) (the "Original CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at section 53311, of the California Government Code; and

The City Council (the "City Council") adopted its Resolution Forming and Establishing a Community Facilities District and Authorizing Submittal of Levy of Special Taxes Within Such Community Facilities District to the Qualified Electors Thereof, Resolution No. 06-00112 (the "Resolution of Formation"), on February 28, 2006, officially forming the Original CFD, and approved the levy of a special tax (the "Special Tax") on land within the Original CFD according to a Rate, Method of Apportionment, and Manner of Collection of Special Tax attached to such Resolution of Formation as Exhibit B (the "RMA"); and

The Original CFD was formed at the request of the then-owner of all the land in the Original CFD, which land was proposed for development as the Cannery Park mixed-use community; development proceeded after formation of the Original CFD; due to unanticipated changing real estate market conditions beginning in 2008, only a small portion of the land in the Original CFD has been developed with residences and sold to homeowners (such developed land, comprising 448 parcels, are referred to herein as the "Homeowner Parcels"), with a substantial portion of the land in the Original CFD, currently planned for approximately 511 single-family homes, 210 multi-family units, and 128 acres of commercial/light industrial property remaining undeveloped or in various stages of development (the "Undeveloped Land"); and

As of this date, the Special Tax has not been levied on any parcels in the Original CFD; and

As a result of the unanticipated delay in the originally contemplated development of the Original CFD and revised development plans, the current owner of the Undeveloped Land has requested that the Special Tax obligation of the Undeveloped Land be deemed prepaid upon participation of the Undeveloped Land in a new community facilities district established for the purpose of financing that portion of the

public facilities necessary for development of the Undeveloped Land, which public facilities were originally contemplated to be financed by the Original CFD; and

This City Council finds that certain of the public facilities contemplated to be financed by the Special Taxes of the Original CFD will be financed by the levy of a special tax in the new community facilities district and as such, removal of Undeveloped Land from the Original CFD via a prepayment of the Special Tax to be levied thereon will not deprive the Homeowner Parcels of any benefit originally contemplated from the levy of Special Taxes on the Homeowner Parcels; and

The RMA provides that the Special Tax of the Original CFD may be prepaid at any time by any parcel owner upon tendering a cash payment to the City calculated in accordance with the RMA; and

Section 8 of the RMA provides that interpretations of the RMA may be made by Resolution of the City Council for the purposes of clarifying any vagueness or ambiguity as it relates to the special tax rate, the method of apportionment, the classification of properties or any definition applicable to the CFD; and

This City Council finds that the lack of a methodology for prepayment of the Special Tax by incurring a special tax obligation in another community facilities district for the same purpose and to finance the same facilities as in the Original CFD as a result of revised development plans, was unintentionally and inadvertently left out of the provisions of the RMA and, therefore, there exists vagueness and ambiguity under the RMA with regard to facilitating a fair and reasonable alternate form of prepayment of the Special Tax applicable to land which is undeveloped and the subject of changed development plans in order to provide fairness and consistency of special tax rates with existing land uses within the Original CFD, while facilitating the remaining new development of the undeveloped land within Original CFD; and

This City Council finds that the RMA was established to create consistency in application of the special tax to development and was not intended to preclude a revised development plan, and the long-term purpose of the Original CFD and RMA was to establish an equitable special tax among all developed property within the Cannery Park residential development to finance the public facilities needed for development; and

Due to increased costs in the construction of the public facilities necessary for development of the Undeveloped Land, it is anticipated that parcels in the Undeveloped Land will be subject to an equal or greater maximum special tax rate than comparable parcels that will remain in the Original CFD; and

This City Council finds that public convenience and necessity will be facilitated through prepayment of the Special Tax attributable to the Undeveloped Land via the establishment of a special tax obligation of a new community facilities district under the Act, as requested by the sole owner of the Undeveloped Land. In connection therewith,

the City Council further finds that the public convenience and necessity will be achieved by interpreting the RMA to allow and provide for the requested prepayment methodology of forming a new community facilities district which will impose a special tax rate on parcels, when developed, within the area of the Undeveloped Land which equals or exceeds the rate imposed by the Original CFD; and

This City Council finds that deeming that the Special Tax of the Original CFD applicable to the Undeveloped Land be deemed prepaid upon including such land in a new community facilities district (i) will facilitate the best interests and purposes of the Original CFD, (ii) only affects the Undeveloped Land and is not applicable to any other property in the Original CFD and will not affect the authorized maximum special tax on any existing homes, (iii) will serve the purpose of creating a fair distribution of the special tax on future development of the Undeveloped Land at a rate which is consistent and equitable with the Special Tax rate on developed property in the Original CFD; and (iv) has been requested by and consented to by the owners of 100% of the Undeveloped Land; and

Under sections 53312.5 and 53315 of the Act, this City Council, as the legislative body for the CFD, is empowered with the authority to liberally construe the provisions of the Act in order to effectuate its purposes, and is further empowered with the authority to take any actions or make any determinations that are necessary or convenient to carry out the purposes of the Act and not otherwise prohibited, and the City Council finds that the actions approved herein are authorized under the Act and under the prepayment provisions of the RMA; and

On the basis of the written communications from the owner of the Undeveloped Land requesting and consenting to the actions herein, this City Council finds that the owners of one hundred percent (100%) of the property within the Original CFD which would be affected by the adoption and approval of the proposed interpretation of the RMA have requested, approved and consented to such revision in order to more effectively accomplish the authorized purposes of the Original CFD; and

The City Council now desires to provide for and approve the prepayment of the Special Tax on the Undeveloped Land according to an alternative methodology not originally made a part of the RMA; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The foregoing recitals are true and correct, and the City Council so finds and determines.
2. This City Council hereby further finds that the actions and determinations made herein are necessary and convenient to carry out the purpose of the Act and the financing contemplated by the Original CFD and are not otherwise prohibited by law and

that the actions taken hereby are final and in accordance with the Act and authorized by the RMA.

3. This City Council intends to conduct proceedings under the Act to establish Community Facilities District No. 2019-1 (Cannery Park II) (the "New CFD") with boundaries that encompass all of the Undeveloped Land and to authorize and approve the levy of a special tax on land within the New CFD according to an approved Rate and Method of Apportionment of Special Tax. The inclusion of the Undeveloped Land in the New CFD shall constitute prepayment of the Special Tax of the Original CFD applicable to the Undeveloped Land. Conditioned upon the formation of the New CFD and recording of a Notice of Special Tax Lien for the New CFD on all of the Undeveloped Land, the Clerk, in coordination with Special Counsel and in accordance with section 53330.5 of the Act, is hereby authorized and directed to cause the preparation and recordation of a Notice of Cessation of Special Tax with the County Recorder of the County of San Joaquin with respect to the lien of the Special Tax of the Original CFD upon the Undeveloped Land.

4. From and after the formation of the New CFD the City shall not issue bonds in one or more series secured by special taxes levied on land within the Original CFD (as modified by the removal of Undeveloped Land from the Original CFD via a prepayment of the Special Tax as contemplated herein) in excess of a total aggregate amount of \$10,000,000, it being intended by the Council that this determination by the Council constitutes a covenant to that effect modifying the \$38,000,000 original bond authorization for the Original CFD.

5. This City Council hereby finds and determines that the public convenience and necessity require that the foregoing interpretation of the RMA be accomplished to conform the permitted maximum special tax on the Undeveloped Land upon development to be at a rate which equals or exceeds that of like land uses within the remainder portion of the Original CFD, which remainder portion shall constitute the land within the New CFD. The Council further finds that the interpretation of the RMA contemplated herein will not result in an increase of the maximum special tax on any Homeowner Parcels; accordingly, no landowner/voter approval of the actions herein shall be required and the actions taken hereby are final and in accordance with section 53312.5 and the other provisions of the Act.

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6. All proceedings heretofore taken by this Council with respect to the Original CFD, including the actions taken herein, have been duly considered and are hereby determined to be valid and in conformity with the Act.

7. This Resolution shall take effect immediately upon its adoption.

8. The City Manager is authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED April 2, 2019.

MICHAEL D. TUBBS
Mayor of the City of Stockton

ATTEST:

CHRISTIAN CLEGG, Deputy City Manager
and Interim City Clerk of the City of Stockton