

Resolution No.

# STOCKTON CITY COUNCIL

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## RESOLUTION OF INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2018-1 (ARCH ROAD/NEWCASTLE ROAD) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN THE PROPOSED DISTRICT

RESOLVED, by the City Council of the City of Stockton, California, that:

Pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), proceedings for the establishment of a community facilities district shall be instituted by the adoption by the legislative body of a resolution of intention to establish the community facilities district upon receipt by the City Clerk of a petition (the "Petition") meeting the requirements of the Act; and

The City Council, as the legislative body of the City of Stockton (the "City"), has determined to institute proceedings for the establishment of a community facilities district pursuant to the Act in order to finance the construction and/or acquisition of certain public improvements (all such public improvements being referred to herein as the "Facilities"), all as more particularly set forth in Exhibit 1 attached hereto and incorporated by this reference, including expenses incidental thereto; and

In the event the community facilities district is established, it is the intention of the City Council to finance the Facilities through the authorization, issuance and sale of bonds to be approved at an election to be held within the boundaries of the community facilities district and through the levy of a special tax therein to be approved at such election; and

Pursuant to section 53312.7 of the Act, the City Council has adopted local goals and policies concerning the use of the Act; now, therefore,

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

1. The above recitals are true and correct.
2. A community facilities district is proposed to be established under the terms of the Act. The name proposed for the community facilities district is "Community Facilities District No. 2018-1 (Arch Road/Newcastle Road)" and is referred to in this Resolution as the "District."

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3. The boundaries of the District are hereby approved as shown on the map thereof, entitled "Proposed Boundaries of Community Facilities District 2018-1 (Arch Road/Newcastle Road) of the City of Stockton, County of Stockton, State of California," on file in the office of the City Clerk. Pursuant to sections 3110 and 3111 of the California Streets and Highways Code, the City Clerk shall endorse his/her certificate on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in his/her office and, within 15 days of the adoption of this Resolution and not later than 15 days prior to the date of the public hearing referred to in Section 6 hereof, file a copy of the map with the County Recorder of the County of Stockton.

The City Council hereby finds that no land proposed to be included in the District is devoted primarily to agricultural, timber, or livestock uses and being used for the commercial production of agricultural, timber or livestock products.

4. The Facilities are public facilities authorized to be acquired or constructed under the Act having a useful life of five (5) years or longer. The proposed Facilities are governmental facilities which the City Council is authorized by law to contribute revenue to, or construct, own or operate; or which a local public agency is authorized by law to provide. The City Council further determines that such Facilities are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District.

5. It is the intention of the City Council that, except where funds are otherwise available to pay the cost of the Facilities, including the incidental expenses thereof, and/or the principal and interest as it becomes due on the bonds of the District issued to finance the Facilities, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the boundaries of the District. The rate, method of apportionment and manner of collection of such proposed special tax is set forth in Exhibit 2 attached hereto and incorporated by this reference. Exhibit 2 provides sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that such person will have to pay for the Facilities; provided, that in the case of any special tax to pay for the Facilities that is to be levied against any parcel of land used for private residential purposes (as defined and provided in the Act), (1) such maximum special tax has been specified as a dollar amount which shall be calculated and thereby established not later than the date on which such parcel of land is first subject to the special tax because of its use for private residential purposes, which amount shall not be increased, except that it may be increased by an amount not to exceed two percent (2%) per year, (2) after Fiscal Year 2057-58, such special tax shall no longer be levied or collected against such parcel of land, and (3) under no circumstances shall such special tax be increased as a consequence of delinquency of default by the owner of any other parcel of parcels of land within the District by more than ten percent (10%).

The landowners may prepay in full the amount needed to discharge the special tax lien pursuant to the procedures set forth in Exhibit 2 hereto.

If the special tax is so prepaid and permanently satisfied as to a particular parcel of land, the City Council shall prepare and record in the office of the County Recorder of the County of Stockton, who shall accept for recordation, a Notice of Cancellation of Special Tax Lien as to that parcel. The Notice of Cancellation of Special Tax Lien shall identify with particularity the special tax which has been prepaid and permanently satisfied, shall state the book and page number in the records of the County Recorder where the Notice of Special Tax Lien being cancelled is recorded, shall contain the legal description and assessor's parcel number of the particular parcel of land subject to the lien, and shall contain the name of the owner of record of the parcel. The County Recorder shall mail the original Notice of Cancellation of Special Tax Lien to the owner of the property after recording the document. The City Council may specify a charge for the preparation and recordation of the Notice.

6. A public hearing on the establishment of the District and the proposed rate, method of apportionment, and manner of collection of the special tax shall be held at 5:30 p.m., or as soon thereafter as practicable, on Tuesday, June 19, 2018, at the regular meeting place of the City Council, City of Stockton, 425 North El Dorado Street, Stockton, California 95202, said time being not less than 30 or more than 60 days following the adoption hereof. The hearing may be continued from time to time as permitted by the Act.

7. The Director of Public Works, as the officer of the City who will be responsible for providing the proposed Facilities to be financed by the District, if it is established, is hereby directed to study the proposed District, and, at or before the time of said hearing, cause to be prepared and filed with the City Council a report containing a brief description of the Facilities by type which will in such officer's opinion be required to adequately meet the needs of the District, setting forth his estimate of: the amount of the Fees and the fair and reasonable cost of incidental expenses to be incurred in connection therewith, including the costs of the proposed bond financing and other related costs as provided in section 53345.3 of the Act. The report shall be made a part of the record of the hearing to be held pursuant to section 6 hereof.

8. At the time and place set forth in this Resolution for the hearing, any interested person, including taxpayers, property owners and registered voters residing within the boundaries of the proposed District, may appear and be heard, and the testimony of all interested persons for or against the establishment of the District, the extent of the District, or the proposed rate, method of apportionment and manner of collection of the special tax will be heard and considered. The hearing may be continued from time to time as permitted by the Act. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

9. The City Clerk is hereby directed to publish a notice (the "Notice") of the hearing described in section 6, in the form required by the Act, not later than seven (7)

days prior thereto, in a newspaper of general circulation published in the area of the District, being The Record (or other newspaper of general circulation in the City), and otherwise in accordance with section 6061 of the California Government Code and section 53322 of the Act. The Notice shall be in substantially the form attached in Exhibit 3 hereto.

10. The City Clerk may also send a copy of the notice of the hearing not later than fifteen (15) days prior thereto, by first-class United States mail, postage prepaid, to each registered voter and to each landowner within the proposed District. The content of the mailed Notice shall be as nearly as practicable identical to the content of the published Notice and in any event shall contain the same information as is required to be contained in the published Notice.

11. If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of the land in the territory proposed to be included in the District and not exempt from the special tax, file written protests against the establishment of the District, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create the District, or to levy the specified special tax, shall be taken for a period of one year from the date of the decision of the City Council.

If the majority protests of the registered voters or the landowners are only against the furnishing of a specified type or types of Facilities within the District, or against levying a specified special tax, those types of Facilities or the specified tax shall be eliminated from the District proceedings.

At the conclusion of the hearing, if the City Council determines to establish the District, it shall adopt a resolution of formation and then submit the levy of any special taxes to the qualified electors of the District in a special election.

12. If, after the hearing described in Section 6, the City Council adopts a resolution of formation establishing the District and submits the levy of the special tax to the qualified electors of the District in a special election, such election shall be held at least ninety (90) days, but not more than one hundred eighty (180) days following the adoption of the resolution of formation. The City Clerk shall, within three business days after the adoption of the resolution of formation, provide a copy of the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the District, to the official conducting the election. Assessor's parcel numbers for the land within the District shall be included if it is a landowner election or the District does not conform to an existing district's boundaries and if requested by the official conducting the election.

If the election is to be held less than one hundred twenty-five (125) days after the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, such time limits, or any requirement

pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.

The special election of (i) the proposition of the District incurring a bonded indebtedness in an amount not to exceed \$4,000,000, (ii) the proposition with respect to the levy of a special tax on the land within the District, and (iii) the proposition with respect to the establishment of an appropriations limit for the District in the amount of \$4,000,000 per fiscal year, if the District is established and such election is held, shall be consolidated.

If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the proposed District for each of the ninety (90) days preceding the close of the hearing, the vote shall be by the registered voters of the proposed District, with each voter having one vote.

Otherwise, the vote shall be by the landowners of the proposed District and each landowner who is the owner of record at the close of the hearing, or the authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land that such landowner owns within the proposed District. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

Ballots for the special election may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the California Elections Code. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners, and shall be so stated in the order for the election.

If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in landowners elections shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope; (4) the printed name and signature of the voter;

(5) the address of the voter; (6) the date of signing and the place of execution of the declaration described in (3) above; and (7) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Except as otherwise provided by the Act, the procedures set forth in this Section 12 for conducting the consolidated special election, if held, may be modified as the City Council may determine to be necessary or desirable by a resolution subsequently adopted by the City Council.

PASSED, APPROVED, and ADOPTED May 15, 2018.

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MICHAEL D. TUBBS, Mayor  
of the City of Stockton

ATTEST:

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BRET HUNTER, CMC  
City Clerk of the City of Stockton