

Resolution No.

STOCKTON CITY COUNCIL

=====

RESOLUTION OF FORMATION ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2018-1 (ARCH ROAD/NEWCASTLE ROAD), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN SAID DISTRICT, PRELIMINARILY ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT, AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT OF THE APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT

The City Council (the "City Council") of the City of Stockton (the "City"), did on May 15, 2018 adopt its Resolution No. 2018-05-15-1106-02 of intention to establish Community Facilities District No. 2018-1 (Arch Road/Newcastle Road) (the "District"), and levy a special tax therein, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, as amended, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"); and

Said Resolution No. 2018-05-15-1106-02, describing the proposed boundaries of the District, the name of the District, and the facilities proposed to be financed by the District (the "Facilities") (such Facilities being set forth in Exhibit 1), 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; specifying the rate, method of apportionment, and manner of collection of the special tax in sufficient detail to allow each landowner or resident within the proposed District to estimate the maximum amount that he or she will have to pay, and setting a hearing thereon, is incorporated herein by this reference; and

Notice of the hearing was duly published as required by law, as evidenced by the affidavit of publication on file with the City Clerk; and

This City Council did, on June 19, 2018, hold the public hearing as required by law relative to the proposed formation of the District, the levy of the special tax, and all other matters set forth in Resolution No. 2018-05-15-1106-02; and

Prior to the hearing a map of the proposed boundaries of the District, entitled "Proposed Boundaries of Community Facilities District No. 2018-1 (Arch Road/Newcastle Road), City of Stockton, County of San Joaquin, State of California" (the "Proposed Boundary Map") was recorded pursuant to section 3111 of the California Streets and Highways Code in the office of the County Recorder of the County of Stockton, in Book 6 of Maps of Assessment and Community Facilities Districts, at Page 125; and

Prior to the hearing a report (the "Report") containing a description of the Facilities required to adequately meet the needs of the District and an estimate of the cost of providing the Facilities, including, to the extent the purchase of completed public facilities or the payment of incidental expenses is proposed, the estimated fair and reasonable cost thereof, was filed with this City Council as a part of the record of the hearing and duly considered by this City Council; and

At the hearing, all persons desiring to be heard on all matters pertaining to the formation of the District, the levy of the special tax, and all other matters set forth in said Resolution No. 2018-05-15-1106-02 including all interested persons or taxpayers for or against the establishment of the District, the extent of the District, or the furnishing of the Facilities, were heard and considered, and a full and fair hearing was held thereon; and

At the hearing evidence was presented to this City Council on the matters before it, and this City Council at the conclusion of the hearing was fully advised as to all matters relating to the formation of the District, the levy of the special tax, and all other matters set forth in Resolution No. 2018-05-15-1106-02; and

The City Engineer of the City has provided certification in Exhibit 2 that there are, and have been for each of the 90 days preceding the close of the public hearing, less than twelve (12) registered voters residing in the District (the Public Works Director certified there are and have been during such 90-day period no registered voters residing within the District); accordingly, the qualified electors in the District are the landowners of the District; and

The Public Works Director of the City has certified that all of the land in the District is owned by the owner; and

Fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the District (in this District there are no registered voters), or the owners of one-half (1/2) or more of the area of land in the territory proposed to be included in the District and not exempt from this special tax have not filed written protests with the City Clerk, against the establishment of the District, the financing of the Facilities within the District as listed in the Report, or the levying of the special tax; and

This City Council has received a "Waiver and Consent" from the owner of all land in the District waiving certain election requirements, including the time limits for the election specified in section 53326 and any analysis and arguments under section 53327 of the Act; and

The City Clerk has concurred in the election date herein set forth for the election herein called; 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. The proposed special tax to be levied in the District has not been precluded by majority protest pursuant to section 53324 of the Act. All protests (there were none) to the establishment of the District, the extent thereof, or the financing of the Fees and the furnishing of the public Facilities proposed therefor, or the levy of the special tax proposed to be levied in the District, are hereby overruled.

3. As proposed in Resolution No. 2018-05-15-1106-02, a community facilities district is hereby established pursuant to the Act, designated "City of Stockton Community Facilities District No. 2018-1 (Arch Road/Newcastle Road)."

4. The Facilities are necessary to meet the increased demands placed upon the City and other local agencies operating within the area of the District as a result of development occurring in the District.

No land within the District is devoted primarily to agricultural, timber or livestock uses or being used for the commercial production of agricultural, timber or livestock products.

The Report related to the Facilities, and which contains a description of the Facilities, shall be a part of the record in these proceedings.

5. As stated in Resolution No. 2018-05-15-1106-03, except where funds are otherwise available, it is the intention of this City Council, subject to the approval of the qualified electors of the District, to levy a special tax sufficient to pay all costs necessary to administer and pay debt service on the bonds of the District issued to finance the Facilities, to establish or replenish any necessary reserve and sinking funds, to acquire or construct the Facilities, to pay any rebatable arbitrage and to pay any other costs or expenses of the District authorized by the Act, secured by a continuing lien recorded against all nonexempt real property in the District.

The rate, method of apportionment, and manner of collection of the special tax, in sufficient detail to allow each landowner or resident with the District to estimate the maximum amount that he or she will have to pay is described in Exhibit 3, which is by this reference incorporated herein.

Landowners may prepay the special tax and discharge the special tax lien pursuant to the procedures set forth in Exhibit 3 hereto.

The special tax as apportioned to each parcel pursuant to Exhibit 3 is based upon the cost of making the Facilities available to each parcel or other reasonable basis, and is not based on or upon the ownership of real property.

There is no *ad valorem* property tax currently being levied on property within the District for the exclusive purpose of making lease payments or paying principal or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services as are to be provided by the facilities related to the Facilities to be financed by the District.

Any reimbursement made to the District pursuant to section 53313.5(e) of the California Government Code shall be utilized to reduce or minimize the special tax levied within the District or to construct or acquire additional Facilities within the District.

6. The description of the proposed voting procedures, as set forth in the resolution canvassing the results of the June 19, 2018, election held within CFD 2018-1 and authorizing the levy of a special tax within said district, is hereby incorporated herein by this reference, and shall be the voting procedures to be used in these proceedings.

7. The Chief Financial Officer, or his designee, is hereby designated as the office, department or bureau which will be responsible for annually preparing the current roll of special tax levy obligations by assessor's parcel number on nonexempt property within the District and which will be responsible for estimating future special tax levies pursuant to section 53340.2 of the Act. Such officer has established procedures to promptly respond to inquiries concerning current and future estimated tax liability pursuant to section 53340.2 of the Act.

8. Upon a determination by this City Council, after the canvass of the returns of the election contemplated in sections 11 and 12 hereof, that two-thirds (2/3) of the votes cast upon the question of levying the special tax are in favor thereof, the City Clerk shall record the notice of special tax lien provided for in section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien pursuant to said section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien cancelled in accordance with law or until collection of the tax by this City Council ceases.

9. All prior proceedings taken with respect to the establishment of the District are valid and in conformity with the requirements of the Act.

10. In accordance with section 53325.7 of the Act, the annual appropriations limit of the District, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, is hereby preliminary established at \$4,000,000, and said annual appropriations limit shall be submitted to the voters of the District as hereafter provided. The proposition establishing said appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of section 53325.7 of the Act.

11. This City Council hereby calls a special election and submits the question of levying the special tax and establishing the annual appropriations limit for the District in connection therewith, to the qualified electors within the District, at a special election to be held on Tuesday, June 19, 2018, all in accordance with and subject to the Act, the terms of which shall be applicable to such election.

Fewer than twelve (12) persons have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the hearing referenced herein. Accordingly, for the purposes of these proceedings, the qualified electors shall be the landowner within the District; the vote shall be by said landowner or its authorized representatives; having one vote for each acre or portion thereof that such landowner owns in the District as of the close of said hearing; and the ballots for the special election shall be distributed by mail with return postage prepaid or by personal service to such landowner; all as provided in section 53326 of the Act.

The City Council hereby designates the City Clerk as the election official to conduct the election.

The shortening of the election date to such date has been consented to by the owners of all of the land in the District, as shown on the "Waiver and Consent" filed by the landowner, and concurred in by the City Clerk, being the election official conducting the election. In accordance with section 53327(b) of the Act, analysis and arguments, as provided in section 53327(a) of the Act, are hereby waived as a result of the consent thereto by the owners of all land within the District, as shown on the "Waiver and Consent" filed by the landowner.

12. This City Council hereby further directs that the election at which the question of levying the special tax and the establishment of a appropriations limit in connection therewith is submitted to the qualified electors within the District shall be consolidated with the election at which the question of incurring a bonded indebtedness in an aggregate principal amount not to exceed Four Million Dollars (\$4,000,000) for the District is submitted to the qualified electors within the District, and the question of levying the special tax shall be combined in one ballot proposition with the question of incurring such bonded indebtedness and the question of establishing an appropriations limit for the District, all as provided by the Act; and this City Council further directs that the resolution adopted by this City Council determining the necessity to incur such bonded indebtedness shall constitute the notice of the consolidated election on the combined proposition of authorizing the levy of the special tax, of establishing an appropriations limit, and of incurring such bonded indebtedness. Such notice is hereby waived as a result of the consent thereto by the owners of all of the land within the District, as shown on the "Waiver and Consent" filed by each landowner.

13. If two-thirds (2/3) of the votes cast upon the question of levying the special tax are cast in favor of levying the tax, as determined by this City Council after the canvass of the returns of such consolidated election, this City Council may levy the special tax within the territory of the District in the amount and for the purposes as specified in this Resolution.

The special tax may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special tax may be levied at a lower rate.

14. Prior to the date of the election herein called, and, in any event, within three business days after the adoption of this Resolution, the City Council, if not already done so, shall provide the City Clerk as the designated election official with a certified copy of this Resolution, a map of the boundaries of the District, a sufficient description to allow the City Clerk to determine the boundaries of the District, and the assessor's parcel numbers for the land within the District.

PASSED, APPROVED, and ADOPTED June 19, 2018.

MICHAEL D. TUBBS, Mayor
of the City of Stockton

ATTEST:

BRET HUNTER, CMC
City Clerk of the City of Stockton