

RESOLUTION NO. 2014-124

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LODI CALLING AN ELECTION TO SUBMIT TO THE
QUALIFIED ELECTORS THE QUESTION OF LEVYING A
SPECIAL TAX WITHIN THE AREA PROPOSED TO BE
ANNEXED TO COMMUNITY FACILITIES DISTRICT
NO. 2007-1 (PUBLIC SERVICES) (ANNEXATION NO. 1)

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WHEREAS, on April 4, 2007, the City Council (the "City Council") of the City of Lodi (the "City"), approved Resolution No. 2007-59 establishing Community Facilities District No. 2007-1 (Public Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, for the purpose of providing for the financing of certain public services (the "Services") described in Exhibit A hereto; and

WHEREAS, at a special election held on April 11, 2007, more than two-thirds of the votes cast were in favor of the levy of a special tax and the establishment of an appropriations limit, all as determined by the City Council in Resolution No. 2007-82, duly adopted on May 2, 2007; and

WHEREAS, the City Council on May 21, 2014, duly adopted Resolution No. 2014-81 (the "Resolution of Intention") declaring its intention to annex certain territory to the CFD and to levy a special tax within that territory to pay for the Services and setting a public hearing on the proposed annexation for July 16, 2014; and

WHEREAS, the territory proposed to be annexed is identified in a map entitled "Annexation Map No. 1 Community Facilities District No. 2007-1 (Public Services), City of Lodi, San Joaquin County, State of California," a copy of which was recorded June 25, 2014, in Book 6 of Maps of Community Facilities Districts at Page 54 in the office of the San Joaquin County Recorder; and

WHEREAS, the City Council convened a public hearing on Wednesday, July 16, 2014, at 7:00 p.m., at the regular meeting place of the City Council, Carnegie Forum, 305 West Pine Street, Lodi, California, at which hearing all persons interested, including all taxpayers, property owners and registered voters within the CFD and the territory proposed to be annexed, were given an opportunity to appear and be heard on the proposed annexation of territory to the CFD and the levy of special taxes within the territory proposed to be annexed; and

WHEREAS, written protests have not been filed by fifty percent (50%) or more of the registered voters residing within the CFD, or by fifty percent (50%) or more of the registered voters residing within the territory to be annexed, or by the owners of one-half (1/2) or more of the area within the CFD, or by the owners of one-half (1/2) or more of the territory to be annexed; and

WHEREAS, the City Council has determined that there are fewer than twelve registered voters residing in the territory proposed to be annexed to the CFD and that the qualified electors in such territory are the landowners; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined to call an election to authorize the annexation of territory to the CFD and the levying of a special tax as described in Exhibit B hereto; and

WHEREAS, the City Council has received a written instrument from each landowner in the territory proposed to be annexed to the CFD consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi that:

Section 1. Recitals. All of the above recitals are true and correct, and the City Council so finds and determines.

Section 2. Confirmation of Findings in Resolution of Intention. The City Council reconfirms all of its findings and determinations as set forth in the Resolution of Intention.

Section 3. Finding Regarding Protests. The City Council finds and determines that written protests to the proposed annexation of territory to the CFD and the levy of the special tax within such territory are insufficient in number and in amount under the Act, and the City Council hereby further orders and determines that all such protests are hereby overruled.

Section 4. Finding Regarding Prior Proceedings. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the annexation of territory to the CFD are valid and in conformity with the requirements of the Act.

Section 5. Tax Lien. Upon recordation of an amended notice of special tax lien pursuant to Sections 3117.5 and 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the territory proposed to be annexed and this lien shall continue in force and effect until the collection of the tax is terminated by the City Council.

Section 6. Call and Order of Election. The City Council hereby calls and orders a special election to be held on Wednesday, July 16, 2014 ("Election Day"), at which election the question of levying the special tax within the territory proposed to be annexed shall be submitted to the qualified electors of the territory proposed to be annexed. The terms of the measure are described in this Resolution. The abbreviated form of the statement of the ballot measure is set forth in Exhibit C hereto and is incorporated herein by reference.

Section 7. Vote Required. If the proposition on the question of levying the special tax within the territory proposed to be annexed receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, then the territory proposed to be annexed will be added to and become part of the CFD with full legal effect and the City Council will be authorized to levy the special tax within the annexed territory.

Section 8. Submission of Ballot Proposition. The City Council hereby submits to the landowners within the territory proposed to be annexed to the CFD at the special

election the ballot proposition set forth in Section 6 of this Resolution. The City Council hereby authorizes the City Clerk to conduct the election.

Section 9. Conduct of Election. The special election shall be held and conducted, the returns canvassed, and the results ascertained and determined, as herein provided:

(a) All owners of land within the territory proposed to be annexed to the CFD upon the date of the special election shall be qualified to vote upon the measure submitted at the special election. Each landowner shall have one vote for each acre or portion thereof that she, he, or it owns within the territory proposed to be annexed to the CFD, as provided in Government Code section 53326(b).

(b) Pursuant to Government Code section 53327, the special election shall be conducted as a mailed ballot election, in accordance with the provisions of Sections 4100-4108 of the Elections Code. There shall be no polling places for the special election.

(c) The City Clerk is authorized to mail to each landowner in the territory proposed to be annexed to the CFD a ballot in the form set forth in Exhibit C hereto.

(d) Each voter desiring to vote in favor of the measure to levy a special tax shall mark an "X" or a check mark in the voting square opposite the word "YES." To vote against the measure, the voter shall mark an "X" or a check mark in the voting square opposite the word "NO."

(e) The City Clerk shall accept the ballots of the landowners up to five minutes following the adoption of this Resolution by the City Council. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the Election Day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(f) The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(g) The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

(h) The City Council ratifies the City Clerk's mailing of the ballots in advance of the call of the election.

Section 10. General Authorization with Respect to the Election. The members of the City Council, the City Clerk, and the other officers of the City are hereby authorized and directed, individually and collectively, to do any and all things and to execute, deliver, and perform any and all agreements and documents that they deem necessary or advisable in order to effectuate the purposes of this Resolution. All actions heretofore taken by the officers and agents of the City that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respects.

Section 11. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the City has created a separate account into which the special tax proceeds shall be deposited; and the City shall prepare a report, as required, pursuant to the requirements of Section 53343.1.

Section 12. CEQA Compliance. The City Council hereby determines that the annexation of territory to the CFD is not a project as defined under the provisions of the California Environmental Quality Act ("C.E.Q.A.") pursuant to Section 15378 of the C.E.Q.A. guidelines and directs the City staff to file a notice of exemption with San Joaquin County.

Section 13. Effective Date. This Resolution shall take effect immediately upon its passage.

Dated: July 16, 2014

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I hereby certify that Resolution No. 2014-124 was passed and adopted by the Lodi City Council in a regular meeting held July 16, 2014, by the following vote:

- AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, Nakanishi, and Mayor Katzakian
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – None
- ABSTAIN: COUNCIL MEMBERS – None


KARI CHADWICK
Administrative Secretary

EXHIBIT A

DESCRIPTION OF SERVICES

The community facilities district is established to finance any one or more of the following types of services within the District:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance of parks, parkways, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protection systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

CITY OF LODI COMMUNITY FACILITIES DISTRICT No. 2007-1 (PUBLIC SERVICES)

RATE AND METHOD OF APPORTIONMENT (RMA) OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District (CFD) No. 2007-1 (Public Services) shall be levied and collected according to the tax liability determined by the City Council acting in its capacity as the legislative body of CFD No. 2007-1, through the application of the appropriate Special Tax rate, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless a separate RMA is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Dwelling Unit" means a second residential unit of limited size (i.e., granny cottage, second unit) that shares a Parcel with a Single Family Unit.

"Administrative Expenses" means any or all of the following: the expenses of the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person(s) or firm designated by the City to administer the Special Taxes according to this RMA.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

"CFD No. 2007-1" or **"CFD"** means the City of Lodi Community Facilities District No. 2007-1 (Public Services).

"City" means the City of Lodi.

“City Council” means the City Council of the City of Lodi.

“County” means the County of San Joaquin.

“Fiscal Year” means the period starting on July 1 and ending on the following June 30.

“Maximum Special Tax” means the maximum Special Taxes determined in accordance with Section C below that can be levied on Single Family Property and Multi-Family Property in any Fiscal Year.

“Multi-Family Property” means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Multi-Family Units.

“Multi-Family Unit” means an individual residential unit within a structure with three or more residential units that share a single Assessor’s Parcel number, all of which are offered for rent to the general public and cannot be purchased by individual homebuyers. Residential units located above commercial establishments that are available exclusively for rent and cannot be purchased by individual owners shall also be characterized as Multi-Family Units for purposes of this RMA.

“RMA” means this Rate and Method of Apportionment.

“Single Family Property” means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Single Family Units.

“Single Family Unit” means an individual single family detached residential unit or an individual residential unit within a half-plex, duplex, triplex, fourplex, townhome, condominium, or other structure with attached residential units that are available for sale to individual buyers, whether or not such a unit is ultimately offered for rent by an individual buyer. For-sale residential units located above commercial establishments shall also be categorized as Single Family Units for purposes of this RMA.

“Special Tax” means any tax levied within the CFD to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the tax will be collected.

“Taxable Property” means both Single Family Property and Multi-Family Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel number for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the number of Single Family and Multi-Family Units built or to be built on each Parcel of Taxable Property by referencing the building permit, condominium plan, apartment plan, site plan, or other development plan for the property.

In any Fiscal Year, if it is determined that (i) a parcel or subdivision map for a portion of property in the CFD was recorded after January 1 of the preceding Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel or subdivision map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel or subdivision map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel or subdivision map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel or subdivision map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels of Taxable Property within the CFD shall be \$600 per Single Family Unit and \$175 per Multi Family Unit for Fiscal Year 2007-08. Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax in effect in the prior Fiscal Year shall be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (5%).

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied proportionately on each Parcel of Taxable Property in the CFD up to 100% of the Maximum Special Tax determined pursuant to Section C above until the total amount levied is equal to the Special Tax Requirement for the Fiscal Year.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. 2007-1 financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels within the CFD that are not Single Family Property or Multi-Family Property. Furthermore, Accessory Dwelling Units shall not be counted in determining the Special Tax to be levied on the Parcels on which such units are located.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this RMA.

EXHIBIT C

OFFICIAL BALLOT

**SPECIAL TAX ELECTION
CITY OF LODI
ANNEXATION OF TERRITORY TO
COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES)
(July 16, 2014)**

Number of votes entitled to cast: 116

INSTRUCTIONS TO VOTERS: To vote on the measure, mark an (X) or a check mark in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk, 221 West Pine Street, Lodi, California 95240, to obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS

Ballot Measure: "Shall the City of Lodi Community Facilities District No. 2007-1 (Public Services) be authorized to levy a special tax for the purpose and at the rate and apportioned as described in Exhibits A and B to Resolution No. 2014-81 adopted by the City Council of the City of Lodi on May 21, 2014, which resolution is incorporated herein by reference, within the territory identified on a map entitled "Annexation Map No. 1 Community Facilities District No. 2007-1 (Public Services), City of Lodi, San Joaquin County, State of California?"

YES:

NO:

NOTE: This is a special landowner election. You must return this ballot to the City Clerk, City of Lodi, to her office at 221 West Pine Street, Lodi, California 95240, by 4:00 p.m. on July 16, 2014.