

01-0651

Resolution No. _____

STOCKTON CITY COUNCIL

**RESOLUTION OF FORMATION OF COMMUNITY FACILITIES DISTRICT,
DETERMINING TO INCUR BONDED INDEBTEDNESS THEREFOR, AND CALLING
SPECIAL ELECTION THEREIN**

**Community Facilities District No. 2001-1
(Downtown Parking)**

WHEREAS, on December 11, 2001, the City Council adopted a resolution entitled "A Resolution of Intention to Establish a Community Facilities District and To Incur Bonded Indebtedness Therefor" (the "Resolution of Intention"), stating its intention to form Community Facilities District No. 2001-1 (Downtown Parking) (the "CFD"), of the City pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code, as supplemented by the City's Charter (the "Act"); and

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD stating the facilities and services to be provided, the cost of providing such facilities and services, and the rate and method of apportionment of the special tax to be levied within the CFD to pay the principal and interest on bonds proposed to be issued and the services to be provided with respect to the CFD, is on file with the City Clerk and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

WHEREAS, the facilities and services stated in the Resolution of Intention are as set forth in Exhibit "A" attached hereto and hereby made a part hereof; and

WHEREAS, on this date, the City Council held a noticed public hearing, as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD, the levy of the special taxes therein and the incurring of bonded indebtedness therefor; and

WHEREAS, at the hearing, all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, its special taxes and bonds, and the facilities and services to be provided, were heard and a full and fair hearing was held;

WHEREAS, at the hearing, evidence was presented to this Council on the matters before it, including a report caused to be prepared by the Engineer of Work (the "Report") as to the facilities and services to be provided through the CFD and the costs thereof, a copy of which is on file with the City Clerk, and this Council at the conclusion of said hearing is fully advised in the premises; and

City Atty
Review GOP
Date December 5, 2001

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WHEREAS, written protests with respect to the formation of the CFD, the furnishing of specified types of facilities and services, the rate and method of apportionment of the special taxes, and the authorization of any bonded indebtedness have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters residing within the territory of the CFD or property owners of one-half (1/2) or more of the area of land within the CFD and not exempt from the proposed special tax; and

WHEREAS, the special tax proposed to be levied in the CFD to pay for the proposed facilities to be provided therein, as set forth in Exhibit "B" hereto, has not been eliminated by protest by fifty percent (50%) or more of the registered voters residing within the territory of the CFD or the owners of one-half (1/2) or more of the area of land within the CFD and not exempt from the special tax; now, therefore,

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

1. **Recitals Correct.** The foregoing recitals are true and correct.
2. **No Majority Protest.** The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.
3. **Prior Proceedings Valid.** All prior proceedings taken by this City Council in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.
4. **Name of CFD.** The community facilities district designated "Community Facilities District No. 2001-1 (Downtown Parking)" of the City is hereby established pursuant to the Act.
5. **Boundaries of CFD.** The boundaries of the CFD, as set forth in the map of the CFD to be recorded in the Office of the County Recorder, County of San Joaquin, are hereby approved, are incorporated herein by reference, and shall be the boundaries of the CFD.
6. **Description of Facilities and Services.** The type of public facilities and services proposed to be financed by the CFD and pursuant to the Act shall consist of those items listed as facilities in Exhibit "A" attached hereto and by this reference incorporated herein (the "Facilities" and "Services").
7. **Special Tax. The following shall apply:**
 - a. Except to the extent that funds are otherwise available to the CFD to pay for the Facilities and/or the principal and interest as it becomes due on

bonds of the CFD issued to finance the Facilities and the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as may be prescribed by this Council.

b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in Exhibit "B" attached hereto and hereby incorporated herein.

c. In the case of any Special Tax to pay for the Facilities and to be levied against any parcel used for private residential purposes: (i) the maximum special tax shall be specified as a dollar amount which shall be calculated and thereby established not later than the date on which the parcel is first subject to the tax because of its use for private residential purposes and which amount shall not be increased over time over two percent per year; (ii) the tax year after which no further Special Tax subject to this sentence shall be levied or collected shall be as set forth in Exhibit "B" hereto; and (iii) under no circumstances will the Special Tax levied against any parcel subject to this sentence be increased as a consequence of delinquency or default by the owner of any other parcel within the CFD by more than ten percent. For the purposes hereof, a parcel is used for "private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

8. **Increased Demands.** It is hereby found and determined that the Facilities and Services are necessary to meet increased demands placed upon local agencies as the result of development occurring in the CFD.

9. **Responsible Official.** The Administrative Services Officer of the City, 425 N. El Dorado Street, Stockton, CA 95202-1997, telephone number (209) 937-8398, is the officer of the City who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and who will be responsible for estimating future special tax levies pursuant to the Act.

10. **Tax Lien.** Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD, and this lien shall continue in full force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the City ceases.

11. **Appropriations Limit.** In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at \$30,000,000 and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing said annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act.

12. **Necessity for Bonded Indebtedness.** This Council deems it necessary to incur bonded indebtedness in the maximum aggregate principal amount of \$60,000,000 within the boundaries of the CFD for the purpose of financing the costs of a portion of the Facilities, as provided in the Resolution of Intention and the Resolution of Formation including, but not limited to, the costs of issuing and selling bonds to finance a portion of the Facilities and the costs of the City in establishing and administering the CFD.

13. **Entire CFD Liable.** The whole of the CFD shall pay for the bonded indebtedness through the levy of the special tax. The tax is to be apportioned in accordance with the formula set forth in Exhibit "B" to the Resolution of Formation.

14. **Bonds.** Bonds in the maximum amount of \$60,000,000 are hereby authorized, subject to voter approval. The bonds may be issued in such series and mature and bear interest at such rate or rates, payable semiannually or in such other manner, all as this Council or its designee shall determine at the time or times of sale of such bonds; provided, however, that the interest rate or rates shall not exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds, and the bonds or any series thereof shall have a maximum term of not to exceed forty years.

15. **Election; Issues Submitted.** Pursuant to Sections 53326, 53351, and 53325.7 of the Act, the issues of the levy of the special tax, the incurring of bonded indebtedness, and the establishment of the appropriations limit shall be submitted to the qualified electors (as defined below) of the CFD at an election called therefor as provided below.

16. **Qualified Electors.** This Council hereby finds that fewer than 12 persons have been registered to vote within the territory of the CFD for each of the ninety (90) days preceding the close of the public hearings heretofore conducted and concluded by this Council for the purposes of these proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that, for these proceedings, the qualified electors are the landowners within the CFD and that the vote shall be by such landowners or their authorized representatives, each having one vote for each acre or portion thereof such landowner owns in the CFD as of the close of the public hearings.

17. **Conduct of Election.** This Council hereby calls a special election to consider the measures described in Section 2 above, which election shall be held on December 11, 2001, and the results thereof canvassed at the meeting of this Council on the same date. The City Clerk is hereby designated as the official to conduct the election and to receive all ballots until the close of business on the election date. It is hereby acknowledged that the Clerk has on file the Resolution of Formation, a map of the boundaries of the CFD, and a sufficient description to allow the Clerk to determine the electors of the CFD. Pursuant to Section 53327 of the Act, the election shall be conducted by messenger or mail-delivered ballot pursuant to Section 4000 of the California Elections Code. This Council hereby finds that paragraphs (a), (b), (c)(1) and (c)(3) of Section 4000 are applicable to this special election.

18. **Ballot.** As authorized by Section 53353.5 of the Act, the three propositions described in Section 1 above shall be combined into a single ballot measure, the form of which is attached hereto as Exhibit "C" and by this reference incorporated herein, and the form of ballot is hereby approved. The City Clerk is hereby authorized and directed to cause a ballot, in substantially the form of Exhibit "C," to be delivered to each of the qualified electors of the CFD. Each ballot shall indicate the number of votes to be voted by the respective landowner to which the ballot pertains. Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The envelope to be used to return the ballot shall be enclosed with the ballot, have the return postage prepaid, and contain the following: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the landowner entitled to vote and is the person whose name appears on the envelope, (c) the printed name, signature, and address of the voter, (d) the date of signing and place of execution of the declaration pursuant to clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing Council.

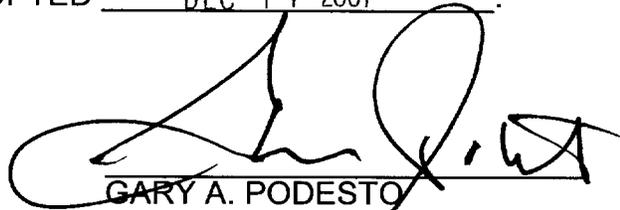
19. **Waivers.** This Council hereby further finds that the provisions of Section 53326 of the Act requiring a minimum of ninety (90) days following the adoption of the Resolution of Formation to elapse before the special election are for the protection of the qualified electors of the CFD. There is on file with the Clerk a written waiver executed by all of the qualified electors of the CFD allowing for a shortening of the time for the special election to expedite the process of formation of the CFD and waiving any requirement for notice, analysis, and arguments in connection with the election. Accordingly, this Council finds and determines that the qualified electors have been fully apprised of and have agreed to the shortened time for the election and waiver of analysis and arguments and have thereby been fully protected in these proceedings. This Council also finds and determines that the City Clerk has concurred in the shortened time for the election. Analysis and arguments with respect to the ballot measures are hereby waived, as provided in Section 53327 of the Act.

20. **Accountability.** Under Sections 50075.1 and 53410 of the Government Code, the following accountability provisions shall apply to the special taxes and/or any

bonds: (a) the construction and/or acquisition of the Facilities and the incidental costs thereof including any bonds, all as defined in the Resolution of Formation, shall constitute the specific single purpose; (b) the proceeds shall be applied only to the specific purposes identified in (a) above; (c) there shall be created special account(s) or funds(s) into which the proceeds shall be deposited; and (d) there shall be caused to be prepared an annual report as required by Sections 50075.3 or 53411 of the Government Code.

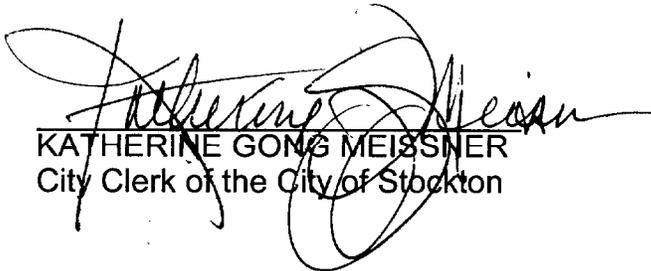
21. **Effective Date.** This Resolution shall take effect upon its adoption.

PASSED, APPROVED, and ADOPTED DEC 11 2001



GARY A. PODESTO
Mayor of the City of Stockton

ATTEST:



KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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EXHIBIT A

**CITY OF STOCKTON
Community Facilities District No. 2001-1
(Downtown Parking)**

DESCRIPTION OF FACILITIES AND SERVICES TO BE FINANCED

The Facilities shown below are to be financed by the above-designated community facilities district (the "CFD") of the City of Stockton (the "City"). The Facilities shall include the attributable costs of engineering, design, planning, and coordination, together with the expenses related to the establishment of the CFD, including costs of preparing the special tax formula, recordings, filings, and City administrative costs and the costs of the City's consultants in the proceedings for such establishment, the costs of the issuance and sale of any special tax bonds, and/or other forms of indebtedness, including bond anticipation notes, including underwriters' discounts, appraisals, reserve funds, capitalized interest, bond counsel, disclosure counsel, special tax consultants, escrow costs including escrow agent services and verification agent services, bond and official statement printing, and all other expenses incidental thereto. The Facilities shall include any amounts required to remove the liens of any existing assessment bonds, whether fixed lien or otherwise. The Facilities to be acquired and/or constructed shall be constructed pursuant to plans and specifications approved by the City.

The Facilities shall consist of public parking facilities including, but not limited to, on and off street parking, surface lots, multi-level parking structures, publicly-owned spaces within private properties, parking meters, fee collection facilities, signage, related walkways, street furniture, debris containers, landscaping, lighting, conforming street improvements, and all necessary utility facilities.

The Services shall consist of public services required to maintain the Facilities in a safe, sanitary, and fit operating condition, including provision of replacement parts, painting, cleaning, sweeping, removal of debris, care of landscaping, provision of irrigation for landscaping, electric and communication services and related police, traffic control, fire, and emergency services.

EXHIBIT B

**CITY OF STOCKTON
Community Facilities District No. 2001-1
(Downtown Parking)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 2001-1 (Downtown Parking) [herein "CFD No. 2001-1"] shall be levied and collected according to the tax liability determined by the Council through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2001-1, unless exempted by law or by the provisions of Section C below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2001-1, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Administrator" means the person or firm designated by the City to administrate the Special Tax according to this Rate and Method of Apportionment of Special Tax.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on 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.

"City" means the City of Stockton.

"Council" means the City Council of the City of Stockton, acting as the legislative body of CFD No. 2001-1.

"County" means the County of San Joaquin.

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

"Improvement Area" means a mutually exclusive geographic area, as defined below or as defined pursuant to procedures to annex property into CFD No. 2001-1 in future Fiscal Years.

“Improvement Area 1” means the geographic area that, at the time of formation of CFD No. 2001-1, was identified by Assessor’s Parcel Number 145-190-03. Such property shall, in all future Fiscal Years, be identified as Improvement Area 1 regardless of changes in the configuration of the Assessor’s Parcel or changes to the Assessor’s Parcel Number.

“Maximum Special Tax” means the maximum Special Tax determined in accordance with Section B, that can be levied in any Fiscal Year.

“Public Property” means any property within the boundaries of CFD No. 2001-1 that is owned by the federal government, State of California or other local government or public agency.

“Special Tax” means a Special Tax levied in any Fiscal Year to pay the authorized costs of CFD No. 2001-1.

“Special Tax Requirement” means the amount necessary in any Fiscal Year (i) to pay principal and interest on bonds or other indebtedness which are due in the calendar year which begins in such Fiscal Year, (ii) to create or replenish reserve funds, (iii) to cure any delinquencies in the payment of principal or interest on bonds or other indebtedness which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected (iv) to pay CFD administrative expenses, and (v) to pay the costs of public improvements authorized to be financed by CFD No. 2001-1. The Special Tax Requirement may be reduced in any Fiscal Year by (i) interest earnings on or surplus balances in funds and accounts for the bonds or other indebtedness to the extent that such earnings or balances are available to apply against debt service pursuant to the bond indenture, bond resolution, or other legal document that set forth these terms, (ii) proceeds from the collection of penalties associated with delinquent Special Taxes, and (iii) any other revenues available to pay debt service on the bonds as determined by the Administrator.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2001-1, which are not exempt from the Special Tax pursuant to law or Section C below.

B. MAXIMUM SPECIAL TAX AMOUNT AND MANNER OF COLLECTION

The Maximum Special Tax for Improvement Area 1 is \$6,800,000 per year, which amount shall be allocated proportionately to each Assessor’s Parcel of Taxable Property within Improvement Area 1, based on the acreage of each Parcel as reflected in the records of the County Assessor. The actual Special Tax to be levied on each Parcel within CFD No. 2001-1 shall be determined pursuant to Section C below. The Special Tax shall either be collected in the same manner and at the same time as ordinary *ad valorem* property taxes or the City may directly bill the Special Tax to the Parcel owner. The City may also collect Special Taxes at a different time or in a different manner and may collect delinquent Special Taxes through foreclosure or other

available methods. If property annexes into CFD No. 2001-1 in future Fiscal Years, a separate Improvement Area(s) shall be created, and a separate Maximum Special Tax shall be identified for the annexing property.

C. METHOD OF LEVY OF THE SPECIAL TAX

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement to be collected within each Improvement Area. The Special Tax shall then be levied proportionately on each Assessor's Parcel of Taxable Property within an Improvement Area (i) up to 100% of the Maximum Special Tax for each Parcel and (ii) until the amount levied equals the Special Tax Requirement for that Improvement Area for the then current Fiscal Year.

D. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on Parcels of Public Property, except as otherwise provided in the Act. This exemption shall not apply to Improvement Area 1, within which a Special Tax may be levied on Public Property.

E. INTERPRETATION OF THE 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 Rate and Method of Apportionment.

EXHIBIT C

**CITY OF STOCKTON
Community Facilities District No. 2001-1
(Downtown Parking)**

**OFFICIAL BALLOT
SPECIAL TAX ELECTION**

This ballot is for a special landowner election for the City of Stockton, Community Facilities District No. 2001-1 (Downtown Parking) (the "CFD"). You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Stockton no later than the close of the public hearing for the CFD to be held by the City Council of the City of Stockton on Tuesday, December 11, 2001, at the hour of 7:00 p.m., either by mail or in person.

To vote, mark a cross (X) on the voting line 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 and obtain another.

BALLOT MEASURE: Shall the City of Stockton incur an indebtedness and issue bonds in the maximum aggregate principal amount of not to exceed \$60,000,000 with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds on behalf of Community Facilities District No. 2001-1 (Downtown Parking) (the "CFD"), the proceeds of which bonds will be used only for the specific purpose of acquiring and/or constructing certain facilities and services and paying for the costs of issuing the bonds and related expenses, subject to guaranteed annual audit; shall a special tax payable solely from lands within the CFD be levied annually, commencing in the City's fiscal year 2002-2003 upon lands within the CFD to pay for the principal and interest upon such bonds and pay the costs of the City in administering the CFD, and the annual appropriations limit of the CFD shall be established in the amount of \$30,000,000?

YES: _____

NO: _____

By execution in the space provided below, the owner of the property also completely waives the time limit pertaining to the conduct of the election and any requirement for notice of election and analysis and arguments with respect to the ballot

measure and the property owner acknowledges that he or she wishes this election to be held as quickly as possible.

Number of Votes: 2

Property Owner: Redevelopment Agency of
the City of Stockton
305 N. El Dorado Street
Suite 200
Stockton, CA 95202