

# STOCKTON CITY COUNCIL

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## RESOLUTION OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT AND TO INCUR BONDED INDEBTEDNESS THEREFOR

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

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code and the Charter of the City (the "Act"), this Council is authorized to establish a community facilities district and to act as the legislative body for a community facilities district; and

WHEREAS, this Council, having received a petition from the owner of all of the area of land proposed to be included in the proposed community facilities district, now desires to proceed with the establishment of a community facilities district in order to finance and/or refinance the costs of public parking and related infrastructure facilities (the "Facilities") necessary or incident to development in the downtown area of the City; and

WHEREAS, this Council estimates the amount required for the financing of a portion of the costs of the Facilities to be a sum not to exceed \$60,000,000; and

WHEREAS, in order to finance a portion of the costs of the Facilities, it is necessary to incur bonded indebtedness in an amount not to exceed \$60,000,000 on behalf of the CFD; now, therefore,

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

1. **Authority.** This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act (including authorities granted under the charter of the City).

2. **Name of CFD.** The name proposed for the community facilities district is City of Stockton, Community Facilities District No. 2001-1 (Downtown Parking) (the "CFD").

3. **Boundaries Described.** The proposed boundaries of the CFD are as shown on the map of it on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to record, or cause to be recorded, the map of the boundaries of the CFD in the office of the San Joaquin County Recorder within fifteen (15) days of the date of adoption of this Resolution, but in any event at least fifteen (15) days prior to the public hearing specified below.

4. **Facilities and Services.** The Facilities and the maintenance and other public services (the "Services") to be funded by the CFD are described in Exhibit "A" attached hereto and hereby incorporated herein. The Council hereby determines that the Facilities are necessary to meet increased demands placed upon local agencies as the result of development occurring within the CFD. The Council hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.5(a) of the Act. Notwithstanding the foregoing, the Council, on behalf of the CFD, may enter into one or more contracts directly with any of the property owners with respect to the construction and/or acquisition of the any portion of the Facilities.

5. **Special Tax.** Except to the extent that funds are otherwise available to the CFD to pay for the Facilities, the Services and/or the principal and interest as it becomes due on bonds issued by the City for the CFD to construct and/or acquire the Facilities, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the CFD, will be levied annually within the CFD and collected in the same manner as ordinary ad valorem property taxes, or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. 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 described in Exhibit "B" attached hereto and hereby incorporated herein.

This Council hereby finds that the provisions of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to ad valorem property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD.

6. **Exempt Property.** Except as may otherwise be provided by law or by the rate and method of apportionment of the Special Tax for the CFD, all lands owned by any public entity, including the United States, the State of California, and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax to be made to cover the costs and expenses of the Facilities and the CFD. In the event that a portion of the property within the CFD shall become for any reason exempt, wholly or in part, from the levy of the Special Tax, this Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD, which is not exempt in order to yield the required debt service payments and other annual expenses of the CFD, if any, subject to the provisions of the rate and method of apportionment of the Special Tax.

7. **Special Tax Bonds.** It is the intention of this Council, acting as the legislative body for the CFD, to cause special tax bonds and/or other forms of indebtedness, including, but not limited to, bond anticipation notes of the City to be issued for the CFD pursuant to the Act to finance in whole or in part the construction and/or acquisition of the Facilities or any portion thereof and/or for the purposes of refunding any existing assessment bonds, whether fixed lien or not. The bonds shall be in the aggregate principal amount not to exceed \$60,000,000, shall be issued in such series and bear interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds, and shall mature not to exceed forty (40) years from the date of the issuance thereof. The bonded indebtedness is proposed to be incurred for the purpose of financing the costs of the Facilities, including acquisition and improvement costs and all costs incidental to or connected with the accomplishment of said purposes and of the financing thereof, as permitted by Section 53345.3 of the Act.

8. **Public Hearing.** Tuesday, December 11, 2001, at 5:30 p.m., or as soon as possible thereafter, in the Council Chambers, City Hall, 425 North El Dorado Street, Stockton, California, be, and the same are hereby appointed and fixed as the time and place when and where this Council, as legislative body for the District, will conduct a

public hearing on and consider and finally determine whether the public interest, convenience, and necessity require the formation of the CFD, the levy of the Special Tax, issuance of bonds of the City on behalf of the CFD.

9. **CFD Report.** The City's Housing and Redevelopment Director, or the designee of such officer, is hereby directed to study said proposed Facilities and to make, or cause to be made, and file with the City Clerk a report in writing (the "CFD Report"), which report shall be made a part of the record of the public hearing, presenting the following:

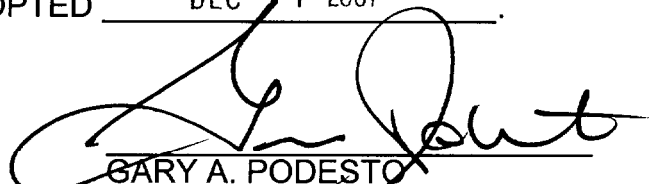
(a) A description of the Facilities by type which will be required to adequately meet the needs of the CFD.

(b) An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith, and incidental expenses in connection therewith, including the costs of the proposed bond financing and all other related costs as provided in Section 53345.3 of the Act.

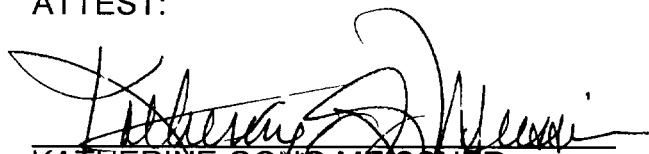
10. **Notice of Hearing.** Notice of the public hearing having been waived by all of the owners of the lands within the territory of the CFD, there shall be no published or mailed notice of the public hearing.

11. **Election.** The levy of the Special Tax, any appropriations limit, and the issuance of special tax bonds shall be subject to the approval of the qualified electors of the CFD at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD.

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, 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, 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 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 administer 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 sets 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.