

ORDINANCE NO. 1260

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRACY LEVYING SPECIAL TAXES WITHIN CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2016-1 (TRACY HILLS) AND REPEALING ORDINANCE NO. 1224 TO THE EXTENT INCONSISTENT WITH THIS ORDINANCE

WHEREAS, this City Council (the "City Council") of the City of Tracy (the "City"), conducted proceedings under and 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 (the "Act"), to form (i) "City of Tracy Community Facilities District No. 2016-1 (Tracy Hills)" (the "CFD"), (ii) "Improvement Area No. 1 of the City of Tracy Community Facilities District No. 2016-1 (Tracy Hills)" ("Improvement Area No. 1"), and (iii) "City of Tracy Community Facilities District No. 2016-1 (Tracy Hills) (Future Annexation Area)" (the "Future Annexation Area") and to authorize the levy of special taxes (the "Special Taxes") upon the land within Improvement Area No. 1; and

WHEREAS, in the City Council's Resolution No. 2016-157 adopted on July 19, 2016 (the "Resolution of Formation"), the City approved the boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area, as set forth in the map recorded in the San Joaquin County Recorder's Office on June 15, 2016, at 10:00 a.m. in Book 6 of Maps of Assessment and Community Facilities Districts at Page 84, as Document No. 2016-069400 (the "Original Boundary Map"); and

WHEREAS, in the Resolution of Formation, the City Council also provided for the levy of the Special Taxes upon the land within the CFD and the improvement areas therein to finance certain public facilities and services described in Exhibit A to the Resolution of Formation and approved a rate and method of apportionment of special taxes for Improvement Area No. 1 (the "Improvement Area No. 1 Rate and Method"); and

WHEREAS, the City has been asked by the owners of the property in Improvement Area No. 1 and the CFD to, among other things, amend the boundaries of the CFD, Improvement Area No. 1 and Future Annexation Area by removing San Joaquin County Assessor's Parcel Number 253-360-15 from Improvement Area No. 1 (the "Transferred Parcel") and adding it to the Future Annexation Area, and amend the Improvement Area No. 1 Rate and Method to reflect the fact that none of the parcels in Improvement Area No. 1 as of the date hereof is Business Park Property (as defined in the Improvement Area No. 1 Rate and Method); and

WHEREAS, on July 17, 2018, the City Council adopted its Resolution No. 2018-151 entitled "Resolution of Consideration to Amend and Restate the Rate and Method of Apportionment of Special Tax, Increase the Authorized Principal Amounts of Indebtedness for the CFD and Improvement Area No. 1, Increase the Annual Appropriations Limit for Improvement Area No. 1 and Amend the Existing Boundaries of the CFD, Improvement Area No. 1 and the Future Annexation Area" (the "Resolution of Consideration"), pursuant to which the City Council, among other things, approved the proposed amended and restated Improvement Area No. 1 Rate and Method (the "Amended and Restated Improvement Area No. 1 Rate and Method") in the form attached as Exhibit A to the Resolution of Consideration and approved the amendment of the Original Boundary Map to remove the Transferred Parcel from

Improvement Area No. 1 and add it to the Future Annexation Area (the “Amended Boundary Map”); and

WHEREAS, this City Council held a noticed public hearing on August 21, 2018, and the proposed Amended and Restated Improvement Area No. 1 Rate and Method and the proposed Amended Boundary Map were not opposed by more than 50% of the owners of land within Improvement Area No. 1 and the CFD or 50% of the owners of land within the Future Annexation Area; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the Amended and Restated Improvement Area No. 1 Rate and Method, the Amended Boundary Map and the levy of special taxes within the boundaries of Improvement Area No. 1 as provided in the Amended Boundary Map pursuant to the Amended and Restated Improvement Area No. 1 Rate and Method were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held;

WHEREAS, Government Code Section 53338 authorizes the holding of a special election of the qualified electors in Improvement Area No. 1 on the issues of amending the Original Boundary Map and amending and restating the Improvement Area No. 1 Rate and Method; and

WHEREAS, this City Council subsequently adopted its Resolution No. 2018-167 entitled “Resolution Calling Special Election to Amend and Restate the Rate and Method of Apportionment of Special Tax for Improvement Area No. 1, Increase the Authorized Principal Amount of Indebtedness for Improvement Area No. 1, Increase the Annual Appropriations Limit for Improvement Area No. 1 and Amend the Existing Boundaries of Improvement Area No. 1” (the “Resolution Calling Election”) calling for a special landowner election of the qualified electors within Improvement Area No. 1 to be held on August 21, 2018; and

WHEREAS, on August 21, 2018 a special election was held within Improvement Area No. 1 and the ballots were submitted to the City Clerk as the official conducting the election; and

WHEREAS, this City Council subsequently adopted its Resolution No. 2018-168 entitled “Resolution Declaring Results of Special Election to Amend and Restate the Rate and Method of Apportionment of Special Tax for Improvement Area No. 1, Increase the Authorized Principal Amount of Indebtedness for Improvement Area No. 1, Increase the Annual Appropriations Limit and Amend the Existing Boundaries of Improvement Area No. 1” (the “Resolution Declaring Results”), which resolutions found that the eligible landowner-electors approved the adoption of, among other things, the Amended Boundary Map and the Amended and Restated Improvement Area No. 1 Rate and Method by the two-thirds vote required by the Act; and

WHEREAS, subsequent to the special election, this City Council adopted its Resolution No. 2018-169 entitled “Resolution of Change” (the “Resolution of Change”) on August 21, 2018 which approved, among other things, the Amended and Restated Improvement Area No. 1 Rate and Method and the Amended Boundary Map and provided that the Special Taxes levied in Improvement Area No. 1 shall be levied within the boundaries of the Amended Boundary Map in accordance with the Amended and Restated Improvement Area No. 1 Rate and Method.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN,
as follows:

Section 1. By the passage of this Ordinance this City Council hereby authorizes and levies special taxes within the new boundaries of Improvement Area No. 1 as provided in the Amended Boundary Map, and on any parcels in the Future Annexation Area that are annexed into Improvement Area No. 1, at the rate and in accordance with the formula set forth in the Amended and Restated Improvement Area No. 1 Rate and Method. With respect to Future Improvement Areas, the City shall levy the special taxes at the rate and in accordance with the formula approved by the qualified electors in the Future Improvement Areas in the manner required by the Act (each, a "Future Rate and Method"; together with the Amended and Restated Improvement Area No. 1 Rate and Method, the "Rate and Methods"). The special taxes are hereby levied commencing in fiscal year 2019-20 and in each fiscal year thereafter for the period provided in applicable Rate and Methods, as contemplated by the Resolution of Formation and Resolution No. 2016-158 entitled "Resolution Determining Necessity to Incur Bonded Indebtedness" the "Resolution of Necessity"), and all costs of administering the CFD.

Section 2. The City Manager (or designee) (the "City Manager") is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within Improvement Area No. 1 and each Future Improvement Area, in the manner and as provided in the applicable Rate and Methods or the Resolution of Formation, as applicable.

Section 3. Except as provided in the Rate and Methods, properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within Improvement Area No. 1 or a Future Improvement Area (including any parcels in the Future Annexation Area that are annexed into the CFD) in excess of the maximum tax specified in the applicable Rate and Methods or the Resolution of Formation, as applicable.

Section 4. All of the collections of the special tax within Improvement Area No. 1 and each Future Improvement Area shall be used as provided for in the Act, the Resolution of Formation and the applicable Rate and Methods, as applicable, including, but not limited to, the payment of principal and interest on bonds and other debt (as defined in the Act) issued by the City for Improvement Area No. 1 or a Future Improvement Area (the "Bonds"), the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities and the Services, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the special tax.

Section 5. The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that this City Council may provide for other appropriate methods of collection by resolutions of this City Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments. The City Manager is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of San Joaquin in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured property tax roll of the County of San Joaquin for fiscal year 2019-20 and for each fiscal year thereafter until the Bonds are paid in full or such longer period of time provided in the applicable Rate and Methods.

Section 6. To the extent inconsistent with this Ordinance, this Ordinance repeals in its entirety Ordinance No. 1224, adopted by the City Council on July 19, 2016.

Section 7. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within Improvement Area No. 1 or a Future Improvement Area, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within Improvement Area No. 1 or a Future Improvement Area (including any parcels in the Future Annexation Area that are annexed into the CFD) shall not be affected.

Section 8. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published in accordance with Government Code section 36933.

Section 9. This Ordinance shall take effect 30 days from the date of final passage.

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The foregoing Ordinance 1260 was introduced at a regular meeting of the Tracy City Council on the 21st day of August, 2018, and finally adopted on the 4th day of September, 2018, by the following vote:

AYES: COUNCIL MEMBER: DEMENT, RANSOM, YOUNG, VARGAS, RICKMAN

NOES: COUNCIL MEMBER: NONE

ABSENT: COUNCIL MEMBER: NONE

ABSTAIN: COUNCIL MEMBER: NONE

Signed By: Robert Rickman, Mayor
Attest: Adrienne Richardson, City Clerk