

**ORDINANCE NO. 1190**

**AN ORDINANCE OF THE CITY OF FOLSOM LEVYING SPECIAL  
TAXES WITHIN CITY OF FOLSOM COMMUNITY FACILITIES  
DISTRICT NO. 2014-1 (MPOWER PACE PROGRAM)**

The City Council of the City of Folsom hereby ordains as follows:

**SECTION 1 PURPOSE**

The City Council of the City of Folsom hereby finds, determines and declares based on the record before it that:

A On December 10, 2013, the City Council (the "City Council") of the City of Folsom (the "City"), adopted a resolution entitled "Resolution of Intention to Establish a Community Facilities District" (the "Resolution of Intention") stating its intention to establish, for the public purposes set forth in the Resolution of Intention, the "City of Folsom Community Facilities District No. 2014-1 (mPOWER PACE Program)" (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, et seq., of the California Government Code (the "Act"), to finance and refinance the acquisition, installation and improvement of energy efficiency, water conservation and renewable energy improvements that are affixed, as specified in Section 660 of the Civil Code, to or on real property and in buildings, whether such real property or buildings are privately or publicly owned.

B. The Resolution of Intention stated the intention of the City Council to undertake the proceedings to form the Community Facilities District under the alternate procedures established by Section 53328.1 of the Act, pursuant to which a community facilities district may initially consist solely of territory proposed for annexation to the community facilities district in the future, with the condition that a parcel or parcels within that territory may be annexed to the community facilities district and subjected to the special tax only with the unanimous approval of the owner or owners of such parcel or parcels at the time that such parcel or those parcels are annexed or in compliance with other procedures established by the Act.

C. Also on December 10, 2013, this City Council also adopted a resolution entitled "Resolution of Intention to Incur Bonded Indebtedness and Other Debt" (the "Resolution of Intention to Incur Indebtedness") stating its intention, for the public purposes specified therein, to incur bonded indebtedness or other debt (as defined in Section 53317(d) of the Act) within the boundaries of the Community Facilities District for the purpose of financing the Facilities.

D. The Resolution of Intention stated that the City may, without additional hearings or procedures, designate a parcel or parcels as an improvement area within the Community Facilities District; that, after the designation of a parcel or parcels as an improvement area, all proceedings for approval of the appropriations limit, the rate,

The foregoing instrument is a correct copy of the original on file in this office.

ATTEST: Christa Saunders  
City Clerk of the City of Folsom, California

method of apportionment and manner of collection of special tax and the authorization to incur bonded indebtedness or other debt (as defined in Section 53317(d) of the Act) for such parcel or parcels will apply only to the improvement area; and that the City may incur indebtedness or other debt payable solely from special taxes levied on property in the improvement area.

E. Notice was published as required by the Act relative to the intention of this City Council to form the Community Facilities District, to provide for certain facilities and to incur bonded indebtedness or other debt for the Community Facilities District in an amount not to exceed \$50,000,000.

F. This City Council held noticed public hearings as required by the Act relative to (i) the determination to proceed with the formation of the Community Facilities District and the method of apportionment of the special tax to be levied within the Community Facilities District to finance the costs of the facilities and (ii) the issuance of not to exceed \$50,000,000 of bonded indebtedness or other debt for the Community Facilities District.

G. At the public hearings, all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonded indebtedness and other debt were heard, substantial evidence was presented and considered by this City Council and a full and fair hearing was held.

H. Subsequent to the hearings, this City Council adopted resolutions entitled "Resolution of Formation to Establish Community Facilities District No. 2014-1 (mPOWER PACE Program), to Establish Boundaries of Said Community Facilities District, to Describe the Facilities to Be Financed, to Establish an Appropriations Limit, and to Provide for Other Matters Related Thereto" (the "Resolution of Formation") and "Resolution Determining the Necessity to Incur Bonded Indebtedness and Other Debt in a Maximum Principal Amount of \$50,000,000 Within the Boundaries of Community Facilities District No. 2014-1 (mPOWER PACE Program) and Determining Other Matters in Connection Therewith" (the "Resolution of Necessity"), which resolutions defined the public facilities to be financed by the Community Facilities District (the "Facilities"), established the Community Facilities District, authorized the levy of a special tax with the Community Facilities District and determined the necessity to incur bonded indebtedness in the Community Facilities District, respectively.

I. Section 53328.1 of the Act provides that, notwithstanding the provisions of Section 53340 of the Act, after adoption of the resolution of formation for a community facilities district pursuant to Section 53328.1, the City Council may, by ordinance, provide for the levy of the special taxes on parcels that will annex to the community facilities district at the rate or rates to be approved by unanimous approval of the owner or owners of each parcel or parcels to be annexed to the community facilities district or pursuant to other procedures established by the Act, and for apportionment and collection of the special taxes in the manner specified in the resolution of formation, and

that no further ordinance shall be required even though no parcels may then have annexed to the community facilities district.

## **SECTION 2 LEVY OF SPECIAL TAXES**

By the passage of this Ordinance, this City Council hereby authorizes and levies special taxes within the Community Facilities District (and all improvement areas established in the Community Facilities District) pursuant to the Act, at the rate or rates to be approved by unanimous approval (each, a "Unanimous Approval") of the owner or owners of each parcel or parcels to be annexed to the Community Facilities District (and all improvement areas established in the Community Facilities District) or pursuant to other procedures established by the Act, and in accordance with the method of apportionment (the "Method of Apportionment") set forth in the Resolution of Formation, which Unanimous Approvals, Method of Apportionment and Resolution of Formation are by this reference incorporated herein. The special taxes are hereby levied commencing in the first fiscal year in which a parcel or parcels annexes to the Community Facilities District (and all improvement areas established in the Community Facilities District) and in each fiscal year thereafter until payment in full of any bonds issued or other debt incurred by the City for the Community Facilities District (and all improvement areas established in the Community Facilities District) (the "Bonds or Other Debt"), as contemplated by the Resolution of Formation and the Resolution of Necessity, and all costs of administering the Community Facilities District (and all improvement areas established in the Community Facilities District), or such longer period provided for in the Unanimous Approvals or pursuant to other procedures established by the Act.

## **SECTION 3 DETERMINATION OF SPECIAL TAX**

The City Manager (or his designee) 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 the Community Facilities District (and all improvement areas established in the Community Facilities District), in the manner and as provided in the Resolution of Formation.

## **SECTION 4 FUTURE ANNEXATION**

The Community Facilities District initially consists solely of territory proposed for annexation to the Community Facilities District in the future. A parcel or parcels within the territory of the Community Facilities District may be annexed to the Community Facilities District and subjected to the special tax only with the unanimous approval of the owner or owners of such parcel or parcels at the time that such parcel or those parcels are annexed or pursuant to other procedures established by the Act. In no event shall the special taxes be levied on any parcel within the Community Facilities District in excess of the maximum tax specified in the Unanimous Approval applicable to such parcel or pursuant to other procedures established by the Act.

## **SECTION 5 USE OF THE SPECIAL TAXES**

All the collections of the special tax shall be used as provided for in the Act, in the Resolution of Formation and the applicable Unanimous Approval or other annexation proceedings, including, but not limited to, the payment of principal and interest on the Bonds or Other Debt, the replenishment of a debt service reserve fund for the Bonds or Other Debt, the payment of the costs of the Facilities, the payment of the costs of the City in administering the Community Facilities District (and all improvement areas established in the Community Facilities District), and the costs of collecting and administering the special tax.

## **SECTION 6 COLLECTION OF SPECIAL TAXES**

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 (or his designee) is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Sacramento 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 City for the first fiscal year in which a parcel or parcels annexes to the Community Facilities District (and all improvement areas established in the Community Facilities District) and for each fiscal year thereafter until the Bonds or Other Debt are paid in full or such longer period of time provided in the Unanimous Approvals or such other procedures established by the Act.

## **SECTION 7 INVALIDITY**

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 the Community Facilities District (and all improvement areas established in the Community Facilities District), in each case by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the Community Facilities District (and all improvement areas established in the Community Facilities District) shall not be affected.

## **SECTION 8 EXECUTION AND PUBLICATION**

The City Manager shall sign this Ordinance and the City Clerk shall cause the same to be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the City.

## **SECTION 9 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on January 14, 2014, and the second reading occurred at the regular meeting of the City Council on January 28, 2014.

On a motion by Council Member Steve Miklos seconded by Council Member Andy Morin, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 28<sup>th</sup> day of January 2014 by the following roll-call vote:

**AYES:** Council Member(s): Morin, Sheldon, Miklos, Howell

**NOES:** Council Member(s): None

**ABSENT:** Council Member(s): Starsky

**ABSTAIN:** Council Member(s): None

  
Kerri M. Howell, MAYOR

ATTEST:

  
Christa Saunders, CITY CLERK

Effective: February 27, 2014