

**ITEM:** PUBLIC HEARING (PUBLISHED NOTICE) TO ESTABLISH "CITY OF LATHROP COMMUNITY FACILITIES DISTRICT NO. 2019-1 (SOUTH LATHROP CITY SERVICES)" (THE "CFD") UNDER THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, CONSTITUTING CHAPTER 2.5 OF PART 1 OF DIVISION 2 OF TITLE 5, COMMENCING AT SECTION 53311, OF THE CALIFORNIA GOVERNMENT CODE (THE "ACT")

**RECOMMENDATION:** Council to Consider the Following:

- 1. Hold a Public Hearing; and**
- 2. Adopt Resolution of Formation of Community Facilities District 2019-1 (South Lathrop City Services);**
- 3. Adopt Resolution Calling for a Special Landowner Election of Community Facilities District No. 2019-1 (South Lathrop City Services);**
- 4. Adopt Resolution Declaring Results of Special Landowner Election and Direct Recording of Notice of Special Tax Lien for Community Facilities District No. 2019-1 (South Lathrop City Services); and**
- 5. First Reading and Introduction of an Ordinance Levying Special Taxes Within Community Facilities District No. 2019-1 (South Lathrop City Services)**

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**SUMMARY:**

As part of their development agreement requirements, master developers are required to submit to the City an analysis of the costs of maintaining public improvements in their development. The purpose of the analysis is to identify annual and periodic costs of maintenance required for public improvements that the City will maintain.

Over the last several months, staff has worked with South Lathrop Land, LLC., ("SLL") to complete a maintenance and operations plan for their project.

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ESTABLISHING COMMUNITY FACILITIES DISTRICT 2019-1**

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In order for the City to ensure that development continues to pay its own way, a Community Facilities District (CFD) needs to be formed to cover the maintenance and operations needs of the development.

At the March 11, 2019, City Council meeting, Council adopted Resolution 19-4522 declaring its intention to form Community Facilities District No. 2019-1 (South Lathrop City Services) (the "District") and set the Public Hearing Date for April 8, 2019. This action formally started the process of forming the CFD under the Mello-Roos Community Facilities Act of 1982.

Today is the date set for the public hearing, at which time the City Council will hear a presentation on the proposed District. At the same time, the election of the property owners is to be completed. The election results will unanimously favor the District formation, as SLL, is the only property owner within the District boundaries that will be voting. SLL has waived a number of noticing and election procedures, which are within their right to request. The waiving of these requirements, allow the City to form the District in a short period of time by adopting a formation resolution and holding the election at the same meeting. Per Government Code 53322, publication shall be complete at least seven days prior to the date of the hearing. The Notice of Public Hearing was published on March 28, 2019, in the same manner as the City's other public hearing notifications.

Staff recommends Council authorize the attached three Resolutions and introduction of the Ordinance to complete the CFD formation process and to legally authorize the future levy of a special tax to finance the costs of funding maintenance and services in the District.

**BACKGROUND:**

The South Lathrop Commerce Center (SLCC) is an industrial park currently being developed by SLL in the City. SLCC is entitled for approximately 4.8 million square feet of light industrial development. The first building is currently under construction and has been preleased to Wayfair as one of their western regional US hubs for distribution and fulfillment. Occupancy of the Wayfair building is anticipated for summer of 2019.

City staff, the financing team, and SLL have had several discussions to help formulate the proposed District and the Special Tax to be levied. The proposed Special Tax has been approved by SLL and will be calculated and levied as set forth in the Rate & Method of the Special Tax (Exhibit B of Attachment A).

The District will have a single tax rate formula ("Special Tax"), for funding maintenance and services in the District.

The description of the maintenance and services authorized to be paid for by the Special Tax, are related to the public improvements being constructed by SLL which, once completed will be dedicated to the City.

The maintenance and services are further described in the "Description of Services" (Exhibit A of Attachment A). The services to be provided in the District primarily include, but not be limited to:

**Services**

- Maintenance and operation of:
  - Public roads and streets;
  - Public frontage improvements such as curbs, gutters, paths, sidewalks, driveways, bus pads, ADA ramps, and street signs;
  - Public drainage facilities;
- Standby charges related to the ongoing maintenance, future capacity and operation of public improvements and facilities;
- City personnel necessary to provide the maintenance, operations and services;
- City related insurance costs and other related expenses for these public infrastructure improvements and the provision of reserves for repairs and replacement;

The City Council has four documents for consideration:

1. **The Resolution of Formation (Attachment A)** - This officially forms the CFD, authorizes the Special Tax to be collected and establishes an appropriations limit for the CFD (under Article XIII B of the Constitution). The exhibits to this resolution show the Services to be financed and the formula by which the Special Tax will be levied in the CFD. This includes a Description of Services (Exhibit A of Attachment A) listing the services and projects that are authorized to be funded from special tax revenues generated within the District and the Rate & Method of the Special Tax (Exhibit B of Attachment A) providing for the security for the funding of the District and showing how the revenues from the District are to be collected and also sets forth the purpose and level of the taxes from the various different types of properties.
2. **The Resolution Calling Special Landowner Election (Attachment B)** - This sets the election for the same Council meeting and provides the form of the special ballot to be used by the landowner-voter. The election may be held at the same meeting because the property owner-voters have all requested that the election be handled in this manner. Ballots have been previously mailed and are to be returned directly to the City Clerk before the City Council meeting time to vote to approve the CFD.
3. **The Resolution Declaring Results of Special Landowner Election (Attachment C)** - This is for adoption by the Council after the vote is announced by the City Clerk. It confirms the outcome by SLL, the property owner, for their election to form the CFD. Attached to it is a copy of the official Canvass and Statement of Result of Election to be completed by the City Clerk after the vote is announced.

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This resolution also directs the filing of the Notice of Special Tax Lien against the lands in the CFD to allow collection of the special tax on each property therein.

4. **Ordinance Levying Special Taxes (Attachment D)** - Under the law, the Council must levy the special taxes by an ordinance. Under this ordinance, the levy is made once by the adoption of this ordinance, and, in each year thereafter, the process of determining the special taxes and processing the collection is done by the City's financial official (or a third-party consultant retained by the City) and no further Council action is needed.

Once the above actions are completed, the City Clerk is authorized to record with the County Recorder a Notice of Special Tax Lien pertaining to each of the parcels in the CFD subject to a special tax.

**REASON FOR RECOMMENDATION:**

The CFD is being formed and submitted to the Council for review and approval so that the property owners within the District continue meet their on-going financial requirements to the City by creating a mechanism to be able to reimburse the City for the on-going Maintenance and Services required in the District. A Community Facilities District (CFD) needs to be formed to provide the City with the funds necessary to cover the cost of maintaining the public facilities in the SLCC Development.

**FISCAL IMPACT:**

SLL has funded the cost to form the CFD, at no cost to the City.

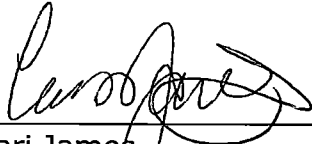
No other financial impact as the CFD will provide the financial resources to the City to be able to maintain the public improvements constructed by SLL and dedicated to the City for on-going Maintenance & Services.

**ATTACHMENTS:**

- A. Resolution of Formation of Community Facilities District  
Exhibits to Attachment A:
  - A. Description of Services
  - B. Rate and Method of Apportionment of Special Tax
- B. Resolution Calling Special Landowner Election
- C. Resolution Declaring Results of Special Landowner Election
- D. Ordinance Levying Special Taxes Within the Community Facilities District

**CITY MANAGER'S REPORT  
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COMMUNITY FACILITIES DISTRICT 2019-1**

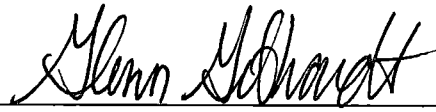
**APPROVALS:**



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Cari James  
Director of Finance

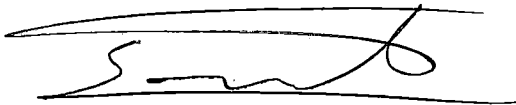
3/26/19  
Date



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Glenn Gebhardt  
City Engineer

3/27/19  
Date



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Salvador Navarrete  
City Attorney

3-27-19  
Date



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Stephen J. Salvatore  
City Manager

4-2-19  
Date

**Attachment "A"**

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP  
APPROVING A RESOLUTION OF FORMATION OF COMMUNITY FACILITIES  
DISTRICT**

**CITY OF LATHROP  
Community Facilities District No. 2019-1  
(South Lathrop City Services)**

**WHEREAS**, on March 11, 2019, the City Council (the "Council") of the City of Lathrop (the "City") adopted Resolution No. 19-4522 entitled "Resolution of Intention to Establish Community Facilities District No. 2019-1 (South Lathrop City Services)" (the "Resolution of Intention"), stating its intention to form "City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services)" (the "CFD"), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

**WHEREAS**, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services, 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**, on this date, this Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD; and

**WHEREAS**, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the services to be provided therein and the levy of such special tax were heard and a full and fair hearing was held; and

**WHEREAS**, at the hearing evidence was presented to this Council on such matters before it, including a special report (the "Report") as to the 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

**WHEREAS**, written protests with respect to the formation of the CFD, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the City Clerk by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special taxes;

## Attachment "A"

**NOW, THEREFORE**, be it resolved by the City Council of the City of Lathrop:

- 1.**     Recitals Correct. The foregoing recitals are true and correct.
  
- 2.**     No Majority Protest. The proposed CFD and the proposed special tax to be levied within the CFD have 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 "City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services)" 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 recorded in the San Joaquin County Recorder's Office on March 13, 2019 in Book 6 at Page 150 of Maps of Assessment and Community Facilities Districts, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.
  
- 6.**     Description of Services. The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein (the "Services").
  - a.**     Except to the extent that funds are otherwise available to the CFD to pay for 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.
  
- 8.**     Increased Demands. It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the City, as the result of development occurring in the CFD. The Services are in addition to those provided in the territory of the CFD as of the date hereof and will not supplant services already available within the territory of the CFD as of the date hereof.

**Attachment "A"**

**9. Responsible Official.** The Finance Director of the City of Lathrop, City Hall, 390 Town Center Drive, Lathrop, California 95330, telephone number 209-941-7327, is the officer of the City who will be responsible for preparing annually a current roll of the levy of the Special Tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the Special Tax.

**10. Tax Lien.** Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California 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 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 Special 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 \$2,000,000 and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such 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 and the Constitution.

**12. Election.** Pursuant to the provisions of the Act, the proposition of the levy of the Special Tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

**13. Effective Date.** This resolution shall take effect upon its adoption.

\* \* \* \* \*



**Attachment "A"**

The foregoing resolution was passed and adopted this 8<sup>th</sup> day of April 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:

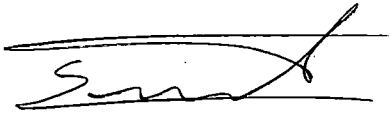
ABSENT:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

## **EXHIBIT "A"**

### **CITY OF LATHROP Community Facilities District No. 2019-1 (South Lathrop City Services)**

#### **DESCRIPTION OF SERVICES**

The services to be funded, in whole or in part, by the community facilities district (the "District") include all direct and incidental costs related to providing for the maintenance and operation of public infrastructure within, adjacent to and in the vicinity of the District.

More specifically, the services shall include, but not be limited to: ongoing maintenance and operation of public roads and streets, bike lanes, medians, street lights, traffic signal, traffic signs, striping and legends, frontage improvements such as curbs, gutters, sidewalks, driveways (within the public right-of-way), bus pads, ADA ramps (within the public right-of-way), street signs; landscaping (within the public right-of-way); drainage facilities including detention & retention ponds, storm drain pump station, sanitary sewer pump station, regional outfall structure, underground storm drainage pipes, underground sanitary sewer pipes, sanitary sewer treatment plants & related facilities; and the provision of any other public services authorized to be funded under Section 53313 of the California Government Code, including with respect to such services obtaining, constructing, furnishing, operating and maintaining equipment, apparatus or facilities related to providing the services and/ or equipment, apparatus, facilities or fixtures in areas to be maintained, as well as standby charges related to the ongoing maintenance and operation of the described public improvements and facilities as described above and services related thereto, paying the salaries and benefits of personnel necessary or convenient to provide the maintenance, operation and services, payment of insurance costs and other related expenses and the provision of reserves for repairs and replacements and for the future provision of services. It is expected that the services will be provided by the City, either with its own employees or by contract with third parties, or any combination thereof.

The services also include administrative expenses related to the District including but not limited to the payment or reimbursement to the City (or to property owners in the District) all costs actually incurred in connection with the establishment and administration of the District, the direct expenses incurred by the City in carrying out its duties with respect to the District (including, but not limited to, the levy and collection of the special taxes) including the fees and expenses of attorneys, any fees of the County of San Joaquin related to the District or the collection of special taxes, an allocable share of the salaries of the City staff directly related thereto and a proportionate amount of the City's general administrative overhead related thereto, any amounts paid by the City from its general fund with respect to the District or the services authorized to be financed by the District, and expenses incurred by the City in undertaking action to foreclose on properties for which the payment of special taxes is delinquent, and all other costs and expenses of the City in any way related to the District.

## **EXHIBIT "B"**

### **CITY OF LATHROP Community Facilities District No. 2019-1 (South Lathrop City Services)**

#### **RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

A Special Tax shall be levied and collected in City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services) (the "District") each fiscal year, in an amount determined by the application of the procedures described below. All of the Taxable Property (as defined below) in the District, unless exempted by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

#### **I. DEFINITIONS**

The terms used herein shall have the following meanings:

**"Acre or Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map or in the Assessor's Data for each Assessor's Parcel. In the event the Assessor's Parcel Map or Assessor's Data shows no acreage, the Acreage for any Assessor's parcel shall be determined by the District Administrator based upon the applicable final map, parcel map, condominium plan, or other recorded County parcel map or calculated using available spatial data and GIS. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Act of the State of California.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of the District: the costs of computing the Annual Special Tax Requirement and the annual Special Tax and of preparing the annual Special Tax collection schedules; the costs of collecting the Special Taxes, including any charges levied by the County Auditor's Office, Tax Collector's Office or Treasurer's Office; the costs of the City or designee in complying with the disclosure requirements of the California Government Code (including the Act), including public inquiries regarding the Special Taxes; the costs of the City or designee related to an appeal of the Special Tax; and the costs of commencing and pursuing to completion any foreclosure action arising from delinquent Special Taxes in the District. Administrative Expenses shall also include costs related to the formation of the District and of annexing territory to the District as well as any amounts advanced by the City for any administrative purposes of the District and an allocable share of the salaries of City staff and an allocable portion of City overhead costs relating to the foregoing, or costs of the City in any way related to the establishment or administration of the District.

**“Annual Services Costs”** means the amounts required to fund services authorized to be funded by the District.

**“Annual Special Tax Requirement”** means that amount with respect to the District determined by the Council or designee as required in any Fiscal Year to pay: (1) the Administrative Expenses, (2) the Annual Services Costs, (3) any amount required to establish or replenish any reserve or replacement fund established in connection with the District, and (4) reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

**“Assessor’s Data”** means Acreage or other Parcel information contained in the records of the County Assessor.

**“Assessor’s 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 Assessor of the County designating parcels by Assessor’s Parcel number.

**“Building Permit”** means a permit for new construction of a Non-Residential structure.

**“City”** means the City of Lathrop, County of San Joaquin.

**“Council”** means the City Council of the City, acting as the legislative body of the District.

**“County”** means the County of San Joaquin, California.

**“Developed Property”** means, for each Fiscal Year, all Taxable Property for which a Building Permit was issued on or before June 1 of the prior Fiscal Year. For example, Taxable Property for which a Building Permit was issued on or before June 1 of the prior Fiscal Year (i.e., June 1, 2019), would be treated as Developed Property for Fiscal Year 2019/20.

**“District”** means the City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services).

**“District Administrator”** means an official of the City, or designee or agent or consultant, responsible for determining the Annual Special Tax Requirement and providing for the levy and collection of Special Taxes each Fiscal Year.

**“Exempt Property”** means all property located within the boundaries of the District which is exempt from the Special Tax pursuant to Section V below.

**“Finance Director”** means the official of the City who is the chief financial officer or other comparable officer of the City or designee thereof.

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

**"GIS"** means a geographic information system.

**"Maximum Special Tax"** means the maximum Special Tax authorized for levy in any Fiscal Year that may apply to Taxable Property as described in Section III.

**"Non-Residential Property"** means all property that is not used for people to live in, and does not include Public Property.

**"Parcel"** means a lot or parcel with a parcel number assigned by the Assessor of the County.

**"Proportionately"** means that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels.

**"Public Property"** means property within the boundaries of the District owned by, irrevocably offered or dedicated to, or for which an easement for purposes of public right-of-way has been granted to the federal government, the State, the County, or any local government or other public agency, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**"Special Tax"** means the amount levied in each Fiscal Year on each Assessor's Parcel of Taxable Property to fund the Annual Special Tax Requirement.

**"Taxable Property"** means all Non-Residential Property within the boundary of the District that are not Exempt Property, exempt from the Special Tax pursuant to the Act or Section V below.

**"Undeveloped Property"** means all property for which a building permit has not been issued.

## **II. DETERMINATION OF TAXABLE PARCELS**

On July 1 of each Fiscal Year, the District Administrator shall determine the valid Assessor's Parcel Numbers for the current Fiscal Year for all Taxable Property within the District. If any Parcel numbers are no longer valid from the previous Fiscal Year, the District Administrator shall determine the new Parcel number or numbers that are in effect for the current Fiscal Year. To the extent a Parcel or Parcels of Taxable Property are subdivided, consolidated or otherwise reconfigured, the Special Tax rates shall be assigned to the new Assessor's Parcels pursuant to Section III.

**III. ANNUAL SPECIAL TAX - METHOD OF APPORTIONMENT**

All Taxable Property shall be subject to a Special Tax defined as follows.

The Special Tax shall be levied each Fiscal Year by the District Administrator. The Annual Special Tax Requirement shall be apportioned to each Parcel of Taxable Property within the District by the method shown below.

- First. Determine the Annual Special Tax Requirement.
- Second. Levy the Special Tax on each Parcel of Developed Property Proportionately, up to the Maximum Special Tax described in Table 1 to satisfy the Annual Special Tax Requirement.
- Third. If additional revenue is needed to meet the Annual Special Tax Requirement after the Second step, levy the Special Tax on each Parcel of Undeveloped Property Proportionately, up to the Maximum Special Tax described in Table 1 to satisfy the Annual Special Tax Requirement.

**TABLE 1  
MAXIMUM SPECIAL TAXES  
FISCAL YEAR 2018/19**

Property Type		Rate	Per
Developed Property	Non-Residential	\$2,315.00	Acre
Undeveloped Property	Non-Residential	\$2,315.00	Acre

On each July 1, commencing on July 1, 2020, the Maximum Special Tax rate shall be increased by 2%.

**IV. FORMULA FOR PREPAYMENT OF SPECIAL TAX OBLIGATIONS**

The Special Tax may not be prepaid.

**V. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except as otherwise provided in Sections 53317.3 and 53317.5 of the Act.

**VI. INTERPRETATION OF RATE AND METHOD OF APPORTIONMENT**

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 the Special Tax. In addition, the interpretation and application of any section of this document shall be at 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 of Special Tax.

**VII. MANNER AND DURATION OF SPECIAL TAX**

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided that the City may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner if needed to meet the financial obligations of the District, and may collect delinquent Special Taxes through foreclosure or other available methods.

A Special Tax shall continue to be levied and collected within the District to fund the Annual Special Tax Requirement in perpetuity.

**VIII. APPEAL OF SPECIAL TAX LEVY**

Any property owner may file a written appeal of the Special Tax with the District Administrator claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Taxes that are disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Taxes are in error. The District Administrator shall review the appeal, meet with the appellant if the District Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the District Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the District Administrator or subsequent decision by the City Council requires the Special Taxes to be modified or changed in favor of the property owner, no cash refund shall be made for prior years' Special Taxes, but an adjustment shall be made to credit future Special Taxes.

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

**Attachment "B"**

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP  
APPROVING A RESOLUTION CALLING SPECIAL LANDOWNER ELECTION  
FOR COMMUNITY FACILITIES DISTRICT**

**CITY OF LATHROP  
Community Facilities District No. 2019-1  
(South Lathrop City Services)**

**WHEREAS**, the City Council (the "Council") of the City of Lathrop (the "City") has adopted a resolution entitled "Resolution of Formation of Community Facilities District" (the "Resolution of Formation"), ordering the formation of the "City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services)" (the "CFD"), defining the public services (the "Services") to be provided by the CFD, authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

**WHEREAS**, pursuant to the provisions of the Resolution of Formation, the propositions of the levy of the special tax and the establishment of the appropriations limit shall be submitted to the qualified electors of the CFD as required by the provisions of the Act.

**NOW, THEREFORE**, be it resolved by the City Council of the City of Lathrop:

**1. Issues Submitted.** Pursuant to the Act, the issues of the levy of the special tax 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.

**2. 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 hearing.

**3. Conduct of Election.** This Council hereby calls a special election to consider the issues described in Section 2, above, which election shall be held on April 8, 2019, and the results thereof canvassed at the meeting of this Council on April 8, 2019. 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.



## **Attachment "B"**

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, except that Sections 53326 and 53327 of the Act shall govern for purposes of determining the date of the election.

**4. Ballot.** As authorized by Section 53353.5 of the Act, the issues described in section 1 above shall be combined into a single ballot measure, the form of which as attached hereto as Exhibit "A" is hereby approved. The City Clerk is hereby authorized and directed to cause a ballot, in substantially the form of Exhibit "A," 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.

**5. Waivers.** This Council hereby further finds that the provisions of Section 53326 of the Act requiring a minimum of 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.

**6. Accountability.** Under Section 50075.1 of the Government Code, the following accountability provisions shall apply to the special taxes: (a) the construction and/or acquisition of the Services 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

**Attachment "B"**

funds(s) into which the proceeds shall be deposited; and (d) there shall be caused to be prepared an annual report if required by Section 50075.3 of the Government Code.

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

\* \* \* \* \*

**Attachment "B"**

The foregoing resolution was passed and adopted this 8<sup>th</sup> day of April 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

**Attachment "B"**

**EXHIBIT "A"**

**CITY OF LATHROP  
Community Facilities District No. 2019-1  
(South Lathrop City Services)**

**OFFICIAL BALLOT  
SPECIAL TAX ELECTION**

Number of Votes: \_\_\_\_\_  
Property Owner: \_\_\_\_\_

This ballot is for a special, landowner election for the City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services). You must return this ballot in the enclosed postage paid envelope to the office of the City Clerk of the City of Lathrop **no later than the hour of 7:00 p.m. on April 8, 2019, either by mail or in person.** The Clerk's office is located at 390 Town Center Drive, Lathrop, California 95330.

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.

The estimated maximum annual amount of money authorized to be raised by this measure at year 30 of the CFD term is expected to be \$1,228,621.70 based upon the projected full build-out of the CFD and the rate and duration of the special tax as set forth in the rate and method of apportionment of special taxes for the CFD.

<p><b>BALLOT MEASURE:</b> Shall the measure to allow the City of Lathrop be authorized to annually levy a special tax solely on lands within the City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services) (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on April 8, 2019, commencing in the City's fiscal year 2019-20, to pay for the public services specified in the Resolution of Formation for the CFD and to pay the costs of the City in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of \$2,000,000 <b>be adopted?</b></p>	<p><b>YES:</b> _____</p> <p><b>NO:</b> _____</p>
---	--

By execution in the space provided below, you also confirm your written waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure.

Property Owner:  
\_\_\_\_\_

By: \_\_\_\_\_

its: \_\_\_\_\_

**Attachment "C"**

**RESOLUTION NO. 19-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING A RESOLUTION DECLARING RESULTS OF SPECIAL LANDOWNER ELECTION AND DIRECTING RECORDING OF NOTICE OF SPECIAL TAX LIEN**

**CITY OF LATHROP  
Community Facilities District No. 2019-1  
(South Lathrop City Services)**

**WHEREAS**, the City Council (the "Council") of the City of Lathrop (the "City") has adopted a resolution entitled "Resolution of Formation of Community Facilities District" (the "Resolution of Formation"), ordering the formation of the "City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services)" (the "CFD"), authorizing the levy of a special tax on property within the CFD and preliminarily establishing an appropriations limit for the CFD, all pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

**WHEREAS**, under the provisions of the Resolution of Formation and pursuant to a resolution entitled "Resolution Calling Special Landowner Election for Community Facilities District" (the "Election Resolution") heretofore adopted by this Council, the propositions of the levy of the special tax and the establishment of the appropriations limit were submitted to the qualified electors of the CFD as required by the provisions of the Act; and

**WHEREAS**, pursuant to the terms of the Election Resolution, which are by this reference incorporated herein, the special election has been held and the City Clerk has on file a Canvass and Statement of Results of Election, (the "Canvass") a copy of which is attached hereto as Exhibit A; and

**WHEREAS**, this Council has been informed of the Canvass, finds it appropriate and wishes to complete its proceedings for the CFD.

**NOW, THEREFORE**, be it resolved by the City Council of the City of Lathrop:

- 1. Recitals.** The foregoing recitals are all true and correct.
- 2. Issues Presented.** The issues presented at the special election were the levy of a special tax within the CFD and the approval of an annual appropriations limit of not to exceed \$2,000,000, all pursuant to the Resolution of Formation.
- 3. Canvass and Issues Approved.** The Council hereby approves the Canvass and finds that it shall be a permanent part of the record of its proceedings for the CFD.

**Attachment "C"**

Pursuant to the Canvass, the issues presented at the special election were approved by the qualified electors of the CFD by more than two-thirds of the votes cast at the special election.

**4.** Proceedings Approved. Pursuant to the voter approval, the CFD is hereby declared to be fully formed with the authority to levy the special taxes and to have the established appropriations limit, all as heretofore provided in these proceedings and in the Act. It is hereby found that all prior proceedings and actions taken by this Council with respect to the CFD were valid and in conformity with the Act.

**5.** Notice of Tax Lien. The City Clerk is hereby directed to complete, execute and cause to be recorded in the office of the County Recorder of the County of Stanislaus a notice of special tax lien in the form required by the Act, such recording to occur no later than fifteen (15) days following adoption of this resolution by the Council

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

\* \* \* \* \*

**Attachment "C"**

The foregoing resolution was passed and adopted this 8<sup>th</sup> day of April 2019, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

**Attachment "C"**

**EXHIBIT A**

**CITY OF LATHROP  
Community Facilities District No. 2019-1  
(South Lathrop City Services)**

**CANVASS AND STATEMENT OF RESULT OF ELECTION**

I hereby certify that on \_\_\_\_\_, 2019, I canvassed the returns of the election held on \_\_\_\_\_, 2019, in the City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services) and the total number of ballots cast in such District and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

	<b>Qualified Landowner Votes</b>	<b>Votes Cast</b>	<b>YES</b>	<b>NO</b>
City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services) Special Tax Election, _____, 2019.	_____	_____	_____	_____

**BALLOT MEASURE: Shall the measure** to allow the City of Lathrop be authorized to annually levy a special tax solely on lands within the City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services) (the "CFD") in accordance with the rate and method contained in the Resolution of Formation of the CFD adopted by the City Council of the City on April 8, 2019, commencing in the City's fiscal year 2019-20, to pay for the public services specified in the Resolution of Formation for the CFD and to pay the costs of the City in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of \$2,000,000 **be adopted?**

**YES:** \_\_\_\_\_

**NO:** \_\_\_\_\_

**IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND** on \_\_\_\_\_, 2019.

By: \_\_\_\_\_

City Clerk  
City of Lathrop



**ATTACHMENT "D"**

**ORDINANCE NO. 19-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP LEVYING SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 2019-1 (SOUTH LATHROP CITY SERVICES SERVICES)**

**WHEREAS**, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et. seq.*, of the California Government Code (the "Act"), on March 11, 2019, this City Council (the "Council") of the City of Lathrop (the "City"), adopted its resolution entitled "Resolution of Intention to Establish Community Facilities District No. 2019-1 (South Lathrop City Services Services)" (the "Resolution of Intention"), and has conducted proceedings (the "Proceedings") to establish "City of Lathrop Community Facilities District No. 2019-1 (South Lathrop City Services Services)" (the "CFD") pursuant to the Mello-Roos Community Facilities Act, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act") to finance certain services (the "Services") as provided in the Act; and

**WHEREAS**, pursuant to notice as specified in the Act, and as part of the Proceedings, the Council has held a public hearing under the Act relative to the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax ("Special Tax") to be levied within the CFD to finance the Services, and at such hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of the Special Tax were heard, substantial evidence was presented and considered by this Council and a full and fair hearing was held; and

**WHEREAS**, upon the conclusion of the hearing, this Council adopted its "Resolution of Formation of Community Facilities District" (the "Resolution of Formation"), pursuant to which it completed the Proceedings for the establishment of the CFD, the authorization of the levy of the Special Tax within the CFD and the calling of an election within the CFD on the propositions of levying the Special Tax and establishing an appropriations limit within the CFD, respectively; and

**WHEREAS**, on April 8, 2019, a special election was held among the landowner voters within the CFD at which such voters approved such propositions by the two-thirds vote required by the Act, which approval has been confirmed by resolution of this Council.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LATHROP** as follows:

**Section 1.** By the passage of this Ordinance, the Council hereby authorizes and levies the Special Tax within the CFD pursuant to the Act, at the rate and in accordance with the rate and method of apportionment of Special Tax set forth in the Resolution of Formation which rate and method is by this reference incorporated herein.

## ATTACHMENT "D"

The Special Tax is hereby levied commencing in fiscal year 2019-20, and in each fiscal year thereafter to pay for the Services for the CFD, as contemplated by the Resolution of Formation and the Proceedings and all costs of administering the CFD.

**Section 2.** The Finance Director of the City or designee, or an employee or consultant of the City, is hereby authorized and directed each fiscal year to determine the specific Special Tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation.

**Section 3.** Exemptions from the levy of the Special Tax shall be as provided in the Resolution of Formation and the applicable provisions of the Act. In no event shall the Special Tax be levied on any parcel within the CFD in excess of the maximum Special Tax specified in the Resolution of Formation.

**Section 4.** All of the collections of the Special Tax shall be used as provided in the Act and in the Resolution of Formation, including, but not limited to, the payment of costs of 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 Tax 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 the Council may provide for other appropriate methods of collection by resolution(s) of the Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent Special Tax payments. The Finance Director of the City is hereby authorized and directed to provide all necessary information to the auditor/tax collector of San Joaquin County 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 San Joaquin County for fiscal year 2019-20 and for each fiscal year thereafter until no longer required to pay for the Services or until otherwise terminated by the City.

**Section 6.** 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 CFD, by a court of competent jurisdiction, the balance of this ordinance and the application of the Special Tax to the remaining parcels within the CFD shall not be affected.

**Section 7.** The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published immediately after its passage at least once in a newspaper of general circulation circulated in the City.

**Section 8.** This Ordinance shall take legal effect 30 days from its second reading and adoption.

**ATTACHMENT "D"**

**THIS ORDINANCE** was regularly introduced at a meeting of the City Council of the City of Lathrop on the 8<sup>th</sup> day of April 2019, and was **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Lathrop on the \_\_\_\_ day of \_\_\_\_ 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**ATTEST:**

\_\_\_\_\_  
Teresa Vargas, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

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