

RESOLUTION NO. 2018-0463

Adopted by the Sacramento City Council

November 27, 2018

Resolution Calling Special Mailed-Ballot Election within the Sacramento Services Community Facilities District No. 2018-05

BACKGROUND

- A. On Tuesday, October 23, 2018, the City Council duly adopted Resolution No. 2018-0412 (the “**Resolution of Intention**”), thereby initiating proceedings to (1) establish a community facilities district within the City’s jurisdictional boundaries under the Mello-Roos Community Facilities Act of 1982, set forth at Government Code sections 53311 through 53368.3 (the “**Act**”), to be known and designated as the “Sacramento Services Community Facilities District No. 2018-05, City of Sacramento, County of Sacramento, State of California” (the “**CFD**”) and (2) levy a special tax within the CFD to fund the maintenance of roadway facilities, transit facilities, parks, bikeway and pedestrian paths, storm water drainage facilities, landscape areas, and any other services authorized under the Act and the City’s charter. The Council has determined that the establishment of the community facilities district is consistent with and follows the local goals and policies concerning the use of the Act that have been adopted by the Council and are now in effect.
- B. The Resolution of Intention fixed Tuesday, November 27, 2018, at 5:00 p.m. as the date and time for a public hearing on the matters proposed in the Resolution of Intention (the “**Public Hearing**”).
- C. At the close of the Public Hearing on November 27, 2018, the City Council determined that there was no majority protest under section 53324 of the Act.
- D. At the conclusion of the Public Hearing, and as authorized by sections 53325.1 and 53351 of the Act, respectively, the City Council duly adopted Resolution No. 2018-0459 establishing the CFD (the “**Resolution of Formation**”).
- E. Before the City Council may proceed with implementing the authorizations in the Resolution of Formation, the following propositions must be submitted to, and approved by, the qualified electors of the CFD: the levy of the special tax within the CFD and the establishment of an appropriations limit for the CFD, as provided by the Resolution of Formation. These propositions may be combined into a single ballot measure for each improvement area under section 53353.5 of the Act.

- F. A Certificate Re: Registered Voters and Landowners (the “**Certificate re: Landowners**”) has been filed with the City Clerk and submitted to the City Council, certifying that at some time during the 90 days preceding the close of the Public Hearing, there were fewer than twelve persons registered to vote within the territory of the CFD, and that as of the date of the Public Hearing there were no persons registered to vote within the territory of the CFD.
- G. A Certificate of Clerk re: Receipt of Property Owner Waiver and Consent Forms, has been submitted by the City Clerk, stating that each landowner, or an authorized representative of each landowner, within the CFD has filed with the City Clerk a properly executed Waiver, Consent and Appointment (as defined below) in the form attached to this resolution as Exhibit B.
- H. The Resolution of Intention fixed Tuesday, November 27, 2018, at 5:00 p.m. as the date and time for a public hearing on the matters proposed in the Resolution of Intention (the “**Public Hearing**”).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Council finds that the background statements A through H are true and correct.
- Section 2. The City Council accepts the Certificate re: Landowners and finds, in accordance therewith, that there has been a time, during the 90 days preceding the close of the Public Hearing, when there were fewer than twelve registered voters residing within the boundaries of the CFD, and that as of the close of the Public Hearing there were no persons registered to vote within the territory of the CFD. Accordingly, under section 53326(b) of the Act, the qualified electors of the CFD for the proposed special election are the owners of land within the CFD.
- Section 3. The City Council further finds and determines that the owners of land within the CFD are the landowners set forth in the attachment to the Certificate re: Landowners and that the attachment correctly sets forth the amount of property owned by each landowner and the number of votes to which each landowner is entitled pursuant to section 53326(b), being the number of acres owned by each landowner the CFD rounded up to the next whole acre.
- Section 4. The City Council approves the form of “Waiver and Consent Shortening Time Periods and Waiving Various Requirements for Conducting a Mailed-Ballot Election and Appointment of Representative to Act for Property Owner in Voting and Casting Ballot” (the “**Waiver, Consent and Appointment**”) by which the time limits and related requirements respecting preparation and distribution of

election materials are waived, a copy of which is attached to this resolution as Exhibit B. The City Council finds that the rights, procedures, and time periods waived in the Waiver, Consent and Appointment are solely for the protection of the qualified electors and may be waived by the qualified electors under sections 53326(a) and 53327(b) of the Act and under other provisions of law dealing with waiver generally, and that the Waiver, Consent and Appointment constitutes a full and knowing waiver, by any qualified elector who has executed the form, of those rights, procedures and time periods.

- Section 5. The City Council further finds and determines, based on a Certificate of Clerk re: Receipt of Property Owner Waiver and Consent Forms, provided this date by the City Clerk, that each owner of land within the CFD, or an authorized representative of each owner of land within the CFD, has filed with the City Clerk a properly executed Waiver, Consent and Appointment. Accordingly, the City Council is establishing the procedures and time periods for this special mailed-ballot election without regard to statutory schedules.
- Section 6. As authorized by sections 53325.7, 53326, and 53351 of the Act, the City Council hereby calls a special mailed-ballot election to be held within the boundaries of the CFD on November 28, 2018, for the purpose of submitting to the qualified electors of the CFD the propositions to levy a special tax within the CFD and to establish the appropriations limit for the CFD, as provided in the Resolution of Formation. As authorized by section 53326 of the Act, the election shall be conducted by mailed-ballot but personal service of the ballots to authorized representatives of each landowner within the CFD, as applicable, is permitted as set forth in the Waiver, Consent and Appointment forms on file with the City Clerk. The City Clerk is directed to either mail or make personal service of the ballots to each landowner or, if one has been appointed pursuant to a Waiver, Consent and Appointment, to the landowner's authorized representative.
- Section 7. As authorized by section 53353.5 of the Act, the propositions to levy a special tax and to establish the appropriations limit will be combined into a single ballot measure for the CFD. The form of the single ballot measure to be submitted to the qualified electors of the CFD is as set forth in the form attached to this resolution as Exhibit A.
- Section 8. Under the Act and Elections Code sections 307 and 320, the City Clerk is hereby designated as the official to conduct the special mailed-ballot elections in accordance with the following procedures:
- (a) The special elections shall be held and conducted, the votes canvassed and the returns made, and the results determined, as provided in this resolution; and in all particulars not prescribed by this resolution, the

special elections shall be held and conducted and the votes received and canvassed, in the manner provided by law for the holding of special elections consistent with the Act.

- (b) All owners of land within the CFD as of the close of the Public Hearing shall be qualified to vote upon the proposition to be submitted at the special election for the CFD.
- (c) The special election shall be conducted as a mailed-ballot election, in accordance with the provisions of the Act and the prior proceedings of the City Council taken under the Act, and there shall be no polling places for the special election. All ballots shall be delivered or mailed by the City Clerk to the landowners, and all voted ballots are required to be received by the City Clerk not later than 5:00 p.m. on the date of the election in order to be counted. However, if at any time the City Clerk determines that all votes have been cast, the City Clerk shall immediately declare the election closed.
- (d) Each voter desiring to vote in favor of the proposition to be submitted at the special election for the CFD shall mark a cross (x) or similar mark in the blank space next to the word "YES" on the ballot to the right of the proposition; and each voter desiring to vote against the proposition shall mark a cross (x) or similar mark in the blank space next to the word "NO" on the ballot to the right of the proposition. The cross (x) or similar mark may be marked with either pen or pencil.
- (e) The City Clerk shall commence the canvass of the returns of the special election, and report the returns to the City Council no later than the City Council meeting of December 11, 2018.
- (f) The City Council may thereupon declare the results of each special election and shall cause to be entered into its minutes a statement of the results of the special election as ascertained by the canvass.

Section 9. Exhibits A and B are a part of this resolution.

Section 10. This resolution takes effect when adopted.

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Exhibit A – Special Election Ballot

Exhibit B – Waiver and Consent Form

Adopted by the City of Sacramento City Council on November 27, 2018, by the following vote:

Ayes: Members Ashby, Carr, Hansen, Harris, Jennings, Schenirer, Warren and Mayor Steinberg

Noes: None

Abstain: None

Absent: Member Guerra

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2018.12.20 09:44:37 -08'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT. All distinguishing marks or erasures 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 amount of money to be raised annually by this measure in the CFD is expected to be \$1,536,911, and the rate and duration of the special tax for the CFD is as set forth in the rate and method of apportionment of special taxes for the CFD.

BALLOT MEASURE

MARK "YES" OR "NO"
WITH AN "X":

"Shall the measure pursuant to which the Sacramento City Council, acting through the Sacramento Services Community Facilities District No. 2018-05, City of Sacramento, County of Sacramento, State of California (the **"CFD"**), be authorized to (1) annually levy a special tax within the CFD fund the maintenance of roadway facilities, transit facilities, parks, bikeway and pedestrian paths, storm water drainage facilities, landscape areas, and any other services authorized under the Act and the City's charter, and (2) establish the appropriations limit for the CFD for fiscal year 2018/19 in the amount of \$4.0 million, all as described in the City Council's Resolution of Formation adopted by the Sacramento City Council on November 27, 2018, **be adopted?"**

YES:

NO:

Certification for Special Election Ballot

The undersigned is the above-named Landowner or the authorized representative of the above-named Landowner and is a person legally authorized and entitled to cast this ballot on behalf of the above-named Landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2018.

Signature

Print Name

EXHIBIT B

WAIVER AND CONSENT
SHORTENING TIME PERIODS AND WAIVING VARIOUS
REQUIREMENTS FOR CONDUCTING A MAILED-BALLOT ELECTION
AND APPOINTMENT OF REPRESENTATIVE TO ACT FOR PROPERTY OWNER
IN VOTING AND CASTING BALLOT FOR IMPROVEMENT AREA(S) WITHIN THE
SACRAMENTO SERVICES COMMUNITY FACILITIES DISTRICT NO. 2018-05
CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

The undersigned (the “Undersigned”) is the authorized representative of The Greenbriar Project Owner, LP, a Delaware limited partnership (the “Owner”), the owner of the property in Sacramento Services Community Facilities District No. 2018-05, City of Sacramento, County of Sacramento, State of California (the “CFD”). The APN’s in the CFD are:

The Owner understands that a special mailed-ballot, landowner election will be held to determine whether the authority to levy an annual special tax on property within the CFD, including the above-numbered parcels, to fund the maintenance of roadway facilities, transit facilities, parks, bikeway and pedestrian paths, storm water drainage facilities, landscape areas, and any other services authorized under the Act and the City’s charter, and to establish an appropriations limit for the CFD, all as set forth in the Resolution of Formation of the CFD to be considered by the City Council of the City of Sacramento on November 27, 2018, will be conferred upon that Council. The Owner requests that the election be conducted at the earliest possible date. The Undersigned is the person legally entitled and authorized to cast the ballot attributable to the above-referenced parcels in the mailed-ballot, landowner election.

The Owner hereby waives any and all minimum time periods relative to the election pursuant to Government Code Section 53326(a).

The Owner hereby waives the preparation and distribution of an impartial analysis of the ballot measure, as well as arguments in favor and against, under the authority of Government Code Section 53327(b).

The Owner hereby waives the requirement to publish notice of the election under Government Code Section 53352.

The Owner hereby waives the requirements regarding the time to mail ballots to the qualified electors under Elections Code Section 4100 et seq., and agrees that either mailed service or personal service of the ballot will be sufficient.

The Owner hereby waives the requirements regarding identification envelopes for the return of mailed ballots contained in Government Code Section 53327.5.

The Owner hereby waives any and all defects in notice or procedure in the conduct of the election, whether known or unknown (except the right to vote and to have the ballots fairly counted), and states that the election is being expedited, pursuant to this Waiver, Consent, and Appointment, at the particular instance and request of the Owner.

The Owner hereby consents to the levy and collection of the special tax on the above-referenced parcels and hereby waives any and all rights to challenge the inclusion of the above-referenced parcels in the CFD and any and all other proceedings related thereto.

Finally, the Owner hereby authorizes the Undersigned to act in all respects for the above-listed property and for the above-referenced owners in casting the votes and executing the ballot assigned to the above-listed property.

The Undersigned declare[s] under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Appointment and Waiver and Consent is signed by the Owner on the date following each signature.

Signature: _____ Date: _____

Print Name: _____

Signature: _____ Date: _____

Print Name: _____