

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

**RESOLUTION NO. 2022-**

**RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL  
CALLING SPECIAL MAILED-BALLOT ELECTION WITHIN THE CITY  
OF SAN LEANDRO COMMUNITY FACILITIES DISTRICT NO. 2022-1  
(MONARCH BAY SHORELINE FACILITIES & SERVICES)**

**WHEREAS**, on Wednesday, July 18, 2022, the City Council duly adopted Resolution No. 127 (the “**Resolution of Intention**”) declaring its intention to (1) establish a community facilities district 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 “City of San Leandro Community Facilities District No. 2022-1 (Monarch Bay Shoreline Facilities & Services)” (the “**CFD**”); and (2) levy a special tax within the CFD to finance the provision of certain public services (the “**Services**”) and the acquisition and construction of certain public facilities, including through the financing of governmentally imposed development impact fees used to finance public facilities (the “**Facilities**”), all as set out in the Resolution of Intention; and

**WHEREAS**, on Wednesday, July 18, 2022, the City Council also duly adopted Resolution 128 (the “**Resolution of Intention to Incur Bonded Indebtedness**”) declaring its intention to incur bonded indebtedness or other debt (as defined in the Act) for the CFD (collectively, “**Debt**”) to finance the acquisition and construction of the Facilities in a principal amount not to exceed \$91 million (the “**Authorization**”); and

**WHEREAS**, both the Resolution of Intention and the Resolution to Incur Bonded Indebtedness fixed Tuesday, September 6, 2022, at 6:30 p.m., in the City Council Chambers in the San Leandro City Hall, 835 East 14th Street, San Leandro, California 94577, with electronic and telephonic access provided as set forth in the agenda for the meeting, as the date and time for a public hearing on the matters proposed in the Resolution of Intention and Resolution to Incur Bonded Indebtedness, respectively (collectively, the “**Public Hearing**”); and

**WHEREAS**, at the close of the Public Hearing, the City Council determined that there was no majority protest under the Act; and

**WHEREAS**, at the conclusion of the Public Hearing, and as authorized by sections 53325.1, 53339.7 and 53351 of the Act, respectively, the City Council duly adopted its RESOLUTION OF FORMATION ESTABLISHING THE CITY OF SAN LEANDRO COMMUNITY FACILITIES DISTRICT NO. 2022-1 (MONARCH BAY SHORELINE FACILITIES & SERVICES), AND PROVIDING FOR THE LEVY A SPECIAL TAX IN THE COMMUNITY FACILITIES DISTRICT TO FINANCE THE ACQUISITION AND CONSTRUCTION OF PUBLIC FACILITIES AND THE PROVISION OF PUBLIC SERVICES (the “**Resolution of Formation**”) and its RESOLUTION DEEMING IT NECESSARY TO INCUR BONDED INDEBTEDNESS TO FINANCE THE ACQUISITION AND CONSTRUCTION OF PUBLIC FACILITIES FOR THE CITY OF SAN LEANDRO COMMUNITY FACILITIES DISTRICT NO. 2022-1 (MONARCH BAY SHORELINE

FACILITIES & SERVICES) (the “**Resolution Deeming it Necessary to Incur Bonded Indebtedness**”); and

**WHEREAS**, before the City Council may proceed with implementing the authorizations in the two resolutions with respect to the CFD, 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 for the Services and Facilities as provided by the Resolution of Formation, the establishment of an appropriations limit for the CFD as provided by the Resolution of Formation, and the incurrence of indebtedness for the CFD as provided by the Resolution Deeming it Necessary to Incur Bonded Indebtedness, and these propositions may be combined into a single ballot measure under section 53353.5 of the Act; and

**WHEREAS**, there is on file with the City Clerk evidence 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

**WHEREAS**, there is on file with the City Clerk a waiver and consent form, duly executed and delivered by the City, as the sole landowner within the CFD, described herein.

**NOW, THEREFORE**, the City Council of the City of San Leandro does **RESOLVE** as follows:

**SECTION 1.** The City Council finds that the statements in the Background are true.

**SECTION 2.** The City Council finds 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. Accordingly, the qualified electors of the CFD are the landowners owning property in the CFD, which comprises land owned by the City and for which the City is the “landowner,” in accordance with sections 53317(f), 53326(b) and 53340.1 of the Act.

**SECTION 3.** The City Council further finds and determines that the owners of land within the CFD are the landowners set forth in the waiver and consent form submitted by the City described herein, as sole landowner in the CFD, and such waiver and consent form correctly sets forth the amount of property owned by the City and the number of votes to which the City is entitled pursuant to sections 53317(f), 53326(b) and 53340.1 of the Act.

**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. 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 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 (1) a special mailed-ballot election to be held within the boundaries of the CFD on the date hereof, for the purpose of submitting to the qualified electors of the CFD the propositions to levy a special tax within the CFD, to establish the appropriations limit for the CFD, and to incur indebtedness for the CFD. As authorized by section 53326 of the Act, each election shall be conducted by mailed-ballot but personal service of the ballots to authorized representatives of each landowner within the CFD, is permitted as set forth in the Waiver, Consent and Appointment form 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, to establish the appropriations limit, and to incur indebtedness for the CFD will be combined into a single ballot measure. The form of the single ballot measure to be submitted to the qualified electors 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 election in accordance with the following procedures:

(a) The special election 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 election 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 landowners owning property in the CFD, including owners of land in which there are leasehold or possessory interests subject to the Special Tax, as of the close of the Public Hearing, shall be qualified to vote upon the proposition to be submitted at the special election.

(c) Each 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 6:30 p.m. on September 6, 2022 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 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 each special election, and report the returns to the City Council on September 6, 2022.

(f) The City Council may thereupon declare the results of each special election, and shall cause to be entered into its minutes a Consent of the results of the special election as ascertained by the canvass.

**SECTION 9.** This resolution takes effect when adopted.

Introduced by \_\_\_\_\_ and passed and adopted this 6th day of September 2022, by the following vote:

Members of the Council:

AYES:

NOES:

ABSENT:

ATTEST: \_\_\_\_\_  
Kelly B. Clancy, Acting City Clerk

**EXHIBIT A**  
**BALLOT MEASURE LANGUAGE**

**BALLOT MEASURE:** Shall the measure pursuant to which (i) the City of San Leandro shall incur an indebtedness and issue bonds in the maximum aggregate principal amount of not to exceed \$91 million with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds on behalf of the City of San Leandro Community Facilities District No. 2022-1 (Monarch Bay Shoreline Facilities & Services) (the “CFD”), the proceeds of which bonds will be used to acquire and/or construct certain facilities and pay for the costs of issuing the bonds and related expenses; (ii) a special tax payable solely from lands within the CFD shall be levied annually, commencing in the City’s fiscal year 2023-24, upon lands within the CFD to pay for the principal and interest upon such bonds, to pay the costs of the City in administering the CFD, to pay for the costs of acquiring and/or constructing certain facilities and to pay for authorized public services; and (iii) the annual appropriations limit of the CFD shall be established in the amount of \$91 million be adopted?

YES

\_\_\_\_\_

NO

\_\_\_\_\_