

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL
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)**

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 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 No. 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, in the Resolution of Intention to Incur Bonded Indebtedness, the City Council 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 time and place for a public hearing (the “**Public Hearing**”) to be held by the City Council to consider incurring the proposed Debt and any other matters set forth in the Resolution of Intention to Incur Bonded Indebtedness; and

WHEREAS, in the date hereof, at or shortly after the time set for the Public Hearing, the City Council opened the Public Hearing to consider the incurrence of the proposed Debt, and any other matters set forth in the Resolution of Intention to Incur Bonded Indebtedness; and

WHEREAS, at the Public Hearing, any persons interested, including all taxpayers, property owners, and registered voters within the CFD were given an opportunity to appear and be heard, and the City Council heard and considered the testimony of all interested persons for and against the incurrence of the proposed Debt and any other matters set forth in the Resolution of Intention to Incur Bonded Indebtedness; and

WHEREAS, all registered voters residing within the boundaries of the proposed CFD and all owners of land within the boundaries of the proposed CFD that would not be exempt from the

proposed levy of the special tax in the CFD were allowed to submit written protests to any aspect of the proposals contained in the Resolution of Intention to Incur Bonded Indebtedness and were permitted to withdraw their protests before the close of the Public Hearing; and

WHEREAS, the City Council has duly adopted on this date 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**”), setting forth the special tax authorized to be levied within the CFD and the Facilities that may be financed with the proceeds of the special tax authorized to be levied within the CFD, and the proposed Debt; and

WHEREAS, there are on file with the City Clerk a proof of publication of the Notice of Public Hearing in the *East Bay Daily Review*, required by the Act and the Resolution of Intention to Incur Bonded Indebtedness.

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 accepts the proof of publication of the Notice of Public Hearing and finds, based thereon, that proper notice of the Public Hearing has been given in accordance with the Act and that the Public Hearing was conducted with proper and legal notice in all respects.

SECTION 3. The City Council finds and determines that at the close of the Public Hearing written protests, if any, to the incurrence of the proposed Debt or any other matters set forth in the Resolution of Intention to Incur Bonded Indebtedness were submitted by less than 50% of the registered voters residing within the CFD or by less than six of the registered voters residing within the CFD, whichever is more. The City Council also finds that, at the close of the Public Hearing, written protests, if any, were submitted by the owners of less than one-half of the area of land in the territory proposed to be included in the CFD and not exempt from the special tax levied in the CFD.

Thus, finding that it is not precluded by the Act from proceeding further in this matter, the City Council hereby orders and determines that it has considered, and that it overrules, all protests to the incurrence of the proposed Debt, and to any other matters set forth in the Resolution of Intention to Incur Bonded Indebtedness that may have been submitted.

SECTION 4. The City Council hereby deems it necessary that Debt be incurred, in one or more series, to finance the acquisition and construction of the Facilities. The authorization to finance the acquisition and construction of the Facilities, includes incidental expenses for the Facilities consisting of the costs of planning and designing the Facilities, together with the costs

of related environmental evaluations; all costs associated with the establishment of the CFD, the issuance of bonds and other Debt, the determination of the amount of any special taxes, and the collection or payment of any special taxes; and any costs otherwise incurred to carry out the authorized purposes of the CFD, together with any other expenses incidental to the acquisition and construction of the Facilities.

SECTION 5. The whole of the territory within the CFD will be benefited by the Debt and will be subject to the special tax to pay for the Debt.

SECTION 6. The aggregate principal amount of the proposed Debt to be incurred, in one or more series, to finance the acquisition and construction of the Facilities may not exceed the Authorization, which amount, in each case, includes all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the Debt is proposed to be incurred, including the estimated costs of acquisition of land and rights-of-way; capacity or connection fees; satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time the Debt issued under the Act; fees for architectural, engineering, inspection, legal, fiscal, and financial-consultant services; bond and other reserve funds; discount fees; interest on any Debt estimated to be due and payable within two years of issuance of the Debt; election costs; and all costs of issuance or incurrence of the Debt, including fees for bond counsel and disclosure counsel, costs of obtaining credit ratings, bond-insurance premiums, fees for letters of credit and other credit-enhancement costs, and printing costs.

SECTION 7. Bonds or other Debt will be issued in such series, will bear interest payable semi-annually (or in any other manner as the City Council determines) at a rate not to exceed the maximum rate of interest authorized by applicable law at the time of sale of the bonds or other debt, and must mature not later than 40 years after the date of issuance

SECTION 8. Under Government Code section 53353.5, the question of levying the special tax to finance the construction and acquisition of the Facilities, the question of setting the appropriations limit for the CFD, and the question of whether Debt may be incurred for the CFD will be combined into a single ballot question and submitted to the qualified electors of the CFD at a special mailed-ballot election, as described in Section 9.

SECTION 9. The elections must be conducted in accordance with a separate City Council resolution calling a special election for the CFD, adopted this date, to which reference is made for further particulars.

SECTION 10. If the ballot proposition related to the incurrence of Debt for the CFD receives the approval of two-thirds or more of the votes cast on the proposition, then the Debt may be issued and sold for the purpose for which it was authorized, and the Debt will be paid exclusively from the annual levy of the special tax as described herein (except where special funds are otherwise available), and in any and all cases is not and may not be secured by any other taxing power or funds of the City.

SECTION 11. Any Debt issued will be callable (i.e., may be redeemed or prepaid before maturity) in accordance with the Act.

SECTION 12. 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, City Clerk

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