



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: November 17, 2020

Title: A RESOLUTION OF THE DISTRICT BOARD OF ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT ORDERING AND CALLING AN ELECTION WITH RESPECT TO INCREASING THE RATE OF LEVY OF AN AD VALOREM PROPERTY TAX ATTRIBUTABLE TO THE OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT

Introduction/Background:

On January 17, 2017, Pima County formed the Rocking K South Community Facilities District (District) and approved the District's General Plan. On July 11, 2017, the District's Development and Intergovernmental Agreement was approved by the Board of Supervisors, which authorized the District's Board (Pima County Board of Supervisors) to issue debt to finance public infrastructure within the District. The Agreement also identified the eligible infrastructure, how the infrastructure could be purchased, the debt that may be issued, the tax (Operations and Maintenance Expense and Debt Service) that may be levied and the operational support that may be provided to the District by the County. The Agreement also contained a provision that allows the District to call an election not less than three years after the date of formation of the District to increase the Operations and Maintenance Expense Tax from thirty cents (30¢) up to fifty cents (50¢) per one hundred dollars (\$100) of assessed valuation. On May 29, 2020, the developer submitted the first public infrastructure project to be purchased and financed through the District. On June 23, 2020, the District's Board approved the Feasibility Report and authorized the issuance of General Obligation Bonds not to exceed \$150,000. On July 15, 2020, the initial debt issuance of \$138,000 was sold with a repayment schedule of 15 years. The debt was purchased by the developer and will be paid by an ad valorem property tax assessed on the property owners within the boundaries of the District.

Discussion:

On August 15, 2017, the qualified electors of the District approved an *ad valorem* tax on the assessed value of all real and personal property in the District at the maximum approved rate of thirty cents (30¢) per one hundred dollars (\$100) of such assessed valuation for operation and maintenance of the District infrastructure (the "Operation and Maintenance Expenses Tax"). In accordance with the District's Development and Intergovernmental Agreement, the District is authorized to increase the rate of levy of the Operation and Maintenance Expenses Tax from thirty cents (30¢) up to fifty cents (50¢) per one hundred dollars (\$100) of assessed valuation within the District. Such rate of levy for the Operation and Maintenance Tax may not be increased unless approved at an election ordered and called by the District's Board to submit to the qualified electors of the District. The Board previously set an election for September 29, 2020, but none of the qualified voters cast a vote. This new election is essentially a rescheduling of that earlier election.

Conclusion:

In accordance with the District's Development and Intergovernmental Agreement, the District is authorized to increase the rate of levy of the Operation and Maintenance Expenses Tax from thirty cents (30¢) up to fifty cents (50¢) per one hundred dollars (\$100) of assessed valuation within the District. Such rate of levy for the Operation and Maintenance Tax may not be increased unless approved at an election ordered and called by the District's Board to submit to the qualified electors of the District.

Recommendation:

Staff recommends that the Board of Supervisors, acting as the District Board for Rocking K South Community Facilities District, approve this Resolution ordering and calling an election to allow the qualified electors within the District to vote with respect to increasing the rate of levy of an *ad valorem* tax attributable to the operating and maintenance expenses of the District from thirty cents (30¢) up to fifty cents (50¢) per one hundred dollars (\$100) of assessed value.

Fiscal Impact:

The fiscal impact to Pima County will be zero. The District will be able to tax sufficiently to pay for the District's operations and maintenance costs on the eligible infrastructure within the District.

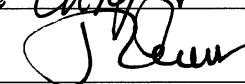
Board of Supervisor District:

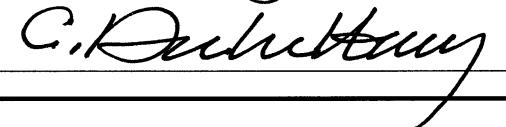
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Department: Finance and Risk Management Telephone: 724-8410

Contact: Michelle Campagne Telephone: 724-8410

Department Director Signature/Date:  11-3-20

Deputy County Administrator Signature/Date:  11/3/2020

County Administrator Signature/Date:  11/3/2020

RESOLUTION NO. 2020-RK__

(ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT)

A RESOLUTION OF THE DISTRICT BOARD OF ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT ORDERING AND CALLING AN ELECTION WITH RESPECT TO INCREASING THE RATE OF LEVY OF AN *AD VALOREM* PROPERTY TAX ATTRIBUTABLE TO THE OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT as follows:

1. Findings.

a. On January 17, 2017, the Board of Supervisors of Pima County, Arizona (the "County"), adopted Resolution No. 2017-2 which, among other things, (i) ordered and declared formation of Rocking K South Community Facilities District (the "District") and (ii) approved a "general plan" for the District, which sets out a general description of the public infrastructure improvements for which the District was formed and the general areas to be improved (the "General Plan").

b. Pursuant to Title 48, Chapter 4, Article 6, Arizona Revised Statutes (the "Act"), and Section 11-1101, Arizona Revised Statutes, the County, the District and Rocking K Development Co. (the "Developer") entered into a Development and Intergovernmental Agreement for Rocking K South Community Facilities District, dated as of July 11, 2017 ("Development Agreement") to specify, among other things, conditions, terms, restrictions and requirements for public infrastructure (as such term is defined in the Act) and the financing of public infrastructure and subsequent reimbursements or repayments over time.

c. Pursuant to Section 48-723, Arizona Revised Statutes, and the Development Agreement and the approval by the qualified electors of the District or to those persons who are qualified to vote pursuant to Section 48-707(G), Arizona Revised Statutes, at an election held on August 15, 2017, the District is currently levying an *ad valorem* tax on the assessed value of all real and personal property in the District at the maximum approved rate of thirty cents (30¢) per one hundred dollars (\$100) of such assessed valuation for operation and maintenance of the District (the "Operation and Maintenance Expenses Tax").

d. Pursuant to Section 48-723, Arizona Revised Statutes, and the Development Agreement, the District is authorized to increase the rate of levy of the Operation and Maintenance Expenses Tax from thirty cents (30¢) up to fifty cents (50¢) per one hundred dollars (\$100) of such assessed valuation for such operation and maintenance.

e. Such rate of levy for the Operation and Maintenance Tax may not be increased unless approved at an election ordered and called to submit to the qualified electors of the District or to those persons who are qualified to vote pursuant to Section 48-707(G), Arizona Revised Statutes (being, if no person has registered to vote within the District within fifty (50) days immediately preceding any scheduled election date, the owners of land within the District

who are qualified electors of the State of Arizona and other landowners according to Section 48-3043, Arizona Revised Statutes, as amended) the question of authorizing such increase in the rate of levy for the Operation and Maintenance Expenses Tax.

f. The Board of Directors of the District (the "District Board") passed a resolution on September 1, 2020 ordering and calling an election to be held on September 29, 2020 to submit to qualified electors of the District the question of increasing the maximum rate of the Operations and Maintenance Expenses Tax levy. The election return indicated that no electors or persons qualified to vote pursuant to Section 48-707(G), Arizona Revised Statutes, cast a vote at that election. There being no votes cast, the Board took no formal action to canvass the election. This finding by the Board will serve to make the results of the September 29, 2020, election a part of the District Board's minutes.

2. Call for Election.

a. Order and Call of Election. A special election be and the same is hereby ordered and called to be held on December 8, 2020 (the "Election"), at which time there shall be submitted to those who will be qualified electors of the District the question with respect to the increased levy of the Operations and Maintenance Expenses Tax set forth in the official ballot described in Section 2c. of this Resolution. If the question is to be submitted to persons who are qualified to vote pursuant to Section 48-707(G), Arizona Revised Statutes (being, if no person has registered to vote within the District within fifty (50) days immediately preceding any scheduled election date, the owners of land within the District who are qualified electors of the State of Arizona and other landowners according to Section 48-3043, Arizona Revised Statutes), each landowner will have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the District by that landowner.

b. Posting and Publishing of Matters Relating to Election. The Election shall be called by posting notices in three (3) public places within the proposed boundaries of the District not less than twenty (20) days before the date of the Election in substantially the form hereto attached and marked Exhibit "A." Notice shall also be published in the Daily Territorial, a newspaper of general circulation in the County, once a week for two consecutive weeks before the Election in substantially the form hereto attached and marked Exhibit "A."

c. Form of Ballot. The official ballot for the Election shall be in substantially the form hereto attached and marked Exhibit "B."

d. Polling Place. The polling place and the time the polls shall be opened and closed shall be as provided in Exhibit "A." While outside the boundaries of the District, the District Board hereby finds that such polling place is appropriate as it is the polling place for the precinct in which the area of the District is included for County-wide elections.

e. Affidavit of Landowners. Prospective electors voting in the Election shall execute an affidavit substantially in the form hereto attached and marked Exhibit "C."

f. Preparation of Ballots and Affidavits. The District Clerk is hereby authorized and directed to have printed and delivered to the election officers at such polling place such ballots and such affidavits, to be furnished by them to the qualified electors of the District

offering to vote at the Election, in substantially the forms as hereto attached and marked Exhibits "B" and "C."

g. Compliance with Voting Rights Act of 1965. In order to comply with the Voting Rights Act of 1965, as amended, the following shall be translated into Spanish and posted, published and recorded in each instance where posting, publication and recording of such proceedings are required, to wit: Exhibits "A," "B" and "C," all absentee/early voting materials and all instructions at the polls.

h. Applicable Law. The Election shall be held, conducted and canvassed in conformity with the provisions of the general election laws of the State of Arizona, except as otherwise provided by law, and only such persons shall be permitted to vote at the Election who are the qualified electors. Absentee/early voting shall be permitted in accordance with the provisions of Title 16, Chapter 4, Article 8, Arizona Revised Statutes, as amended.

i. Canvassing. Within fourteen (14) days following the election, the District Board shall meet and canvass the returns, and if a majority of the votes cast at the Election are in favor of increasing the rate of levy for the Operations and Maintenance Expenses Tax, the District Board shall enter the fact on its minutes.

3. Severability; Amendment.

a. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

b. All resolutions or parts thereof inconsistent herewith are hereby waived to the extent only of such inconsistency.

4. Effective Date.

This Resolution shall be effective immediately.

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PASSED by the District Board of Rocking K South Community Facilities District this ____ day of November 2020.

Chair, District Board, Rocking K South Community Facilities District

ATTEST:

District Clerk, Rocking K South Community Facilities District

APPROVED AS TO FORM:



District Counsel, Rocking K South Community Facilities District

ATTACHMENT:

EXHIBIT "A" -- Form of Notice of Election
EXHIBIT "B" -- Form of Official Ballot
EXHIBIT "C" -- Form of Affidavit of Elector

EXHIBIT "A"

FORM OF NOTICE OF ELECTION

TO THE QUALIFIED RESIDENT AND LANDOWNER ELECTORS OF ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT (THE "DISTRICT"):

A special election will be held on _____, 2020, at the following precinct's polling place, such precinct being the precinct in which the area within the District is located:

Precinct

Polling Place

The polling place will open at 8:00 a.m. and close at 2:00 p.m.

The purpose of the election is to permit those who would be the qualified resident and landowner electors of the District to vote on the following question:

SHALL THE DISTRICT BOARD OF ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT (THE "DISTRICT") BE AUTHORIZED TO LEVY AND COLLECT AN ANNUAL *AD VALOREM* TAX ON THE ASSESSED VALUE OF ALL REAL AND PERSONAL PROPERTY IN THE DISTRICT AT A RATE NOT TO EXCEED FIFTY CENTS (50¢) PER ONE HUNDRED DOLLARS (\$100) OF ASSESSED VALUATION OF ALL REAL AND PERSONAL PROPERTY IN THE DISTRICT, REPRESENTING AN INCREASE FROM THE CURRENT RATE OF THIRTY CENTS (30¢) PER ONE HUNDRED DOLLARS (\$100) OF ASSESSED VALUATION, ALL ATTRIBUTABLE TO THE OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT, IN ACCORDANCE WITH THE CONSTITUTION AND LAWS OF THE STATE OF ARIZONA, INCLUDING, WITHOUT LIMITATION, SECTION 48-723, ARIZONA REVISED STATUTES?

Absentee/early voting shall be permitted in accordance with the provisions of Title 16, Chapter 4, Article 8, Arizona Revised Statutes, as amended. Absentee/early voting information may be obtained by contacting the office of the Pima County Elections Department, 6550 South Country Club Road, Tucson, AZ 85756, telephone number (520) 724-6830.

The "general plan" for the District required by Section 48-702(A)(B), Arizona Revised Statutes, as amended, is on file with the District Clerk at 130 West Congress Street, Tucson, Arizona 85701.

EXHIBIT "B"

FORM OF OFFICIAL BALLOT

OFFICIAL BALLOT
SPECIAL ELECTION
ROCKING K SOUTH
COMMUNITY FACILITIES DISTRICT
_____, 2020

SHALL THE DISTRICT BOARD OF ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT (THE "DISTRICT") BE AUTHORIZED TO LEVY AND COLLECT AN ANNUAL *AD VALOREM* TAX ON THE ASSESSED VALUE OF ALL REAL AND PERSONAL PROPERTY IN THE DISTRICT AT A RATE NOT TO EXCEED FIFTY CENTS (50¢) PER ONE HUNDRED DOLLARS (\$100) OF ASSESSED VALUATION OF ALL REAL AND PERSONAL PROPERTY IN THE DISTRICT, REPRESENTING AN INCREASE FROM THE CURRENT RATE OF THIRTY CENTS (30¢) PER ONE HUNDRED DOLLARS (\$100) OF ASSESSED VALUATION, ALL ATTRIBUTABLE TO THE OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT, IN ACCORDANCE WITH THE CONSTITUTION AND LAWS OF THE STATE OF ARIZONA, INCLUDING, WITHOUT LIMITATION, SECTION 48-723, ARIZONA REVISED STATUTES?

Place an "X" in the box beside the way you wish to vote.

- TAX CHANGE, YES
- TAX CHANGE, NO

EXHIBIT "C"

FORM OF AFFIDAVIT OF ELECTOR

AFFIDAVIT OF PROSPECTIVE ELECTOR
AS TO OWNERSHIP OF LAND OR
OTHER QUALIFICATION TO VOTE
PURSUANT TO SECTIONS 16-121 AND 48-3043,
ARIZONA REVISED STATUTES, AS AMENDED

STATE OF ARIZONA)
COUNTY OF PIMA) ss.
ROCKING K SOUTH COMMUNITY FACILITIES DISTRICT)

COMES NOW the undersigned and deposes and says "I am (place a mark next to 1, 2, 3 or 4 to indicate your eligibility)

1. a qualified elector in _____
2. precinct and resident at _____
where I resided at the date of my registration, OR
3. a qualified elector in _____
precinct and resident at _____
where I resided at the date of my registration, AND a qualified voter pursuant to § 48-3043 (complete section 4)
OR
4. I am an owner of land in the community facilities district to which this affidavit applies who is a qualified elector of such district; or otherwise qualified to vote pursuant to Section 48-3043, Arizona Revised Statutes, as amended (being a bona fide owner of land within the district holding title or evidence of title of record, including: an entryman upon public lands under the public land laws of the United States or a certificate of purchase from the State of Arizona, who has held such title for ninety (90) days and who is a resident of the State of Arizona; when the holder of record title is a married person, the spouse in whose name the title stands; if record title is held in more than one name, an owner otherwise possessing the qualifications of an elector voting the number of fractions of acres represented by my legal interest or proportionate share of and in the lands; the administrator or executor of a deceased person or the guardian of a minor or an incompetent person, appointed and qualified under the laws of the State of Arizona, representing such person or estate; an officer of a corporation designated and authorized by a resolution of the Board of Directors of the corporation representing the corporation; the general partner of a partnership in whose name title to property within the district is vested as a holder of title or evidence of title, who is designated and authorized in writing by all of the general partners; or the trustee of a trust or the trustee who is designated and authorized in writing by all of the trustees of a trust in which there is more than one trustee, in whose name title to property within such district is vested as a holder of title or evidence of title).

My vote represents _____ acres OR _____ square feet.

Signature of Affiant

Printed Name of Affiant

Printed Name of Entity Represented by Affiant, if any

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2020.

Election Board Member

TO BE COMPLETED BY AN ELECTION BOARD MEMBER ONLY:

Ballot Stub No. _____