

RESOLUTION NO. 2022-249

**RESOLUTION OF THE MAYOR AND CITY COUNCIL OF
THE CITY OF SAN BERNARDINO, CALIFORNIA,
CALLING AN ELECTION TO SUBMIT TO THE
QUALIFIED ELECTORS THE QUESTION OF LEVYING A
SPECIAL TAX WITHIN THE AREA PROPOSED TO BE
ANNEXED TO COMMUNITY FACILITIES DISTRICT NO.
2019-1 (MAINTENANCE SERVICES) (ANNEXATION NO.
21)**

WHEREAS, the Mayor and City Council (the “City Council”) of the City of San Bernardino (the “City”), adopted its Resolution No. 2019-081, (the “Resolution of Intention”) (i) declaring its intention to establish Community Facilities District No. 2019-1 (Maintenance Services) (the “CFD No. 2019-1”) pursuant to the Mello-Roos Community Facilities Act of 1982 (the “Act”), commencing with Section 53311 of the California Government Code (the “Government Code”), (ii) proposing to levy a special taxes within CFD No. 2019-1 pursuant to the terms of the Act to fund the cost of providing maintenance services (the “Services”) described in Exhibit B of the Resolution of Intention, and

WHEREAS, the City Council set a public hearing for July 17, 2019, after which the Council adopted Resolution No. 2019-178 forming the CFD No. 2019-1 and calling a special election at which the questions of levying a special tax and establishing an appropriations limit with respect to the CFD No. 2019-1 were submitted to the qualified electors within the CFD No. 2019-1; and

WHEREAS, on July 17, 2019, the City Council adopted Resolution No. 2019-179 declaring the results of the special election and finding that more than two-thirds (2/3) of all votes cast at the special election were cast in favor of the proposition presented, and such proposition passed; and

WHEREAS, the City Council is authorized by Article 3.5 (commencing with Section 53339) of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code as amended (the "Act"), to annex territory into an existing community facilities district by complying with the procedures set forth in said Article 3.5; and

WHEREAS, the City Council on October 19, 2022, duly adopted Resolution No. 2022-223 (the “Resolution of Intention”) declaring its intention to annex certain territory to CFD No. 2019-1 (Maintenance Services) and to levy a special tax within that territory to pay for certain services and setting a time and place for the public hearing on the proposed annexation for December 7, 2022; and

WHEREAS, the territory proposed to be annexed is identified in a map entitled "Annexation Map No. 21 Community Facilities District No. 2019-1 (Maintenance Services)" a copy of which was recorded, on October 20, 2022, in Book 90 of Maps of Assessment and Community Facilities Districts at Page 71, in the office of the San Bernardino County Recorder; and

WHEREAS, pursuant to the Act and the Resolution of Intention, a noticed public hearing was convened by the City Council on December 7, 2022, not earlier than the hour of 7:00 p.m. at the Bing Wong Auditorium of the Norman F. Feldheym Public Library at 555 W. 6th Street, San Bernardino, California, 92410, relative to the proposed annexation of said territory to CFD No. 2019-1. At the hearing, the testimony of all interested persons for or against the annexation of the territory or the levying of the special taxes will be heard. If and to the extent participation in the December 7, 2022, meeting must occur by teleconference, videoconference, or other electronic means authorized by the Ralph M. Brown Act or an Executive Order of the Governor of California, the means and methods for participating the meeting shall be posted on the Agenda for said meeting, which shall be posted at least 72 hours prior to the meeting on the City of San Bernardino (www.sbcity.org), and outside of the Bing Wong Auditorium of the Norman F. Feldheym Public Library at 555 W. 6th Street, San Bernardino, California, 92410. A copy of the Agenda will be made available upon request to the San Bernardino City Clerk's office at 909-384-5002; and

WHEREAS, written protests have not been filed by fifty percent (50%) or more of the registered voters residing within the CFD No 2019-1, or by fifty percent (50%) or more of the registered voters residing within the territory to be annexed, or by the owners of one-half (1/2) or more of the area within the CFD No. 2019-1, or by the owners of one-half (1/2) or more of the territory to be annexed; and

WHEREAS, the Mayor and City Council has determined that there are fewer than twelve registered voters residing in the territory proposed to be annexed to the CFD No. 2019-1 and that the qualified electors in such territory are the landowners; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to call an election to authorize the annexation of territory to the CFD No. 2019-1 and the levying of a special tax as described in Exhibit A hereto; and

WHEREAS, the City Council has received a written instrument from each landowner in the territory proposed to be annexed to the CFD No. 2019-1 consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election; and

WHEREAS, the City Clerk has concurred in the election date set forth herein.

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Confirmation of Finding in Resolution of Intention. The City Council reconfirms all of its findings and determinations as set forth in the Resolution of Intention.

SECTION 3. Findings Regarding Protests. The City Council finds and determines that written protests to the proposed annexation of territory to the CFD No. 2019-1 and the levy of the

special tax within such territory are insufficient in number and in amount under the Act, and the City Council hereby further orders and determines that all such protests are hereby overruled.

SECTION 4. Findings Regarding Prior Proceedings. The City Council finds and determines that all prior proceedings had and taken by the City Council, with respect to the annexation of territory to CFD No. 2019-1, are valid and in conformity with the requirements of the Act.

SECTION 5. Levy of Special Tax. As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of territory proposed to be annexed to CFD No. 2019-1, a special tax sufficient to pay the costs of the Services (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in CFD No. 2019-1, will be levied annually in CFD No. 2019-1. The rate and method of apportionment, and manner of collection of the special tax are specified in Exhibit B hereto.

SECTION 6. Apportionment of Tax. The special tax as apportioned to each parcel is based on the cost of making the Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

SECTION 7. Tax Roll Preparation. The office of the Public Works Director, 201 North “E” Street, San Bernardino, California, 92401, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor’s parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The Public Works Director may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

SECTION 8. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Public Works Director annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Services financed in CFD No. 2019-1.

SECTION 9. Special Election; Voting Procedures. The City Council hereby submits the questions of levying the special tax within the territory proposed to be annexed to the qualified electors, in accordance with and subject to the Act. The special election shall be held on December 7, 2022, and shall be conducted as follows:

(a) **Qualified Electors.** The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of CFD No. 2019-1. Because fewer than twelve registered voters resided within the territory proposed to be annexed to CFD No. 2019-1 on October 14, 2022 (a date within the 90 days preceding the close of the public hearing on the territory proposed to be annexed to CFD No. 2019-1), the qualified electors shall be the landowners within territory proposed to be annexed, and each landowner who was the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the territory proposed to be annexed to CFD No. 2019-1.

(b) Consolidation of Elections; Combination of Propositions on Ballot. The election on the question of levying the special tax and establishing an appropriations limit for CFD No. 2019-1 shall be consolidated, and the two proportions shall be combined into a single ballot proposition for submission to the voters, as authorized by Government Code Section 53353.5.

(c) Mail Ballot Election. Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The City Council hereby ratifies the City Clerk's delivery of a ballot to each landowner within the territory proposed to be annexed to CFD No. 2019-1. The City Council hereby ratifies the form of the ballot, which is attached hereto as Exhibit C.

(d) Return of Ballots. The City Clerk shall accept the ballots of the landowners up to 7:00 p.m. on December 7, 2022. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(e) Canvass of Election. The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (on December 7, 2022, or when all qualified electors have voted) at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) Declaration of Results. The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

SECTION 10. Filing of Resolution and Map with City Clerk. The City Council hereby directs the City Clerk to file a copy of this resolution and the annexation map of the boundaries of CFD No. 2019-1 in her office.

SECTION 11. The Mayor and City Council finds this Resolution is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as in this case, that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 12. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

SECTION 13. Effective Date. This Resolution shall become effective immediately.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this ____ day of _____ 2022.

John Valdivia, Mayor
City of San Bernardino

Attest:

Genoveva Rocha, CMC, City Clerk

Approved as to form:

Sonia Carvalho, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF SAN BERNARDINO)

I, Genoveva Rocha, CMC, City Clerk, hereby certify that the attached is a true copy of Resolution No. 2022-249, adopted at a regular meeting held on the ____ day of _____ 2022 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
REYNOSO	_____	_____	_____	_____
CALVIN	_____	_____	_____	_____
ALEXANDER	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this ____ day of _____ 2022.

Genoveva Rocha, CMC, City Clerk