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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1797 Entitled, "An Ordinance of the City Council of the City of Lodi Levying and Apportioning the Special Tax in Community Facilities District No. 2007-1 (Public Services)"

MEETING DATE: May 16, 2007

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1797.

BACKGROUND INFORMATION: Ordinance No. 1797 entitled, "An Ordinance of the City Council of the City of Lodi Levying and Apportioning the Special Tax in Community Facilities District No. 2007-1 (Public Services)" was introduced at the regular City Council meeting of May 2, 2007.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmp

Attachment

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. 1797

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI LEVYING AND APPORTIONING THE
SPECIAL TAX IN COMMUNITY FACILITIES
DISTRICT NO. 2007-1 (PUBLIC SERVICES)

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WHEREAS, City Council has established Community Facilities District No. 2007-1 (Public Services) (the "District") pursuant to Resolution No. 2007-59 (the "Resolution of Formation"), duly adopted on April 4, 2007, for the purpose of providing for the financing of certain public services in and for the City; and

WHEREAS, at an election held in the District on April 11, 2007, the qualified electors of the District authorized the levy of the special tax described in the Resolution of Formation.

NOW, THEREFORE, the City Council of the City of Lodi does ordain as follows:

1. Recitals. The foregoing recitals are true and correct.
2. Levy of Special Tax. Pursuant to Section 53340 of the California Government Code, the special tax is hereby levied at the maximum rates and apportioned in the manner specified in the Resolution of Formation.
3. Collection of Special Tax. Pursuant to Section 53340 of the California Government Code and the Resolution of Formation, the special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same procedure, sale, and lien priority in case of delinquency as is provided for *ad valorem* taxes; provided, however, that the City may directly bill the special tax, may collect special taxes at a different time or in a different manner if necessary to meet the financial obligations of the District, or as otherwise determined appropriate by the City.
4. Claims for Refund. Claims for refund of the tax shall comply with the following and any additional procedures as established by the City Council:
 - (a) All claims shall be filed, in writing, with the City Treasurer during the fiscal year in which the error is believed to have occurred. The claimant shall file the claim within this time period and the claim shall be finally acted upon by the City Council as a prerequisite to bringing suit thereon.
 - (b) Pursuant to Government Code Section 935(b), the claim shall be subject to the provisions of Government Code Sections 945.6 and 946.
 - (c) The City Council shall act on a timely claim within the time period required by Government Code Section 912.4.
 - (d) The procedure described in this Ordinance, and any additional procedures established by the City Council, shall be the exclusive claims procedure for claimants seeking a refund of the tax. The decision of the City Council shall be final.
5. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

6. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

7. Effective Date and Publication. This Ordinance was introduced by the Lodi City Council on May 2, 2007, and adopted by the Lodi City Council on May 16, 2007. This Ordinance shall take effect 30 days after its adoption. The City Council hereby directs the City Clerk to publish the full text of the ordinance within 15 days after its passage, with the names of the City Council members voting for and against the ordinance, pursuant to Government Code Section 36933(a).

Approved this 16th day of May, 2007

BOB JOHNSON
Mayor

Attest:

RANDI JOHL
City Clerk

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State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1797 was introduced at a regular meeting of the City Council of the City of Lodi held May 2, 2007, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held May 16, 2007, by the following vote:

- AYES: COUNCIL MEMBERS –
- NOES; COUNCIL MEMBERS –
- ABSENT: COUNCIL MEMBERS –
- ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1797 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney