

ORDINANCE NO. 5179

THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN AS FOLLOWS:

**THE LEVY OF SPECIAL TAXES WITHIN
COMMUNITY FACILITIES DISTRICT NO. 2023-1
(EAST RIDGE)**

WHEREAS, on June 6, 2023 this County Board of Supervisors (the “Board”) of the County of El Dorado (the “County”), adopted a resolution entitled “A Resolution of Intention of the Board of Supervisors of the County of El Dorado to Form a Community Facilities District and Levy a Special Tax in Community Facilities District No. 2023-1 (East Ridge) to Finance the Acquisition and Construction of Certain Public Facilities In And For Such Community Facilities District” stating its intention to establish Community Facilities District No. 2023-1 (East Ridge) of the County (the “CFD”) and designate an improvement area therein and establish a future annexation area (the “Future Annexation Area”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, sections 53311, *et. seq.*, of the California Government Code (the “Act”), to finance the acquisition of certain facilities;

WHEREAS, parcels within the Future Annexation Area shall be annexed to the CFD only with the unanimous approval (each, a “Unanimous Approval”) of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed to the CFD, without any requirement for further public hearings or additional proceedings; and

WHEREAS, in connection with any future annexation, the City may designate a parcel or parcels as an improvement area (each, a “Future Improvement Area”) within the CFD without additional hearings or procedures, and thereafter all proceedings for approval of the appropriations limit, the rate and method of apportionment and manner of collection of special taxes, and the authorization to incur bonded indebtedness for the improvement area, which may be different from other areas of the CFD, shall apply only to the Future Improvement Area; and

WHEREAS, notice was published as required by the Act relative to the intention of the Board to form the CFD and the Future Annexation Area, to provide for certain facilities and to incur bonded indebtedness for the CFD in an amount not to exceed \$150,000,000 for the CFD, initially allocated as follows: (i) for Improvement Area No. 1, \$105,000,000 and (ii) for the portion of the CFD that is not in Improvement Area No. 1, \$45,000,000;

WHEREAS, the Board has held noticed public hearings as required by the Act relative to (i) the determination to proceed with the formation of the CFD and the rate and method of apportionment of the special tax to be levied within the CFD to finance a portion of the costs of the facilities and (ii) the issuance of not to exceed \$150,000,000 of bonded indebtedness for the CFD allocated as stated herein;

WHEREAS, at said hearings all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of said special taxes were heard, substantial evidence was presented and considered by this Board and a full and fair hearing was held;

WHEREAS, subsequent to the hearing, this Board adopted resolutions entitled “A Resolution of the Board of Supervisors of the County of El Dorado of Formation of Community Facilities District No. 2023-1 (East Ridge)” (the “Resolution of Formation”), “A Resolution of the Board of Supervisors of the County of El Dorado Determining Necessity to Incur Bonded Indebtedness In and For Community Facilities District No. 2023-1 (East Ridge)” (the “Resolution of Necessity”) and “A Resolution of the Board of Supervisors of the County of El Dorado Calling Special Election For Community Facilities District No. 2023-1 (East Ridge)”, which resolutions established the CFD, authorized the levy of a special tax with the CFD, determined the necessity to incur bonded indebtedness in the CFD and called an election within the CFD on the propositions of incurring indebtedness, levying a special tax, and establishing an appropriations limit within the CFD, respectively; and

WHEREAS, on July 25, 2023 a special election was held within the CFD at which the eligible landowner-electors approved such propositions by the two-thirds vote required by the Act.

SECTION 1. By the passage of this Ordinance this Board hereby authorizes and levies special taxes within the CFD (including any parcels in the Future Annexation Area that annex into the CFD) and each Future Improvement Area, if any, pursuant to the Act, at the rate and in accordance with the formula (the “Rate and Method”) set forth as an exhibit to the Resolution of Formation or the rate and method of apportionment of special tax for the Future Improvement Area set forth in the Unanimous Approval(s) for such Future Improvement Area (each, a “Rate and Method”), which Resolution of Formation and Unanimous Approval(s) are by this reference incorporated herein. For Future Improvement Areas, a different rate and method may be adopted if the annexed territory is designated as a separate improvement area, as provided in the Resolution of Formation. The special taxes for the payment of Facilities and Services are hereby levied commencing in fiscal year 2023-24 and in each fiscal year thereafter as provided in each applicable Rate and Method. A special tax shall not be levied to finance the Facilities and Services after the fiscal year identified in the applicable Rate and Method, except that a special tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. The special taxes are hereby authorized to be levied commencing in fiscal year 2023-24 and in each fiscal year thereafter until payment in full of any bonds issued by the County for the CFD (the “Bonds”) or such longer period provided in the Rate and Method, as contemplated by the Resolution of Formation and the Resolution of Necessity, and all costs of administering the CFD.

SECTION 2. The Auditor-Controller of the County is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the CFD and each Future Improvement Area, in the manner and as provided in the Resolution of Formation.

SECTION 3. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within the CFD (including any parcels in the Future Annexation Area that annex into the CFD) or a Future Improvement Area, if any, in excess of the maximum tax specified in the Resolution of Formation.

SECTION 4. All of the collections of the special tax shall be used as provided for in the Act and in the Resolution of Formation including, but not limited to, the payment of principal and interest on the Bonds, the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities, the payment of the costs of the County in administering the CFD

(including any parcels in the Future Annexation Area that annex into the CFD), or a Future Improvement Area, if any, and the costs of collecting and administering the special tax.

SECTION 5. The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Board may provide for other appropriate methods of collection by resolutions of the Board. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments. The Auditor-Controller of the County is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of El Dorado in order to effect proper billing and collection of the special tax, so that the special tax may be included on the secured property tax roll of the County of El Dorado for fiscal year 2023-24 and for each fiscal year thereafter until the Bonds are paid in full or such longer period of time provided in the Rate and Method.

SECTION 6. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the CFD (including any parcels in the Future Annexation Area that annex into the CFD), or a Future Improvement Area, if any, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the CFD or a Future Improvement Area, if any, shall not be affected.

SECTION 7. The Chair of the Board shall sign this Ordinance and the Clerk of the Board shall cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in the County.

SECTION 8. This Ordinance shall take effect 30 days from the date of final passage.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado, State of California, at a regular meeting of said Board held on the ____ day of _____, 2023, by the following vote of said Board:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAINING: _____

Chair, Board of Supervisors

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: _____

Deputy Clerk