

RESOLUTION NO. 2022-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE AUTHORIZING DOCUMENTS AND OFFICIAL ACTIONS RELATING TO MEASURE V FINANCING OF ROAD IMPROVEMENTS

WHEREAS, on June 23, 2016 the City Council of the City of Clearlake (the “City”) adopted its Ordinance No. 189-2016 “An Ordinance of the City Council of the City of Clearlake Adding Chapter 3-7 to the Clearlake Municipal Code Related to a Transactions and Use Tax to be Administered by the State Board of Equalization” (the “Ordinance”) to become effective if approved by the electorate of the City, which Ordinance included as “Exhibit A” a City of Clearlake Road Maintenance and Improvement Transactions and Use Tax Expenditure Plan (the “Expenditure Plan”) directing how the revenue from the transaction and use tax shall be spent, and provided for annual review by a Citizen’s Oversight Committee (the “Oversight Committee”); and

WHEREAS, on November 8, 2016, the voters in the City approved by at least a 2/3rds majority the proposed special tax to be used for road maintenance and improvements as set forth in the Ordinance, balloted as “Measure V,” implementing a one-cent sales and use tax increase (the “Sales Tax Override”), effective as of April 1, 2017, and the provisions of the Ordinance were thereby added to the Clearlake Municipal Code (the “Municipal Code”) as Chapter 3, Section 7 of the Municipal Code, including the Expenditure Plan as an exhibit referenced in Section 3-7.3 of the Municipal Code; and

WHEREAS, at its regular meetings on March 3, 2022 and March 17, 2022, the Council was presented with information setting forth the benefits of accelerating road improvement projects approved by Measure V by utilizing the Measure V revenues as a repayment source for a long-term financing repayable in installments of principal and interest, and the Council gave direction to staff to proceed with moving forward with steps necessary to secure such financing; and

WHEREAS, the City and the Redevelopment Agency of the City of Clearlake have previously entered into a Joint Exercise of Powers Agreement dated November 23, 1993, creating and establishing the Clearlake Public Financing Authority (the “Authority”), a joint exercise of powers authority duly organized and operating pursuant to Article 1 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (hereinafter, the “Act”); and

WHEREAS, Article 4 of the Act authorizes and empowers the Authority to assist the City in financing public capital improvements whenever the City determines there are significant public benefits from doing so; and

WHEREAS, the City desires to finance the acquisition, construction and installation of certain road improvements (collectively, the “Projects”) as contemplated by Measure V, in order to provide the benefits of constructing the Projects sooner than if Measure V revenues were to be accumulated on a year by year basis; and

WHEREAS, in order to provide funds to finance the Projects, the City has requested the Authority to enter into an Installment Sale Agreement (the “Installment Agreement”) under which the City undertakes construction of the Projects on behalf of the Authority and the Authority agrees to sell the Projects to the City in return for semiannual installment payments (the “Installment Payments”) to be made by the City as the purchase price of the Projects; and

WHEREAS, the Installment Payments will be payable from and secured by a pledge of revenues generated by the Sales Tax Override; and

WHEREAS, in order to maximize benefits to the City, and to obtain the moneys required to finance the Projects, the Authority will assign and transfer certain of its rights under the Installment Sale Agreement to a bank (the “Assignee”), to be selected City staff pursuant to a competitive bidding process, under an Assignment Agreement among the Authority, the City, and the Assignee; and

WHEREAS, on this day the Council conducted a public hearing on the proposed financing, to provide citizens of the City an opportunity to comment on the financing plan for the Projects, including the use of Measure V revenues to finance the Projects by entering into the Installment Sale Agreement, consistent with the structure previously presented to the Council at its regular meetings on March 3, 2022 and March 17, 2022; and

WHEREAS, the execution, delivery and assignment of the Installment Sale Agreement by the City and the Authority will result in significant public benefits, including effectively utilizing the Sales Tax Override to timely construct the Projects and improve roads in the City, and taking advantage of the current low tax-exempt financing rates to complete the Projects sooner than by accumulating revenues on a year by year basis;

WHEREAS, the information required to be obtained and disclosed with respect to the Installment Agreement by the Council in accordance with Government Code Section 5852.1 has been obtained and disclosed in the staff report accompanying this Resolution; and

WHEREAS, the Council wishes to take its action at this time approving the execution and delivery of the Installment Sale Agreement, and the execution and delivery of related financing documents;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Clearlake as follows:

Section 1. Recitals. The foregoing recitals are true and correct and the Council hereby so finds and determines.

Section 2. Finding of Public Benefit. The Council finds that it is in the public interest, convenience and welfare and for the common benefit of the inhabitants of the City and consistent with the purpose of Measure V that the City enter into the Installment Sale Agreement with the Authority to finance the Projects.

Section 3. Amendment of Expenditure Plan. The Council has received a recommendation from the Oversight Committee to update the Expenditure Plan to provide for annual allocations of Measure V revenues to pay for the funding of road projects in installments, and the Council hereby

amends the Annual Expenditure Program set forth in the Expenditure Plan to add “Annual allocations of revenues to pay principal and interest on long-term financing of road improvement projects.”

Section 4. Approval of Agreement and Financing Thereunder. The Council hereby approves entering into the Installment Agreement for the purpose of providing funds to pay the costs of the Projects and related financing costs, which funds are expected to come from the Assignee on a tax-exempt basis; provided that the maximum principal amount payable under the Installment Agreement shall not exceed \$18,500,000 and the initial tax-exempt true interest cost shall not exceed 3.5% per year. The Installment Agreement is hereby approved in substantially the form on file with the Clerk, together with such changes as the City Manager or Finance Director, or a designee of either of them (each, an “Authorized Officer”) deems appropriate to provide the financing contemplated by this Resolution, and such execution shall be conclusive evidence of the approval of the final form thereof together with any changes therein. Each Authorized Officer is hereby authorized and directed for and in the name and on behalf of the City to execute, and the Clerk is hereby authorized and directed to, if required, attest to, the final form of the Installment Agreement.

Section 5. Official Actions. The Authorized Officers, the Mayor, the City Clerk and all other officers of the City are each authorized and directed in the name and on behalf of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the agreements and documents approved under this Resolution, including entering into such professional services contracts, on terms deemed appropriate by any of them, as necessary to carry out the financing. Whenever in this Resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 6. Effective Date. This Resolution shall take effect immediately upon its passage and adoption. Adoption of this resolution is intended to start the 60-day period provided for in California Code of Civil Procedure Section 863 for an interested person to bring an action to determine the validity of the matters approved herein, including, but not limited to, the validity of the Installment Agreement, and the legality and validity of this Resolution, the pledge of and use of the Sales Tax Override for payment of the principal and interest components of the Installment Payments and costs related to the financing.

PASSED, APPROVED and ADOPTED this ____ day of _____, 2022 by the following roll call vote:

AYES:

NOES:

ABSENT:

Dirk Slooten, Mayor

ATTEST:

Melissa Swanson, City Clerk