

RESOLUTION NO. 2024-41
PARKWAY COMMUNITY FACILITIES DISTRICT NO. 1

A RESOLUTION OF THE DISTRICT BOARD OF THE PARKWAY COMMUNITY FACILITIES DISTRICT NO. 1, A COMMUNITY FACILITIES DISTRICT OF ARIZONA, APPROVING A FINAL BUDGET FOR FISCAL YEAR 2024-2025 PURSUANT TO ARS §48-716; ORDERING THAT AN AD VALOREM TAX BE FIXED, LEVIED AND ASSESSED ON THE ASSESSED VALUE OF ALL THE REAL AND PERSONAL PROPERTY WITHIN THE BOUNDARIES OF THE DISTRICT IN AMOUNTS SPECIFIED IN THE FILED STATEMENTS AND ESTIMATES; PROVIDING FURTHER THAT SAID BUDGET INCLUDE AN AMOUNT FOR OTHER CONTRIBUTIONS; PROVIDING FOR CERTIFIED COPIES OF THIS RESOLUTION AND ORDER TO BE DELIVERED TO THE YAVAPAI COUNTY BOARD OF SUPERVISORS AND THE ARIZONA DEPARTMENT OF REVENUE; PROVIDING THAT IF ANY PROVISION IN THIS RESOLUTION IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED, BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS RESOLUTION SHALL BE EFFECTIVE AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, on April 27, 2006, the Common Council of the Town of Prescott Valley (Town) adopted Resolution No. 1427 creating within Section 22, T14N, R1W G&SRB&M of the Town the Parkway Community Facilities District No. 1 (PCFD No. 1), a community facilities district in accordance with ARS §48-701 et seq. (see Exhibit “A” attached hereto and expressly made a part hereof); and

WHEREAS, PCFD No. 1 is a special purpose district for purposes of Article IX, Section 19, Constitution of Arizona, a tax-levying public improvement district for the purposes of Article XIII, Section 7, Constitution of Arizona, and a municipal corporation for all purposes of Title 35, Chapter 3, Articles 3, 3.1., 3.2, 4 and 5, Arizona Revised Statutes, as amended, and [except as otherwise provided in §48-708(B), as amended] is considered to be a municipal corporation and political subdivision of the State of Arizona, separate and apart from the Town; and

WHEREAS, a primary purpose for creating PCFD No. 1 was to finance construction and maintenance of certain public improvements along State Route 69 and adjacent to certain commercial property through assessment of ad valorem taxes on said property; and

WHEREAS, in accordance with ARS §§48-719 and 48-723, a special election was held on June 27, 2006 wherein the qualified electors of PCFD No.1 voted to issue general obligation bonds in the maximum amount of \$3,425,000 to cover costs of constructing the public improvements and to levy and collect an annual ad valorem tax at a rate not to exceed thirty cents (30¢) per one hundred dollars (\$100) of assessed valuation for PCFD No. 1 operation and maintenance expenses; and

WHEREAS, on September 28, 2006, the Town Council and PCFD No. 1 Board approved an intergovernmental agreement per ARS §§11-952 and 48-709(A)(2) for the Town to provide PCFD No. 1 with operation and administration (including funding) (IGA); and

WHEREAS, by Resolution No. 1 (dated September 28, 2006) the PCFD No. 1 Board also authorized the sale of up to \$3,425,000 aggregate principal amount of general obligation bonds, Series 2006 (2006 Bonds) to fund the public improvements (including a reserve fund); and

WHEREAS, on October 25, 2006, the PCFD No. 1 Board approved the sale of \$3,425,000 in 2006 Bonds; and

WHEREAS, on October 3, 2008, certain owners of property in PCFD No. 1 filed a Complaint and Notice of Appeal in the Arizona Tax Court related to a ruling on June 2, 2008 by the Yavapai County Board of Supervisors about certain ad valorem tax issues (*Tri-Bar LLC, et al. v. Prescott Valley Parkway Community Facilities District No. 1, et al. TX2008-000413*). The County had mistakenly applied a tax rate less than the six dollars and sixty-seven cents (\$6.67) per \$100 which had actually been assessed by the PCFD No. 1 Board. Said tax rate had been applied by the PCFD No. 1 Board primarily because about 10% of the value of the property in PCFD No. 1 had been reclassified as tax exempt. When the County adjusted the rate, the remaining property owners asserted that the County used an incorrect procedure. An arrangement by the PCFD No. 1 Manager to apply \$106,698.34 in excess construction funds to reduce the effective Fiscal Year 2007-2008 tax rate to below three dollars and thirty cents (\$3.30) per \$100 (said funds otherwise being slated for application the following tax year to reduce the tax levy) was unavailing. The PCFD No. 1 Treasurer applied \$75,000 more in unused construction funds to the Fiscal Year 2008-2009 budget, but further reclassifications of approximately 9% of property in the district resulted in a tax rate of three dollars and forty-two cents (\$3.42). In their legal action, the property owners sought a Declaratory Judgment that PCFD No. 1 had been illegally formed, that misrepresentations had been made to induce the owners to approve the public improvements, that the improvements were improperly implemented and constructed, that the tax rate applied to PCFD No. 1 was improperly calculated, and that individual taxpayers in PCFD No. 1 had been discriminated against in the application of taxes. Counsel for the Town and PCFD No. 1 eventually moved for summary judgment and the Court granted that motion on April 3, 2009 (but allowed plaintiffs to conduct discovery about any PCFD No. 1 costs, tax assessments, or fees for activities that might not have involved repayment of bonds). In the meantime, the remaining unused construction funds of \$48,040.37 were applied to the Fiscal Year 2009-2010 budget, but declines in assessed valuations of the commercial property within PCFD No. 1 (due to the worldwide recession) resulted in a Fiscal Year 2009-2010 tax rate of seven dollars and thirty-six cents (\$7.36). After some attempts by plaintiffs to conduct broad discovery were thwarted, the plaintiffs eventually agreed to dismiss their Complaint and Appeal in return for all parties paying their own costs. This was accomplished by Court order dated March 11, 2010; and

WHEREAS, further declines in assessed valuations of the property in PCFD No. 1 led to a Fiscal Year 2010-2011 tax rate of nine dollars and sixty-six cents (\$9.66), and a Fiscal Year 2011-2012 tax rate of eleven dollars and forty cents (\$11.40); and

WHEREAS, despite the efforts of the PCFD No. 1 Board to apply tax rates sufficient to make bond payments when due, on July 15, 2011, a Material Event Notice was issued because actual property values were slightly less than the County had reported at budget time and

\$36,206.63 from the reserve was needed to fully pay the July 15, 2011 bond payment (reducing said reserve to \$232,573.37); and

WHEREAS, further declines in assessed valuation of the property in PCFD No. 1 led to a Fiscal Year 2012-2013 tax rate of thirteen dollars and sixty-nine cents (\$13.69); and

WHEREAS, on July 16, 2012, a Material Event Notice was issued because actual property values were slightly less than the County had reported at budget time and \$2,164.07 from the reserve was needed to fully pay the July 15, 2012 bond payment (reducing said reserve to \$230,409.30); and

WHEREAS, further declines in assessed valuations of the property in PCFD No. 1 led to a Fiscal Year 2013-2014 tax rate of sixteen dollars and twenty-four cents (\$16.24); and

WHEREAS, actual property values were slightly less than the County had reported at budget time and \$10,265.74 from the reserve was needed to fully pay the July 15, 2013 bond payment (reducing said reserve to \$220,143.56); and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2014 to have dropped an additional four percent (4%) to \$1,575,306 (unlike the other CFDs which levied property taxes whose values had increased); and

WHEREAS, at this time tax collections in PCFD No. 1 were also adversely affected when the County reported settling with a PCFD No. 1 taxpayer for alleged overpayment of taxes in 2011 and 2012 in the total amount of approximately \$29,000; and

WHEREAS, further purchases of property within PCFD No. 1 by a tax-exempt entity were expected to result in further reclassification which would mean additional loss of taxable value; and

WHEREAS, in anticipation of these issues, on July 15, 2013, the PCFD No. 1 Board adopted Resolution No. 17 which proposed options to resolve the issue of non-payment by tax-exempt entities. One option was for PCFD No. 1 to make an annual payment from its general fund towards bond payments and maintenance costs (pro rata) as a contribution for economic development purposes and/or as a provision of general services to the motoring public. The other option was to apply an annual compensating fee (ACF) against property within PCFD No. 1, which is classified as non-taxable for ad valorem tax purposes in relation to the property's designated parking spaces. The fee revenue would then be applied to the 2006 Bonds and maintenance costs (pro rata). Either or both options would be applied during the budget process beginning in Fiscal Year 2014-2015; and

WHEREAS, on October 22, 2013 (and, again, on November 4, 2013) the PCFD No. 1 Manager sent letters to the owners of the tax-exempt entities in PCFD No. 1 notifying them of an intent to impose an ACF against each of them in 2014 and requesting a voluntary, interim payment; and

WHEREAS, no such payments were received (despite some preliminary indications of willingness to make such payments); and

WHEREAS, on July 10, 2014, the Board adopted by Resolution No. 19, a budget for Fiscal Year 2014-2015 which included \$10,000 of the ACF revenues that might be collected from the exempt properties (in accordance with Resolution No. 17), but still required a slightly increased rate of sixteen dollars fifty-one cents (\$16.51) per \$100 secondary assessed valuation; and

WHEREAS, actual property values were less than the County had reported at budget time and \$25,983.87 from the reserve was still needed to fully pay the July 15, 2014 bond payment (reducing said reserve to \$194,159.69): and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2015 to have dropped again to \$1,511,145; and

WHEREAS, Yavapai County further reported that twenty-six percent (26%) of the total assessed value in Parkway CFD No. 1 was now tax exempt; and

WHEREAS, on July 9, 2015, the Board adopted by Resolution No. 21 a budget for Fiscal Year 2015-2016 (which again included \$10,000 for possible collection of an ACF from tax-exempt properties), and required a tax rate of seventeen dollars eighteen cents (\$17.18) per \$100 secondary assessed valuation; and

WHEREAS, because the ACF had not formally been implemented and no ACF revenues had been collected the previous year (and because actual property values were less than the County had reported at budget time), \$23,317.66 from the reserve was needed to fully pay the July 15, 2015 bond payment (reducing said reserve to \$169,951.53); and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2016 to have dropped an additional two percent (2%) to \$1,486,055; and

WHEREAS, on July 14, 2016, the Board adopted by Resolution No. 23 a budget for Fiscal Year 2016-2017 which no longer included an ACF (inasmuch as it had not been implemented), but included a \$50,000 contribution from PCFD No. 1 (funded by the Town through the IGA) for economic development purposes and to provide general services to the motoring public, thus decreasing the tax rate to fourteen dollars ten cents (\$14.10) per \$100 secondary assessed valuation; and

WHEREAS, despite the ACF not having been collected in Fiscal Year 2015-2016 (and even though actual property values were again less than the County had reported at budget time), no draw from the reserve was needed to make the July 15, 2016 bond payment because Town moneys had inadvertently been used to make the full payment. The Town moneys were subsequently reimbursed from PCFD No. 1 revenues collected in Fiscal Year 2016-2017, but that was expected to later result in an even greater draw on the reserve to make the July 15, 2017 bond payment; and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2017 to have dropped an additional 2% to \$1,462,963; and

WHEREAS, back on February 29, 2016, Town zoning enforcement staff had issued a civil citation and complaint against Franklin Phonetic Primary School, Inc. (one of the owners of tax-exempt property in PCFD No. 1, Franklin) for violating the off-street parking requirements in the Town Zoning Code. [§13-24-050(B)(8)(a)] An inspection had shown that on-site parking areas at Franklin were being blocked off or used for other purposes and were not available for parking. Furthermore, the off-site parking areas that had been constructed by PCFD No. 1...though actually being used by Franklin staff, students and others...could not be counted towards the required parking because Franklin did not pay towards the bonds which had constructed them. A public hearing before the Town's Administrative Hearing Officer (AHO) was held on May 23, 2016. At the end of the hearing, the AHO dismissed the citation for failure of the Town to carry its burden because (a) prior Town actions amounted to "estoppel", and (b) the Town Code essentially allowed PCFD No. 1 parking spaces to be counted by Franklin for zoning purposes. The Town filed a Notice of Appeal the next day and filed an Appellate Memorandum on June 30, 2016. Franklin filed its Answering Brief on August 8, 2016, and the Town moved for leave to file a Reply on August 10, 2016. After Franklin's response to the Town's motion (and with the AHO's permission), the Town filed a Reply Memorandum on September 21, 2016. In the meantime, the record on appeal was filed with the Yavapai County Superior Court on August 30, 2016 (after a June 22, 2016 Motion to Strike by Franklin, a June 23, 2017 Response by the Town, and a June 23, 2016 order by the AHO denying the Motion to Strike). This put the matter on appeal (on the record) in the Superior Court as Case No. P1300CV201600634. On March 21, 2017, the Town received a ruling from the Superior Court affirming the AHO's dismissal of the zoning violation on the sole basis that the AHO did not abuse his discretion in deciding Town actions suggested Franklin could count the PCFD No. 1 parking spaces (since the record included testimony by Franklin that after PCFD No. 1 was formed, the Town had issued a building permit referencing 100 PCFD No. 1 parking spaces and the Town Code requires evidence of adequate off-street parking before building permits can be issued). Town staff concluded the Superior Court had applied an incorrect standard for its decision (and failed to address important discrepancies in the AHO's decision and the inadequacy of actual evidence in the record) and filed a Motion for Rehearing on April 3, 2017. The judge subsequently asked for further briefing on the issue raised; and

WHEREAS, on March 23, 2017 the Town Council approved a Development Agreement between the Town and Ridge Christian Fellowship (an owner of tax-exempt property in PCFD No. 1, RCF) to pay \$18,360 a year to the Town to count PCFD No. 1 parking spaces towards required parking; and

WHEREAS, By Resolution No. 25 (dated June 8, 2017), the PCFD No. 1 Board (a) approved a tentative budget for Fiscal Year 2017-2018, (b) filed required statements and estimates of PCFD No. 1's operation and maintenance expenses, and the amount of all other expenditures for public infrastructure and enhanced municipal services proposed to be paid from the tax levy and of the amount to be raised to pay PCFD No. 1 general obligation bonds, (c) set a date of July 13, 2017, for a public hearing on the tentative budget and particularly, on the

portions of the statements and estimates not relating to debt service on general obligation bonds, and (d) provided for notice of the filing and of the public hearing date: and

WHEREAS, said proposed budget includes the annual payment of \$18,360 from RCF under the Development Agreement, as well as a contribution of \$50,000 from PCFD No. 1 (paid by the Town under the IGA) towards bond payments and maintenance costs (pro rata) as a contribution for economic development purposes and/or as a provision of general services to the motoring public; and

WHEREAS, at the conclusion of the public hearing, the PCFD No. 1 Board voted to adopt the final budget for Fiscal Year 2017-2018 by this Resolution No. 26, and ordered the fixing, levying and assessment of the amounts to be raised by ad valorem taxes;

WHEREAS, on July 20, 2017, a Material Event Notice was issued because \$37,402.41 from the reserve was needed to fully pay the July 15, 2017 bond payment (reducing said reserve to \$132,776.15); and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2018 to have increased by 2.2% to \$1,495,382; and

WHEREAS, on July 16, 2018, a Material Event Notice was issued because \$4,553.54 from the reserve was needed to fully pay the July 15, 2018 bond payment (reducing said reserve to \$129,370.34); and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2019 to have increased by 3.6% to \$1,548,782; and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2020 to have increased by 9.9% to \$1,702,150; and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2021 to have increased by 1.0% to \$1,719,325; and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2022 to have decreased by 5.0% to \$1,631,664; and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2023 to have increased by 7.6% to \$1,755,260; and

WHEREAS, property values within PCFD No. 1 were reported by Yavapai County in February 2024 to have increased by 2.9% to \$1,806,324; and

WHEREAS, By Resolution No. 2024-40 (dated May 23, 2024), the PCFD No. 1 Board (a) approved a tentative budget for Fiscal Year 2024-2025, (b) filed required statements and estimates of PCFD No. 1's operation and maintenance expenses, and the amount of all other expenditures for public infrastructure and enhanced municipal services proposed to be paid from

the tax levy and of the amount to be raised to pay PCFD No. 1 general obligation bonds, (c) set a date of June 27, 2024, for a public hearing on the tentative budget and particularly, on the portions of the statements and estimates not relating to debt service on general obligation bonds, and (d) provided for notice of the filing and of the public hearing date: and

WHEREAS, said proposed budget includes the annual payment of \$18,360 from RCF under the Development Agreement as well as a contribution of \$63,000 from PCFD No. 1 (paid by the Town under the IGA) towards bond payments and maintenance costs (pro rata) as a contribution for economic development purposes and/or as a provision of general services to the motoring public; and

WHEREAS, at the conclusion of the public hearing, the PCFD No. 1 Board voted to adopt the final budget for Fiscal Year 2024-2025 by this Resolution No. 2024-41, and ordered the fixing, levying and assessment of the amounts to be raised by ad valorem taxes;

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE PARKWAY COMMUNITY FACILITIES DISTRICT NO. 1, AS FOLLOWS:

1. That that certain proposed budget prepared by the PCFD No. 1 Treasurer for Fiscal Year 2024-2025, attached hereto and expressly made a part hereof as Exhibit "B", is hereby finally adopted.

2. That it is hereby ORDERED that, in Fiscal Year 2024-2025, an ad valorem tax be fixed, levied and assessed on the assessed value of all the real and personal property within the boundaries of PCFD No. 1 in the amounts set forth in the statements and estimates of the operation and maintenance expenses and the amount of all other expenditures for public infrastructure and enhanced municipal services proposed to be paid from the tax levy and of the amount to be raised to pay PCFD No. 1 general obligation bonds in Fiscal Year 2024-2025, are hereby filed on forms of the Auditor General in accordance with ARS §§42-17101(3) and 48-723(C), and are attached hereto and expressly made a part hereof as Exhibit "C".

3. That said budget includes an annual payment from RCF under a Development Agreement as well as a contribution from PCFD No. 1 towards bond payments and maintenance costs (pro rata) as a contribution for economic development purposes and/or as a provision of general services to the motoring public in accordance with Resolution No. 17.

4. That certified copies of this Resolution and Order be delivered by U.S. Mail to the Yavapai County Board of Supervisors and to the Arizona Department of Revenue on or about July 15, 2024 (inasmuch as the tax levy must be filed by the Yavapai County Board of Supervisors on or before the third Monday in August).

5. That if any provision in this Resolution is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

6. That this Resolution shall be effective after its passage and approval according to law.

RESOLVED by the District Board of the Parkway Community Facilities District No. 1 this 27th day of June 2024.

Kell Palguta, Chairman, District Board
Parkway Community Facilities District No. 1

ATTEST:

Fatima Fernandez, District Clerk
Parkway Community Facilities District No. 1

APPROVED AS TO FORM:

Ivan Legler, District Counsel
Parkway Community Facilities District No. 1