

(O-2000-150)

ORDINANCE NUMBER O- 18788 (NEW SERIES)

ADOPTED ON APR 10 2000

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO, STATE OF CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ) AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN EACH OF IMPROVEMENT AREAS NO. 1, 2, AND 3 OF SUCH DISTRICT.

WHEREAS, on February 8, 2000, the Council of The City of San Diego [Council] adopted Resolution No. R-292754 declaring its intention to form Community Facilities District No. 2 [Community Facilities District No. 2 or the District] pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, comprising Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California [Act], and to designate Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3 therein [each an Improvement Area] and adopted Resolution No. R-292753 declaring its intention to incur bonded indebtedness within each Improvement Area; and

WHEREAS, on March 14, 2000, after providing all notices required by the Act, the Council held a noticed public hearing required by the Act relative to the formation of Community Facilities District No. 2, the designation of the Improvement Areas, the proposed levy of a special tax within each of Improvement Areas No. 1, 2, and 3 to finance certain public facilities described in Resolution No. R-292753, and to secure the payment of any bonded indebtedness of the District, and the proposed issuance of up to \$62,200,000 of bonded indebtedness for

Improvement Area No. 1, \$3,000,000 of bonded indebtedness for Improvement Area No. 2, and \$4,800,000 of bonded indebtedness for Improvement Area No. 3; and

WHEREAS, at the March 14, 2000, public hearing, all persons desiring to be heard on all matters pertaining to the formation of Community Facilities District No. 2, the designation of the Improvement Areas, the proposed levy of the special tax within each Improvement Area to finance the facilities described in Resolution No. R-292868 and the proposed issuance of bonded indebtedness within each Improvement Area of the District were heard and a full and fair hearing was held; and

WHEREAS, on March 14, 2000, following the close of the public hearing, the Council adopted Resolution Nos. R-292868 [Resolution of Formation] and R-292869 [Resolution to Incur Bonded Indebtedness] which called a special election on March 14, 2000 within each Improvement Area of Community Facilities District No. 2 on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness, and the establishment of an appropriations limit for the District; and

WHEREAS, on March 14, 2000, a special election was held for Improvement Area No. 1 of the District at which the qualified electors approved by more than a two-thirds vote Propositions A, B, and C authorizing the levy of a special tax within Improvement Area No. 1 of the District for the purposes described in the Resolution of Formation and the issuance of bonded indebtedness for Improvement Area No. 1 as described in the Resolution to Incur Bonded Indebtedness; and

WHEREAS, on March 14, 2000, a special election was held for Improvement Area No. 2 of the District at which the qualified electors approved by more than a two-thirds vote Propositions D, E, and F authorizing the levy of a special tax within Improvement Area No. 2 of

the District for the purposes described in the Resolution of Formation and the issuance of bonded indebtedness for Improvement Area No. 2 as described in the Resolution to Incur Bonded Indebtedness; and

WHEREAS, on March 14, 2000, a special election was held for Improvement Area No. 3 of the District at which the qualified electors approved by more than a two-thirds vote Propositions G, H, and I authorizing the levy of a special tax within Improvement Area No. 3 of the District for the purposes described in the Resolution of Formation and the issuance of bonded indebtedness for Improvement Area No. 3 as described in the Resolution to Incur Bonded Indebtedness; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, acting in its capacity as the legislative body of Community Facilities District No. 2 (Santaluz) as follows:

Section 1. The above recitals are all true and correct.

Section 2. By the passage of this Ordinance, the Council authorizes the levy of a special tax within Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3 of Community Facilities District No. 2 at the maximum rates and in accordance with the rates and method of apportionment set forth for Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3 in Attachment "C" to Resolution No. R-292753, which rates and methods of apportionment are incorporated by reference herein [Improvement Area No. 1 Rate and Method, Improvement Area No. 2 Rate and Method, and Improvement Area No. 3 Rate and Method, respectively].

Section 3. The Council is hereby further authorized to determine in each subsequent fiscal year, by ordinance, or by resolution if permitted by then applicable law, on or before August 10 of each year, or such later date as is permitted by law, the specific special tax rate and amount to be

levied on each parcel of land in Improvement Area No. 1 of Community Facilities District No. 2 pursuant to the Improvement Area No. 1 Rate and Method, on each parcel of land in Improvement Area No. 2 of Community Facilities District No. 2 pursuant to the Improvement Area No. 2 Rate and Method, and on each parcel of land in Improvement Area No. 3 of Community Facilities District No. 2 pursuant to the Improvement Area No. 3 Rate and Method. The special tax rate to be levied pursuant to the Improvement Area No. 1 Rate and Method, the Improvement Area No. 2 Rate and Method, and the Improvement Area No. 3 Rate and Method shall not exceed the applicable maximum rates set forth therein, but the special tax may be levied at a lower rate.

Section 4. Properties or entities of the state, federal or other local governments shall be exempt from the special tax, except as otherwise provided in Sections 53317.3 and 53317.5 of the Act and the Improvement Area No. 1 Rate and Method, the Improvement Area No. 2 Rate and Method, and the Improvement Area No. 3 Rate and Method, as applicable. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the Resolution of Formation, or in a resolution of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in Section 53334 of the Act.

Section 5. All of the collections of the special tax pursuant to the Improvement Area No. 1 Rate and Method, the Improvement Area No. 2 Rate and Method, and the Improvement Area No. 3 Rate and Method shall be used as provided for in the Act and the Resolution of Formation. The special tax shall be levied within Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3, respectively, only so long as needed for the purposes described in the Resolution of Formation.

Section 6. The special tax levied pursuant to the Improvement Area No. 1 Rate and Method, the Improvement Area No. 2 Rate and Method, and the Improvement Area No. 3 Rate and Method shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* taxes (which such procedures include the exercise of all rights and remedies permitted by law to make corrections, including, but not limited to, the issuance of amended or supplemental tax bills), as such procedure may be modified by law or by this Council from time to time.

Section 7. As a cumulative remedy, if any amount levied as a special tax for payment of the interest or principal of any bonded indebtedness of the District, together with any penalties and other charges accruing under this Ordinance, are not paid when due, the Council may, not later than four years after the due date of the last installment of principal on the Bonds, order that the same be collected by an action brought in the superior court to foreclose the lien of such special tax.

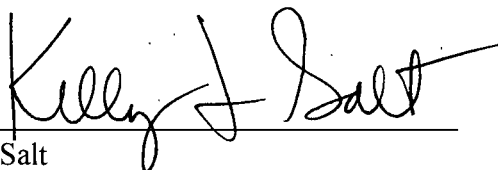
Section 8. This Ordinance relating to the levy of the special tax within the Improvement Areas shall take effect 30 days following its final passage, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Act.

Section 9. The City Clerk is hereby authorized to transmit a certified copy of this ordinance to the San Diego County Assessor and Treasurer-Tax Collector, and to perform all other acts which are required by the Act, this Ordinance or by law in order to accomplish the purpose of this Ordinance.

Section 10. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the Council and the public a day prior to its final passage.

Section 11. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Kelly J. Salt
Deputy City Attorney

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