

(O-2003-84)

ORDINANCE NUMBER O- 19085 (NEW SERIES)

ADOPTED ON AUG 05 2002

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) AMENDING, IN PART, ORDINANCE NO. O-18788 AND AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN IMPROVEMENT AREA NO. 1 OF SUCH DISTRICT.

WHEREAS, on March 14, 2000, the Council of the City of San Diego [Council] adopted Resolution No. R-292868 [Resolution of Formation] establishing Community Facilities District No. 2 [District] and designating Improvement Areas No. 1, No. 2 and No. 3 therein, authorizing the 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 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, respectively; and

WHEREAS, on March 14, 2000, the Council also adopted Resolution No. R-292869 [Resolution to Incur Bonded Indebtedness] which, together with the Resolution of Formation, called a special election on March 14, 2000 within each Improvement Area of the District 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; and

WHEREAS, on April 10, 2000, the Council adopted Ordinance No. O-18788 authorizing the levy of the special taxes approved at the March 14, 2000 election; and

WHEREAS, subsequent to the adoption of Ordinance No. O-18788, an owner of more than 25% of the property within Improvement Area No. 1 of the District filed a written petition with the District requesting that the rate and method of apportionment of the special tax [Rate and Method], described in Ordinance No. O-18788 and approved by the qualified electors within Improvement Area No. 1 of the District at the special election held on March 14, 2000 pursuant

to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code [Act], should be changed as set forth in Exhibit A to Resolution R-295675 [Amended Rate and Method] and the list of eligible facilities should be amended to include the list set forth in Exhibit B to Resolution R-295675 [collectively, the Amendments]; and

WHEREAS, subsequent to its receipt of the petition, the City Council adopted Resolution No. 295675 [Resolution of Consideration] expressing its intention to consider the proposed Amendments and calling a public hearing on December 11, 2001 as required by Section 53338 of the Act; and

WHEREAS, on December 11, 2001, the City Council held a public hearing regarding the Amendments in accordance with the requirements of Section 53336 of the Act at the conclusion of which the City Council determined to submit the Amendments to a vote of the qualified electors of the District and adopted Resolution No. R-295881 calling an election on Proposition A to approve the Amendments; and

WHEREAS, the election on Proposition A regarding the Amendments was held on January 8, 2002, following which the City Clerk canvassed the election results and certified that more than two-thirds of the votes cast were in favor of Proposition A; and

WHEREAS, on JAN 28 2002, 2002, the City Council adopted Resolution No. R-296009 as a resolution of change in accordance with Section 53338(b) of the Act, which declared the Amendments to be effective [Resolution of Change]; and

WHEREAS, the City Council desires to amend Ordinance No. O-18788 to authorize the levy of a special tax within Improvement Area No. 1 in accordance with the Amended Rate and Method for the purposes set forth in the Resolution of Consideration; 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 amends Ordinance No. O-18788, in part, to authorize the levy of a special tax within Improvement Area No. 1 at the maximum rates and in accordance with the rates and method of apportionment set forth in the Amended Rate and Method, which is incorporated by reference herein.

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 or the Amended Rate and Method, the specific special tax rate and amount to be levied on each parcel of land in Improvement Area No. 1 pursuant to the Amended Rate and Method. The special tax rate to be levied in Improvement Area No. 1 pursuant to the Amended 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 levied within Improvement Area No. 1, except as otherwise provided in Sections 53317.3 and 53317.5 of the Act and the Amended Rate and Method. No other properties or entities are exempt from the special tax within Improvement Area No. 1 unless the properties or entities are expressly exempted in the Amended Rate and Method, 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 Amended Rate and Method shall be used as provided for in the Act and the Resolution of Change. The special tax

shall be levied within Improvement Area No. 1 only so long as needed for the purposes described in the Resolution of Change.

Section 6. The special tax levied pursuant to the Amended Rate and Method shall be collected in the same manner and at the same time as ordinary ad valorem property taxes are collected or may be directly billed to parcels at a different time and in a different manner if necessary to meet the financial obligations of CFD No. 2 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 issued for Improvement Area No. 1, 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.

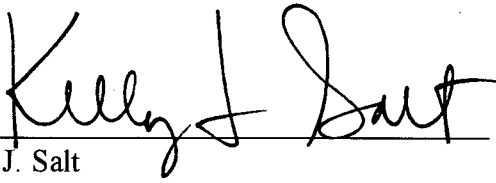
Section 8. This Ordinance shall take effect 30 days following its final passage, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Act.

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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