

RESOLUTION NO. _____ (N.C.S.)

**RESOLUTION OF THE CITY COUNCIL ESTABLISHING COMMUNITY
FACILITIES DISTRICT NO. 2016-1 (MONTE BELLA) OF THE CITY OF SALINAS
AND IMPROVEMENT AREA NOS. 1, 2 AND 3 THEREIN, AUTHORIZING THE LEVY
OF SPECIAL TAXES AND CALLING AN ELECTION THEREIN**

WHEREAS, the City Council (the “City Council”) of the City of Salinas, California (the “City”) has heretofore adopted Resolution No. 595 (the “Resolution of Intention”) stating its intention to form Community Facilities District No. 2016-1 (Monte Bella) of the City of Salinas (the “Community Facilities District”), and the Improvement Area Nos. 1, 2 and 3 therein (each an “Improvement Area,” and, collectively, the “Improvement Areas”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the “Act”); and

WHEREAS, a copy of the Resolution of Intention setting forth a description of the proposed boundaries of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein, the public facilities and the incidental expenses to be financed by the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein (the “Facilities” and “Incidental Expenses,” respectively) is on file with the City Clerk, and the Resolution of Intention is incorporated herein by reference; and

WHEREAS, a combined notice of a public hearing to be held on November 29, 2016 was published and mailed to all landowners of the land proposed to be included within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein; and

WHEREAS, on November 29, 2016, the City Council opened the public hearing (the “Hearing”) as required by law; and

WHEREAS, at the Hearing there was filed with this City Council a report containing a description of the Facilities necessary to meet the needs of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and an estimate of the cost of such Facilities as required by Section 53321.5 of the Act (the “Community Facilities District Report”); and

WHEREAS, at the Hearing all persons desiring to be heard on all matters pertaining to the proposed formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and the levy of the special taxes and the issuance of bonded indebtedness were heard and a full and fair hearing was held; and

WHEREAS, at the Hearing, evidence was presented to the City Council on the matters before it, and the proposed formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and the levy of special taxes was not precluded by a majority protest of the type described in Section 53324 of the Act, and this City Council at the conclusion of the hearing is fully advised as to all matters relating to the formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein, the levy of the special taxes and the issuance of bonded indebtedness; and

WHEREAS, the City Council has determined that there have been no registered voters residing in the proposed boundaries of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein for the period of 90 days prior to the Hearing and that the qualified electors in the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein are the landowners within each Improvement Area; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and with the calling of an election within the boundaries of each Improvement Area to authorize (i) the levy of special taxes within each Improvement Area pursuant to the rate and method of apportionment of the special tax for such Improvement Area, (ii) the issuance of bonds by the Community Facilities District on behalf of each Improvement Area to finance the Facilities and Incidental Expenses, and (iii) the establishment of an appropriations limit for the Community Facilities District; and

WHEREAS, the property owners of all of the land in the Community Facilities District (the "Developer") and the City desire to enter into an acquisition agreement (the "Acquisition Agreement"), in order to provide for the acquisition, construction and financing of the Facilities and Incidental Expenses within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein;

NOW, THEREFORE, BE IT RESOLVED, that the Salinas City Council does hereby resolve, order and determine as follows:

Section 1. Each of the above recitals is true and correct.

Section 2. The Community Facilities District to be designated "Community Facilities District No. 2016-1 (Monte Bella) of the City of Salinas, County of Monterey, State of California," and Improvement Area Nos. 1, 2 and 3 therein, is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

Section 3. The boundaries of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein are established as shown on the map designated "Boundary Map Community Facilities District No. 2016-1 (Monte Bella) of the City of Salinas, County of Monterey, State of California," which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County of Monterey Book of Assessments and Community Facilities Districts in the County Recorder's Office in Book No. 5 at page 18 as Document No. 2016065219 on October 27, 2016.

Section 4. The types of Facilities and Incidental Expenses authorized to be provided for the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein are those set forth in the Resolution of Intention. The estimated cost of the Facilities and Incidental Expenses to be financed is set forth in the Community Facilities District Report, which estimates may change as the Facilities are designed and bid for construction and acquisition.

The City of Salinas is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The City Council finds that the proposed Facilities are necessary to meet the increased demand that will be placed upon public infrastructure and City as a result of new development within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

Section 5. The City Council hereby adopts the rate and method of apportionment of special tax for each of the Improvement Areas attached to the Resolution of Intention as Exhibit C (each the "Rate and Method" for the applicable Improvement Area) as the applicable rate and method of apportionment for the designated Improvement Area. Except where funds are otherwise available, it is the intention of the City Council, subject to the approval of the eligible voters within each Improvement Area, to levy the proposed special taxes in each Improvement Area at the rates set forth in the applicable Rate and Method on all non-exempt property within the Improvement Area sufficient to pay (i) the Facilities and the principal and interest and other periodic costs on the bonds proposed to be issued by the Community Facilities District on behalf of the applicable Improvement Area to finance the Facilities and Incidental Expenses, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) and other expenses of the type permitted by Section 53345.3 of the Act; and (ii) the Incidental Expenses. The Community Facilities District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the creation of the Improvement Areas, providing for the issuance of bonds, the levying and collecting of the special tax, the completion and inspection of the Facilities and the annual administration of the bonds and the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein. The Rate and Method for each Improvement Area is described in detail in Exhibit C to the Resolution of Intention and incorporated herein by this reference, and the City Council hereby finds that said Exhibit C contains sufficient detail to allow each landowner within each Improvement Area to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Community Facilities District Report, which is incorporated by reference herein, the special tax is based on the expected demand that each parcel of real property within each Improvement Area will place on the Facilities and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor's parcel in each Improvement Area pursuant to the applicable Rate and Method, but the special tax shall not be levied after Fiscal Year 2056-57. The special tax is apportioned to each parcel in each Improvement Area on the foregoing bases pursuant to Section 53325.3 of the Act and such special tax is not a tax on or a tax based upon the ownership of real property.

The City's Finance Director will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

Section 6. In the event that a portion of the property within the Improvement Areas shall become for any reason exempt, wholly or partially, from the levy of the special tax specified in the applicable Rate and Method, the City Council shall, on behalf of such Improvement Area, increase the levy to the extent necessary and permitted by law and these

proceedings upon the remaining property within such Improvement Area which is not delinquent or exempt in order to yield the required debt service payments on any outstanding bonds for such Improvement Area or to prevent the Community Facilities District from defaulting on any other obligations or liabilities for such Improvement Area; provided, however, that under no circumstances shall the Special Tax in the Improvement Areas be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the applicable Improvement Area by more than ten percent (10%) above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults in the applicable Improvement Area. The amount of the special tax will be set in accordance with the Rate and Method for the applicable Improvement Area.

Section 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in each Improvement Area; and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District on behalf of the applicable Improvement Area ceases.

Section 8. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within the Improvement Areas, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and will be benefited by the Facilities proposed to be provided within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

Section 9. It is hereby further determined that there is no ad valorem property tax currently being levied on property within the proposed Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein as are proposed to be provided by the Facilities to be financed by the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

Section 10. Written protests against the establishment of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein have not been filed by one-half or more of the registered voters within the boundaries of the Improvement Area or by the property owners of one-half or more of the area of land within the boundaries of the Community Facilities District or Improvement Area Nos. 1, 2 and 3 therein. The City Council hereby finds that the proposed special tax has not been precluded by a majority protest pursuant to Section 53324 of the Act.

Section 11. An election is hereby called for within each Improvement Area on the propositions of levying the special tax on the property within each Improvement Area and establishing an appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness for each Improvement Area, pursuant to Section 53351 of the

Act. The propositions to be placed on the ballot for each Improvement Area are attached hereto as Exhibit A.

Section 12. The date of the elections within each Improvement Area shall be November 29, 2016, or such later date as is consented to by the City Clerk and the landowners within the Improvement Areas. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the elections shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the elections shall be conducted in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there are no registered voters within the territory of the either Improvement Area, and, pursuant to Section 53326 of the Act, each landowner who is the owner of record on the date hereof, or the authorized representative thereof, shall have one vote for each acre or portion thereof that he, she or it owns within each Improvement Area. The voters shall be the landowners of record within each Improvement Area as of November 29, 2016.

Section 13. The preparation of the Community Facilities District Report is hereby ratified. The Community Facilities District Report, as submitted, is hereby approved and made a part of the record of the public hearing regarding the formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

Section 14. Approval of Acquisition Agreement. The City Council, acting for and on behalf of the City and the Community Facilities District, hereby approves the Acquisition Agreement substantially in the form on file with the City Clerk. The Mayor, City Manager or Finance Director of the City, and the City Clerk is hereby authorized and directed to execute and deliver the Acquisition Agreement in the form presented at this meeting with such changes, insertions and omissions as may be approved by the officer or officers executing such agreements, said execution being conclusive evidence of such approval.

Section 15. This Resolution shall be effective upon its adoption.

Section 16. Certification. The City Clerk of the City of Salinas shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

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PASSED AND APPROVED this 29th day of November, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

EXHIBIT A

SAMPLE BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2016-1
(MONTE BELLA)
OF THE CITY OF SALINAS
(IMPROVEMENT AREA NO. 1)

SPECIAL TAX AND SPECIAL BOND ELECTION

November 29, 2016

This ballot represents ____ votes.

To vote, write or stamp a cross (“+” or “X”) in the voting square after the word “YES” or after the word “NO”. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Salinas and obtain another.

PROPOSITION A: Shall Community Facilities District No. 2016-1 (Monte Bella) of the City of Salinas (the “Community Facilities District”), on behalf of Improvement Area No. 1 therein (the “Improvement Area”), incur an indebtedness and issue bonds for the Improvement Area in the maximum principal amount of \$3,575,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 595 of the City Council of the City of Salinas?

YES ☐

NO ☐

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Resolution No. 595 of the City Council of the City of Salinas for the Improvement Area be levied to pay for the Facilities and Incidental Expenses and the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses and the other purposes described in Resolution No. 595?

YES ☐

NO ☐

PROPOSITION C: For each year commencing with Fiscal Year 2016-17, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the Community Facilities District be an amount equal to \$11,000,000?

YES ☐

NO ☐

SAMPLE BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2016-1
(MONTE BELLA)
OF THE CITY OF SALINAS
(IMPROVEMENT AREA NO. 2)

SPECIAL TAX AND SPECIAL BOND ELECTION

November 29, 2016

This ballot represents ____ votes.

To vote, write or stamp a cross (“+” or “X”) in the voting square after the word “YES” or after the word “NO”. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Salinas and obtain another.

PROPOSITION A: Shall Community Facilities District No. 2016-1 (Monte Bella) of the City of Salinas (the “Community Facilities District”), on behalf of Improvement Area No. 2 therein (the “Improvement Area”), incur an indebtedness and issue bonds for the Improvement Area in the maximum principal amount of \$3,025,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 595 of the City Council of the City of Salinas?

YES ☐

NO ☐

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Resolution No. 595 of the City Council of the City of Salinas for the Improvement Area be levied to pay for the Facilities and Incidental Expenses and the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses and the other purposes described in Resolution No. 595?

YES ☐

NO ☐

PROPOSITION C: For each year commencing with Fiscal Year 2016-17, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIIB of the California Constitution, for the Community Facilities District be an amount equal to \$11,000,000?

YES ☐

NO ☐

SAMPLE BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2016-1
(MONTE BELLA)
OF THE CITY OF SALINAS
(IMPROVEMENT AREA NO. 3)

SPECIAL TAX AND SPECIAL BOND ELECTION

November 29, 2016

This ballot represents ____ votes.

To vote, write or stamp a cross (“+” or “X”) in the voting square after the word “YES” or after the word “NO”. All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Salinas and obtain another.

PROPOSITION A: Shall Community Facilities District No. 2016-1 (Monte Bella) of the City of Salinas (the “Community Facilities District”), on behalf of Improvement Area No. 3 therein (the “Improvement Area”), incur an indebtedness and issue bonds for the Improvement Area in the maximum principal amount of \$4,400,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 595 of the City Council of the City of Salinas?

YES ☐

NO ☐

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Resolution No. 595 of the City Council of the City of Salinas for the Improvement Area be levied to pay for the Facilities and Incidental Expenses and the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses and the other purposes described in Resolution No. 595?

YES ☐

NO ☐

PROPOSITION C: For each year commencing with Fiscal Year 2016-17, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIIB of the California Constitution, for the Community Facilities District be an amount equal to \$11,000,000?

YES ☐

NO ☐

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STATE OF CALIFORNIA)
) ss.
COUNTY OF MONTEREY)

I hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Salinas at a regular meeting thereof held on the 29th day of November, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Patricia M. Barajas, City Clerk