

RESOLUTION NO. 12,082

RESOLUTION OF THE CITY COUNCIL OF CITY OF OXNARD
AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN
COMMUNITY FACILITIES DISTRICT NO. 2 (WESTPORT AT
MANDALAY BAY) PURSUANT TO A REVISED RATE AND
METHOD AND ADDING A SERVICE AND CALLING AN
ELECTION

WHEREAS, the City Council of City of Oxnard (the "City Council") has heretofore adopted Resolution No. 11,815 stating its intention to form Community Facilities District No. 2 (Westport at Mandalay Bay) of the City of Oxnard (the "District") 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, on October 3, 2000 following a public hearing, the City Council adopted Resolution No. 11,825 establishing the District and held an election at which the voters in the District approved the formation of the District and the rate and method of apportionment of the special tax; and

WHEREAS, copies of Resolution Nos. 11,815 and 11,825 setting forth a description of the proposed boundaries of the District, the Services to be provided by the District and the rate and method of apportionment of the special tax proposed to be levied within the District are on file with the City Clerk and, except to the extent the rate and method or apportionment, the added Services hereinafter described and other provisions of said resolutions are amended by this resolution, the provisions of said resolutions remain in effect; and

WHEREAS, this City Council received from the owner of all of the property within Community Facilities District No. 2 (Westport at Mandalay Bay) of the City of Oxnard (the "District") a written petition with the District requesting that the rate and method of apportionment of the special tax described in Attachment A of Resolution No. 11,825 be revised to reflect a change in the land use within the District as approved by the Coastal Commission of the State of California as contained in the Revised Rate and Method of Apportionment for Community Facilities No. 2 (Westport at Mandalay Bay) of the City of Oxnard prepared by David Taussig & Associates, dated November 21, 2001, (the "Revised Rate and Method") a copy of which is on file in the office of the City Clerk and that there be added to the Services described in Resolution No. 11,825, "storm drain filtration maintenance"; and

WHEREAS, on December 11, 2001 this City Council adopted Resolution No. 12,068 calling a hearing to be held on January 29, 2002 on the Revised Rate and Method and the added Service; and

WHEREAS, notice was published and mailed to all landowners of the land proposed to be included within the District as required by law relative to the intention of the City Council to adopt the Revised Rate and Method and the added Service; and

WHEREAS, on January 29, 2002, this City Council held a noticed public hearing as required by the Act relative to the proposed Revised Rate and Method, for the levy of the special tax in the District and for the added Service; and

WHEREAS, at the public hearing all persons desiring to be heard on all matters pertaining to the Revised Rate and Method, for the levy of the special tax in the District and the added Service were heard and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the proposed Revised Rate and Method for the levy of the special tax in the District and the added Service was not precluded by a majority protest of the type described in Government Code Section 53337, and this City Council at the conclusion of the hearing is fully advised as to all matters relating to the approval of the Revised Rate and Method and the added Service; and

WHEREAS, the City Council has determined that there have been fewer than twelve registered voters residing in the proposed boundaries of the District for the statutory period and that the qualified electors in the District are the landowners within the District; and

WHEREAS, the City Council has received from the owner of all lands within the District a waiver of certain election procedures; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to call an election in the District to authorize the levy of special taxes pursuant to the Revised Rate and Method of apportionment of the special tax, as set forth in Attachment A attached hereto and the added Service;

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF OXNARD DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

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

SECTION 2. Except where funds are otherwise available, it is the intention of the City Council, subject to the approval of the eligible voters of the District, to levy the proposed special tax at the rates set forth in the Revised Rate and Method set forth in Attachment A hereto on all non-exempt property within the District sufficient to pay for (a) police protection services, including, but not limited to, enforcement of codes relating to the waterways within and adjoining the District and the harbor which is essential to the use and enjoyment of the waterways within the District, (b) maintenance of parks, parkways and open spaces, including but not limited to waterways within and adjoining the District and the harbor which is essential to the use and enjoyment of the waterways within the District, and (c) storm drain filtration maintenance, (collectively, the "Services"), and to finance the Incidental Expenses to be incurred, including: (a) the cost of planning the Services; (b) the determination of the amount of special taxes to be levied, costs otherwise incurred in order to carry out the authorized purposes of the District, the cost of levying the special tax and the cost incurred in administering the District, to serve the area within the District. The Revised Rate and Method of apportionment of the special tax is described in detail on Attachment A hereto and incorporated herein by this reference, and the City Council hereby finds that Attachment A contains sufficient detail to allow each landowner within the District to estimate the maximum amount that may be levied against each parcel. The special tax is based on the expected demand that each parcel of real property within the District will place on the Services and on the benefit that each parcel will

derive from the Services and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each Assessor's Parcel as long as necessary to meet the Special Tax Requirement as described in the Revised Rate and Method. The special tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such special tax is not on or based upon the ownership of real property.

SECTION 3. In the event that a portion of the property within the District shall become for any reason exempt, wholly or partially, from the levy of the special tax specified on Attachment A, the City Council shall, on behalf of the District, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within the District which is not delinquent or exempt in order to yield the required debt service payments on any outstanding bonds of the District or to prevent the District from defaulting on any of its other obligations or liabilities. The amount of the special tax will be set in accordance with the Revised Rate and Method of apportionment of the special tax attached hereto as Attachment A.

SECTION 4. Upon recordation of a revised 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 the District 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 District ceases.

SECTION 5. Written protests against the adoption of the Revised Rate and Method or the added Service have not been filed by one-half or more registered voters within the boundaries of the District or by the property owners of one-half (1/2) or more of the area of land within the District. The City Council hereby finds that the proposed special tax or the added Service has not been precluded by a majority protest pursuant to Section 53337 of the Act.

SECTION 6. An election is hereby called for the District on the propositions of adopting the Revised Rate and Method for the levying the special tax on the property within the District and the added Service. The language of the propositions to be placed on the ballot are attached hereto as Attachment B.

SECTION 7. The date of the election for the District on the propositions of approving the Revised Rate and Method and the added Service shall be January 29, 2002. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the election shall be conducted in accordance with the provisions of law regulating elections of the City of Oxnard insofar as such provisions are determined by the City Clerk to be applicable.

SECTION 8. The City Council hereby finds that there are not more than twelve registered voters within the territory of the District, and, pursuant to Section 53326 of the Government Code, the 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 or she owns within the District. Pursuant to Section 53326 of the Government Code, the sole landowner within the District has submitted to the City Council a waiver of all time limits applicable to the election and the City Council directs the City Clerk to conduct the election following the adoption of this resolution.

APPROVED AND ADOPTED this 29th day of January, 2002 by the following vote:

AYES: Councilmembers Lopez, Maulhardt, Pinkard, Zaragoza and Holden.

NOES: None.

ABSENT: None.

ABSTAIN: None.



Dr. Manuel M. Lopez
Mayor of the City Council of the City of Oxnard,
acting on behalf of Community Facilities District No.
2 (Westport at Mandalay Bay) of the City of Oxnard

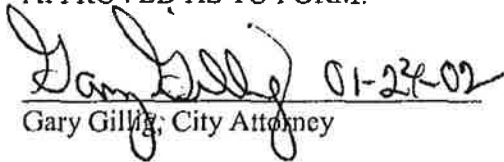
ATTEST:



Daniel Martinez
City Clerk of the City of Oxnard

(SEAL)

APPROVED AS TO FORM:



Gary Gillig, City Attorney