

ORDINANCE NO. 2676

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD, CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 3 (SEABRIDGE AT MANDALAY BAY) AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 3 (SEABRIDGE AT MANDALAY BAY) OF THE CITY OF OXNARD

WHEREAS, on October 19, 2004, the City Council of the City of Oxnard (the "City Council") adopted Resolution No. 12,715 stating its intention to form Community Facilities District No. 3 (Seabridge at Mandalay Bay) of the City of Oxnard ("Community Facilities District No. 3") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") for the purpose of financing public improvements including the construction, purchase, modification, expansion, improvement or rehabilitation of waterways located within and without Community Facilities District No. 3 (Seabridge at Mandalay Bay), all or a portion of streets and roads, sanitary sewer facilities, water facilities, storm drain facilities, landscaping, public boat docks and parks, school facilities and all appurtenances and appurtenant work in connection with the foregoing including, without limitation, the cost of engineering, planning and designing the public facilities (the "Public Improvements") generally as shown on a map of Community Facilities District No. 3 (Seabridge at Mandalay Bay) on file in the office of the Acting City Clerk. The proposed Public Improvements also include facilities included in City fee programs including the following: (i) sewer connection fees, (ii) sewer conveyance fees, (iii) water connection and meter fees, (iv) storm drain fees, (v) traffic impact fees, (vi) growth capital fees, (vii) trash fees and (viii) fire sprinkler fees. The incidental expenses to be paid from bond proceeds and/or special taxes (collectively, the "Incidental Expenses"), include: (a) all costs associated with the creation of the Community Facilities District No. 3 (Seabridge at Mandalay Bay), the issuance of the bonds, the determination of the amount of annual special taxes to be levied, the cost of levying and collecting the annual special taxes, costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District No. 3 (Seabridge at Mandalay Bay), including legal, consultants, engineering, planning and designing costs and the cost of the annual administration of Community Facilities District No. 3 (Seabridge at Mandalay Bay); and (b) the cost of forming a companion Mello-Roos Community Facilities District with boundaries coterminous with Community Facilities District No. 3 (Seabridge at Mandalay Bay) to be known as Community Facilities District No. 4 (Seabridge at Mandalay Bay), all as more fully described in Resolution No. 12,715 to serve the area within Community Facilities District No. 1; and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City Council to form proposed Community Facilities District No. 3 and to levy a special tax to pay for the Public Improvements; and

WHEREAS, on November 23, 2004, the City Council held a noticed public hearing as required by law to determine whether it should proceed with the formation of Community Facilities District No. 3 and authorize the rate and method of apportionment of a special tax to be levied within Community Facilities District No. 3 for the purpose of paying for the Public Improvements, creating

or replenishing any necessary reserve funds, paying the annual costs associated with the bonds proposed to be issued to finance the Public Improvements, including, but not limited to, the principal and interest and other periodic costs on bonds of Community Facilities District No. 3, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act, the costs of forming Community Facilities District No. 1, and the costs of administering the levy and collection of the special tax and all other administrative costs of the special tax levy and bond issues; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of Community Facilities District No. 3, the levy of a special tax and the issuance of bonds to pay for a portion of the Public Improvements were heard and a full and fair hearing was held; and

WHEREAS, on November 23, 2004, the City Council adopted Resolution Nos. 12,737 and 12,738 which established Community Facilities District No. 3, authorized the levy of a special tax within Community Facilities District No. 3 and called an election within Community Facilities District No. 3 for November 23, 2004 on the propositions of levying a special tax, authorizing the issuance of bonds and establishing an appropriations limit; and

WHEREAS, on November 23, 2004, an election was held within Community Facilities District No. 3 at which the qualified electors approved by more than a two-thirds vote the propositions of levying a special tax as set forth in Resolution No. 12,715, issuing bonds and establishing an appropriations limit; and

WHEREAS, on November 23, 2004, the City Council adopted Resolution No. 12,740 which certified the results of the November 23, 2004 election conducted by the Acting City Clerk, which results showed that more than two-thirds of the votes cast were in favor of the propositions to levy the special tax, issuing bonds and establishing an appropriations limit;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 3 DOES ORDAIN AS FOLLOWS:

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

SECTION 2. By the passage of this Ordinance, the City Council authorizes the levy of a special tax at the rate and formula set forth in Attachment B to Resolution No. 12,715 and which is incorporated herein by reference.

SECTION 3. The City Council is hereby further authorized to determine, by ordinance, or by resolution if permitted by then applicable law, the specific special tax to be levied on each parcel of land in Community Facilities District No. 3. The special tax to be levied shall not exceed the maximum rates set forth in said Attachment B, 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 above-referenced and approved special tax only to the extent set forth in said Attachment B and otherwise shall be subject to tax consistent with the provisions of Section 53317.3 of the Act in effect as of the date of adoption of this Ordinance.

SECTION 5. All of the collections of the special tax shall be used only as provided for in the Act and Resolution No. 12,715. The special tax shall be levied only so long as needed to accomplish the purposes described in Resolution No. 12,715.

SECTION 6. The special tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes as such collection procedure may be modified by law or this City Council from time to time.

SECTION 7. As a cumulative remedy, if debt is outstanding, the City Council may, not later than four years after the due date of the last installment of principal on the bonds, order that any delinquent special tax as levied in whole or in part for payment of the debt, together with any penalties, interest and costs accruing under this Ordinance, 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 shall take effect 30 days after its final passage in accordance with the provisions of Section 36937 of the Government Code, and this specific authorization for adoption is pursuant to the provisions of Section 53340 of the Government Code.

SECTION 9. The Mayor of the City Council, acting on behalf of Community Facilities District No. 3 shall sign this Ordinance and the Acting City Clerk shall attest to the Mayor's signature and then cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in the District, or by posting in three public places in the District, or published in a newspaper of general circulation printed and published in the City of Oxnard and circulated in the District. Ordinance No. 2676 was first read on November 23, 2004 and adopted on December 14, 2004.

APPROVED AND ADOPTED this 14<sup>th</sup> day of December, 2004 by the following vote:

AYES: Councilmembers Holden, Maulhardt, Zaragoza, Flynn and Herrera.

NOES: None.

ABSENT: None.

ABSTAIN:None.

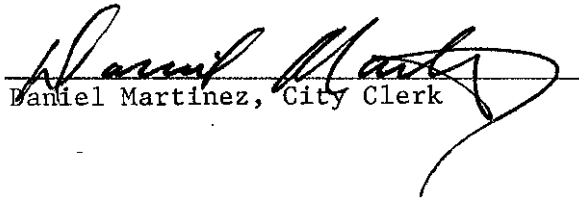


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Mayor of the City of Oxnard acting in its capacity as the legislative body of Community Facilities District No. 3 (Seabridge at Mandalay Bay) of the City of Oxnard

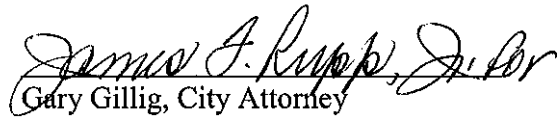
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ATTEST:

  
Daniel Martinez, City Clerk

(SEAL)

APPROVED AS TO FORM:

  
Gary Gillig, City Attorney