

**RESOLUTION NO. 93-05**

**RESOLUTION OF INTENTION TO ESTABLISH  
COMMUNITY FACILITIES DISTRICT NO. 1  
AND TO AUTHORIZE THE LEVY OF A SPECIAL  
TAX WITHIN THE PROPOSED DISTRICT**

**COMMUNITY FACILITIES DISTRICT NO. 1**

**RESOLVED**, by the City Council of the City of Hollister, California, as follows:

**WHEREAS**, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), proceedings for the establishment of a community facilities district may be instituted by the adoption by the legislative body of a resolution of intention to establish the community facilities district; and

**WHEREAS**, the City of Hollister, California (the "City") has conditioned certain tentative subdivision maps on the applicant's consent to creation of a community facilities district encompassing such subdivision and the imposition of a special tax in an amount not to exceed \$250 per year, for a period not to exceed 20 years, per residential unit in the subdivision; and

**WHEREAS**, this Council, as the legislative body of the City, hereby determines that it is in the best interests of the City that this Council institute proceedings for the establishment of a community facilities district pursuant to the Act in order to pay for certain services as herein described;

**WHEREAS**, in the event the community facilities district is established, it is the intention of the Council to finance the costs of the services through the levy of a special tax to be approved at an election to be held within the boundaries of the community facilities district;

**NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND ORDERED, AS FOLLOWS:**

Section 1. The above recitals are true and correct.

Section 2. A community facilities district is proposed to be established under the terms of the Act. The name proposed for the community facilities district is "Community Facilities District No. 1" and is referred to in this Resolution as the "District."

Section 3. The boundaries of the District are shown on the map thereof, entitled "Proposed Boundaries of Community Facilities District No. 1, City of Hollister, San Benito County, State of California," on file in the office of the City Clerk. Pursuant to Sections 3110 and 3111 of the California Streets and Highways Code, the City Clerk shall endorse the City Clerk's certificate on the original and one copy of the

map evidencing the date and adoption of this Resolution, file the original in the City Clerk's office and, within 15 days after the adoption of this Resolution and not later than 15 days prior to the date of the public hearing referred to herein, file a copy of the map with the County Recorder of the County of San Benito.

The Council hereby finds that no land proposed to be included in the District is devoted primarily to agricultural, timber, or livestock uses and is being used for the commercial production of agricultural, timber or livestock products.

Section 4. The services (the "Services") proposed to be financed by the District are more particularly set forth in Exhibit "A" attached hereto and incorporated by this reference, including expenses incidental thereto as authorized by the Act. The proposed Services are governmental services which a local public agency is authorized by law to provide. The Council further determines that such proposed Services are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District.

Section 5. (a) It is the intention of the Council that, except where funds are otherwise available to pay for the Services, including the incidental expenses thereof, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the

District, will be levied annually within the boundaries of the District. The rate and method of apportionment of such proposed special tax is set forth in Exhibit "B" attached hereto and incorporated herein by this reference. The special tax 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, sales, and lien priority in the case of delinquency as is provided for ad valorem taxes. Exhibit "B" provides sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that such person will have to pay for the Services.

(b) As required by section 53325.3 of the Act, the special tax as apportioned to each parcel pursuant to Exhibit "B" is not on, or based upon, the ownership of real property.

(c) The obligation to pay the special tax may be prepaid and permanently satisfied under the following conditions:

(i) Each landowner will be allowed to pay in full the amount needed to discharge the special tax lien pursuant to the procedures set forth in Exhibit B hereto.

(ii) If the special tax is so prepaid and permanently satisfied as to a particular parcel of land, this Council shall prepare and record in the office of the County Recorder of San Benito County, who shall accept for recordation, a Notice of Cancellation of Special Tax Lien

as to that parcel. The Notice of Cancellation of Special Tax Lien shall identify with particularity the special tax which has been prepaid and permanently satisfied, shall state the book and page number in the records of the County Recorder where the Notice of Special Tax Lien being cancelled is recorded, shall contain the legal description and assessor's parcel number of the particular parcel of land subject to the lien, and shall contain the name of the owner of record of the parcel. The County Recorder shall mail the original Notice of Cancellation of Special Tax Lien to the owner of the property after recording the document. This Council may specify a charge for the preparation and recordation of the Notice.

Section 6. A public hearing on the establishment of the District and the proposed rate, method of apportionment and manner of collection of the special tax shall be held at 8:00 p.m., or as soon thereafter as practicable, on Tuesday, February 16, 1993, in the City Council Chambers, 375 Fifth Street, Hollister, California 95023, such date being not less than 30 or more than 60 days following the adoption hereof.

Section 7. The City Manager, as the officer of the City who will be responsible for providing the proposed services to be financed by the District, if it is established, is hereby directed to study the proposed District, and, at or before the time of the hearing, cause to be prepared and filed with the

Council a report containing (a) a brief description of the Services by type which will in such officer's opinion be required to adequately meet the needs of the District, (b) an estimate of the cost of providing the Services, and (c) an estimate of the fair and reasonable cost of incidental expenses to be incurred in connection therewith, including the costs as provided in Section 53345.3 of the Act. The report shall be made a part of the record of the hearing.

Section 8. At the time and place set forth in this Resolution for the hearing, any interested persons, including taxpayers, property owners and registered voters residing within the boundaries of the proposed District, may appear and be heard, and the testimony of all interested persons for or against the establishment of the District, the extent of the District, the furnishing or financing of the Services, or the proposed rate, method of apportionment and manner of collection of the special tax will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.

Section 9. The City Clerk is hereby directed to publish a notice (the "Notice") of the hearing not later than seven (7) days prior thereto, in a newspaper of general circulation published in the area of the District, being the Free Lance, and otherwise in accordance with Section 6061 of the California Government Code. The Notice must contain the text or a summary of this Resolution, state the time and place of the hearing, and state that at the hearing the testimony of all interested persons or taxpayers, including all persons owning property in the area, for or against the establishment of the District, the extent of the District, or the furnishing of specified types of Services will be heard. The Notice shall also state, in summary terms, the effect of protests made by registered voters or landowners against the establishment of the District, the extent of the District, the furnishing of a specified type of Service, or a specified special tax, pursuant to Section 53324 of the California Government Code, and shall describe the proposed voting procedure.

Section 10. The City Clerk is hereby directed to send a copy of the notice of the hearing not later than fifteen (15) days prior thereto, by first-class United States mail, postage prepaid, to each registered voter and to each landowner within the proposed District (as shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner by the City Council). The content of the mailed Notice

shall be as nearly as practicable identical to the content of the published Notice.

Section 11. (a) If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the territory proposed to be included in the District, or the owners of one-half (1/2) or more of the area of the land in the territory proposed to be included in the District and not exempt from the special tax, file written protests against the establishment of the District, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to create the District, or to levy the specified special tax, shall be taken for a period of one year from the date of the decision of the Council.

(b) If the majority protests of the registered voters or the landowners are only against the furnishing of a specified type or types of Services within the District, or against levying a specified special tax, those types of Services or the specified special tax shall be eliminated from the District proceedings.

(c) At the conclusion of the hearing, if the Council determines to establish the District, it shall adopt a resolution of formation and then submit the levy of any special tax to the qualified electors of the District in a special election.



Section 12. (a) If, after the hearing, the Council adopts a resolution of formation establishing the District and submits the levy of the special tax to the qualified electors of the District in a special election, such election shall be held at least ninety (90) days, but not more than one hundred eighty (180) days following the adoption of the resolution of formation. The City Clerk shall, within three business days after the adoption of the resolution of formation, provide a copy of the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the District, and a sufficient description to allow the election official to determine the boundaries of the District, to the official conducting the election. Assessor's parcel numbers for the land within the District shall be included if it is a landowner election or the District does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than one hundred twenty-five (125) days after the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required.

(b) Notwithstanding the foregoing, such time limits, or other requirements pertaining to the conduct of the election, may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.

(c) The special election on the proposition with respect to the levy of a special tax on the land within the District, and the proposition with respect to the establishment of an appropriations limit for the District in the amount of \$950,000, if the District is established and such election is held, shall be consolidated.

(d) If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the proposed District for each of the ninety (90) days preceding the close of the hearing, the vote shall be by the registered voters of the proposed District, with each voter having one vote. Otherwise, the vote shall be by the landowners of the proposed District, and each landowner who is the owner of record at the close of the hearing or the Authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land that such landowner owns within the proposed District. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

(e) Ballots for the special election authorized may be distributed to qualified electors by mail with return postage prepaid or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots

shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

(f) Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the Elections Code of California. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners, and shall be so stated in the order for the election.

(g) If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in landowner elections shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears

on the identification envelope; (4) the printed name and signature of the voter; (5) the address of the voter; (6) the date of signing and the place of execution of the declaration described in (3) above; and (7) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(h) The procedures set forth in this Section for conducting the consolidated special election, if held, may be modified as the Council may determine to be necessary or desirable by a resolution subsequently adopted by the Council.

PASSED AND ADOPTED on January 4, 1993,  
by the following vote:

AYES: Councilmen Boomer, Hallberg, Felice, Duran, and Mayor Irish.

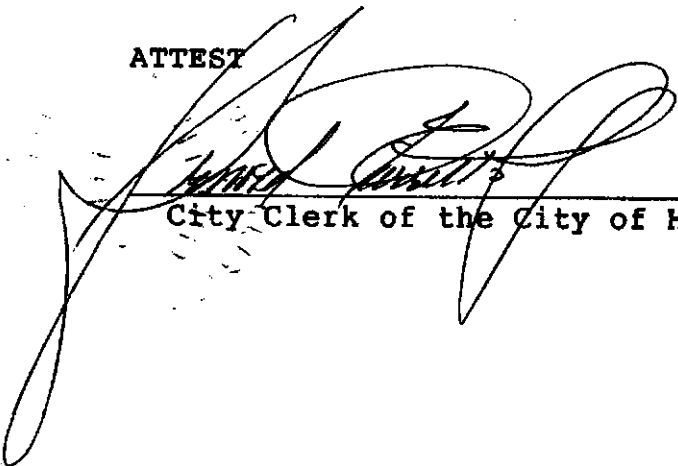
NOES: None.

ABSENT: None.

ABSTAINING: None.

  
\_\_\_\_\_  
Mayor of the City of Hollister

ATTEST

  
\_\_\_\_\_  
City Clerk of the City of Hollister

**EXHIBIT A**

**DESCRIPTION OF SERVICES**

Police protection services and fire protection and suppression services to the extent that they are in addition to those provided in the territory within the District before the District was created.

**EXHIBIT B**

**City of Hollister  
Community Facilities District No. 1**

**Rate and Method of Apportionment of Special Tax**

A special tax applicable to each Parcel in Community Facilities District No. 1 (herein "CFD No. 1") shall be levied and collected according to the tax liability determined by the City Council (herein the "Council") of the City of Hollister acting in its capacity as the legislative body of CFD No. 1 through the application of the appropriate amount or rate for "Developed Property," as described below. All Developed Property in CFD No. 1 shall be taxed for the purposes, to the extent, and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Developed Property"** means any Parcel in CFD No. 1 for which a certificate of occupancy was issued for a Residential Unit (as herein defined) by the City of Hollister prior to June 1 of the preceding Fiscal Year, but not prior to June 1, 1992. If, at any time, a Residential Unit on a Parcel is occupied prior to the issuance of a certificate of occupancy by the City, such Parcel shall be considered Developed Property, and the special tax shall be levied accordingly.

**"Fiscal Year"** means the period starting on July 1 and ending the following June 30.

**"Maximum Special Tax"** means the maximum special tax, determined in accordance with Section B, that can be levied by the Council in any Fiscal Year.

**"Parcel"** means a parcel of property as shown and numbered on the applicable San Benito County assessor's parcel map(s) for each property within the boundaries of CFD No. 1.

**"Residential Unit"** means a detached residential unit, a residential unit that shares a common wall with another residential unit, a unit meeting the statutory definition of a condominium contained in California Civil Code Section 1351, an attached residential unit available for rental by the general public, and any other type of unit developed

for residential use as determined by the City of Hollister Building Department.

"Undeveloped Property" means any Parcel in CFD No. 1 not classified as Developed Property.

**B. MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

The Maximum Special Tax for Developed Property in CFD No. 1 shall be \$250 per Residential Unit.

**2. Undeveloped Property**

No special tax shall be imposed on any Undeveloped Property located within CFD No. 1.

**C. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Starting in Fiscal Year 1993-94 and for each following Fiscal Year, the special tax shall be levied on each Parcel of Developed Property in equal percentages up to 100% of the Maximum Special Tax, determined by reference to Section B.1, above. The Maximum Special Tax shall be levied on each Parcel of Developed Property for a period not to exceed twenty (20) years, beginning with the Fiscal Year in which a special tax is first levied on the Parcel. Under no circumstances shall the special tax levied against any Parcel be increased as a consequence of a delinquency or default by the owner of any other Parcel or Parcels within the District by more than ten (10) percent, and under no circumstances shall the special tax be levied at a rate exceeding the Maximum Special Tax.

**D. PREPAYMENT**

Any property owner in CFD No. 1 who desires to prepay the special tax on a Parcel shall notify the City in writing of such intention and the City shall determine, or cause to be determined, within thirty (30) days after such a request, the amount of prepayment. The prepayment must be received on or before July 1 of any Fiscal Year to avoid the levy of a special tax on the Parcel in that Fiscal Year. A special tax may be levied in any Fiscal Year on Parcels for which a prepayment is received after July 1, and such prepayment amount shall be reduced to account for the collection of the special tax from the Parcel in that Fiscal Year.

The prepayment shall be determined by the following formula:



$$P = (20 - FY) \times \$250$$

The variables are described as follows:

P - Prepayment Amount

FY - Number of Fiscal Years for which the owner of the Parcel has already paid the special tax (including the Fiscal Year in which the prepayment is calculated if the special tax has been levied on the County tax rolls but not yet collected).

**E. MANNER OF COLLECTION**

The special taxes for CFD No. 1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1 may collect special taxes at a different time or in a different manner if necessary to meet its financial obligations. In the event of a delinquency, CFD No. 1 shall pursue foreclosure in a timely manner.