

RESOLUTION NUMBER 3334

RESOLUTION OF CONSIDERATION OF THE CITY COUNCIL OF THE CITY OF PERRIS, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2001-1 (MAY FARMS) OF THE CITY OF PERRIS AND DECLARING ITS INTENTION TO MAKE CHANGES WITH RESPECT TO IMPROVEMENT AREA NOS. 4, 5, 6 AND 7 OF SAID DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Perris (the “City”) has received a petition (including consent and waiver) (the “Petition”) from KB Home Coastal Inc. ("Property Owner") requesting the institution of change proceedings with respect to Improvement Area Nos. 4, 5, 6 and 7 (the “Improvement Areas”) of Community Facilities District No. 2001-1 (May Farms) of the City of Perris (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the “Act”); and

WHEREAS, the District was formed pursuant to Resolution No. 2950, adopted on May 28, 2002 (“Formation Resolution”); and

WHEREAS, on May 28, 2002, following a public hearing and election, at least two-thirds of the landowners within the Improvement Areas of the District approved of the levying of a special tax within the District at the rate and method of apportionment described in the Formation Resolution; and

WHEREAS, the Property Owner, pursuant to the Petition, has requested the following to reflect changes in the Project and current conditions: (i) changes to the boundaries of the Improvement Areas; (ii) changes to the description of the facilities to be financed by the Improvement Areas; (iii) changes to the maximum bonded indebtedness for each of the Improvement Areas; and (iv) changes to the special tax and the rate and method of apportionment of the Special Tax included in the Formation Resolution and prior proceedings (collectively, the “Changes”); and

WHEREAS, the Council has determined that the Petition complies with the requirements of Government Code Section 53332 and now intends to institute such Change proceedings with respect to the District; and

WHEREAS, the Council desires to adopt this Resolution of Consideration (this “Resolution”) as provided in Section 53331 of the Act to institute change proceedings with respect to the Improvement Areas of the District;

WHEREAS, the Improvement Areas of the District shall finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property, including all furnishings, equipment and supplies related thereto and the payment of development and other fees of public agencies, all as described in Exhibit “B” hereto and incorporated herein by this reference (collectively, the “Facilities”), which Facilities have a useful life of five years or longer; and (2) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the District (the “Incidental Expenses”); and

WHEREAS, it is the intention of the Council to consider financing the Facilities and the Incidental Expenses through the District and the sale of bonded indebtedness within Improvement Areas of the District in an amount not to exceed \$50,000,000 and the levy of a special tax within the Improvement Areas of the District to pay for the Facilities and the Incidental Expenses and to pay debt service on the bonded indebtedness incurred by such Improvement Areas, provided that the bond sales and special tax levies are approved at an election to be held within the District;

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

Section 1. The above recitals are true and correct.

Section 2. The Council hereby determines to institute change proceedings for Improvement Area Nos. 4, 5, 6 and 7 of Community Facilities District No. 2001-1 (May Farms) of the City of Perris under the terms of the Act. The amended and restated boundaries of the Improvement Areas are shown in Exhibit A attached hereto. The City Clerk is hereby directed to record, or cause to be recorded, the amended and restated boundary maps of the Improvement Areas in the office of the Riverside County Recorder as soon as practicable after the adoption of this Resolution.

Section 3. The Facilities proposed to be financed by the Improvement Areas of the District are public infrastructure facilities and other governmental facilities with an estimated useful life of five years or longer, which the City, Eastern Municipal Water District (“EMWD”), the Val Verde Unified School District (the “School District”), or another public agency or district is authorized by law to construct, acquire, own, operate or contribute revenue to. The Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow taxpayers within the proposed District to understand what the funds of the Improvement Areas of the District may be used to finance. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of the change proceedings relating to the Improvement Areas of the District, issuing bonds and levying and collecting a special tax within the Improvement Areas of the District. The Council hereby finds that the proposed Facilities are necessary to meet increased demands placed upon the City, EMWD, the School District and other public agencies or districts as a result of development occurring within the Improvement Areas of the District. Such Facilities need not be physically located within the Improvement Areas of the District.

Section 4. Except where funds are otherwise available, it is the intention of the Council to levy annually in accordance with procedures contained in the Act a new special tax within each of the Improvement Areas of the District (the "Special Tax") sufficient to pay for the costs of financing the acquisition and/or construction of the Facilities and Incidental Expenses, including the principal and interest and other periodic costs on bonds or other indebtedness proposed to be issued to finance the Facilities, and Incidental Expenses, the establishment and replenishment of reserve funds, the credit enhancement fees, the costs of administering the levy and collection of the Special Tax and all other costs of the levy of the Special Tax and issuance of the bonds, including any foreclosure proceedings, architectural, engineering, inspection, legal, fiscal, and financial consultant fees, discount fees, interest on bonds due and payable prior to the expiration of one year from the date of completion of Facilities (but not to exceed two years), election costs and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, disclosure counsel, financing consultants and printing costs, and all other administrative costs of the tax levy and bond issue. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the Improvement Areas of the District. In the first year in which such a Special Tax is levied, the levy shall include a sum sufficient to repay to the City all amounts, if any, transferred to the Improvement Areas of the District pursuant to Section 53314 of the Act and interest thereon. The amended and restated rate and method of apportionment of the Special Tax within each of the Improvement Areas of the District is described in detail in Exhibit "C" attached hereto and by this reference incorporated herein (the "Amended RMAs"). The Special Tax contained in the Amended RMAs is based upon the cost of financing the Facilities and Incidental Expenses in the District, the demand that each parcel will place on the Facilities and the benefit (direct and/or indirect) received by each parcel from the Facilities.

Pursuant to the Amended RMAs, the Special Tax within each of the Improvement Areas of the District is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act. In the event that a portion of the property within the Improvement Areas of the District shall become for any reason exempt, wholly or partially, from the levy of the Special Tax, the Council shall, on behalf of the Improvement Areas of the District, increase the levy to the extent necessary upon the remaining property within the Improvement Areas of the District which is not delinquent or exempt in order to yield the required payments, subject to the maximum tax. If special taxes of the Improvement Areas of the District are levied against any parcel used for private residential purposes, (i) the maximum special tax rate shall not be increased over time except that it may be increased by an amount not to exceed two percent (2%) per year to the extent permitted in the Amended RMAs; (ii) such tax shall be levied within an Improvement Area for the period set forth in the applicable Amended RMA, as further described in Exhibit "C" hereto; and (iii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcels within the Improvement Areas of the District by more than ten percent (10%).

Section 5. The special tax within the Improvement Areas of the District is based on the expected demand that each parcel of real property within the Improvement Areas of the District will place on the Facilities and on the benefit that each parcel derives from the right to access the Facilities. The Council hereby determines that the proposed Facilities are necessary

to meet the increased demand placed upon the City, EMWD, the School District and other local agencies and the existing infrastructure in the City as a result of the development of land within the Improvement Areas of the District. The Council hereby determines the Amended RMAs set forth in Exhibit "C" for each of the Improvement Areas of the District to be reasonable.

Section 6. Public Hearings (the "Hearings") on the Changes shall be held on January 11, 2005, at 6:00 p.m., or as soon thereafter as practicable, at the Chambers of the City Council of the City of Perris, 101 North "D" Street, Perris, California 92570. Should the Council determine to call a special election on the Changes, a special election will be held within the Improvement Areas of the District to approve the Changes, authorize the levy of special taxes pursuant to the Amended RMAs and authorize the issuance of bonds in an amount not to exceed the revised bonded indebtedness in accordance with the procedures contained in Government Code Sections 53326 and 53338. If held, the proposed voting procedure at the elections will be a landowner vote with each landowner who is the owner of record of land within each of the Improvement Areas of the District at the close of the Hearings, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the Improvement Areas of the District. Ballots for the special election may be distributed by mail or by personal service.

Section 7. At the time and place set forth above for the Hearings, any interested person, including all persons owning lands or registered to vote within the Improvement Areas of the District, may appear and be heard. With respect to the Changes, if fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing in an Improvement Area, or the landowners of one-half or more of the area of land in an Improvement Area and not exempt from the special tax, file written protests against the Changes, and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council shall take no further action to approve the Changes in that Improvement Area for a period of one year from the date of decision of the City Council, and if the majority protests of the registered voters or landowners are only against the furnishing of a type or types of Facilities within the Improvement Area, those types of Facilities will be eliminated from the proceedings to approve the Changes for such Improvement Area.

Section 8. Each City officer who is or will be responsible for the Facilities to be financed by the Improvement Areas of the District, is hereby directed to study the proposed Improvement Areas of the District and, at or before the time of the above-mentioned Hearings, file a report with the Council, and which is to be made a part of the record of the Hearings, containing a brief description of the Facilities and services by type which will in his or her opinion be required to adequately meet the needs of the Improvement Areas of the District and his or her estimate of the cost of providing the Facilities and services, including an estimate of the fair and reasonable cost of all Incidental Expenses, including the cost of planning and designing the Facilities to be financed pursuant to the Act, the cost of environmental evaluations of such Facilities, all costs associated with the changes in the Improvement Areas of the District, issuance of bonds, determination of the amount of any special taxes, collection of any special taxes, or costs otherwise incurred in order to carry out the authorized purposes of the City with

respect to the Improvement Areas of the District, and any other expenses incidental to the construction, completion and inspection of the authorized work to be paid through the proposed financing.

Section 9. The City may accept advances of funds or work-in-kind from any sources, including private persons or private entities, and is authorized and directed to use such funds for any authorized purpose, including any cost incurred in changing the Improvement Areas of the District. The District may enter into an agreement to repay all of such funds as are not expended or committed for any authorized purpose at the time of the election on the levy of the Special Tax, if the proposal to levy such tax should fail, and to repay all of such funds advanced if the levy of the Special Tax shall be approved by the qualified electors of the Improvement Areas of the District.

Section 10. The Clerk is hereby directed to publish notice (“Notice”) of the Hearings pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the proposed District. Such Notice shall contain the text or a summary of this Resolution, state the time and place of the Hearings, a statement that the testimony of all interested persons or taxpayers for or against the proposed changes in public facilities and services and the levying of additional special taxes or changing of existing special taxes will be heard, a description of the protest rights of the registered voters and landowners in the proposed District as provided in Sections 53335, 53336 and 53337 of the Act and a description of the proposed voting procedure for the election required by the Act. The notice shall also describe, in summary, the effect of protests made by registered voters or landowners against the proposed changes in facilities or services and the levying of additional taxes or changes in existing taxes. Such publication shall be completed at least seven (7) days prior to the date of the Hearings.

Section 11. The Clerk may send a copy of the Notice of the Hearings by first-class mail, postage prepaid, to each registered voter and to each landowner within the Improvement Areas of the District as shown on the last equalized assessment roll. Said mailing shall be completed not less than fifteen (15) days prior to the date of the Hearings.

Section 12. Pursuant to Section 53344.1 of the Act, the Council hereby reserves to itself, in its sole discretion, the right and authority by subsequent resolution to allow any owner of property within the Improvement Areas of the District, subject to the provisions of Section 53344.1 of the Act and those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the treasurer of the Improvement Areas of the District in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

Section 12. The voting procedure with respect to the Changes shall be by hand delivered ballot election.

ADOPTED, SIGNED and **APPROVED** this 30th day of November, 2004.

Mayor, Daryl R. Busch

ATTEST:

City Clerk, Margaret Rey

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 3334 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting thereof held the 30th day of November, 2004, and that it was so adopted by the following called vote:

AYES: Rogers, Yarbrough, Landers, Motte, Busch
NOES:
ABSENT:
ABSTAIN:

City Clerk, Margaret Rey

EXHIBIT "A"
(RESOLUTION NUMBER 3334)

**AMENDED AND RESTATED BOUNDARY MAPS FOR
IMPROVEMENT AREA NOS. 4, 5, 6 AND 7 OF
COMMUNITY FACILITIES DISTRICT NO. 2001-1
(May Farms)**

[ATTACHED]

EXHIBIT “B”
(RESOLUTION NUMBER 3334)

TYPES OF FACILITIES TO BE FINANCED BY
EACH OF IMPROVEMENT AREA NOS. 4, 5, 6 AND 7 OF
COMMUNITY FACILITIES DISTRICT NO. 2001-1
(May Farms)

Street facilities, including, but not limited to, roadways, sidewalk, curb, gutters, striping, lighting, signalization, signage, landscaping of public streets and rights-of-way and appurtenant facilities and the Rider Street crossing;

Storm control facilities, including, but not limited to, storm drains, channels, detention, headwalls, riprap pads, retention and/or cache basins and appurtenant facilities;

Sanitary sewers, including, but not limited to, lift stations, force mains, pump stations, transmission and main lines, valves, and appurtenant facilities;

Domestic water facilities, including, but not limited to, reservoirs, pump stations, transmission lines, distribution facilities, lift stations, main lines, valves, fire hydrants and appurtenant facilities;

Park and recreational facilities and appurtenant facilities;

Landscaping and common area improvements and appurtenant costs;

School facilities and appurtenant costs;

Impact and other fees, including but not limited to, development fees, capital facility fees, school fees, water fees, sewer fees, storm drain fees and city fees;

Mitigation costs and incidental expenses.

EXHIBIT “C”
(RESOLUTION NUMBER 3334)

AMENDED AND RESTATED RMAs
FOR IMPROVEMENT AREA NOS. 4, 5, 6 AND 7 OF
COMMUNITY FACILITIES DISTRICT NO. 2001-1
(May Farms)