

RESOLUTION NO. 2013- XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING THE CITY MANAGER TO ENTER INTO PROPERTY TAX ADMINISTRATION SETTLEMENT AND RELEASE AGREEMENT WITH THE COUNTY OF NAPA

WHEREAS, pursuant to state law, the County charges cities within the County a property tax administration fee for assessing, collecting, and allocating property tax revenues; and

WHEREAS, a dispute has arisen between the City and County (the “Administrative Fee Dispute”) regarding how County treated property tax revenue diverted from the County’s Educational Revenue Augmentation Fund pursuant to Revenue & Taxation Code sections 97.68 and 97.70 (“Diverted Revenue”) as a form of property tax, subject to the property tax administration; and

WHEREAS, the legal issues germane to the diverted revenue were the subject of ongoing litigation recently decided by the Supreme Court of California in *City of Alhambra v. County of Los Angeles*, Supreme Court of California, Case No. S185457, in which the Supreme Court held that Diverted Revenue paid to cities was exempt from the property tax administration fee, and that counties had incorrectly included such revenue in the calculation of property tax administration fees due from cities (the “Administrative Fee Litigation”); and

WHEREAS, pending the outcome of the aforementioned litigation, County Auditor-Controller had no authority to revise the property tax administration fee calculation until the Administrative Fee Litigation was resolved. Auditor agreed to hold the diverted revenue from City’s Property Administrative Fee for fiscal years 2009-2010 and 2010-2011 in reserve. Auditor placed the diverted revenue in a separate interest bearing account.; and

WHEREAS, in light of the Supreme Court’s ruling in the Administrative Fee Litigation, the Parties desire to enter into this Settlement Agreement, going back three years, in order to completely and finally resolve the Administrative Fee Dispute. This Settlement Agreement authorizes the refund of collections, with interest, from the fiscal year 2008-2009 fee and the release of the diverted revenue held in reserve, including all interest earned, for fiscal years 2009-2010 and 2010-2011. The property tax administration fee for fiscal year 2011-2012 will be calculated using the revised methodology; and

WHEREAS, on May 21, 2013 the City Council of the City of Calistoga considered the settlement offer by the County of Napa at public meeting and duly considered staff recommendation and public comment regarding this matter.

