City of Salinas
OFFICE OF THE MAYOR • 200 Lincoln Ave • Salinas, California 93901
(831) 758-7201 • (831) 758-7368 (Fax) • www.ci.salinas.ca.us

July 7, 2015

The Honorable Judge Marla O. Anderson
Presiding Judge, Superior Court
County of Monterey
240 Church Street
Salinas, California 93901

Re: City of Salinas's Responses to Monterey County Civil Grand Jury Final Report No. 7 "Salinas City Council Member Jose Castañeda"

Dear Presiding Judge Anderson:

This letter is the City of Salinas's response to the Findings and Recommendations of the 2014-2015 Monterey County Civil Grand Jury Final Report No. 7—"Salinas City Council Member Jose Castañeda" ("Final Report No. 7"). I would first like to thank the members of the Civil Grand Jury for their time and effort taken to assist us in improving our ability to provide services to our community. In Final Report No. 7, the Civil Grand Jury overall made a total of eight Findings and three Recommendations.

The Civil Grand Jury accurately reported the details and the current status of Council Member Castañeda's failure to comply with the judgment rendered against him by Monterey County Superior Court Judge Kay T. Kingsley (now retired) on September 20, 2013 in The People of the State of California, on the Relation of the City of Salinas v. Jose Castañeda, Monterey County Superior Court Case No. M123946.

As requested by the Civil Grand Jury, the City of Salinas respectfully submits the following responses to the Findings and Recommendations R2 and R3 identified for a response in Final Report No. 7.

Final Report No. 7--Findings

Finding 1: *Jose Castaneda is currently serving a four-year term, until the end of 2016, as one of the seven elected members of the Salinas City Council. He was elected to the Council in November 2012 to represent District 1.*

Response: The City Council agrees with this Finding.

Finding 2: *At the time of his election to the City Council, Jose Castaneda was President and a long-term member of the Alisal Union School District Board of Trustees ("Alisal Board").*

Response: The City Council agrees with this Finding.

Finding 3: *The law is clear that a person who is serving in a city as both a member of a school board and a member of the city's council is holding incompatible offices and must resign the first office that he was elected to.*

Response: The City Council agrees with this Finding.

Finding 4: *Mr. Castaneda refused to resign from his position with the Alisal Board, forcing the City of Salinas to hire outside counsel to bring a court action ("the incompatible office case") seeking an order to remove him from the Alisal Board.*

Response: The City Council agrees with this Finding.

Finding 5: *On September 20, 2013, a Judgment was entered in the incompatible office case removing Mr. Castaneda from his position with the Alisal Board and ordering him to pay a fine to the State of California in the sum of $5,000.*

Response: The City Council agrees with this Finding.

Finding No. 6: *The incompatible office case cost the City of Salinas the sum of $26,555 in legal fees.*

Response: The City Council agrees with this Finding.

Finding No. 7: *Mr. Castaneda has failed and reused to pay the $5,000 fine.*

Response: To the best of the City Council's knowledge this Finding is correct and based on that understanding the City Council agrees with this Finding.

Finding No. 8: *Subsequent to the Judgment in the Action, the City began collection efforts, including a demand that Mr. Castaneda pay the $5,000 fine, but it gave up efforts when it was learned that he had no attachable assets and he had other civil judgments against him.*

Response No. 8: The City Council agrees with this Finding.

Final Report No. 7—Recommendations

Recommendation No. 2: *The City of Salinas pursue the appropriate post-judgment proceedings in the incompatible office case to enforce payment of the $5,000 fine from Jose Castaneda to the State.*

Response: The Grand Jury concludes that "The City has failed to pursue all legal avenues in requiring Mr. Castaneda to pay the $5,000 fine" and suggests "the potential remedy of seeking the incarceration of Mr. Castaneda under a contempt of court motion if it goes back to court to enforce the payment of the fine [Code of Civil Procedure §1209(a)(5)." (Final Report No. 7, page 5) The Grand Jury further concludes that "Even though it may not be 'cost-effective' to resume efforts to collect the fine from Mr. Castaneda, it is the MCCGJ's opinion that Mr. Castaneda must be held to the same standard as any other citizen and pay this legal obligation, especially since he brought it upon himself."

The City notes that the $5,000 judgment is payable to the State of California and not to the City of Salinas, so to the extent the City has expended and continues to expend resources in its efforts to obtain satisfaction of the judgment, the City's costs and expenses (ultimately taxpayer monies) are not recoverable. Nonetheless, the City agrees with the Grand Jury's conclusion that Council member Castaneda, and all Council members, must be held to the same standard as any other citizen. The City Attorney will research the viability of the potential remedy suggested by the Grand Jury and will resume the City's efforts to obtain satisfaction of the $5,000 judgment on behalf of the State, the timing of which will be subject to available resources.

Recommendation No. 3: *The City explore amending the City's Charter to provide for the removal of a City Council Member upon conviction of a crime involving moral turpitude or the failure to pay a fine imposed by a court.*

Response: The City Attorney will research the potential for inclusion of such a provision in the City's Charter and will provide a recommendation to the City Council on the inclusion of such a provision in the City's Charter, the timing of which will be subject to available resources. The City Council notes that City Charter amendments, to include the addition of a provision or the amendment of an existing provision, requires voter approval. The next election at which such an amendment could be put to the voters is June 2016.

Respectfully submitted,

Joe Gunter
Mayor

cc: City Manager
City Attorney