

**ORDINANCE NUMBER 1316**

***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2014-2 (PERRIS VALLEY SPECTRUM) OF THE CITY OF PERRIS AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN SAID DISTRICT***

***THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF THE COMMUNITY FACILITIES DISTRICT NO. 2014-2 (PERRIS VALLEY SPECTRUM) OF THE CITY OF PERRIS DOES ORDAIN AS FOLLOWS:***

**Section 1.** By the passage of this ordinance, the City Council authorizes the levy of a special tax at the rate and formula set forth in Exhibit "A" to Resolution No. 4802 adopted on January 13, 2015 (the "Resolution"), and which for reference purposes is attached hereto as Exhibit "A" and incorporated herein by this reference.

**Section 2.** The City Council or its designee is hereby further authorized to determine, by ordinance, resolution, or by other action if permitted by then applicable law, on or before August 1 of each tax year, the specific special tax to be levied on each parcel of land in the Community Facilities District No. 2014-2 (Perris Valley Spectrum) of the City of Perris (the "District"). The special tax to be levied shall not exceed the maximum rates set forth in Exhibit "A", but the special tax may be levied at a lower rate. The City Clerk is authorized and directed to file with the county auditor on or before the 10th day of August of each tax year a certified copy of such ordinance or resolution accompanied by a list of all parcels subject to the special tax levy with the tax to be levied on each parcel.

**Section 3.** Properties or entities of the state, federal or other local governments shall be exempt from the above-referenced and approved special taxes only to the extent set forth in Exhibit A hereto and otherwise shall be subject to the tax consistent with the provisions of Section 53317.3 of the Mello-Roos Community Facilities Act of 1982 (the "Act") in effect as of the date of adoption of this Ordinance.

**Section 4.** All of the collections of the special taxes shall be used only as provided for in the Act and the Resolution. The special taxes shall be levied only so long as needed to accomplish the purposes described in the Resolution.

**Section 5.** The special taxes shall be collected from time to time as necessary to meet the financial obligations of the District on the secured real property tax roll in the same manner as ordinary ad valorem taxes are collected, or other procedures as may be adopted by the City Council. The City Manager and Finance Director are each hereby authorized and directed to provide or to cause to be provided all necessary information to the auditor/tax collector of the County of Riverside and to otherwise take all actions necessary in order to effect proper billing and collection of the special taxes, so that the special taxes shall be levied and collected in sufficient amounts and at times necessary to satisfy the financial obligations of the District in each

fiscal year until the bonds as defined in the rate and method attached as Exhibit “A” (“2014-2 Bonds”), and/or any other bonds outstanding secured by the special taxes in the District, have been paid in full and/or cancelled, and provision has been made for payment of all of the administrative costs of the District. The special taxes may be subject to the same penalties and the same procedure, sale and lien priority in cases of delinquency as provided for ad valorem taxes as such procedure may be modified by law or this City Council from time to time.

Notwithstanding the foregoing, the City Manager or Finance Director may collect, or cause to be collected, one or more installments of the special taxes by means of direct billing by the District of the property owners within the District, if, in the judgment of the City Manager or Finance Director, such means of collection will reduce the administrative burden of the District in administering the District where it is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in any such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

**Section 6.** As a cumulative remedy, if any amount levied as a special tax for payment of bond interest or principal, together with any penalties and other charges accruing under this ordinance, are not paid when due, the City Council may, not later than four years after the due date of the last installment of principal of the 2014-2 Bonds, order that the same be collected by an action brought in the superior court to foreclose the lien of such special tax.

**Section 7.** This Ordinance relating to the levy of the special taxes shall take effect immediately upon its final passage in accordance with the provisions of Section 36937(a) of the Government Code, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Government Code.

**Section 8.** The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of Riverside a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following final passage by the City Council of this Ordinance.

**Section 9.** The Mayor shall sign this Ordinance and the 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 City.

**Section 10.** The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

**ADOPTED, SIGNED and APPROVED** this 28<sup>th</sup> day of April 2015.

\_\_\_\_\_  
Mayor, Daryl R. Busch

ATTEST:

\_\_\_\_\_  
City Clerk, Nancy Salazar

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

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1316 was duly and regularly introduced by the City Council of the City of Perris, acting as the legislative body of Community Facilities District No. 2014-2 (Perris Valley Spectrum) of the City of Perris, at a regular meeting held the 14<sup>th</sup> day of April, 2015 and was duly and regularly adopted by the City Council of the City of Perris, acting as the legislative body of Community Facilities District No. 2014-2 (Perris Valley Spectrum) of the City of Perris, at a regular meeting held the 28<sup>th</sup> day of April 2015, by the following called vote:

AYES: ROGERS, BURKE, RABB, RODRIGUEZ, BUSCH

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

By: \_\_\_\_\_  
City Clerk, Nancy Salazar

**EXHIBIT A**

**COMMUNITY FACILITIES DISTRICT NO. 2014-2  
(PERRIS VALLEY SPECTRUM) OF THE CITY OF PERRIS**

**RATE AND METHOD OF APPORTIONMENT**

[ATTACHED]

## EXHIBIT A

### CITY OF PERRIS COMMUNITY FACILITIES DISTRICT NO. 2014-2 (PERRIS VALLEY SPECTRUM)

#### RATE AND METHOD OF APPORTIONMENT

## Community Facilities District No. 2014-2 (Perris Valley Spectrum) of the City of Perris RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied by the City on all Assessor's Parcels within CFD No. 2014-2 and collected each Fiscal Year, commencing no earlier than Fiscal Year 2015-16, in an amount sufficient to pay the Annual Costs, as defined herein, of the CFD No. 2014-2 and, all payments required under the Bond Documents for the Bonds and any supplements thereto. The Special Tax may be levied each fiscal year, to the extent, and in the manner herein provided.

### A. DEFINITIONS

**2014 Pledge Agreement** means the agreement between the City of Perris on behalf of CFD No. 2014-2, CFD 91-1 and itself, and the Agency which memorializes the Agency Contribution to the Bonds.

**Act** means the Mello-Roos Communities Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

**Agency** means the successor agency of the Redevelopment Agency of the City of Perris created to make payments on all enforceable obligations of the former redevelopment agency of the City or of the successor agency with respect to the refinancing of enforceable obligations, including the Agency Contribution.

**Agency Contribution** means for any fiscal year an amount equal to the Tax Increment Revenues to be received by the Agency in the such fiscal year as certified in a Report of an Independent Financial Consultant; provided that in no event shall the Agency Contribution in any fiscal year exceed an amount necessary, together with funds on deposit in the Bonds Fund, to pay (i) the debt service due on the bonds in such fiscal year; (ii) Administrative Expenses in such fiscal year, and (iii) the amount, if any, to increase the deposit in the Reserve Fund to the Reserve Requirement (the "Maximum Agency Contribution"). The Agency Contribution is subordinate to all outstanding or future bonded indebtedness of the Agency and any pass through payments pursuant to Section 33607.7 and 33607.5 of the Redevelopment Law or pass through agreements as provided in the 2014 Pledge Agreement. The Agency Contribution may] be reduced by \$1 in each fiscal year to effectuate savings to the Agency or as otherwise described in the 2014 Pledge Agreement.

**Annual Costs** for any fiscal year equals the sum of (i) annual Debt Service for the current Bond

Year; (ii) the estimated administrative fees or expenses of the City for such fiscal year; (iii) the amount, if any, necessary to replenish the Revenue Fund on the Bonds to the level required under the Bond Documents; (iv) any other payment required under the Bond Documents and any amendment thereto; (v) less the Agency Contribution for such Fiscal Year.

**Assigned Special Tax** means the amount determined in accordance with Section C, which may be levied for each applicable Fiscal Year on an Assessor's Parcel of Taxable Property.

**Assessor** means the County Assessor.

**Assessor's Parcel** means a lot or parcel shown on an Assessor's Parcel Map with an Assigned Assessor's Parcel Number.

**Assessor's Parcel Map** means an official map of the Assessor designating parcels by Assessor's Parcel Number.

**Assessor's Parcel Number or APN** means the number assigned to an Assessor's Parcel by the Assessor for purposes of identification.

**Authority** is the City of Perris Joint Powers Authority.

**Bond Documents** means any fiscal agent agreement, indenture, trust agreement or similar document setting forth the terms of any Bonds.

**Bond Year** means the subsequent Calendar Year for which Debt Service is due and payable following the Fiscal Year for which Special Taxes are levied.

**Bonds** means any debt (as defined in the Act) of CFD No. 2014-2, whether in one series or more, secured by the levy of Special Taxes, of which, the first series of Bonds issued shall be used to defease the Prior Bonds.

**Boundary Map** means the "Map of Proposed Boundaries of Community Facilities District No. 2014-2, City of Perris, County of Riverside, State of California," filed October 24, 2014 in Book 77, Page 65 of Maps of Assessments and Community Facilities Districts in the office of the County Recorder.

**Building Permit** means a permit for new construction for a residential or non-residential structure. For purposes of this definition, "Building Permit" shall not include permits for construction or installation of retaining walls, utility improvements, or other such improvements not intended for human habitation.

**Calendar Year** means the period commencing January 1 of any year and ending the following December 31.

**CFD Administrator** means an official of the City, or designee thereof, responsible for determining the Annual Costs and providing for the levy and collection of the Special Taxes for CFD No. 2014-2.

**CFD No. 91-1** means Community Facilities District No. 91-1 (Perris Valley Spectrum) of the City

of Perris, originally formed by the City on January 28, 1991.

**CFD No. 2014-2** means Community Facilities District No. 2014-2 (Perris Valley Spectrum) of the City of Perris, established for the sole purpose of refinancing CFD No. 91-1.

**City** means the City of Perris, California.

**Debt Service** for any fiscal year is the total annual principal and interest payment on the Bonds or Prior Bonds for the next succeeding March 1 (the March 1 in such fiscal year) and the following September 1 (September 1 in the next fiscal year), less investment earnings on the Reserve Fund available for that purpose and not required under the Bond Documents to be set aside in a separate account to be used to make payments to the United States pursuant to the federal tax laws, and less any capitalized interest and any other amounts on deposit in the Bond Fund under the Bond Documents as of the first day of such fiscal year.

**Developed Property** means an Assessor's Parcel of Taxable Property for which a Building Permit was issued on or before **March 1** preceding the Fiscal Year for which Special Taxes are being levied.

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

**Maximum Special Tax** means the maximum Special Tax determined in accordance with Section C, which may be levied for each applicable Fiscal Year on an Assessor's Parcel of Taxable Property.

**Prior Bonds** means the remaining outstanding Community Facilities District No. 91-1 of the City of Perris, 1991 Special Tax Bonds, dated April 1, 1991.

**Resolution of Issuance** is any Resolution adopted by the City authorizing the issuance of the Bonds to be secured by the levy of a Special Tax within the CFD No. 2014-2.

**Special Tax** is any tax authorized under Section 53340 of the California Government Code to be levied by the City within CFD No. 2014-2.

**Tax Increment Revenues** shall mean for each July 1-June 30 ("Fiscal Year") the total ad valorem tax revenues generated within the Site in a Fiscal Year, which revenues are allocated to and actually received by Successor Agency for such Successor Agency Fiscal Year pursuant to Section 33670(b) of the California Health and Safety Code, minus the amount of such revenues set aside pursuant to sections 33334.2 and 33334.3 of said Redevelopment Law for low and moderate-income housing purposes, and minus such amounts as may be allocated or required to be paid to or for the benefit of the County of Riverside and any other taxing entities pursuant to an agreement entered into pursuant to former Health and Safety Code Section 33401. In the event Available Tax Increment Revenues decrease or are eliminated, then for purposes of the 2014 Pledge Agreement, the Available Tax Increment Revenues shall be deemed to mean the form of tax or revenue which the Successor Agency receives in total or partial replacement of such Available Tax Increment Revenues, including funds constituting Available Tax Increment Revenues under the Dissolution Law deposited from time to time in the Redevelopment Property Tax Fund established pursuant to Health and Safety Code Section 34170.5(a) of the Law and administered by the auditor controller of the County of Riverside, constituting part of the Dissolution Law. Tax Increment Revenues are further limited as provided in the 2014 Pledge Agreement by and between the City (on behalf of CFD 91-1 and CFD 2014-2) related to the Agency Contribution.

**Taxable Lot Square Footage or TLSF** is all of the area of an Assessor's Parcel within CFD No. 2014-2, which is not exempt from the Special Tax pursuant to Section 53311, et. seq. of the California Government Code.

**Taxable Property** means all Assessor's Parcels that are not exempt from the Special Tax pursuant to the Act.

**Trustee** means the trustee, fiscal agent, or paying agent under the Bond Documents.

**Undeveloped Property** means all Assessor's Parcel for which a Building Permit has not been issued on or before **March 1**, preceding the Fiscal Year for which Special Taxes are being levied.

## **B. CLASSIFICATION OF ASSESSOR'S PARCELS**

Each Fiscal Year, beginning with Fiscal Year 2015-16, each Assessor's Parcel shall first be classified by the CFD Administrator as Taxable Property or Exempt Property. In addition, each such Fiscal Year, each Assessor's Parcel of Taxable Property shall be further classified by the CFD Administrator as Developed Property or Undeveloped Property. Commencing with Fiscal Year 2015-16 and for each subsequent Fiscal Year, all Taxable Property shall be subject to the levy of Special Taxes pursuant to Section C below.

## **C. MAXIMUM SPECIAL TAXES**

Each Fiscal Year commencing the later of the issuance of the Bonds to refund the Prior Bonds or in Fiscal Year 2015-16, each taxable Assessor's Parcel shall be subject to the Special Tax. The Maximum Special Tax shall be equal to \$0.2645 per TLSF.

## **D. METHOD OF APPORTIONMENT OF SPECIAL TAX**

Commencing in Fiscal Year 2015-16 and for each subsequent Fiscal Year as provided in Section G, the CFD Administrator shall levy a Special Tax on all Taxable Property until the total amount of Special Taxes levied equals the Annual Costs in accordance with the following steps:

Step One: The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property, up to 100% of the applicable Maximum Special Tax for such Fiscal Year to fund the Annual Costs.

Step Two: If additional monies are needed to fund the Annual Costs after the first step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax.

## **E. MANNER OF COLLECTION**

The collection of Special Taxes for CFD No. 2014-2 shall commence in Fiscal Year 2015-16 provided that the Prior Bonds have been refunded. The annual Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the Special Taxes may be billed and collected at a different time or in a different manner if necessary to meet the



financial obligations of CFD No. 2014-2.

## F. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section F.

**“Administrative Fee”** equal the fees and expenses associated with the prepayment, including the costs of computation of the Prepayment Amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption.

**“Outstanding Bonds”** means all previously issued Bonds which will remain outstanding after the first interest and/or principal payment date following the current Fiscal Year.

**“Reserve Fund Credit”** shall equal the lesser of (i) the expected reduction in the applicable reserve fund requirement (as defined in the Bond Documents), if any, following the redemption of Outstanding Bonds from proceeds of the prepayment or (ii) the amount derived by subtracting the new reserve fund requirement in effect after the redemption of Outstanding Bonds as a result of the prepayment from the balance in the applicable reserve fund on the prepayment date. Notwithstanding the foregoing, the Reserve Fund Credit shall in no event be less than \$0.

The Special Tax obligation of an Assessor’s Parcel of Taxable Property may be prepaid in full, provided that there are a) no delinquent Special Taxes, penalties, or interest charges outstanding with respect to such Assessor’s Parcel at the time that the Special Tax obligation would be prepaid, and b) the amount of Special Taxes that may be levied on Taxable Property, net of reasonably estimated annual administrative expenses, is at least 1.10 times the regularly scheduled annual interest and principal payments on all currently Outstanding Bonds in each future Fiscal Year.

The Prepayment Amount for an Assessor’s Parcel eligible for prepayment shall be determined as described below.

An owner of an Assessor’s Parcel intending to prepay all or a part of the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay, and within 10 business days of receipt of such notice, the City shall notify such owner of the amount of a non-refundable deposit determined by the CFD Administrator as necessary to cover the cost to be incurred by CFD No. 2014-2 in calculating the proper amount of a prepayment. Within 30 business days of receipt by the CFD Administrator of the non-refundable deposit, the CFD Administrator shall notify such owner of the prepayment amount for the applicable Assessor’s Parcel. Prepayment must be made not less than 60 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given by the Trustee pursuant to the Bond Documents.

The Prepayment Amount for each applicable Assessor’s Parcel or group of Assessor’s Parcels shall be calculated according to the following formula (capitalized terms defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Defeasance Amount
plus	Administrative Fee
less	<u>Reserve Fund Credit</u>

**equals                      Prepayment Amount**

As of the date of prepayment, the Prepayment Amount shall be calculated as follows:

1. For an Assessor's Parcel of Taxable Property, compute the Special Tax applicable to such Assessor's Parcel by taking the product of \$0.2645 and the Taxable Lot Square Footage of such Assessor's Parcel.
2. For each Assessor's Parcel intending to prepay, divide the Special Tax computed pursuant to paragraph 1 for such Assessor's Parcel by the sum of the estimated Special Tax applicable to all Assessor's Parcels of Taxable Property within CFD No. 2014-2 using the same approach identified in Step 1, excluding the Special Taxes of any Assessor's Parcels for which the Special Tax obligation has been previously prepaid.
3. For each Assessor's Parcel intending to prepay, multiply the quotient computed pursuant to paragraph 2, by the Outstanding Bonds. Sum up the product of each of the parcels to be prepaid, and round up to the nearest \$5,000 increment to calculate the "Bond Redemption Amount," for such Assessor's Parcel(s).
4. Multiply the Bond Redemption Amount by the applicable redemption premium, if any, on the Outstanding Bonds on the next available redemption date to be redeemed with the proceeds of the Bond Redemption Amount. This product is the "Redemption Premium."
5. Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, taking into consideration the amount of Special Tax levied on and paid, for the Assessor's Parcel in the current Fiscal Year and the portion of Outstanding Bonds.
6. Compute the amount the CFD Administrator reasonably expects to be derived from the reinvestment of the Prepayment Amount until the next available redemption date for the Outstanding Bonds less an Administrative Fee (as listed in the definitions above).
7. Subtract the amount computed pursuant to paragraph 6 from the result computed pursuant to paragraph 5. This difference is the "Defeasance Amount."
8. The Prepayment Amount is equal to the sum of the Bond Redemption Amount, the Redemption Premium, the Defeasance Amount, and the Administrative Fee, less the Reserve Fund Credit (as listed in the definitions above).

With respect to the Special Tax obligation that is prepaid pursuant to this Section F, the CFD Administrator shall indicate in the records of CFD No. 2014-2 that there has been a prepayment of the Special Tax obligation and shall cause a suitable notice to be recorded in compliance with the Act within thirty (30) days of receipt of such prepayment to indicate the prepayment of the Special Tax obligation and the release of the Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay such Special Tax shall cease.

**G. TERMINATION OF SPECIAL TAX**

For each Fiscal Year that any Bonds are outstanding, the Special Tax shall be levied on all Assessor's

Parcels of Taxable Property in accordance with Section D but in no event shall the Special Tax be levied on an Assessor Parcel after Fiscal Year 2020-21. If any delinquencies for Special Tax remain uncollected prior to or after all Bonds are retired, the Special Tax may continue to be levied on delinquent parcels to the extent necessary to reimburse CFD No. 2014-2 for any uncollected Special Taxes.

#### **H. CESSATION OF SPECIAL TAX IN CFD No. 91-1**

Following the issuance of the Bonds, the City, on behalf of CFD 91-1, may cease to levy or collect special taxes in CFD 91-1 pursuant to Government Code Section 53330.5 and the Act. To evidence such cessation, CFD No, 91-1 may record a notice of cessation of the special tax in the office of the County Recorder of the County of Riverside. Any cessation of the special tax to pay the 91-1 Bonds may provide for the forgiveness of past due or current delinquent taxes in CFD No. 91-1 as determined by CFD No. 91-1.

#### **I. APPEALS**

Any property owner claiming that the amount or application of the Special Tax is not correct may file a written notice of appeal with the CFD Administrator not later than twelve months after having paid the first installment of the Special Tax that is disputed. The CFD Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and rule on the appeal. If the decision of the CFD Administrator requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund will only occur in the final Fiscal Year of Outstanding Bonds and for each prior Fiscal Year a cash refund shall not be made, but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s) to compensate for the overpayment of the Special Tax.