

ORDINANCE NUMBER 1292

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS, REVISED, 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. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS, REVISED, 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. 4523 (the "Resolution of Change"), which was adopted on October 9, 2012, and which for reference purposes is attached hereto as Exhibit "1" and incorporated herein by this reference.

Section 2. The levy of a special tax at the rate and formula set forth in Exhibit "1" was approved by the requisite number of voters in a duly called and noticed landowners election, which was held in full compliance with the Act and all other relevant law, on October 9, 2012, the results of which were declared and adopted in Resolution No. 4522 ("Resolution Declaring Results").

Section 3. Pursuant to Section 53340 of the Mello-Roos Community Facilities Act of 1982 (the "Act"), 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 10 of each tax year, the specific special tax to be levied on each parcel of land in the District. The special tax to be levied shall not exceed the maximum rates set forth in Exhibit "1", 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 any date after the 10th of August of that year, but not later than the 21st of August of that year, a certified copy of such ordinance or resolution accompanied by a certified list of all parcels subject to the special tax levy with the tax to be levied on each parcel.

Section 4. 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 "1" hereto and otherwise shall be subject to the tax consistent with the provisions of the Act in effect as of the date of adoption of this Ordinance.

Section 5. 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 6. The special taxes shall be collected from time to time as necessary to meet the financial obligations of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised (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 "1" ("93-2 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 may collect, or cause to be collected, one or more installments of the special taxes through direct billing of property owners within the District by the District if, in the City Manager's judgment, 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 7. 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 93-2 Bonds, order that the same be collected by an action brought in the superior court to foreclose the lien of such special tax.

Section 8. 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 9. The City Clerk has previously executed and caused to be recorded in the office of the County Recorder of the County of Riverside an amended notice of special tax lien in the form required by the Act and pursuant to the California Streets and Highways Code § 3114.5, said recording occurring no later than fifteen (15) days following final passage by the City Council of the Resolution of Change.

Section 10. 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 11. 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 12th day of March, 2013.

Mayor, Daryl R. Busch

Attest:

City Clerk, Judy L. Haughney

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

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1292 was duly and regularly adopted by the City Council of the City of Perris, acting as the legislative body of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised, at a regular meeting held the 12th day of March, 2013, by the following called vote:

AYES: ROGERS, YARBROUGH, LANDERS, RODRIGUEZ, BUSCH

NOES:

ABSENT:

ABSTAIN:

City Clerk, Judy L. Haughney

EXHIBIT "1"

RATE AND METHOD OF APPORTIONMENT

**COMMUNITY FACILITIES DISTRICT NO. 93-2
(PERRIS PLAZA) OF THE CITY OF PERRIS, REVISED**

*COMMUNITY FACILITIES DISTRICT NO. 93-2
(PERRIS PLAZA), OF THE CITY OF PERRIS,
REVISED*

RATE AND METHOD OF APPORTIONMENT

A Special Tax shall be levied on all Taxable Property within the boundaries of Community Facilities District No. 93-2 (Perris Plaza), Revised City of Perris, (“CFD No. 93-2, Revised”) and collected according to the tax liability determined by the Council, through the application of this Rate and Method of Apportionment of the Special Tax to the extent and in the manner herein provided.

1. DEFINITIONS

“**Acreage**” or “**Acre**” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map. An Acre means 43,560 square feet of land.

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

“**Administrative Fees**” or “**Administrative Expenses**” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 93-2, Revised including, but not limited to the costs associated with:

- (i) Computing the Special Taxes;
- (ii) Preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both);
- (iii) Collecting the Special Taxes (whether by the City, the County or otherwise);
- (iv) Remitting the Special Taxes to the Trustee;
- (v) The Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 93-2, Revised, or any designee thereof complying with arbitrage rebate requirements, including without limitation rebate liability costs and periodic rebate calculations;
- (vi) Complying with disclosure or reporting requirements of the City or CFD No. 93-2, Revised, associated with applicable federal and State laws (whether by the City, CFD No. 93-2, Revised, or any designee thereof);
- (vii) Preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes;
- (viii) The appeal of the Special Tax; and
- (ix) The City’s annual administration fees and third party expenses.

Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 93-2, Revised for any other administrative purposes of CFD No. 93-2, Revised, including attorney's fees and other costs related to commencing and pursuing any foreclosure of delinquent Special Taxes.

“Assessor” means the Assessor of the County.

“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” means the number assigned to an Assessor's Parcel by the County for purposes of identification.

“Bonds” means any bonds or other indebtedness (as defined in the Act) of CFD No. 93-2, Revised, whether in one or more series, secured by the levy of Special Taxes, beginning with Bonds issued to refund the Prior Bonds by the Original CFD 93-2.

“CFD No. 93-2, Revised” or “CFD” means Community Facilities District No. 93-2 (Perris Plaza), Revised of the City of Perris, Revised 2012.

“CFD Administrator” means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and, for levying and collecting the Special Taxes, and as required, calculating prepayment of Special Tax Obligation amounts.

“City” means the City of Perris, California.

“Conditions” means that CFD 93-2, Revised has been formed, the Notice of Special Tax Lien has been recorded, and the Prior Bonds have been defeased by the Bonds.

“Council” means the City Council of the City acting as the legislative body of CFD No. 93-2, Revised under the Act.

“County” means the County of Riverside, California.

“Debt Service” means for each Fiscal Year, the total amount of principal and interest payable on any Outstanding Bonds during the calendar year commencing on January 1 of such Fiscal Year.

“Delinquency Management Fund” means the fund (regardless of its name), if any, established pursuant to the Indenture, to hold certain funds, not including bond proceeds, for the payment of principal and interest on the Bonds to the extent there are insufficient funds to pay principal and interest on the Bonds prior to any draw on the reserve fund. The

Delinquency Management Fund Requirement (as defined in the Indenture) shall be an amount as defined in the Indenture.

“Developed Property” means for each Fiscal Year, all Taxable Property, for which a building permit for new construction or renovations was issued prior to April 1 of the previous Fiscal Year. All Taxable Property in Zone B shall be considered Developed Property.

“Exempt Property” means Assessor’s Parcels designated as being exempt from Special Taxes pursuant to Section 7.

“Fiscal Year” means the period starting on July 1 and ending the following June 30.

“Indenture” means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Maximum Special Tax” means the greatest amount of Special Tax, determined in accordance with Section 3 below, which may be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

“Original CFD 93-2” means Community Facilities District No. 93-2, Revised (Perris Plaza) of the City of Perris formed by adoption of Resolution No. 2320 on October 25, 1993, 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.

“Outstanding Bonds” mean all Bonds, which are deemed to be outstanding under the Indenture.

“Prior Bonds” means the outstanding Community Facilities District No 93-2; Revised (Perris Plaza) of the City of Perris, 1995 Series A, Special Tax Bonds dated March 10, 1995.

“Proportionately” or “Proportionate” means for Developed Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property. The term “Proportionately” may similarly be applied to other categories of Taxable Property as listed in Section 4 below.

“Special Tax” means any special tax levied within CFD No. 93-2, Revised pursuant to the Act and this Rate and Method of Apportionment.

“Special Tax Obligation” means the total obligation of an Assessor’s Parcel of Taxable Property to pay the Special Tax for the remaining life of CFD No. 93-2, Revised.

“Special Tax Requirement” means that amount required in any Fiscal Year to:

- (i) Pay regularly scheduled Debt Service on all Outstanding Bonds;
- (ii) Pay periodic costs on the Outstanding Bonds, including but not limited to, credit enhancement and rebate payments on the Outstanding Bonds;
- (iii) Pay Administrative Fees and Administrative Expenses;
- (iv) Pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds;
- (v) Pay for reasonably anticipated delinquent Special Taxes;
- (vi) Pay any amounts required to establish or replenish the Delinquency Management Fund; provided said amounts do not exceed any amount permitted under the Act.

“State” means the State of California.

“Successor Assessor Parcel(s)” means an Assessor Parcel created by subdivision, lot line adjustment, or parcel map originating from Assessor Parcel No. 305-240-023 or any of its Successor Assessor Parcel(s).

“Taxable Property” means all of the Assessor's Parcels within the boundaries of CFD No. 93-2, Revised, which are not exempt from the levy of the Special Tax pursuant to law or Section 7 below.

“Trustee” means the trustee or fiscal agent under the Indenture.

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property within the boundaries of CFD No. 93-2, Revised not classified as Developed Property.

“Zone A” means all other property within CFD No. 93-2, Revised not designated as Zone B.

“Zone B” means Assessor Parcel Number 305-240-023 or its Successor Assessor Parcel Number(s). All property in Zone B is classified as Developed Property.

2. LAND USE CLASSIFICATION

Each Fiscal Year, all Taxable Property within CFD No. 93-2, Revised shall be classified as Developed Property or Undeveloped Property, and all such Taxable Property shall be subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment determined pursuant to Sections 3 and 4 below.

3. MAXIMUM SPECIAL TAX RATES

A. Developed Property

The Maximum Special Tax applicable to an Assessor's Parcel classified as Developed Property shall be determined pursuant to Table 1 for Zone A and Zone B below.

Table 1

Zone	Maximum Special Tax
A	\$28,104 per Acre
B	\$16,570 per Acre

B. Undeveloped Property

The Maximum Special Tax applicable to an Assessor's Parcel classified as Undeveloped Property shall be determined pursuant to Table 2 for Zone A and Zone B below.

Table 2

Zone	Maximum Special Tax
A	\$8,860 per Acre
B	N/A

4. METHOD OF APPORTIONMENT

For each Fiscal Year the CFD Administrator shall determine the Special Tax Requirement and levy the Special Tax, until the amount of Special Taxes equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First: The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property in Zone B in an amount equal to 100% of the Maximum Special Tax;

Second: The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property in Zone A in an amount up to 100% of the Maximum Special Tax as necessary to satisfy the Special Tax Requirement;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Zone A Undeveloped Property up to 100% of the Maximum Special Tax.

5. COLLECTON OF SPECIAL TAXES

The collection of Special Taxes for CFD No. 93-2, Revised shall commence upon the Fiscal Year following the issuance of Bonds, however no sooner than Fiscal Year 2013/14 and only upon the Conditions being met. Collection of the Special Tax shall be by the County in the same manner as ordinary ad valorem property taxes are collected and the Special Tax shall be subject to the same penalties and the same lien priority in the case of delinquency as ad valorem taxes; provided, however, that the Council may provide for (i) other means of collecting the Special Tax, including direct billings thereof to the property owners; and (ii) judicial foreclosure of delinquent Special Taxes.

6. PREPAYMENT OF SPECIAL TAX OBLIGATION

Property owners may prepay and permanently satisfy the Special Tax Obligation by a cash settlement with the City as permitted under Government Code Section 53344.

The "Prepayment" shall be an amount equal to the sum of (1) Principal, (2) Premium, (3) Defeasance, and (4) Fees minus the Reserve Fund Credit, where the terms "Principal," "Premium," "Defeasance," "Fees," and "Reserve Fund Credit," have the following meanings:

"Principal" means the principal amount of Bonds to be redeemed from the proceeds of such Prepayment and equals the quotient derived by dividing (a) the applicable Maximum Special Tax for the applicable Assessor's Parcel by (b) the projected aggregate Maximum Special Taxes as determined by the CFD Administrator assuming in such calculation that the Assessor Parcel(s) which is prepaying the Special Tax Obligation are classified as Developed Property (and excluding from (b) any Special Taxes for Assessor's Parcels which have fully prepaid the Special Tax), and (c) multiplying the quotient by the principal amount of Bonds outstanding as of the first interest and/or principal payment date following the current Fiscal Year. This result is then rounded up to the nearest \$5,000 increment.

"Premium" means an amount equal to the Principal multiplied by the applicable redemption premium, if any, for the Bonds so redeemed with the proceeds of any such Prepayment.

"Defeasance" means an amount equal to the amount needed to pay interest on the Principal to be redeemed until the earliest redemption date as determined by the CFD Administrator for the outstanding Bonds less the amount that is estimated by the CFD Administrator to be received from the reinvestment of the difference of the Prepayment and the Fees. Credit shall also be given for any Special Tax heretofore paid and which will not be needed for purposes of funding the current Fiscal Year's Special Tax Requirement.

"Fees" equal the fees and expenses of CFD No. 93-2, Revised related to the Prepayment, including but not limited to City Administrative Expenses, publishing fees, and bond call fees.

“Reserve Fund Credit” shall equal the lesser of (i) the expected reduction in the applicable reserve fund requirement (as defined in the Indenture), if any, following the redemption of Bonds from proceeds of the prepayment or (ii) the amount derived by subtracting the new reserve fund requirement in effect after the redemption of Bonds from the balance in the reserve fund (as such term is defined in the Indenture) on the prepayment date, but in no event shall such amount be less than zero.

The sum of the amounts calculated in the preceding steps shall be paid to CFD No. 93-2, Revised and shall be used to pay and redeem Bonds in accordance with the Indenture and to pay the Fees. Upon receipt of such Prepayment by CFD No. 93-2, Revised, the obligation to pay the Special Tax for such Assessor's Parcel shall be deemed to be permanently satisfied, the Special Tax shall not be levied thereafter on such Assessor's Parcel, and the CFD Administrator shall cause notice of cancellation of the Special Tax for such Assessor's Parcel to be recorded within 30 working days of receipt of the Prepayment.

Notwithstanding the foregoing, no Prepayment shall be allowed unless the amount of Special Taxes that may be levied pursuant to this Rate and Method of Apportionment after the proposed Prepayment is at least the sum of (i) the estimated Administrative Expenses, based on the average annual Administrative Expenses to date, and (ii) one hundred ten percent (110%) of the maximum annual Debt Service for the Bonds, taking into account the Bonds to remain outstanding after such Prepayment.

7. EXEMPTIONS

The CFD Administrator shall classify as Exempt Property (i) Assessor's Parcels owned by the State of California, Federal or other local governments, (ii) Assessor's Parcels which are used as places of worship and are exempt from ad valorem property taxes because they are owned by a religious organization, or (iii) Assessor's Parcels with public utility easement by the restriction, as determined reasonably by the CFD Administrator.

The Special Tax Obligation for any property which would be classified as Exempt Property upon its transfer or dedication to a public agency but which is classified as Developed Property shall be prepaid in full by the seller pursuant to Section 6 prior to the transfer/dedication of such property to such public agency. Until the Special Tax Obligation for any such Exempt Property is prepaid, the property shall continue to be subject to the levy of the Special Tax.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in the first paragraph of Section 7 above that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be deemed to be Taxable Property.

8. APPEALS

Any property owner who pays the Special Tax and claims the amount of the Special Tax levied on his or her Assessor's Parcel is in error shall first consult with the CFD

Administrator regarding such error not later than twelve months after first having paid the first installment of the Special Tax that is disputed. If following such consultation, the CFD Administrator determines that an error has occurred, the CFD Administrator may amend the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action, if any by the CFD Administrator, the property owner believes such error still exists, such person may file a written notice with the City Manager or designee of the City appealing the amount of the Special Tax levied on such Assessor's Parcel. Upon the receipt of such notice, the City Manager or designee may establish such procedures as deemed necessary to undertake the review of any such appeal. The City Manager or designee thereof shall interpret this Rate and Method of Apportionment and make determinations relative to the administration of the Special Tax and any landowner appears are herein specified. The decision of the City Manager or designee shall be final and binding as to all persons.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to CFD No. 93-2, Revised.

9. TERM OF SPECIAL TAX

The Special Tax shall be levied annually until Fiscal Year 2026-2027.