

ORDINANCE NUMBER 1093

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 93-1 (MAY RANCH) 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. 93-1 (MAY RANCH) 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. 2874, as amended and which for reference purposes is attached hereto as Exhibit "1" 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 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 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 "1" hereto and otherwise shall be subject to the tax consistent with the provisions of Section 53317.3 of 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 Resolution No. 2874. The special taxes shall be levied only so long as needed to accomplish the purposes described in Resolution No. 2874.

Section 5. The special taxes shall be collected from time to time a necessary to meet the financial obligations of Community Facilities District No. 93-1 (May Ranch) of the City of Perris (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 is 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 are paid in full, the Facilities have been paid for, and provision has been made for payment of all of the administrative costs of 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 by means of direct billing by the District of the property owners within the District, if, in the judgment of the City Manager, 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 dues 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 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 the *Press Enterprise*, 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 8th day of January, 2002.

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, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Ordinance Number 1093, introduced at a regular meeting of the City Council of the City of Perris held on the 11th day of December, 2001, was duly and regularly adopted by the City Council, acting as the legislative body of Community Facilities District No. 93-1 (May Ranch) of the City of Perris, at a regular meeting thereof held on the 8th day of January, 2002, and that it was so adopted by the following called vote:

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

City Clerk, Margaret Rey

EXHIBIT "1"
(ORDINANCE NUMBER 1093)

COMMUNITY FACILITIES DISTRICT NO. 93-1
(MAY RANCH)
OF THE CITY OF PERRIS

**AMENDED RATE AND METHOD OF APPORTIONMENT OF
THE SPECIAL TAX**

A Special Tax will be levied by the City on behalf of the District for each Fiscal Year commencing with the 2002/03 Fiscal Year at a tax rate which provides an amount sufficient to pay Annual Costs for such Fiscal Year, provided that the Special Tax shall be levied for each Fiscal Year in an aggregate amount not to exceed the Maximum Annual Special Tax for the applicable land use designation.

On March 1 of each year the Special Tax to be levied for the next Fiscal Year shall be apportioned to Developed Single Family Parcels in accordance with the Rate and Method of Apportionment specified below.

I. Developed Single Family Parcels

The Special Tax levied for each Fiscal Year will be apportioned to each Developed Single Family Parcel as follows:

$$\begin{array}{l} \text{Square Footage of Developed} \\ \text{Single Family Parcel} \end{array} \quad \times \quad \$0.183^* \quad = \quad \text{Special Tax}$$

* In each Fiscal Year, commencing the year immediately following the Base Year, such amount shall increase by an additional 2% of such amount in the prior Fiscal Year.

II. Supplemental Apportionment

After calculating the Special Tax for Developed Single Family Parcels as specified above, if the Special Tax calculated is not sufficient to pay Annual Costs, the difference between the amount of Special Tax calculated and Annual Costs (the "Deficient Amount") shall be levied on each Developed Single Family Parcel as follows, provided that the Special Tax levied for each Fiscal Year shall not exceed the Maximum Annual Special Tax for such Parcel.

$$\frac{\text{Taxable Square Footage of Parcel}}{\text{Total Taxable Square Footage of All Parcels}} \quad \times \quad \text{Deficient Amount}$$

III. Prepayments of Special Taxes

The Special Taxes for a Developed Single Family Parcel may be prepaid and the obligation of the Parcel satisfied, provided that there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment, if prepayment is made not less than 45 days prior to an interest payment date on the Bonds, and the following is applied:

- A. Compute the Maximum Annual Special Tax for such Parcel.
- B. The prepayment amount is computed by dividing the Maximum Special Tax for the Parcel by the total actual annual debt service on the Outstanding Bonds, and multiplying the result by the principal amount of any Outstanding Bonds. Round the result up to the nearest five thousand dollars; provided however, that if the City is provided with prepayments of the Special Tax on more than one Parcel at the same time, and such prepayment occurs at the time of the initial sale of such Parcels, then the total prepayment shall be aggregated and the aggregate prepayment amount shall be rounded up to the nearest five thousand dollars.
- C. Multiply the prepayment amount by the applicable redemption premium, if any, on the Bonds, plus an amount determined by the Finance Director to be the difference between the amount needed to pay Debt Service on the Bonds and the amount derived from the reinvestment of the prepaid Special Taxes pending the redemption of such Bonds. Add that amount to the prepayment amount determined in Subsection B above.
- D. The Administrative Fees of the City are as determined by the Finance Director and include the costs of computation of the prepayment, the costs of redeeming Bonds and the costs of recording any notices to evidence the prepayment and the redemption. Add these costs to the amount determined in Subsections B and C above.
- E. The Reserve Fund credit, if any, is computed by comparing the prepayment amount determined in Subsection B above to the outstanding principal amount of the Bonds. Apply that percentage to the amount in the Reserve Fund, if any. Deduct the result from the total of the amounts determined in Subsections B, C and D above.
- F. The result determined in Subsection E above is the amount needed to prepay a Special Tax obligation. The amount shall be placed in the Bond Fund and used to retire Bonds; provided that the Administrative Fees of the City as determined in Subsection D above shall be retained by the City. Within a reasonable time after prepayment, a Notice of Cessation of Special Tax shall be recorded by the City with respect to the Parcel for which prepayment has been received, and the obligation of that Parcel to pay the Special Taxes shall cease.

IV. Land Use

If the designated land use (single family, multifamily or commercial) of a Parcel is changed after the date of adoption of the Resolution of Formation, the District shall levy a Special Tax in an amount equal to the amount needed to prepay the Special Tax obligation for such Parcel. Such amount shall be collected through a supplemental billing and will be due in its entirety, notwithstanding any applicable Maximum Annual Special Tax for such Parcel.

V. Definitions

“Administration Agreement” means the agreement by that name approved by the Resolution of Issuance.

“Administrative Fees or Expenses” means any or all of the following: (i) the fees and expenses of the Fiscal Agent, including any fees or expenses of its counsel; (ii) the expenses of the City in carrying out its duties with respect to the District (including, but not limited to, the levy and collection of the Special Taxes) including the fees and expenses of its counsel, any fees of the County of Riverside, an allocable share of the salaries of the City staff directly related to such duties and a proportionate amount of the City’s general administrative overhead allocable to such duties; (iii) any amounts paid by the City from its general funds; and (iv) all other costs and expenses of the City or the Fiscal Agent incurred in connection with the discharge of their respective duties with respect to the District, and in the case of the City, in any way related to administration of the District.

“Annual Costs” means the sum of (i) annual Debt Service on the Bonds; (ii) annual Administrative Fees or Expenses; (iii) the amount, if any, necessary to replenish the Reserve Fund; and (iv) any other payment required under the Administration Agreement and any amendment thereto.

“Base Year” is the 2002/03 Fiscal Year.

“The Bonds” means the Community Facilities District No. 93-1 (May Ranch) of the City of Perris Special Tax Bonds, 1993 Series A, and any refunding of such Bonds.

“The City” means the City of Perris, California.

“Debt Service” means the total annual principal, interest and redemption payment on the Bonds, less (i) investment earnings on the Reserve Fund, if any, available for the purpose of paying debt service and not required to be set aside for the purpose of rebate pursuant to the Internal Revenue Code of 1986, or any successor code or statute, (ii) any capitalized interest, and (iii) any surplus amounts remaining in the accounts held by the Fiscal Agent unused from the prior Fiscal Year, including Improvement Fund investment earnings.

“Developed Parcel” means a Parcel which is located in a recorded tract map where such tract map has been subdivided into parcels for intended land use as of March 1 of the Fiscal Year immediately preceding the Fiscal Year for which the Special Tax is being levied.

“District” means the Community Facilities District No. 93-1 (May Ranch) of the City of Perris, County of Riverside, State of California.

“Fiscal Agent” means the fiscal agent for the Bonds appointed under the Administration Agreement.

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

“Improvement Fund” means the fund by that name established by the Administration Agreement.

“Improvement Fund Investment Earnings” means the interest received from the investment of moneys deposited in the Improvement Fund and transferred to the debt service fund established by the Administration Agreement after capitalized interest is no longer available for the payment of Debt Service pursuant to the Administration Agreement.

“Maximum Annual Special Tax” means an aggregate amount not to exceed the greater of (i) \$0.2013 per square foot or (ii) in each Fiscal Year, commencing the year immediately following the Base Year, 102% of the Maximum Annual Special Tax in the prior Fiscal Year.

“Parcel” means any Assessor’s Parcel or portion thereof that is (i) wholly within the District as of March 1 of the Fiscal Year immediately preceding the Fiscal Year for which the Special Tax is being levied and (ii) is not publicly owned.

“Publicly Owned” means property owned by the State of California, federal or local government or public agencies, except as provided in Section 53317.3 and 53317.5 of the California Government Code.

“Reserve Fund” means the fund by that name, if any, established by the Administration Agreement.

“Resolution of Formation” is the resolution adopted by the City as authorized by Section 53325.1 of the California Government Code.

“Resolution of Issuance” means any resolution adopted by the City authorizing the issuance of the Bonds.

“Single Family Parcel” means a Parcel designated for detached single family use by the City.

“Special Tax” means any tax (i) authorized by Section 53340 of the California Government Code and the Resolution of Formation or any Resolution of Consideration adopted by the City; (ii) adopted by Ordinance or Resolution of the City; (iii) and levied within the District. The Special Tax shall not be levied on any Developed Parcel for a period greater than 31 years from the Fiscal Year the Special Tax was first levied on such Parcel.

“Square Footage of Developed Parcel” means the Total Square Footage of the Recorded Tract Map for the purposes of the District in which such Parcel is located divided by the total number of Parcels contained within such Tract Map.

“Total Square Footage of the District” means the aggregate square footage of all of the Parcels.

“Total Square Footage of the Recorded Tract Map” means, for the purposes of the District,

1. For maps recorded as of the date of the adoption of the Resolution of Formation of the District (the “Original Map”), the number of square feet as shown on such Original Map, excluding from such area any portion which, in itself, would not constitute a Parcel (because of its use as public right-of-way, etc.) and excluding any Commercial Parcel or Multifamily Parcel;
2. For recorded maps created by subdivision of Original Maps (the “Successor Map”) the square footage determined as follows:

$$\frac{\text{Square Footage of Recorded Successor Map Total Square Footage of Successor Maps}}{\text{Total Square Footage of Successor Maps}} \times \text{Square Footage of Original Map} = \text{Square Footage of Recorded Tract Map for Purposes of the District}$$

For the purposes of the District, each recorded map shall be subdivided into maps for Developed Single Family Parcels, Developed Multifamily Parcels and Developed Commercial Parcels.