

RESOLUTION NUMBER 4490

RESOLUTION OF CONSIDERATION OF THE CITY COUNCIL OF THE CITY OF PERRIS TO AMEND THE BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS, TO LEVY A NEW SPECIAL TAX WITHIN SAID DISTRICT IN ORDER TO REFINANCE THE COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS, 1995 SERIES A SPECIAL TAX BONDS

WHEREAS, the City Council (the “Council”) of the City of Perris (the “City”) has previously formed Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris (“93-2 District” or “District”) 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 (the “Act”); and

WHEREAS, pursuant to an election held on November 1, 1993, and a Notice of Special Tax Lien recorded as Document No. 142933, in the Recorder’s Office of the County of Riverside, the City levies a special tax annually in CFD 93-2, to pay for principal and interest and other permitted costs in connection with the outstanding Community Facilities District No 93-2 (Perris Plaza) of the City of Perris, 1995 Series A, Special Tax Bonds (“93-2 Bonds”); and

WHEREAS, the proceeds of the 93-2 Bonds were used to finance facilities and incidental expenses permitted by the Act all as described on Exhibit A hereto; and

WHEREAS, the 92-3 Bonds were purchased by the Perris Public Financing Authority (the “Authority”) by the issuance of its Perris Public Financing Authority Local Agency Revenue Bonds 1995 Series D (the “Authority Bonds”)

WHEREAS, Coudures Limited Partnership (“Coudures”), the largest landowner in the 93-2 District approached the City about refinancing the 93-2 District in connection with the acquisition of certain property owned by the Coudures within 93-2 District by various other parties, which parties desired that the property acquired by them be removed from the 93-2 District and the levy of special taxes therein; and

WHEREAS, the rate and method of apportionment of special taxes within the 93-2 District, as adopted pursuant to Resolution No. 2326 on November 1, 1993, following a special tax election, does not provide for a prepayment formula with respect to undeveloped property and therefore the property owners could not prepay the special taxes upon acquisition of the property; and

WHEREAS, the Coudures have agreed to pay any additional special taxes generated from the refinancing (by excluding the acquired property) without increasing the taxes

required to be paid by other property owners in 93-2 District in order to relieve the purchasers of the special tax obligation; and

WHEREAS, there has been deposited in escrow an amount necessary and agreed upon by the Coudures to pay off the taxes on the purchasers parcels when they are removed from the District; and

WHEREAS, in connection with any refinancing, a new boundary map will need to be recorded to reflect the properties that have been removed by the District and a new special tax formula will need to be derived; and

WHEREAS, in order to effectuate the foregoing, the Coudures have requested that the City provide for changes to the boundaries of the 93-2 District and the special taxes within the District and issue bonded indebtedness secured by a special tax in order to prepay the Authority Bonds and thereby prepay or cancel the 93-2 Bonds and issue refunding bonds pursuant to Sections 53312.7(g), 53332 and 53345 et seq. of the Act; and

WHEREAS, the Council of the City of Perris (the “City”), as legislative body of the 93-2 District has received a petition (the “Petition”) from the Coudures, requesting the institution of proceedings for changes to the boundaries of the 93-2 District and changes to the rate and method of apportionment of the Special Taxes, which revised district and special tax shall be levied solely to pay principal and interest on bonds issued to refund the 93-2 Bonds (“Refunding Bonds”) and administrative expenses pursuant to Section 53332 of the Act ; and

WHEREAS, the Council has determined that the Petition complies with the requirements of Government Code Section 53332 and now intends to proceed with changes to the boundaries and special taxes within the 93-2 District; and

WHEREAS, the Council, as legislative body of the 93-2 District, hereby determines that public convenience and necessity require changes to the boundaries and special taxes within the 93-2 District in order to refinance the 93-2 Bonds and the Authority Bonds;

WHEREAS, the Council desires to adopt this resolution of consideration to change the boundaries and the special taxes as provided in Sections 53321 *et seq.* of the Act to establish revised boundaries of the 93-2 District consisting of the territory described in Exhibit “A” hereto and incorporated herein by this reference, which the Council hereby determines shall continue to be known as “Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised” (the “Revised District”), which 93-2 District financed and Revised District shall finance and/or refinance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property described in Exhibit “B” hereto (collectively, the “Facilities”), which Facilities have a useful life of five years or longer; and (2) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the 93-2 District, including the revisions to the District (the “Incidental Expenses”); and

WHEREAS, the Council determines that implementation of changes pursuant to the Revised District and the levying of the new special tax therein to support the Refunding Bonds shall be conditional upon issuance of said Refunding Bonds and shall not affect the

current 93-2 District or the levy of special taxes therein until said Refunding Bonds are determined to be issued and the current 93-2 District dissolved or such other conditions as provided in the resolution of change approving the changes to the district following the public hearing described herein (“Conditions”); and

WHEREAS, the reduction or termination of special taxes created by the Revised District shall be ineffective until the refunding and therefore would not interfere with the timely retirement of the 93-2 Bonds; and

WHEREAS, it is the intention of the Council to consider refinancing the Facilities and the Incidental Expenses through the changes to the 93-2 District and the sale of bonded indebtedness in an amount not to exceed \$5,000,000 within the proposed District and the levy of a special tax within the District to refinance the Facilities and the Incidental Expenses and to pay debt service on the Refunding Bonds, provided that the bond sales and special tax levies are approved at an election to be held within the Revised District;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The above recitals are true and correct.

Section 2. The Council hereby determines to consider proceedings for the changes to the community facilities district under the terms of the Act. The exterior boundaries of the Revised District are hereby specified and described to be as shown on that certain map now on file in the office of the City Clerk entitled “Proposed Boundaries of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised” which map indicates by a boundary line the extent of the territory included in the proposed Revised District and shall govern for all details as to the extent of the Revised District. On the original and one copy of the map of such Revised District on file in the Clerk’s office, the Clerk shall endorse the certificate evidencing the date and adoption of this resolution. The Clerk shall file the original of such map in her office and, within fifteen (15) days after the adoption of this Resolution, the Clerk shall file a copy of such map so endorsed in the records of the County Recorder, County of Riverside, State of California. The Revised District shall be utilized solely with respect to the refunding of the 93-2 Bonds and shall not be utilized prior to such date pursuant to the Conditions.

Section 3. The name of the Revised District shall be designated as “Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised.”

Section 4. Pursuant to Section 53313.5(g) of the Act, a community facilities district may pay in full all amounts necessary to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge or assessment levied within the area of the community facilities district or may pay debt service on that indebtedness.

Section 5. The Facilities proposed to be refinanced by the Revised District are public infrastructure facilities and other governmental facilities with an estimated useful life of five years or longer, which the City, or other public agency is authorized by law to construct, acquire, own, operate or contribute revenue to. The Council has previously pursuant to Resolution No. 2309 on September 20, 1993, made numerous findings with respect to the

Facilities and Incidental Expenses, and special taxes including that the proposed Facilities are necessary to meet increased demands placed upon the City, or other public agency as a result of development occurring within the 93-2 District and that the Facilities need not be physically located within the District.

Section 5. Except where funds are otherwise available, it is the intention of the Council to levy annually in accordance with procedures contained in the Act a special tax within the Revised District (the “Special Tax”) sufficient to pay for the costs of refinancing the acquisition and/or construction of the Facilities and Incidental Expenses by refunding the 93-2 Bonds, including the principal and interest and other periodic costs of said refunding bonds or other indebtedness proposed to be issued to refinance the Facilities, and Incidental Expenses, the establishment and replenishment of reserve funds, the credit enhancement fees, if any, the costs of administering the levy and collection of the Special Tax and all other costs of the levy of the Special Tax and issuance of the bonds, including any foreclosure proceedings, legal, fiscal, and financial consultant fees, discount fees, interest on bonds, election costs and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, disclosure counsel, financing consultants and printing costs, and all other administrative costs of the tax levy and bond issue. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the Revised District and will be annually levied with the Revised District, subject to the Conditions. In the first year in which such a Special Tax is levied, the levy shall include a sum sufficient to repay to the City all amounts, if any, transferred to the Revised District pursuant to Section 53314 of the Act and interest thereon. The schedule of the rate and method of apportionment and manner of collection of the Special Tax within the Revised District is described in detail in Exhibit “C” attached hereto and by this reference incorporated herein. The Special Tax is based upon the cost of refinancing the Facilities and Incidental Expenses, and such other reasonable basis permitted pursuant to the Act and prior approvals.

The Special Tax within the Revised District is apportioned to each parcel on the foregoing basis pursuant to the Act. In the event that a portion of the property within the Revised District shall become for any reason exempt, wholly or partially, from the levy of the Special Tax, the Council shall, on behalf of the Revised District, increase the levy to the extent necessary upon the remaining property within the District which is not delinquent or exempt in order to yield the required payments, subject to the maximum tax. If special taxes of the Revised District are levied against any parcel used for private residential purposes, (i) the maximum special tax rate shall not be increased over time except that it may be increased by an amount not to exceed two percent (2%) per year to the extent permitted in the rate and method of apportionment; (ii) such tax shall be levied for a period not to exceed fourteen (14) years commencing with the fiscal year following the refunding or cancellation of the 93-2 Bonds, no earlier than Fiscal Year 2013/14, as further described in Exhibit “C” hereto; and (iii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcels within the District by more than ten percent (10%) as required by the Act. The Special Tax to be levied within the Revised District shall not commence until the Conditions are met.

Section 6. The Council hereby determines the rate and method of apportionment of the Special Tax set forth in Exhibit “C” for the Revised District to be reasonable.

Section 7. A public hearing (the “Hearing”) on the revisions to the boundaries of the Revised District, the proposed Special Tax and rate and method of apportionment of the Special Tax and the proposed issuance of refunding bonds to refinance the Facilities and the Incidental Expenses shall be held on June 12, 2012, at 6:00 p.m., or as soon thereafter as practicable, at the chambers of the City Council of the City of Perris, 101 North “D” Street, Perris, California 92570. Should the Council determine to revise the boundaries to the Revised District and the changes requested herein, a special election will be held within the Revised District to authorize the issuance of bonds and the levy of the Special Tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election will be a landowner vote with each landowner who is the owner of record of land within the Revised District at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the Revised District. Ballots for the special election may be distributed by mailed ballot election, or by personal service.

Section 8. At the time and place set forth above for the Hearing, any interested person or taxpayers for or against the proposed changes to the boundaries and the levying of new special taxes or of changing existing special taxes, including all persons owning lands or registered to vote within the proposed Revised District, may appear and be heard.

Section 9. The City may accept advances of funds or work-in-kind from any sources, including private persons or private entities, and is authorized and directed to use such funds for any authorized purpose, including any cost incurred in changing the Revised District. The Revised District may enter into an agreement to repay all of such funds as are not expended or committed for any authorized purpose at the time of the election on the levy of the Special Tax, if the proposal to levy such tax should fail, and to repay all of such funds advanced if the levy of the Special Tax shall be approved by the qualified electors of the Revised District.

Section 10. The Clerk is hereby directed to publish a notice (“Notice”) of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Revised District. Such Notice shall contain the text or a summary of this Resolution, state the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the Revised District as provided in the Act and a description of the proposed voting procedure for the election required by the Act. Such publication, unless waived, shall be completed at least seven (7) days prior to the date of the Hearing.

Section 11. The Clerk may send a copy of the Notice of the Hearing by first-class mail, postage prepaid, to each registered voter and to each landowner within the proposed District as shown on the last equalized assessment roll. Said mailing shall be completed not less than fifteen (15) days prior to the date of the Hearing.

Section 12. Pursuant to Section 53344.1 of the Act, the Council hereby reserves to itself, in its sole discretion, the right and authority by subsequent resolution to allow any owner of property within the District, subject to the provisions of Section 53344.1 of the Act and those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the District treasurer in

full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

Section 13. The voting procedure with respect to the establishment of the Revised District and the imposition of the Special Tax shall be by mail or hand delivered/personal service ballot election.

ADOPTED, SIGNED and APPROVED this 8th day of May, 2012.

Daryl R. Busch, Mayor

Attest:

Judy L. Haughney, C.M.C., City Clerk

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

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 4490 was duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 8th day of May, 2012, and that it was so adopted by the following vote:

AYES: LANDERS, EVANS, ROGERS, YARBROUGH, BUSCH

NOES:

ABSENT:

ABSTAIN:

Judy L. Haughney, C.M.C., City Clerk

EXHIBIT A

**COMMUNITY FACILITIES DISTRICT NO. 93-2
(PERRIS PLAZA) OF THE CITY OF PERRIS, 2012**

BOUNDARY MAP

[See Attached]

EXHIBIT "B"

TYPES OF FACILITIES TO BE REFINANCED BY COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS

The General Description of the Facilities financed by the 93-2 District pursuant to Resolution No. 2320 adopted on October 25, 1993 is as follows:

- (a) Street improvements including grading, paving, curbs and gutters, sidewalks, street lights and parkway and landscaping related thereto.
- (b) Storm drains, drainage storage ponds and drainage channels including landscaping, if applicable.
- (c) Sewers, sewer treatment facilities and sewer capacity acquisition.
- (d) Freeway and state highway offramps and transition roads.
- (e) Public park and recreation facilities.
- (f) Civic Center improvements.
- (g) Water distribution facilities, including fire hydrants and reclaimed water and water storage facilities.
- (h) street signalization and signage.
- (i) School facilities including school impact fees
- (j) Fire facilities including structures and capital equipment.
- (k) Public utilities including electrical, gas and cable television.
- (l) Acquisition of land, rights-of-way and easements necessary for any of the facilities specified in paragraphs (a) through (k) above.
- (m) The incidental expenses which will be incurred are: (i) the cost of engineering, planning and designing such facilities and the cost of environmental evaluations thereof, (ii) all costs associated with the creation of the proposed community facilities district, issuance of the bonds thereof, the determination of the amount of and collection of taxes, the payment of taxes, and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district, and (iii) any other expenses incidental to the construction, acquisition, completion, and inspection of such facilities.

The General Description of the Facilities financed by the 93-2 District pursuant to Resolution No. 2320 adopted on October 25, 1993 is as follows:

- (n) Street improvements including grading, paving, curbs and gutters, sidewalks, street lights and parkway and landscaping related thereto.

- (o) Storm drains, drainage storage ponds and drainage channels including landscaping, if applicable.
- (p) Sewers, sewer treatment facilities and sewer capacity acquisition.
- (q) Freeway and state highway offramps and transition roads.
- (r) Public park and recreation facilities.
- (s) Civic Center improvements.
- (t) Water distribution facilities, including fire hydrants and reclaimed water and water storage facilities.
- (u) street signalization and signage.
- (v) School facilities including school impact fees
- (w) Fire facilities including structures and capital equipment.
- (x) Public utilities including electrical, gas and cable television.
- (y) Acquisition of land, rights-of-way and easements necessary for any of the facilities specified in paragraphs (a) through (k) above.
- (z) The incidental expenses which will be incurred are: (i) the cost of engineering, planning and designing such facilities and the cost of environmental evaluations thereof, (ii) all costs associated with the creation of the proposed community facilities district, issuance of the bonds thereof, the determination of the amount of and collection of taxes, the payment of taxes, and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district, and (iii) any other expenses incidental to the construction, acquisition, completion, and inspection of such facilities.
- (aa) Incidental expenses associated with revisions to the District, including refunding bonds associated with the revisions.

Article II. EXHIBIT C

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

[See Attached]