

RESOLUTION NO. 4157

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ESTABLISHING AN AREA OF BENEFIT TO BE KNOWN AS THE "NORTH PERRIS ROAD AND BRIDGE BENEFIT DISTRICT," LEVYING A FEE ON PROPERTY WITHIN SAID DISTRICT TO DEFRAY THE COST OF THE CONSTRUCTION OF BRIDGES AND MAJOR THOROUGHFARES; AND TAKING CERTAIN OTHER ACTIONS RELATING TO SAID DISTRICT

WHEREAS, the northern area of the City of Perris (the "City") is experiencing significant industrial growth which is anticipated to continue and which is expected to alter the regional and localized traffic patterns and increase the concentration of truck traffic within that area; and

WHEREAS, the design and construction of additional thoroughfares, bridges and related facilities is necessary to meet the projected transportation and traffic needs resulting from the anticipated development in the northern area; and

WHEREAS, California Government Code Section 66484 provides that a local ordinance may require the payment of a fee for the purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways and canyons, or constructing major thoroughfares; and

WHEREAS, on May 13, 2008, the City Council adopted Ordinance No. 1243 (the "Ordinance"), amending Municipal Code Section 13.32.030 to provide for the designation of areas of benefit to fund such improvements; and

WHEREAS, the City Council (the "Council") of the City of Perris, California (the "City"), pursuant to Municipal Code Section 13.32.030 and Government Code Section 66484, heretofore adopted its Resolution No. 4147 on September 30, 2008 (the "Resolution of Intention") stating its intention to form an area of benefit to be known as the "North Perris Road and Bridge Benefit District" (the "District") and to levy a fee within said District to defray the cost of construction of bridges and major thoroughfares more particularly described in the hereinafter defined Report (the "Facilities"); and

WHEREAS, a copy of the Resolution of Intention designating the area of benefit, the Facilities and the estimated fees and calling a public hearing is on file with the City Clerk of the City and by this reference incorporated herein; and

WHEREAS, an Analysis Report – North Perris Road and Bridge Benefit District, dated June 12, 2008, attached hereto as Exhibit "A" and by this reference incorporated herein (the "Report"), has been prepared by Albert A. Webb Associates describing the area of benefit, the purpose and need for the District, the Facilities, the estimated fees to be levied, the apportionment of fees among property owners related to the cost of the facilities, the relationship between the fees and the need for public facilities and the relationship to the City's Development

Impact Fees related to transportation ("DIF") and Transportation Uniform Mitigation Fees ("TUMF"); and

WHEREAS, as described in the Report, the proposed fee will fund certain facilities described in the City's DIF and TUMF programs and the amount of the proposed fee is estimated to be a compilation of said fees; and

WHEREAS, the City will only retain revenues constituting a portion of the collected fees that relate to the Facilities and will return an approximate 31.04% to the DIF funds and 51.33% to the Western Riverside Council of Governments for the TUMF, as more particularly described in the Report, which figures may adjust based on revisions to the estimated costs of the facilities to be included in the District; and

WHEREAS, as detailed in the Report, the Facilities are regionally significant facilities necessary to provide acceptable levels of service due to increased volume of traffic in the area in conjunction with development of the area as contemplated by the City;

WHEREAS, the Report, incorporating the fee nexus studies related to TUMF and DIF, describes that the allocation of fees among property owners will allow each property owner to pay its fair share cost of the Facilities.

WHEREAS, the Facilities are included in the Circulation Element of the Comprehensive General Plan of the City of Perris adopted on June 14, 2005 and any updates thereto; and

WHEREAS, the Resolution of Intention set October 28, 2008 as the date of the public hearing on the designation of the District and the levy of the fee within the District for the facilities; and

WHEREAS, notice of the public hearing was published in *The Perris Progress* on October 15, 2008, which notice described the proposed boundaries, the Facilities and estimated cost of each, the proposed method of allocating the fee among property owners and the procedure to be used to protest the foregoing; and

WHEREAS, the City Clerk has heretofore received ___ written protests related to the formation of the District, proposed Facilities and the proposed Fee; and

WHEREAS, said hearing was held on October 28, 2008; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the District were heard and a full and fair hearing was held; and

WHEREAS, at said hearing evidence was presented to the Council on said matters before it, and this Council at the conclusion of said hearing is fully advised in the premises;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Perris, California, as follows:

Section 1. That the above recitals are all true and correct.

Section 2. The Council finds and determines that all of the prior proceedings were in conformity with the requirements of the Municipal Code and the Section 66484 of the Government Code, including but not limited to adoption of the Resolution of Intention, publication of the notice of hearing, conducting of the public hearing on the proposed District, consideration of any written or oral protests by interested persons and the regularity and sufficiency of the proceedings.

Section 3. The Report attached hereto as Exhibit "A", as now submitted is hereby approved and incorporated herein by reference, and is made a part of the record of the hearing, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection. The Council hereby finds, based on the Report and the information submitted herewith, that the Report describes the fee allocated to property owners based on their fair share cost of Facilities and shows a reasonable nexus between the fee, the property subject to the fee and the need for and cost of Facilities.

Section 4. The Council hereby finds that written protests have not been filed with the City Clerk from persons or entities owning more than fifty (50) percent of the land area to be included within the proposed area of benefit prior to and by the conclusion of the public hearing against the formation of the District, against the proposed fee or against the proposed Facilities or any portion of the Facilities.

Section 5. An area of benefit to be designated as "THE NORTH PERRIS ROAD AND BRIDGE BENEFIT DISTRICT" ("the District") is hereby established. The legal description of the District is described on Exhibit "B" hereto and by this reference incorporated herein and a map of the boundaries of the District is attached hereto as Exhibit "C" and by this reference incorporated herein.

Section 6. The type and cost of the Facilities to be constructed with the hereinafter described fee shall be those described on Exhibit "D" hereto and as more fully described in the Report. The Council hereby finds that the Facilities constitute major bridges and thoroughfares as described in the Municipal Code Section 13.32.030 and Government Code Section 66484. The Facilities are necessary to meet increased demands placed upon the City or other public agencies as result of development occurring within the District as contemplated.

Section 7. Effective October 29, 2008, a fee shall be levied within the District, which fee shall be designated as "The North Perris Road and Bridge Benefit District Fee" (the "NPRBBD Fee"). The NPRBBD Fee shall be levied on heretofore conditioned and new residential, commercial and industrial development within the District. The NRBBD Fee shall be the fees by land use class listed on Exhibit "E" hereto as and by this reference incorporated herein and as more particularly described in the Report. Notwithstanding the schedule in Exhibit "E" hereto, the NRBBD Fee shall be increased in the same amount and be

effective as of the same time as increases to the TUMF and DIF, as applicable, without any further action of the Council. The RBBB Fee shall be subject to the following conditions:

(a) Applicability. The NPRBBB Fee shall be applicable to all property in the District for which TUMF and DIF fees have not been paid by the effective date of this Resolution and shall be payable as a condition of approval of a building permit for the property or any portion of the property or as otherwise previously conditioned prior to the date hereof. The NPRBBB Fee shall be paid to the Finance Director prior to the issuance of building permit. The NPRBBB Fee paid shall be based on the fee schedule in effect at the date of payment; provided, however, that so long as any portion of the TUMF or the DIF applicable to a particular property or applicant is payable at a later date or at certificate of occupancy, the applicant or property owner shall pay the increased portion of said DIF or TUMF regardless of any credit received pursuant to Subsection (e) hereof to the Finance Director at such later date in addition to the earlier payment. The Finance Director shall transfer such increased amount to the NPRBBB Fee Fund (as hereinafter defined) and apply it as permitted herein.

(b) North Perris RBBB Fund. The Finance Director shall deposit all of the proceeds of the NPRBBB Fees in a separate fund designated as "The North Perris Road and Bridge Benefit District Fee Fund" ("NPRBBB Fund") which the Finance Director shall hold in trust. Moneys in the NPRBBB Fund shall be expended solely for the construction or reimbursement for construction of the Facilities in the District, including reasonable administrative costs in connection with the NPRBBB Fund, or to pay to the City or WRCOG its proportional share of the TUMF or DIF as described more particularly in the Report.

(c) Reimbursements/ Security. All fees collected shall not be returned except as reimbursement for the cost of construction of designated Facilities (in excess of the NPRBBB Fee) pursuant to an agreement with the City at the discretion of the City. Any reimbursements shall be prioritized chronologically by the date on which actual costs were incurred for construction with the first completed being the highest priority. Reimbursements for the Facilities shall not exceed the lesser of (a) the actual costs of construction of the particular facility, as determined by the City Engineer and (b) the estimated costs of the facility as listed in the Report. The City may incur interest bearing indebtedness as provided in Government Code Section 66484 and the Municipal Code for the construction of a designated bridge or a major thoroughfare.

(d) Dedications/ Exactions. Nothing herein is intended to relieve a property owner, subdivider or applicant for a building permit from the other requirements imposed under the Government Code, the City's Municipal Code or City Ordinances, including but not limited to the City's DIF and TUMF.

(e) TUMF and DIF Credits. Upon payment of the NPRBBB Fee, an applicant who pays the fee required herein shall receive credit for payment of a portion of its obligation related to the TUMF and DIF on a dollar for dollar basis or such other reasonable basis determined by the City Engineer.

(f) Administrative Appeal Procedures. All determinations as to whether a development project, property owner or applicant is subject to or has met the requirements of this Resolution shall be made in writing by the Community Development Director upon request, and shall be appealable to the City Manager, whose decision shall be final. A written request for a determination must be submitted in writing to the Community Development Director along with all relevant information supporting the request. The Community Development Director shall make a determination within 14 days after receiving a written request, although such time may be extended if the Community Development Director requires the submittal of additional information necessary to make a determination.

Section 8. The City Council finds that the public hearing, the protest proceedings, the NPRBBD Fee, the Facilities, the Ordinance, the Resolution of Intention, this Resolution and the Report conform to and comply with the requirements of Municipal Code Section 13.32.030 and Government Code Section 66484.

Section 9. Adoption of this Resolution is not subject to the California Environmental Quality Act (CEQA) by virtue of Public Resources Code § 21080(b)(9) and CEQA Guideline 15378(b)(4), as the creation of a government funding mechanism which does not involve any commitment to any specific project is not a “project.” The individual projects to be funded by the fees and the individual development projects subject to the fees shall be subject to the appropriate environmental review under CEQA.

Section 10. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have adopted this Resolution, and each section, subsection, subdivision, sentence, clause, phrase, or portions thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

Section 11. The City Clerk shall cause this Resolution or a summary thereof to be recorded with the County Recorder's office of the County of Riverside.

Section 12. The City Clerk shall certify as to the passage and adoption of this Resolution and shall cause the same to be effective as required by law.

ADOPTED, SIGNED and **APPROVED** this 28th day of October, 2008.

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 Resolution Number 4157 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held on the 28th day of October, 2008, by the following called vote:

AYES: COUNCILMEMBERS: Landers, Motte, Rogers, Yarbrough, Busch
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None

City Clerk, Judy L. Haughney

EXHIBIT A

REPORT

[See Attached]

EXHIBIT B – LEGAL DESCRIPTION

**NORTH PERRIS ROAD & BRIDGE BENEFIT DISTRICT
LEGAL DESCRIPTION**

All of that certain real property in the City of Perris, County of Riverside, State of California described as follows:

COMMENCING at the northwest corner of Section 36, Township 3 South, Range 4 West, San Bernardino Meridian;

Thence southerly along the westerly line of said Section 36 to the **TRUE POINT OF BEGINNING**, said point being on a line parallel with and distant northerly 108.00 feet, measured at right angle, from the southerly line of the north half of the northwest quarter of said Section 36, said point also being the northwesterly corner of that certain parcel of land granted to The Randy and Norma Zimmer Trust, U/D/T 5/21/02 by Individual Grant Deed recorded November 25, 2002 as Document No. 2002-698124, Official Records of Riverside County, California;

Thence easterly along said parallel line and along the northerly line of said parcel of land to the northeasterly corner thereof;

Thence southeasterly along the easterly line of said parcel of land to said southerly line of the north half of the northwest quarter of Section 36, said line also being the northerly line of Parcel Map No. 8698 as shown by map on file in Book 37 of Parcel Maps at Page 90 thereof, Records of Riverside County, California;

Thence easterly along said southerly line and along said northerly line to the northeasterly corner of said Parcel Map No. 8698;

Thence southeasterly along the northeasterly line of said parcel map to the easterly line of said northwest quarter of Section 36;

Thence southerly along said easterly line to the northwest corner of the southeast quarter of said Section 36;

Thence easterly along the northerly line of said southeast quarter to a point on the northerly prolongation of the easterly line of that certain parcel of land granted to Philip H. Arnoff and Debra E. Arnoff by Grant Deed recorded December 31, 2003 as Document No. 2003-1019151, Official Records of Riverside County, California;

Thence southerly and easterly along the boundary line of said parcel of land to a point on the northwesterly prolongation of the easterly line of Parcel 2 of Record of Survey on file in Book 54 at Page 21 of Records of Survey, Records of Riverside County, California;

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Thence southeasterly along said prolongation and along the easterly lines of Parcels 2 and 4 of said Record of Survey and along the southeasterly prolongation thereof to the easterly line of the southwest quarter of the southeast quarter of said Section 36;

Thence southerly along said easterly line to the southerly line of said Section 36;

Thence easterly along said southerly line and along the southerly line of Section 31, Township 3 South, Range 3 West, San Bernardino Meridian to the northwest corner of the northeast quarter of Section 6, Township 4 South, Range 3 West, San Bernardino Meridian;

Thence southerly along the westerly line of said northeast quarter to the southerly line of the Perris Valley Storm Drain as conveyed to Riverside County Flood Control and Water Conservation District by deeds recorded December 19, 1952 as Instrument No.54378 and 54364, Official Records of Riverside County, California;

Thence easterly along said southerly line to the westerly line of Section 5, Township 4 South, Range 3 West, San Bernardino Meridian;

Thence southerly along said westerly line to a line parallel with and distant southerly 140.00 feet, measured at a right angle, from the northerly line of said Section 5;

Thence easterly along said parallel line to the westerly line of the Perris Valley Storm Drain as conveyed to Riverside County Flood Control and Water Conservation District;

Thence southerly and southeasterly along said westerly line to the easterly prolongation of the southerly right-of-way of Placentia Avenue;

Thence westerly along said prolongation and along said southerly right-of-way to the easterly right-of-way of Interstate 215;

Thence northwesterly along said easterly right-of-way to a point on said southerly line of the north half of the northwest quarter of Section 36, Township 3 South, Range 4 West, San Bernardino Meridian, also being the southwest corner of that certain parcel of land, described as Parcel 3, granted to Shannon Salazar, as Co-Trustee of the Armstrong Family Trust dated May 10, 1994 and the first Amendment dated August 1, 1994 by Grant Deed recorded November 13, 1996 as Instrument No. 435127, Official Records of Riverside County, California;

Thence easterly along the southerly line of said Parcel 3 to the southwest corner thereof;

Thence northwesterly along the easterly line of said Parcel 3 to said line parallel with and distant northerly 108.00 feet, measured at a right angle, from the southerly line of the north half of the northwest quarter of Section 36;

Thence easterly along said parallel line to said westerly line of Section 36 and the **TRUE POINT OF BEGINNING.**

EXHIBIT C
BOUNDARY MAP
[See Attached]

EXHIBIT D
FACILITIES

Improvements and Estimated Costs

<u>Improvement</u>	<u>Estimated Cost</u>
1. Indian Avenue	\$11,343,500
2. Perris Boulevard	17,350,800
3. Redlands Avenue	14,845,000
4. Harley Knox Boulevard	31,813,700
5. Markham Street	2,132,000
6. Ramona Expressway	10,865,000
7. Morgan Street	2,899,500
8. Rider Street	3,803,000
9. Placentia Avenue	18,705,900
10. Indian Avenue Bridge	701,800
11. Harley Knox Boulevard Bridge	4,210,800
12. Ramona Expressway Bridge	2,105,800
13. Placentia Avenue Bridge	6,316,200
14. Harley Knox Boulevard Interchange @ I-215	17,371,000
15. Placentia Avenue Interchange @ I-215	8,389,000
16. 4-Lane Intersections – Traffic Signals	870,000
17. 6-Lane Intersections – Traffic Signals	3,190,000
District Total Cost	<hr/> \$156,913,000

EXHIBIT E
NPRBBD FEE

Fees shall be effective as provided in the schedule below on the dates described below, provided however, that fees shall be increased by the same amount and at the same time as the DIF and the TUMF without further action by the Council as described in the Resolution and the Report. Fees shall not be decreased to the extent DIF or TUMF is decreased.

Fee Schedule

Land Use Classification	Unit	July 1, 2008 Per DU or SF	July 1, 2009 Per DU or SF	July 1, 2010 Per DU or SF	July 1, 2011 Per DU or SF	July 1, 2012 Per DU or SF
Single Family Residential	DU	\$14,071	\$14,071	\$14,071	\$14,071	\$14,071
Multi Family Residential	DU	9,871	9,871	9,871	9,871	9,871
Industrial	SF	5.33	5.84	7.58	7.58	7.58
Retail	SF	13.48	16.43	18.17	18.17	18.17
Service	SF	9.20	10.05	11.79	11.79	11.79
Class 'A' Office	SF	5.68	5.68	7.42	7.42	7.42
Class 'B' Office	SF	5.68	5.68	7.42	7.42	7.42

DU - Per Dwelling Unit
SF - Per Square Feet