

RESOLUTION NUMBER 3330

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2004-5 (AMBER OAKS II) OF THE CITY OF PERRIS; DETERMINING THE NECESSITY TO INCUR BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$2,550,000 WITHIN SAID DISTRICT; AND CALLING A SPECIAL ELECTION

WHEREAS, the City Council (the “Council”) of the City of Perris, California (the “City”), has heretofore adopted its resolution of intention (the “Resolution of Intention”) stating its intention to form Community Facilities District No. 2004-5 (Amber Oaks II) of the City of Perris (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the” Act”); and

WHEREAS, a copy of the Resolution of Intention, incorporating a description and map of the proposed boundaries of the District and setting forth the rate and method of apportionment and manner of collection of the special tax to be levied within the District, which will be used to pay principal and interest on bonds proposed to be authorized within the District the proceeds of which will be applied to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property, including all furnishings, equipment and supplies related thereto (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 District (the “Incidental Expenses”) is on file with the City Clerk and incorporated herein by reference; and

WHEREAS, the Council of the City has heretofore adopted its resolution of intention to incur bonded indebtedness (the “Resolution of Intention to Incur Bonded Indebtedness”) stating its intention to incur bonded indebtedness in an amount of not to exceed \$2,550,000 within the proposed District; and

WHEREAS, a copy of the Resolution of Intention to Incur Bonded Indebtedness is on file with the City Clerk; and

WHEREAS, on November 9, 2004, this Council held a noticed hearing as required by law relative to the proposed formation of the District; and

WHEREAS, at said hearing all persons not exempt from the special tax 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 this Council on said matters before it, and this Council at the conclusion of said hearing was and is fully advised in the premises; and

WHEREAS, this Council adopted its resolution determining the validity of prior proceedings, establishing the District, authorizing the levy of a special tax within the boundaries of the District and establishing an appropriations limit (the “Resolution of Formation”); and

WHEREAS, the proposed special tax to be levied upon property within the District to pay principal and interest on the bonds proposed to be issued within the District has not been precluded by protest of the owners of one-half (1/2) or more of the area of land within the District; and

WHEREAS, this Council wishes to present to the qualified electors of the District a combined proposition to: (1) levy special taxes on property within the District; (2) incur bonded indebtedness; and (3) establish an appropriations limit for the District;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2004-5 (AMBER OAKS II) OF THE CITY OF PERRIS DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The City Council hereby declares and deems that the public convenience and necessity require and it is necessary to incur bonded indebtedness in a maximum aggregate principal amount not to exceed \$2,550,000 within the District for the purpose of financing all or a portion of the Facilities and more particularly described as set forth in that certain Report filed with the City Council for the District.

Section 2. The purpose of the proposed bonded indebtedness is generally described as follows: to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of the Facilities, which Facilities have a useful life of five years or longer; and (2) the Incidental Expenses.

Section 3. Except for property within the District that is exempt, wholly or partially, from the levy of the special tax specified in the Rate and Method of Apportionment of Special Tax attached to the Resolution of Formation as Exhibit “A”, the whole of the property within the District shall pay for the applicable bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution of Formation.

Section 4. The maximum term of the bonds or any series thereof to be issued shall in no event exceed forty (40) years.

Section 5. The bonds or any series thereof shall bear interest at a rate not to exceed the greater of twelve percent (12%) per annum or the maximum interest rate permitted by law, payable semiannually, with the actual rates and times of payment to be determined at the time of sale thereof.

Section 6. Pursuant to and in compliance with the provisions of Article 1.5 (commencing with Section 53410) of Chapter 3 of Part 1 of Division 2 of Title 5 of the

Government Code, the Council hereby establishes the following accountability measures pertaining to any bonded indebtedness incurred by or on behalf of the District:

- A. Such bonded indebtedness shall be incurred for the specific purposes set forth in Section 2 above.
- B. The proceeds of any such bonded indebtedness shall be applied only to the specific purposes identified in Section 2 above.
- C. The documents or documents establishing the terms and conditions for the issuance of any such bonded indebtedness shall provide for an account or accounts into which the proceeds of such bonded indebtedness shall be deposited.
- D. The City Finance Director/Treasurer, or his or her designee, acting for and on behalf of the City, shall annually file a report with the City Council as required by Government Code Section 53411.

Section 7. Pursuant to Government Code Section 53353.5, the Council hereby submits to the qualified electors of the District a combined proposition ("Proposition A") to: (1) levy special taxes on property within the District in accordance with the rate and method specified in the Resolution of Formation of the Council; (2) incur bonded indebtedness in the maximum principal aggregate amount of \$2,550,000; and (3) establish an appropriations limit as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the District. Said appropriations limit shall equal the amount of all proceeds of the special tax collected annually and as defined by said Article XIII B, as adjusted for changes in the cost of living and changes in population. The Proposition is attached hereto as Exhibit "A."

Section 8. A special election is hereby called for the District on the Proposition set forth in Section 6, hereinabove.

Section 9. The Clerk shall hand deliver the ballots to the landowner on November 9, 2004.

Section 10. The time for notice having been waived by all of the qualified electors, the date of the special election for the District on the combined Proposition A shall be on the 9th day of November, 2004. The voter ballot shall be returned to the City Clerk at 101 North "D" Street, Perris, California 92570, no later than 7:30 o'clock p.m. on November 9, 2004.

Section 11. The Council finds and determines that there were no registered voters residing within the territory of proposed District at the time of the protest hearing and ninety (90) days prior thereto, and that there is only one landowner in the District. The requirements of Section 53326 of the Government Code having been waived by the landowner,

the ballots for the special election shall be personally delivered to the landowner within the District.

Section 12. Notice of said election, and written argument for or against the measure, have been waived by the landowner.

Section 13. The District shall constitute a single election precinct for the purpose of holding said election.

Section 14. The Council hereby directs that the election be conducted by the City Clerk of the City of Perris, as the elections official.

Section 15. The City Clerk shall certify the adoption of this Resolution.

ADOPTED, SIGNED and APPROVED this 9th day of November, 2004.

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, DO HEREBY CERTIFY that the foregoing Resolution Number 3330 was duly and regularly adopted by the City Council of said City of Perris, acting as the legislative body of Community Facilities District 2004-5 (Amber Oaks II) of the City of Perris, at a regular meeting thereof held the 9th day of November, 2004, 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 "A"
(RESOLUTION NUMBER 3330)

OFFICIAL BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2004-5 (AMBER OAKS II)
OF THE CITY OF PERRIS

SPECIAL BOND, TAX AND APPROPRIATIONS LIMIT ELECTION
November 9, 2004

To vote, mark a cross (+) in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden.

This ballot is provided to YH Ellis, LLC, as sole owner or authorized representative of such sole owner of 8.74 acres of land within Community Facilities District No. 2004-5 (Amber Oaks II) of the City of Perris and represents 8.74 votes.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Perris at 101 North "D" Street, Perris, California 92570.

PROPOSITION A: Shall Community Facilities District No. 2004-5 (Amber Oaks II) of the City of Perris incur an indebtedness and be authorized to issue bonds in the maximum aggregate principal amount of \$2,550,000 with interest at a rate or rates established at such time as the bonds are sold in one or more series at fixed or variable interest rates, however not to exceed any applicable statutory rate for such bonds, the proceeds of which will be used to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property, including all furnishings, equipment and supplies related thereto (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 District (the "Incidental Expenses"), as provided in the Resolution of the City Council of the City of Perris establishing the Community Facilities District No. 2004-5, (Amber Oaks II) of the City of Perris (the "Resolution"); and shall a Special Tax be levied to pay the principal of and interest on such indebtedness and bonds and to pay directly the cost of acquisition and construction of Facilities and Incidental Expenses as authorized in the Resolution; and shall an appropriations limit be established for Community Facilities District No. 2004-5 (Amber Oaks II) of the City of Perris pursuant to Article XIII B of the California Constitution, said appropriations limit to be equal to the amount of all proceeds of the special tax collected annually, as adjusted for changes in the cost of living and changes in population?

YES

NO