

RESOLUTION NO. 2874

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS MAKING CERTAIN FINDINGS, PASSING ON PROTESTS, APPROVING A REVISED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX; AND CALLING A SPECIAL ELECTION WITHIN COMMUNITY FACILITIES DISTRICT NO. 93-1 (MAY RANCH) OF THE CITY OF PERRIS

WHEREAS, the City Council (the “Council”) of the City of Perris (the “City”) has received a petition (the “Petition”) requesting the institution of proceedings to (i) amend the existing boundary of Community Facilities District No. 93-1 (May Ranch) of the City of Perris (the “District”), (ii) alter the rate and method of apportionment of the existing special tax levied within District, and (iii) revoke the remaining bond authorization in the District; all 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, at its meeting of July 31, 2001, the Council adopted its resolution of consideration (the “Resolution of Consideration”) as provided in Section 53334 of the Act to commence proceedings to amend the existing boundary of the District, alter the rate and method of the special tax levied within the District and revoke the remaining bond authorization in the District; and

WHEREAS, the changes contemplated by this Resolution, if approved by the qualified electors of the District, shall not be effective until the issuance of refunding special tax bonds authorized pursuant to Sections 53362-53365.5 of the Act (the “Refunding Bonds”), the proceeds of which will be used to (i) prepay the \$6,338,889.05 Community Facilities District No. 93-1 of the City of Perris (May Ranch) Special Tax Bonds, 1993 Series A (the “Special Tax Bonds”) and (ii) refund the \$7,015,000 Perris Public Financing Authority Local Agency Revenue Bonds, 1993 Series B (the “Authority Bonds”);

NOW, THEREFORE, the City Council of the City of Perris does hereby **RESOLVE, DETERMINE** and **ORDER** as follows:

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

Section 2. Pursuant to Section 53325.1(b) of the Government Code, the Council finds and determines that the proceedings prior hereto were valid and in conformity with the requirements of the Act including, without limitation, the following:

Filing of a petition of a landowner requesting institution of proceedings to (i) amend the existing boundary of District, (ii) alter the rate and method of apportionment of the existing special tax levied within District, and (iii) revoke the remaining bond authorization in the District;

Adoption of a Resolution of Consideration to make specified changes to the District;

Publication and mailing of notice of public hearing on the proposed changes to the District;

Conducting of a public hearing on (i) the amendment of the existing boundary of the District, (ii) the alteration of the rate and method of apportionment of the existing special tax levied within the District, and (iii) the revocation of the remaining bond authorization in the District, at which time all interested persons or taxpayers not exempt from the special tax were permitted to protest orally or in writing against such proposed changes to the District were permitted to file written protests to the regularity or sufficiency of the proceedings, and any person interested, including persons owning property within the District, were permitted to appear and present any matters material to the questions set forth in the Resolution of Consideration.

Section 3. The Rate and Method of Apportionment of the Special Tax, as now submitted and attached hereto as Exhibit “A” and incorporated herein by this reference (the “Revised RMA”), is hereby approved. The Council acknowledges that the maximum special tax rates set forth in the Revised RMA are equal to the maximum special tax rates under the current rate and method of apportionment. Moreover, the Council acknowledges and agrees that, subject to the approval of the qualified electors of the District, the maximum special tax rates set forth in the Revised RMA shall be established upon the issuance of the Refunding Bonds to be the rate that, in the aggregate for all parcels of taxable property, is equal to 110% of the maximum annual debt service on the Refunding Bonds. Under no circumstances shall the final maximum special tax rate be in excess of the rates set forth in the Revised RMA attached hereto.

Section 4. The description and map of the boundaries of the District, on file in the City Clerk’s office and as described in said Resolution of Consideration and incorporated herein by reference, shall be the boundaries of the District. The map of the proposed boundaries of the District has been recorded in the Office of the County Recorder of Riverside County, California in Book 49, page 81 of the Book of Maps of Assessments and Community Facilities Districts (Instrument Number 2001-398755). The revised boundaries shall be effective only upon approval by the qualified electors in the District and the issuance of the Refunding Bonds.

Section 5. The reduction in the remaining authorized amount of bonded indebtedness that may be issued in the District from \$88,661,110.95 to \$0 is hereby approved. The reduction in remaining authorized bonded indebtedness shall be effective only upon approval by the qualified electors in the District and the issuance of the Refunding bonds. The reduction in remaining authorized bonded indebtedness shall not prevent the issuance of refunding bonds pursuant to state law.

Section 6. Written protests against the changes to the District have not been filed by fifty percent (50%) or more of the registered voters, or property owners of one-half (1/2) or more of the area of land within the District.

Section 7. Pursuant to Government Code Section 53338, the Council hereby submits to the qualified electors of the District a combined proposition ("Proposition A") in the form attached hereto as Exhibit "B".

Section 8. A special election is hereby called for the District on the Proposition set forth in Exhibit "B".

Section 9. The election shall be a mail ballot election. The City Clerk shall not commence to mail the ballot to the registered voters with return postage prepaid or deliver by personal service prior to November 10, 2001 and shall complete the mailing by November 30, 2001.

Section 10. The date of the special election for the District on the combined Proposition A shall be on the 10th day of December, 2001. The voter ballot shall be returned to the City Clerk at 101 North "D" Street, Perris, California 92570, no later than 8:00 o'clock p.m. on December 10, 2001.

Section 11. The Council finds and determines that at least 12 persons have been registered to vote within the territory of the District for each of the 90 days preceding the close of the protest hearing. Therefore the vote shall be by the registered voters of the District, with each voter having one vote.

Section 12. The election shall be conducted in accordance with the Act and the Elections Code.

Section 13. The Council hereby directs that the election be conducted by the City Clerk of the City of Perris, as the elections official (the "Elections Official").

Section 14. The Elections Official shall cause to be published once in a newspaper of general circulation the text of Proposition A, along with a description of the election proceedings. The publication shall also state that only the qualified electors in the District may vote on the proposition and that the canvass of the election will take place in the office of the City Clerk following the close of the election.

Section 15. The Elections Official shall procure a list of qualified electors in the District from the County Registrar of Voters using the original boundary map for the District.

Section 16. The City Attorney shall prepare an impartial analysis of the Proposition in accordance with Section 9280 of the Elections Code.

Section 17. The Council, or any member of the Council authorized by the Council, may file with the Elections Official a written argument for or against the Proposition in accordance with Section 53327 of the Government Code and Section 9282 of the Elections Code.

Section 18. The Elections Official shall accept written arguments for or against Proposition A from any qualified elector in the District or all other persons authorized by law to submit arguments. All written arguments shall not exceed 300 words in length and shall be delivered to the City Clerk at 101 North "D" Street, Perris, California 92570, no later than 5:00 o'clock p.m. on October 27, 2001.

Section 19. The District shall constitute a single election precinct for the purpose of holding said election. Following the close of the election, the election shall be canvassed at the office of the City Clerk, 101 North "D" Street, Perris, California 92570.

Section 20. The City Clerk shall certify the adoption of this Resolution.

ADOPTED, SIGNED, and APPROVED this 11th day of September, 2001.

MAYOR OF THE CITY OF PERRIS

Attest:

City Clerk

* 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.

<u>Taxable Square Footage of Parcel</u>	X	Deficient
Total Taxable Square Footage of All Parcels		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:

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

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.

EXHIBIT "B"

OFFICIAL BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2001-1 (MAY RANCH)
OF THE CITY OF PERRIS
BOUNDARY, TAX RATE AND BOND AUTHORIZATION REVOCATION ELECTION
December 10, 2001

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

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.

YES _____
NO _____

PROPOSITION A: Shall Community Facilities District No. 93-1 (May Ranch) of the City of Perris be changed by (1) amending the existing boundary of the District in accordance with the description and map of the boundaries specified in Resolution No. _____, adopted by the City Council of the City of Perris on September 11, 2001 (the "Resolution"), (2) alter the rate and method of apportionment of the existing special tax levied within District with the maximum special tax rate equal to the rate which, in the aggregate for all parcels of taxable property, is 110% of the maximum annual debt service on the Refunding Bonds to be issued, but in no event exceeding the maximum special tax rate set forth in the Rate and Method of Apportionment of Special Tax specified in the Resolution, and (3) revoke the remaining authorized bonded indebtedness in the District to \$0, provided the District may issue refunding bonds in accordance with state law, all such changes to be effective if and only if Refunding Bonds are issued by the district pursuant to Sections 53362-53365.5 of the California Government Code?