

**RESOLUTION NUMBER 4510**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS APPROVING OF THE REVISED BOUNDARIES, SPECIAL TAXES AND DETERMINING THE NECESSITY TO INCUR BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$5,000,000 WITHIN THE REVISED DISTRICT; AND CALLING A SPECIAL ELECTION IN CONNECTION THEREWITH**

**WHEREAS**, the City Council (the "Council") of the City of Perris has heretofore adopted its Resolution No. 2320 on October 25, 1993 ("Formation Resolution") forming Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris (the "District"); and

**WHEREAS**, the Council of the City of Perris, California (the "City"), has heretofore adopted its Resolution No. 4490 on May 8, 2012, entitled "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 and change the Rate and Method of Apportionment of Special Taxes within said District in order to Refinance the outstanding Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, 1995 Series A Special Tax Bonds" (the "Resolution of Consideration"); and

**WHEREAS**, in the Resolution of Consideration, the Council states intention to propose certain changes within the District, including (i) changes to the boundaries of the District, (ii) changes to the maximum bonded indebtedness for the District; and (iii) changes to the special tax and the rate and method of apportionment of the special tax for the revised District included in the Formation Resolution and prior proceedings (collectively, the "Changes") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the "Act"); and

**WHEREAS**, the City Council of the City heretofore adopted its Resolution No. 4491 on May 8, 2012, entitled "Resolution of Intention of the City Council of the City of Perris to Incur Bonded Indebtedness in the amount of not to exceed \$5,000,000 within Proposed Revised Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised to Refinance CFD No. 93-2 (Perris Plaza) of the City of Perris, 1995 Series A, Special Tax Bonds" (the "Resolution of Intention to Incur Bonded Indebtedness"); and

**WHEREAS**, in the Resolution of Intention to Incur Bonded Indebtedness, the Council states its intention to incur bonded indebtedness in an amount not to exceed \$5,000,000 within the revised District; and

**WHEREAS**, copies of the Resolution of Consideration and the Resolution of Intention to Incur Bonded Indebtedness, incorporating the Changes, are on file with the City Clerk and incorporated herein by this reference; and

**WHEREAS**, the revised District is proposed to be called "Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised" (the "Revised District"); and

**WHEREAS**, as described in the Resolution of Consideration, the Revised District will facilitate the refinancing and/or cancellation of the outstanding Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris Special Tax Bonds, 1995 Series A (the "93-2 Bonds") issued to finance facilities associated with the District, including the (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, including the revisions to the District (the "Incidental Expenses"); and

**WHEREAS**, implementation of the Changes and the Revised District are subject to the issuance of refunding bonds to refund and/or cancel the 93-2 Bonds ("Conditions"); and

**WHEREAS**, the Resolution of Consideration and the Resolution of Intention to Incur Bonded Indebtedness set forth June 12, 2012 as the date of public hearings on the proposed Changes and the intention to incur bonded indebtedness; and

**WHEREAS**, notices of the hearings were published in the Perris Progress on May 30, 2012; and

**WHEREAS**, notices of the hearings were mailed at least fifteen days prior to the hearings to the owners of all property within the District, as evidenced by the affidavit of mailing on file with the City Clerk; and

**WHEREAS**, on June 12, 2012, this Council held noticed hearings as required by law relative to the proposed Changes within the District and the intention to incur bonded indebtedness; and

**WHEREAS**, at said hearings all persons within the District, including those not exempt from the special tax desiring to be heard on all matters pertaining to proposed Changes within the District were heard and full and fair hearings were held; and

**WHEREAS**, at said hearings 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**, the proposed Changes, including changes to the boundaries of the District, the special tax to be levied upon property within the Revised District to pay principal and interest on the bonds proposed to be issued within the District, and the proposed bonded indebtedness, 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**, the Council has reviewed a Report on the Changes submitted herewith; and

**WHEREAS**, the Council hereby determines that there are no registered voters within the boundaries of 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 Revised District; (2) incur bonded indebtedness to finance and/or refinance the Facilities and Incidental Expenses; and (3) establish an appropriations limit for the District; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Perris, Acting as the Legislative Body of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, California, as follows:

**Section 1.** The above recitals are true and correct, and incorporated herein by this reference.

**Section 2.** Pursuant to Section 53325.1(b), as applicable, 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 Changes related to the District;

Adoption of a Resolution of Consideration;

Adoption of a Resolution of Intention to Incur Bonded Indebtedness;

Publication and mailing of notice of public hearing on the Changes to the District and of the proposed debt issue;

Conducting of public hearings on the Changes to the District and proposed debt, including the revised boundaries, the refinancing of the public facilities, the new special taxes and the incurring of the proposed debt, at which time all interested persons or taxpayers not exempt from the special tax were permitted to protest orally or in writing against the Changes, 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 and Resolution of Intention to Incur Bonded Indebtedness.

**Section 3.** The Report, as submitted is hereby approved and is made a part of the record of the hearing, and is ordered kept on file with the transcript of these proceedings and open for public inspection

**Section 4.** The proposed Revised District is hereby approved and established, subject to the Conditions. The Revised District shall be designated as "Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised" and shall be subject to and

implemented only upon approval by the voters of the proposition described herein at the election to be held within the Revised District and upon the Conditions. The District and the 93-2 Bonds shall remain in full force and effect prior to satisfaction of the Conditions.

**Section 5.** The description and map of the boundaries of the Revised District described in the Resolution of Consideration and attached hereto as Exhibit A and incorporated herein by reference, shall be the boundaries of the Revised District. The map of the proposed boundaries of the Revised District has been recorded in the Office of the County Recorder of Riverside County, California in Book 75, Page 60 of the Book of Maps of Assessment and Community Facilities Districts.

**Section 6.** Written protests against the Changes within the District, including the boundaries, the special taxes, the refinancing of the facilities or the proposed bonded indebtedness to refinance to the 93-2 Bonds, 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.** The Council hereby 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 \$5,000,000 within the District for the purpose of refinancing all or a portion of the Facilities and Incidental Expenses through a refunding/cancellation of the 93-2 Bonds as more particularly described as set forth in that certain Report filed with the City Council for the District and the Resolution of Consideration.

**Section 8.** The Rate and Method of Apportionment of the special tax with respect to the Revised District set forth in Exhibit "B" (herein referred to as "Exhibit B") is hereby approved.

**Section 9.** The purpose of the proposed bonded indebtedness within the District is generally described as follows: to refinance and/or cancel the 93-2 Bonds issued to finance and/or refinance (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 10.** Except for property within the District that is exempt, wholly or partially, from the levy of the special taxes specified, the whole of the property within the Revised District shall pay for the applicable bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution of Consideration and the resolution of change to be adopted within such the District following the election.

**Section 11.** The maximum term of the refunding bonds or any series thereof to be issued shall in no event exceed fourteen (14) years.

**Section 12.** 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 13.** Upon recordation of a notice of special tax lien or amended notice and subject to the Conditions pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the Revised District and this lien shall continue in force and effect until the special tax the lien is canceled in accordance with law or until collection of the tax by the City Council ceases.

**Section 14.** 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 and special taxes incurred by or on behalf of the District:

- A. Such special taxes and bonded indebtedness shall be incurred for the specific purposes set forth herein, including the refinancing of the 93-2 Bonds, and the Facilities and Incidental Expenses financed thereby.
- B. The proceeds of any such special taxes and bonded indebtedness shall be applied only to the specific purposes identified above.
- C. The documents establishing the terms and conditions for the special taxes and the issuance of any such bonded indebtedness shall provide for the creation of an account or accounts into which the proceeds of such bonded indebtedness and special taxes shall be deposited.
- D. The City Manager, Assistant City Manager or Finance Director, or his 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 15.** Pursuant to Government Code Section 53353.5, the Council hereby submits to the qualified electors of the District a combined proposition, constituting a single purpose election (“Proposition A”) to: (1) levy special taxes on property within the Revised District in accordance with the rate and method of apportionment with respect to the Revised District specified in the Resolution of Consideration, and herein; (2) incur bonded indebtedness in the maximum aggregate principal amount of \$5,000,000 within the District to refinance and/or cancel the 93-2 Bonds issued to finance the Facilities and Incidental Expenses as described in the Resolution of Consideration; 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 at \$5,000,000. Said appropriations limit shall at least be equal to the maximum amount of bonded indebtedness authorized to be incurred in the District. The Propositions with respect to the Revised District are attached hereto as Exhibit “C.” The Propositions shall be submitted to the voters.

**Section 16.** The form of the ballot for said election is attached hereto as Exhibit C and by this reference incorporated herein, and such form of ballot is hereby approved. The City Clerk shall cause to be delivered to each of the qualified electors of the Community

Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective landowner to which it pertains. Each landowner shall receive one vote for each acre or portion thereof within the Revised District.

Each ballot shall be accompanied by all supplies and written instructions necessary for the use and return of the ballot. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the return postage prepaid, and shall contain: (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the voter, (d) the date of signing and place of execution of the declaration described in clause (b) above, and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

**Section 17.** The proposed special tax to be levied in the Revised District has not been precluded by protests by owners of one-half or more of the land in the territory included in the Revised District pursuant to Government Code Section 53324 or 53337.

**Section 18.** If special taxes of the 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 Fiscal Year 2013-2014, as further described in Exhibit "B" hereto; and (iii) under no circumstances will such special tax be increased more than ten percent (10%) as a consequence of delinquency or default by the owner of any other parcels within the District as provided by the Act.

**Section 19.** The special tax within the District is based on the expected demand that each parcel of real property within the District will place on the Facilities, on the benefit that each parcel derives from the right to access the Facilities, and on other factors. The Council hereby determines the rate and method of apportionment of the special tax set forth in Exhibit "B" to be reasonable. The special tax within the Revised District is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such special tax is not based upon the value or ownership of real property. 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 specified on Exhibit "B", the Council shall, on behalf of the Revised District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in Exhibit "B," to the extent necessary upon the remaining property within the District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described herein. The obligation to pay special taxes may be prepaid as set forth in Exhibit "B."

**Section 20.** A special election is hereby called for the Revised District on the Propositions set forth in Section 15, hereinabove. A map, including the Assessor Parcels of the Revised District is attached hereto as Exhibit A, and by this reference incorporated herein.

**Section 21.** The election shall be a mailed ballot election; provided, however, that the Clerk may hand deliver or mail the ballots to the landowner as provided by law.

**Section 22.** The date of the special election for the District on the combined Propositions shall be on the 9th day of October, 2012. Notwithstanding Elections Code Section 1500, the Council finds the provisions of Government Code Section 53326 and 55538 applicable to the provisions hereof, requiring the election to be held between 90 to 180 days after the public hearings. The voter ballots shall be returned to the City Clerk at 101 North "D" Street, Perris, California 92570, no later than 6:00 p.m. on October 9, 2012.

**Section 23.** The Council finds and determines that there were no registered voters residing within the territory of the District and/or Revised District at the time of the protest hearing and ninety (90) days prior thereto, and that the vote shall be by the landowners in the District, which landowners shall constitute registered voters for the purposes of the election.

**Section 24.** Pursuant to Government Code Sections 55538 and 53326, (a) the City Clerk has concurred in the date of the election, which concurrence is on file at the office of the City Clerk, (b) there shall be prepared and included in the ballot material an impartial analysis pursuant to Sections 9160, 9280 or 9500 of the Elections Code, and arguments and rebuttals, if any, pursuant to Sections 9281, 9287, 9295, 9501 or 9507 of the Elections Code or other appropriate provisions of law, and (c) the City Clerk shall comply will all appropriate laws regarding the conduct of elections, if applicable.

**Section 25.** The Revised District shall constitute a single election precinct for the purpose of holding said election.

**Section 26.** The Council hereby directs that the election be conducted by the City Clerk of the City of Perris, as the elections official. The Council authorizes the City Attorney to prepare the impartial analysis and hereby directs the City Clerk to transmit the measure to the City Attorney.

**Section 27.** Pursuant to the law, as applicable, based on the time reasonably necessary to prepare and print the arguments and to permit the 10-calendar-day public examination as provided in Article 6 (commencing with Elections Code Section 9295) for the particular election, the City Clerk shall fix a date 14 days from the calling of the election as a deadline, after which no arguments for or against any city measure may be submitted for printing and distribution to the voters; provided, however, that the City Clerk may in her discretion accept later arguments to the extent of sufficient time prior to printing and for examination. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk during the normal business hours of the Perris City Clerk, as posted.

**Section 28.** The City Clerk shall certify the adoption of this Resolution and shall publish a copy of this Resolution as the notice of election in a newspaper of general circulation in the City. The City Clerk may refer to the exhibits as being on file in the office of the City Clerk.

**ADOPTED, SIGNED** and **APPROVED** this 12th day of June, 2012.

\_\_\_\_\_  
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 4510 was duly and regularly adopted by the City Council of the City of Perris, acting as the legislative body of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, at a regular meeting held on the 12<sup>th</sup> day of June, 2012 by the following called vote:

AYES: EVANS, ROGERS, YARBROUGH, LANDERS, BUSCH

NOES:

ABSENT:

ABSTAIN:

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City Clerk, Judy L. Haughney

*RESOLUTION NUMBER* \_\_\_\_\_

**EXHIBIT "A"**

**AMENDED AND RESTATED RATE AND METHOD OF APPORTIONMENT  
COMMUNITY FACILITIES DISTRICT NO. 93-2  
(PERRIS PLAZA)**

EXHIBIT "B"

# OFFICIAL BALLOT

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

SPECIAL BOND, TAX AND APPROPRIATIONS LIMIT ELECTION  
October 9, 2012

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 \_\_\_\_\_, as sole owner or authorized representative of such sole owner of \_\_ acres of land within the District of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris and represents \_\_\_ 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. 93-2 (Perris Plaza) of the City of Perris, Revised ("Revised District") incur (1) the Changes, including changes to the rate and method of apportionment of special taxes on property within the Revised District, all as described and defined in Resolution No. \_\_, adopted by the City Council on June 12, 2012 ("Resolution"), (2) incur bonded indebtedness in the maximum aggregate principal amount of \$5,000,000 as described in the Resolution and (3) establish an appropriations limit as defined by the California Constitution, for the District at \$5,000,000, all subject to the conditions in the Resolution, including a refunding and/or cancellation of the outstanding Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris Special Tax Bonds, 1995 Series A?

YES

NO

[Appropriate Signature and Property Description]

*RESOLUTION NUMBER* \_\_\_\_\_

EXHIBIT C

MAP AND ASSESSOR PARCEL NUMBERS OF REVISED DISTRICT