

RESOLUTION NO. 4040

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2001-3 (NORTH PERRIS PUBLIC SAFETY) OF THE CITY OF PERRIS, CALLING A SPECIAL ELECTION TO SUBMIT TO THE QUALIFIED ELECTORS WITHIN PROPOSED ANNEXATION NO. 13 THE QUESTION OF ANNEXING SUCH TERRITORY AND LEVYING OF A SPECIAL TAX WITHIN THE AREA OF PROPOSED ANNEXATION NO. 13

WHEREAS, the City Council (the “Council”) of the City of Perris, California (the “City”), acting in its capacity as the legislative body (the “Legislative Body”) of the Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris (the “District”), on October 9, 2007, has heretofore adopted its Resolution No. 4018 (the “Resolution of Intention”) stating its intention to annex certain territory (the “Property”) as described therein to the District pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the “Act”) being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, and specifically Article 3.5 thereof, and calling a public hearing on the question of the proposed annexation of the Property to the District, including the levying of a special tax on the Property and all other matters as set forth in the Resolution of Intention; and

WHEREAS, a copy of the Resolution of Intention, incorporating a description and map of the proposed boundaries of the territory proposed for annexation to the District, stating the public facilities to be provided in and for the Property and a plan setting forth sharing of such facilities provided in common with the existing District, and specifying the special taxes to be levied within the Property and any alteration in the Rate and Method of Apportionment (as defined therein and incorporated herein by this reference) is on file with the City Clerk of the City; and

WHEREAS, notice of the public hearing was duly given as required by Section 53339.4 of the Act or has been duly waived by the property owner; and

WHEREAS, the Resolution of Intention set November 27, 2007 as the date of the public hearing to consider the question of the proposed annexation of the Property to the District, including the levying of a special tax on the Property and all other matters set forth in the Resolution of Intention and this Council held said public hearing as required by law; and

WHEREAS, the public hearing was held on November 27, 2007; and

WHEREAS, at said hearing all persons not exempt from the special tax desiring to be heard on all matters pertaining to the annexation of the Property to the District, the levy of

the special tax on the Property, and all other matters as set forth in the Resolution of Intention were heard and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the Legislative Body on the matters before it, and the Legislative Body at the conclusion of the hearing is fully advised as to all matters relating to the proposed annexation of the Property to the District, including the levy of the special tax on the Property; and

WHEREAS, it has now been determined that written protests have not been received by registered voters and/or property owners representing more than one-half (1/2) of the area of land proposed to be annexed to the District or within the original District; and

WHEREAS, there are less than twelve (12) registered voters residing within the territory proposed to be annexed to the District, and have been for at least the preceding ninety (90) days; and

WHEREAS, on the basis of the foregoing, the Legislative Body has determined at this time to proceed with the annexation of the Property to the District, and to call an election therein to authorize such annexation, including the levy of the special tax therein (as such tax is more particularly described in the Resolution of Intention) to pay for the public services proposed to be financed by the District;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Perris, acting in its capacity as the Legislative Body of Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris, California, as follows:

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

Section 2. Written protests against the annexation of the Property to the District, or against the furnishing of specified services or the levying of a specified special tax within the District, have not been filed by fifty percent (50%) or more of the registered voters or six (6) registered voters, whichever is greater, residing within the boundaries of the existing District, nor by fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is greater, residing within the boundaries of the proposed annexation, nor by owners representing one-half (1/2) or more of the area of land proposed to be annexed to the District. All protests and objections, if any, are hereby overruled.

Section 3. The Legislative Body does declare the annexation of the Property to the existing District, to be known and designated as "Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris, Annexation No. 13." The Legislative Body hereby finds and determines that all prior proceedings taken with respect to the annexation of the Property to the District were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1 of the Act.

Section 4. The boundaries and parcels of land to be annexed and in which the public services are to be provided and on which the special taxes will be levied in order to pay the costs and expenses for said public services are generally described as all that territory proposed to be

annexed to the existing District as said property is shown on a map as previously approved by the Legislative Body, said map designated "Map of Proposed Boundaries of Annexation No. 13 to Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris," a copy of which is on file in the office of the City Clerk and shall remain open for public inspection. The map of the proposed boundaries of Annexation No. 13 to the District has been recorded in the Office of the County Recorder of Riverside County, California in Book 72, Page 37 of the Book of Maps of Assessments and Community Facilities Districts (Document Number 2007-0660088).

Section 5. The Council finds that the Services, generally described as fire protection and suppression services, and ambulance and paramedic services including all furnishings, equipment and supplies related thereto; police protection services, including but not limited to criminal justice services, including all furnishings, equipment and supplies related thereto, as set forth in Exhibit "B" hereto are necessary to meet the increased demand put upon the City as a result of the development within the District.

Section 6. Except where funds are otherwise available, a special tax is hereby authorized, subject to the approval of the landowners as the eligible electors of the District, to levy annually in accordance with procedures contained in the Act, a special tax within the District, secured by recordation of a continuing lien against all nonexempt real property in the District, sufficient to pay for the Services and Incidental Expenses. The rate and method of apportionment and manner of collection of the special tax within the District is described in detail in Exhibit "A" attached hereto and incorporated herein by this reference. Exhibit "A" allows each landowner within the District to estimate the maximum amount that may be levied against each parcel.

Section 7. The Rate and Method of Apportionment of the special tax is based on the expected demand that each parcel of real property within the Property will place on the Services, on the benefit that each parcel derives from the right to access the Services, on the cost of making the Services available to each parcel within the Property and on other factors. The Council hereby determines the rate and method of apportionment of the special tax set forth in Exhibit "A" to be reasonable. The special tax 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 Community Facilities District No. 2001-3 shall become for any reason exempt, wholly or partially, from the levy of the special tax specified on Exhibit "A," the Council shall, on behalf of Community Facilities District No. 2001-3, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in Exhibit "A," 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 "A." Upon recordation of a notice of special tax lien pursuant to Streets and Highways Code Section 3114.5, continuing lien to secure each levy of the special tax will attach to all nonexempt parcels within the Property and the lien shall continue in force and effect until the special tax obligation is permanently satisfied and the lien canceled in accordance with the law or until collection of the special tax by the Legislative Body ceases.

Section 8. Pursuant to Section 53325.7 and 53326 of the Act, a special election is hereby called on behalf of the District on the proposition of levying the special tax on the territory within Annexation No. 13 to the District and establishing an appropriations limit therein. The proposition relating to the District authorizing the levy of the special tax on the Property and establishing an appropriations limit shall be substantially in the form attached hereto as Exhibit "C."

Section 9. The special election for the District on the proposition of authorizing the levy of the special tax on the Property and establishing an appropriations limit shall be held on November 27, 2007.

Section 10. It is hereby found that there were fewer than twelve (12) registered voters that resided within the territory of the proposed District during each of the ninety (90) days preceding the closing of the November 27, 2007, public hearing regarding the levy of the special tax on the territory within the District and establishing an appropriations limit therein and, pursuant to Section 53326 of the Act, the ballots for the special election shall be distributed by personal service, or by mail, with return postage prepaid, by the Election Official, to the landowners of record within the District as of the close of the public hearing. Each landowner shall have one (1) vote for each acre or portion thereof that he or she owns within the District, as provided in Section 53326 of the Act and may return the ballot by mail or in person to the Election Official not later than 6:00 p.m. on November 27, 2007, or 6:00 p.m. on another election day mutually agreed to by the Election Official and the landowners. In accordance with Section 53326(d) of the Act, the election shall be closed and the results certified by the Election Official as soon as all qualified electors have voted.

Section 11. If two-thirds (2/3) of the votes cast upon the question of levying such special tax and establishing such appropriations limit are cast in favor of levying such special tax within the District as determined by the Legislative Body after the canvass of the returns of such election, the Legislative Body may levy such special tax within the District under the Act in the amount and for the purposes as specified in this Resolution. Such special tax may be levied only at the rate and may be apportioned only in the manner specified in this Resolution, subject to the Act, except that the special tax may be levied at a rate lower than that specified herein and the maximum annual tax rate may be lowered. Such special tax may be levied so long as it is needed to pay for the financing of the services.

Section 12. 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 perpetuity, as further described in Exhibit "A" 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 by more than ten percent.

Section 13. In the event that a portion of the property in the District shall become for any reason exempt, wholly or partially, from the levy of the special tax specified in Exhibit "A" the Council shall, on behalf of the 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.

Section 14. The Council finds that there is not an ad valorem property tax currently being levied on property within the proposed District for the exclusive purpose of financing the provision of the same services to the territory of the District as provided by the Services.

Section 15. An appropriations limit for the District is hereby established as an amount equal to all the proceeds of the special tax collected annually and as defined by Article XIII B of the California Constitution, as adjusted for changes in the cost of living and changes in population.

Section 16. 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. Pursuant to the petition and request, the publication of such notice has been waived by the property owner.

Section 17. The District shall constitute a single election pursuant 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 18. The Office of the City Manager, 101 North "D" Street, Perris, California 92570, (909) 943-6100, or its designee, is designated to be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and for estimating future special tax levies pursuant to Section 53340.2 of the Government Code.

Section 19. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the Legislative Body hereby establishes the following accountability measures pertaining to the levy by the District of the Special Tax described in Section 6 above:

- A.** Such Special Tax with respect to the District shall be levied for the specific purposes set forth in and Section 5 hereof and Proposition A referred to herein.
- B.** The proceeds of the levy of such Special Tax shall be applied only to the specific purposes set forth in Section 5 hereof and Proposition A referred to herein.
- C.** The District shall establish an account or accounts into which the proceeds of such Special Tax shall be deposited.
- D.** The City Manager or Finance Director, or his or her designee, acting for and on behalf of the District, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

Section 20. The City Clerk is directed to certify and attest to this Resolution, and to take any and all necessary acts to call, hold, canvass and certify an election or elections on the levy of the special tax, and the establishment of the appropriation limit.

Section 21. This Resolution shall take effect immediately upon its adoption.

ADOPTED, SIGNED and APPROVED this 27th day of November, 2007.

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 No. 4040 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held the 27th day of November, 2007, by the following called vote:

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

City Clerk, Judy L. Haughney

EXHIBIT A

**CITY OF PERRIS
COMMUNITY FACILITIES DISTRICT NO. 2001-3
ZONE A
(North Perris Public Safety)
SPECIAL TAX RATE AND METHOD OF APPORTIONMENT**

I. BASIS OF SPECIAL TAX LEVY

A Special Tax shall be levied on all Taxable Property in Community Facilities District No. 2001-3, Zone A (North Perris Public Safety) of the City of Perris ("CFD No. 2001-3, Zone A") and collected each Fiscal Year commencing in Fiscal Year 2005-06 in an amount determined by the Council through the application of this Rate and Method of Apportionment of the Special Tax. All of the real property in CFD No. 2001-3, Zone A unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

II. DEFINITIONS

"**Act**" means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

"**Administrative Expenses**" means the costs incurred by the City to determine, levy and collect the Special Taxes, including salaries of City employees and the fees of consultants and the costs of collecting installments of the Special Taxes upon the general tax rolls; preparation of required reports, and any other costs required to administer CFD No. 2001-3 as determined by the Finance Director.

"**Annual Cost(s)**" means for each Fiscal Year, the total of 1) the estimated cost of services provided through the Police & Fire Protection Program adopted by the City; 2) Administrative Expenses, and 3) any amounts needed to cure actual or projected delinquencies in Special Taxes for the current or previous Fiscal Year.

"**Annual Tax Escalation Factor**" means an increase in the Maximum Special Tax Rate each year following the Base Year in an amount not to exceed 2% annually.

"**Base Year**" means, for Zone A, Fiscal Year ending June 30, 2006.

"**CFD No. 2001-3**" means the Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris.

"**City**" means the City of Perris, California.

"**Council**" means the City Council of the City of Perris as the legislative body for CFD No. 2001-3 under the Act.

"**County**" means the County of Riverside, California.

"**Developed Parcel**" means, for each Fiscal Year, each Parcel for which a building permit for new construction or renovations was issued prior to March 1 of the previous Fiscal Year.

"**Exempt Parcel**" means any Parcel that is not a Residential Parcel or a Non-Residential Parcel. Exempt Parcels are exempt from the levy of Special Taxes.

"**Finance Director**" means the Finance Director for the City of Perris or his or her designee.

"**Fiscal Year**" means the period starting July 1 and ending the following June 30.

"**Maximum Special Tax**" means the greatest amount of Special Tax that can be levied against a Parcel in a given Fiscal Year calculated by multiplying the Maximum Annual Special Tax Rate by the relevant acres or units of the Parcel.

"**Maximum Special Tax Rate**" means the amount determined pursuant to Section IV below, which will be used in calculating the Maximum Special Tax for a Parcel based on its land use classification. Each Fiscal Year following the Base Year, the Maximum Special Tax Rate shall be increased in accordance with the Annual Tax Escalation Factor and otherwise adjusted as provided in this Rate and Method of Apportionment.

"**Maximum Special Tax Revenue**" means the greatest amount of revenue that can be collected in total from a group of Parcels by levying the Maximum Special Tax.

"**Multi-Family Unit**" means each multi-family attached residential unit located on a Developed Parcel.

"**Non-Residential Acres**" means the acreage of a Non-Residential Parcel. The acreage assigned to such a Parcel shall be that shown on the County assessor's parcel map.

"**Non-Residential Parcel**" means a Developed Parcel for which a building permit(s) was issued for private non-residential use. Non-Residential Parcels do not include Parcels that are intended to be, (1) publicly owned or owned by a regulated public utility, or (2) assigned minimal value or is normally exempt from the levy of general *ad valorem* property taxes under California law, including homeowners association property, public utility, public streets; schools; parks; and public drainage ways, public landscaping, greenbelts, and public open space.

"Parcel" means a lot or parcel shown on an assessor's parcel map with an assigned assessor's parcel number located in CFD No. 2001-3, Zone A based on the last equalized tax rolls of the County.

"Police & Fire Protection Program" means a program adopted by the Council pursuant to Section 53313 of the Act for the provision, in a defined area of benefit, of police and fire protection services that are in addition to those services that would be provided to the area of CFD No. 2001-3 if CFD No. 2001-3 were not in existence.

"Residential Parcel" means a Developed Parcel for which a building permit(s) was issued for residential use.

"Single-Family Unit" means a Developed Parcel used for single-family detached residential development.

"Special Tax(es)" means any tax levy under the Act in CFD No. 2001-3.

"Taxable Property" means every Residential Parcel and Non-Residential Parcel.

"Zone A" means property designated as Zone A

III. DURATION OF THE SPECIAL TAX

Duration of Special Tax. Taxable Property in CFD No. 2001-3, Zone A shall remain subject to the Special Tax in perpetuity.

IV. ASSIGNMENT OF MAXIMUM SPECIAL TAXES

A. Classification of Parcels. Each Fiscal Year, using the Definitions above, each Parcel of Taxable Property is to be classified as either a Residential Parcel or Non-Residential Parcel. Each Residential Parcel is to be further classified as either a Single-Family Unit or as the number of Multi-Family Units located on such Parcel.

B. Maximum Special Tax Rates

Tax Status	Base Year Maximum Special Tax Rate [1]	Tax Levy Basis
Residential Parcel		
Single-Family Unit	\$265.30	per unit
Multi-Family Unit	\$53.06	per unit
Non-Residential Parcel	\$1,061.21	per acre

[1] Each Fiscal Year following the Base Year of FY 2005/06, the Maximum Special Tax Rates shall be increased in accordance with the Annual Tax Escalation Factor.

V. SETTING THE ANNUAL SPECIAL TAX LEVY

The Special Tax levy for each Parcel of Taxable Property will be established annually as follows:

- A. Compute the Annual Costs using the definitions in Section II.
- B. Calculate the available special tax revenues by taxing each Parcel of Taxable Property at 100% of its Maximum Special Tax. If revenues are greater than the Annual Costs, reduce the tax proportionately against all Parcels until the tax levy is set at an amount sufficient to cover Annual Costs.
- C. Levy on each Parcel of Taxable Property the amount calculated above. No Special Tax shall be levied on Exempt Parcels.

The City shall make every effort to correctly assign the number of taxable units and calculate the Special Tax for each Parcel. It shall be the burden of the taxpayer to correct any errors in the determination of the Parcels subject to the tax and their Special Tax assignments.

VI. ADMINISTRATIVE CHANGES AND APPEALS

The Finance Director or designee has the authority to make necessary administrative adjustments to the Rate and Method of Apportionment in order to remedy any portions of the Special Tax formula that require clarification.

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the Finance Director appealing the levy of the Special Tax. The Finance Director will then promptly review the appeal, and if necessary, meet with the applicant. If the Finance Director verifies that the tax should be modified or changed, a recommendation at that time will be made to the Council and, as appropriate, the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to CFD No. 2001-3, Zone A.

VII. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as *ad valorem* property taxes; provided; however, the City or its designee may directly bill the Special Tax and may collect the Special Tax at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary to meet its financial obligation.

EXHIBIT B

**TYPES OF SERVICES TO BE FINANCED BY
COMMUNITY FACILITIES DISTRICT NO. 2001-3**

Fire protection and suppression services, and ambulance and paramedic services including all furnishings, equipment and supplies related thereto; police protection services, including but not limited to criminal justice services, including all furnishings, equipment and supplies related thereto.

EXHIBIT C
OFFICIAL BALLOT

**COMMUNITY FACILITIES DISTRICT NO. 2001-3 (NORTH PERRIS PUBLIC SAFETY)
OF THE CITY OF PERRIS, ANNEXATION NO. 13**

SPECIAL TAX AND APPROPRIATIONS LIMIT ELECTION

November 27, 2007

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 owner or authorized representative of such sole owner of ____ acres of the land within Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris, Annexation No. 13 (the "Property") and represents ____ of the votes required for annexation.

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 the Property be annexed and shall a Special Tax be levied within Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris, Annexation No. 13 to pay for the provision of fire protection and suppression services, and ambulance and paramedic services including all furnishings, equipment and supplies related thereto; and police protection services, including but not limited to criminal justice services, including all furnishings, equipment and supplies related thereto, as authorized in the Resolution calling election adopted on November 27, 2007 and the Resolution of Intention referred to therein; and shall an appropriations limit be established for Community Facilities District No. 2001-3 (North Perris Public Safety) of the City of Perris, Annexation No. 13 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? [Appropriate Signatory]

YES

NO