

RESOLUTION NO. 4061

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS DETERMINING THE VALIDITY OF PRIOR PROCEEDINGS, ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2007-2 (PACIFIC HERITAGE) OF THE CITY OF PERRIS; AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 2007-2 (PACIFIC HERITAGE) OF THE CITY OF PERRIS; ESTABLISHING AN APPROPRIATIONS LIMIT; AND TAKING CERTAIN OTHER ACTIONS RELATING TO SAID DISTRICT

WHEREAS, the City Council (the “Council”) of the City of Perris, California (the “City”), on November 27, 2007, has heretofore adopted its resolution of intention (the “Resolution of Intention”) stating its intention to form Community Facilities District No. 2007-2 (Pacific Heritage) of the City of Perris (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

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 proposed District is on file with the City Clerk and incorporated herein by reference with such changes to the terms thereof, including but not limited to, revisions to the rate and method of apportionment of the special tax as have been made and submitted with this Resolution; and

WHEREAS, a report by each City officer who is or will be responsible for the District (the “Report”), has been filed with the Council pursuant to the Resolution of Intention, and said Report contains any changes to the probable special taxes within the District; and

WHEREAS, the Resolution of Intention set January 8, 2008 as the date of the public hearing on the formation of the District; and

WHEREAS, said hearing was held on January 8, 2008; 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 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. 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:

- A. Filing of a petition of a landowner requesting institution of proceedings to establish the District;
- B. Adoption of a Resolution of Intention to establish the District;
- C. Adoption of a Resolution of Intention to Incur Bonded Indebtedness in an amount not to exceed \$7,000,000 within the proposed District;
- D. Publication and mailing of notice of public hearing on the establishment of the District and of the proposed debt issue;
- E. Conducting of a public hearing on the establishment of the District, the proposed public facilities and services 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 establishment of 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 Intention to Incur Bonded Indebtedness.

Section 3. The Report, as now 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. A community facilities district to be designated “Community Facilities District No. 2007-2 (Pacific Heritage) of the City of Perris” (the “District”) is hereby established pursuant to the Act.

Section 5. 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 Intention 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 72, Page 52 (Document No. 2007-0740619) of the Book of Maps of Assessments and Community Facilities Districts.

Section 6. The type of public facilities (“Facilities”) authorized to be provided within the District include certain real and other tangible property with an estimated useful life of five years or longer, including public infrastructure facilities, and other governmental facilities which the City or other public agency is authorized by law to construct, own or operate, within or without the District, which is necessary to meet increased demands placed upon the City or other public agency as result of development or rehabilitation occurring

within the District. The Facilities are more fully described in Exhibit "B" attached hereto and by this reference incorporated herein.

Section 7. Except where funds are otherwise available, there shall be levied 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: (i) the Facilities and Incidental Expenses; and (ii) the principal and interest and other periodic costs on bonds or other indebtedness issued to finance the Facilities and Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the District, and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash). The rate and method of apportionment (as modified from the Resolution of Intention) 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. The Council hereby approves the modification to the method of apportionment as set forth in the Rate and Method of Apportionment of the Special Tax in accordance with the Act. Exhibit "A" allows each landowner within the District to estimate the maximum amount that may be levied against each parcel.

Section 8. 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 forty (40) years commencing with Fiscal Year 2008-2009, 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.

Section 9. 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 "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 the District 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 the District, 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."

Section 10. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the City Council hereby establishes the following accountability measures pertaining to the levy by the CFD of the Special Tax described in Section 7 above:

A. Such Special Tax shall be levied for the specific purposes set forth in Section 6 hereof.

B. The proceeds of the levy of such Special Tax shall be applied only to the specific purposes set forth in Section 6 hereof.

C. The CFD 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 CFD, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

Section 11. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until the special tax obligation is prepaid or otherwise permanently satisfied and the lien cancelled in accordance with law or until collection of the tax by the District ceases.

Section 12. The Council finds that the Facilities are necessary to meet the increased demand put upon the City or other public agency as a result of the development within the District.

Section 13. 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 paying principal of or interest on bonds or other indebtedness incurred to finance construction of capital facilities which provide the same services to the territory of the District as provided by the Facilities.

Section 14. An appropriation 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 15. Written protests against the establishment of the District, or against the furnishing of specified services or facilities 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 property owners of one-half (1/2) or more of the area of land within the District.

Section 16. The proposed special tax to be levied in the District to pay for all the proposed facilities has not been precluded by protests by owners of one-half or more of the land in the territory included in the District pursuant to Government Code Section 53324.

Section 17. The City Manager may take any action necessary in furtherance of this Resolution, including the execution of any agreements or consents.

Section 18. The Office of the City Manager, 101 North "D" Street, Perris, California 92570, (951) 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 53340.1 of the Government Code.

Section 19. 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 incurring of bonded indebtedness, the levy of the special tax, and the establishment of the appropriation limit

ADOPTED, SIGNED and APPROVED this 8th day of January, 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 4061 was duly and regularly adopted by the City Council of the City of Perris at a regular meeting held on the 8th day of January, 2008, by the following called vote:

AYES:	COUNCILMEMBERS:	LANDERS, MOTTE, ROGERS, BUSCH
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	YARBROUGH
ABSTAIN:	COUNCILMEMBERS:	NONE

By: _____
City Clerk, Judy L. Haughney

EXHIBIT A

CITY OF PERRIS

**COMMUNITY FACILITIES DISTRICT NO. 2007-2
(PACIFIC HERITAGE)**

RATE AND METHOD OF APPORTIONMENT

Exhibit B

**TYPES OF FACILITIES TO BE FINANCED BY
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(PACIFIC HERITAGE) OF THE CITY OF PERRIS**

The General Description of the Facilities that may be acquired or constructed is as follows:

- Street facilities, including, but not limited to, major arterials, highways, intersections, access ramps, roadways, sidewalk, curb, gutters, striping, lighting, traffic signalization, signage, landscaping of public streets and rights-of-way and appurtenant facilities;
- Storm control facilities, including, but not limited to, storm drains, channels, detention, headwalls, riprap pads, retention and/or catch basins and appurtenant facilities;
- Sewer improvements, sanitary sewers, including, but not limited to, lift stations, force mains, pump stations, transmission and main lines, valves, and appurtenant facilities;
- Domestic water facilities, including, but not limited to, reservoirs, pump stations, transmission lines, distribution facilities, main lines, valves, fire hydrants and appurtenant facilities;
- Park, recreational facilities, open space and appurtenant facilities;
- Impact and other fees, including but not limited to, TUMF, DIF, school fees, water fees, drainage fees, sewer treatment and connection fees, water supply fees, water meter fees, water connection fees, storm drain fees, capital facilities' fees and other city fees and all capital facilities which are part of these fee programs and capital improvement programs;
- Incidental expenses.
- City facilities.

OTHER

The District may also finance any of the following:

1. Bond related expenses, including underwriter's discount, reserve fund, capitalized interest, financial advisor fees and expenses, bond and disclosure counsel fees and expenses, special tax consultant fees and expenses, dissemination agent fees and all other incidental expenses.
2. Administrative fees of the City and the Bond trustee or fiscal agent related to the District and the Bonds.
3. Reimbursement of costs related to the formation of the District advanced by the City or any related entity, or any landowner or developer within the District, as well as reimbursement of any costs advanced by the City or any related entity, or any landowner or developer within the District, for facilities or other purposes or costs of the District.

This description of the public capital facilities is general in nature. The final nature and location of improvements and facilities will be determined upon the preparation of final plans and specifications. The final plans and specifications may show substitutes in lieu of, or modifications to, proposed work. Any such substitution shall not be a change or modification in the proceedings as long as the facilities provide a service substantially similar to that as set forth in the Report.