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ORDINANCE NO. O-08-21

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLTON ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF COLTON COMMUNITY FACILITIES DISTRICT NO. 2021-2 (MAINTENANCE SERVICES), COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AUTHORIZING THE LEVY OF A SPECIAL TAX IN SUCH COMMUNITY FACILITIES DISTRICT

A. Recital

WHEREAS, the City Council of the City of Colton, California (the “City Council”), has initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors authorizing the levy of special taxes in a community facilities district, all as authorized pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”). This community facilities district shall hereinafter be referred to as City of Colton Community Facilities District No. 2021-2 (Maintenance Services), County of San Bernardino, State of California (the “District”).

B. Ordinance

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF THE CITY OF COLTON COMMUNITY FACILITIES DISTRICT NO. 2021-2 (MAINTENANCE SERVICES), COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. This City Council does, by the passage of this ordinance, authorize the levy of special taxes on taxable properties located in the District pursuant to the Rate and Method of Apportionment as set forth in Exhibit “A” attached hereto and incorporated herein by this reference (the “Rate and Method”).

Section 2. This City Council, acting in its capacity as the legislative body of the District, is hereby further authorized, by resolution, to annually determine the special tax to be levied within the District for the then current tax year or future tax years; provided, however, the special tax to be levied shall not exceed the maximum special tax authorized to be levied pursuant

1 to the Rate and Method.

2 **Section 3.** The special taxes herein authorized to be levied, to the extent possible,
3 shall be collected in the same manner as ad valorem property taxes or in such other manner as this
4 City Council shall determine, including without limitation, direct billing of the affected property
5 owners, and shall be subject to the same penalties, procedure, sale and lien priority in any case of
6 delinquency as applicable for ad valorem taxes. Any special taxes that may not be collected on
7 the County tax roll shall be collected through a direct billing procedure by the Treasurer of the
8 City of Colton, acting for and on behalf of the District.

9 **Section 4.** The special taxes authorized to be levied shall be secured by the lien
10 imposed pursuant to Sections 3114.5 and 3115.5 of the Streets and Highways Code of the State of
11 California, which lien shall be a continuing lien to secure each levy of the special tax, shall attach
12 to all non-exempt real property in the District and shall continue in force and effect until the lien
13 is canceled in accordance with law or until collection of the tax by the legislative body ceases.

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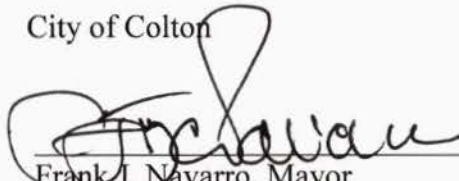
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Section 5. This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in the City of Colton.

The foregoing ordinance was introduced and the title thereof read at the regular meeting of the City Council the 20th day of July, 2021 and by unanimous vote of the Council members present, further reading was waived.

PASSED, APPROVED AND ADOPTED this 3rd day of August 2021.

City of Colton

Frank J. Navarro, Mayor

ATTEST:


Carolina R. Padilla, City Clerk

APPROVED AS TO FORM:


Best Best & Krieger LLP
City Attorney

EXHIBIT A

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR THE CITY OF COLTON COMMUNITY FACILITIES DISTRICT NO. 2021-2 (Maintenance Services)

The Special Tax as hereinafter defined shall be levied on all Assessor's Parcels within the City of Colton Community Facilities District No. 2021-2 (Maintenance Services), ("CFD 2021-2"), other than Assessor's Parcels classified as Exempt Property as defined herein, and collected each Fiscal Year commencing in Fiscal Year 2021-22, in an amount determined by the CFD Administrator through the application of the procedures described below. All of the real property within CFD 2021-2, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Communities Facilities Act of 1982 as amended, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated expenses related to the administration of CFD 2021-2: the costs of determining the amount of the levy of the Special Tax, the collection of Special Taxes, including the expenses of collecting delinquencies and pursuing foreclosures, the payment of a proportional share of salaries and benefits of any City employee and City overhead whose duties are directly related to the administration of CFD 2021-2, fees and expenses for counsel, audits, costs associated with responding to public inquiries regarding CFD 2021-2, and any and all other costs incurred in connection with the administration of CFD 2021-2.

"Annual Escalation Factor" means the annual percentage increase of the All Urban Consumers Consumer Price Index ("CPI") or two percent (2%), whichever is greater. The annual CPI used shall be for the area of Riverside-San Bernardino-Ontario, CA as determined by the Bureau of Labor Statistics for the twelve (12) months ending the preceding December 31, or such other replacement index as may be determined by the City.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned assessor's parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by assessor's parcel number.

"Building Permit" means a permit issued for new construction of a residential dwelling or non-residential structure. For purposes of this definition, "Building Permit" shall not

include permits for construction or installation of retaining walls, grading, utility improvements, or other such improvements not intended for human habitation.

“CFD Administrator” means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Tax for CFD 2021-2.

“CFD 2021-2” means City of Colton Community Facilities District No. 2021-2 (Maintenance Services) established by the City Council under the Act.

“City” means the City of Colton.

“City Council” means the Council of the City of Colton, acting as the legislative body of CFD 2021-2.

“County” means the County of San Bernardino.

“Developed Property” means an Assessor’s Parcel of Taxable Property for which a Building Permit was issued on or before May 1 preceding the Fiscal Year for which the Special Tax is being levied.

“Exempt Property” means all Assessor’s Parcels within CFD 2021-2 that are exempt from the Special Tax pursuant to the Act or Section F herein.

“Fiscal Year” means the period commencing on July 1 of any year and ending the following June 30.

“Land Use Type” means any of the land use types listed in Table 1 below.

“Maximum Special Tax” means the maximum Special Tax determined in accordance with Section C, which may be levied in any Fiscal Year on an Assessor’s Parcel of Taxable Property.

“Multi-Family Residential Property” means all Assessor’s Parcels of Residential Property for which a Building Permit has been issued for the purpose of constructing a building or buildings comprised of attached Residential Units available for rental by the general public, not for sale to an end user, and under common management.

“Non-Residential Property” means any Assessor’s Parcel classified as Developed Property, which is not classified as any, Residential Property, Public Property and Property Owner Association Property.

“Property Owner Association Property” means for each Fiscal Year any property within the boundaries of CFD 2021-2 that was owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to a property owner association, including any master or sub-association, as of June 1.

“Proportionately” means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels within each Land Use Class.

“Public Property” means any property that is owned by, dedicated or irrevocably dedicated to a city, the federal government, the State of California, the County, or any other public agency (each, a “Public Entity”); provided, however, that any such property is leased by such a Public Entity to a private entity and is thereby subject to taxation pursuant to Section 53340.1 of the Act, such leasehold estate shall be classified and taxed according to the use thereof.

“Maintenance Services” means those authorized services that may be funded by CFD 2021-2 pursuant to the Act, as amended including but not limited to graffiti abatement and maintenance, operations, servicing and periodic replacement of park facilities.

“Residential Property” means all Assessor’s Parcels of Developed Property within CFD 2021-2 for which a Building Permit has been issued for purposes of constructing one or more Residential Unit(s).

“Residential Unit” means any residence in which a person or persons may live, which is not considered to be used for non-residential purposes.

“Single Family Residential Property” means all Assessor’s Parcels of Residential Property not classified as Multi-Family Residential Property.

“Special Tax” means the special tax authorized to be levied within CFD 2021-2 pursuant to the Act, to fund the Special Tax Requirement.

“Special Tax Requirement” means the amount, as determined by the CFD Administrator, for any Fiscal Year to: (i) pay the costs of providing the Maintenance Services during such Fiscal Year, (ii) pay Administrative Expenses associated with the Special Tax, (iii) establish or replenish any operational reserve fund established for Maintenance Services, (iv) pay incidental expenses related to the Maintenance Services as authorized pursuant to the Act, (v) fund an amount equal to a reasonable estimate of delinquencies expected to occur in the Fiscal Year in which the Special Tax will be levied (“Estimated Special Tax Delinquency Amount”) and (vi) fund the shortfall, if any, in the Special Tax revenues collected in the preceding Fiscal Year necessary to fund the Special Tax Requirement for such Fiscal Year where such shortfall resulted from delinquencies in the payment of the Special Tax in such Fiscal Year that exceeded the Estimated Special Tax Delinquency Amount included in the Special Tax Requirement for such Fiscal Year.

“Taxable Property” means all Assessor’s Parcels that are not exempt from the Special Tax pursuant to the Act or Section F.

“Undeveloped Property” means an Assessor’s Parcel of Taxable Property which is not classified as Developed Property.

B. CLASSIFICATION OF ASSESSOR'S PARCELS

Each Fiscal Year, beginning with Fiscal Year 2021-22, using the definitions above, each Assessor's Parcel within CFD 2021-2 shall be classified by the CFD Administrator as Taxable Property or Exempt Property. In addition, each such Fiscal Year, each Assessor's Parcel of Taxable Property shall be further classified by the CFD Administrator as Developed Property or Undeveloped Property. Commencing with Fiscal Year 2021-22 and for each subsequent Fiscal Year, all Taxable Property shall be assigned a Land Use Type and subject to the levy of the Special Tax pursuant to Section C below.

C. SPECIAL TAX RATE

1. Developed Property

Each Fiscal Year commencing in Fiscal Year 2021-22, each Assessor's Parcel of Developed Property shall be subject to the Special Tax.

The Maximum Special Tax for Developed Property for Fiscal Year 2021-22 is shown below in Table 1.

TABLE 1

Land Use Type	Maximum Special Tax
Single Family Residential Property	\$59 per Residential Unit
Multi-Family Residential Property	\$41 per Residential Unit

For each subsequent Fiscal Year following Fiscal Year 2021-22, the Maximum Special Tax rates shall be increased from the Maximum Special Tax rate in effect for the prior Fiscal Year by the Annual Escalation Factor.

2. Undeveloped Property

Each Fiscal Year commencing in Fiscal Year 2021-22, each Assessor's Parcel classified as Undeveloped Property shall be exempt from the levy of the Special Tax.

3. Exempt Property

No Special Tax shall be levied on Exempt Property as defined in Section F.

For each Fiscal Year, if the use or ownership of an Assessor's Parcel or Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in Section F,

therefore making such Assessor's Parcel no longer eligible to be classified as Exempt Property, such Assessor's Parcel shall be deemed to be Taxable Property and shall be taxed pursuant to the provisions of Section C.

D. METHOD OF APPORTIONMENT OF SPECIAL TAX

Commencing in Fiscal Year 2021-22 and for each subsequent Fiscal Year, the CFD Administrator shall levy the Special Tax on all Taxable Property of CFD 2021-2 until the total amount of Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property within CFD 2021-2 up to 100% of the Maximum Special Tax to satisfy the Special Tax Requirement.

Notwithstanding any provision of this Section D to the contrary, under no circumstances will the Special Tax levied against any Assessor's Parcel of Developed Property that is classified as Residential Property be increased by more than ten percent (10%) per Fiscal Year as a consequence of delinquency or default in the payment of the Special Tax by the owner of any other Assessor's Parcel.

E. PREPAYMENT OF SPECIAL TAX

The Special Tax shall be levied in perpetuity for the purpose of financing ongoing authorized services and therefore may not be prepaid.

F. EXEMPTIONS

The City Council shall classify as Exempt Property: (i) Public Property, (ii) Property Owner Association Property, (iii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, including but not limited to property designated for open space, trails, pathways, parks or park and recreation related facilities, (iv) property reasonably designated by the City or CFD Administrator as Exempt Property due to deed restrictions, conservation easement, or similar factors.

G. APPEALS

Any property owner claiming that the amounts or application of the Special Tax is not correct may file a written notice of appeal with the CFD Administrator not later than twelve months after having paid the first installment of the Special Tax. The CFD Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and rule on the appeal. If the decision of the CFD Administrator requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund shall not be made but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s) to compensate for the overpayment of the Special Tax.

H. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the Special Tax may be billed and collected at a different time or in a different manner if necessary to meet the financial obligations of CFD 2021-2.

I. DURATION OF TAX

The Special Tax shall be levied in perpetuity to fund the Special Tax Requirement unless such tax is no longer required as determined by the City Council.

1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**) ss.
3 **CITY OF COLTON**)

4 **CERTIFICATION**

5
6 I, **CAROLINA R. PADILLA**, City Clerk for the City of Colton, California, do hereby
7 certify that the foregoing is a full, true and correct copy of **ORDINANCE NO. O-08-21**, duly
8 adopted by the City Council of said City, and approved by the Mayor of said City, at its
9 Regular Meeting of said City Council held on the **3rd day of August 2021**, and that it was
10 adopted by the following vote, to wit:

11	AYES:	COUNCILMEMBER	Toro, Cisneros, Koperski, Echevarria,
12			González, Suchil, Mayor Navarro
13	NOES:	COUNCILMEMBER	None
14	ABSTAIN:	COUNCILMEMBER	None
15	ABSENT:	COUNCILMEMBER	None
16			

17 **IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of
18 the City of Colton, California, this ___ day of _____, ____.

19
20
21 _____
22 CAROLINA R. PADILLA
23 City Clerk
24 City of Colton

25
26
27
28 (SEAL)