

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JACINTO ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2003-2 OF THE CITY OF SAN JACINTO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND ESTABLISHING THE BOUNDARIES THEREOF

WHEREAS, the City Council ("City Council") of the City of San Jacinto ("City") has heretofore adopted Resolution No. 2458 stating that a proposed community facilities district to be known as "Community Facilities District No. 2003-2 of the City of San Jacinto, County of Riverside, State of California" ("District"), is proposed to be established pursuant to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act"), and fixing the time and place for a public hearing on the establishment of the District; and

WHEREAS, notice was published and mailed to the owners of property in the District as required by law relative to the intention of the City Council to establish the District, the levy of special taxes therein, the provision of public facilities and services therein and of the time and place of the public hearing; and

WHEREAS, on September 18, 2003, at the time and place specified in the published and mailed notices, the City Council conducted a public hearing as required by law relative to the establishment of the District, the levy of special taxes therein, and the provision of public facilities and services therein; and

WHEREAS, prior to the commencement of the hearing there was filed with the City Council a report ("Report") containing a description of the public facilities and services required to meet the needs of the District, and an estimate of the cost of such facilities, as required by Section 53321.5 of the California Government Code; and

WHEREAS, at the public hearing all persons desiring to be heard on all matters pertaining to the establishment of the District, the levy of the special taxes, and the provision of public facilities and services therein were heard, and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it, and the City Council, at the conclusion of the hearing, was fully advised as to all matters relating to the establishment of the District, the levy of the special taxes, and the provision of public facilities and services therein; and

WHEREAS, the City Clerk has advised the City Council that she has received a statement from the Registrar of Voters of the County of Riverside that there are no persons registered to vote in the territory of the District;

WHEREAS, the City Council may, therefore, proceed to establish the District.

NOW, THEREFORE, BE IT RESOLVED, determined and ordered by the city council of the city of San Jacinto as follows:

Section 1. Findings. The City Council finds as follows:

- (a) All of the preceding recitals are true and correct;
- (b) On September 18, 2003, pursuant to notice thereof duly given as provided by law, the City Council conducted a public hearing with respect to the establishment of the District, and the annual levying of specified special taxes on the taxable property within the District to pay costs of services for the District which are described in Section 3 hereof;
- (c) The boundary map of the District was recorded on August 19, 2003, pursuant to Sections 3111 and 3113 of the California Streets and Highways Code, at page 71 in Book 53 of Maps of Assessment and Community Facilities Districts, and as Instrument No. 2003-635047, in the official records of the County of Riverside;
- (d) All prior proceedings with respect to the establishment of the District prior to and during the hearing with respect to the establishment of the District which was conducted by the City Council on September 18, 2003, were valid and in conformity with the requirements of the Act;
- (e) No written protests were received, at or prior to the time of the hearing, against the establishment of the District, or the levying of the special taxes, and the special taxes have, therefore, not been eliminated by majority protest pursuant to Section 53324 of the California Government Code;
- (f) The City Council is, therefore, authorized to adopt a resolution of formation pursuant to Section 53325.1 of the California Government Code for the establishment of Community Facilities District No. 2003-2 of the City of San Jacinto, County of Riverside, State of California, and the District should be established;

- (g) Twelve (12) persons have not been registered to vote within the territory of the District for each of the 90 days preceding the close of the public hearing on September 18, 2003, and pursuant to Section 53326 of the California Government Code, the vote in the consolidated special elections provided for in Section 10 hereof shall, therefore, be by the landowners of the District whose property would be subject to the special taxes if they were levied at the time of the election, and each landowner shall have one vote for each acre, or portion thereof, which he or she owns within the District which would be subject to the proposed special taxes if they were levied at the time of the election.

Section 2. Establishment of District. Community Facilities District No. 2003-2 of the City of San Jacinto, County of Riverside, State of California, is hereby established. The boundaries of the District are set forth and shown on the map entitled "Boundaries of Community Facilities District No. 2003-2 of the City of San Jacinto, County of Riverside, State of California," which is on file with the City Clerk, and those boundaries are hereby established.

Section 3. Types of Facilities; Incidental Expenses. The types of public facilities to be provided for and financed by the District are the costs of maintenance of sewer facilities, which have an estimated useful life of five years or longer ("Facilities"), within and surrounding the District and within and surrounding the area of any territory to be annexed to the District in the future and the costs associated with the determination of the amount of and collection of taxes, the payment of taxes and costs otherwise incurred in order to carry out the authorized purposes of the District.

"Maintenance" means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of the Facilities, including, but not limited to, the repair, removal, or replacement of all or any part of any improvement.

Section 4. Special Taxes. Except where funds are otherwise available, special taxes sufficient to pay for the costs of the Facilities and the annual administrative expenses of the City and the District in determining, apportioning, levying and collecting such special taxes, secured by the recordation of a continuing lien against all taxable or nonexempt property in the District, shall be annually levied within the District.

The rates and method of apportionment of special taxes to be levied on parcels of taxable property in the District to pay the costs of the

Facilities, and such other expenses and costs, shall be as set forth in Exhibit "A" attached hereto and by this reference made a part hereof.

Under no circumstance shall the special taxes levied on any parcel be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the District by more than 10 percent.

Pursuant to Section 53340 of the California Government Code, said special taxes shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes.

Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all nonexempt real property in the District and that lien shall continue in force and effect in perpetuity. The Finance Department of the City, 201 East Main Street, San Jacinto, CA 92583, telephone number (909) 487-7340, is designated as the office responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel numbers, and for estimating future special tax levies pursuant to Section 53340.2 of the California Government Code.

Section 5. Exempt Property. Pursuant to Section 53340 of the California Government Code, and except as provided in Section 53317.3 of said Code, properties of entities of the state, federal, and local governments shall be exempt from the levy of special taxes of the District.

Section 6. Necessity. The Facilities are necessary to meet increased demands placed upon the City as a result of new development occurring within the boundaries of the District.

Section 7. Report. The Report is hereby approved and is made a part of the record of the public hearing regarding the formation of the District, and is ordered to be kept on file with the City Clerk as part of the transcript of these proceedings.

Section 8. Future Annexation of Territory. Pursuant to Section 53339.7 of the California Government Code, other undeveloped property within the corporate boundaries of the City may be annexed to the District upon the unanimous approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed.

Section 9. Description of Voting Procedures. The voting procedures to be followed in conducting the consolidated special elections on (i) the proposition with respect to the levy of special taxes on taxable property within the District to pay the costs of the Facilities and the costs associated with the determination of the amount and collection of taxes, and costs incurred to carry out the authorized purposes of the District and (ii) the proposition with respect to the establishment of an appropriations limit for the District in the amount of \$1,000,000 ("Consolidated Special Elections") shall be as follows:

- (a) Pursuant to Section 53326 of the California Government Code ("Section 53326"), since at the time of the close of the public hearing, and for at least the preceding 90 days, less than 12 persons have been registered to vote within the territory of the District, the vote in the Consolidated Special Elections will be by the landowners of the District, with each landowner of record at the close of the public hearing having one vote for each acre or portion of an acre of land that he or she owns within the District, and the Consolidated Special Elections shall be conducted by the City Clerk.
- (b) The Consolidated Special Elections shall be held on the earliest date, following the adoption by the City Council of this resolution, and a resolution pursuant to Section 53326 submitting the propositions with respect to (i) the levy of special taxes to pay the costs of the Facilities, and (ii) the establishing of an appropriations limit therefore to the qualified electors of the District, upon which such elections can be held pursuant to Section 53326 which may be selected by the City Council, or such earlier date as the owners of land within the District and the City Clerk agree and concur is acceptable.
- (c) Pursuant to Section 53326, the Consolidated Special Elections may be held earlier than 90 days following the close of the public hearing if the qualified electors of the District waive the time limits for conducting the elections set forth in Section 53326 by unanimous written consent and the City Clerk concurs in such earlier election date as shall be consented to by the qualified electors.
- (d) Pursuant to Section 53326, ballots for the Consolidated Special Elections shall be distributed to the qualified electors by the City Clerk by mail with return postage prepaid, or by personal service.

- (e) Pursuant to applicable sections of the California Elections Code governing the conduct of mail ballot elections of cities, and specifically Division 4 (commencing with Section 4000) of the California Elections Code with respect to elections conducted by mail, the City Clerk shall mail or deliver to each qualified elector an official ballot in a form specified by the City Council in the resolutions calling and consolidating the Consolidated Special Elections, and shall also mail or deliver to all such qualified electors a ballot pamphlet and instructions to voter, including a sample ballot identical in form to the official ballot but identified as a sample ballot, a statement pursuant to Section 9401 of that Code, an impartial analysis by the City Attorney pursuant to Section 9280 of that Code with respect to the ballot propositions contained in the official ballot, arguments and rebuttals, if any, pursuant to Sections 9281 to 9287, inclusive, and 9295 of that Code, a return identification envelope with prepaid postage thereon addressed to the City Clerk for the return of voted official ballots, and a copy of Resolution No. 2458; provided, however, that such statement, analysis and arguments may be waived with the unanimous consent of all the landowners who are qualified electors and shall be so stated in the resolution adopted by the City Council calling the Consolidated Special Elections. Such statement, impartial analysis and arguments, if any, shall be prepared by the City Attorney.

- (f) The official ballot to be mailed or delivered by the City Clerk to each landowner-voter shall have printed or typed thereon the name of the landowner-voter and the number of votes to be voted by the landowner-voter and shall have appended to it a certification to be signed by the person voting the official ballot which shall certify that the person signing the certification is the person who voted the official ballot, and if the landowner-voter is other than a natural person, that he or she is an officer of or other person affiliated with the landowner-voter entitled to vote such official ballot, that he or she has been authorized to vote such official ballot on behalf of the landowner-voter, that in voting such official ballot it was his or her intent, as well as the intent of the landowner-voter, to vote all votes to which the landowner-voter is entitled based on its land ownership on the propositions set forth in the official ballot as marked thereon in the voting square opposite each such proposition, and further certifying as to the acreage of the landowner-voter's land ownership within the District.

- (g) The return identification envelope delivered by the City Clerk to each landowner-voter shall have printed or typed thereon the following: (i) the name of the landowner, (ii) the address of the landowner, (iii) a declaration under penalty of perjury stating that the voter is the landowner or the authorized representative of the landowner entitled to vote the enclosed ballot and is the person whose name appears on the identification envelope, (iv) the printed name and signature of the voter, (v) the address of the voter, (vi) the date of signing and place of execution of the declaration, and (vii) a notice that the envelope contains an official ballot and is to be opened only by the City Clerk.
- (h) The instruction to voter form to be mailed or delivered by the City Clerk to the landowner-voters shall inform them that the official ballots shall be returned to the City Clerk properly voted as provided thereon and with the certification appended thereto properly completed and signed in the sealed return identification envelope with the certification thereon completed and signed and all other information to be inserted thereon properly inserted by the hour on the date of the election specified by the City Council in the resolutions calling the Consolidated Special Elections for the receipt of voted ballots; provided that if all qualified voters have voted, the elections shall be closed with the concurrence of the City Clerk.
- (i) Upon receipt of the return identification envelopes which are returned prior to the voting deadline on the date of the elections, the City Clerk shall canvass the votes cast in the Consolidated Special Elections, and shall file a statement with the City Council as to the results of such canvass and the election on each proposition set forth in the official ballot.

ADOPTED, SIGNED AND APPROVED this 18th day of September, 2003.

CITY OF SAN JACINTO

By: Jim Ayres, Mayor

ATTEST:

Dorothy L. Chouinard, City Clerk

APPROVED AS TO FORM:

John E. Brown, City Attorney

Best Best & Krieger LLP

CERTIFICATION

I, Dorothy L. Chouinard, City Clerk of the City of San Jacinto, do hereby certify that the foregoing Resolution No. _____ was adopted and approved at a regular meeting of the City Council of the City of San Jacinto held on the 18th day of September, 2003, by the following vote:

ayes:
nays:
absent:
abstain:

WITNESS MY HAND AND OFFICIAL SEAL this ____ day of _____,
2003.

Dorothy L. Chouinard, City Clerk

EXHIBIT A

RATE AND METHOD OF APPORTIONMENT FOR COMMUNITY FACILITIES DISTRICT NO. 2003-2 OF THE CITY OF SAN JACINTO, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

A Special Tax shall be levied and collected within the boundaries of the Community Facilities District No. 2003-2 ("CFD No. 2003-2") of the City Of San Jacinto ("City") each Fiscal Year, in an amount determined by the City Council ("Council") acting in its capacity as the legislative body of CFD No. 2003-2 through the application of the procedures described below. All of the real property in CFD No. 2003-2, unless exempted by the provisions hereof, shall be taxed to the extent and in the manner herein provided.

A. **DEFINITIONS**

The terms used herein shall have the following meanings:

"Act" means the Mello-Roos Community 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 costs directly related to the administration of CFD No. 2003-2: the costs of preparing the annual budget to provide the required services; the costs of computing the Special Taxes and of preparing the annual Special Tax collection schedules; the costs of collecting the Special Taxes; the costs of remitting the Special Taxes; costs of the City, including its legal counsel, in the discharge of the duties required of it under the Act, including public inquiries regarding the Special Taxes, the costs associated with the release of funds from any escrow account (to the extent not paid from other sources); the costs of the City or designee related to an appeal of the Special Tax and an allocable share of the salaries and overhead of the City staff directly relating to the foregoing; and the costs of the City or designee related to any rebate calculations for CFD No. 2003-2. Administrative Expenses shall also include amounts advanced by the City for any administrative purposes of CFD No. 2003-2.

"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.

“Bonds” means any bonds or other indebtedness (as defined in the Act), whether in one or more series, secured by the levy of Special Taxes within CFD No. 2003-2.

“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 Special Taxes.

“City” means the City Of San Jacinto, or its successors.

“Commercial” means parcels zoned or used for commercial, retail or industrial purposes as shown on County tax records.

“Council” means the City Council of the City Of San Jacinto, acting as the legislative body of CFD No. 2003-2.

“County” means the County of Riverside, California.

“Developed Property” means parcels with structures, buildings, or improvements , as shown on County records.

“Equivalent Dwelling Units” or **“EDU’s”** means the factor for use in calculating the Residential Special Tax, being the number of habitable units per Assessor’s Parcel as shown on County tax records.

“Exempt Property” means all property located within the boundaries of CFD No. 2003-2 which is exempt from the Special Tax pursuant to Section E below.

“Fiscal Year” means the period starting on each July 1 and ending on the following June 30.

“Indenture” means the indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C that can be levied by the City in any Fiscal Year on any Assessor’s Parcel.

“Public Property” means property within the boundaries of CFD No. 2003-2 owned by, irrevocably offered or dedicated to, or for which an easement for purposes of public or private road right-of-way has been granted to the federal government, the State of California, the County, or any local government or other public agency, provided that any property leased by a public agency to a private

entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

“Residential” means all parcels zoned or used for residential purposes as shown on County tax records.

“Special Tax” means the Special Tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement.

“Square Foot/Feet” means the total amount of developed structures, as shown on County records.

“Special Tax Requirement” means that amount with respect to CFD No. 2003-2 determined by the City or designee as required in any Fiscal Year to pay for: (1) all maintenance and repair services required to operate the sewer lift station facility serving Tract 29384 in the County of Riverside, (2) including all energy costs, labor and materials required to operate the station (3), reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year, (4) repayment of any funds forwarded to or by the City for allowed services, (5) and Administrative Expenses, (6) less available funds.

“Taxable Property” means all property located within the boundaries of CFD No. 2003-2 which is not exempt from the Special Tax pursuant to Section E below.

B. CLASSIFICATION OF PROPERTY

Each Fiscal Year, all Taxable Property within CFD No. 2003-2 shall be classified as Residential or Exempt Property, and shall be subject to the Special Tax in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Once property has been classified as Developed Property, the Special Tax applicable thereto may not decrease.

For purposes of determining the applicable Maximum Special Tax, all Taxable Property shall be assigned to the applicable classification set forth in Table 1 below. If more than one classification is applicable to a single Assessor’s Parcel, the Maximum Special Tax for such Assessor’s Parcel shall be the sum of the Maximum Special Tax for each such classification.

With respect to Residential property, the number of EDUs shall be determined by the number of actual residential units constructed or to be constructed on any Assessor’s Parcel.

C. MAXIMUM SPECIAL TAX RATE

The Maximum Special Tax amounts are shown in the following table:

TABLE 1

**Maximum Special Taxes
Community Facilities District No. 2003-2
Fiscal Year 2004-2005**

Property Classification	Special Tax
Residential	\$230/EDU
Exempt	N/A

The Maximum Special Tax shall increase annually. The amount of the increase shall be 2% of the previous Fiscal Year's Maximum Special Tax. The increase shall commence with the 2005/2006 Fiscal Year.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2004-2005 and for each following Fiscal Year without cessation, the City shall determine the amount of money to be collected from Taxable Property in CFD No. 2003-2. The City shall levy the Special Tax at up to the Maximum Rate until the levy equals the Special Tax Requirement, subject to the limitations specified in Section 53321(d) of the Act.

Notwithstanding the above, under no circumstances will the Special Taxes levied against any Assessor's Parcel used as a private residence be increased as a consequence of delinquency or default by the owner of any other Assessor's Parcel or Parcels within CFD No. 2003-2 by more than ten (10) percent per Fiscal Year, pursuant to Section 53321(d) of the Act, as in effect on the date of formation of CFD No. 2003-2.

E. EXEMPT PARCELS

The Special Tax will not be levied against any property that is exempt as follows: Public Property, non-developable parcels, and common area parcels within Residential complexes. Taxable parcels that are acquired by a public entity after formation of CFD 2003-2 shall remain subject to the Special Tax pursuant to Section 53317.3 of the Act.

F. TERM

The Maximum Special Tax shall be levied as necessary to satisfy the Special Tax Requirement without cessation.

G. MANNER OF COLLECTION

The Special Tax will be collected in the same manner, at the same time and be subject to the same penalties and interest as ordinary ad valorem property taxes. However, CFD No. 2003-2 may collect Special Taxes at a different time or in a different manner as determined by the City, if necessary to meet its financial obligations.

H. PREPAYMENT OF SPECIAL TAX

Not applicable.

I. INTERPRETATIONS AND APPEALS

The Council reserves the right to set administrative processes and pass resolutions intended to clarify the application of the Special Tax. In addition, the City reserves the right to use the most accurate data available, through site audits or City records, if the County records are inaccurate or incomplete. An Appeals procedure will also be established for any property owner questioning the application of the Special Tax. This procedure will be administered by City staff and the CFD Administrator. If the review procedure is not acceptable to the property owner, the Council may review application of the Special Tax. The Council's decision will be the final interpretation.