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**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF RIALTO, CALIFORNIA, AUTHORIZING THE
ANNEXATION OF TERRITORY TO COMMUNITY
FACILITIES DISTRICT NO. 2016-1 (PUBLIC SERVICES)
(ANNEXATION NO. 2) AND AUTHORIZING THE LEVY
OF A SPECIAL TAX AND SUBMITTING THE LEVY OF
TAX TO THE QUALIFIED ELECTORS**

9 **WHEREAS**, this Council, on January 29, 2019, adopted Resolution No. ____ (hereafter
0 referred to as the “Resolution of Intention”) stating its intention to annex territory to City of
1 Rialto Community Facilities District No. 2016-1 (Public Services) (“CFD No. 2016-1”),
2 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the “Act”); and

3 **WHEREAS**, a copy of the Resolution of Intention, which states the authorized services
4 to be provided and financed by CFD No. 2016-1, and a description and map of the proposed
5 boundaries of the territory to be annexed to CFD No. 2016-1 (“Annexation No. 2”), is on file
6 with the City Clerk and the provisions thereof are fully incorporated herein by this reference as
7 if fully set forth herein; and

8 **WHEREAS**, on the 29th of January, 2019, this Council held a noticed public hearing as
9 required by the Act and the Resolution of Intention relative to the proposed annexation of
0 territory to CFD No. 2016-1; and

1 **WHEREAS**, at said hearing all interested persons desiring to be heard on all matters
2 pertaining to the annexation of territory to CFD No. 2016-1 and the levy of said special taxes
3 within the area proposed to be annexed were heard and a full and fair hearing was held; and

4 **WHEREAS**, prior to the time fixed for said hearing, written protests had not been filed
5 against the proposed annexation of territory to CFD No. 2016-1 by (i) 50% or more of the
6 registered voters, or six registered voters, whichever is more, residing in CFD No. 2016-1, or
7 (ii) 50% or more of the registered voters, or six registered voters, whichever is more, residing in
8 the territory proposed to be annexed to CFD No. 2016-1, or (iii) owners of one-half or more of

1 the area of land in the territory within CFD 2016-1 and not exempt from special tax, or (iv),
2 owners of one-half or more of the area of land in the territory proposed to be annexed to CFD
3 No. 2016-1 and not exempt from the special tax; and

4 **WHEREAS**, a boundary map for Annexation No. 2 to CFD No. 2016-1 will be filed
5 with the County Recorder of the County of San Bernardino, which map shows the territory to
6 be annexed in these proceedings, and a copy thereof is on file with the City Clerk.

7 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RIALTO HEREBY
8 RESOLVES FOR THE CITY OF RIALTO COMMUNITY FACILITIES DISTRICT NO.
9 2016-1, ANNEXATION NO. 2 AS FOLLOWS:

10 **Section 1:** Recitals Correct. The foregoing recitals are true and correct.

11 **Section 2:** Authorization. All prior proceedings taken by this Council with respect to
12 CFD No. 2016-1 and the proposed annexation of territory thereto have been duly considered
13 and are hereby determined to be valid and in conformity with the Act.

14 **Section 3:** Boundaries. The description and map of the boundaries of the territory to
15 be annexed to CFD No. 2016-1, on file with the City Clerk, are hereby finally approved, are
16 incorporated herein by reference, and shall be included within the boundaries of CFD No. 2016-
17 1, and said territory is hereby annexed to CFD No. 2016-1, subject to voter approval of the levy
18 of the special taxes therein as hereinafter provided.

19 **Section 4:** Services. The services CFD No. 2016-1 is authorized to finance are in
20 addition to those provided in or required for the territory within CFD No. 2016-1 and the
21 territory to be annexed to CFD 2016-1 and will not be replacing services already available. A
22 general description of the services to be financed is as follows:

23 **PUBLIC SERVICES**

24 Police protection services, fire protection and suppression services, ambulance and
25 paramedic services; maintenance and lighting of parks, parkways, streets, roads, and open
26 space; flood and storm protection services including but not limited to (i) the costs of
27 contracting or directly providing services, (ii) equipment and materials, vehicles, ambulances
28 and paramedics, fire apparatus and supplies, (iii) the salaries and benefits of City staff that
directly provide police services and fire protection and suppression services, and other

1 services defined herein, respectively, and (iv) City overhead costs associated with providing
2 such services within CFD No. 2016-1.

3 **Section 5:** **Special Taxes.** It is the intention of this City Council that, except where
4 funds are otherwise available, a special tax sufficient to pay for said services to be provided in
5 CFD No. 2016-1 and the territory proposed to be annexed as part of Annexation No. 2, secured
6 by recordation of a continuing lien against all non-exempt real property in Annexation No. 2,
7 will be levied annually within the boundaries of Annexation No. 2 from and after the annexation
8 of such property to CFD No. 2016-1. The special taxes shall be those as originally authorized
9 through the formation of CFD No. 2016-1 and adopted by Ordinance of this legislative body, and
10 no changes or modifications are proposed in the special taxes from those as originally set forth
11 and made applicable to CFD No. 2016-1.

12 For particulars as to the rate and method of apportionment of the proposed special tax
13 (the "RMA"), reference is made to the attached and incorporated Exhibit "A" hereto, which sets
14 forth in sufficient detail the method of apportionment to allow each landowner or resident
15 within Annexation No. 2 to clearly estimate the maximum annual amount that said person will
16 have to pay on said special tax.

17 **Section 6:** **Election.** The provisions of the Resolution of Intention of the City, each
18 as heretofore adopted by this Council, are by this reference incorporated herein as if fully set
19 forth herein.

- 20 (a) Pursuant to the provisions of the Act, the proposition of the levy of the special tax
21 within Annexation No. 2 shall be submitted to the voters within Annexation No. 2 at
22 an election called therefore as hereinafter provided. This Council hereby finds that
23 twelve (12) or more persons have not been registered to vote within Annexation No.
24 2 for each of the 90 days preceding the close of the hearing heretofore conducted
25 and concluded by this Council for the purposes of these annexation proceedings.
26 Accordingly, and pursuant to Section 53326 of the Act, this Council finds that for
27 purposes of these proceedings the qualified electors are the landowners within
28

Annexation No. 2 and that the vote shall be by said landowners, each having one vote for each acre or portion thereof such landowner owns in Annexation No. 2.

- (b) Pursuant to Section 53326 of the Act, the election shall be conducted by mail ballot under applicable sections of the California Elections Code, commencing with Section 4000 of said code with respect to elections conducted by mail or by hand delivered ballot. The Council called a special election to consider the measures described and incorporated in the form of ballot, attached as Exhibit “B,” which election was held on January 29, 2019, (hereafter referred to as “Election Day”). The City Clerk was the election official to conduct the election and provided each landowner in the territory to be annexed to CFD No. 2016-1, a ballot in the form of Exhibit “B”, which form is hereby approved. The City Clerk has accepted the ballots of the qualified electors received prior to 6:00 p.m. on Election Day, whether received by mail or by personal delivery.
- (c) This Council hereby further finds that the provision of Section 53326 of the Act requiring a minimum of 90 days to elapse before said election is for the protection of voters, has been waived by the voters and the date for the election hereinabove specified is established accordingly.

Section 7: The City Clerk shall certify to the adoption of this resolution.

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WHEREFORE, this Resolution is passed, approved and adopted this 29th day of
January, 2019.

DEBORAH ROBERTSON, Mayor

ATTEST:

BARBARA. McGEE, City Clerk

APPROVED AS TO FORM:

FRED GALANTE, City Attorney

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

4 **CERTIFICATION**

5 I, Barbara. McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
6 Resolution No. _____ was duly passed and adopted at a regular meeting of the City Council of
7 the City of Rialto held on the 29th day of January, 2019.

8 Upon motion of Councilmember _____, seconded by Councilmember
9 _____, the foregoing Resolution No. _____ was duly passed and adopted.

10 Vote on the motion:

11 AYES:

12 NOES:

13 ABSTAIN:

14 ABSENT:

15 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City
16 of Rialto this _____ day of _____, 2019.

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19 _____
20 BARBARA. McGEE, City Clerk
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1 **EXHIBIT A**

2 **RATE AND METHOD OF APPORTIONMENT**

3
4 A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels within the City of
5 Rialto Community Facilities District 2016-1 (Public Services), ("CFD 2016-1"), other than
6 Assessor's Parcels classified as Exempt Property as defined herein, and collected each Fiscal
7 Year commencing in Fiscal Year 2017-2018, in an amount determined by the CFD
8 Administrator through the application of the procedures described below. All of the real
9 property within CFD 2016-1, unless exempted by law or by the provisions hereof, shall be taxed
10 for the purposes, to the extent, and in the manner herein provided.

11 **A. DEFINITIONS**

12 The terms hereinafter set forth have the following meanings:

13 **"Acre or Acreage"** means the land area of an Assessor's Parcel, expressed in acres, as shown on
14 an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land
15 area shown on the applicable Final Subdivision Map, other final map, other parcel map, other
16 condominium plan, or functionally equivalent map or instrument recorded in the Office of the
17 Country Recorder. The square footage of an Assessor's Parcel is equal to the Acreage multiplied
18 by 43,560.

19 **"Act"** means the Mello-Roos Communities Facilities Act of 1982 as amended, being Chapter
20 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

21 **"Administrative Expenses"** means the following actual or reasonably estimated expenses
22 related to the administration of CFD 2016-1: the costs of determining the amount of the levy of
23 Special Taxes, the collection of Special Taxes, including the expenses of collecting
24 delinquencies and pursuing foreclosures or tax sale collection, the payment of a proportional
25 share of salaries and benefits of any City employee and City overhead whose duties are directly
26 related to the administration of CFD 2016-1, fees and expenses for counsel, audits, costs
27 associated with responding to public inquiries regarding CFD 2016-1, and any and all other costs
28 incurred in connection with the administration of CFD 2016-1.

"Annual Escalation Factor" means the lesser of three percent (3%) or the annual percentage
increase, if any, of the U.S. Bureau of Labor Statistics – Compensation: Employment Cost Index
for total compensation, for State and Local Government Workers, as determined by the Bureau
of Labor Statistics for the twelve (12) months ending the preceding December 31.

"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.

"Base Year" means Fiscal Year beginning July 1, 2017 and ending June 30, 2018.

"Boundary Map" means the map of the boundaries of CFD 2016-1 recorded on October 6,
2016 in the San Bernardino County Recorder's Office in Book 87, Pages 29, of Maps of
Assessments and Community Facilities Districts (instrument number 2016-0418016).

1 **“Building Permit”** means a permit issued for new construction of a residential dwelling or non-
2 residential structure. For purposes of this definition, “Building Permit” shall not include permits
3 for construction or installation of retaining walls, grading, utility improvements, or other such
improvements not intended for human habitation.

4 **“CFD Administrator”** means an official of the City, or designee thereof, responsible for
5 determining the Special Tax Requirement for Services and providing for the levy and collection
of the Special Taxes for CFD 2016-1.

6 **“CFD 2016-1”** means City of Rialto Community Facilities District 2016-1 (Public Services)
established by the City Council under the Act.

7 **“City”** means the City of Rialto.

8 **“City Council”** means the Council of the city of Rialto, acting as the legislative body of CFD
2016-1.

9 **“County”** means the County of San Bernardino.

10 **“Developed Property”** means an Assessor’s Parcel of Taxable Property for which a Building
11 Permit was issued on or before **June 1** preceding the Fiscal Year for which Special Taxes are
being levied.

12 **“Exempt Property”** means all Assessor’s Parcels within CFD 2016-1 that are exempt from the
13 Special Taxes pursuant to the Act or Section F herein.

14 **“Final Map”** means an Assessor’s Parcel Map, a Final Subdivision Map, condominium plan, lot
15 line adjustment, or any other map functionally considered to be an equivalent development map
that has been recorded in the Office of the County Recorder.

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

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

18 **“Lot”** means property within a Final Map identified by a lot number for which a Building Permit
19 has been issued or may be issued.

20 **“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.

21 **“Multi-Family Residential Property” or “MFR Property”** means all Assessor’s Parcels of
22 Developed Property for which a Building Permit has been issued for purposes of constructing a
23 residential structure consisting of two or more residential units that share common walls,
including, but not limited to, duplexes, triplexes, town homes, condominiums, and apartment
24 units.

25 **“Property Owner Association Property”** means for each Fiscal Year any property within the
26 boundaries of CFD 2016-1 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**.

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

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

6 **“Residential Property”** means all Assessor’s Parcels of Developed Property within CFD 2016-
7 1 for which a Building Permit has been issued for purposes of constructing one or more
8 Residential Unit(s).

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

11 **“Services”** means those authorized services that may be funded by CFD 2016-1 pursuant to the
12 Act, as amended including but not limited to: police protection services; fire protection and
13 suppression services, and ambulance and paramedic services; maintenance and lighting of parks,
14 parkways, streets, roads, and open space; and flood and storm protection services.

15 **“Single-Family Detached Residential Unit” or “SFR Property”** means all Assessor’s Parcels
16 of Residential Property consisting of a single Dwelling Unit.

17 **“Special Tax”** means the special tax authorized to be levied within CFD 2016-1 pursuant to the
18 Act, to fund the Special Tax Requirement.

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

“Undeveloped Property” means an Assessor’s Parcel of Taxable Property for which a Building
Permit has not been issued on or before June 1 preceding the Fiscal Year for which Special
Taxes are being levied.

B. CLASSIFICATION OF ASSESSOR’S PARCELS

Each Fiscal Year, beginning with Fiscal Year 2017-2018, using the definitions above, each
Assessor’s Parcel within the CFD 2016-1 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. Developed Property shall be further classified as Single-Family
Residential Property or Multi-Family Residential Property. Commencing with Fiscal Year 2017-

2018 and for each subsequent Fiscal Year, all Taxable Property shall be subject to the levy of Special Taxes pursuant to Section C below.

C. MAXIMUM ANNUAL SPECIAL TAXES

1. Developed Property

Each Fiscal Year commencing in Fiscal Year 2017-2018, each Assessor's Parcel of Developed Property shall be subject to the Special Tax. The Maximum Special Tax for Developed Property for Fiscal Year 2017-2018 is shown below in Table 1.

Table 1
Developed Property
Maximum Special Tax Rates

Land Use Type	Maximum Special Tax Base Year (2017/18)
Residential	
SFR Property	\$288 per Residential Unit
MFR Property	\$216 per Residential Unit

For each subsequent Fiscal Year following the Base Year, the Maximum Special Tax rate 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 2017-2018, 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 2017-2018 and for each subsequent Fiscal Year, the CFD Administrator shall levy the Special Tax on all Taxable Property of CFD 2016-1 until the total amount of Special Tax levied equals the Special Tax Requirement. The Special Tax shall be

1 levied Proportionately on each Assessor's Parcel of Developed Property within CFD 2016-1 up
2 to 100% of the Maximum Special Tax to satisfy the Special Tax Requirement.

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

8 **E. PREPAYMENT OF SPECIAL TAX**

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

11 **F. EXEMPTIONS**

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

18 **G. APPEALS**

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

28 **H. MANNER OF COLLECTION**

The annual Special Taxes shall be collected in the same manner and at the same time as ordinary
ad valorem property taxes, provided, however, that the Special Taxes may be billed and collected
at a different time or in a different manner if necessary to meet the financial obligations of CFD
2016-1.

EXHIBIT B
SAMPLE BALLOT

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OFFICIAL BALLOT
SPECIAL ELECTION

City of Rialto

Community Facilities District No. 2016-1 (Public Services)

Annexation No. 2

This ballot is for a special landowner election. You must return this ballot in the enclosed postage paid envelope to the Office of the City Clerk of the City of Rialto no later than 6:00 p.m. on January 29, 2019, either by mail or in person. Ballots received after the special election with a postmark of the special election date, or earlier date, shall not be considered. The City Clerk's office is located at 290 W. Rialto Avenue, Rialto, California, 92376.

To vote, mark a cross (X) in the voting square after the word "YES" or after the word "NO". All distinguishing marks otherwise made are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Rialto and obtain another.

PROPOSITION A: Shall special taxes be levied annually on taxable property within the territory to be annexed into the City of Rialto Community Facilities District No. 2016-1 (Public Services), County of San Bernardino, State of California ("Annexation No. 2") and collected so long as the special taxes are needed to pay for maintenance and operational costs for police protection services, fire protection and suppression services, paramedic services, and park maintenance at the special tax rates and pursuant to the method of apportioning the special taxes set forth in Exhibit "B" to the Resolution of Intention to annex to the Community Facilities District No. 2016-1 (Public Services), adopted by the City Council of the City of Rialto on January 29, 2019?

☐ Yes

☐ No

PROPOSITION B: Shall an appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, be established for Annexation No. 2 to the City of Rialto Community Facilities District No. 2016-1 (Public Services), County of San Bernardino, State of California, in the amount of \$1,000,000 per annum?

☐ Yes

☐ No

Number of votes: _____ Property Owner: SA Golden Investment, Inc.
c/o 642 N Linden LLC

By: _____
Saber Awad, Property Owner