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RESOLUTION NO. R-80-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA CALLING FOR THE PLACEMENT OF A GENERAL TAX MEASURE ON THE BALLOT AT THE NOVEMBER 6, 2018 GENERAL MUNICIPAL ELECTION FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF A PROPOSED ORDINANCE AUTHORIZING A CONTINUED TRANSFER FROM THE CITY'S ELECTRIC SYSTEM REVENUE FUND TO THE CITY'S GENERAL FUND IN AN AMOUNT NOT TO EXCEED 20% OF ELECTRIC SYSTEM GROSS REVENUES.

WHEREAS, the City of Colton operates a public electric utility that provides electrical service to local residents and businesses; and

WHEREAS, pursuant to Section 3.44.030(iii)(i) of Chapter 3.44 of Title 3 of the Colton Municipal Code, which was approved by Colton voters as "Measure D" on June 7, 2016, the City is currently authorized to transfer up to 20% of Electric System annual gross revenues from the City's Electric System Revenue Fund to the City's General Fund (the "General Fund Transfer"); and

WHEREAS, pursuant to Section 3.44.030(iii)(i) of Chapter 3.44 of Title 3 of the Colton Municipal Code, the authorization to make a General Fund Transfer up to the maximum 20% rate will expire on June 30, 2021, after which the maximum authorized General Fund Transfer will revert to 12.39% of Electric System annual gross revenues; and

WHEREAS, funds placed in the General Fund via the General Fund Transfer pay for City services such as police protection, fire and paramedic services, street operations and maintenance, library services, parks and recreation services and general municipal services to the public; and

WHEREAS, pursuant to California Elections Code Section 9222, the City Council desires that the voters consider making the authorization for General Fund Transfers up to the maximum rate of 20% permanent (the "Measure"); and

WHEREAS, the City Attorney's Office has advised that, pursuant to Proposition 26, approved by the voters on November 2, 2010 (California Constitution Article XIIC, Section

1
2 1(e)), making the maximum 20% General Fund Transfer permanent as proposed in this
3 Measure is equivalent to a general tax increase; and

4 **WHEREAS**, on November 6, 1996, the voters of the State of California approved
5 Proposition 218 (California Constitution, Article XIII C, Section 2), an amendment to the State
6 Constitution which requires that all general taxes which are imposed, extended or increased
7 must be approved by a majority vote of the voters; and

8 **WHEREAS**, pursuant to Proposition 218 (California Constitution Article XIII C,
9 §2(b)), any election for the approval of an increase to a general tax must be consolidated with
10 a regularly scheduled general election for members of the governing body of the local
11 government; and

12 **WHEREAS**, pursuant to the Colton Municipal Code, §1.24.020, the City's regular
13 municipal elections for officers are held on the first Tuesday after the first Monday in
14 November of each even-numbered year. Therefore, the next regularly scheduled General
15 Municipal Election for the election of members of the City Council will be held on Tuesday,
16 November 6, 2018; and

17 **WHEREAS**, pursuant to Government Code §53724 ("Proposition 62"), a two-thirds
18 (2/3) vote of the membership of the City Council is required to place the Measure on the
19 November 8, 2016 ballot.
20

21
22 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON**
23 **DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**
24

25 **Section 1. Findings.** The City Council finds that all of the preceding recitals are
26 true and correct, are incorporated herein by this reference, and made an operative part hereof.
27
28

1
2 **Section 2. Submission of Measure.** Pursuant to California Constitution, Article
3 XIIC, Section 2, California Government Code Section 53724 and any other applicable
4 requirements of the laws of the State of California relating to general law cities, the City
5 Council, **by a two-thirds (2/3) supermajority vote**, hereby orders the following proposed
6 Measure/ordinance to be submitted to the voters of the City at the General Municipal Election
7 to be held on **Tuesday, November 6, 2018**:
8

9
10 “COLTON CITY SERVICES MEASURE. To provide approximately
11 \$5,000,000 annually in additional funding that will remain under local
12 control for Colton general city services, including police, fire
13 paramedics, parks, libraries, youth and senior services, shall an
14 ordinance be adopted authorizing a transfer not to exceed 20% of annual
15 electric utility gross revenues to the City of Colton’s General Fund, until
16 ended by voters?”
17

YES

NO

18
19 **Section 3. Text of Ordinance.** The text of the ordinance to be submitted to the
20 voters is attached as Exhibit A.
21

22 **Section 4. Conduct of Election.** The City Clerk is authorized, instructed and
23 directed to procure and furnish any and all official ballots, printed matter and all supplies,
24 equipment and paraphernalia that may be necessary in order to properly and lawfully conduct
25 the election. In all particulars not recited in this Resolution, the election shall be held and
26 conducted as provided by law for holding municipal elections.
27

28 **Section 5. Notice of Election.** Notice of the time and place of holding the
election is hereby given, and the City Clerk is authorized, instructed and directed to give
further or additional notice of the election, in time, form and manner as required by law.

1 **Section 6. Impartial Analysis.** Pursuant to California Elections Code Section
2 9280, the City Council hereby directs the City Clerk to transmit a copy of the Measure to the
3 City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to
4 exceed 500 words in length, showing the effect of the Measure on the existing law and the
5 operation of the Measure, and transmit such impartial analysis to the City Clerk not later
6 **August 20, 2018.**

7
8 The impartial analysis shall include a statement indicating whether the Measure was
9 placed on the ballot by a petition signed by the requisite number of voters or by the City
10 Council. In the event the entire text of the Measure is not printed on the ballot, nor in the
11 voter information portion of the sample ballot, there shall be printed immediately below the
12 impartial analysis, in no less than 10-font bold type, the following: **“The above statement is**
13 **an impartial analysis of Ordinance or Measure ____.** **If you desire a copy of the**
14 **ordinance or measure, please call the Office of the City Clerk at (909) 370-5001 and a**
15 **copy will be mailed at no cost to you.”**

16
17 **Section 7. Certification.** The City Clerk shall certify to the passage and adoption of
18 this Resolution and enter it into the book of original Resolutions.

19
20 **Section 8. Filing with County.** The City Clerk shall, not later than the 88th day prior
21 to the General Municipal Election to be held on Tuesday, November 6, 2018, file with the
22 Board of Supervisors and the County Clerk – Registrar of Voters of the County of San
23 Bernardino, State of California, a certified copy of this Resolution.

24
25 **Section 9. Public Examination.** Pursuant to California Elections Code §9295, this
26 Measure will be available for public examination for no fewer than ten (10) calendar days
27 prior to being submitted for printing in the voter information guide. The Clerk shall post
28 notice in the Clerk’s office of the specific dates that the examination period will run.

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PASSED, APPROVED AND ADOPTED this 17th day of July 2018.



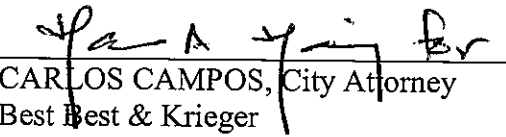
RICHARD A DELAROSA, Mayor

ATTEST:



CAROLINA R. PADILLA, City Clerk

APPROVED AS TO FORM:



CARLOS CAMPOS, City Attorney
Best Best & Krieger

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ATTACHMENT "A"

**ORDINANCE AUTHORIZING PERMANENT GENERAL FUND
TRANSFER FROM ELECTRIC SYSTEM REVENUE ACCOUNT**

[SEE ATTACHED PAGES 7 THROUGH 9]

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MEASURE " _ "

ORDINANCE NO. O- 10 -18

AN ORDINANCE OF THE PEOPLE OF THE CITY OF COLTON AUTHORIZING A CONTINUED TRANSFER FROM THE CITY'S ELECTRIC SYSTEM REVENUE FUND TO THE CITY'S GENERAL FUND IN AN AMOUNT NOT TO EXCEED 20% OF ELECTRIC SYSTEM GROSS REVENUES.

(NOTE: additions are highlighted in *bold italics* and deletions are highlighted in ~~strikeout~~)

THE PEOPLE OF THE CITY OF COLTON, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Clause (i) of paragraph (iii) of Section 3.44.030 of Chapter 3.44 of Title 3 of the Colton Municipal Code is hereby amended to read as follows:

"3.44.030 – Flow of Gross Revenues.

The Treasurer shall deposit the Gross Revenues of the Electric System as received in the Revenue Account into a bank account separate and apart from other accounts of the City. On or before the 20th day of each calendar month, the Treasurer shall withdraw the entire amount on deposit in the Revenue Account and shall allocate and deposit such amount in the indicated priority to the following accounts, sub-account and fund:

- (i) First, there shall be transferred to the M&O Account an amount sufficient for the payment of Maintenance and Operation Expenses for the following month;
- (ii) Second, there shall be transferred to the Qualified Obligations Account the amount of Qualified Obligation Service necessary to be deposited (assuming equal monthly deposits) such that all Qualified Obligations may be made as scheduled (to the extent not already transferred to such Account in such month or not otherwise on deposit in such Account) or, if less, the entire amount of Gross Revenues then available for transfer, to such Account; and
- (iii) Third, all moneys remaining in the Revenue Account after the above transfers have been made shall be transferred to the Surplus Revenue Account. Moneys in the Surplus Revenue Account at any time shall be used in the following order of priority:
 - (a) For the payment of all Additional Installment Payments (as defined in the 1997 Installment Sale Agreement) that have accrued or been incurred or that are then due and payable.

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(i) For transfer to the City's general fund, on a monthly basis, in an amount set by the City Council, but not greater than the following: ~~Until June 30, 2021, o~~One-twelfth (1/12th) of twenty percent of the Electric System's Gross Revenues of the preceding Fiscal Year (less (x) the costs and expenses relating to sales of electricity for resale during such Fiscal Year, (y) contributions in aid of construction during such Fiscal Year and (z) the public benefit charge collected pursuant to Assembly Bill 1890) or all available moneys in the Surplus Revenue Account if less than such amount. ~~After June 30, 2021, the maximum allowed monthly transfer shall revert to one twelfth (1/12th) of twelve point thirty nine (12.39%) percent of the Electric System's Gross Revenues of the preceding Fiscal Year (less those costs, expenses, contributions in aid, and public benefit charge identified above) or all available moneys in the Surplus Revenue Account if less than such amount;~~
....”

Section 2. Effective Date. This ordinance is subject to a vote of the citizens of Colton and shall take effect, if approved by a majority of the voters voting at such election, ten (10) days following certification of the election results.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The People of the City of Colton hereby declare that they would have adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 4. Certification/Summary. Following certification that the citizens of Colton have approved this Ordinance, the Mayor shall sign this Ordinance and the City Clerk shall cause the same to be entered in the book of original ordinances of said City; and shall cause the same, or a summary thereof, to be published as required by law.

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I hereby certify that the forgoing ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Colton on the 6th day of November, 2018.

RICHARD A. DELAROSA, Mayor

ATTEST:

CAROLINA R. PADILLA, City Clerk

APPROVED AS TO FORM:

CARLOS CAMPOS, City Attorney
Best Best & Krieger

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

4
5 **CERTIFICATION**

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 **RESOLUTION NO. R-80-18**,
8 duly 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 **17th day of July 2018**, and that it was
10 adopted by the following vote, to wit:

11	AYES:	COUNCILMEMBER	Toro, Cisneros, Navarro, González, Woods,
12			Suchil, Mayor DeLaRosa
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)