

FULL TEXT FOR MEASURE D

ORDINANCE NO. O-04-16

AN ORDINANCE OF THE PEOPLE OF THE CITY OF COLTON AUTHORIZING A 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 UNTIL JUNE 30, 2021 AND REVERTING BACK TO A MAXIMUM OF 12.39% THEREAFTER, AND ESTABLISHING AN ELECTRIC UTILITY RATE FREEZE FOR A PERIOD OF FIVE YEARS, EXCEPT IN CASES OF FISCAL EMERGENCY.

(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***, one-twelfth (1/12th) of ~~twelve point thirty-nine~~ ***twenty*** (42.3920%) 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. Section 3.44.040 is hereby added to Chapter 3.44 of Title 3 of the Colton Municipal Code and shall read as follows:

"3.44.040 – Electric Utility Service Rate Freeze, Exception.

(a) For a period of five (5) years from the effective date of this Section, the City Council may not set electric utility service rates for City of Colton customers in an amount that exceeds those rates set by City of Colton Resolution No. R-07-14 (adopted January 21, 2014) (the "Rate Freeze").

(b) The City Council may increase electric utility service rates beyond the maximum amount set forth in subsection (a) only by resolution, duly adopted by a unanimous vote of all members of the City Council, and making written findings that there exists an emergency to the City's Electric System that requires such an increase in rates.

(c) Upon the fifth (5th) anniversary of the effective date of this Section, the Rate Freeze shall have no further force or effect and the City Council may set increased electric utility service rates as otherwise permitted by law. However, it may not "back-bill" or apply rates retroactively to the Rate Freeze period.

(d) As a voter-approved ordinance, pursuant to Elections Code Section 9217, this Section 3.44.040 shall apply notwithstanding any ordinance, resolution or other action of the City to the contrary."

Section 3. 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 4. 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 5. 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.

I hereby certify that the forgoing ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Colton on the ____ day of _____, 2016.

Richard A. DeLaRosa, Mayor

ATTEST:

Carolina R. Padilla, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney
Best Best & Krieger