

ORDINANCE NO. 0-08-12

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF COLTON, CALIFORNIA,
AMENDING SECTION 3(II)(I) OF
ORDINANCE NO. 0-09-02 (SECTION
3.44.030(II)(I) OF THE COLTON
MUNICIPAL CODE) RELATING TO THE
ELECTRIC SYSTEM REVENUE FUND AND
AMENDING THE AMOUNT WHICH MAY
BE TRANSFERRED TO THE GENERAL
FUND

WHEREAS, the City of Colton ("City") is a municipal corporation, organized and existing under the general laws and the Constitution of the United State of California; and

WHEREAS, the City owns and operates and makes expenditures to finance, acquire and construct additions to, maintain, repair and operate its Electric System; and

WHEREAS, the City may, from time to time, enter into contracts with respect to said construction and additions to its Electric System; and

WHEREAS, the City adopted Ordinance No. 0-21-94 which established an Electric System Revenue Fund; and

WHEREAS, the City adopted Ordinance No. 0-13-95 which repealed Ordinance No. 0-21-94, and continued the Electric System Revenue Fund and established a flow of funds for the Electric System Revenue Fund; and

WHEREAS, in 1995, the City entered into an Installment Purchase Agreement, dated as of October 1, 1995 (the "1995 Installment Purchase Agreement") with the Colton Public Financing Authority (the "Authority") pursuant to which the City agreed to make certain payments thereunder in order to facilitate construction and additions to its Electric System (the "1995 Project"); and

WHEREAS, the 1995 Project was financed using proceeds of the \$17,585,000 Colton Public Financing Revenue Bonds, 1995 Series (City of Colton, California Electric System Improvements) (the "1995 Bonds"); and

WHEREAS, in 1997, the City entered into an Installment Sale Agreement, dated as of April 1, 1997 (the "1997 Installment Sale Agreement") with the Financing Authority for Resource Efficiency of California, pursuant to which the City agreed to make certain payments thereunder in order to facilitate the prepayment of all Purchase Payments (as such term was defined in the 1995 Installment Purchase Agreement) and certain other amounts due under the 1995 Installment Purchase Agreement; and

1 **WHEREAS**, the prepayment under the 1995 Installment Purchase Agreement and the
2 resulting refunding of the 1995 Bonds were financed using a portion of the proceeds of
3 the \$46,565,000 Financing Authority for Resource Efficiency of California,
4 Certificates of Participation, 1997 Series (Capital Improvements Program) (the
5 “FARECal Bonds”); and

6 **WHEREAS, in 2002**, the City entered into an Installment Purchase Agreement, dated
7 as of August 1, 2002 (the “2002 Installment Purchase Agreement”), with the Financing
8 Authority, pursuant to which the City agreed to make certain payments thereunder in
9 order to facilitate the acquisition, construction and installation of a generation facility
10 for its Electric System (the “2002 Project”); and

11 **WHEREAS**, the 2002 Project was financed using proceeds of the Colton Public
12 Financing Revenue Bonds, 2002 Series (Electric Generation Facility Project) (the
13 “2002 Bonds”); and

14 **WHEREAS**, on July 2, 2002 the City adopted Ordinance No. 0-09-02, which repealed
15 Ordinance No. 0-13-95, continued the Electric System Revenue Fund and established a
16 flow of funds for the Electric System Revenue Fund; and

17 **WHEREAS**, in the last Recital of Ordinance No. O-09-02, the City stated that it
18 intended for Ordinance No. 0-09-02 to “amend and replace Chapter 3.44 of the Colton
19 Municipal Code”, with Section 3.44.010 being Section 1 titled “Definitions”, Section
20 3.44.020 being Section 2 titled “Fund and accounts” and Section 3.44.030 being
21 Section 3 titled “Flow of gross revenues”; and

22 **WHEREAS**, while the publisher has not yet published Ordinance No. O-09-02 as
23 Chapter 3.44 of the Colton Municipal Code, they have assured the City that it will be
24 published shortly; and

25 **WHEREAS**, the City intends by this Ordinance to amend and replace Section 3(iii)(i)
26 of Ordinance No. O-09-02 (e.g Section 3.44.030(iii)(i) of Chapter 3.44 of the Colton
27 Municipal Code) to amend the amount which may be transferred to the general fund;

28 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON,
CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Section 3.44.030 (Flow of Gross Revenues).

Section 3.44.030(iii)(i) of the Colton Municipal Code shall be deleted in its entirety
and replaced with the following:

 “(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 one-twelfth
(1/12th) of twelve point thirty-nine percent (12.39%) 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

1 Bill 1890) or all available moneys in the Surplus Revenue Account if
2 less than such amount;"

3 **Section 2. Severability.**

4 If any section, subsection, subdivision, paragraph, sentence, clause or phrase of
5 this Ordinance, or any part thereof is for any reason held to be unconstitutional, such
6 decision shall not affect the validity of the remaining portion of this ordinance or any
7 part thereof. The City Council hereby declares that it would have passed each section,
8 subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of
9 the fact that any one or more section, subsection, subdivision, paragraph, sentence,
10 clause or phrase be declared unconstitutional.

11 **Section 3. CEQA.**

12 The City Council hereby finds that this Ordinance is categorically exempt from
13 further environmental review pursuant to the California Environmental Quality Act
14 (Pub. Resources Code, sec. 21000 et seq.) ("CEQA") because, pursuant to Section
15 15321(a), Class 21, Category (a) of the State CEQA Guidelines, the Ordinance
16 constitutes the enforcement of a law administered or adopted by the City as a
17 regulatory agency. City staff is hereby directed to file a Notice of Exemption with the
18 County Clerk within three (3) days following the adoption of this Ordinance.

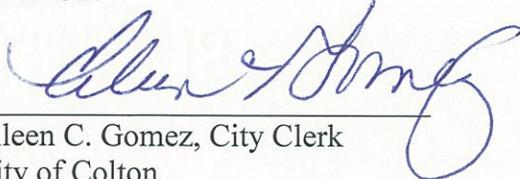
19 **Section 4. Effective Date.**

20 The City Clerk shall certify to the passage of this Ordinance and cause the
21 same or a summary thereof to be published within fifteen (15) days after adoption in a
22 newspaper of general circulation, printed and published in Colton, California, and the
23 Ordinance shall take effect thirty (30) days after its enactment in accordance with the
24 provisions of California law.

25 **ORDINANCE PASSED AND APPROVED** on this 17th day of July, 2012.

26 
27 Sarah S. Zamora, Mayor)
28 City of Colton

29 ATTEST:

30 
31 Eileen C. Gomez, City Clerk
32 City of Colton

