

**RESOLUTION NUMBER 3204**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS DETERMINING THE VALIDITY OF PRIOR PROCEEDINGS, ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2004-2 (CLC) OF THE CITY OF PERRIS; AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN COMMUNITY FACILITIES DISTRICT NO. 2004-2 (CLC) OF THE CITY OF PERRIS; ESTABLISHING AN APPROPRIATIONS LIMIT; AND TAKING CERTAIN OTHER ACTIONS RELATING TO SAID DISTRICT**

**WHEREAS**, the City Council (the “Council”) of the City of Perris, California (the “City”), on January 27, 2004, has heretofore adopted its resolution of intention (the “Resolution of Intention”) stating its intention to form Community Facilities District No. 2004-2 (CLC) of the City of Perris (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the “Act”) being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California; and

**WHEREAS**, a copy of the Resolution of Intention, incorporating a description and map of the proposed boundaries of the District and setting forth the rate and method of apportionment and manner of collection of the special tax to be levied within the proposed District is on file with the City Clerk and incorporated herein by reference with such changes to the terms thereof, including, but not limited to, revisions to the rate and method of apportionment of the special tax as have been made and submitted with this Resolution; and

**WHEREAS**, a report by each City officer who is or will be responsible for the District (the “Report”), has been filed with the Council pursuant to the Resolution of Intention; and

**WHEREAS**, the Resolution of Intention set March 9, 2004 as the date of the public hearing on the formation of the District, and this Council continued said public hearing to March 30, 2004 and held said public hearing as required by law; and

**WHEREAS**, at said hearing all persons not exempt from the special tax desiring to be heard on all matters pertaining to the formation of the District were heard and a full and fair hearing was held; and

**WHEREAS**, at said hearing evidence was presented to the Council on said matters before it, and this Council at the conclusion of said hearing is fully advised in the premises;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PERRIS DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** That the above recitals are all true and correct.

**Section 2.** Pursuant to Section 53325.1(b) of the Government Code, the Council finds and determines that the proceedings prior hereto were valid and in conformity with the requirements of the Act including, without limitation, the following:

Filing of a petition of a landowner requesting institution of proceedings to establish the District;

Adoption of a Resolution of Intention to establish the District;

Adoption of a Resolution of Intention to Incur Bonded Indebtedness in an amount not to exceed \$6,000,000 within the proposed District;

Publication and mailing of notice of public hearing on the establishment of the District and of the proposed debt issue;

Conducting of a public hearing on the establishment of the District, the proposed public facilities and services and the incurring of the proposed debt, at which time all interested persons or taxpayers not exempt from the special tax were permitted to protest orally or in writing against the establishment of the District, were permitted to file written protests to the regularity or sufficiency of the proceedings, and any person interested, including persons owning property within the District, were permitted to appear and present any matters material to the questions set forth in the Resolution of Intention to Incur Bonded Indebtedness.

**Section 3.** The Report, as now submitted is hereby approved and is made a part of the record of the hearing, and is ordered kept on file with the transcript of these proceedings and open for public inspection.

**Section 4.** A community facilities district to be designated "Community Facilities District No. 2004-2 (CLC) of the City of Perris" ("the District") is hereby established pursuant to the Act.

**Section 5.** The description and map of the boundaries of the District on file in the City Clerk's office and as described in said Resolution of Intention and incorporated herein by reference, shall be the boundaries of the District. The map of the proposed boundaries of the District has been recorded in the Office of the County Recorder of Riverside County, California in Book 55, Page 86 of the Book of Maps of Assessments.

**Section 6.** The type of public facilities ("Facilities") authorized to be provided within the District include certain real and other tangible property with an estimated useful life of five years or longer, including public infrastructure facilities, and other governmental facilities which the City is authorized by law to construct, own or operate, within or without the District, which is necessary to meet increased demands placed upon the City as

result of development or rehabilitation occurring within the District. The Facilities are more fully described in Exhibit "B" attached hereto and by this reference incorporated herein.

**Section 7.** Except where funds are otherwise available, there shall be levied annually in accordance with procedures contained in the Act a special tax within the District, secured by recordation of a continuing lien against all nonexempt real property in the District, sufficient to pay for: (i) the Facilities and Incidental Expenses; and (ii) the principal and interest and other periodic costs on bonds or other indebtedness issued to finance the Facilities and Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the District, and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash). The rate and method of apportionment and manner of collection of the special tax within the District is described in detail in Exhibit "A" attached hereto and incorporated herein by this reference. Exhibit "A" allows each landowner within the District to estimate the maximum amount that may be levied against each parcel.

**Section 8.** If special taxes of the District are levied against any parcel used for private residential purposes, (i) the maximum special tax rate shall not be increased over time except that it may be increased by an amount not to exceed two percent (2%) per year to the extent permitted in the rate and method of apportionment; (ii) such tax shall be levied for a period not to exceed forty (40) years commencing with Fiscal Year 2004-2005, as further described in Exhibit "A" hereto; and (iii) under no circumstances will such special tax be increased more than ten percent (10%) as a consequence of delinquency or default by the owner of any other parcels within the District by more than ten percent.

**Section 9.** The special tax within the District is based on the expected demand that each parcel of real property the District will place on the Facilities on the benefit that each parcel derives from the right to access the Facilities and on other factors. The Council hereby determines the rate and method of apportionment of the special tax set forth in Exhibit "A" to be reasonable. The special tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such special tax is not based upon the value or ownership of real property. In the event that a portion of the property within Community Facilities District No. 2004-2 shall become for any reason exempt, wholly or partially, from the levy of the special tax specified on Exhibit "A", the Council shall, on behalf of the District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in Exhibit "A," to the extent necessary upon the remaining property within the District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described herein. The obligation to pay special taxes may be prepaid as set forth in Exhibit "A."

**Section 10.** Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the City Council hereby establishes the following accountability measures pertaining to the levy by the CFD of the Special Tax described in Section 7 above:

- A. Such Special Tax shall be levied for the specific purposes set forth in Section 6 hereof.
- B. The proceeds of the levy of such Special Tax shall be applied only to the specific purposes set forth in Section 6 hereof.
- C. The CFD shall establish an account or accounts into which the proceeds of such Special Tax shall be deposited.
- D. The City Manager, or his or her designee, acting for and on behalf of the CFD, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

**Section 11.** Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until the special tax obligation is prepaid or otherwise permanently satisfied and the lien cancelled in accordance with law or until collection of the tax by the District ceases.

**Section 12.** The Council finds that the Facilities are necessary to meet the increased demand put upon the City as a result of the development within the District.

**Section 13.** The Council finds that there is not an *ad valorem* property tax currently being levied on property within the proposed District for the exclusive purpose of paying principal of or interest on bonds or other indebtedness incurred to finance construction of capital facilities which provide the same services to the territory of the District as provided by the Facilities.

**Section 14.** An appropriation limit for the District is hereby established as an amount equal to all the proceeds of the special tax collected annually and as defined by Article XIII B of the California Constitution, as adjusted for changes in the cost of living and changes in population.

**Section 15.** Written protests against the establishment of the District, or against the furnishing of specified services or facilities or the levying of a specified special tax within the District, have not been filed by fifty percent (50%) or more of the registered voters or property owners of one-half (1/2) or more of the area of land within the District.

**Section 16.** The proposed special tax to be levied in the District to pay for all the proposed facilities has not been precluded by protests by owners of one-half or more of the land in the territory included in the District pursuant to Government Code Section 53324.

**Section 17.** The Office of the City Manager, 101 North "D" Street, Perris, California 92570, (909) 943-6100, or its designee, is designated to be responsible for preparing

annually a current roll of special tax levy obligations by assessor's parcel number and for estimating future special tax levies pursuant to Section 53340.1 of the Government Code.

**Section 18.** The City Clerk is directed to certify and attest to this Resolution and to take any and all necessary acts to call, hold, canvass and certify an election or elections on the incurring of bonded indebtedness, the levy of the special tax, and the establishment of the appropriation limit.

**ADOPTED, SIGNED and APPROVED** this 30th day of March, 2004.

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Mayor, Daryl R. Busch

ATTEST:

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City Clerk, Margaret Rey

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) §  
CITY OF PERRIS )

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 3204 was duly adopted by the City Council of said City at a regular meeting thereof held on the 30th day of March, 2004, and that it was so adopted by the following called vote:

AYES: Landers, Motte, Rogers, Yarbrough, Busch  
NOES:  
ABSENT:  
ABSTAIN:

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City Clerk, Margaret Rey

**EXHIBIT "A"**  
**(RESOLUTION NUMBER 3204)**

**CITY OF PERRIS**  
**COMMUNITY FACILITIES DISTRICT NO. 2004-2**  
**(CORMAN LEIGH COMMUNITIES)**  
**(PERRIS 53)**

**RATE AND METHOD OF APPORTIONMENT**

A Special Tax shall be levied on all Taxable Property in the City of Perris Community Facilities District No. 2004-2 and collected each Fiscal Year commencing in Fiscal Year 2004-2005 according to the tax liability determined by the Council, through the application of the rate and method of apportionment of the Special Tax set forth below. All Taxable Property within CFD No. 2004-2 shall be taxed to the extent and in the manner herein provided.

**I. DEFINITIONS**

**"Acquisition Agreement"** means that certain acquisition agreement pursuant to which public improvements financed by the Bonds and/or the Special Taxes are acquired by the City, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Acre or Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel map, or if the land area is not shown on an Assessor's Parcel map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

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

**"Administrative Fees" or "Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of: the costs of computing the Special Taxes; the costs of preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD 2004-2, or any designee thereof complying with arbitrage rebate requirements; the costs to the City, CFD No. 2004-2, or any designee thereof complying with disclosure or reporting requirements of the City or CFD No. 2004-2, associated with applicable federal and State laws; the costs associated with preparing Special Tax disclosure

statements and responding to public inquiries regarding the Special Taxes; the costs to the City, or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2004-2 for any other administrative purposes of, including attorney's fees and other costs related to commencing and pursuing any foreclosure of delinquent Special Taxes.

**"Assessor"** means the Assessor of the County of Riverside.

**"Assessor's Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's parcel number.

**"Assigned Special Tax"** means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section III below.

**"Backup Special Tax"** means the Special Tax applicable to each Assessor's Parcel of Developed Property, as determined in accordance with Section III below.

**"Bonds"** means any bonds or other indebtedness (as defined in the Act) of CFD No. 2004-2, whether in one or more series, secured by the levy of Special Taxes.

**"CFD No. 2004-2"** means the City of Perris Community Facilities District No. 2004-2.

**"CFD Administrator"** means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and for levying and collecting the Special Taxes.

**"City"** means the City of Perris, California.

**"Council"** means the City Council of the City of Perris acting as the legislative body of the CFD under the Act.

**"County"** means the County of Riverside, California.

**"Debt Service"** means for each Fiscal Year, the total amount of principal and interest payable on any Bonds during the calendar year commencing on January 1 of such Fiscal Year.

**"Developed Property"** means for each Fiscal Year, all Taxable Property, exclusive of Taxable Property Owner Association Property or Taxable Public Property, for which a building permit for new construction or renovations was issued prior to March 1 of the previous Fiscal Year.



**“Final Subdivision”** means a subdivision of property created by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code 1352 that creates individual lots for which building permits may be issued without further subdivision.

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

**“Indenture”** means the indenture, fiscal agent 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.

**“Land Use Class”** means any of the classes listed in Table 1.

**“Maximum Annual Special Tax”** means the greatest amount of Special Tax, determined in accordance with Section III below, which may be levied in any Fiscal Year on any Assessor’s Parcel.

**“Non-Residential Property”** means all Developed Property for which a building permit(s) was issued for a non-residential use.

**“Outstanding Bonds”** mean all Bonds, which are deemed to be outstanding under the Indenture.

**“Property Owner Association Property”** means any property within the boundaries of CFD No. 2004-2 owned in fee, dedicated to or subject to an easement benefiting a property owner association, including any master or sub-association.

**“Proportionately” or “Proportionate”** means, for Developed Property, that the ratio of the actual Special Tax levy to the Assigned Special Tax is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property. The term "Proportionately" may similarly be applied to other categories of Taxable Property as listed in Section IV below.

**“Public Property”** means any property within the boundaries of CFD 2004-2 the ownership of which is transferred to a public agency on or after the date of formation of CFD No. 2004-2 and is used for rights-of-way or any other purpose and is owned by, or irrevocably offered for dedication to the federal government, the State of California, the County, the City or any other public agency; provided however that any property owned by a public agency and leased to a private

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

**“Residential Floor Area”** means all of the square footage of usable area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, or similar area. The determination of Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor’s Parcel.

**“Residential Property”** means all Assessor’s Parcels of Developed Property for which a building permit has been issued for purposes of constructing one or more residential dwelling units.

**“Resolution of Issuance”** means the Resolution passed by the Council authorizing the issuance of bonds.

**“Special Tax”** means any tax levied within CFD No. 2004-2 pursuant to the Act and this Rate and Method of Apportionment of Special Tax.

**“Special Tax Obligation”** means the total obligation of an Assessor’s Parcel of Taxable Property to pay the Special Tax for the remaining life of CFD No. 2004-2.

**“Special Tax Requirement”** means that amount required in any Fiscal Year to: (i) pay Debt Service on all Outstanding Bonds; (ii) pay periodic costs on the Outstanding Bonds, including but not limited to, credit enhancement and rebate payments on the Outstanding Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) accumulate funds to pay directly for acquisition or construction of facilities provided that the inclusion of such amount does not cause an increase in the Special Tax to be levied on Undeveloped Property, and (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less (vii) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator pursuant to the Indenture.

**“State”** means the State of California.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD 2004-2, which are not exempt from the levy of the Special Tax pursuant to law or Section VIII below.

**“Taxable Property Owner Association Property”** means all Assessor’s Parcels of Property Owner Association Property within the boundaries of CFD 2004-2 that are not exempt from the levy of Special Tax pursuant to Section VIII below.

**“Taxable Public Property”** means all Assessor’s Parcels of Public Property that are not exempt from the levy of Special Tax pursuant to Section VIII below.

**“Trustee”** means the trustee or fiscal agent under the Indenture.

**“Undeveloped Property”** means, for each Fiscal Year, all Taxable Property within the boundaries of CFD 2004-2 not classified as Developed Property, Taxable Property Owner Association Property, or Taxable Public Property.

## **II. CLASSIFICATION OF PARCELS**

Each Fiscal Year, all Taxable Property within the boundaries of CFD 2004-2 shall be classified as Developed Property, Taxable Property Owner Association Property, Taxable Public Property, or Undeveloped Property, and all such Taxable Property shall be subject to the levy of Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections III and IV below. Assessor’s Parcels of Developed Property shall be classified as Residential Property or Non-Residential Property. Assessor’s Parcels of Residential Property shall be further classified to its applicable Land Use Class based on its Residential Floor Area.

## **III. MAXIMUM SPECIAL TAX RATES**

### **1. Developed Property**

#### (a). Maximum Special Tax

The Maximum Special Tax for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax or (ii) the amount derived by application of the Backup Special Tax.

#### (b). Assigned Special Tax

**TABLE 1**

**Assigned Special Taxes for Developed Property  
Community Facilities District No. 2004-2  
Fiscal Year 2004-05**

<b>Land Use Class</b>	<b>Description</b>	<b>Average Residential Floor Area</b>	<b>Assigned Special Tax</b>
1	Residential Property	≥2,750 sq. ft.	\$ 2,011.11 per unit
2	Residential Property	2,500 – 2,749 sq. ft.	\$ 1,812.33 per unit
3	Residential Property	2,250 – 2,499 sq. ft.	\$ 1,712.94 per unit
4	Residential Property	2,000 – 2,249 sq. ft.	\$ 1,613.55 per unit
5	Residential Property	1,750 – 1,999 sq. ft.	\$ 1,504.22 per unit
6	Residential Property	< 1,750 sq. ft.	\$ 1,375.01 per unit
7	Non-Residential Property	N/A	\$ 9,088 per Acre

On July 1<sup>st</sup> of each Fiscal Year, commencing July 1, 2005, the Assigned Special Tax shall increase by two-percent (2.0%) of the amount in effect in the prior Fiscal Year.

(c). Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Assigned Special Tax levied on an Assessor's Parcel shall be the sum of the Assigned Special Taxes for all Land Use Classes located on that Assessor's Parcel. The Maximum Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Taxes that can be levied for all Land Use Classes located on that Assessor's Parcel. For an Assessor's Parcel that contains both Residential Property and Non-Residential Property, the Acreage of such Assessor's Parcel shall be allocated to each type of property based on the amount of Acreage designated for each Land Use Class as determined by reference to the site plan approved for such Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

(d). Backup Special Tax

Each Fiscal Year, each Assessor's Parcel of Residential Property shall be subject to a Backup Special Tax. In each Fiscal Year, the Backup Special Tax rate for Residential Property within a Final Subdivision shall be the rate per dwelling unit calculated according to the following formula:

$$B = \frac{Z \times A}{L}$$

The terms above have the following meanings:

- B = Backup Special Tax per Assessor's Parcel for the applicable Fiscal Year
- Z = Maximum Special Tax for Undeveloped Property for the applicable Fiscal Year
- A = Acreage of Taxable Property, excluding Taxable Public Property or Taxable Property Owner Association Property in such Final Subdivision that lie within the

boundaries of CFD 2004-2, as determined by the CFD Administrator pursuant to Section VIII

L = Total Taxable Assessor's Parcels within the Final Subdivision that lie within the boundaries of CFD 2004-2

If a Final Subdivision includes Assessor Parcels for which building permits for both residential and non-residential construction may be issued, then the Backup Special Tax for each Assessor's Parcel of Residential Property within such Final Subdivision area shall be computed by the CFD Administrator exclusive of the allocable portion of total Acreage of Taxable Property attributable to Assessor Parcels for which building permits for non-residential construction may be issued.

Notwithstanding the foregoing, if Assessor Parcels of Residential Property are subsequently changed or modified by recordation of a Final Subdivision, then the Backup Special Tax shall be recalculated to equal the amount of the Backup Special Tax that would have been generated if such change did not take place.

## **2. Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property.**

The Maximum Special Tax for Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property shall be \$12,018 per Acre for Fiscal Year 2004-2005. On July 1<sup>st</sup> of each Fiscal Year Commencing July 1, 2005, the Maximum Special Tax for Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property shall increase by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

## **IV. APPORTIONMENT OF SPECIAL TAX**

For each Fiscal Year the Council shall determine the Special Tax Requirement and levy the Special Tax, until the amount of Special Taxes equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First: The Special Tax shall be levied proportionately on each Assessor's Parcel of Developed Property in an amount up to 100% of the applicable Assigned Special Tax as necessary to satisfy the Special Tax Requirement;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased in equal percentages from the Assigned Special Tax up to 100% of the Maximum Special Tax for each such Assessor's Parcel;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax shall be levied on each Assessor's Parcel of Taxable Property Owner Association Property or Taxable Public Property at up to 100% of the Maximum Special Tax for Taxable Property Owner Association Property or Taxable Public Property.

Notwithstanding the above, under no circumstances will the Special Tax levied against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other Assessor's Parcel within CFD No. 2004-2, except for those Residential Properties whose owners are also delinquent or in default on their Special Tax payments for one or more other properties within CFD No. 2004-2 .

**V. MANNER OF COLLECTION**

Collection of the Special Tax shall be by the County in the same manner as ordinary ad valorem property taxes are collected and the Special Tax shall be subject to the same penalties and the same lien priority in the case of delinquency as ad valorem taxes; provided, however, that CFD No. 2004-2 may collect the Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may foreclose on Assessor's Parcels having delinquent Special Taxes as permitted by the Act.

**VI. DISCHARGE OF SPECIAL TAX OBLIGATION**

The Special Tax for any Assessor's Parcel may be prepaid and permanently satisfied or prepaid in part, as described herein, provided that a prepayment may be made only if at the time of the prepayment there are no delinquent Special Taxes with respect to such Assessor's Parcel and all other Assessor's Parcels which are under the same ownership and located within CFD 2004-2. An owner of an Assessor's Parcel intending to prepay the Special Tax shall provide the CFD Administrator with written notice of intent to prepay. Within 60 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel and the date through which the amount of any such prepayment shall be valid.

**Prepayment in Full**

The "Prepayment" shall be an amount equal to the sum of (1) Principal, (2) Premium, (3) Defeasance, (4) Fees, and (5) Unfunded Facilities minus the Reserve Fund Credit, where the terms "Principal," "Premium," "Defeasance," "Fees," "Unfunded Facilities," and "Reserve Fund Credit," have the following meanings:

**"Principal"** means the principal amount of Bonds to be redeemed from the proceeds of such Prepayment and equals the quotient derived by dividing (a) the applicable Maximum Special Tax for the applicable Assessor's Parcel by (b) the projected aggregate Maximum Special Taxes as determined by the CFD Administrator (and excluding from (b) any Special Taxes for Assessor's Parcels which have fully prepaid the Special Tax), and multiplying the quotient by the principal amount of Bonds outstanding as of the first interest and/or principal payment date following the current Fiscal Year.

**"Premium"** means an amount equal to the Principal multiplied by the applicable redemption premium, if any, for the Bonds so redeemed with the proceeds of any such Prepayment.

**"Defeasance"** means an amount equal to the amount needed to pay interest on the Principal to be redeemed until the earliest redemption date as determined by the CFD Administrator for the outstanding Bonds less the amount that is estimated by the CFD Administrator to be received from the reinvestment of the difference of the Prepayment and the Fees. Credit shall also be given for any Special Tax heretofore paid and which will not be needed for purposes of funding the current Fiscal Year's Special Tax Requirement.

**"Fees"** equal the fees and expenses of CFD No. 2004-2 related to the Prepayment.

**"Unfunded Facilities"** means an amount equal to the estimated cost of the unfunded public facilities allocable to the Assessor's Parcel for which the Prepayment is being calculated and is computed by multiplying the quotient calculated when determining Principal by the estimated cost of the public facilities as set forth in the Acquisition Agreement, less the estimated cost of any such facilities financed by previously issued Bonds. Unfunded Facilities shall equal zero following the issuance of all of the Bonds (i.e., all the authorized Bonds have been issued and/or CFD No. 2004-2 has covenanted not to issue any more Bonds, other than refunding bonds).



**"Reserve Fund Credit"** shall equal the lesser of (i) the expected reduction in the applicable reserve fund requirement (as defined in the Indenture), if any, following the redemption of Bonds from proceeds of the prepayment or (ii) the amount derived by subtracting the new reserve fund requirement in effect after the redemption of Bonds from the balance in the reserve fund (as such term is defined in the Indenture) on the prepayment date, but in no event shall such amount be less than zero.

The sum of the amounts calculated in the preceding steps shall be paid to CFD No. 2004-2 and shall be used to pay and redeem Bonds in accordance with the Indenture and to pay the Fees. Upon receipt of such Prepayment by CFD No. 2004-2, the obligation to pay the Special Tax for such Assessor's Parcel shall be deemed to be permanently satisfied, the Special Tax shall not be levied thereafter on such Assessor's Parcel, and the CFD Administrator shall cause notice of cancellation of the Special Tax for such Assessor's Parcel to be recorded within 30 working days of receipt of the Prepayment.

Notwithstanding the foregoing, no prepayment shall be allowed unless the amount of Maximum Special Taxes that may be levied pursuant to this Rate and Method of Apportionment on Taxable Property after the proposed prepayment is at least the sum of (i) the estimated Administrative Expenses, based on the average annual Administrative Expenses to date, and (ii) one hundred ten percent (110%) of the maximum annual debt service for the Bonds, taking into account the Bonds to remain outstanding after such prepayment.

**VII. TERM OF "SPECIAL TAX"**

The Special Tax shall be levied annually for a period not to exceed the 40 years commencing with Fiscal Year 2004-2005, provided however that Special Taxes will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined that all required Debt Service payments on all outstanding Bonds have been paid.

**VIII. EXEMPTIONS**

No Special Tax shall be levied on up to 19.18 Acres of Property Owner Association Property or Public Property within CFD 2004-2. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Property Owner Association Property or Public Property. However, should an Assessor's Parcel no longer be classified as Property Owner Association Property or Public Property, its status as a property exempt from the levy of Special Taxes will be revoked.

Property Owner Association Property or Public Property that is not exempt from Special Taxes under this section shall be subject to the levy of the Special Tax and shall be taxed as part of the fourth step in Section IV above, at up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property or Taxable Public Property.

**IX. RELIEF FROM BACKUP SPECIAL TAX**

All Assessor's Parcels within CFD No. 2004-2 will be relieved simultaneously and permanently from the obligation to pay and disclose the Back-up Special Tax if the Council determines that the total amount of the Special Taxes which could be levied in any Fiscal Year on all Assessor's Parcels of Developed Property in CFD No. 2004-2 based on the Assigned Special Tax Rates for such Assessor's Parcels, less the estimated annual Administrative Expenses in any such Fiscal Year, would be equal to at least 110 percent of maximum annual Debt Service on the Outstanding Bonds.

**EXHIBIT “B”**  
**(RESOLUTION NUMBER 3204)**

TYPES OF FACILITIES TO BE FINANCED BY  
COMMUNITY FACILITIES DISTRICT NO. 2004-2

The General Description of the Improvements is as follows:

Streets, roadway improvements, including improvements to intersections and arterial highways, street lights, landscaping, sanitary sewers, water supply, including sewer and water treatment facilities, and storm drainage, school facilities, impact fees and other fees.

This description of the public capital facilities is general in nature. The final nature and location of improvements and facilities will be determined upon the preparation of final plans and specifications. The final plans and specifications may show substitutes in lieu of, or modifications to, proposed work. Any such substitution shall not be a change or modification in the proceedings as long as the facilities provide a service substantially similar to that as set forth in the Report.