

**RESOLUTION NUMBER 3248**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS DETERMINING THE VALIDITY OF PRIOR PROCEEDINGS, ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2004-3 (MONUMENT RANCH) OF THE CITY OF PERRIS COMPRISED OF IMPROVEMENT AREA NO. 1 AND IMPROVEMENT AREA NO. 2 THEREOF; AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN EACH SUCH IMPROVEMENT AREA OF COMMUNITY FACILITIES DISTRICT NO. 2004-3 (MONUMENT RANCH) 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 April 27, 2004, has heretofore adopted its resolution of intention (the “Resolution of Intention”) stating its intention to form Community Facilities District No. 2004-3 (Monument Ranch) of the City of Perris (the “District”) and Improvement Area No. 1 and Improvement Area No. 2 thereof (the “Improvement Areas”) 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, the Improvement Areas, and setting forth the rate and method of apportionment and manner of collection of the special tax to be levied within the proposed Improvement Areas 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 June 8, 2004 as the date of the public hearing on the formation of the District, and this Council 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 \$12,500,000 within each Improvement Area;

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 and the Improvement Areas, 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 and the Improvement Areas, were permitted to file written protests to the regularity or sufficiency of the proceedings, and any persons 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. 2004-3 (Monument Ranch) of the City of Perris" ("the District") is hereby established pursuant to the Act, consisting of Improvement Area No. 1 and Improvement Area No. 2.

**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 and the Improvement Areas. 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 56, Page 51 of the Book of Maps of Assessment and Community Facilities Districts.

**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 each Improvement Area, 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 each Improvement Area 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 either Improvement Area of 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 for each Improvement Area 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 either Improvement Area of Community Facilities District No. 2004-3 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 either Improvement Area 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 either Improvement Area of 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 from each Improvement Area 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 or of either Improvement Area thereof.

**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 29th day of June, 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, DO HEREBY CERTIFY that the foregoing Resolution Number 3248 was duly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 29th day of June, 2004, and that it was so adopted by the following called vote:

AYES: Rogers, Yarbrough, Busch

NOES:

ABSENT:

ABSTAIN: Landers, Motte

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City Clerk, Margaret Rey

**EXHIBIT "A"**  
**(RESOLUTION NUMBER 3248)**

**CITY OF PERRIS**  
**COMMUNITY FACILITIES DISTRICT NO. 2004-3**  
**(MONUMENT RANCH)**

**RATE AND METHOD OF APPORTIONMENT FOR**  
**IMPROVEMENT AREA NO. 1**

A Special Tax as hereinafter defined shall be levied on all Taxable Property within Improvement Area No. 1 ("IA No. 1") of Community Facilities District No. 2004-3 of the City of Perris ("CFD No. 2004-3") and collected each Fiscal Year, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," "Undeveloped Property," and "Provisional Undeveloped Property" as described below. All Taxable Property within IA No. 1 of CFD No. 2004-3 shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings as they relate to IA No. 1 of CFD No. 2004-3:

**"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, lot line adjustment, condominium plan, or other recorded parcel map.

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

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of IA No. 1: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City, or a designee thereof or both); the costs of collecting the Special Tax (whether by the County, City or otherwise); the costs of remitting the IA No. 1 Special Tax to the fiscal agent or Trustee; the costs of the fiscal agent or Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2004-3 or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No.

2004-3 or any designee thereof of complying with disclosure requirements of the City or CFD No. 2004-3 associated with applicable federal and state securities laws and of the Act; the costs associated with preparing IA No. 1 Special Tax disclosure statements and responding to public inquiries regarding the IA No. 1 Special Tax; the costs of the City, CFD No. 2004-3 or any designee thereof related to an appeal of the IA No. 1 Special Tax. Administrative Expenses shall also include amounts advanced by the City or CFD No. 2004-3 for any other administrative purposes of IA No. 1, including without limitation, attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent IA No. 1 Special Taxes.

**"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 of Riverside designating parcels by Assessor's Parcel number.

**"Association Property"** means all property which is owned by, irrevocably offered or dedicated to, or for which an easement for purposes of right of way has been granted to a property owner association, including any master or sub-association.

**"Assigned Annual Special Tax"** means the Special Tax applicable to each Land Use Category of Developed Property, as determined in accordance with Section C.1.a. below.

**"Authorized Facilities"** means those improvements, as listed in the Acquisition Agreement.

**"Backup Annual Special Tax"** means the Special Tax applicable to each Assessor's Parcel of Developed Property, as determined in accordance with Section C.1.b. below.

**"Bonds"** means any bonds or other indebtedness (as defined in the Act) of IA No. 1 of CFD No. 2004-3, whether in one or more series, secured by the levy of Special Taxes.

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

**"CFD No. 2004-3"** means the City of Perris Community Facility District No. 2004-3.

**"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.

**"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 all Taxable Property, exclusive of Provisional Undeveloped Property, for which a building permit for new construction was issued as of April 1 of the Fiscal Year preceding the Fiscal Year for which Special Taxes are being levied.

**"Exempt Property"** means all Assessor's Parcels designated in Section E as being exempt from the levy of Special Taxes.

**"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 on the following June 30.

**"Improvement Area No. 1"** means Improvement Area No. 1 of CFD No. 2004-3 as identified on the boundary map for CFD No. 2004-3 or as amended from time to time.

**"Indenture"** means the indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which IA No. 1 Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Land Use Category"** means any of the categories listed in Section C.1.a, Table 1.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C hereof, which may be levied in any Fiscal Year on any Assessor's Parcel of Taxable Property.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit has been issued for a non-residential use.

**"Proportionately"** means for Developed Property that the ratio of the Special Tax levy to the Assigned Annual Special Tax or Backup Annual Special Tax is the same for all Assessors' Parcels of Developed Property. For Undeveloped Property "Proportionately" means that the ratio of the Special Tax levy per acre to the Maximum Special Tax per acre is the same for all Assessor's Parcels of Undeveloped Property. For Provisional Undeveloped Property "Proportionately" means that the ratio of the Special Tax levy per acre to the Maximum Special Tax per acre is the same for all Assessor's Parcels of Provisional Undeveloped Property.

**"Provisional Undeveloped Property"** means all Assessor's Parcels of Public Property, Association Property or property that would otherwise be classified as Exempt Property pursuant to the provisions of Section E, but cannot be classified as Exempt Property because to do so would reduce the Acreage of all Taxable Property below the required minimum Acreage as set forth in Section E.

**"Public Property"** means any Assessor's Parcel within the boundary of IA No. 1 that is owned by, irrevocably offered or dedicated to, or for which an easement for purposes of public right-of-way has been granted to the federal government, the State of California, the County of Riverside, the City or any local government or other public agency, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**"Residential Floor Area"** means all of the square footage of living area of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio or similar area on an Assessor's Parcel. 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.

**"Special Tax"** means any tax levied within CFD No. 2004-3 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. 2004-3.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for IA No. 1 of CFD No. 2004-3 to: (i) pay the annual scheduled Debt Service on all outstanding Bonds due in the calendar year which commences in such Fiscal Year; (ii) pay other periodic costs on the Bonds, including, but not limited to,

credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; and (iv) pay any amounts required to establish or replenish any reserve funds for the outstanding Bonds; and (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) the credit for funds available to reduce the annual Special Tax levy as determined pursuant to the Indenture.

**"Taxable Property"** means all of the Assessor's Parcels within IA No. 1 which are not exempt from the Special Tax pursuant to law or Section E below.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"Undeveloped Property"** means all Taxable Property not classified as Developed Property, or Provisional Undeveloped Property.

## **B. ASSIGNMENT TO LAND USE CATEGORY**

Each Fiscal Year, all Taxable Property within IA No. 1 shall be classified as Developed Property, Undeveloped Property, or Provisional Undeveloped Property and shall be subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment as determined pursuant to Sections C and D 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 category based on its Residential Floor Area.

## **C. MAXIMUM SPECIAL TAX RATE**

### **1. Developed Property**

The Maximum Special Tax for each Assessor's Parcel of Residential Property shall be the greater of (i) the applicable Assigned Annual Special Tax set forth in Table 1 below or (ii) the amount derived by application of the Backup Annual Special Tax to such Assessor's Parcel.

The Maximum Special Tax for each Assessor's Parcel of Non-Residential Property shall be the applicable Assigned Annual Special Tax set forth in Table 1 below.

a. Assigned Annual Special Tax

The Assigned Annual Special Tax applicable to an Assessor's Parcel of Developed Property in any Fiscal Year shall be determined pursuant to Table 1 below.

**TABLE 1**  
**Assigned Annual Special Taxes for Developed Property**  
**Improvement Area No. 1**  
**Fiscal Year 2004-2005**

Land Use Category	Taxable Unit	Residential Floor Area	Assigned Annual Special Tax
1 – Residential Property	D/U	Less than ,1,801 Sq. Ft.	\$1,521
2 – Residential Property	D/U	1,801 Sq. Ft. -2,100 Sq. Ft.	\$1,643
3 – Residential Property	D/U	2,101 Sq. Ft. -2,400 Sq. Ft.	\$1,766
4 – Residential Property	D/U	2,401 Sq. Ft. -2,700 Sq. Ft.	\$2,083
5 – Residential Property	D/U	2,701 Sq. Ft. -3,000 Sq. Ft.	\$2,285
6 – Residential Property	D/U	3,001 Sq. Ft. -3,300 Sq. Ft.	\$2,367
7 – Residential Property	D/U	Greater than 3,300 Sq. Ft.	\$2,693
8 – Non-residential	Acre	N/A	\$13,223

On July 1<sup>st</sup> of each Fiscal Year, commencing July1, 2005, the Assigned Annual Special Tax shall increase by two-percent (2.00%) of the amount in effect in the prior Fiscal Year.

b. Backup Annual Special Tax

Each Fiscal Year, each Assessor's Parcel of Residential Property shall be subject to a Backup Annual Special Tax. In each Fiscal Year, the Backup Annual 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 as they relate to IA No. 1:

B = Backup Annual Special Tax per Assessor's Parcel in each Fiscal Year

- Z = Maximum Special Tax for Undeveloped Property for the applicable Fiscal Year.
- A = Acreage of Taxable Property excluding Provisional Undeveloped Property in such Final Subdivision, as determined by the CFD Administrator pursuant to Section E.
- L = Total Assessor's Parcels within the Final Subdivision that lie within the boundaries of IA No. 1, which are classified or to be classified as Residential Property.

If a Final Subdivision includes Assessor Parcels designated for both residential and non-residential construction, then the Backup Annual Special Tax for each Assessor's Parcel of Residential Property within such Final Subdivision 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 all or any portion of the Final Subdivision(s) described in the preceding paragraphs is subsequently changed or modified, then the Backup Annual Special Tax for each Assessor's Parcel of Residential Property in such Final Subdivision that is changed or modified shall be a rate per square foot of Acreage calculated as follows:

1. Determine the total Backup Annual Special Taxes that will apply to the changed or modified Final Subdivision prior to the change or modification.
2. The result of paragraph 1 above shall be divided by the Acreage of Taxable Property excluding Provisional Undeveloped Property which will exist in such changed or modified Final Subdivision, as reasonably determined by the CFD Administrator.
3. The result of paragraph 2 above shall be divided by 43,560. This result is the Backup Annual Special Tax per square foot of Acreage which shall be applicable to Assessor's Parcels of Residential Property in such changed or modified Final Subdivision for all remaining Fiscal Years in which the Special Tax may be levied.

## **2. Undeveloped Property and Provisional Undeveloped Property**

The Maximum Special Tax for Undeveloped Property and Provisional Undeveloped Property shall be \$13,223 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.

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2004-2005 and for each following Fiscal Year, the Council shall determine the Special Tax Requirement and shall 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 at up to 100% of the applicable Assigned Annual Special Tax 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 at up to 100% of the Maximum Special Tax for Undeveloped Property;

Third: If additional moneys are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax to be levied on each

Assessor's Parcel of Developed Property whose Maximum Special Tax is derived by the application of the Backup Annual Special Tax shall be increased Proportionately from the Assigned Annual Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fourth: If additional moneys are needed to satisfy the Special Tax Requirement after the first three steps have been completed, the Special Tax shall be levied proportionately on each Assessor's Parcel of Provisional Undeveloped Property up to the applicable Maximum Special Tax.

Notwithstanding the above, under no circumstances will the Special Taxes 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 (10%) per Fiscal Year as a consequence of delinquency or default by the owner of any other Assessor's Parcel within IA No. 1.

**E. EXEMPTIONS**

The Council shall classify as Exempt Property (i) Assessor's Parcels owned by the State of California, Federal or other local governments, (ii) Assessor's Parcels which are used as places of worship and are exempt from ad valorem property taxes because they are owned by a religious organization, (iii) Assessor's Parcels

used exclusively by a homeowner's association, or (iv) Assessor's Parcels with public utility easement by the restriction, as determined reasonably by the Council, provided that no such classification would reduce the sum of all Taxable Property in IA No. 1 to less than 45.11 acres of Acreage. Assessor's Parcels which cannot be classified as Exempt Property because such classification would reduce the sum of all Taxable Property in IA No. 1 to less than 45.11 acres of Acreage be classified as Provisional Undeveloped Property, and will continue to be subject to the IA No. 1 Special Taxes accordingly. Tax exempt status for this purpose of this paragraph will be assigned by the CFD Administrator in the chronological order in which property becomes Exempt Property.

The Maximum Special Tax Obligation for any property which would be classified as Public Property upon its transfer or dedication to a public agency but which is classified as Provisional Undeveloped Property pursuant to the paragraph above E shall be prepaid in full by the seller pursuant to Section G.1, prior to the transfer/dedication of such property to such public agency. Until the Maximum Special Tax obligation for any such Public Property is prepaid, the property shall continue to be subject to the levy of the Special Tax as Provisional Undeveloped Property.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in the first paragraph of Section E above that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be deemed to be Taxable Property.

#### **F. MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2004-3 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on Assessor's Parcels having delinquent Special Taxes as permitted by the Act.

#### **G. DISCHARGE OF SPECIAL TAX OBLIGATION**

The following definitions apply to this Section G:

**"CFD Public Facilities Costs"** means either \$8,005,000 in 2004 dollars, which shall increase by the Construction Inflation Index on July 1, 2005, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to acquire or construct the Authorized Facilities to be Financed by IA No. 1 under the authorized Mello-Roos financing program for IA No. 1, or (ii) shall be determined by the Council concurrently with a covenant that

it will not issue any more IA No. 1 Bonds (except refunding bonds) to be supported by IA No. 1 Special Taxes.

**"Construction Fund"** means the fund (regardless of its name) established pursuant to the Indenture to hold funds, which are currently available for expenditure to acquire or construct the Authorized Facilities.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News-Record Construction Cost Index measured as of the calendar year, which ends in the previous Fiscal Year. In the event this index ceases to be published, the Construction Inflation Index shall be another index as determined by IA No. 1 Administrator that is reasonably comparable to the Engineering News-Record Construction Cost Index.

**"Future Facilities Costs"** means the CFD Public Facilities Costs minus (i) costs previously paid from the Construction Fund to acquire or construct the Authorized Facilities, (ii) monies currently on deposit in the Construction Fund, and (iii) monies currently on deposit in an escrow or other earmarked fund that are expected to be available to finance Public Facilities Costs.

**"Outstanding Bonds"** means all previously issued Bonds issued by IA No. 1 and secured by the levy of Special Taxes, which will remain outstanding after the current Fiscal Year. This amount shall exclude Bonds to be redeemed with the proceeds of prior prepayments of Maximum Special Taxes.

### **1. Prepayment in Full**

The Special Tax Obligation applicable to an Assessor's Parcel in IA No. 1 may be prepaid and the obligation of the Assessor's Parcel to pay any Special Tax permanently satisfied as described herein, provided that a prepayment may be made with respect to a particular Assessor's Parcel only if at the time of prepayment any delinquent Special Taxes are paid as part of the prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax Obligation shall provide the CFD Administrator with written notice of intent to prepay and the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the Prepayment Amount for such Assessor's Parcel within 30 days of the request and may charge a reasonable fee for providing this service. Prepayment must be made more than 60 days prior to any redemption date for the IA No. 1 Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

The Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Prepayment Amount
plus	Defeasance Amount
plus	Prepayment Administrative Fees and Expenses
less	Reserve Fund Credit
less	<u>Capitalized Interest Credit</u>
Total: equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount (defined below) shall be calculated as follows:

**Paragraph No.:**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax and Backup Special Tax. For Assessor's Parcels of Undeveloped Property for which a building permit has been issued, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel. For Provisional Undeveloped Property to be prepaid, compute the Maximum Special Tax for such Assessor's Parcel using the Assigned Special Tax for Provisional Undeveloped Property.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Taxes for IA No. 1 based on the Developed Property Special Taxes which could be levied in the current Fiscal Year on all expected development through build-out of IA No. 1 as determined by the CFD Administrator, excluding any Assessor's Parcels for which the Special Tax Obligation has been prepaid, and  
  
(b) Divide the Backup Special Tax computed pursuant to paragraph 2 by the total estimated Backup Special Taxes at build-out for IA No. 1, excluding any Assessor's Parcels for which the Special Tax Obligation has been prepaid.
4. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").

5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (expressed as a percentage), if any, on the Outstanding Bonds to be redeemed at the first available call date (the "Redemption Premium").
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Prepayment Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Compute the amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Amount and the Prepayment Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
10. Take the amount computed pursuant to paragraph 8 and subtract the amount computed pursuant to paragraph 9 (the "Defeasance Amount").
11. Calculate the administrative fees and expenses of IA No. 1, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming IA No. 1, and the costs of recording any notices to evidence the prepayment and the redemption (the "Prepayment Administrative Fees and Expenses").
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.
13. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the expected balance in the capitalized interest

fund after such first interest and/or principal payment (the "Capitalized Interest Credit").

14. The Special Tax Obligation is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 10, and 11, less the amounts computed pursuant to paragraphs 12 and 13 (the "Prepayment Amount").
15. From the Prepayment Amount, the sum of the amounts computed pursuant to paragraphs 4, 5, 10, 12, and 13 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make Debt Service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 11 shall be retained by CFD No. 2004-3.

The Prepayment Amount may be sufficient to redeem an amount other than a \$5,000 increment of IA No. 1 Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the appropriate fund established under the Indenture to redeem IA No. 1 Bonds to be used with the next prepayment of IA No. 1 Bonds.

The CFD Administrator will confirm that all previously levied Special Taxes have been paid in full. With respect to any Assessor's Parcel that is prepaid in full, once the CFD Administrator has confirmed that all previously levied Special Taxes have been paid, the Council shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of Special Taxes and the release of the Special Tax lien on such Assessor's Parcel, and the Special Tax Obligation of such Assessor's Parcel to pay the Special Tax shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the aggregate amount of Maximum Special Taxes that may be levied on Taxable Property, respectively, after the proposed prepayment is at least 1.1 times the maximum annual Debt Service on all Outstanding Bonds.

**2. Prepayment in Part**

The Special Tax on an Assessor's Parcel of Developed Property, or an Assessor's Parcel of Undeveloped Property for which a building permit has been issued may be partially prepaid. The amount of the prepayment shall be calculated as in Section G.1; except that a partial prepayment shall be calculated according to the following formula:

$$PP = P_E \times F.$$

These terms have the following meaning:

PP = the partial prepayment

$P_E$  = the Prepayment Amount calculated according to Section G.1.  
 $F$  = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of (i) such owner's intent to partially prepay the Special Tax, (ii) the percentage by which the Special Tax shall be prepaid, and (iii) the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a reasonable fee for providing this service.

With respect to any Assessor's Parcel that is partially prepaid, the City shall (i) distribute the funds remitted to it according to Section G.1, and (ii) indicate in the records of CFD No. 2004-3 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (1.00 -  $F$ ) of the remaining Maximum Annual Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D.

#### **H. TERM OF THE SPECIAL TAX**

For each Fiscal Year that any Bonds are outstanding the Special Tax shall be levied on all Assessor's Parcels subject to the Special Tax. If any delinquent Special Taxes remain uncollected prior to or after all Bonds are retired, the Special Tax may be levied to the extent necessary to reimburse IA No. 1 for uncollected Special Taxes associated with the levy of such Special Taxes, but not later than the 2043-2044 Fiscal Year.

**CITY OF PERRIS  
COMMUNITY FACILITIES DISTRICT NO. 2004-3  
(MONUMENT RANCH)**

**RATE AND METHOD OF APPORTIONMENT FOR  
IMPROVEMENT AREA NO. 2**

A Special Tax as hereinafter defined shall be levied on all Taxable Property within Improvement Area No. 2 ("IA No. 2") of Community Facilities District No. 2004-3 of the City of Perris ("CFD No. 2004-3") and collected each Fiscal Year, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," "Undeveloped Property," and "Provisional Undeveloped Property" as described below. All Taxable Property within IA No. 2 of CFD No. 2004-3 shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings as they relate to IA No. 2 of CFD No. 2004-3:

**"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, lot line adjustment, condominium plan, or other recorded parcel map.

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

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of IA No. 2: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City, or a designee thereof or both); the costs of collecting the Special Tax (whether by the County, City or otherwise); the costs of remitting the IA No. 2 Special Tax to the fiscal agent or Trustee; the costs of the fiscal agent or Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2004-3 or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2004-3 or any designee thereof of complying with disclosure requirements of the

City or CFD No. 2004-3 associated with applicable federal and state securities laws and of the Act; the costs associated with preparing IA No. 2 Special Tax disclosure statements and responding to public inquiries regarding the IA No. 2 Special Tax; the costs of the City, CFD No. 2004-3 or any designee thereof related to an appeal of the IA No. 2 Special Tax. Administrative Expenses shall also include amounts advanced by the City or CFD No. 2004-3 for any other administrative purposes of IA No. 2, including without limitation, attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent IA No. 2 Special Taxes.

**"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 of Riverside designating parcels by Assessor's Parcel number.

**"Association Property"** means all property which is owned by, irrevocably offered or dedicated to, or for which an easement for purposes of right of way has been granted to a property owner association, including any master or sub-association.

**"Assigned Annual Special Tax"** means the Special Tax applicable to each Land Use Category of Developed Property, as determined in accordance with Section C.1.a. below.

**"Authorized Facilities"** means those improvements, as listed in the Acquisition Agreement.

**"Backup Annual Special Tax"** means the Special Tax applicable to each Assessor's Parcel of Developed Property, as determined in accordance with Section C.1.b. below.

**"Bonds"** means any bonds or other indebtedness (as defined in the Act) of IA No. 2 of CFD No. 2004-3, whether in one or more series, secured by the levy of Special Taxes.

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

**"CFD No. 2004-3"** means the City of Perris Community Facility District No. 2004-3.

**"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.

**"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 all Taxable Property, exclusive of Provisional Undeveloped Property, for which a building permit for new construction was issued as of April 1 of the Fiscal Year preceding the Fiscal Year for which Special Taxes are being levied.

**"Exempt Property"** means all Assessor's Parcels designated in Section E as being exempt from the levy of Special Taxes.

**"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 on the following June 30.

**"Improvement Area No. 2"** means Improvement Area No. 2 of CFD No. 2004-3 as identified on the boundary map for CFD No. 2004-3 or as amended from time to time.

**"Indenture"** means the indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which IA No. 2 Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Land Use Category"** means any of the categories listed in Section C.1.a, Table 1.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C hereof, which may be levied in any Fiscal Year on any Assessor's Parcel of Taxable Property.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit has been issued for a non-residential use.

**"Proportionately"** means for Developed Property that the ratio of the Special Tax levy to the Assigned Annual Special Tax or Backup Annual Special Tax is the same for all Assessors' Parcels of Developed Property. For Undeveloped Property "Proportionately" means that the ratio of the Special Tax levy per acre to the Maximum Special Tax per acre is the same for all Assessor's Parcels of Undeveloped Property. For Provisional Undeveloped Property "Proportionately" means that the ratio of the Special Tax levy per acre to the Maximum Special Tax per acre is the same for all Assessor's Parcels of Provisional Undeveloped Property.

**"Provisional Undeveloped Property"** means all Assessor's Parcels of Public Property, Association Property or property that would otherwise be classified as Exempt Property pursuant to the provisions of Section E, but cannot be classified as Exempt Property because to do so would reduce the Acreage of all Taxable Property below the required minimum Acreage as set forth in Section E.

**"Public Property"** means any Assessor's Parcel within the boundary of IA No. 2 that is owned by, irrevocably offered or dedicated to, or for which an easement for purposes of public right-of-way has been granted to the federal government, the State of California, the County of Riverside, the City or any local government or other public agency, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**"Residential Floor Area"** means all of the square footage of living area of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio or similar area on an Assessor's Parcel. 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.

**"Special Tax"** means any tax levied within CFD No. 2004-3 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. 2004-3.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for IA No. 2 of CFD No. 2004-3 to: (i) pay the annual scheduled Debt Service on all outstanding Bonds due in the calendar year which commences in such Fiscal Year; (ii) pay other periodic costs on the Bonds, including but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative

Expenses; and (iv) pay any amounts required to establish or replenish any reserve funds for the outstanding Bonds; and (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 (vi) the credit for funds available to reduce the annual Special Tax levy as determined pursuant to the Indenture.

**"Taxable Property"** means all of the Assessor's Parcels within IA No. 2 which are not exempt from the Special Tax pursuant to law or Section E below.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"Undeveloped Property"** means all Taxable Property not classified as Developed Property, or Provisional Undeveloped Property.

## **B. ASSIGNMENT TO LAND USE CATEGORY**

Each Fiscal Year, all Taxable Property within IA No. 2 shall be classified as Developed Property, Undeveloped Property, or Provisional Undeveloped Property and shall be subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment as determined pursuant to Sections C and D 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 category based on its Residential Floor Area.

## **C. MAXIMUM SPECIAL TAX RATE**

### **1. Developed Property**

The Maximum Special Tax for each Assessor's Parcel of Residential Property shall be the greater of (i) the applicable Assigned Annual Special Tax set forth in Table 1 below or (ii) the amount derived by application of the Backup Annual Special Tax to such Assessor's Parcel.

The Maximum Special Tax for each Assessor's Parcel of Non-Residential Property shall be the applicable Assigned Annual Special Tax set forth in Table 1 below.

#### **a. Assigned Annual Special Tax**

The Assigned Annual Special Tax applicable to an Assessor's Parcel of Developed Property in any Fiscal Year shall be determined pursuant to Table 1 below.

**TABLE 1**  
**Assigned Annual Special Taxes for Developed Property**  
**Improvement Area No. 2**  
**Fiscal Year 2004-2005**

Land Use Category	Taxable Unit	Residential Floor Area	Assigned Annual Special Tax
1 – Residential Property	D/U	Less than 2,401 Sq. Ft.	\$1,867
2 – Residential Property	D/U	2,401 Sq. Ft. -2,700 Sq. Ft.	\$2,030
3 – Residential Property	D/U	2,701 Sq. Ft. -3,000 Sq. Ft.	\$2,153
4 – Residential Property	D/U	3,001 Sq. Ft. -3,300 Sq. Ft.	\$2,316
5 – Residential Property	D/U	Greater than 3,300 Sq. Ft.	\$2,693
6 – Non-residential	Acre	N/A	\$12,503

On July 1<sup>st</sup> of each Fiscal Year, commencing July1, 2005, the Assigned Annual Special Tax shall increase by two-percent (2.00%) of the amount in effect in the prior Fiscal Year.

b. Backup Annual Special Tax

Each Fiscal Year, each Assessor's Parcel of Residential Property shall be subject to a Backup Annual Special Tax. In each Fiscal Year, the Backup Annual 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 as they relate to IA No. 2:

- B = Backup Annual Special Tax per Assessor’s Parcel in each Fiscal Year
- Z = Maximum Special Tax for Undeveloped Property for the applicable Fiscal Year.
- A = Acreage of Taxable Property excluding Provisional Undeveloped Property in such Final Subdivision, as determined by the CFD Administrator pursuant to Section E.
- L = Total Assessor’s Parcels within the Final Subdivision that lie within the boundaries of IA No. 2, which are classified or to be classified as Residential Property.

If a Final Subdivision includes Assessor Parcels designated for both residential and non-residential construction, then the Backup Annual Special Tax for each Assessor's Parcel of Residential Property within such Final Subdivision 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 all or any portion of the Final Subdivision(s) described in the preceding paragraphs is subsequently changed or modified, then the Backup Annual Special Tax for each Assessor's Parcel of Residential Property in such Final Subdivision that is changed or modified shall be a rate per square foot of Acreage calculated as follows:

1. Determine the total Backup Annual Special Taxes that will apply to the changed or modified Final Subdivision prior to the change or modification.
2. The result of paragraph 1 above shall be divided by the Acreage of Taxable Property excluding Provisional Undeveloped Property which will exist in such changed or modified Final Subdivision, as reasonably determined by the CFD Administrator.
3. The result of paragraph 2 above shall be divided by 43,560. This result is the Backup Annual Special Tax per square foot of Acreage which shall be applicable to Assessor's Parcels of Residential Property in such changed or modified Final Subdivision for all remaining Fiscal Years in which the Special Tax may be levied.

## **2. Undeveloped Property and Provisional Undeveloped Property**

The Maximum Special Tax for Undeveloped Property and Provisional Undeveloped Property shall be \$12,503 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.

## **D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2004-2005 and for each following Fiscal Year, the Council shall determine the Special Tax Requirement and shall 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 at up to 100% of the applicable Assigned Annual Special Tax 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 at up to 100% of the Maximum Special Tax for Undeveloped Property;

Third: If additional moneys are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax to be levied on each Assessor's Parcel of Developed Property whose Maximum Special Tax is derived by the application of the Backup Annual Special Tax shall be increased Proportionately from the Assigned Annual Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fourth: If additional moneys are needed to satisfy the Special Tax Requirement after the first three steps have been completed, the Special Tax shall be levied proportionately on each Assessor's Parcel of Provisional Undeveloped Property up to the applicable Maximum Special Tax.

Notwithstanding the above, under no circumstances will the Special Taxes 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 (10%) per Fiscal Year as a consequence of delinquency or default by the owner of any other Assessor's Parcel within IA No. 2.

## **E. EXEMPTIONS**

The Council shall classify as Exempt Property (i) Assessor's Parcels owned by the State of California, Federal or other local governments, (ii) Assessor's Parcels which are used as places of worship and are exempt from ad valorem property taxes because they are owned by a religious organization, (iii) Assessor's Parcels used exclusively by a homeowner's association, or (iv) Assessor's Parcels with public utility easement by the restriction, as determined reasonably by the Council, provided that no such classification would reduce the sum of all Taxable Property in IA No. 2 to less than 41.05 acres of Acreage. Assessor's Parcels which cannot be classified as Exempt Property because such classification would reduce the sum of all Taxable Property in IA No. 2 to less than 41.05 acres of Acreage be classified as Provisional Undeveloped Property, and will continue to be subject to the IA No. 2 Special Taxes accordingly. Tax exempt status for this purpose of this paragraph will be assigned by the CFD Administrator in the chronological order in which property becomes Exempt Property.

The Maximum Special Tax Obligation for any property which would be classified as Public Property upon its transfer or dedication to a public agency but which is classified as Provisional Undeveloped Property pursuant to the paragraph above E shall be prepaid in full by the seller pursuant to Section G.1, prior to the transfer/dedication of such property to such public agency. Until the Maximum Special Tax obligation for any such Public Property is prepaid, the property shall continue to be subject to the levy of the Special Tax as Provisional Undeveloped Property.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in the first paragraph of Section E above that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be deemed to be Taxable Property.

#### **F. MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2004-3 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on Assessor's Parcels having delinquent Special Taxes as permitted by the Act.

#### **G. DISCHARGE OF SPECIAL TAX OBLIGATION**

The following definitions apply to this Section G:

**"CFD Public Facilities Costs"** means either \$6,230,000 in 2004 dollars, which shall increase by the Construction Inflation Index on July 1, 2005, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to acquire or construct the Authorized Facilities to be Financed by IA No. 2 under the authorized Mello-Roos financing program for IA No. 2, or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more IA No. 2 Bonds (except refunding bonds) to be supported by IA No. 2 Special Taxes.

**"Construction Fund"** means the fund (regardless of its name) established pursuant to the Indenture to hold funds, which are currently available for expenditure to acquire or construct the Authorized Facilities.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News-Record Construction Cost Index measured as of the calendar year, which ends in the previous Fiscal Year. In the event this index ceases to be published, the Construction Inflation Index shall be another index as determined

by IA No. 2 Administrator that is reasonably comparable to the Engineering News-Record Construction Cost Index.

**"Future Facilities Costs"** means the CFD Public Facilities Costs minus (i) costs previously paid from the Construction Fund to acquire or construct the Authorized Facilities, (ii) monies currently on deposit in the Construction Fund, and (iii) monies currently on deposit in an escrow or other earmarked fund that are expected to be available to finance Public Facilities Costs.

**"Outstanding Bonds"** means all previously issued Bonds issued by IA No. 2 and secured by the levy of Special Taxes, which will remain outstanding after the current Fiscal Year. This amount shall exclude Bonds to be redeemed with the proceeds of prior prepayments of Maximum Special Taxes.

**1. Prepayment in Full**

The Special Tax Obligation applicable to an Assessor’s Parcel in IA No. 2 may be prepaid and the obligation of the Assessor’s Parcel to pay any Special Tax permanently satisfied as described herein, provided that a prepayment may be made with respect to a particular Assessor’s Parcel only if at the time of prepayment any delinquent Special Taxes are paid as part of the prepayment. An owner of an Assessor’s Parcel intending to prepay the Special Tax Obligation shall provide the CFD Administrator with written notice of intent to prepay and the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the Prepayment Amount for such Assessor’s Parcel within 30 days of the request and may charge a reasonable fee for providing this service. Prepayment must be made more than 60 days prior to any redemption date for the IA No. 2 Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

The Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Prepayment Amount
plus	Defeasance Amount
plus	Prepayment Administrative Fees and Expenses
less	Reserve Fund Credit
<u>less</u>	<u>Capitalized Interest Credit</u>
Total: equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount (defined below) shall be calculated as follows:

**Paragraph No.:**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax and Backup Special Tax. For Assessor's Parcels of Undeveloped Property for which a building permit has been issued, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel. For Provisional Undeveloped Property to be prepaid, compute the Maximum Special Tax for such Assessor's Parcel using the Assigned Special Tax for Provisional Undeveloped Property.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Taxes for IA No. 2 based on the Developed Property Special Taxes which could be levied in the current Fiscal Year on all expected development through build-out of IA No. 2 as determined by the CFD Administrator, excluding any Assessor's Parcels for which the Special Tax Obligation has been prepaid, and  
  
(b) Divide the Backup Special Tax computed pursuant to paragraph 2 by the total estimated Backup Special Taxes at build-out for IA No. 2, excluding any Assessor's Parcels for which the Special Tax Obligation has been prepaid.
4. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (expressed as a percentage), if any, on the Outstanding Bonds to be redeemed at the first available call date (the "Redemption Premium").
6. Compute the current Future Facilities Costs.

7. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Prepayment Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Compute the amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Amount and the Prepayment Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
10. Take the amount computed pursuant to paragraph 8 and subtract the amount computed pursuant to paragraph 9 (the "Defeasance Amount").
11. Calculate the administrative fees and expenses of IA No. 2, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming IA No. 2, and the costs of recording any notices to evidence the prepayment and the redemption (the "Prepayment Administrative Fees and Expenses").
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.
13. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "Capitalized Interest Credit").
14. The Special Tax Obligation is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 10, and 11, less the amounts computed pursuant to paragraphs 12 and 13 (the "Prepayment Amount").

15. From the Prepayment Amount, the sum of the amounts computed pursuant to paragraphs 4, 5, 10, 12, and 13 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make Debt Service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 11 shall be retained by CFD No. 2004-3.

The Prepayment Amount may be sufficient to redeem an amount other than a \$5,000 increment of IA No. 2 Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the appropriate fund established under the Indenture to redeem IA No. 2 Bonds to be used with the next prepayment of IA No. 2 Bonds.

The CFD Administrator will confirm that all previously levied Special Taxes have been paid in full. With respect to any Assessor's Parcel that is prepaid in full, once the CFD Administrator has confirmed that all previously levied Special Taxes have been paid, the Council shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of Special Taxes and the release of the Special Tax lien on such Assessor's Parcel, and the Special Tax Obligation of such Assessor's Parcel to pay the Special Tax shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the aggregate amount of Maximum Special Taxes that may be levied on Taxable Property, respectively, after the proposed prepayment is at least 1.1 times the maximum annual Debt Service on all Outstanding Bonds.

## **2. Prepayment in Part**

The Special Tax on an Assessor's Parcel of Developed Property, or an Assessor's Parcel of Undeveloped Property for which a building permit has been issued may be partially prepaid. The amount of the prepayment shall be calculated as in Section G.1; except that a partial prepayment shall be calculated according to the following formula:

$$PP = P_E \times F.$$

These terms have the following meaning:

PP = the partial prepayment

$P_E$  = the Prepayment Amount calculated according to Section G.1.

F = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of (i) such owner's intent to partially prepay the Special Tax, (ii) the percentage by which the Special Tax shall be prepaid, and (iii) the

company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a reasonable fee for providing this service.

With respect to any Assessor's Parcel that is partially prepaid, the City shall (i) distribute the funds remitted to it according to Section G.1, and (ii) indicate in the records of CFD No. 2004-3 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (1.00 - F) of the remaining Maximum Annual Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D.

#### **H. TERM OF THE SPECIAL TAX**

For each Fiscal Year that any Bonds are outstanding the Special Tax shall be levied on all Assessor's Parcels subject to the Special Tax. If any delinquent Special Taxes remain uncollected prior to or after all Bonds are retired, the Special Tax may be levied to the extent necessary to reimburse IA No. 2 for uncollected Special Taxes associated with the levy of such Special Taxes, but not later than the 2044-45 Fiscal Year.