

(R-94-611)

RESOLUTION NUMBER R- 282905

ADOPTED ON OCT 26 1993

RESOLUTION OF CONSIDERATION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, TO ALTER THE TYPES OF AUTHORIZED PUBLIC FACILITIES AND THE EXISTING RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX TO REDUCE THE AUTHORIZED BONDED INDEBTEDNESS WITHIN COMMUNITY FACILITIES DISTRICT NO. 1 (MIRAMAR RANCH NORTH) OF THE CITY OF SAN DIEGO

[Community Facilities District No. 1 (Miramar Ranch North)]

WHEREAS, the City Council of The City of San Diego, California, (the "City Council") has heretofore formed Community Facilities District No. 1 (Miramar Ranch North) of the City of San Diego (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), as amended, to finance (1) the construction, purchase, modification, expansion, improvement or rehabilitation of certain authorized public facilities (the "Facilities") as described in that certain document entitled "City of San Diego, Community Facilities District No. 1 (Miramar Ranch North) Community Facilities District Report" approved by the City Council on January 8, 1991 (the "Community Facilities District Report") and (2) the incidental expenses to be incurred in financing the Facilities and forming the District; and

WHEREAS, in order to finance the Facilities and incidental expenses, the City Council did previously declare the necessity to incur a bonded indebtedness in an amount not to exceed \$73,000,000.00 (the "Bonds"), the repayment of which is to be

secured by the levy of special taxes in accordance with Section 53328 of the Act on property in the District; and

WHEREAS, the qualified electors of the District did, at a special election held in the District on January 8, 1991, authorize the issuance of such Bonds and the levy of special taxes within the District; and

WHEREAS, the City Council did authorize the levy of the special tax as approved by the qualified electors (the "Existing Special Tax") by the enactment of Ordinance No. O-17588; and

WHEREAS, as a condition precedent to and an enhancement of the issuance of the \$35,340,000 City of San Diego Community Facilities District No. 1 (Miramar Ranch North) Special Tax Bonds, 1991 Series A, the City of San Diego, acting for and on behalf of the District, and Miramar Ranch North, a California general partnership, acting as owner of the property within the District subject to the levy of the Existing Special Tax, entered into a letter agreement dated July 18, 1991 (the "Security Enhancement Agreement") pursuant to which Miramar Ranch North agreed to petition the City Council to commence proceeding to change the rate and method of apportionment of the Existing Special Tax to establish and provide for the levy of the Extraordinary Special Tax as set forth in the Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, in response to the requirements of the Security Enhancement Agreement and the desire of Miramar Ranch North to have the City Council authorize certain additional changes to the original proceedings, Miramar Ranch North as owner of certain

property within the District subject to the levy of the Existing Special Tax (collectively, the "Owner") has submitted a petition to the City Council requesting that the District initiate proceedings to alter the Facilities authorized to be financed by the District, to alter the rate and method of apportionment of the Existing Special Tax authorized to be levied within the District and to reduce the authorized bonded indebtedness for the District; and

WHEREAS, the City Council now intends to set a public hearing to consider the proposed alterations pursuant to such petition; and

WHEREAS, in accordance with Section 53331(a) of the Act, the City Council has determined that the public convenience and necessity require the adoption of this resolution of consideration in order that a public hearing may be held to evaluate the requests made by the Owner in its petition and the matters set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That the above recitals are true and correct.

SECTION 2. The petition of the Owner is hereby accepted and, based upon the certification of the Special Tax Consultant, this legislative body hereby determines that such petition has been signed by the owners of 25 percent (25%) or more of the territory within the District as required by Section 53337 of the Act.

SECTION 3. The area which would be affected by the proposed alterations is that territory within that certain Community

Facilities District known and designated as "Community Facilities District No. 1 (Miramar Ranch North) of the City of San Diego."

SECTION 4. The boundaries and parcels of land included within the District are generally described as follows:

All property within the boundaries of Community Facilities District No. 1 (Miramar Ranch North) of the City of San Diego, as shown on a boundary map as previously approved by this legislative body, said map designated by the name of the District. The boundary map of the District has been filed pursuant to Sections 3111 and 3113 of the Streets and Highways Code of the State of California in the Office of the County Recorder of the County of San Diego at Page 24 of Book 54 of the Book of Maps of Assessment and Community Facilities Districts for said County.

SECTION 5. It is the intention of this legislative body to consider altering the types of public facilities authorized to be financed by the District by eliminating the following facility from the Facilities authorized to be financed by the District:

Water Distribution Loop System as listed in
the Community Facilities District Report

SECTION 6. It is the intention of this legislative body to consider the alteration of the rate and method of apportionment of the Existing Special Tax authorized to be levied within the District. The altered rate and method of apportionment of the special tax as proposed to be altered is set forth in Exhibit "A" attached hereto ("Altered Special Tax"). The rate and method of apportionment of the Altered Special Tax will allow each

landowner or resident within the District to estimate the maximum amount that he or she will have to pay.

This legislative body, based upon the certification of the Special Tax Consultant, hereby finds and determines that the alteration of the Existing Special Tax as proposed would not interfere with the timely retirement of the outstanding indebtedness of the District incurred in order to build or acquire the authorized Facilities.

SECTION 7. It is the intention of this legislative body to consider the reduction in the currently authorized bonded indebtedness of \$73,000,000.00 (subject to escalation to provide for increases in the costs of future phases of construction) to an amount equal to \$56,200,000.

SECTION 8. This legislative body hereby directs the Special Tax Consultant to prepare an amendment to the Special Tax Report to reflect the proposed alterations and to specify any proposed modifications to the cost estimate for the Facilities and related expenses which would be reflected in and justify the reduction in the bond authorization.

SECTION 9. A public hearing (the "Hearing") on the proposed alteration of the authorized Facilities and the rate and method of apportionment to the Existing Special Tax and the reduction in the authorized bonded indebtedness of the District shall be held at 10:00 a.m., or as soon thereafter as practicable, on November 30, 1993, at the City Council Chambers located at the City Administration Building, 202 "C" Street, San Diego, California 92101.

At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within Community Facilities District No. 1 (Miramar Ranch North), may appear and be heard.

If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the District, or the owners of one-half (1/2) or more of the area of the land in the District and not exempt from the Existing Special Tax, file written protests against the alteration of the authorized Facilities, and said protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to alter the authorized Facilities as proposed shall be taken for a period of one year from the date of the decision of the City Council.

If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the District, or the owners of one-half (1/2) or more of the area of the land in the District and not exempt from the Existing Special Tax, file written protests against the alteration of the rate and method of apportionment of the Existing Special Tax, and said protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to alter the rate and method of apportionment of the existing tax as proposed shall be taken for a period of one year from the date of the decision of the City Council.

If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing

within the District, or the owners of one-half (1/2) or more of the area of the land in the District and not exempt from the Existing Special Tax, file written protests against the reduction in the authorized bonded indebtedness of the District, and said protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to reduce the authorized bonded indebtedness of the District as proposed shall be taken for a period of one year from the date of the decision of the City Council.

At the conclusion of the Hearing, if the City Council determines to alter the authorized Facilities as proposed, alter the rate and method of apportionment of the Existing Special Tax as proposed, and/or reduce the authorized bonded indebtedness of the District as proposed, or a combination thereof, it shall adopt a resolution submitting the question of altering the Facilities to be financed by the District, altering the rate and method of apportionment of the Existing Special Tax, reducing the authorized bonded indebtedness of the District, or any combination thereof, to the qualified electors of the District in a special election held in accordance with the provisions of Article 2 of the Act.

SECTION 10. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of Community Facilities District No. 1 (Miramar Ranch North). The Notice shall contain the text of this

Resolution and any additional information required by Section 53335 of the Act.

The City Clerk is also directed to send a copy of the Notice of the Hearing by first-class mail, postage prepaid, to each registered voter and to each landowner within the District as shown on the last equalized assessment roll or otherwise known to the City Clerk to be a current owner of land within the District. Said mailing shall be completed not less than fifteen (15) days prior to the date of the Hearing.

SECTION 11. If, after the Hearing described in Section 8, the City Council adopts a resolution submitting the questions of the alteration of the authorized Facilities, the alteration of the rate and method of apportionment of the Existing Special Tax and/or the reduction of the authorized bonded indebtedness to the qualified electors of the District in a special election, such election shall be held at least ninety (90) days, but not more than one hundred eighty (180) days, following the adoption of the resolution approving such alterations; provided that such election may be held at an earlier date with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.

If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the Hearing, the vote shall be by the registered voters of the District, with each voter having one vote. Otherwise, the vote shall be by the

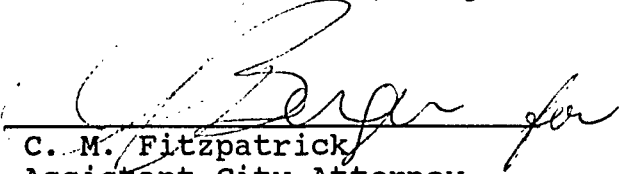
landowners of the District and each landowner who is the owner of record at the close of the Hearing, or the authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land that such landowner owns within the District. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

Ballots for the special election authorized may be distributed to qualified electors by mail, with return postage prepaid, or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the Elections Code of California. If the vote is to be by the landowners of the District, analysis and arguments may be waived with the unanimous consent of all the landowners, and shall be so stated in the order for the election.

APPROVED: JOHN W. WITT, City Attorney

By


C. M. Fitzpatrick
Assistant City Attorney

CMF:nrp
10/18/93
Or.Dept:E&D
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COMMUNITY FACILITIES DISTRICT NO. 1
(MIRAMAR RANCH NORTH)
CITY OF SAN DIEGO

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Introduction

Special taxes shall be annually levied on all Assessor's Parcels (as hereinafter defined) in Community Facilities District No. 1 (Miramar Ranch North) of the City of San Diego, County of San Diego, State of California (the "District"), in accordance with the rates and method of apportionment of special taxes hereinafter set forth.

A. Definitions. The following terms shall have the meaning specified below:

• ***Acre or Acreage:*** The area of an Assessor's Parcel as shown on the latest map of the County Assessor of the County of San Diego, or if the area of an Assessor's Parcel is not shown on such a map, the area shall be as shown on a current recorded subdivision map, parcel map, record of survey or other recorded document creating or describing the Assessor's Parcel. If the preceding maps are not available, the area shall be determined by the City Engineer.

• ***Annual Special Tax Levy:*** The aggregate amount of special taxes to be levied in any Fiscal Year to (i) pay principal of and interest due and payable on the bonds of the District during the next ensuing Bond Year, and the cost of the registration, transfer, and exchange of such bonds and/or to pay directly for the acquisition or construction of authorized public capital facilities, (ii) maintain the required amount in the reserve fund for the bonds, and (iii) pay administrative expenses of the City estimated to be incurred during the Fiscal Year in connection with the levy and collection of special taxes. Items (i) through (iii) shall be reduced by available bond reserve earnings, debt service payments pursuant to Section G. herein, and other interest earnings described in the bond resolution, except those earnings that may be required for rebate purposes.

• ***Assessor's Parcel:*** A parcel of land in the District designated and assigned a discrete identifying number on a map of the County Assessor of the County of San Diego.

• ***Bond Year:*** The period beginning on the day after a bond principal payment date and ending on the bond principal payment date occurring twelve months later.

• ***Building Permit Special Tax:*** The specified dollar amount due and payable to the District at the issuance of a building permit as described in Section C below.

• ***Building Permit Special Tax Account:*** Account established by the District for deposit of Building Permit Special Tax proceeds.

• **Commercial Property:** The Acreage of an Assessor's Parcel of Developed Property within the District, the boundaries of which are delineated on a recorded map, which has been zoned for commercial use.

• **Community Plan:** The Miramar Ranch North Community Plan approved by the City Council of the City of San Diego on May 21, 1987 and as such plan may be amended from time to time.

• **Company:** Miramar Ranch North, a California general partnership.

• **Debt Service Requirement:** Means an amount in each Fiscal Year in which the District bonds are outstanding equal to 110% of the scheduled debt service on the District bonds of such Fiscal Year.

• **Developed Property:** Assessor's Parcels in the District for which a building permit has been issued prior to March 1 preceding any Fiscal Year. For commercial, industrial, and other land uses, if a permit has not been issued by the time 75 percent of the Residential Property building permits have been issued as shown in the Community Plan, then all of such property shall be classified as Developed Property.

• **Exempt Property:** Assessor's Parcels of property existing at the time of the establishment of the District or which will be conveyed, dedicated, or irrevocably offered for dedication to a public agency pursuant to the Community Plan which are exempt from the levy of special taxes, including property owned by a public agency which is in public use; property which is utilized for public utility purposes and which is not occupied on a regular basis by employees of the utility; property irrevocably dedicated to a public agency for public use; property owned by a church and utilized for church purposes; property owned by a homeowners' association; property which is zoned for open space; property used as a golf course other than clubhouse facilities; and property which has no intrinsic value upon foreclosure, such as sliver parcels at entries and perimeter landscape parcels; such Assessor's parcels shall not exceed 763 acres.

• **Extraordinary Special Tax:** Represents the difference, in any Fiscal Year, between the Total Projected Special Tax Deficiency and the revenues held by the District in lieu of the Extraordinary Special Tax as described in the Indenture. If, in any Fiscal Year, the Total Projected Special Tax Deficiency is less than or equal to the revenues held by the District in lieu of the Extraordinary Special Tax, then the Extraordinary Special Tax shall not apply.

• **Extraordinary Special Tax Account:** Means the amounts deposited, in any Fiscal Year, from the Extraordinary Special Tax levy and amounts withdrawn, in any Fiscal Year, pursuant to the Indenture.

• **Fiscal Year:** The period beginning on July 1 and ending on the following June 30.

• **Full Buildout:** When there no longer remain Assessor's Parcels classified as Undeveloped Property.

• **Industrial Property:** The Acreage of an Assessor's Parcel of Developed Property within the District, the boundaries of which are delineated on a recorded map, which has been zoned for industrial use.

• **Indenture:** The Bond Indenture dated as of June 1, 1991, by and between the City of San Diego, on behalf of the District, and Bank of America National Trust and Savings Association, as it may be amended or supplemented from time to time.

• **Land Use Category:** A classification of property specified in Section B below.

• **Maximum Special Tax Rates:** The amount of special taxes specified in Section C and Section H for Assessor's Parcels within the District.

• **Merchant Builder:** Any builder of production homes to be sold to the primary home sale market within the District.

• **Neighborhood:** The area included within a final subdivision map or such area mutually agreed upon by the City and a Merchant Builder taking into account such factors as similarity of housing product type within the area and the timing of construction and new home sales.

• **Other Property:** The Acreage of any Assessor's Parcel of Developed Property within the District, the boundaries of which are delineated by a recorded map, and the zone and use of which is not Residential, Commercial, Industrial or Exempt Property.

• **Projected Special Tax Deficiency:** Means the amount derived by subtracting the Projected Special Taxes from the Debt Service Requirement in the Fiscal Years in which the Projected Special Taxes are less than the Debt Service Requirement.

• **Projected Special Taxes:** Means an amount in each Fiscal Year in which the District bonds are outstanding, equal to the summation of special taxes anticipated to be collected from Developed Property and Undeveloped Property in such Fiscal Year. As of July 1, 1992 and annually as of each July 1 thereafter that any District bonds remain outstanding, the District shall cause a Special Tax Consultant to determine the projected maximum special taxes that could be levied on all Taxable Property within the District in each ensuing Fiscal Year in which District bonds are outstanding. The determination by the Special Tax Consultant of the Projected Special Tax shall be based upon the reasonable projections of development provided by the property owners of the Taxable Property within the District (projections to be provided to Special Tax Consultant by the property owners of Undeveloped Property on or before March 15 each Fiscal Year Projected Special Taxes are to be calculated until such time as Full Buildout occurs); provided, however, such development projections may not exceed the maximum development permitted by then applicable final subdivision maps, tentative subdivision maps, the Community Plan, the Development Agreement and the Settlement Agreement.

• **Residential Property:** An Assessor's Parcel of Developed Property within the District the boundaries of which are delineated on a recorded map, which has been zoned for residential use.

- **Series A Bonds:** The \$35,340,000 principal amount of City of San Diego, Community Facility District No. 1 (Miramar Ranch North), Special Tax Bonds, 1991 Series A.

- **Square Feet of Improvement:** The livable area of improvement of Residential Property as shown on the building permit initially issued for the property.

- **Total Projected Special Tax Deficiency:** Means the present value of the Projected Special Tax Deficiency for each of the remaining Fiscal Years in which the District bonds are outstanding. The discount rate used for purposes of this calculation shall be a fixed reinvestment rate determined at the time of calculation.

- **Undeveloped Property:** All Assessor's Parcels in the District not classified as Developed Property or Exempt Property.

B. Land Use Categories and Classification of Property. The land use categories to which Assessor's Parcels in the District shall be assigned are:

- Land Use Category 1 - Residential Property
- Land Use Category 2 - Commercial Property
- Land Use Category 3 - Industrial Property
- Land Use Category 4 - Other Property
- Land Use Category 5 - Undeveloped Property
- Land Use Category 6 - Exempt Property

As of July 1 of each Fiscal Year, commencing with July 1, 1991, using the definitions in Section A above, the City shall cause each Assessor's Parcel in the District to be classified into one of the Land Use Categories above.

C. Maximum Special Tax Rates. The Maximum Special Tax Rates for Assessor's Parcels in Land Use Categories 1 through 6, commencing with July 1, 1994, are specified in Table 1, below:

TABLE 1
MAXIMUM SPECIAL TAX RATES

<u>Land Use Category</u>	<u>Description</u>	<u>Maximum Special Tax Rate</u>
1	Residential	\$0.92 per Square Foot of Improvement rounded to the nearest hundred square feet
2	Commercial	\$12,000 per Acre
3	Industrial	\$12,000 per Acre
4	Other	\$12,000 per Acre
5	Undeveloped	\$16,000 per Acre and, if applicable, the Extraordinary Special Tax levy per Acre as determined in Section H
6	Exempt	None

1. Beginning with the Fiscal Year 1993/1994 the Building Permit Special Tax will be determined as follows:

a. At the time of issuance of building permits within the District, Company, or its successors and assigns, shall pay the Building Permit Special Tax to the District in an amount equal to (i) \$0.92 per Square Foot of Improvement with respect to Residential Property and (ii) \$12,000 per Acre with respect to Commercial, Industrial and Other Property. The equivalent square feet of improvement for Commercial, Industrial, and Other Property shall be computed at 13,000 square feet per Acre. Payment of the Building Permit Special Tax shall be levied until building permits have been issued representing a total of two million (2,000,000) square feet of development within the District. All Building Permit Special Tax proceeds shall be deposited in the Building Permit Special Tax Account (the "Account") and invested and reinvested in Authorized Investments (as defined in the Indenture). Any income realized from such investments shall be deposited in the Account.

b. The funds in the Account may be drawn upon only as a result of and to the extent funds in the Bond Service Account (as established by the Indenture), without taking into account transfers from the Reserve Account (as established by the Indenture), are insufficient to pay debt service of the Series A Bonds as a result of nonpayment of special taxes on Undeveloped Property. If the District draws on funds in the Account and thereafter receives payment of the delinquent special taxes or proceeds of a foreclosure sale of the parcel(s) of land for which the special taxes were not paid, such payments and proceeds not required to reimburse the District for its costs of collection shall be deposited in the Account.

c. Funds in the Account shall be released to the payor(s) of the Building Permit Special Taxes in an appropriate and equitable reimbursement method as determined by the City Manager which release payments shall occur not later than the issuance of building permits representing a total of three million five hundred thousand (3,500,000) square feet of improvement within the District.

2. Beginning with the Fiscal Year 1994/1995 the Maximum Special Tax Rates may be increased annually determined as follows:

a. As of March 15, 1991 and each Fiscal Year thereafter, the City Engineer or his designee shall obtain improvement cost information from the Company and all other appropriate sources, and estimate the increase, if any, in the estimated cost of improvements (which cost shall include construction and related incidentals, but exclude financing) of the District over the estimated cost of improvements (which cost shall include construction and related incidentals, but exclude financing) of the District contained in the Report of Engineer, or as last determined, whichever is more recent.

b. Divide the estimated increase in improvement cost determined in a. above by the estimated improvement cost for all improvements as last determined to obtain the percentage increase.

c. As of July 1, 1994, and each Fiscal Year thereafter, compute the Square Feet of Improvement of Residential, Commercial, Industrial and Other Property for which building permits have been issued, including any units or Acres that have not been classified as Developed Property, but are part of the same subdivision map creating lots or

parcels for such Residential, Commercial, Industrial, and Other Property. The equivalent Square Feet of Improvement for Commercial, Industrial, and Other Property shall be computed at 13,000 square feet per Acre. Subtract this sum from the total of Square Feet of Improvement expected to be constructed in the District, which total is 6,500,000 square feet. The result represents the number of Square Feet of Improvement remaining to be constructed (the "Remaining Square Feet of Improvement").

d. Divide the Remaining Square Feet of Improvement by 6,500,000 to obtain the percentage remaining to be constructed.

e. Divide the percentage increase in construction costs (b. above) by the percentage of Square Feet of Improvement remaining to be constructed, (d., above). This is the percentage by which to increase the Maximum Special Tax Rates (as last increased) to obtain the Maximum Special Tax Rates for properties classified as Developed Property as of July 1 of the next Fiscal Year. However, such Maximum Special Tax Rates shall not be increased (to account for increases in construction costs) above the amounts shown on Table 2, below:

TABLE 2
MAXIMUM SPECIAL TAX RATES

<u>Land Use Category</u>	<u>Description</u>	<u>Increased Maximum Special Tax Rate</u>
1	Residential	\$1.37 per Square Foot of Improvement rounded to the nearest hundred square feet
2	Commercial	\$18,000 per Acre
3	Industrial	\$18,000 per Acre
4	Other	\$18,000 per Acre
5	Undeveloped	\$17,000 per Acre and, if applicable, the Extraordinary Special Tax levy per Acre as determined in Section H
6	Exempt	None

3. A Maximum Special Tax Rate will be assigned to Assessor's Parcels classified as Developed Property as of July 1 of the Fiscal Year in which such classification occurs.

4. The Maximum Special Tax rate to be assigned to Assessor's Parcels classified as Developed Property as of July 1 of the Fiscal Year will be determined as follows:

If the Assessor's Parcel is Residential, Commercial, Industrial, and Other Property and part of a subdivision map creating lots or parcels to be developed for similar use, i.e., single family residences, the Maximum Special Tax Rate for all lots or parcels of such subdivision shall be the Maximum Special Tax Rate in effect when the first building permit is issued for a production dwelling unit (as opposed to a permit issued for a model home).

Once the Maximum Special Tax Rate is assigned to an Assessor's Parcel of Developed Property, it shall not be increased.

D. Method of Apportionment of Special Taxes.

1. As of July 1 of each Fiscal Year, commencing with July 1, 1991, all Assessor's Parcels within the District shall be assigned to one of the Land Use Categories specified in Section B.

2. The City Council shall determine for each Fiscal Year, the Annual Special Tax Levy, and, if applicable, the Extraordinary Special Tax levy pursuant to Section H.

3. The City Council shall levy the special taxes for each Fiscal Year, commencing on July 1, 1991 as follows:

a. Levy the special tax at its Maximum Special Tax Rate upon all Developed Property; however, should this amount exceed the Annual Special Tax Levy and provided all bonds have been issued, the special tax will be proportionally reduced.

b. Should this amount be insufficient to satisfy the Annual Special Tax Levy, the excess shall be levied uniformly upon all Undeveloped Property.

c. If applicable, the Extraordinary Special Tax shall be levied uniformly upon all Undeveloped Property according to Section H.

E. Number of Years of Levy of Maximum Special Tax. The special tax shall be levied upon an Assessor's Parcel of Developed Property for a maximum of 25 years.

F. Manner of Collection of Special Taxes. The special taxes which shall be levied in each Fiscal Year shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes. The special taxes when levied shall be secured by the lien imposed pursuant to Section 3115.5 of the Streets and Highways Code. This lien shall be a continuing lien and shall secure each levy of special taxes. The lien of the special taxes shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with Section 53344 of the Government Code or until the special taxes cease to be levied in the manner provided by Section 53330.5 of the Government Code.

G. Prepayment of Special Tax Obligation.

1. Any owner of Developed Property subject to the special tax may discharge the special tax obligation in full, or in part at any time, by making payment as follows:

a. If all bonds of the District have not been issued, compute the present value of the remaining payments of special tax, utilizing a term determined in accordance with Section E above, at the weighted average coupon rate of the outstanding bonds using the Maximum Special Tax Rate for the Assessor's Parcel;

If all bonds of the District have been issued, compute the present value of the remaining payments of special tax using (i) the lesser of the remaining term of the outstanding bonds or the years remaining in which the special tax may be levied on the Assessor's Parcel in accordance with Section E above, (ii) the weighted average coupon rate of the outstanding bonds, and (iii) the Maximum Special Tax Rate for the Assessor's Parcel.

b. Based on the development projections made in connection with the determination of the Projected Special Taxes, determine the Assessor's Parcel's special tax per square foot for Residential Property and special tax per acre for Commercial, Industrial and Other Property that will equate to the Debt Service Requirement.

c. Subtract from the Assessor's Parcel's Maximum Special Tax Rate the special tax rate determined in 1.b. above to determine the special tax rate attributable to remaining bond authorization, if any. If no remaining bond authorization exists, skip to 1.f. and steps 1.d. and 1.e. will not apply.

d. Determine the Assessor's Parcel's percentage of the Maximum Special Tax Rate attributable to remaining bond authorization by dividing 1.c. above by the Assessor's Parcel's Maximum Special Tax Rate.

e. Multiply the percentage obtained in 1.d. above by the amount determined in 1.a. above to determine the amount of prepayment attributable to remaining bond authorization.

f. Multiply the amount in 1.a. above by the owner's desired prepayment percentage to determine the prepayment amount. A Merchant Builder who desires to prepay all or part of the special taxes shall be required to use a prepayment percentage necessary to ensure that all Residential units within the same Neighborhood are subject to the same Maximum Special Tax rate as a result of the prepayment. Such uniform Maximum Special Tax rate shall be established at or prior to the issuance of the building permit for the first production Residential Unit within a Neighborhood. Special Tax prepayments to be made by a Merchant Builder shall be made at the issuance of building permits for each production Residential unit within a Neighborhood. Special Tax prepayments for model units shall be made at the time of issuance of the building permit for the first production Residential unit within the Neighborhood.

g. Subtract from the amount in 1.f. the amount in 1.e. to determine the amount of prepayment attributable to bond redemption.

(1) If the result is greater than zero, enter the positive amount at 1.h. and the amount determined in 1.e. at 1.j.

(2) If the result is less than or equal to zero, skip to 1.j. and enter the amount determined in 1.f.

h. Enter the applicable amount from 1.g. and add the following:

(1) call premium as required in the bond instrument;

(2) interest on the positive amount in 1.g. at the applicable bond rate for each year, if any, to the next bond call date.

i. To the result of 1.h. above, subtract the following:

(1) the Assessor's Parcel's pro rata share of the bond reserve fund allowance, computed at the rate used in establishing the reserve fund for outstanding bonds. This shall be determined by dividing the Assessor's Parcel's applicable square footage by the total square footage as determined in connection with the determination of Projected Special Taxes. For purposes of this determination, the square footage of Commercial, Industrial and Other Property shall be computed at 13,000 square feet per Acre. The Assessor's Parcel's pro rata share shall be multiplied by the quotient obtained by dividing 1.g. by the difference obtained in subtracting from the amount in 1.a. the amount in 1.e.

(2) the interest earnings to be generated at the reinvestment rate as determined by the City of San Diego from the discharge date to the next bond call date.

j. Add the bond redemption amount in 1.i. above, if any, to the amount attributable to remaining bond authorization in 1.g. above.

k. To the result of 1.j. above, add the following items to determine the Assessor's Parcel's total prepayment required:

(1) unpaid special taxes, interest and penalties, if any, which have been entered on the assessor's roll;

(2) a \$250 administrative fee, increased by the same percentage increase in the Consumer Price Index, San Diego all urban consumers index, as of January 1st of each year.

2. The Maximum Special Tax Rate for Developed Property applicable to an Assessor's Parcel utilizing a prepayment percentage less than 100% shall be reduced in subsequent Fiscal Years by multiplying the Assessor's Parcel's Maximum Special Tax Rate by the prepayment percentage actually used in Section G.1.f.

H. Extraordinary Special Tax.

1. As of March 1, 1992 and annually as of each March 1 thereafter, until such time as the Maximum Special Tax Rates which may be levied on Developed Property will equal or exceed the Debt Service Requirement or until Full Buildout, whichever occurs earlier, the District shall cause the special tax consultant to determine if a Projected Special Tax Deficiency exists. If a Projected Special Tax Deficiency exists, then the Total Projected Special Tax Deficiency shall be calculated by the District as specified in Section A.

2. The District shall levy the Extraordinary Special Tax, in any Fiscal Year, under the following circumstances:

a. Initial Levy. The first time the Extraordinary Special Tax is applicable under Section A, the entire amount determined under such definition shall be levied uniformly on all Undeveloped Property and such amount shall be deposited in the Extraordinary Special Tax Account. Upon determination that the Extraordinary Special Tax is applicable under Section A, the property owners have the opportunity to deposit monies or security for the amount of the Extraordinary Special Tax pursuant to the Official Statement and Indenture of Trust. A determination of whether the property owners will use this opportunity must be made prior to the levy of the Extraordinary Special Tax.

b. Subsequent Levies. In each Fiscal Year subsequent to the initial levy of the Extraordinary Special Tax as described in H.2.a. above, an additional Extraordinary Special Tax shall be levied uniformly on all Undeveloped Property, to the extent the Extraordinary Special Tax of such Fiscal Year exceeds the Extraordinary Special Tax Account. To the extent the Extraordinary Special Tax Account, in any Fiscal Year, exceeds the Extraordinary Special Tax, then no Extraordinary Special Tax shall be levied in such Fiscal Year. Upon determination that the Extraordinary Special Tax is applicable under Section A, the property owners have the opportunity to deposit monies or security for the amount of the Extraordinary Special Tax pursuant to the Official Statement and Indenture of Trust. A determination of whether the property owners will use this opportunity must be made prior to the levy of the Extraordinary Special Tax.

336

OCT 26 1993

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Cepeda*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number *R-282905* Adopted **OCT 26 1993**

RECEIVED

93 OCT 19 AM 9:03

CITY CLERKS OFFICE
SAN DIEGO, CA

RECEIVED

RECEIVED

CERTIFICATE OF PUBLICATION

NOV 23 1993

OFFICE OF THE CITY CLERK
2ND FLOOR
CITY ADMINISTRATION BUILDING
202 C STREET
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

RESOLUTION OF CONSIDERATION OF THE COUNCIL OF...

NOTICE OF PUBLIC HEARING RE PROPOSED CHANGES AND MODIFICATIONS

NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING HAS BEEN SCHEDULED FOR THE 30TH DAY OF NOVEMBER, AT THE HOUR OF 10:00 A.M., IN THE REGULAR MEETING PLACE OF THE LEGISLATIVE BODY, BEING THE COUNCIL CHAMBERS, CITY ADMINISTRATION BUILDING, 202 "C" STREET, SAN DIEGO, CA, AT WHICH TIME THE LEGISLATIVE BODY OF THE CITY OF SAN DIEGO WILL HEAR ALL EVIDENCE AND TESTIMONY BY ALL INTERESTED PERSONS, PROPERTY OWNERS, VOTERS AND TAXPAYERS, REGARDING PROPOSED CHANGES AND MODIFICATIONS TO ALTER THE TYPES OF AUTHORIZED PUBLIC FACILITIES AND THE EXISTING RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX AND THE REDUCTION OF THE AUTHORIZED BONDED INDEBTEDNESS WITHIN COMMUNITY FACILITIES DISTRICT NO. 1 (MIRAMAR RANCH NORTH). FOR PARTICULARS, REFERENCE IS MADE TO THE RESOLUTION AS SET FORTH BELOW:

RESOLUTION NO. R-282905

RESOLUTION OF CONSIDERATION OF THE COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA, TO ALTER THE TYPES OF AUTHORIZED PUBLIC FACILITIES AND THE EXISTING RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX TO REDUCE THE AUTHORIZED BONDED INDEBTEDNESS WITHIN COMMUNITY FACILITIES DISTRICT NO. 1 (MIRAMAR RANCH NORTH) OF THE CITY OF SAN DIEGO

(Community Facilities District No. 1 (Miramar Ranch North))

WHEREAS, the CITY COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA (the "city council") has heretofore formed Community Facilities District No. 1 (Miramar Ranch North) of the city of San Diego (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), as amended, to finance (1) the construction, purchase, modification, expansion, improvement or rehabilitation of certain authorized public facilities (the "Facilities") as described in that certain document entitled "City of San Diego, Community Facilities District No. 1 (Miramar Ranch North) Community Facilities District Report" approved by the City Council on January 8, 1991 (the "Community Facilities District Report") and (2) the incidental expenses to be incurred in financing the Facilities and forming the District; and

WHEREAS, in order to finance the Facilities and incidental expenses, the City Council did previously declare the necessity to incur a bonded indebtedness in an amount not to exceed \$73,000,000.00 (the "Bonds"), the repayment of which is to be secured by the levy of special taxes in accordance with Section 53328 of the Act on property in the District; and,

WHEREAS, the qualified electors of the District did, at a special election held in the District on January 8, 1991, authorize the issuance of such Bonds and the levy of special taxes within the District; and,

WHEREAS, the City Council did authorize the levy of the special tax as approved by the qualified electors (the "Existing Special Tax") by the enactment of Ordinance No. O-17588; and,

WHEREAS, as a condition precedent to and an enhancement of the issuance of the \$35,340,000 City of San Diego Community Facilities District No. 1 (Miramar Ranch North) Special Tax Bonds, 1991 Series A, the City of San Diego, acting for and on behalf of the District, and Miramar Ranch North, a California general partnership, acting as owner of the property within the District subject to the levy of the Existing Special Tax, entered into a letter agreement dated July 18, 1991 (the "Security Enhancement Agreement") pursuant to which Miramar Ranch North agreed to petition the City Council to commence proceedings to change the rate and method of apportionment of the Existing Special Tax to establish and provide for the levy of the Extraordinary Special Tax as set forth in Exhibit "A" on file in the Office of the City Clerk.

WHEREAS, in response to the requirements of the Security Enhancement Agreement and the desire of Miramar Ranch North to have the City Council authorize certain additional changes to the original proceedings, Miramar Ranch North as owner of certain property within the District subject to the levy of the Existing Special Tax (collectively, the "Owner") has submitted a petition to the City Council requesting that the District, initiate the proceedings to alter the facilities authorized to be financed by the District, to alter the rate and method of apportionment of the Existing Special Tax to be levied within the District and to reduce the authorized bonded indebtedness for the District; and,

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

NOTICE OF PUBLIC HEARING RE PROPOSED CHANGES AND MODIFICATIONS RESOLUTION NO. R-282905

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

NOV. 18

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 18th day of NOV., 19 93.

Corey Donahue

(Signature)

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R-282905

21 '18" X 2 = \$ 606.72

WHEREAS, the City Council now intends to set a public hearing to consider the proposed alterations pursuant to such petition; and,
WHEREAS, in accordance with Section 53331(a) of the Act, the City Council has determined that the public convenience and necessity require the adoption of this resolution of consideration in order that a public hearing may be held to evaluate the requests made by the Owner in its petition and the matters set forth hereinabove.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. The petition of the Owner is hereby accepted and, based upon the certification of the special Tax Consultant, this legislative body hereby determines that such petition has been signed by the owners of 25 percent (25%) or more of the territory within the District as required by Section 53337 of Act.

SECTION 3. The area which would be affected by the proposed alterations is that territory within that certain Community Facilities District known and designated as "Community Facilities District No. 1 (Miramar Ranch North) of the City of San Diego".

SECTION 4. The boundaries and parcels of land included within the District are generally described as follows:

All property within the boundaries of Community Facilities District No. 1 (Miramar Ranch North) of the City of San Diego, as shown on a boundary map as previously approved by this legislative body, said map designated by the name of the District. The boundary map of the District has been filed pursuant to Sections 3111 and 3113 of the Streets and Highways Code of the State of California in the Office of the County Recorder of the County of San Diego at Page 24 of Book 54 of the Book of Maps of Assessment and Community Facilities Districts for said County.

SECTION 5. It is the intention of this legislative body to consider altering the types of public facilities authorized to be financed by the District by eliminating the following facility from the Facilities authorized to be financed by the District:

Water Distribution Loop System as listed
in the Community Facilities District Report

SECTION 6. It is the intention of this legislative body to consider the alteration of the rate and method of apportionment of the existing Special Tax authorized to be levied within the District. The altered rate and method of apportionment of the special tax as proposed to be altered is set forth in Exhibit "A" attached hereto ("Altered Special Tax"). The rate and method of apportionment of the Altered Special Tax will allow each landowner or resident within the District to estimate the maximum amount that he or she will have to pay.

This legislative body, based upon the certification of the Special Tax Consultant, hereby finds and determines that the alteration of the Existing Special Tax as proposed would not interfere with the timely retirement of the outstanding indebtedness of the District incurred in order to build or acquire the authorized Facilities.

SECTION 7. It is the intention of this legislative body to consider the reduction in the currently authorized bonded indebtedness of \$73,000,000.00 (subject to escalation to provide for increases in the costs of future phases of construction) to an amount equal to \$56,200,000.

SECTION 8. This legislative body hereby directs the Special Tax Consultant to prepare an amendment to the Special Tax Report to reflect the proposed alterations and to specify any proposed modifications to the cost estimate for the reduction in the bond authorization.

SECTION 9. A public hearing (the "Hearing") on the proposed alteration of the authorized Facilities and the rate and method of apportionment of the Existing Special Tax and the reduction in the authorized bonded indebtedness of the District shall be held at 10:00 a.m., or as soon thereafter as practicable, on November 30, 1993, at the City Council Chambers located at the City Administration, 202 "C" Street, San Diego, CA 92101.

At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within Community Facilities District No. 1 (Miramar Ranch North), may appear and be heard.

If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the District, or the owners of one-half (1/2) or more of the area of the land in the District and not exempt from the Existing Special Tax, file written protests against the alteration of the authorized Facilities, and said protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to alter the authorized Facilities as proposed shall be taken for a period of one year from the date of the decision of the City Council.

If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the District, or the owners of one-half (1/2) or more of the area of the land in the District and not exempt from the Existing Special Tax, file written protests against the alteration of the rate and method of apportionment of the Existing Special Tax, and said protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to alter the rate and method of apportionment of the existing tax as proposed shall be taken for a period of one year from the date of the decision of the City Council.

If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the District, or the owners of one-half (1/2) or more of the area of the land in the District and not exempt from the Existing Special Tax, file written protests against the reduction in the authorized bonded indebtedness of the district, and said protests are not withdrawn so as to reduce the value of the protests to less than a majority, no further proceedings to reduce the authorized bonded indebtedness of the District as proposed shall be taken for a period of one year from the date of the decision of the City Council.

At the conclusion of the Hearing, if the City Council determines to alter the authorized Facilities as proposed, alter the rate and method of apportionment of the Existing Special Tax as proposed, and/or reduce the authorized bonded indebtedness of the District as proposed, or a combination thereof, it shall adopt a resolution submitting the question of altering the Facilities to be financed by the District, altering the rate and method of apportionment of the Existing Special Tax, reducing the authorized bonded indebtedness of the District, or any combination thereof, to the qualified electors of the District in a special election held in accordance with the provisions of Article 2 of the Act.

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2 1/8" x 2 = \$ 606.70

R-282905

SECTION 10. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of Community Facilities District No. 1 (Miramar Ranch North). The Notice shall contain the text of this Resolution and any additional information required by Section 63335 of the Act.

The City Clerk is also directed to send a copy of the Notice of the Hearing by first-class mail, postage prepaid, to each registered voter and to each landowner within the District as shown on the last equalized assessment roll or otherwise known to the City Clerk to be a current owner of land within the District. Said mailing shall be completed not less than fifteen (15) days prior to the date of the Hearing.

SECTION 11. If, after the hearing described in Section 8, the City Council adopts a resolution submitting the questions of the alteration of the authorized Facilities, the alteration of the rate and method of apportionment of the Existing Special Tax and/or the reduction of the authorized bonded indebtedness to the qualified electors of the District in a special election, such election shall be held at least ninety (90) days, but not more than one hundred eighty (180) days, following the adoption of the resolution approving such alterations; provided that such election may be held at an earlier date with the unanimous consent of the qualified electors of the District and the concurrence of the election official conducting the election.

If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory of the District for each of the ninety (90) days preceding the close of the Hearing, the vote shall be by the registered voters of the District, which each voter having one vote. Otherwise, the vote shall be by the landowners of the District and each landowner who is the owner of record at the close of the Hearing, or the authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land that such landowner owns within the District. The number of votes to be voted by a particular landowner shall be specified on the ballot provided to that landowner.

Ballots for the special election authorized may be distributed to qualified electors by mail, with return postage prepaid, or by personal service by the election official. The official conducting the election may certify the proper mailing of ballots by an affidavit, which shall constitute conclusive proof of mailing in the absence of fraud. The voted ballots shall be returned to the election officer conducting the election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there shall be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the Elections Code of California. If the vote is to be by the landowners of the District, analysis and arguments may be waived with the unanimous consent of all the landowners, and shall be so stated in the order for the election.

Passed and adopted by the Council of the City of San Diego on OCT 26 1993 by the following vote:

YEAS: WOLFSHEIMER, ROBERTS, HARTLEY, STEVENS, BEHR, STALLINGS, MCCARTY, VARGAS

NAYS: NONE

NOT PRESENT: MAYOR GOLDING

AUTHENTICATED BY:

SUSAN GOLDING

Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR

City Clerk of the City of San Diego, California

(SEAL)

By: MARY CEPEDA, Deputy

Pub. Nov. 18

284941

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2 1/8" x 2 = \$ 606.72

R-282905