

RESOLUTION NUMBER R- 292754

ADOPTED ON FEB 08 2000

RESOLUTION OF INTENTION TO ESTABLISH  
COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ),  
TO AUTHORIZE THE LEVY OF SPECIAL TAXES TO PAY  
THE COSTS OF ACQUIRING OR CONSTRUCTING CERTAIN  
FACILITIES AND EXPENSES OF THE DISTRICT AND TO  
PAY DEBT SERVICE ON BONDED INDEBTEDNESS AND  
APPROVING THE FORM OF AND AUTHORIZING THE  
EXECUTION OF TWO PURCHASE AND FINANCING  
AGREEMENTS.

WHEREAS, The City of San Diego (the "City") has received a petition (the "Petition") signed by the owners of all of the land within the boundaries of the territory which is proposed for inclusion in a proposed community facilities district which meets the requirements of Sections 53318 and 53319 of the Government Code of the State of California; and

WHEREAS, the Council of The City of San Diego (the "Council") desires to adopt this resolution of intention as provided in Section 53321 of the Government Code of the State of California to establish a community facilities district consisting of the territory described in Attachment "A" hereto and incorporated herein by this reference, which the Council hereby determines shall be known as "Community Facilities District No. 2 (Santaluz)" (the "Community Facilities District No. 2" or the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act") to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of

certain real or other tangible property described in Attachment "B" hereto and incorporated herein by this reference, including all furnishings, equipment and supplies related thereto (collectively, the "Facilities"), which Facilities have a useful life of five years or longer; and (2) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the District (the "Incidental Expenses"); and

WHEREAS, the Council further intends to approve an estimate of the costs of the Facilities and the Incidental Expenses for Community Facilities District No. 2; and

WHEREAS, in accordance with the request in the Petition, the Council further intends to establish Improvement Area Nos. 1, 2 and 3 within Community Facilities District No. 2, with boundaries as set forth in Attachment "A;" and

WHEREAS, it is the intention of the Council to consider financing the Facilities and the Incidental Expenses through the formation of Community Facilities District No. 2 and the sale of bonded indebtedness in an amount not to exceed \$62,200,000 within proposed Improvement Area No. 1, \$3,000,000 within proposed Improvement Area No. 2, and \$4,800,000 within proposed Improvement Area No. 3, and the levy of a special tax within each Improvement Area to pay for the Facilities and the Incidental Expenses and to pay debt service on the bonded indebtedness incurred by such Improvement Area, provided that the bond sales and special tax levies are approved at an election to be held within each proposed Improvement Area of Community Facilities District No. 2; and

WHEREAS, there has been presented to this Council the form of a Purchase and Financing Agreement to be entered into between the City and certain property owners within the

proposed boundaries of Community Facilities District No. 2 (the "Santaluz Purchase Agreement"); and

WHEREAS, there has been presented to this Council the form of a Purchase and Financing Agreement to be entered into between the City and Black Mountain Ranch Limited Partnership ("BMR Purchase Agreement"); NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

Section 1. The above recitals are true and correct.

Section 2. A community facilities district is proposed to be established under the terms of the Act, with three separate improvement areas designated pursuant to Section 53350 of the Act. It is further proposed that the boundaries of the community facilities district and the boundaries of each Improvement Area shall be as described in Attachment "A" hereto, which boundaries shall, upon recordation of the boundary map for the District, include the entirety of any parcel subject to taxation by the District. The proposed boundaries of the District and each Improvement Area are depicted on the map of the proposed Community Facilities District No. 2 which is on file with the Clerk of the Council. The Clerk of the Council is hereby directed to sign the original map of the District and record it with all proper endorsements thereon with the County Recorder of the County of San Diego within 15 days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

Section 3. The name of the proposed community facilities district shall be "Community Facilities District No. 2 (Santaluz)" and the three proposed Improvement Areas shall

be designated as "Improvement Area No. 1," "Improvement Area No. 2," and "Improvement Area No. 3."

Section 4. The Facilities proposed to be provided within Community Facilities District No. 2 and to be financed in part by each Improvement Area are public facilities as defined in the Act, which the City is authorized by law to construct, acquire, own and operate. The Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow taxpayers within the proposed District and each Improvement Area to understand what the funds of each Improvement Area may be used to finance. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the District, issuing bonds and levying and collecting a special tax within each proposed Improvement Area of the District. The Council hereby finds that the proposed Facilities are necessary to meet increased demands placed upon the City as a result of development occurring in the District. The Facilities may be acquired from one or more of the property owners as completed public improvements or may be constructed from bond or special tax proceeds. All or a portion of the Facilities may be purchased with District funds as completed public facilities pursuant to Section 53314.9 of the Act and/or constructed with District funds pursuant to Section 53316.2 of the Act. Any portion of the Facilities may be financed through a lease or lease-purchase arrangement if the District hereafter determines that such arrangement is of benefit to the District.

Section 5. Except where funds are otherwise available, it is the intention of the Council to levy annually in accordance with the 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 that Improvement Area, 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 for such Improvement Area 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 are described in detail in Attachment "C" attached hereto, which Attachment "C" is incorporated herein by this reference. Attachment "C" allows each landowner within each of the Improvement Areas proposed within the District to estimate the maximum amount that may be levied against each parcel. In the first year in which such special tax is levied, the levy shall include an amount sufficient to repay to the District all amounts, if any, transferred to the District pursuant to Section 53314 of the Act and interest thereon.

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 fifty (50) years commencing with Fiscal Year 2000-01, as further described in Attachment "C" hereto; and (iii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the District by more than ten percent.

The special tax within a proposed Improvement Area is based on the expected demand that each parcel of real property within that proposed Improvement Area will place on the Facilities and on the benefit that each parcel derives from the right to access the Facilities. The Council hereby determines that the proposed Facilities are necessary to meet the increased demand placed upon the City and the existing infrastructure in the City as a result of the development of the land proposed for inclusion in the District. The Council hereby determines the rate and method of apportionment of the special tax set forth in Attachment "C" for each proposed Improvement Area 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 on or based upon the value or ownership of real property. In the event that a portion of the property within a proposed Improvement Area of Community Facilities District No. 2 shall become for any reason exempt, wholly or partially, from the levy of the special tax specified on Attachment "C", the Council shall, on behalf of Community Facilities District No. 2, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in Attachment "C," to the extent necessary upon the remaining property within that Improvement Area which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described in this Section 5. The obligation to pay special taxes may be prepaid as set forth in Attachment "C."

Section 6. A public hearing (the "Hearing") on the establishment of the proposed Community Facilities District No. 2, each proposed Improvement Area, the proposed rate and method of apportionment of the special tax and the proposed issuance of bonds by the

Improvement Area to finance the Facilities and the Incidental Expenses shall be held at 10:00 a.m., or as soon thereafter as practicable, on MARCH 14, 2000, at the City Council Chambers, 202 C Street, San Diego, California 92101. Should the Council determine to form the District and establish the Improvement Areas, a special election will be held within each Improvement Area to authorize the issuance of the bonds and the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the elections will be a landowner vote with each landowner who is the owner of record of land within an Improvement Area at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the Improvement Area. Ballots for the special elections may be distributed by mail or by personal service.

Section 7. At the time and place set forth above for the Hearing, the Council will receive testimony as to whether the proposed Community Facilities District No. 2 and the proposed Improvement Areas shall be established and as to the rate and method of apportionment of the special tax for each Improvement Area and shall consider:

(a) if an *ad valorem* property tax is currently being levied on property within proposed Community Facilities District No. 2 for the exclusive purpose of paying principal of or interest on bonds, lease payments or other indebtedness incurred to finance construction of capital facilities; and

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(b) if the capital facilities to be financed and constructed by Community Facilities District No. 2 will provide the same services as were provided by the capital facilities mentioned in subsection (a) above; and

(c) if the Council makes the findings specified in subsections (a) and (b) above, it will consider appropriate action to determine that the total annual amount of ad valorem property tax revenue due from parcels within Community Facilities District No. 2, for purposes of paying principal and interest on the debt identified in subsection (a) above, shall not be increased after the date on which Community Facilities District No. 2 is created, or after a later date determined by the Council with the concurrence of the legislative body which levied the property tax in question.

Section 8. At the time and place set forth above for the Hearing, any interested person, including all persons owning land or registered to vote within proposed Community Facilities District No. 2, may appear and be heard.

Section 9. Each District officer who is or will be responsible for providing the Facilities within proposed Community Facilities District No. 2, if it is established, is hereby directed to study the proposed District and, at or before the time of the above-mentioned Hearing, file a report with the Council containing a brief description of the public facilities by type which will in his or her opinion be required to meet adequately the needs of Community Facilities District No. 2 and an estimate of the cost of providing those public facilities, including the cost of environmental evaluations of such facilities and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.



Section 10. The District may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred in creating Community Facilities District No. 2. The District may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the Council, with or without interest. The District is hereby authorized to reimburse Fairbanks Highlands LLC for moneys advanced pursuant to that certain Reimbursement Agreement heretofore entered into by and between Black Mountain Ranch Limited Partnership and Taylor Woodrow Homes, Inc. and the City, but only under the circumstances permitting reimbursement under such Reimbursement Agreement.

Section 11. 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 proposed Community Facilities District No. 2. The City Clerk is further directed to mail a copy of the Notice to each of the landowners within the boundaries of the District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed District and a description of the proposed voting procedure for the elections required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.

Section 12. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).

Section 13. The Santaluz Purchase Agreement, a copy of which is on file in the Office of the City Clerk as Document No. RR- 292754-1, is hereby approved as to form, and the City Manager and his designee, the Financial & Technical Services Business Center Deputy City Manager of the City, each is hereby authorized to execute the Purchase Agreement on behalf of the City substantially in the form presented, together with such changes as are approved by the City Attorney.

Section 14. The BMR Purchase Agreement, a copy of which is on file in the Office of the City Clerk as Document No. RR- 292754-2, is hereby approved as to form, and the City Manager and his designee, the Financial & Technical Services Business Center Deputy City Manager of the City, each is hereby authorized to execute the Purchase Agreement on behalf of the City substantially in the form presented, together with such changes as are approved by the City Attorney.

Section 15. This Resolution shall be effective upon its adoption..

APPROVED: CASEY GWINN, City Attorney

By Kelly J. Salt  
Kelly J. Salt  
Deputy City Attorney

KJS:pev  
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2/2/00 Cor. Copy  
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**ATTACHMENT A**  
**COMMUNITY FACILITIES DISTRICT NO. 2 BOUNDARY**

**IMPROVEMENT AREA NO. 1**

Parcels 1, 3, 4, 6, 7 and 8 of Parcel Map No. 17996 in the City of San Diego, County of San Diego, State of California according to the Map thereof filed in the Office of the County Recorder of San Diego County March 11, 1998.

**TOGETHER WITH**

Parcels 1, 6 and 8 of Parcel Map No. 17995 in the City of San Diego, County of San Diego, State of California according to the Map thereof filed in the Office of the County Recorder of San Diego County March 11, 1998.

**IMPROVEMENT AREA NO. 2**

Parcels 4, and 5 of Parcel Map No. 17995 in the City of San Diego, County of San Diego, State of California according to the Map thereof filed in the Office of the County Recorder of San Diego County March 11, 1998.

**IMPROVEMENT AREA NO. 3**

Lots 1 through 94 and A through O of Fairbanks Highlands, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 13796, filed in the Office of the County Recorder of San Diego County, June 3, 1999.

**TOGETHER WITH:**

That portion of the Northwest Quarter of Section 12, Township 14 South, Ranch 3 West, San Bernardino Meridian, shown on Map No. 13796 as referred to above as NOT A PART.

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**ATTACHMENT B**

**Types of Facilities**

**to Be Financed by Community**

**Facilities District No. 2**

The proposed public facilities and expenses to be financed by the District include:

- 1 Carmel Valley Road from Via Abertura to Black Mountain Road (Segment B, "Seg. B"):**  
  
**Includes Black Mountain Road from Carmel Valley Road southerly to existing Black Mountain Road**  
**Includes Collins Nursery right-of-way acquisition**  
**Includes portion of 36" water line- 793 zone**  
**Includes 36" water line - 610 zone**  
**Includes Pressure Reduction Station**
  
- 2 Riparian Mitigation and Vernal Pool Mitigation to support Carmel Valley Road Seg. B construction.**
  
- 3 Construction of Carmel Valley Road Segments 1, 2, and 3 from North of SR56 to Via Abertura**  
**Includes traffic signal at Rancho Santa Fe Farms Road**
  
- 4 Camino Ruiz South**  
**Includes 16" Water Line in Camino Ruiz**  
**Includes 20" Water Line in Camino Ruiz**
  
- 5 Camino Ruiz from CR South Northerly to San Dieguito and Extension to Stn. 213**  
  
**Includes 16" water line**  
**Includes 20" Water line**  
**Includes Sewer Trunk from Fairbanks Highlands Intercept to Pump Station No. 3 Intercept**
  
- 6 San Dieguito Road from Camino Ruiz to existing San Dieguito Road**  
**Includes Water Facilities**

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- 7 **Median and Parkway Landscaping of Carmel Valley Road from Via Abertura to Black Mountain Road (Seg. B)**  
**Includes Black Mountain Road from Carmel Valley Road southerly to existing Black Mountain Road**
- 8 **Sewer Trunk Line from Existing Carmel Valley Sewer Trunk Line to Fairbanks Highlands Interceptor**
- 9 **Trunk Sewer from Pump Station No. 3 Intercept to Pump Station No. 2 Interceptor**
- 10 **Trunk Sewer from Pump Station No. 2 Intercept to northerly end of Project**
- 11 **Pump Station No. 3 and Force Main to Trunk Sewer**
- 12 **Pump Station No. 2 and Force Main to Trunk Sewer**
- 13 **36" Water Line from Reservoir to Black Mountain Road including Carmel Valley Road Segment BB bridge.**
  
- 14 **25 Million Gallon Reservoir**
  
- 15 **South Fire Station and Equipment (Fair Share)**  
**Offsite Traffic Signals and Intersection Improvements**
- 16 **Intersection Improvements at El Camino Real and San Dieguito Road**
- 17 **Traffic Signal at Black Mountain Road and Maler Road**
- 18 **Intersection Improvements at Black Mountain Road and Park Village Road**  
**Total**
  
- 19 **Traffic Signal at Camino Ruiz and San Dieguito**
- 20 **Traffic Signal at Carmel Valley Road and Camino Ruiz**
- 21 **Traffic Signal at Carmel Valley Road and Black Mountain Road**
- 22 **Regional Park Land Acquisition and Grading (Fair Share)**
- 23 **Carmel Valley Road Segment BB**
- 24 **South Fire Station, Remaining Costs**

**ATTACHMENT C**  
**RATE AND METHOD OF APPORTIONMENT**

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ATTACHMENT C

RATE AND METHOD OF APPORTIONMENT FOR  
COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ)  
(IMPROVEMENT AREA NO. 1)

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A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 2 (Santaluz) - (Improvement Area No. 1) ("CFD No. 2 (IA No. 1)") and collected each Fiscal Year commencing in Fiscal Year 2000-01, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," "Taxable Property Owner Association Property," "Taxable Public Property," and "Undeveloped Property" as described below. All of the real property in CFD No. 2 (IA No. 1), unless exempted by law or by the provisions hereof, 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:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map.

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2 (IA No. 1): the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2 (IA No. 1) or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2 (IA No. 1) or any designee thereof of complying with disclosure requirements of the City, CFD No. 2 (IA No. 1) or obligated persons associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2 (IA No. 1) or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from an escrow account; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2 (IA No. 1) for any other administrative purposes of CFD No. 2 (IA No. 1), including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Affordable Unit(s)"** means up to 179 dwelling units located on an Assessor's Parcel of Residential Property, including Affordable Companion Units, that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the City providing for affordable housing. Dwelling units shall be classified as Affordable Units by the CFD Administrator in the chronological order in which the building permits for such property are issued. If the total number of Affordable Units exceeds the amount stated above, then the units exceeding such total shall not be considered Affordable Units and shall be assigned to Land Use Classes 1 through 11 based on the Residential Floor Area for such units. However, notwithstanding the above, the number of Affordable Units may exceed 179 dwelling units if the total number of dwelling units in CFD No. 2 (IA No. 1) exceed 1,121. In such cases, the number of Affordable Units exceeding 179 shall not be greater than the total number of units in CFD No. 2 (IA No. 1) which exceed 1,121.

**"Affordable Companion Unit(s)"** means any Companion Units that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the City providing for affordable housing. The Residential Floor Area of an Affordable Companion Unit shall not be included when calculating the total Residential Floor Area for the Assessor's Parcel on which it is located.

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

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

**"Backup Special Tax"** means the Special Tax that may be required to be paid as a result of changes in development, as determined in accordance with Section D below.

**"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. 2"** means Community Facilities District No. 2 (Santaluz).

**"CFD No. 2 (IA No. 1)"** means CFD No. 2 (Improvement Area No. 1), as identified on the boundary map for CFD No. 2.

**"CFD No. 2 (IA No. 1) Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 2 for CFD No. 2 (IA No. 1) under the Act.

**"City"** means the City of San Diego.



**"Companion Unit(s)"** means any dwelling unit located on an Assessor's Parcel of Residential Property for which the building permit was issued for purposes of constructing an attached or detached secondary unit on a single family lot. The Residential Floor Area of a Companion Unit, except for Affordable Companion Units, shall be added to the Residential Floor Area of the primary dwelling unit when calculating the total Residential Floor Area for the Assessor's Parcel on which it is located.

**"Council"** means the City Council of the City, acting as the legislative body of CFD No. 2 (IA No. 1).

**"County"** means the County of San Diego.

**"Custom Lot Property"** means, for each Fiscal Year, any Assessor's Parcel of Taxable Property (i) that is within a Final Map that was recorded prior to March 1 of the prior Fiscal Year, (ii) for which escrow has closed prior to March 1 of the prior Fiscal Year to a buyer who is not in the regular course of business of building homes for resale as determined by the CFD Administrator, and (iii) that is one of the 116 custom lots included in the substantial conformance approval granted by the City on October 29, 1999, for Black Mountain Ranch Tentative Map No. VTM-0173, as amended from time-to time or modified pursuant to a final tract map or precise site plan for such custom lot property, and listed in Exhibit A.

**"Developed Property"** means, for each Fiscal Year, all (i) Custom Lot Property, (ii) Golf Course Property, and (iii) all Taxable Property, exclusive of Taxable Property Owner Association Property or Taxable Public Property, for which a building permit for new construction or renovations was issued after January 1, 1999, but prior to March 1 of the prior Fiscal Year.

**"Final Map"** means (i) a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots for which building permits may be issued, or (ii) for condominiums, a final map, or portion thereof, approved by the City and a condominium plan recorded pursuant to California Civil Code Section 1352 that creates individual lots for which building permits may be issued.

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

**"Golf Course Property"** means the land area consisting of up to 282.3 Acres to be utilized for golf course purposes including: fairways, greens, driving ranges, tennis facilities, club house, locker rooms, maintenance facilities, garages, pro shop, restaurant, or banquet facilities as geographically identified in the substantial conformance approval granted by the City on October 29, 1999, for Black Mountain Ranch Tentative Map No. VTM-0173, as amended from time-to time or modified pursuant to a final tract map or precise site plan for such golf course property, and listed in Exhibit B. Any Residential Property located within this area shall not be considered Golf Course Property. If the golf course Acreage exceeds

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the amount stated above, then the Acres exceeding such total shall not be considered Golf Course Property but shall be classified as Property Owner Association Property.

**"Indenture"** means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which CFD No. 2 (IA No. 1) Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Institutional Property"** means Assessor's Parcels of Developed Property, including up to 11.9 Acres, for which the building permit was issued for the following institutional uses: day care center, recreation center, seniors center, private school or church. If the Acreage of institutional uses exceeds the amount stated above, then the Acres exceeding such total shall not be considered Institutional Property but shall be classified as Non-Residential Property.

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

**"Master Developer"** means Santaluz, LLC and/or any assignee(s) or successor(s) serving as the master developer of infrastructure within CFD No. 2 (IA No. 1).

**"Maximum Annual Special Tax"** means the maximum annual Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor's Parcel.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property, excluding Golf Course Property and Institutional Property, for which a building permit(s) was issued for a non-residential use.

**"Outstanding Bonds"** means all CFD No. 2 (IA No. 1) Bonds which are deemed to be outstanding under the Indenture.

**"Property Owner Association Property"** means any property within the boundaries of CFD No. 2 (IA No. 1) owned in fee or by easement or irrevocably offered for dedication to a property owner association, including any master or sub-association.

**"Proportionately"** means for Developed Property that the ratio of the actual Special Tax levy to the Assigned Special Tax is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Annual Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property.

**"Public Property"** means any property within the boundaries of CFD No. 2 (IA No. 1) that is used for rights-of-way or any other purpose and is owned by or irrevocably offered for dedication to any agency of the federal government, the State of California, the County, the City or any other public agency, provided however 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 in accordance with its use.

**"Purchase and Financing Agreement"** means (i) the Purchase and Financing Agreement by and between the City and Fairbanks Highlands LLC and Santaluz LLC that was approved by the Council on February 7, 2000, as it may be modified or supplemented from time to time and/or (ii) the Purchase and Financing Agreement by and between the City and Black Mountain Ranch LP that was approved by the Council on February 7, 2000, as it may be modified or supplemented from time to time.

**"Residential Property"** means (i) Custom Lot Property, and (ii) 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.

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

**"Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property, to fund the Special Tax Requirement or the Backup Special Tax Requirement.

**"Special Tax Requirement"** means, for any Fiscal Year, the amount required after taking into account amounts held in funds and accounts under the Indenture which are intended to be used to pay debt service on Outstanding Bonds in the calendar year beginning in such Fiscal Year, to: (i) pay debt service on all Outstanding Bonds; (ii) pay periodic costs on the CFD No. 2 (IA No. 1) Bonds, including but not limited to, credit enhancement and rebate payments on the CFD No. 2 (IA No. 1) Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for any CFD No. 2 (IA No. 1) Bonds; (v) pay directly for authorized facilities in accordance with the Purchase and Financing Agreement; and (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 2 (IA No. 1) which are not exempt from the Special Tax pursuant to law or Section F below.

**"Taxable Property Owner Association Property"** means all Assessor's Parcels of Property Owner Association Property that are not exempt pursuant to Section F below.

**"Taxable Public Property"** means all Assessor's Parcels of Public Property that are not exempt pursuant to Section F below.

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

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"Undeveloped Property" means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Property Owner Association Property, or Taxable Public Property.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property shall be classified as Developed Property, Taxable Public Property, Taxable Property Owner Association Property or Undeveloped Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C, D and E below.

**C. MAXIMUM ANNUAL SPECIAL TAX**

**1. Developed Property**

Residential Property shall be assigned to Land Use Classes 1 through 14 as listed in the table below based upon the type of structure or the Residential Floor Area for each unit or units located on an Assessor's Parcel, or in the case of Custom Lot Property to Land Use Class 13. Non-Residential Property shall be assigned to Land Use Class 15. Golf Course Property shall be assigned to Land Use Class 16. Institutional Property shall be assigned to Land Use Class 17.

(a). Maximum Annual Special Tax

The Maximum Annual Special Tax for each Assessor's Parcel classified as Developed Property shall be equal to the sum of the Assigned Special Tax and any Backup Special Tax due on such Assessor's Parcel.

(b). Assigned Special Tax

The Fiscal Year 2000-01 Assigned Special Tax for each Land Use Class is shown in Table 1.

**TABLE 1**

**Fiscal Year 2000-01 Assigned Special Taxes for Developed Property  
CFD No. 2 (Improvement Area No. 1)**

<b>Land Use Class</b>	<b>Description</b>	<b>Residential Floor Area/Unit Type</b>	<b>Assigned Special Tax Per unit/Acre</b>
1	Residential Property	< 1,500 sq. ft	\$1,755.01 per unit
2	Residential Property	1,500 to 2,249 sq. ft	\$2,285.90 per unit
3	Residential Property	2,250 to 2,749 sq. ft.	\$2,764.14 per unit
4	Residential Property	2,750 to 3,149 sq. ft.	\$3,461.76 per unit
5	Residential Property	3,150 to 3,749 sq. ft.	\$4,102.34 per unit
6	Residential Property	3,750 to 4,049 sq. ft.	\$4,852.61 per unit
7	Residential Property	4,050 to 4,499 sq. ft.	\$4,979.85 per unit
8	Residential Property	4,500 to 4,999 sq. ft.	\$5,765.21 per unit
9	Residential Property	5,000 to 5,499 sq. ft.	\$7,191.16 per unit
10	Residential Property	5,500 to 5,999 sq. ft.	\$7,880.00 per unit
11	Residential Property	6,000 to 6,499 sq. ft.	\$8,564.46 per unit
12	Residential Property	≥ 6,500 sq. ft.	\$8,884.75 per unit
13	Residential Property	Custom Lots	\$8,884.75 per unit
14	Residential Property	Affordable Units	\$102.00 per unit
15	Non-Residential Property	Not Applicable	\$5,066.55 per Acre
16	Golf Course Property	Not Applicable	\$500.69 per Acre
17	Institutional Property	Not Applicable	\$102.00 per Acre

(c). Increase in the Assigned Special Tax

On each July 1, commencing July 1, 2001 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 1), the Assigned Special Tax for Developed Property shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. On July 1 of the eleventh and twelfth Fiscal Years in which Special Taxes are levied in CFD No. 2, the Assigned Special Tax for Developed Property may be increased by up to two percent (2%) of the amount in effect in the previous Fiscal Year, provided that such increase is necessary to meet the Special Tax Requirement. There will be no increase in the Assigned Special Tax that may be levied after the twelfth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 1).

(d). Multiple Land Use Classes

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

In the event that Custom Lot Properties are combined, the Assigned Special Tax on an Assessor's Parcel of Custom Lot Property shall be the sum of the Assigned Special Taxes for all of the predecessor Custom Lot Properties. Should Custom Lot Properties be subdivided so that the total number of Custom Lot Properties is decreased, the CFD Administrator shall allocate the Assigned Special Taxes from the lost parcel(s) to the remaining Custom Lot Properties proportionately based on the additional acreage apportioned to each remaining Custom Lot Property.

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

(a). Maximum Annual Special Tax

The Fiscal Year 2000-01 Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property shall be \$18,842.67 per Acre.

(b). Increase in the Maximum Annual Special Tax

On each July 1, commencing July 1, 2001 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 1), the Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. On July 1 of the eleventh and twelfth Fiscal Years in which Special Taxes are levied in CFD No. 2, the Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property may be increased by up to two percent (2%) of the amount in effect in the previous Fiscal Year, provided that such increase is necessary to meet the Special Tax Requirement. There will be no increase in the Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property after the twelfth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 1).

**D. BACKUP SPECIAL TAX**

The following definitions apply to this Section D:

**"Aggregate Credits"** means the total Assigned Special Taxes from all Developed Property and Update Property within all Built Out Development Products minus the total Assigned Special Taxes that would have been levied in these Built Out Development Products as projected in the Original Report.

**"Excess Aggregate Credits"** means the total Aggregate Credits minus the Aggregate Credits previously allocated to Development Products with shortfalls, as computed under step 4 of Section D.7, below.

**"Backup Special Tax Account"** means, for each Development Product, the fund or account (regardless of its name) identified in the Indenture to hold payments of Backup Special Taxes received from property owners within such Development Product.

**"Backup Special Tax Requirement"** means the total amount of Backup Special Taxes necessary as calculated under Section D.7 below, as of the date of any Backup Special Tax calculation.

**"Builder"** means the merchant builder for each Assessor's Parcel.

**"Builder Certificate"** means a certificate from the Builder stating that the Development Product will generate at least the amount of Assigned Special Taxes that was projected for such Development Product in the Original Report, or that the Development Product's Assigned Special Taxes plus Excess Aggregate Credits currently available will generate at least the amount of Assigned Special Taxes that was projected for such Development Product in the Original Report.

**"Buildout"** means, for any Development Product, that all expected building permits have been issued.

**"Built Out Development Product"** means a Development Product which has reached Buildout.

**"Certificate of Satisfaction of Backup Special Tax"** means a certificate from the CFD Administrator stating that the property described in such certificate has sufficiently met the Backup Special Tax Requirement for such property as calculated under Section D.7 below.

**"Development Product"** means a geographic area representing the expected construction phases planned to be developed by each merchant builder or sold to custom lot buyers. The initial Updated Report will designate the geographic area included in each Development Product by tract and lot. Notwithstanding the above, no Custom Lot Properties shall be

included in a Development Product.

**"Letter of Compliance"** means a letter from the CFD Administrator stating that the property described in such letter will generate at least the amount of Assigned Special Taxes that was established for such property in the Original Report.

**"Update Property"** means an Assessor's Parcel of Undeveloped Property for which a building permit has been issued and/or for which escrow has closed to a buyer who is not in the regular course of business of building homes for resale, but which has not yet been classified as Developed Property because such events occurred after the March 1 cutoff for the current Fiscal Year. For purposes of all calculations in Section D, Update Property shall be taxed as if it were Developed Property.

### 1. **Original Report**

Prior to the issuance of the first series of CFD No. 2 (IA No. 1) Bonds the Master Developer shall submit a report (the "Original Report") to the CFD Administrator containing a lot-by-lot listing for each of the 1,121 expected taxable dwelling units that identifies for each expected taxable lot the expected Builder, Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage.

At the request of the Master Developer, the CFD Administrator may amend the Original Report to reflect changes approved by the City, provided that changes in the Original Report shall not be permitted if the total Assigned Special Taxes for all of CFD No. 2 (IA No. 1) are reduced by such changes.

### 2. **Updated Report**

Not less than 30 days prior to the submission (by the Master Developer or any Builder) of an application for the first building permits within CFD No. 2 (IA No. 1), the Master Developer shall submit a report to the CFD Administrator containing a lot-by-lot listing for each Development Product that lists for each expected taxable lot the expected or actual Builder, Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage, and compares such information to the information provided for such property in the Original Report. Upon approval by the CFD Administrator, such report shall constitute an Updated Report (the "Updated Report").

After the submittal of the initial Updated Report, the Master Developer shall submit additional Updated Reports to the CFD Administrator quarterly (within 45 days after each March 31, June 30, September 30, and December 31) until CFD No. 2 (IA No. 1) reaches Buildout for all Development Products. For Assessor's Parcels of Developed Property and Update Property, the quarterly Updated Report will also include the date the building permit was issued, or the date that escrow closed to an end user of a Custom Lot Property.



**3. Initial Letters of Compliance**

If, based on the initial Updated Report, the CFD Administrator determines that a Development Product will generate at least the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, the CFD Administrator shall, within 30 days of the submittal of the initial Updated Report, issue an initial Letter of Compliance with respect to such Development Product. If the CFD Administrator determines that a Development Product will not generate at least the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, then a Letter of Compliance will not be issued for such Development Product at such time.

**4. Letters of Compliance Based on Subsequent Updated Reports**

Upon the receipt of each Updated Report, the CFD Administrator shall compare the data provided for each Development Product to the data included in the Original Report and make one of the determinations set forth in the following two paragraphs.

If the CFD Administrator determines that a Development Product will generate at least the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, then, if a Letter of Compliance is not currently in effect for such Development Product, the CFD Administrator shall, within 30 days of the submittal of an Updated Report, issue a Letter of Compliance with respect to such Development Product.

If the CFD Administrator determines that a Development Product will not generate the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, then any Letter of Compliance previously issued for such Development Product will be rescinded. The CFD Administrator shall, within 30 days of the submittal of an Updated Report, notify the Master Developer, Builder, and City Building Department that such Letter of Compliance has been rescinded.

If building permits have already been issued for such Development Product, then the CFD Administrator shall calculate and levy the Backup Special Tax pursuant to Section D.7 below for the Assessor's Parcels for which building permits have been issued.

**5. Issuance of Building Permits for Parcels with a Letter of Compliance**

Each time a request for a building permit (or group of permits) is submitted to the City Building Department within a Development Product, the Builder shall provide a copy of the Letter of Compliance for the applicable property, along with either a Builder Certificate or a Certificate of Satisfaction of Backup Special Tax. No building permit shall be issued without (i) a Letter of Compliance and (ii) either a Builder Certificate or a Certificate of Satisfaction of Backup Special Tax.

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**6. Builder Notification for Parcels without a Letter of Compliance and Builder Certificate**

At least 30 days prior to submitting a building permit application for property that has not yet received a Letter of Compliance, or for property that has received a Letter of Compliance but for which the Builder is unable to provide the certification required by Section D.5 above, the Builder shall notify the CFD Administrator of its intent to request building permits for particular lots within a Development Product.

The Builder's notification ("Builder Notification") shall include for each Assessor's Parcel for which building permits are being requested the proposed Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage.

If the CFD Administrator determines based on the calculations in Section D.7 that no Backup Special Tax is required for the Assessor's Parcels included within the Builder Notification, then the CFD Administrator shall, within 30 days of the submittal of the Builder Notification, issue a Letter of Compliance and a Certificate of Satisfaction of Backup Special Tax with respect to such property. If the CFD Administrator determines based on the calculations in Section D.7 that a Backup Special Tax is required, then the CFD Administrator shall calculate and levy the Backup Special Tax pursuant to Section D.7 below.

**7. Calculation of Backup Special Tax**

Upon the receipt of a Builder Notification or determination under Section D.4 or Section D.6 that a Backup Special Tax is required, the CFD Administrator shall determine the Backup Special Tax to be applied to the property identified in the Builder Notification by undertaking the following steps:

- Step 1. Compute the sum of the Assigned Special Taxes from all Developed Property and Update Property within the Development Product in which the property is located, plus the Assigned Special Taxes from the property described in the Builder Notification (assuming such property is taxed as Developed Property).
- Step 2. Compute the sum of the expected Assigned Special Taxes from all Developed Property and Update Property within the Development Product in which the property is located, plus the Assigned Special Taxes from the property described in the Builder Notification (assuming such property is taxed as Developed Property), assuming that all such property was developed as set forth in the Original Report.
- Step 3. If the amount computed pursuant to step 1 is greater than or equal to the amount computed pursuant to step 2, then no Backup Special Tax will be required. If the amount computed pursuant to step 1 is less than the amount computed pursuant to step 2, then continue to Step 4.

- Step 4. If there are Excess Aggregate Credits currently available, assign a sufficient number of such Excess Aggregate Credits to the Development Product to cover the shortfall calculated under step 3, so that the sum of the Assigned Special Taxes as computed under step 1 plus the Excess Aggregate Credits assigned to the Development Product is equal to the Assigned Special Taxes as computed under step 2. If the total number of Excess Aggregate Credits currently available are not sufficient to cover the shortfall calculated under step 3, then assign all of the available Excess Aggregate Credits to the Development Product.
- Step 5. If the sum of the Assigned Special Taxes and the Excess Aggregate Credits assigned pursuant to step 4 is greater than or equal to the amount computed pursuant to step 2, then no Backup Special Tax will be required. If the sum of the Assigned Special Taxes and the Excess Aggregate Credits assigned pursuant to step 4 is less than the amount computed pursuant to step 2, then continue to Step 6.
- Step 6. (i) After subtracting such Development Product's share of estimated Administrative Expenses from the Assigned Special Taxes and Excess Aggregate Credits determined under Step 4, determine the amount of CFD No. 2 (IA No. 1) Bonds that can be supported by the remaining Assigned Special Taxes plus the Excess Aggregate Credits assigned to the Development Product as computed under step 4, with 110% debt service coverage; and
- (ii) After subtracting such Development Product's share of estimated Administrative Expenses from the Assigned Special Taxes determined under Step 2, determine the amount of CFD No. 2 (IA No. 1) Bonds that can be supported by the remaining Assigned Special Taxes computed under step 2, with 110% debt service coverage.
- Step 7. The Backup Special Tax Requirement will be calculated using the prepayment formula described in Section I.1, with the following exceptions: (i) the Bond Redemption Amount in Paragraph 3 of the prepayment formula described in Section I.1 shall equal the difference between the amount calculated pursuant to paragraph 6(ii) and the amount calculated pursuant to paragraph 6(i); (ii) no Future Facilities Amount shall be required pursuant to Paragraphs 4 and 5 in Section I.1; (iii) in Paragraph 7 of the prepayment formula described in Section I.1, compute the amount needed to pay interest on the Bond Redemption Amount until the first redemption date that occurs after two years from the initial date of payment of Backup Special Taxes for a Development Product; (iv) no determination of amounts pursuant to Paragraphs 8, 9 and 14 in Section I.1 need be made; (v) any payments of the Backup Special Tax (less Administrative Fees and Expenses) shall be deposited into the Backup Special Tax Account and disbursed pursuant to the Indenture; and (vi) the Maximum Special Taxes applicable to an Assessor's

Parcel shall not be reduced or relieved as a result of payment of the Backup Special Tax.

- Step 8. The Backup Special Tax for each Assessor's Parcel included in the Builder Notification (or, if the calculation is required pursuant to Section D.4, for which building permits have been issued) shall be calculated by multiplying the Backup Special Tax Requirement by the quotient of the Acreage of such Assessor's Parcel divided by the Acreage of all Assessor's Parcels of Taxable Property for which the Backup Special Tax is being calculated.

The Backup Special Taxes computed under step 8 shall be billed directly to the owner of each Assessor's Parcel and shall be due within 30 days of the billing date. If Backup Special Taxes are not paid within 45 days of the billing date, a delinquent penalty of 10 percent shall be added to the Backup Special Taxes, and no additional building permits shall be issued for any property owned by the Builder or Master Developer until payment is received. Upon receipt of the Backup Special Tax payment, the CFD Administrator shall issue a Letter of Compliance (if one has not been issued for such Assessor's Parcels) and a Certificate of Satisfaction of Backup Special Tax for the subject property.

**8. Use/Release of Backup Special Tax Payments**

When a Development Product reaches Buildout, the CFD Administrator shall calculate the actual Assigned Special Taxes that will be generated from such Development Product. If the actual Assigned Special Taxes are greater than or equal to the amount of Assigned Special Taxes established for such Development Product in the Original Report, the balance in the Backup Special Tax Account shall be returned to the payer as established under the Indenture. If Backup Special Taxes have been paid by more than one entity, the amount of Backup Special Taxes returned to each payer shall be in proportion to the amount paid by each entity. If based on such calculation at Buildout, the actual Assigned Special Taxes are less than the amount of Assigned Special Taxes established for such Development Product in the Original Report, then the balance in the Backup Special Tax Account shall be used to redeem CFD No. 2 (IA No. 1) Bonds on the next available redemption date. If a Development Product has not reached Buildout within two years after the first payment of Backup Special Taxes for such Development Product, then the balance in the Backup Special Tax Account shall be used to redeem CFD No. 2 (IA No. 1) Bonds on the next available redemption date.

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

Commencing with Fiscal Year 2000-01 and for each following Fiscal Year, the Council shall determine the Special Tax Requirement and levy the Special Tax until the amount of Special Taxes levied equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property in an amount equal to 100% of the applicable Assigned Special Tax;

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 Annual Special Tax for Undeveloped Property;

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

Notwithstanding the above the Council may, in any Fiscal Year, levy Proportionately less than 100% of the Assigned Special Tax in step one (above), when (i) the Council is no longer required to levy a Special Tax pursuant to steps two and three above in order to meet the Special Tax Requirement; (ii) all authorized CFD No. 2 (IA No. 1) Bonds have already been issued or the Council has covenanted that it will not issue any additional CFD No. 2 (IA No. 1) Bonds (except refunding bonds) to be supported by Special Taxes levied under this Rate and Method of Apportionment; and (iii) all facilities identified on Exhibit A to the Purchase and Financing Agreement have been acquired.

#### F. EXEMPTIONS

No Special Tax shall be levied on up to 339.5 Acres of Property Owner Association Property and 1,374.4 Acres of Public Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Property Owner Association Property or Public Property. However, should an Assessor's Parcel no longer be classified as Property Owner Association Property or Public Property, its tax-exempt status will be revoked and such Assessor's Parcel will be assigned to a Land Use Class if it is Developed Property or as Undeveloped Property, as appropriate.

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

#### G. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD

Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall make a recommendation to the City Manager or designee to eliminate or reduce the Special Tax on the appellant's property and/or to provide a refund to the appellant. The approval of the City Manager or designee must be obtained prior to any such elimination or reduction. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the City Manager or designee by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

#### H. 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. 2 (IA No. 1) 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 delinquent Assessor's Parcels as permitted by the Act.

#### I. PREPAYMENT OF SPECIAL TAX

##### 1. **Payment in Full**

The following definitions apply to this Section I:

**"Certificate of Occupancy"** means a certificate of occupancy issued by the City Building Department.

**"Construction Fund"** means the account (regardless of its name) identified in the Indenture to hold funds which are currently available for expenditure to acquire or construct public facilities eligible under the Act.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News-Record Building Cost Index for the City of Los Angeles, measured as of the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Inflation Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Engineering News-Record Building Cost Index for the City of Los Angeles.

**"Custom Lot Merchant Builder"** means a buyer who (i) is in the regular course of business of building homes for resale as determined by the CFD Administrator, and (ii) owns four or more Custom Lot Properties.

**"Future Facilities Costs"** means the CFD No. 2 (IA No. 1) Public Facilities minus (i) public facility costs previously paid from the Construction Fund, (ii) moneys currently on deposit in the Construction Fund, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance public facilities costs.

**"CFD No. 2 (IA No. 1) Public Facilities"** means either \$42,337,474 in 1999 dollars, which shall increase by the Construction Inflation Index on July 1, 2000, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to provide the public facilities to be provided by CFD No. 2 (IA No. 1) under the authorized Mello-Roos financing program for CFD No. 2 (IA No. 1), or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more CFD No. 2 (IA No. 1) Bonds to be supported by Special Taxes.

**"Outstanding Bonds"** means all Previously Issued Bonds which remain outstanding as of the first interest and/or principal payment date following the current Fiscal Year.

**"Previously Issued Bonds"** means all CFD No. 2 (IA No. 1) Bonds that have been issued by CFD No. 2 (IA No. 1) prior to the date of prepayment.

**"Total Tax and Assessment Obligation"** means for an Assessor's Parcel or portion of an Assessor's Parcel, the sum of the *ad valorem* taxes and any special assessments or taxes which may be included on the annual property tax bill, including but not limited to: CFD No. 2, general obligation debt of the City or any other public agency, improvement district charges, vector control charges, and standby charges projected by the CFD Administrator to be applicable to the Assessor's Parcel in the Fiscal Year following the issuance of a Certificate of Occupancy as discussed in Section I.3 below.

**"Value"** means the sales price as established in the escrow documents for the sale to the first private residential owner.

Only an Assessor's Parcel of Developed Property or Undeveloped Property for which a building permit has been issued may be prepaid. The Special Tax obligation applicable to an Assessor's Parcel 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 there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of 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. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount of such Assessor's Parcel. Prepayment must be made not less than 60 days prior to any redemption date

for the CFD No. 2 (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	Future Facilities Amount
plus	Redemption Premium
plus	Defeasance Amount
plus	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. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property for which building permits have already been issued, compute the Assigned Special Tax for the Assessor's Parcel to be prepaid as though it were already designated as Developed Property, based upon the building permit which has been issued for that Assessor's Parcel.
2. Divide the Assigned Special Tax computed pursuant to paragraph 1 by the estimated Assigned Special Taxes for the entire CFD No. 2 (IA No. 1) based on the Developed Property Special Taxes which could be charged in the current Fiscal Year on all expected development through buildout of the entire CFD No. 2 (IA No. 1), excluding any Assessor's Parcels which have been prepaid.
3. Multiply the quotient computed pursuant to paragraph 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
4. Compute the current Future Facilities Costs.
5. Multiply the quotient computed pursuant to paragraph 2 by the amount determined pursuant to paragraph 4 to compute the amount of Future Facilities Costs to be prepaid (the "*Future Facilities Amount*").
6. Multiply the Bond Redemption Amount computed pursuant to paragraph 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").



7. Compute the amount needed to pay interest on the Bond Redemption Amount to be redeemed until the earliest redemption date for the Outstanding Bonds, less any amounts collected in such Fiscal Year to pay all or a portion of such interest.
8. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
9. Determine the Special Taxes levied on the Assessor's Parcel in the current Fiscal Year which have not yet been paid.
10. Compute the minimum amount the CFD Administrator expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Amount and the Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
11. Add the amounts computed pursuant to paragraphs 7 and 9 and subtract the amount computed pursuant to paragraph 10.
12. Compute the net present value of the amount computed pursuant to paragraph 11, using as a discount rate the rate of return assumed by the CFD Administrator in paragraph 10 (the "*Defeasance Amount*").
13. The administrative fees and expenses of CFD No. 2 (IA No. 1) are as calculated by the CFD Administrator and include the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming CFD No. 2 (IA No. 1) Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
14. 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, the reserve fund credit shall equal the expected reduction in the reserve requirement, if any, associated with the redemption of Outstanding Bonds as a result of the prepayment (the "*Reserve Fund Credit*"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.
15. If any capitalized interest for the Outstanding Bonds will not have been expended as of the first bond interest and/or principal payment date following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the quotient computed pursuant to paragraph 2 by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "*Capitalized Interest Credit*").
16. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 3, 5, 6, 12, and 13, less the amounts computed pursuant to paragraphs 14 and 15 (the "*Prepayment Amount*").

From the Prepayment Amount, the amounts computed pursuant to paragraphs 3, 6, and 12 less the amounts computed pursuant to paragraphs 14 and 15 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 5 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 13 shall be retained by CFD No. 2 (IA No. 1).

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of CFD No. 2 (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 be used with the next prepayment of CFD No. 2 (IA No. 1) Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid in full in accordance with this Section I.1., 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 obligation of such Assessor's Parcel to pay the Special Tax (including any Backup Special Tax) shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Annual Special Taxes that may be levied on Taxable Property within CFD No. 2 (IA No. 1) 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 I.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 I.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 I.1, and (ii) indicate in the records of CFD No. 2 (IA No. 1) 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 E.

### 3. **Mandatory Partial Prepayment**

For Custom Lot Properties owned by a Custom Lot Merchant Builder, the Special Tax for each Assessor's Parcel of Residential Property shall be prepaid, at or prior to the close of escrow to the first private residential owner for such Assessor's Parcel, using the partial prepayment methodologies described in Section I.2, such that the resulting Total Tax and Assessment Obligation after the partial prepayment is less than or equal to 2.00 percent of the Value. No mandatory partial prepayment is required if the Total Tax and Assessment Obligation is less than or equal to 2.00 percent.

## J. **TERM OF SPECIAL TAX**

The Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2000-01, provided however that Special Taxes will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined (i) that all required interest and principal payments on the CFD No. 2 (IA No. 1) Bonds have been paid; and (ii) all facilities have been acquired and all reimbursements to the developer have been paid pursuant to the Purchase and Financing Agreement.

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## EXHIBIT A

### LIST OF 116 CUSTOM LOTS WITHIN IA No. 1

(unit and lot numbers are from the substantial conformance approval granted by the City on October 29, 1999, for Black Mountain Ranch Tentative Map No. VTM-0173)

UNIT	LOTS
1	1 through 15
2	1 through 13
3	1 through 19
4	1 through 13
5	1 through 12
6	1 and 2
7	1 through 8
8	1 through 14
16	1 through 6, 36 and 37
28	1 and 2
29	1 through 3, and 10 through 16

## EXHIBIT B

### LIST OF GOLF COURSE LOTS WITHIN IA No. 1

(unit and lot numbers are from the substantial conformance approval granted by the City on October 29, 1999, for Black Mountain Ranch Tentative Map No. VTM-0173)

UNIT	LOT
13	Golf Course 1
15	Golf Course 1
16	Golf Course 1
17	Golf Course 1
17	Lot 1
20	Golf Course 1
21	Golf Course 1
21	Golf Course 2
24	Golf Course 1
24	Golf Course 2
29	Golf Course 1
29	Golf Course 2
35	Golf Course 1
37	Golf Course 1

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**RATE AND METHOD OF APPORTIONMENT FOR  
COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ)  
(IMPROVEMENT AREA NO. 2)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 2 (Santaluz) - (Improvement Area No. 2) ("CFD No. 2 (IA No. 2)") and collected each Fiscal Year commencing in Fiscal Year 2000-01, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," "Taxable Property Owner Association Property," "Taxable Public Property," and "Undeveloped Property" as described below. All of the real property in CFD No. 2 (IA No. 2), unless exempted by law or by the provisions hereof, 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:

**"Acre or Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map.

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

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2 (IA No. 2): the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2 (IA No. 2) or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2 (IA No. 2) or any designee thereof of complying with disclosure requirements of the City, CFD No. 2 (IA No. 2) or obligated persons associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, of CFD No. 2 (IA No. 2) or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from an escrow account; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2 (IA No. 2) for any other administrative purposes of CFD No. 2 (IA No. 2), including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent 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 designating parcels by Assessor's Parcel number.

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

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

"**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. 2**" means Community Facilities District No. 2 (Santaluz).

"**CFD No. 2 (IA No. 2)**" means CFD No. 2 (Improvement Area No. 2), as identified on the boundary map for CFD No. 2.

"**CFD No. 2 (IA No. 2) Bonds**" means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 2 for CFD No. 2 (IA No. 2) under the Act.

"**City**" means the City of San Diego.

"**Council**" means the City Council of the City, acting as the legislative body of CFD No. 2 (IA No. 2).

"**County**" means the County of San Diego.

"**Developed Property**" means, for each Fiscal Year, all (i) Golf Course Property, and (ii) all Taxable Property, exclusive of Taxable Property Owner Association Property or Taxable Public Property, for which a building permit for new construction or renovations was issued after January 1, 1999, but prior to March 1 of the prior Fiscal Year.

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

"**Golf Course Property**" means the land area consisting of up to 350 Acres to be utilized for golf course purposes including: fairways, greens, driving ranges, tennis facilities, club house, locker rooms, maintenance facilities, garages, pro shop, restaurant, or banquet facilities as geographically identified in the substantial conformance approval granted by the City on October 29, 1999, for Black Mountain Ranch Tentative Map No. VTM-0173, as amended from time-to-time or modified pursuant to a precise site plan for such golf course

property, and listed in Exhibit A. Any Residential Property located with this area shall not be considered Golf Course Property. If the golf course Acreage exceeds the amount stated above, then the Acres exceeding such total shall not be considered Golf Course Property but shall be classified as Property Owner Association Property.

**"Indenture"** means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which CFD No. 2 (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 Class"** means any of the classes listed in Table 1.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor's Parcel.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property, excluding Golf Course Property, for which a building permit(s) was issued for a non-residential use.

**"Outstanding Bonds"** means all CFD No. 2 (IA No. 2) Bonds which are deemed to be outstanding under the Indenture.

**"Property Owner Association Property"** means any property within the boundaries of CFD No. 2 (IA No. 2) owned in fee or by easement or irrevocably offered for dedication to a property owner association, including any master or sub-association.

**"Proportionately"** means for Developed Property that the ratio of the actual Special Tax levy to the Assigned Special Tax is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property.

**"Public Property"** means any property within the boundaries of CFD No. 2 (IA No. 2) that is used for rights-of-way or any other purpose and is owned by or irrevocably offered for dedication to any agency of the federal government, the State of California, the County, the City or any other public agency, provided however 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 in accordance with its use.

**"Purchase and Financing Agreement"** means (i) the Purchase and Financing Agreement by and between the City and Fairbanks Highlands LLC and Santaluz LLC that was approved by the Council on February 7, 2000, as it may be modified or supplemented from time to time and/or (ii) the Purchase and Financing Agreement by and between the City and Black Mountain Ranch LP that was approved by the Council on February 7, 2000, as it may be modified or supplemented from time to time.



**"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 the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property, to fund the Special Tax Requirement.

**"Special Tax Requirement"** means, for any Fiscal Year, the amount required after taking into account amounts held in funds and accounts under the Indenture which are intended to be used to pay debt service on Outstanding Bonds in the calendar year beginning in such Fiscal Year, to: (i) pay debt service on all Outstanding Bonds; (ii) pay periodic costs on the CFD No. 2 (IA No. 2) Bonds, including but not limited to, credit enhancement and rebate payments on the CFD No. 2 (IA No. 2) Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for any CFD No. 2 (IA No. 2) Bonds; (v) pay directly for authorized facilities in accordance with the Purchase and Financing Agreement; and (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

**"State"** means the State of California.

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

**"Taxable Property Owner Association Property"** means all Assessor's Parcels of Property Owner Association Property that are not exempt pursuant to Section E below.

**"Taxable Public Property"** means all Assessor's Parcels of Public Property that are not exempt pursuant to Section E below.

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

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Property Owner Association Property, or Taxable Public Property.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property shall be classified as Developed Property, Taxable Public Property, Taxable Property Owner Association Property or Undeveloped Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below.

**C. MAXIMUM SPECIAL TAX**

1. **Developed Property**

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Residential Property shall be assigned to Land Use Class 1. Non-Residential Property shall be assigned to Land Use Class 2. Golf Course Property shall be assigned to Land Use Class 3.

(a). Maximum Special Tax

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

(b). Assigned Special Tax

The Fiscal Year 2000-01 Assigned Special Tax for each Land Use Class is shown in Table 1.

**TABLE 1**

**Fiscal Year 2000-01 Assigned Special Taxes for Developed Property  
CFD No. 2 (Improvement Area No. 2)**

<b>Land Use Class</b>	<b>Description</b>	<b>Assigned Special Tax Per Acre</b>
1	Residential Property	\$1,080.88 per Acre
2	Non-Residential Property	\$8,016.69 per Acre
3	Golf Course Property	\$165.14 per Acre

(c). Backup Special Tax

The Fiscal Year 2000-01 Backup Special Tax for an Assessor's Parcel of Developed Property shall be \$1,080.88 per Acre.

(d). Increase in the Assigned Special Tax and Backup Special Tax

On each July 1, commencing July 1, 2001 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 2), the Assigned Special Tax and Backup Special Tax for Developed Property shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. On July 1 of the eleventh and twelfth Fiscal Years in which Special Taxes are levied in CFD No. 2, the Assigned Special Tax and Backup Special Tax for Developed Property may be increased by up to two percent (2%) of the amount in effect in the previous Fiscal Year, provided that such increase is necessary to meet the Special Tax Requirement. There will be no increase in the Assigned Special Tax and Backup Special Tax that may be

levied after the twelfth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 2).

(e). Multiple Land Use Classes

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

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

(a). Maximum Special Tax

The Fiscal Year 2000-01 Maximum Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property shall be \$1,080.88 per Acre.

(b). Increase in the Maximum Special Tax

On each July 1, commencing July 1, 2001 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 2), the Maximum Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. On July 1 of the eleventh and twelfth Fiscal Years in which Special Taxes are levied in CFD No. 2, the Maximum Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property may be increased by up to two percent (2%) of the amount in effect in the previous Fiscal Year, provided that such increase is necessary to meet the Special Tax Requirement. There will be no increase in the Maximum Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property after the twelfth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 2).

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

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Commencing with Fiscal Year 2000-01 and for each following Fiscal Year, the Council shall determine the Special Tax Requirement and levy the Special Tax until the amount of Special Taxes levied equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property in an amount equal to 100% of the applicable Assigned Special Tax;

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

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

Notwithstanding the above the Council may, in any Fiscal Year, levy Proportionately less than 100% of the Assigned Special Tax in step one (above), when (i) the Council is no longer required to levy a Special Tax pursuant to steps two through four above in order to meet the Special Tax Requirement; (ii) all authorized CFD No. 2 (IA No. 2) Bonds have already been issued or the Council has covenanted that it will not issue any additional CFD No. 2 (IA No. 2) Bonds (except refunding bonds) to be supported by Special Taxes levied under this Rate and Method of Apportionment; and (iii) all facilities identified on Exhibit A to the Purchase and Financing Agreement have been acquired.

**E. EXEMPTIONS**

No Special Tax shall be levied on up to 97.5 Acres of Public Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property. However, should an Assessor's Parcel no longer be classified as Public Property, its tax-exempt status will be revoked and such Assessor's Parcel will be assigned to a Land Use Class if it is Developed Property or as Undeveloped Property, as appropriate.

Public Property that is not exempt from Special Taxes under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the fourth step in

Section D above, at up to 100% of the applicable Maximum Special Tax for Taxable Public Property.

**F. APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall make a recommendation to the City Manager or designee to eliminate or reduce the Special Tax on the appellant's property and/or to provide a refund to the appellant. The approval of the City Manager or designee must be obtained prior to any such elimination or reduction. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the City Manager or designee by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

**G. 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. 2 (IA No. 2) 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 delinquent Assessor's Parcels as permitted by the Act.

**H. PREPAYMENT OF SPECIAL TAX**

**1. Payment in Full**

The following definitions apply to this Section H:

**"Construction Fund"** means the account (regardless of its name) identified in the Indenture to hold funds which are currently available for expenditure to acquire or construct public facilities eligible under the Act.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News-Record Building Cost Index for the City of Los Angeles, measured as of the calendar year which ends in the previous Fiscal Year. In the event

this index ceases to be published, the Inflation Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Engineering News-Record Building Cost Index for the City of Los Angeles.

**"Future Facilities Costs"** means the CFD No. 2 (IA No. 2) Public Facilities minus (i) public facility costs previously paid from the Construction Fund, (ii) moneys currently on deposit in the Construction Fund, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance public facilities costs.

**"CFD No. 2 (IA No. 2) Public Facilities"** means either \$2,389,011 in 1999 dollars, which shall increase by the Construction Inflation Index on July 1, 2000, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to provide the public facilities to be provided by CFD No. 2 (IA No. 2) under the authorized Mello-Roos financing program for CFD No. 2 (IA No. 2), or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more CFD No. 2 (IA No. 2) Bonds to be supported by Special Taxes.

**"Outstanding Bonds"** means all Previously Issued Bonds which remain outstanding as of the first interest and/or principal payment date following the current Fiscal Year.

**"Previously Issued Bonds"** means all CFD No. 2 (IA No. 2) Bonds that have been issued by CFD No. 2 (IA No. 2) prior to the date of prepayment.

Only an Assessor's Parcel of Developed Property or Undeveloped Property for which a building permit has been issued may be prepaid (unless the entire CFD No. 2 (IA No. 2) obligation is prepaid under Section H.3). The Special Tax obligation applicable to an Assessor's Parcel 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 there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of 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. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount of such Assessor's Parcel. Prepayment must be made not less than 60 days prior to any redemption date for the CFD No. 2 (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 Future Facilities Amount

plus	Redemption Premium
plus	Defeasance Amount
plus	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. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax and the Backup Special Tax for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property for which building permits have already been issued, compute the Assigned Special Tax and the Backup Special Tax for the Assessor's Parcel to be prepaid as though it were already designated as Developed Property, based upon the building permit which has been issued for that Assessor's Parcel.
2. (a) Divide the Assigned Special Tax computed pursuant to paragraph 1 by the estimated Assigned Special Taxes for the entire CFD No. 2 (IA No. 2) based on the Developed Property Special Taxes which could be charged in the current Fiscal Year on all expected development through buildout of the entire CFD No. 2 (IA No. 2), excluding any Assessor's Parcels which have been prepaid; and  
  
(b) Divide the Backup Special Tax computed pursuant to paragraph 1 by the estimated Backup Special Taxes at buildout for the entire CFD No. 2 (IA No. 2) using the Backup Special Tax amount for the current Fiscal Year, excluding any Assessor's Parcels which have been prepaid.
3. Multiply the larger quotient computed pursuant to paragraph 2(a) or 2(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
4. Compute the current Future Facilities Costs.
5. Multiply the larger quotient computed pursuant to paragraph 2(a) or 2(b) by the amount determined pursuant to paragraph 4 to compute the amount of Future Facilities Costs to be prepaid (the "*Future Facilities Amount*").
6. Multiply the Bond Redemption Amount computed pursuant to paragraph 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").

7. Compute the amount needed to pay interest on the Bond Redemption Amount to be redeemed from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds, less any amounts collected in such Fiscal Year to pay all or a portion of such interest.
8. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
9. Determine the Special Taxes levied on the Assessor's Parcel in the current Fiscal Year which have not yet been paid.
10. Compute the minimum amount the CFD Administrator expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Amount and the Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
11. Add the amounts computed pursuant to paragraphs 7 and 9 and subtract the amount computed pursuant to paragraph 10.
12. Compute the net present value of the amount computed pursuant to paragraph 11, using as a discount rate the rate of return assumed by the CFD Administrator in paragraph 10 (the "*Defeasance Amount*").
13. The administrative fees and expenses of CFD No. 2 (IA No. 2) are as calculated by the CFD Administrator and include the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming CFD No. 2 (IA No. 2) Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
14. 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, the reserve fund credit shall equal the expected reduction in the reserve requirement, if any, associated with the redemption of Outstanding Bonds as a result of the prepayment (the "*Reserve Fund Credit*"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.
15. If any capitalized interest for the Outstanding Bonds will not have been expended as of the first bond interest and/or principal payment date following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 2(a) or 2(b) by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "*Capitalized Interest Credit*").



16. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 3, 5, 6, 12, and 13, less the amounts computed pursuant to paragraphs 14 and 15 (the "*Prepayment Amount*").

From the Prepayment Amount, the amounts computed pursuant to paragraphs 3, 6, and 12 less the amounts computed pursuant to paragraphs 14 and 15 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 5 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 13 shall be retained by CFD No. 2 (IA No. 2).

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of CFD No. 2 (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 be used with the next prepayment of CFD No. 2 (IA No. 2) Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid in full in accordance with this Section H.1., 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 obligation of such Assessor's Parcel to pay the Special Tax (including any Backup Special Tax) shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Taxes that may be levied on Taxable Property within CFD No. 2 (IA No. 2) 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 H.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 H.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 H.1, and (ii) indicate in the records of CFD No. 2 (IA No. 2) 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 Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D.

### 3. Prepayment of Entire Obligation

The entire CFD No. 2 (IA No. 2) Special Tax obligation applicable to all Assessor's Parcels may be prepaid at any time, and the obligation of all such Assessor's Parcels to pay any Special Tax permanently satisfied as described herein, provided that such a prepayment may be made only if there are no delinquent Special Taxes with respect to any Assessor's Parcels at the time of prepayment. The owner(s) of all of the Assessor's Parcels of Taxable Property shall provide the CFD Administrator with written notice of intent to prepay the entire CFD No. 2 (IA No. 2) Special Tax obligation. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount.

#### (a) Prior to Issuance of CFD No. 2 (IA No. 2) Bonds

Prior to the issuance of CFD No. 2 (IA No. 2) Bonds, the prepayment amount for the entire CFD No. 2 (IA No. 2) Special Tax obligation shall equal the sum of (i) \$2,389,011, (ii) the costs of forming CFD No. 2 (IA No. 2), as determined by the CFD Administrator, and (iii) the costs of computation of the prepayment and recordation of any notices to evidence the prepayment, as determined by the CFD Administrator.

The amount computed pursuant to H.3.a. (i) shall be deposited into the Construction Fund. The amounts computed pursuant to H.3.a. (ii) and H.3.a. (iii) shall be retained by CFD No. 2 (IA No. 2).

With respect to any Assessor's Parcel that is prepaid in accordance with this Section H.3.a, 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 obligation of such Assessor's Parcel to pay the Special Tax (including any Backup Special Tax) shall cease.

(b). After Issuance of CFD No. 2 (IA No. 2) Bonds

After the issuance of CFD No. 2 (IA No. 2) Bonds, the prepayment amount for the entire CFD No. 2 (IA No. 2) Special Tax obligation shall be calculated as in Section H.1; except that the Bond Redemption Amount computed under paragraph 3 shall equal the Outstanding Bonds.

The City shall distribute the funds remitted to it according to Section H.1.

With respect to any Assessor's Parcel that is prepaid in accordance with this Section H.3.b, 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 obligation of such Assessor's Parcel to pay the Special Tax (including any Backup Special Tax) shall cease.

I. TERM OF SPECIAL TAX

The Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2000-01, provided however that Special Taxes will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined (i) that all required interest and principal payments on the CFD No. 2 (IA No. 2) Bonds have been paid; and (ii) all facilities have been acquired and all reimbursements to the developer have been paid pursuant to the Purchase and Financing Agreement.

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## EXHIBIT A

### LIST OF GOLF COURSE LOTS WITHIN IA No. 2

(unit and lot numbers are from the substantial conformance approval granted by the City on October 29, 1999, for Black Mountain Ranch Tentative Map No. VTM-0173)

UNIT	LOT
48	1
48	2

**RATE AND METHOD OF APPORTIONMENT FOR  
COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ)  
(IMPROVEMENT AREA NO. 3)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 2 (Santaluz) - (Improvement Area No. 3) ("CFD No. 2 (IA No. 3)") and collected each Fiscal Year commencing in Fiscal Year 2000-01, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," "Taxable Property Owner Association Property," "Taxable Public Property," and "Undeveloped Property" as described below. All of the real property in CFD No. 2 (IA No. 3), unless exempted by law or by the provisions hereof, 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:

"**Acre or Acreage**" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map.

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

"**Administrative Expenses**" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2 (IA No. 3): the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2 (IA No. 3) or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2 (IA No. 3) or any designee thereof of complying with disclosure requirements of the City, CFD No. 2 (IA No. 3) or obligated persons associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, of CFD No. 2 (IA No. 3) or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from an escrow account; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2 (IA No. 3) for any other administrative purposes of CFD No. 2 (IA No. 3), including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent 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 designating parcels by Assessor's Parcel number.

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

"**Backup Special Tax**" means the Special Tax that may be required to be paid as a result of changes in development, as determined in accordance with Section D below.

"**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. 2**" means Community Facilities District No. 2 (Santaluz).

"**CFD No. 2 (IA No. 3)**" means CFD No. 2 (Improvement Area No. 3), as identified on the boundary map for CFD No. 2.

"**CFD No. 2 (IA No. 3) Bonds**" means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 2 for CFD No. 2 (IA No. 3) under the Act.

"**City**" means the City of San Diego.

"**Council**" means the City Council of the City, acting as the legislative body of CFD No. 2 (IA No. 3).

"**County**" means the County of San Diego.

"**Developed Property**" means, for each Fiscal Year, all Taxable Property, exclusive of Taxable Property Owner Association Property or Taxable Public Property, for which a building permit for new construction or renovations was issued after January 1, 1999, but prior to March 1 of the prior Fiscal Year.

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

"**Indenture**" means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which CFD No. 2 (IA No. 3) Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

"**Institutional Property**" means Assessor's Parcels of Developed Property, including up to 7 Acres, for which the building permit was issued for the following institutional uses: day

care center, recreation center, seniors center, private school or church. If the Acreage of institutional uses exceeds the amount stated above, then the Acres exceeding such total shall not be considered Institutional Property but shall be classified as Non-Residential Property.

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

**"Master Developer"** means Fairbanks Highlands, LLC and/or any assignee(s) or successor(s) serving as the master developer of infrastructure within CFD No. 2 (IA No. 3).

**"Maximum Annual Special Tax"** means the maximum annual Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor's Parcel.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property, excluding Institutional Property, for which a building permit(s) was issued for a non-residential use.

**"Outstanding Bonds"** means all CFD No. 2 (IA No. 3) Bonds which are deemed to be outstanding under the Indenture.

**"Property Owner Association Property"** means any property within the boundaries of CFD No. 2 (IA No. 3) owned in fee or by easement or irrevocably offered for dedication to a property owner association, including any master or sub-association.

**"Proportionately"** means for Developed Property that the ratio of the actual Special Tax levy to the Assigned Special Tax is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Annual Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property.

**"Public Property"** means any property within the boundaries of CFD No. 2 (IA No. 3) that is used for rights-of-way or any other purpose and is owned by or irrevocably offered for dedication to any agency of the federal government, the State of California, the County, the City or any other public agency, provided however 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 in accordance with its use.

**"Purchase and Financing Agreement"** means (i) the Purchase and Financing Agreement by and between the City and Fairbanks Highlands LLC and Santaluz LLC that was approved by the Council on February 7, 2000, as it may be modified or supplemented from time to time and/or (ii) the Purchase and Financing Agreement by and between the City and Black Mountain Ranch LP that was approved by the Council on February 7, 2000, as it may be modified or supplemented from time to time.

**"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.

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

**"Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property, Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property, to fund the Special Tax Requirement or the Backup Special Tax Requirement.

**"Special Tax Requirement"** means, for any Fiscal Year, the amount required after taking into account amounts held in funds and accounts under the Indenture which are intended to be used to pay debt service on Outstanding Bonds in the calendar year beginning in such Fiscal Year, to: (i) pay debt service on all Outstanding Bonds; (ii) pay periodic costs on the CFD No. 2 (IA No. 3) Bonds, including but not limited to, credit enhancement and rebate payments on the CFD No. 2 (IA No. 3) Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for any CFD No. 2 (IA No. 3) Bonds; (v) pay directly for authorized facilities in accordance with the Purchase and Financing Agreement; and (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 2 (IA No. 3) which are not exempt from the Special Tax pursuant to law or Section F below.

**"Taxable Property Owner Association Property"** means all Assessor's Parcels of Property Owner Association Property that are not exempt pursuant to Section F below.

**"Taxable Public Property"** means all Assessor's Parcels of Public Property that are not exempt pursuant to Section F below.

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

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Property Owner Association Property, or Taxable Public Property.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property shall be classified as Developed Property, Taxable Public Property, Taxable Property Owner Association Property or Undeveloped Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C, D and E below.



**C. MAXIMUM ANNUAL SPECIAL TAX**

**1. Developed Property**

Residential Property shall be assigned to Land Use Classes 1 through 11 as listed in the table below based upon the type of structure or the Residential Floor Area for each unit. Non-Residential Property shall be assigned to Land Use Class 12. Institutional Property shall be assigned to Land Use Class 13.

(a). Maximum Annual Special Tax

The Maximum Annual Special Tax for each Assessor's Parcel classified as Developed Property shall be equal to the sum of the Assigned Special Tax and any Backup Special Tax due on such Assessor's Parcel.

(b). Assigned Special Tax

The Fiscal Year 2000-01 Assigned Special Tax for each Land Use Class is shown in Table 1.

**TABLE 1**

**Fiscal Year 2000-01 Assigned Special Taxes for Developed Property  
CFD No. 2 (Improvement Area No. 3)**

Land Use Class	Description	Residential Floor Area/Unit Type	Assigned Special Tax Per unit/Acre
1	Residential Property	< 2,250 sq. ft	\$2,390.97 per unit
2	Residential Property	2,250 to 2,749 sq. ft.	\$2,891.19 per unit
3	Residential Property	2,750 to 3,149 sq. ft.	\$3,080.78 per unit
4	Residential Property	3,150 to 3,749 sq. ft.	\$3,459.95 per unit
5	Residential Property	3,750 to 4,049 sq. ft.	\$3,791.72 per unit
6	Residential Property	4,050 to 4,499 sq. ft.	\$4,028.71 per unit
7	Residential Property	4,500 to 4,999 sq. ft.	\$4,265.69 per unit
8	Residential Property	5,000 to 5,499 sq. ft.	\$4,455.28 per unit
9	Residential Property	5,500 to 5,999 sq. ft.	\$4,882.05 per unit
10	Residential Property	6,000 to 6,499 sq. ft.	\$5,306.10 per unit
11	Residential Property	≥ 6,500 sq. ft.	\$5,732.87 per unit
12	Non-Residential Property	Not Applicable	\$5,066.55 per Acre
13	Institutional Property	Not Applicable	\$102.00 Per Acre

(c). Increase in the Assigned Special Tax

On each July 1, commencing July 1, 2001 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 3), the Assigned Special Tax for Developed Property shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. On July 1 of the eleventh and twelfth Fiscal Years in which Special Taxes are levied in CFD No. 2, the Assigned Special Tax for Developed Property may be increased by up to two percent (2%) of the amount in effect in the previous Fiscal Year, provided that such increase is necessary to meet the Special Tax Requirement. There will be no increase in the Assigned Special Tax that may be levied after the twelfth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 3).

(d). Multiple Land Use Classes

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

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

(a). Maximum Annual Special Tax

The Fiscal Year 2000-01 Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property shall be \$4,327.50 per Acre.

(b). Increase in the Maximum Annual Special Tax

On each July 1, commencing July 1, 2001 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 3), the Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property shall be increased by two percent (2%) of the amount in effect in the previous Fiscal Year. On July 1 of the eleventh and twelfth Fiscal Years in which Special Taxes are levied in CFD No. 2, the Maximum Annual Special Tax for Undeveloped

Property, Taxable Property Owner Association Property and Taxable Public Property may be increased by up to two percent (2%) of the amount in effect in the previous Fiscal Year, provided that such increase is necessary to meet the Special Tax Requirement. There will be no increase in the Maximum Annual Special Tax for Undeveloped Property, Taxable Property Owner Association Property and Taxable Public Property after the twelfth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 3).

**D. BACKUP SPECIAL TAX**

The following definitions apply to this Section D:

**"Aggregate Credits"** means the total Assigned Special Taxes from all Developed Property and Update Property within all Built Out Development Products minus the total Assigned Special Taxes that would have been levied in these Built Out Development Products as projected in the Original Report.

**"Excess Aggregate Credits"** means the total Aggregate Credits minus the Aggregate Credits previously allocated to Development Products with shortfalls, as computed under step 4 of Section D.7, below.

**"Backup Special Tax Account"** means, for each Development Product, the fund or account (regardless of its name) identified in the Indenture to hold payments of Backup Special Taxes received from property owners within such Development Product.

**"Backup Special Tax Requirement"** means the total amount of Backup Special Taxes necessary as calculated under Section D.7 below, as of the date of any Backup Special Tax calculation.

**"Builder"** means the merchant builder for each Assessor's Parcel.

**"Builder Certificate"** means a certificate from the Builder stating that the Development Product will generate at least the amount of Assigned Special Taxes that was projected for such Development Product in the Original Report, or that the Development Product's Assigned Special Taxes plus Excess Aggregate Credits currently available will generate at least the amount of Assigned Special Taxes that was projected for such Development Product in the Original Report.

**"Buildout"** means, for any Development Product, that all expected building permits have been issued.

**"Built Out Development Product"** means a Development Product which has reached Buildout.

**"Certificate of Satisfaction of Backup Special Tax"** means a certificate from the CFD Administrator stating that the property described in such certificate has sufficiently met the

Backup Special Tax Requirement for such property as calculated under Section D.7 below.

**"Development Product"** means a geographic area representing the expected construction phases planned to be developed by each merchant builder. The initial Updated Report will designate the geographic area included in each Development Product by tract and lot.

**"Letter of Compliance"** means a letter from the CFD Administrator stating that the property described in such letter will generate at least the amount of Assigned Special Taxes that was established for such property in the Original Report.

**"Update Property"** means an Assessor's Parcel of Undeveloped Property for which a building permit has been issued, but which has not yet been classified as Developed Property because such events occurred after the March 1 cutoff for the current Fiscal Year. For purposes of all calculations in Section D, Update Property shall be taxed as if it were Developed Property.

#### 1. **Original Report**

Prior to the issuance of the first series of CFD No. 2 (IA No. 3) Bonds the Master Developer shall submit a report (the "Original Report") to the CFD Administrator containing a lot-by-lot listing for each of the 93 expected taxable dwelling units that identifies for each expected taxable lot the expected Builder, Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage.

At the request of the Master Developer, the CFD Administrator may amend the Original Report to reflect changes approved by the City, provided that changes in the Original Report shall not be permitted if the total Assigned Special Taxes for all of CFD No. 2 (IA No. 3) are reduced by such changes.

#### 2. **Updated Report**

Not less than 30 days prior to the submission (by the Master Developer or any Builder) of an application for the building permits within CFD No. 2 (IA No. 3) after the issuance of the first series of CFD No. 2 (IA No. 3) Bonds, the Master Developer shall submit a report to the CFD Administrator containing a lot-by-lot listing for each Development Product that lists for each expected taxable lot the expected or actual Builder, Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage, and compares such information to the information provided for such property in the Original Report. Upon approval by the CFD Administrator, such report shall constitute an Updated Report (the "Updated Report").

After the submittal of the initial Updated Report, the Master Developer shall submit additional Updated Reports to the CFD Administrator quarterly (within 45 days after each March 31, June 30, September 30, and December 31) until CFD No. 2 (IA No. 3) reaches Buildout for all Development Products. For Assessor's Parcels of Developed Property and Update Property, the quarterly Updated Report will also

include the date the building permit was issued.

**3. Initial Letters of Compliance**

If, based on the initial Updated Report, the CFD Administrator determines that a Development Product will generate at least the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, the CFD Administrator shall, within 30 days of the submittal of the initial Updated Report, issue an initial Letter of Compliance with respect to such Development Product. If the CFD Administrator determines that a Development Product will not generate at least the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, then a Letter of Compliance will not be issued for such Development Product at such time.

**4. Letters of Compliance Based on Subsequent Updated Reports**

Upon the receipt of each Updated Report, the CFD Administrator shall compare the data provided for each Development Product to the data included in the Original Report and make one of the determinations set forth in the following two paragraphs.

If the CFD Administrator determines that a Development Product will generate at least the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, then, if a Letter of Compliance is not currently in effect for such Development Product, the CFD Administrator shall, within 30 days of the submittal of an Updated Report, issue a Letter of Compliance with respect to such Development Product.

If the CFD Administrator determines that a Development Product will not generate the amount of Assigned Special Taxes that was established for such Development Product in the Original Report, then any Letter of Compliance previously issued for such Development Product will be rescinded. The CFD Administrator shall, within 30 days of the submittal of an Updated Report, notify the Master Developer, Builder, and City Building Department that such Letter of Compliance has been rescinded.

If building permits have already been issued for such Development Product, then the CFD Administrator shall calculate and levy the Backup Special Tax pursuant to Section D.7 below for the Assessor's Parcels for which building permits have been issued.

**5. Issuance of Building Permits for Parcels with a Letter of Compliance**

Each time a request for a building permit (or group of permits) is submitted to the City Building Department within a Development Product, the Builder shall provide a copy of the Letter of Compliance for the applicable property, along with either a Builder Certificate or a Certificate of Satisfaction of Backup Special Tax. No building permit shall be issued without (i) a Letter of Compliance and (ii) either a

Builder Certificate or a Certificate of Satisfaction of Backup Special Tax.

**6. Builder Notification for Parcels without a Letter of Compliance and Builder Certificate**

At least 30 days prior to submitting a building permit application for property that has not yet received a Letter of Compliance, or for property that has received a Letter of Compliance but for which the Builder is unable to provide the certification required by Section D.5 above, the Builder shall notify the CFD Administrator of its intent to request building permits for particular lots within a Development Product.

The Builder's notification ("Builder Notification") shall include for each Assessor's Parcel for which building permits are being requested the proposed Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage.

If the CFD Administrator determines based on the calculations in Section D.7 that no Backup Special Tax is required for the Assessor's Parcel included within the Builder Notification, then the CFD Administrator shall, within 30 days of the submittal of the Builder Notification, issue a Letter of Compliance and a Certificate of Satisfaction of Backup Special Tax with respect to such property. If the CFD Administrator determines based on the calculations in Section D.7 that a Backup Special Tax is required, then the CFD Administrator shall calculate and levy the Backup Special Tax pursuant to Section D.7 below.

**7. Calculation of Backup Special Tax**

Upon the receipt of a Builder Notification or determination under Section D.4 or Section D.6 that a Backup Special Tax is required, the CFD Administrator shall determine the Backup Special Tax to be applied to the property identified in the Builder Notification by undertaking the following steps:

- Step 1. Compute the sum of the Assigned Special Taxes from all Developed Property and Update Property within the Development Product in which the property is located, plus the Assigned Special Taxes from the property described in the Builder Notification (assuming such property is taxed as Developed Property).
- Step 2. Compute the sum of the expected Assigned Special Taxes from all Developed Property and Update Property within the Development Product in which the property is located, plus the Assigned Special Taxes from the property described in the Builder Notification (assuming such property is taxed as Developed Property), assuming that all such property was developed as set forth in the Original Report.

- Step 3. If the amount computed pursuant to step 1 is greater than or equal to the amount computed pursuant to step 2, then no Backup Special Tax will be required. If the amount computed pursuant to step 1 is less than the amount computed pursuant to step 2, then continue to Step 4.
- Step 4. If there are Excess Aggregate Credits currently available, assign a sufficient number of such Excess Aggregate Credits to the Development Product to cover the shortfall calculated under step 3, so that the sum of the Assigned Special Taxes as computed under step 1 plus the Excess Aggregate Credits assigned to the Development Product is equal to the Assigned Special Taxes as computed under step 2. If the total number of Excess Aggregate Credits currently available are not sufficient to cover the shortfall calculated under step 3, then assign all of the available Excess Aggregate Credits to the Development Product.
- Step 5. If the sum of the Assigned Special Taxes and the Excess Aggregate Credits assigned pursuant to step 4 is greater than or equal to the amount computed pursuant to step 2, then no Backup Special Tax will be required. If the sum of the Assigned Special Taxes and the Excess Aggregate Credits assigned pursuant to step 4 is less than the amount computed pursuant to step 2, then continue to Step 6.
- Step 6. (i) After subtracting such Development Product's share of estimated Administrative Expenses from the Assigned Special Taxes and Excess Aggregate Credits determined under Step 4, determine the amount of CFD No. 2 (IA No. 3) Bonds that can be supported by the Assigned Special Taxes plus the Excess Aggregate Credits assigned to the Development Product as computed under step 4, with 110% debt service coverage; and
- (ii) After subtracting such Development Product's share of estimated Administrative Expenses from the Assigned Special Taxes determined under Step 2, determine the amount of CFD No. 2 (IA No. 3) Bonds that can be supported by the remaining Assigned Special Taxes computed under step 2, with 110% debt service coverage.
- Step 7. The Backup Special Tax Requirement will be calculated using the prepayment formula described in Section I.1, with the following exceptions: (i) the Bond Redemption Amount in Paragraph 3 of the prepayment formula described in Section I.1 shall equal the difference between the amount calculated pursuant to paragraph 6(ii) and the amount calculated pursuant to paragraph 6(i); (ii) no Future Facilities Amount shall be required pursuant to Paragraphs 4 and 5 in Section I.1; (iii) in Paragraph 7 of the prepayment formula described in Section I.1, compute the amount needed to pay interest on the Bond Redemption Amount until the first redemption date that occurs after two years from the initial date of payment of Backup Special Taxes for a Development Product; (iv) no determination of amounts pursuant to

Paragraphs 8, 9 and 14 in Section I.1 need be made; (v) any payments of the Backup Special Tax (less Administrative Fees and Expenses) shall be deposited into the Backup Special Tax Account and disbursed pursuant to the Indenture; and (vi) the Maximum Special Taxes applicable to an Assessor's Parcel shall not be reduced or relieved as a result of payment of the Backup Special Tax.

- Step 8. The Backup Special Tax for each Assessor's Parcel included in the Builder Notification (or, if the calculation is required pursuant to Section D.4, for which building permits have been issued) shall be calculated by multiplying the Backup Special Tax Requirement by the quotient of the Acreage of such Assessor's Parcel divided by the Acreage of all Assessor's Parcels of Taxable Property for which the Backup Special Tax is being calculated.

The Backup Special Taxes computed under step 8 shall be billed directly to the owner of each Assessor's Parcel and shall be due within 30 days of the billing date. If Backup Special Taxes are not paid within 45 days of the billing date, a delinquent penalty of 10 percent shall be added to the Backup Special Taxes, and no additional building permits shall be issued for any property owned by the Builder or Master Developer until payment is received. Upon receipt of the Backup Special Tax payment, the CFD Administrator shall issue a Letter of Compliance (if one has not been issued for such Assessor's Parcels) and a Certificate of Satisfaction of Backup Special Tax for the subject property.

**8. Use/Release of Backup Special Tax Payments**

When a Development Product reaches Buildout, the CFD Administrator shall calculate the actual Assigned Special Taxes that will be generated from such Development Product. If the actual Assigned Special Taxes are greater than or equal to the amount of Assigned Special Taxes established for such Development Product in the Original Report, the balance in the Backup Special Tax Account shall be returned to the payer as established under the Indenture. If Backup Special Taxes have been paid by more than one entity, the amount of Backup Special Taxes returned to each payer shall be in proportion to the amount paid by each entity. If based on such calculation at Buildout, the actual Assigned Special Taxes are less than the amount of Assigned Special Taxes established for such Development Product in the Original Report, then the balance in the Backup Special Tax Account shall be used to redeem CFD No. 2 (IA No. 3) Bonds on the next available redemption date. If a Development Product has not reached Buildout within two years after the first payment of Backup Special Taxes for such Development Product, then the balance in the Backup Special Tax Account shall be used to redeem CFD No. 2 (IA No. 3) Bonds on the next available redemption date.

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



Commencing with Fiscal Year 2000-01 and for each following Fiscal Year, the Council shall determine the Special Tax Requirement and levy the Special Tax until the amount of Special Taxes levied equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property in an amount equal to 100% of the applicable Assigned Special Tax;

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 Annual Special Tax for Undeveloped Property;

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

Notwithstanding the above the Council may, in any Fiscal Year, levy Proportionately less than 100% of the Assigned Special Tax in step one (above), when (i) the Council is no longer required to levy a Special Tax pursuant to steps two and three above in order to meet the Special Tax Requirement; (ii) all authorized CFD No. 2 (IA No. 3) Bonds have already been issued or the Council has covenanted that it will not issue any additional CFD No. 2 (IA No. 3) Bonds (except refunding bonds) to be supported by Special Taxes levied under this Rate and Method of Apportionment; and (iii) all facilities identified on Exhibit A to the Purchase and Financing Agreement have been acquired.

**F. EXEMPTIONS**

No Special Tax shall be levied on up to 28.5 Acres of Property Owner Association Property and 235.4 Acres of Public Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Property Owner Association Property or Public Property. However, should an Assessor's Parcel no longer be classified as Property Owner Association Property or Public Property, its tax-exempt status will be revoked and such Assessor's Parcel will be assigned to a Land Use Class if it is Developed Property or as Undeveloped Property, as appropriate.

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

**G. APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall make a recommendation to the City Manager or designee to eliminate or reduce the Special Tax on the appellant's property and/or to provide a refund to the appellant. The approval of the City Manager or designee must be obtained prior to any such elimination or reduction. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the City Manager or designee by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

#### H. 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. 2 (IA No. 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 delinquent Assessor's Parcels as permitted by the Act.

#### I. PREPAYMENT OF SPECIAL TAX

##### 1. **Payment in Full**

The following definitions apply to this Section I:

**"Construction Fund"** means the account (regardless of its name) identified in the Indenture to hold funds which are currently available for expenditure to acquire or construct public facilities eligible under the Act.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News-Record Building Cost Index for the City of Los Angeles, measured as of the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Inflation Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Engineering News-Record Building Cost Index for the City of Los Angeles.

**"Future Facilities Costs"** means the CFD No. 2 (IA No. 3) Public Facilities minus (i) public facility costs previously paid from the Construction Fund, (ii) moneys currently on deposit in the Construction Fund, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance public facilities costs.

**"CFD No. 2 (IA No. 3) Public Facilities"** means either \$3,273,515 in 1999 dollars, which shall increase by the Construction Inflation Index on July 1, 2000, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to provide the public facilities to be provided by CFD No. 2 (IA No. 3) under the authorized Mello-Roos financing program for CFD No. 2 (IA No. 3), or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more CFD No. 2 (IA No. 3) Bonds to be supported by Special Taxes.

**"Outstanding Bonds"** means all Previously Issued Bonds which remain outstanding as of the first interest and/or principal payment date following the current Fiscal Year.

**"Previously Issued Bonds"** means all CFD No. 2 (IA No. 3) Bonds that have been issued by CFD No. 2 (IA No. 3) prior to the date of prepayment.

Only an Assessor's Parcel of Developed Property or Undeveloped Property for which a building permit has been issued may be prepaid. The Special Tax obligation applicable to an Assessor's Parcel 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 there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of 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. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount of such Assessor's Parcel. Prepayment must be made not less than 60 days prior to any redemption date for the CFD No. 2 (IA No. 3) 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	Future Facilities Amount
plus	Redemption Premium
plus	Defeasance Amount
plus	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. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property for which building permits have already been issued, compute the Assigned Special Tax for the Assessor's Parcel to be prepaid as though it were already designated as Developed Property, based upon the building permit which has been issued for that Assessor's Parcel.
2. Divide the Assigned Special Tax computed pursuant to paragraph 1 by the estimated Assigned Special Taxes for the entire CFD No. 2 (IA No. 3) based on the Developed Property Special Taxes which could be charged in the current Fiscal Year on all expected development through buildout of the entire CFD No. 2 (IA No. 3), excluding any Assessor's Parcels which have been prepaid.
3. Multiply the quotient computed pursuant to paragraph 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
4. Compute the current Future Facilities Costs.
5. Multiply the quotient computed pursuant to paragraph 2 by the amount determined pursuant to paragraph 4 to compute the amount of Future Facilities Costs to be prepaid (the "*Future Facilities Amount*").
6. Multiply the Bond Redemption Amount computed pursuant to paragraph 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").
7. Compute the amount needed to pay interest on the Bond Redemption Amount to be redeemed from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds, less any amounts collected in such Fiscal Year to pay all or a portion of such interest.
8. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
9. Determine the Special Taxes levied on the Assessor's Parcel in the current Fiscal Year which have not yet been paid.
10. Compute the minimum amount the CFD Administrator expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities

Amount and the Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.

11. Add the amounts computed pursuant to paragraphs 7 and 9 and subtract the amount computed pursuant to paragraph 10.
12. Compute the net present value of the amount computed pursuant to paragraph 11, using as a discount rate the rate of return assumed by the CFD Administrator in paragraph 10 (the "*Defeasance Amount*").
13. The administrative fees and expenses of CFD No. 2 (IA No. 3) are as calculated by the CFD Administrator and include the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming CFD No. 2 (IA No. 3) Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
14. 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, the reserve fund credit shall equal the expected reduction in the reserve requirement, if any, associated with the redemption of Outstanding Bonds as a result of the prepayment (the "*Reserve Fund Credit*"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.
15. If any capitalized interest for the Outstanding Bonds will not have been expended as of the first bond interest and/or principal payment date following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the quotient computed pursuant to paragraph 2 by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "*Capitalized Interest Credit*").
16. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 3, 5, 6, 12, and 13, less the amounts computed pursuant to paragraphs 14 and 15 (the "*Prepayment Amount*").

From the Prepayment Amount, the amounts computed pursuant to paragraphs 3, 6, and 12 less the amounts computed pursuant to paragraphs 14 and 15 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 5 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 13 shall be retained by CFD No. 2 (IA No. 3).

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of CFD No. 2 (IA No. 3) 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 be used with the next prepayment of CFD No. 2 (IA No. 3) Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid in full in accordance with this Section I.1., 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 obligation of such Assessor's Parcel to pay the Special Tax (including any Backup Special Tax) shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Annual Special Taxes that may be levied on Taxable Property within CFD No. 2 (IA No. 3) 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 I.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 I.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 I.1, and (ii) indicate in the records of CFD No. 2 (IA No. 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 E.

**J. TERM OF SPECIAL TAX**

The Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2000-01, provided however that Special Taxes will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined (i) that all required interest and principal payments on the CFD No. 2 (IA No. 3) Bonds have been paid; and (ii) all facilities have been acquired and all reimbursements to the developer have been paid pursuant to the Purchase and Financing Agreement.

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