

(R-2002-1730)

RESOLUTION NUMBER R- 296736

ADOPTED ON JUN 25 2002

RESOLUTION OF CONSIDERATION OF THE CITY  
COUNCIL OF THE CITY OF SAN DIEGO, CALIFORNIA  
ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY  
OF COMMUNITY FACILITIES DISTRICT NO. 4 (BLACK  
MOUNTAIN RANCH VILLAGES) TO ALTER THE EXISTING  
RATE AND METHOD OF APPORTIONMENT OF THE  
SPECIAL TAX AND INCREASE THE AUTHORIZED  
BONDED INDEBTEDNESS OF THE DISTRICT.

WHEREAS, the owners of more than 25% of the property within Community Facilities District No. 4 (Black Mountain Ranch Villages) [District], have filed a written petition with the District requesting that the rate and method of apportionment of the special tax [Rate and Method], currently described in Ordinance No. O-18905, adopted by the City Council acting as the legislative body of the District [City Council] on December 5, 2000 [Ordinance No. O-18905] and approved by the qualified electors within the District at a special election held November 21, 2000 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code [Act], be changed and replaced by an amended and restated rate and method of apportionment as set forth in Exhibit A hereto [Amended Rate and Method] and that the authorized indebtedness that the District is authorized to issue be increased to \$30,000,000 [collectively, the Amendments]; and

WHEREAS, the boundaries of the District are as depicted on the boundary map recorded with the County Recorder in the book of maps of assessment and community facilities districts in Book 34, Page No. 67 on October 25, 2000 [Map]; and

WHEREAS, the City Council has determined in accordance with the requirements of Sections 53331 and 53345 of the Act that the public convenience and necessity require the District to consider the Amendments; and

WHEREAS, the City Council now deems it appropriate, in light of the foregoing, and intends to take the initial steps necessary to consider the proposed Amendments by adopting this resolution as required by Sections 53334 and 53345 of the Act; NOW, THEREFORE,

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

1. That the above recitals are true and correct.
2. That the Rate and Method is proposed to be replaced with the Amended Rate and Method. If this change is approved, the Amended Rate and Method will replace the Rate and Method.
3. (a) It is necessary to incur bonded indebtedness within the boundaries of the District in an amount not to exceed \$30,000,000 to finance the costs of the Facilities and Incidental Expenses described in Resolution No. R-293975, as permitted by the Act.  
  
(b) The bonds will be issued for the purpose of financing the costs of the Facilities and the Incidental Expenses, including, but not limited to, the funding of reserve funds for the bonds, the financing of costs associated with the issuance of the bonds and all other costs and expenses necessary to finance the Facilities which are permitted to be financed pursuant to the Act.  
  
(c) It is the intent of the City Council acting in its capacity as the legislative body of the District to authorize the sale of bonds for the District in one or more series, in the

maximum aggregate principal amount of \$30,000,000 and at a maximum interest rate not in excess of 12 percent per annum, or a higher rate not in excess of the maximum rate permitted by law at the time that the bonds are issued. The term of the bonds of each series shall be determined pursuant to a resolution of this City Council acting in its capacity as the legislative body of the District authorizing the issuance of the bonds of such series, but such term shall in no event exceed 30 years from the date of issuance of the bonds of such series, or such longer term as is then permitted by law.

4. That a public hearing [Hearing] on the proposed Amendments shall be held at 10:00 a.m., or as soon thereafter as practicable, on July 30, 2002, at the City Council Chambers, 202 "C" Street, San Diego, California 92101. Should the City Council acting in its capacity as the legislative body of the District determine to submit the proposed Amendments to the qualified electors of the District following the Hearing, a special election will be held to authorize the Amendments. If the election is held, the proposed voting procedure at the election would be a landowner vote with each landowner who is the owner of record at the close of the protest hearing, or authorized representative thereof, having one vote for each acre or portion of an acre of land that he or she owns within the District or if at least 12 persons, who need not necessarily be the same 12 persons, have been registered to vote within the District for each of the 90 days preceding the close of the Hearing, then the vote shall be by the registered voters of the District, with each voter having one vote.

5. That at the time and place set forth above for the Hearing, the City Council acting in its capacity as the legislative body of the District shall receive testimony as to whether the

proposed Amendments should be adopted. The officers of the City responsible for the operation of the District are hereby directed to prepare a report describing the proposed Amendments to be submitted to the City Council acting in its capacity as the legislative body of the District at the time of the Hearing.

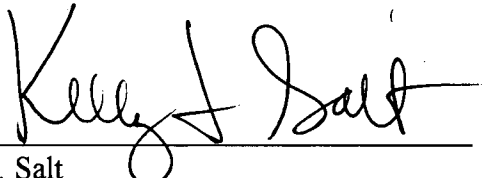
6. That at the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the District, may appear and be heard.

7. That the City Clerk is hereby directed to publish a notice [Notice] of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the District. The Notice shall contain the information required by Section 53335 of the Act, 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 to the proposed Amendments and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven days prior to the date of the Hearing.

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

9. That this resolution shall be effective on its adoption.

APPROVED: CASEY GWINN, City Attorney

By   
Kelly J. Salt  
Deputy City Attorney

KJS:pev  
6/3/02  
Or.Dept.Fin.Svcs  
Aud.Cert:  
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EXHIBIT A

**AMENDED AND RESTATED  
RATE AND METHOD OF APPORTIONMENT FOR  
COMMUNITY FACILITIES DISTRICT NO. 4  
(BLACK MOUNTAIN RANCH VILLAGES)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 4 (Black Mountain Ranch Villages) ("CFD No. 4") and collected each Fiscal Year commencing in Fiscal Year 2002-2003, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," "Final Mapped Property," "Taxable Property Owner Association Property," "Taxable Public Property," and "Undeveloped Property" as described below. All of the real property in CFD No. 4, 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. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

**"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. 4: 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. 4 or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 4 or any designee thereof of complying with disclosure requirements of the City, CFD No. 4 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. 4 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. 4 for any other administrative purposes of CFD No. 4, 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 100 dwelling units located on one or more Assessor's Parcels of Residential Property, including Affordable Companion Units, that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the

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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 be not be considered Affordable Units and shall be assigned to Land Use Class 1 through 18 based on the location and Residential Floor Area for each such unit.

**"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. However, the Assigned Special Tax for the Affordable Companion Unit shall be added to the Assigned Special Tax of all other Land Use Classes located on the Assessor's Parcel.

**"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.

**"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. 4 under the Act.

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

**"CFD No. 4"** means Community Facilities District No. 4 (Black Mountain Ranch Villages).

**"CFD No. 4 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. 4 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. 4.

**"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 which (i) was within a Final Map that was recorded prior to January 1 of the previous Fiscal Year, and (ii) for which a building permit for new construction was issued prior to March 1 of the previous Fiscal Year.

**"Final Mapped Property"** means, for each Fiscal Year, all Taxable Property, exclusive of Developed Property, Taxable Property Owner Association Property or Taxable Public Property, which as of January 1 of the previous Fiscal Year was located within (i) a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) and recorded with the County Recorder 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. The term "Final Mapped Property" shall include any parcel map or subdivision map or portion thereof, that creates individual lots for which a building permit may be issued, including parcels that are designated as a remainder parcel.

**"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. 4 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 and Table 2.

**"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 Floor Area"** for any Non-Residential Property means the total of the gross area of the floor surfaces within the exterior wall of the building, not including space devoted to stairwells, basement storage, required corridors, public restrooms, elevator shafts, light courts, vehicle parking and areas incident thereto, mechanical equipment incidental to the operation of such building, and covered public pedestrian circulation areas, including atriums, lobbies, plazas, patios, decks, arcades and similar areas, except such public circulation areas or portions thereof that are used solely for commercial purposes. The determination of Non-Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor's Parcel.

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



**"Outstanding Bonds"** means all Bonds which are deemed to be outstanding under the Indenture.

**"Property Owner Association Property"** means any property within the boundaries of CFD No. 4 owned in fee or by easement or irrevocably offered for dedication to a property owner association, including any master or sub-association. However, notwithstanding the above, any of such property which constitutes the "pad-area" located directly under a residential or non-residential building shall not be considered Property Owner Association Property.

**"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, or where the Backup Special Tax is being levied, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels upon which a Backup Special Tax is being levied. For Final Mapped 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 Final Mapped 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. 4 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 the Purchase and Financing Agreement for CFD No. 4 that was approved by the Council on October 3, 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"** for any Residential Property 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, Final Mapped Property, Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property to fund the Special Tax Requirement.

**"Special Tax Requirement"** means that amount required in any Fiscal Year to: (i) pay debt service on all Outstanding Bonds; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) pay directly for acquisition or construction of CFD No. 4 facilities eligible under the Act; and (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less (vii) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator pursuant to the Indenture.

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

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 4 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, Final Mapped Property, Taxable Property Owner Association Property, or Taxable Public Property.

**"Zone"** means Zone 1 or Zone 2, as applicable.

**"Zone 1"** means all property within Zone 1, as identified on the Zone Map.

**"Zone 2"** means all property within Zone 2, as identified on the Zone Map.

**"Zone Map"** means Exhibit A to this rate and method of apportionment.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, each Assessor's Parcel of Taxable Property within CFD No. 4 shall be assigned to a Zone and further classified as Developed Property, Final Mapped Property, Taxable Property Owner Association Property, Taxable Public 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. Residential Property shall be assigned to Land Use Classes 1 through 19 based on the type of use and the Residential Floor Area for each unit. Non-Residential Property shall be assigned to Land Use Class 20.

**C. MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

a. Maximum Special Tax

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

b. Assigned Special Tax

- (i). The Assigned Special Tax for each Land Use Class in Zone 1 is shown below in Table 1:

**TABLE 1**

**Assigned Special Taxes for Developed Property  
Community Facilities District No. 4  
Zone 1**

<b>Land Use Class</b>	<b>Land Use</b>	<b>Residential Floor Area/ Description</b>	<b>Assigned Special Tax</b>
1	Residential Property	<= 1,500 sq. ft.	\$1,124.13 per unit
2	Residential Property	1,501 to 1,750 sq. ft.	\$1,393.64 per unit
3	Residential Property	1,751 to 2,000 sq. ft.	\$1,663.15 per unit
4	Residential Property	2,001 to 2,250 sq. ft.	\$1,932.66 per unit
5	Residential Property	2,251 to 2,500 sq. ft.	\$2,202.17 per unit
6	Residential Property	2,501 to 2,750 sq. ft.	\$2,500.02 per unit
7	Residential Property	2,751 to 3,000 sq. ft.	\$2,817.53 per unit
8	Residential Property	3,001 to 3,250 sq. ft.	\$2,936.92 per unit
9	Residential Property	3,251 to 3,500 sq. ft.	\$3,298.83 per unit
10	Residential Property	3,501 to 3,750 sq. ft.	\$3,597.32 per unit
11	Residential Property	3,751 to 4,250 sq. ft.	\$3,683.42 per unit
12	Residential Property	4,251 to 4,750 sq. ft.	\$4,475.93 per unit
13	Residential Property	4,751 to 5,250 sq. ft.	\$5,268.44 per unit
14	Residential Property	5,251 to 5,750 sq. ft.	\$6,060.95 per unit
15	Residential Property	5,751 to 6,500 sq. ft.	\$6,853.46 per unit
16	Residential Property	6,501 to 7,250 sq. ft.	\$8,042.22 per unit
17	Residential Property	7,251 to 9,250 sq. ft.	\$9,230.99 per unit
18	Residential Property	> 9,250 sq. ft.	\$12,399.44 per unit
19	Residential Property	Affordable Units	\$100.00 per unit
20	Non-Residential Property	Not Applicable	\$0.0500 per square foot of Non-Residential Floor Area

(ii). The Assigned Special Tax for each Land Use Class in Zone 2 is shown below in Table 2:

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**TABLE 2**

**Assigned Special Taxes for Developed Property  
Community Facilities District No. 4  
Zone 2**

<b>Land Use Class</b>	<b>Land Use</b>	<b>Residential Floor Area/ Description</b>	<b>Assigned Special Tax</b>
1	Residential Property	<= 1,500 sq. ft	\$1,331.10 per unit
2	Residential Property	1,501 to 1,750 sq. ft.	\$1,642.32 per unit
3	Residential Property	1,751 to 2,000 sq. ft.	\$1,953.54 per unit
4	Residential Property	2,001 to 2,250 sq. ft.	\$2,264.76 per unit
5	Residential Property	2,251 to 2,500 sq. ft.	\$2,575.98 per unit
6	Residential Property	2,501 to 2,750 sq. ft.	\$3,109.50 per unit
7	Residential Property	2,751 to 3,000 sq. ft.	\$3,442.95 per unit
8	Residential Property	3,001 to 3,250 sq. ft.	\$3,776.40 per unit
9	Residential Property	3,251 to 3,500 sq. ft.	\$4,109.85 per unit
10	Residential Property	3,501 to 3,750 sq. ft.	\$4,443.30 per unit
11	Residential Property	3,751 to 4,250 sq. ft.	\$4,776.75 per unit
12	Residential Property	4,251 to 4,750 sq. ft.	\$6,601.61 per unit
13	Residential Property	4,751 to 5,250 sq. ft.	\$7,644.38 per unit
14	Residential Property	5,251 to 5,750 sq. ft.	\$8,687.16 per unit
15	Residential Property	5,751 to 6,500 sq. ft.	\$9,729.93 per unit
16	Residential Property	6,501 to 7,250 sq. ft.	\$11,294.10 per unit
17	Residential Property	7,251 to 9,250 sq. ft.	\$12,858.26 per unit
18	Residential Property	> 9,250 sq. ft.	\$17,029.36 per unit
19	Residential Property	Affordable Units	\$100.00 per unit
20	Non-Residential Property	Not Applicable	\$0.0500 per square foot of Non-Residential Floor Area

c. Backup Special Tax

The Backup Special Tax for an Assessor's Parcel of Developed Property within Zone 1 and Zone 2 shall equal \$0.3205 per square foot of land area within the Assessor's Parcel.

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

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

The Maximum Special Tax for Final Mapped Property, Taxable Property Owner Association Property, Taxable Public Property and Undeveloped Property within Zone 1 and Zone 2 shall be \$13,962.94 per Acre.

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

Commencing with Fiscal Year 2002-03 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 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 Final Mapped Property at up to 100% of the Maximum Special Tax for Final Mapped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have 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;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three 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;

Fifth: If additional monies are needed to satisfy the Special Tax Requirement after the first four 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 of Section D (above), when (i) the Council is no longer required to levy a Special Tax pursuant to steps two through five above in order to meet the Special Tax Requirement; (ii) all authorized CFD No. 4 Bonds have already been issued or the Council has covenanted that it will not issue any additional CFD No. 4 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 115.6 Acres of Property Owner Association Property and/or 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.

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 fifth step in Section D above, at up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property or 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. 4 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. Prepayment in Full**

The following definition applies to this Section H:

"**CFD Public Facilities**" means either \$22,584,045 in 2002 dollars, which shall increase by the Construction Inflation Index on July 1, 2003, 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. 4 under the authorized Mello-Roos financing program for CFD No. 4, or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more CFD No. 4 Bonds (except refunding bonds) to be supported by CFD No. 4 Special Taxes.

"**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 Public Facilities minus public facility costs available to be funded through existing construction or escrow accounts or funded by Previously Issued Bonds, minus public facility costs funded by interest earnings on the Construction Fund actually earned prior to the date of prepayment, and minus public facilities costs paid directly with 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. 4 Bonds that have been issued by CFD No. 4 prior to the date of prepayment.

Only an Assessor's Parcel of Developed Property, or an Assessor's Parcel of Final Mapped 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 in CFD No. 4 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. 4 Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

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

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
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. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax and Backup Special Tax. For Assessor's Parcels of Final Mapped Property and Undeveloped Property for which a building permit has been issued, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Taxes for the entire CFD No. 4 based on the Developed

Property Special Taxes which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 4 as determined by the CFD Administrator, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax computed pursuant to paragraph 2 by the total estimated Backup Special Taxes at buildout for the entire CFD No. 4, excluding any Assessor's Parcels which have been prepaid.

4. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (expressed as a percentage), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. 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 reasonably 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 8 and 9 and subtract the amount computed pursuant to paragraph 10 (the "Defeasance Amount").
12. Verify the administrative fees and expenses of CFD No. 4, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").
13. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund

Credit"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.

14. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "Capitalized Interest Credit").
15. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 11 and 12, less the amounts computed pursuant to paragraphs 13 and 14 (the "Prepayment Amount").
16. From the Prepayment Amount, the amounts computed pursuant to paragraphs 4, 5, 11, 13 and 14 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 12 shall be retained by CFD No. 4.

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of 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 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, 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 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. 4 after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds following such prepayment. A prepayment in full example is attached as Exhibit B.

## **2. Prepayment in Part**

The Special Tax on an Assessor's Parcel of Developed Property or an Assessor's Parcel of Final Mapped Property or 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<sub>E</sub> = 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. 4 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (1.00 - F) of the remaining Maximum Annual Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D.

#### **I. TERM OF SPECIAL TAX**

The Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2002-2003, 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. 4 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.

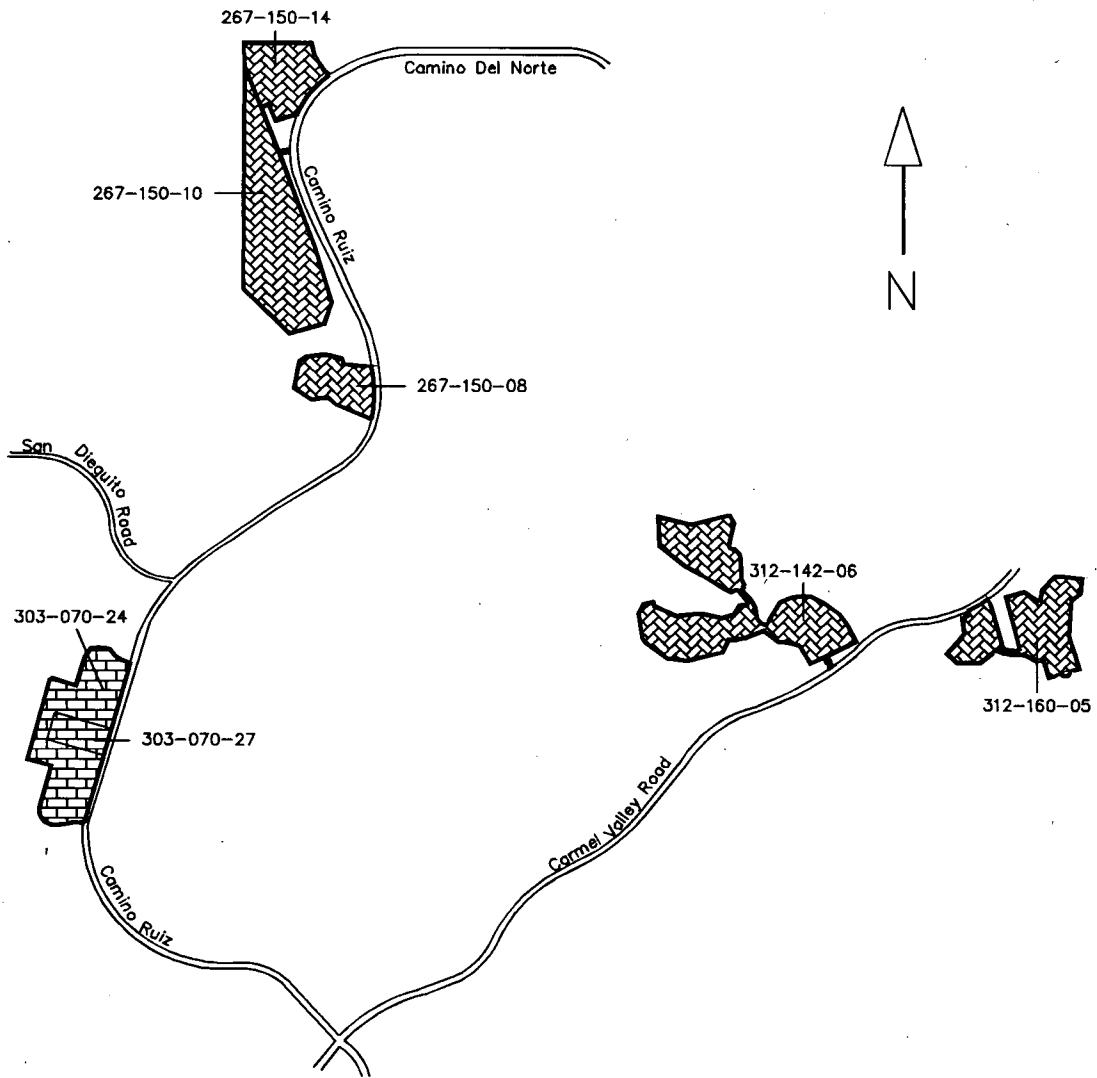
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**EXHIBIT A**

**ZONE MAP**



Q-296736

COMMUNITY FACILITIES DISTRICT NO. 4  
 (BLACK MOUNTAIN RANCH VILLAGES)  
 ZONE MAP



Reference is hereby made to the Assessor maps of the County of San Diego for an exact description of the lines and dimensions of each lot and parcel.

LEGEND

	Zone 1
	Zone 2
nn-nn-nn	Assessor Parcel Number

PREPARED BY  
 DAVID TAUSSIG & ASSOCIATES, INC.

R- 296736

**EXHIBIT B**

**PREPAYMENT IN FULL EXAMPLE**

R-296736

**COMMUNITY FACILITIES DISTRICT NO. 4  
(BLACK MOUNTAIN RANCH VILLAGES)  
PREPAYMENT IN FULL EXAMPLE  
(Assumes Prepayment after the issuance of the Series 2004 Bonds)**

LOT CHARACTERISTICS	
<u>Special Tax Class</u> Zone 2 - Class 12	<u>Estimated Lot SF</u> 16,893

CFD No. 4 CURRENT DEVELOPMENT AND RATE SUMMARY				
	Zone 1		Zone 2	
<u>Special Tax Classes</u>	<u>Units / SF</u>	<u>Assigned Special Tax</u>	<u>Units / SF</u>	<u>Assigned Special Tax</u>
Class 1 Residential Property (<= 1,500 sq. ft.)	0	\$1,124.13	0	\$1,331.10
Class 2 Residential Property (1,501 to 1,750 sq. ft.)	0	\$1,393.64	0	\$1,642.32
Class 3 Residential Property (1,751 to 2,000 sq. ft.)	0	\$1,663.15	0	\$1,953.54
Class 4 Residential Property (2,001 to 2,250 sq. ft.)	0	\$1,932.66	0	\$2,264.76
Class 5 Residential Property (2,251 to 2,500 sq. ft.)	0	\$2,202.17	0	\$2,575.98
Class 6 Residential Property (2,501 to 2,750 sq. ft.)	43	\$2,500.02	0	\$3,109.50
Class 7 Residential Property (2,751 to 3,000 sq. ft.)	23	\$2,817.53	0	\$3,442.95
Class 8 Residential Property (3,001 to 3,250 sq. ft.)	60	\$2,936.92	10	\$3,776.40
Class 9 Residential Property (3,251 to 3,500 sq. ft.)	27	\$3,298.83	20	\$4,109.85
Class 10 Residential Property (3,501 to 3,750 sq. ft.)	65	\$3,597.32	35	\$4,443.30
Class 11 Residential Property (3,751 to 4,250 sq. ft.)	0	\$3,683.42	47	\$4,776.75
Class 12 Residential Property (4,251 to 4,750 sq. ft.)	0	\$4,475.93	50	\$6,601.61
Class 13 Residential Property (4,751 to 5,250 sq. ft.)	0	\$5,268.44	45	\$7,644.38
Class 14 Residential Property (5,251 to 5,750 sq. ft.)	0	\$6,060.95	25	\$8,687.16
Class 15 Residential Property (5,751 to 6,500 sq. ft.)	0	\$6,853.46	20	\$9,729.93
Class 16 Residential Property (6,501 to 7,250 sq. ft.)	0	\$8,042.22	9	\$11,294.10
Class 17 Residential Property (7,251 to 9,250 sq. ft.)	0	\$9,230.99	6	\$12,858.26
Class 18 Residential Property (> 9,250 sq. ft.)	0	\$12,399.44	0	\$17,029.36
Class 19 Residential Property (Affordable Units)	42	\$100.00	0	\$100.00
Class 20 Non-Residential Property	16,000	\$0.0500	0	\$0.0500
Back-up Special Tax (Per Lot Square Foot)		\$0.3205		\$0.3205
Total Net Taxable Square Feet = 8,958,132				

PREPAYMENT PORTION CALCULATION	
<b>Method A. Proportion Based on Assigned Special Tax</b>	
Assigned Special Tax =	Number of Units X Assigned Rate
=	1 X \$6,601.61
=	\$6,601.61
Total CFD Assigned Special Tax = \$2,441,048.87	
Proportionate Share of Assigned Tax = 0.2704%	
<b>Method B. Proportion Based on Back-up Special Tax</b>	
Back-up Special Tax =	Lot SF X Back-up Rate
=	16,893 X \$0.3205
=	\$5,414.21
Total CFD Back-up Special Tax = CFD Lot SF X Back-up Rate	
=	8,958,132 X \$0.3205
=	\$2,871,081.31
Proportionate Share of Back-up Tax = 0.1886%	
<b>Prepayment Portion = Maximum of Method A or B</b>	
= 0.2704%	

R-296736



**COMMUNITY FACILITIES DISTRICT NO. 4  
(BLACK MOUNTAIN RANCH VILLAGES)  
PREPAYMENT IN FULL EXAMPLE  
(Assumes Prepayment after the issuance of the Series 2004 Bonds)**

Assessor's Parcel Number:	NA
Prepayment Portion	0.2704%
Next Call Date	NA
Maturities Called	NA
Redemption Premium	3.00%
Reinvestment Rate	4.50%
Prepayment Date	Sept 2004

**STEP 1: BOND REDEMPTION AMOUNT**

Outstanding Obligations [1]	\$16,140,000	
Times Prepayment Portion		\$43,649

**STEP 2: REDEMPTION PREMIUM**

Premium @ 3.00% [2]	\$1,309
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**STEP 3: FUTURE FACILITIES AMOUNT**

Future Facilities Costs (inflated @ 2.0% per year)	\$8,930,840	
Times Prepayment Portion		\$24,153

**STEP 4: DEFEASANCE AMOUNT**

Call Protection Interest Payment Amount [3]	NA
Unpaid Special Taxes During Current Fiscal Year [3]	NA
<u>Credit for Reinvestment Earnings thru Call Protection Period [3]</u>	<u>NA</u>
Total, Defeasance Amount	NA

**STEP 5: ADMINISTRATIVE FEES AND EXPENSES**

Administrative Fees	\$500
Prepayment Notification Expenses/Recorder Fees [3]	NA
<u>Other Expenses (including computation fees) [3]</u>	<u>NA</u>
Total, Administrative Fees and Expenses	\$500

**STEP 6: RESERVE FUND CREDIT**

Current Reserve Fund Balance	\$1,333,481
<u>Less Reserve Fund Balance After Prepayment</u>	<u>\$1,329,874</u>
Reserve Fund Credit	\$3,606

**STEP 7: CAPITALIZED INTEREST CREDIT**

Current Capitalized Interest Fund Balance	\$0
Times Prepayment Portion	\$0

**STEP 8: PREPAYMENT AMOUNT**

<b>Bond Redemption Amount</b>	\$43,649
<b>Redemption Premium</b>	\$1,309
<b>Future Facilities Amount</b>	\$24,153
<b>Defeasance Amount</b>	NA
<b>Administrative Fees and Expenses</b>	\$500
<b>Less Reserve Fund Credit</b>	(\$3,606)
<u><b>Less Capitalized Interest Credit</b></u>	<u>\$0</u>
<b>TOTAL, PREPAYMENT AMOUNT</b>	<b>\$66,005</b>

**NOTES**

- [1] Based upon current projections for the Series 2004 Bonds.  
 [2] Estimate, will reflect actual premium as reflected in the Indenture for the Bonds.  
 [3] NA means not available at time of prepayment estimate.