

RESOLUTION NUMBER R- 297517

ADOPTED ON JAN 07 2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO, STATE OF CALIFORNIA, DECLARING ITS INTENTION TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ) AND ESTABLISH IMPROVEMENT AREA NO. 4 AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN AND APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A PURCHASE AND FINANCE AGREEMENT..

WHEREAS, the City Council [City Council] of the City of San Diego [City] has previously adopted Resolution No. R-292868 [Resolution of Formation] forming Community Facilities District No. 2 (Santaluz) and establishing Improvement Area Nos. 1, 2 and 3 therein [District]; and

WHEREAS, Western Pacific Housing, Inc., a Delaware corporation, Pardee Homes, a California corporation, and Santa Monica Homebuilding Company, LLC [Developers], have petitioned the District to annex certain property owned by the Developers [Property] to the District; and

WHEREAS, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended [Act], Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, et seq. of the California Government Code, this City Council has authority to annex the Property to the District and, thereafter, to designate it as Improvement Area No. 4; and

WHEREAS, this City Council has considered the Developers' request and now desires to commence proceedings to annex the Property to the District under the Act and, thereafter, to designate it as Improvement Area No. 4; and

WHEREAS, there has been presented to this City Council the form of a Purchase and Finance Agreement to be entered into between the City and certain property owners within the proposed boundaries of Community Facilities District No. 2 (Santaluz) Improvement Area No. 4 [Purchase Agreement]; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego acting in its capacity as the Legislative Body of Community Facilities District No. 2 (Santaluz), as follows:

1. The City Council proposes to conduct proceedings to annex the Property to the District and, thereafter, to designate such Property as Improvement Area No. 4 of the District pursuant to the Act. The Property includes the assessor's parcels listed on Exhibit A hereto. The boundaries of the District are as depicted on the boundary map for the District recorded on February 18, 2000 in Book 34, Page 9 of the book of maps of assessment and community facilities districts in the Office of the County Recorder of the County of San Diego.

2. The boundaries of the Property proposed to be annexed to the District and be made subject to taxation are as shown on the annexation map on file with the City Clerk. The City Clerk is hereby directed to record, or cause to be recorded, said map of the boundaries of the Property proposed to be annexed to the District in the office of the County Recorder of the County of San Diego within fifteen days of the date of adoption of this Resolution.

3. The type of public facilities and expenses proposed to be financed by the District for the Property shall consist of those items listed as facilities on Exhibit B hereto [Facilities] and the incidental expenses to be incurred in financing the Facilities and annexing the Property and

administering the District. The costs of the Facilities may include the purchase of completed Facilities and payment for incidental expenses associated with the provision and/or financing of the Facilities as permitted by Section 53345.3 of the Act. The City Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow the owners of the Property proposed to be annexed to understand what the funds of the District may be used to finance. The City Council hereby finds that the proposed Facilities to be financed for the Property are necessary to meet increased demands placed upon the District as a result of development occurring on the Property.

4. Except to the extent that funds are otherwise available to the District to pay for the Facilities and/or the principal and interest as it becomes due on bonds of the District issued to finance the Facilities and incidental expenses, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the Property to be annexed, is intended to be levied until the 2053-2054 fiscal year in accordance with the Rate and Method of Apportionment of Special Tax attached hereto as Exhibit C [IA No. 4 Rate and Method]. The Property will not be subject to tax under any of the rates and methods of apportionment currently in effect for other property in the District. The special taxes shall be collected in the same manner as ordinary ad valorem property taxes, or in such other manner as the City Council or its designee shall determine, including direct billing of the affected property owners. The IA No. 4 Rate and Method provides sufficient detail to allow each landowner within the territory proposed to be annexed to estimate the maximum amount such owner will have to pay. In no circumstances shall the special tax levied against any parcel used for private residential purposes (as defined in the Act) be increased as a consequence of delinquency or default by the

owner of any other parcel or parcels within the District by more than 10 percent. The special tax may be prepaid for a parcel under the conditions set forth in Exhibit C.

The City Council hereby determines the IA No. 4 Rate and Method as applied to the Property is reasonable. The special tax is apportioned to each parcel within the Property on the basis of the demand for the Facilities resulting from the development of the Property. As required by Section 53325.3 of the Act, the special tax is not on or based upon the value or ownership of real property.

5. The levy of the special tax on the Property shall be subject to the approval of the owners of the Property as the qualified electors under the Act at a special election. The proposed voting procedure shall be by mail or hand-delivered ballot, with each owner having one vote for each acre or portion of an acre such owner owns.

6. The City Manager, or his designee, as the officer having charge and control of the District, is hereby directed to study the proposed annexation of the Property and to make, or cause to be made, and file with the City Clerk a report in writing regarding the rationale for the proposed annexation.

7. The City Council, as the legislative body of the District, hereby fixes \_\_\_\_\_  
FFR 11, 2003, which date is not less than thirty days nor more than sixty days after the date hereof, as the time and place when and where the City Council, as the legislative body of the District, will conduct a public hearing on the proposed annexation and consider and finally determine whether the public interest, convenience and necessity require the annexation. The public hearing will be held at 10:00 A.M. or as soon thereafter as practicable, at the City Council Chambers, 202 "C" Street, San Diego, California.

The City Clerk is hereby directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District. The publication of said notice shall be completed at least seven days before the date herein set for said hearing. Said notice shall be substantially in the form specified in Section 53339.4 of the Act. Notice shall also be mailed to each landowner pursuant to Section 53339.4.

8. The Purchase Agreement, a copy of which is on file in the Office of the City Clerk as Document No. RR- 297517, is hereby approved as to form, and the City Manager, his written designee, and the 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.

9. This Resolution shall take effect upon its adoption.

APPROVED: CASEY GWINN, City Attorney

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

KJS:pev  
10/29/02  
10/30/02 Cor. Copy  
Or.Dept:Fin.Svcs  
Aud.Cert:N/A  
R-2003-613  
Form=r&t.frm

**EXHIBIT A**

**LIST OF ASSESSOR PARCELS TO BE ANNEXED**

**Assessor Parcel Numbers**

**303-070-09**

**303-070-11**

**303-070-39**

**303-070-40**

**303-070-41**

## **EXHIBIT B**

### **Types of Facilities To Be Financed By Proposed Improvement Area No. 4 of Community Facilities District No. 2 (Santaluz)**

**The proposed public facilities and expenses to be financed by proposed  
Improvement Area No. 4 of Community Facilities District No. 2 (Santaluz) include:**

- 1. El Camino Real from Derby Downs Road to San Dieguito Road**
- 2. A community park located on Carmel Valley Road east of Black Mountain Road**
- 3. Offsite Water and Sewer Improvements**

**EXHIBIT C**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX  
COMMUNITY FACILITIES DISTRICT NO. 2  
OF THE CITY OF SAN DIEGO  
IMPROVEMENT AREA NO. 4 (SANTALUZ)**

**RATE AND METHOD OF APPORTIONMENT FOR  
COMMUNITY FACILITIES DISTRICT NO. 2 (SANTALUZ)  
(IMPROVEMENT AREA NO. 4)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 2 (Santaluz) - (Improvement Area No. 4) ("CFD No. 2 (IA No. 4)") and collected each Fiscal Year commencing in Fiscal Year 2003-04, 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. 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 acreage of 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. An Acre equals 43,560 square feet of land area.

**"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. 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. 2 (IA No. 4) or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2 (IA No. 4) or any designee thereof of complying with disclosure requirements of the City, CFD No. 2 (IA 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. 2 (IA 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. 2 (IA No. 4) for any other administrative purposes of CFD No. 2 (IA No. 4), including attorney's fees and other costs

R-297517

related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Affordable Unit(s)"** means, for each Fiscal year, up to a total of 36 dwelling unit(s) located on an Assessor's Parcel(s) of Residential Property, that are subject to deed restrictions, resale restrictions, and/or regulatory agreements recorded in favor of the City providing for affordable housing prior to March 1 of the prior Fiscal Year. In order to insure that a dwelling unit is correctly classified as an Affordable Unit, the owner of such property shall provide the CFD Administrator with a copy of any applicable deed restrictions, resale restrictions, and/or regulatory agreements. Dwelling units shall be classified as Affordable Units by the CFD Administrator in the chronological order in which such notification is received. 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 7 based on the Residential Floor Area for such units.

**"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. 4)"** means CFD No. 2 (Improvement Area No. 4), as identified on the boundary map for CFD No. 2 (IA No. 4).

**"CFD No. 2 (IA 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. 2 for CFD No. 2 (IA No. 4) 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. 4).

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

R- 297517

**"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, 2002, but prior to March 1 of the prior Fiscal Year.

**"Final Map"** means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots for which building permits may be issued. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create individual lots for which a building permit may be issued, including Assessor's Parcels that are designated as remainder parcels.

**"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. 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.

**"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 for which a building permit(s) was issued for a non-residential use.

**"Outstanding Bonds"** means all CFD No. 2 (IA No. 4) 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. 4) 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. 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 Finance Agreement"** means the Purchase and Finance Agreement by and between the City, Western Pacific Housing, and Pardee Homes that was approved by the Council on November 12, 2002, 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.

**"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. 4) Bonds, including but not limited to, credit enhancement and rebate payments on the CFD No. 2 (IA No. 4) Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for any CFD No. 2 (IA No. 4) Bonds; (v) pay directly for authorized facilities in accordance with the Purchase and Finance 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. 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, 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**

Residential Property other than Affordable Units shall be assigned to Land Use Classes 1 through 6 as listed in the table below based upon the Residential Floor Area for each unit. Affordable Units shall be assigned to Land Use Class 7. Non-Residential Property shall be assigned to Land Use Class 8.

(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 2003-04 Assigned Special Tax for each Land Use Class is shown in Table 1.

R- 297517

**TABLE 1**

**Fiscal Year 2003-04 Assigned Special Taxes for Developed Property  
CFD No. 2 (Improvement Area No. 4)**

<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	> 4,600 sq. ft	\$4,358.88 per unit
2	Residential Property	4,400 to 4,600 sq. ft.	\$4,003.05 per unit
3	Residential Property	4,100 to 4,399 sq. ft.	\$3,558.27 per unit
4	Residential Property	3,900 to 4,099 sq. ft.	\$3,380.36 per unit
5	Residential Property	3,600 to 3,899 sq. ft.	\$3,113.49 per unit
6	Residential Property	< 3,600 sq. ft.	\$2,713.18 per unit
7	Residential Property	Affordable Unit	\$102.00 per unit
8	Non-Residential Property	Not Applicable	\$15,322.88 per Acre

(c). Backup Special Tax

The Fiscal Year 2003-04 Backup Special Tax shall be \$15,323 per Acre.

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

On each July 1, commencing July 1, 2004 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 4), 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 (IA No. 4), 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. 4).

(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

R-297517

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 2003-04 Maximum Special Tax for Undeveloped Property, Taxable Property Owner Association Property, and Taxable Public Property shall be \$15,323 per Acre.

(b). Increase in the Maximum Special Tax

On each July 1, commencing July 1, 2004 and ending on July 1 of the tenth Fiscal Year in which Special Taxes are levied in CFD No. 2 (IA No. 4), 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 (IA No. 4), 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. 4).

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

Commencing with Fiscal Year 2003-04 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

R- 297517

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 level of Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased in equal percentages from the Assigned Special Tax up to 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. 4) Bonds have already been issued or the Council has covenanted that it will not issue any additional CFD No. 2 (IA No. 4) Bonds (except refunding bonds) to be supported by Special Taxes levied under this Rate and Method of Apportionment; and (iii) and all facilities identified on Exhibit A to the Purchase and Finance Agreement have been acquired.

**E. EXEMPTIONS**

No Special Tax shall be levied on up to 50.0 Acres of Property Owner Association Property and 0.2 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 as part of the fourth 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. 2 (IA 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**

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. 4) 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. 4) Public Facilities"** means either \$6,456,000 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. 2 (IA No. 4) under the

authorized Mello-Roos financing program for CFD No. 2 (IA No. 4), or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more CFD No. 2 (IA No. 4) 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. 4) Bonds that have been issued by CFD No. 2 (IA No. 4) prior to the date of prepayment.

**"Update Report"** means a lot-by-lot listing that lists for each expected taxable lot within CFD No. 2 (IA No. 4) the expected or actual builder, date the building permit was issued (if any), Residential Floor Area, Land Use Class, Assigned Special Tax, and Acreage.

Only an Assessor's Parcel of Developed Property or Undeveloped Property that is within a Final Map 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 may be fully or partially 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. The CFD Administrator may charge a reasonable fee for calculation of the Prepayment Amount as defined below.

**1. Prepayment Prior to Issuance of First Series of CFD No. 2 (IA No. 4) Bonds**

An owner of an Assessor's Parcel intending to prepay the Special Tax obligation prior to the issuance of CFD No. 2 (IA No. 4) Bonds shall provide the CFD Administrator with written notice of intent to prepay, along with an Update Report. 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.

With respect to Undeveloped Property for which a building permit has not been issued, prepayment shall only be permitted if a minimum of eight (8) lots within the same Final Map are prepaid concurrently.

Prior to the issuance of the first series of CFD No. 2 (IA No. 4) Bonds, the Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

	Future Facilities Amount	
	plus	Defeasance Amount
	plus	Administrative Fees and Expenses
Total:	equals	Prepayment Amount

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

R- 297517

**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 applicable for the current Fiscal Year for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property, compute the Assigned Special Tax and Backup Special Tax for the current Fiscal Year for that Assessor's Parcel as though it was already designated as Developed Property, based upon the Update Report, the building permit issued for such Assessor's Parcel (if any), and/or information provided along with the prepayment request.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Tax for the entire CFD No. 2 (IA No. 4) based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of the CFD No. 2 (IA No. 4) based on the Update Report (and other information available to 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 estimated total Backup Special Tax at buildout of the CFD No. 2 (IA No. 4) based on the Update Report (and other information available to the CFD Administrator), using the Backup Special Tax rate for the current Fiscal Year, excluding any Assessor's Parcels which have been prepaid.
4. Compute the current Future Facilities Costs.
5. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(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. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid (the "Defeasance Amount").
7. Verify the administrative fees and expenses of CFD No. 2 (IA No. 4) in connection with the prepayment, including the costs of computation of the prepayment and the costs of recording any notices to evidence the prepayment (the "Administrative Fees and Expenses").
8. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 5, 6, and 7 (the "Prepayment Amount").

R-297517

From the Prepayment Amount, the amount computed pursuant to paragraph 5 shall be deposited into the Construction Fund, the amount computed pursuant to paragraph 6 shall be deposited into the appropriate fund as established under the Indenture and used to make debt service payments, and the amount computed pursuant to paragraph 7 shall be retained by CFD No. 2 (IA No. 4).

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under paragraph 6 (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 shall cease.

**2. Prepayment After Issuance of First Series of CFD No. 2 (IA No. 4) Bonds**

An owner of an Assessor's Parcel intending to prepay the Special Tax obligation after the issuance of CFD No. 2 (IA No. 4) Bonds 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. 4) Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

After the issuance of the first series of CFD No. 2 (IA No. 4) Bonds, 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.:**

R- 297517

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 applicable for the current Fiscal Year for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property for which a building permit has been issued, compute the Assigned Special Tax and Backup Special Tax for the current Fiscal Year for that Assessor's Parcel as though it was already designed as Developed Property, based on the building permit that was issued for such Assessor's Parcel. For Assessor's Parcels of Undeveloped Property for which no building permit has been issued, compute the Assigned Special Tax (assuming that each dwelling unit for which the Special Tax is being prepaid will be assigned to Land Use Class 1) and the Backup Special Tax for the current Fiscal Year for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Tax for the entire CFD No. 2 (IA No. 4) based on the Developed Property Special Tax which could be charged in the current Fiscal Year on all expected development through buildout of the CFD No. 2 (IA No. 4) based on the latest information available to 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 estimated total Backup Special Tax at buildout of the CFD No. 2 (IA No. 4) based on the latest information available to the CFD Administrator, using the Backup Special Tax rate for the current Fiscal Year, 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, 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.

R-297517

9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has 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 Administrative Fees and Expenses (both as defined below) 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. 2 (IA No. 4) in connection with the prepayment, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming CFD No. 2 (IA No. 4) 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, 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 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").

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. 2 (IA No. 4).

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of CFD No. 2 (IA No. 4) 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. 4) 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.2., 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 Special Taxes that may be levied on Taxable Property within CFD No. 2 (IA No. 4) after the proposed prepayment is at least 1.1 times the annual debt service on all Outstanding Bonds in the current and each future Fiscal Year.

### **3. Prepayment in Part**

The Special Tax on an Assessor's Parcel of Developed Property or an Assessor's Parcel of Undeveloped Property within a Final Map may be partially prepaid. The amount of the prepayment shall be calculated as in Section H.1 or H.2, as applicable; 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 or H.2, as applicable

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 as required under Section H.1 and H.2, as applicable, and also indicate the percentage by which the Special Tax shall be prepaid and the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request.

R- 297517

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 or H.2, as applicable, and (ii) indicate in the records of CFD No. 2 (IA 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 Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D.

**J. TERM OF SPECIAL TAX**

The Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2003-04, 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. 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 Finance Agreement.

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R- 297517