

Rate and Method of Apportionment

**RATE AND METHOD OF APPORTIONMENT FOR
COMMUNITY FACILITIES DISTRICT NO. 5
OF THE CITY OF MORENO VALLEY**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property in Community Facilities District No. 5 of the City of Moreno Valley ("CFD No. 5") and collected each Fiscal Year commencing in Fiscal Year 2006-07, in an amount determined by the City Council through the application of the appropriate Special Tax for "Developed Property" and "Undeveloped Property" as described herein. All of the real property in CFD No. 5 shall be taxed for the purposes, to the extent and in the manner herein provided, except property defined as Exempt Property and subject to Section E below.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area (excluding rights-of-way) 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, condominium plan, or other recorded parcel map (excluding rights-of-way). If the land area is presented in square footage, then the Acreage equals the parcel square footage divided by 43,560 (square footage per Acre).

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 5: 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 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. 5 or any designee thereof of complying with arbitrage rebate requirements, including but not limited to, any rebate obligation; the costs to the City, CFD No. 5 or any designee thereof of complying with disclosure requirements of the City and /or, CFD No. 5 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 to the City, CFD No. 5 or any designee thereof related to any appeal of the Special Tax; the costs associated with the release of funds from an escrow or appeals account, including appraisal costs; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated by the CFD Administrator or advanced by the City or CFD No. 5 for any other administrative purposes of CFD No. 5, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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“Assessor’s Parcel” means a 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.

“Bonds” means any binding obligation including bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 5 under the Act.

“CFD Administrator” means the Enterprise Services Manager of the City of Moreno Valley, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“CFD No. 5” means Community Facilities District No. 5 of the City of Moreno Valley.

“City” means the City of Moreno Valley.

“City Council” means the City Council of the City, acting as the legislative body of CFD No. 5.

“County” means the County of Riverside.

“Final Map” means a final map or parcel map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots for which building permits may be issued.

“Fiscal Year” means the period starting July 1 of any year and ending on the following June 30.

“Indenture” means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“Outstanding Bonds” means all Bonds that are deemed to be outstanding under the Indenture.

“Property”:

“Developed Property” means for each Fiscal Year, all Taxable Property for which a building permit for new construction was issued prior to March 1 of the prior Fiscal Year.

“Exempt Property” means any property not subject to Special Tax as described under Section E, herein.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 5, which are not classified as Exempt Property.

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property not classified as Developed Property.

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“Proportionately” means for Developed Property that the ratio of the actual Special Tax levy per acre to the Maximum Annual Special Tax per acre is equal for all Assessor’s Parcels of Developed Property within CFD No.5. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Tax levy per Acre to the Maximum Annual Special Tax per Acre is equal for all Assessor’s Parcels of Undeveloped Property in CFD No. 5.

“State” means the State of California.

“Tax”:

“Maximum Annual Special Tax” means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year on any Assessor’s Parcel.

“Special Tax” means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Developed Property and Undeveloped Property to fund the Annual Special Tax Requirement.

“Annual Special Tax Requirement” means that amount required in any Fiscal Year for CFD No. 5 to pay the sum of: (i) debt service on all Outstanding Bonds; (ii) periodic costs on the Bonds, including but not limited to, credit enhancement and rebate payments on the Bonds; (iii) Administrative Expenses; (iv) any amounts required to establish or replenish any reserve funds for all Bonds issued or to be issued by CFD No. 5; and (v) any amounts required for the acquisition or construction of facilities eligible under the Act. In arriving at the Annual Special Tax Requirement, the CFD Administrator shall take into account the reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year and shall give a credit for funds available to reduce the annual Special Tax levy.

“Trustee” means the trustee, fiscal agent, or paying agent under the Indenture.

B. CLASSIFICATION OF PROPERTIES

Each Fiscal Year, all Property within CFD No. 5 shall be classified as Taxable Property or Exempt Property. Taxable Property shall be further classified as Developed Property or Undeveloped Property and shall be subject to Special Taxes up to the rates set forth in Section C and in accordance with the method of apportionment pursuant to Section D.

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C. SPECIAL TAX RATE

1. Developed Property

a. Maximum Annual Special Tax

The Maximum Annual Special Tax for each Assessor's Parcel of Developed Property shall be \$10,652 per Acre for Fiscal Year 2006-2007, and shall increase thereafter, commencing on July 1, 2007 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Maximum Annual Special Tax in effect in the previous Fiscal Year.

2. Undeveloped Property

a. Maximum Annual Special Tax

The Maximum Annual Special Tax for each Assessor's Parcel of Undeveloped Property shall be \$10,652 per Acre for Fiscal Year 2006-07, and shall increase thereafter, commencing on July 1, 2007 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Maximum Annual Special Tax for the previous Fiscal Year.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the City Council shall levy the Special Tax until the amount of Special Taxes levied equals the Annual Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property at up to 100% of the applicable Maximum Annual Special Tax.

Second, if additional monies are needed to satisfy the Annual Special Tax Requirement, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property at up to 100% of the applicable Maximum Annual Special Tax.

E. EXEMPTIONS

At the time the Special Tax is enrolled for the Fiscal Year for which the Special Tax is being levied, the CFD Administrator shall classify as Exempt Property: (i) Assessor's Parcels owned by, dedicated to, or irrevocably offered for dedication to the State of California, federal or other local governments; (ii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement; (iii) Assessor's Parcels owned by a property owner's association; provided that no such classification would reduce the Acreage of Taxable Property to less than 55.4 Acres. The

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CFD Administrator shall classify property as Exempt Property in the chronological order that such property qualifies to be classified as such. Assessor's Parcels which cannot be classified as Exempt Property because such classification would reduce the Acreage of Taxable Property to less than 55.4 Acres will be classified as Undeveloped Property, and will be subject to Special Taxes accordingly. If the use of an Assessor's Parcel classified as Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be classified as Taxable Property.

F. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 5 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.

G. PREPAYMENT OF SPECIAL TAX

The following additional definitions apply to Section G, herein:

“CFD Public Facilities” means those public facilities authorized to be financed by CFD No. 5.

“CFD Public Facilities Costs” means either \$8,300,000, or such lower number as shall be determined either by (a) the CFD Administrator as sufficient to finance the CFD Public Facilities, or (b) the City Council concurrently with a covenant that it will not issue any more Bonds to be secured by Special Taxes levied under this Rate and Method of Apportionment.

“Construction Fund” means the fund as identified in the Indenture, which is used to disburse funds to pay the cost and acquisition of public improvements funded with the Bond proceeds or Special Taxes.

“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 last day of that 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 Costs minus: (a) the portion of the CFD Public Facilities Costs previously funded (i) from the proceeds of all previously issued Bonds, (ii) from interest earnings on the Construction Fund actually earned prior to the date of prepayment and (iii) directly from Special Tax revenues; and (b) the amount of the proceeds of all previously issued Bonds, including interest earnings and Special Tax revenues, then on deposit in the Construction Fund.

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“**Outstanding Bonds**” means all previously issued Bonds that have been issued prior to the date of the prepayment which will remain outstanding after the first interest and/or principal payment date following the current Fiscal Year, excluding Bonds to be redeemed at a later date with the proceeds of prior prepayments of Special Taxes.

Prepayment of a Special Tax in Part or in Full

The Special Tax obligation applicable to an Assessor’s Parcel may be prepaid at any time and the obligation of such Assessor’s Parcel to pay any Special Tax may be fully or partially satisfied as described herein. The CFD Administrator may charge a reasonable fee for calculation of the Prepayment Amount as defined below.

1. Prepayment in Full

The Maximum Annual Special Tax obligation may be prepaid and permanently satisfied for any Assessor’s Parcel. The Maximum Annual Special Tax obligation applicable to such Assessor’s Parcel may be fully prepaid and the obligation of the Assessor’s Parcel to pay the Special Tax permanently satisfied as described herein; provided that a prepayment may be made 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 Maximum Annual 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. The CFD Administrator may charge a reasonable fee for providing this figure. The Prepayment Amount (defined below) shall be calculated as follows (capitalized terms as defined below):

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

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

1. Compute the Maximum Annual Special Tax for the Assessor’s Parcel to be prepaid.
2. Divide the Maximum Annual Special Tax computed pursuant to paragraph 1 by the sum of the total expected Maximum Annual Special Tax revenues that may be levied within CFD No. 5 excluding any Assessors Parcels for which the Maximum Annual Special Tax obligation has been previously prepaid.

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3. Multiply the quotient computed pursuant to paragraph 2 by the principal amount of Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
4. Multiply the Bond Redemption Amount computed pursuant to paragraph 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
5. If all of the authorized Bonds to be issued for CFD No. 5 have not been issued, compute the Future Facilities Costs.
6. Multiply the quotient computed pursuant to paragraph 2 by the amount determined pursuant to paragraph 5 to compute the amount of Future Facilities Costs to be allocated to such Assessor's Parcel (the "Future Facilities Amount").
7. 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.
8. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
9. Determine the Special Taxes levied on the Assessor's Parcel in the current Fiscal Year that have not yet been paid.
10. Determine the fees and expenses of CFD No. 5, including but not limited to, the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming Bonds from the proceeds of such prepayment, and the cost of recording any notices to evidence the prepayment and the redemption (the "Prepayment Fees and Expenses").
11. Compute the amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Prepayment Fees and Expenses as determined pursuant to paragraph 10, from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
12. Add the amounts computed pursuant to paragraphs 7 and 9 and subtract the amount computed pursuant to paragraph 11 (the "Defeasance Amount").
13. The reserve fund credit (the "Reserve Fund Credit") shall equal the lesser of: (a) the expected reduction in the reserve requirement (as defined in the Indenture), if any, associated with the redemption of Outstanding Bonds as a result of the prepayment; or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Outstanding Bonds as a result of the prepayment from the balance in the reserve fund on the prepayment date, but in no event shall such amount be less than

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zero. No Reserve Fund Credit shall be granted if the amount then on deposit in the reserve fund for the Outstanding Bonds is below 100% of the reserve fund requirement (as defined in the Indenture).

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 quotient computed pursuant to paragraph 2 by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the "Capitalized Interest Credit").
15. The Maximum Annual Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 3, 4, 6, 10 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 3, 4, 12, 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. CFD No. 5 shall retain the amount computed pursuant to paragraph 10. The amount computed pursuant to paragraph 6 shall be deposited in the Construction Fund.

If the Prepayment Amount is insufficient to redeem Bonds in \$5,000 increment of Bonds, 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, the City 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 Special Taxes, net of Administrative Expenses, that may be levied on Taxable Property within CFD No. 5 both prior to and after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Bonds.

Tenders of Bonds in prepayment of Special Taxes may be accepted upon the terms and conditions established by the City Council pursuant to the Act. However, the use of Bond tenders shall only be allowed on a case-by-case basis as specifically approved by the City Council.

2. Prepayment in Part

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The Maximum Annual Special Tax obligation of an Assessor's Parcel may be partially prepaid. The amount of the prepayment shall be calculated as in Section G.1; except that a partial prepayment shall be calculated according to the following formula:

$$PP = (P_E \times F) + A$$

These terms have the following meaning:

- PP = the partial prepayment
- P_E = the Prepayment Amount calculated according to Section G.1, minus Prepayment Fees and Expenses pursuant to paragraph 10.
- F = the percent by which the owner of the Assessor's Parcel(s) is partially prepaying the Maximum Annual Special Tax obligation.
- A = the Prepayment Fees and Expenses pursuant to paragraph 10 of Section G.1.

The owner of an Assessor's Parcel who desires to partially prepay the Maximum Annual Special Tax obligation shall notify the CFD Administrator in writing of: (i) such owner's intent to partially prepay the Maximum Annual Special Tax obligation, (ii) the percentage by which the Maximum Annual Special Tax obligation shall be prepaid, and (iii) the company or agency that will be acting as the escrow agent, if applicable. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Maximum Annual Special Tax obligation for an Assessor's Parcel within 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 paragraph 16 of Section G.1, and (ii) indicate in the records of CFD No. 5 that there has been a partial prepayment of the Maximum Annual Special Tax obligation and that a portion of the Maximum Annual Special Tax obligation equal to the outstanding percentage (1.00 - F) of the remaining Special Tax obligation shall continue to be authorized to be levied on such Assessor's Parcel pursuant to Section D.

H. TERM OF SPECIAL TAX

For each Fiscal Year, or portion thereof, that any Bonds are Outstanding Bonds the Special Tax shall be levied on all Assessor's Parcels subject to the Special Tax. The Special Tax shall cease not later than the 2046-47 Fiscal Year, however, the Special Tax 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. 5 Bonds have been paid; (ii) all Authorized Facilities have been acquired and all reimbursements to the developer have been paid, (iii) no delinquent Maximum Annual Special Taxes remain uncollected and (iv) all other obligations of CFD No. 5 have been satisfied.

I. APPEALS

Any landowner who feels that the amount of the Special Tax levied on their Assessor's Parcel is in error may submit a written appeal to CFD No. 5. The CFD Administrator shall review the

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appeal and if the CFD Administrator concurs, the amount of the Special Tax levied shall be appropriately modified. If the CFD Administrator's decision requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the landowner, a cash refund will not be made (except for the last year of the levy), but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s). The City Council may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner appeals. Any decision of the City Council shall be final and binding as to all persons.