

**RESOLUTION NUMBER 4523**

**A RESOLUTION OF CHANGE OF THE CITY COUNCIL OF THE CITY OF PERRIS AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA) OF THE CITY OF PERRIS, REVISED, CHANGING THE BOUNDARIES AND SPECIAL TAXES, AND AUTHORIZING THE REVISED DISTRICT TO INCUR BONDED INDEBTEDNESS IN AN AMOUNT NOT TO EXCEED \$5,000,000**

**WHEREAS**, the City Council (“Council”) of the City of Perris, California (“City”), has heretofore adopted its Resolution Number 2320 (“Resolution of Formation”) on October 25, 1993, forming Community Facilities District 93-2 (Perris Plaza) of the City of Perris (“Original District”); and

**WHEREAS**, the Council has heretofore adopted its Resolution Number 4490 (“Resolution of Consideration”) on May 8, 2012, considering proposing certain changes within the Original District, including (i) changes to the Original District’s boundaries, (ii) changes to the special tax (“Special Tax”) and the rate and method of apportionment of the tax, and (iii) establishing an appropriations limit of \$5,000,000 (collectively, “Changes”), all pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (“Act”) being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California; and,

**WHEREAS**, the changed name of the Original District shall be Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised (“Revised District”); and

**WHEREAS**, a copy of the Resolution of Consideration, incorporating the Changes within the Revised District, including the revised boundaries of the Revised District, attached thereto as Exhibit A, the revised Rate and Method of Apportionment of Special Tax, attached thereto as Exhibit C, the types of facilities to be refinanced, attached thereto as Exhibit B, and the appropriations limit, is on file with the City Clerk and incorporated herein by this reference; and

**WHEREAS**, the Changes are subject to, and shall not be implemented without, the issuance of refunding bonds (“Refunding Bonds”) by the Revised District to refinance and/or cancel the Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris Special Tax Bonds, 1995 Series A (“93-2 Bonds”), which were issued in 1995; and

**WHEREAS**, a copy of the Resolution No. 4491, entitled the Resolution of Intention of the City Council of the City of Perris to Incur Bonded Indebtedness in the Amount of not to Exceed \$5,000,000 within Proposed Revised Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris, Revised, to Refinance CFD 93-2 (Perris Plaza) of the City of Perris, 1995 Series A, Special Tax Bonds (“Resolution of Intention”), adopted on May 8, 2012, describing the bonded indebtedness to be incurred in the Revised District is on file with the City Clerk and incorporated herein by this reference; and

**WHEREAS**, pursuant to Section 53332 of the Act, the City Council has heretofore received a request from the landowners (“Owners”) of at least 25 percent of the property within the Original District, requesting the Changes; and

**WHEREAS**, a report by each City officer who is or will be responsible for the Revised District (“Report”), has been filed with the Council; and

**WHEREAS**, the Resolution of Consideration set June 12, 2012, as the date of the public hearings on the changes within the Original District, constituting the Revised District; and

**WHEREAS**, on June 12, 2012, this Council held noticed hearings as required by law related to the proposed Changes to the Original District; and,

**WHEREAS**, at said public hearings, all persons within the Revised District and not exempt from the Special Tax desiring to be heard on all matters pertaining to the Changes were heard and full and fair hearings were held; and

**WHEREAS**, at said hearings evidence was presented to the Council on said matters before it, and this Council at the conclusion of said hearings was fully advised in the premises; and

**WHEREAS**, pursuant to Section 53337 of the Act, the proposed Changes have not been precluded by protest of one-half or more of the registered voters residing within the Revised District, or six registered voters, whichever is more, or the owners of one-half (1/2) or more of the area of land within the territory included in the Revised District and not exempt from the Special Taxes; and,

**WHEREAS**, pursuant to Section 53326(b), the Council determined that there were not at least twelve (12) persons registered to vote within the territory of the proposed Revised District for each of the ninety (90) days preceding the close of the protest hearing and therefore the vote is by landowners within the Revised District; and,

**WHEREAS**, following such public hearings, this Council adopted Resolution No. 4510, entitled Resolution of the City Council of the City of Perris as the Legislative Body of Community Facilities District No. 93-2 (Perris Plaza) of the City of Perris Approving of the Revised Boundaries, Special Taxes and Determining the Necessity to Incur Bonded Indebtedness in an Amount not to Exceed \$5,000,000 within the Revised District; and Calling a Special Election in Connection Therewith (“Resolution Calling Special Elections”), setting the election date for October 9, 2012; and

**WHEREAS**, on October 9, 2012, an election in the Revised District on the proposition identified in the Resolution Calling Special Elections was duly held; and

**WHEREAS**, following such elections, this Council adopted its Resolution No. 4422 declaring results of the special election, wherein this Council determined that the proposition within the Revised District was approved by more than two-thirds (2/3) of the qualified electors within the Revised District (“Resolution Declaring Results”).

***NOW, THEREFORE, BE IT RESOLVED***, by the City Council of the City of Perris, acting as the Legislative Body of Community Facilities District No 93-2 (Perris Plaza) of the City of Perris, Revised, as follows:

***Section 1.*** That the above recitals are all true and correct.

***Section 2.*** Pursuant to Section 53325.1, 53332 and 53338 of the Government Code, the Council finds and determines that the proceedings prior hereto were valid and in conformity with the requirements of the Act including, without limitation, the following:

- A. Filing of a petition of the majority landowner requesting institution of change proceedings to the Original District;
- B. Adoption of a Resolution of Consideration regarding the Changes to the Original District;
- C. Adoption of a Resolution of Intention to Incur Bonded Indebtedness in an amount not to exceed \$5,000,000 within the Revised District;
- D. Publication and mailing of notice of public hearings or waiver thereof on the changes to the Original District and of the proposed debt issue;
- E. Conducting of public hearings on the changes to the Original District, the proposed public facilities and the incurring of the proposed debt, at which time all interested persons or taxpayers not exempt from the Special Tax within the Original District were permitted to protest orally or in writing against the changes to the Original District, were permitted to file written protests to the regularity or sufficiency of the proceedings, and any person interested, including persons owning property within the Revised District, were permitted to appear and present any matters material to the questions set forth in the Resolution of Intention to Incur Bonded Indebtedness and Resolution of Consideration.
- F. Compliance with all election proceedings, publication requirements, notice requirements, and any other requirements under applicable law.
- G. Adoption of a Resolution Calling Special Elections.
- H. Holding of Special Elections within the Revised District on the proposition approving the Changes.
- I. Adoption of the Resolution Declaring Results.

**Section 3.** The Report was approved and was made a part of the record of the hearing.

**Section 4.** Pursuant to Sections 53330.5 of the Act, the City Clerk is hereby directed, upon the issuance of the Refunding Bonds and the refinancing or cancellation of the 93-2 Bonds, to promptly cease to collect special taxes on the property excluded from the Revised District, and to record a notice of cessation of lien on the property excluded from the Revised District, pursuant to Section 12 of this Resolution.

**Section 5.** The description and map of the boundaries of the Revised District on file in the City Clerk's office has been recorded in the Office of the County Recorder of Riverside County, California as Document No. 2012-0249028 in Book 75, Page 60 of the Books of Maps of Assessment and Community Facilities Districts.

**Section 6.** The type of public facilities and fees ("Facilities") authorized to be refinanced within the Revised District include public infrastructure facilities and other governmental facilities with an estimated useful life of five years or longer, which the City, or other public agency is authorized by law to construct, acquire, own, operate or contribute revenue to. The Council has previously pursuant to Resolution No. 2309 on September 20, 1993, made numerous findings with respect to the Facilities and Incidental Expenses, and special taxes including that the proposed Facilities are necessary to meet increased demands placed upon the City, or other public agency as a result of development occurring within the 93-2 District and that the Facilities need not be physically located within the District.

**Section 7.** Except where funds are otherwise available, there shall be levied annually in accordance with procedures contained in the Act a Special Tax within the Revised District sufficient to pay for the costs of refinancing the acquisition and/or construction of the Facilities and Incidental Expenses by refunding the 93-2 Bonds, including the principal and interest and other periodic costs of said Refunding Bonds or other indebtedness proposed to be issued to refinance the Facilities and Incidental Expenses, the establishment and replenishment of reserve funds, the credit enhancement fees, if any, the costs of administering the levy and collection of the Special Tax and all other costs of the levy of the Special Tax and issuance of the bonds, including any foreclosure proceedings, legal, fiscal, and financial consultant fees, discount fees, interest on bonds, election costs and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, disclosure counsel, financing consultants and printing costs, and all other administrative costs of the tax levy and bond issue. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the Revised District and will be annually levied with the Revised District, subject to the 93-2 Bonds being redeemed or cancelled by the Refunding Bonds ("Conditions"). In the first year in which such a Special Tax is levied, the levy shall include a sum sufficient to repay to the City all amounts, if any, transferred to the Revised District pursuant to Section 53314 of the Act and interest thereon, if any. The schedule of the rate and method of apportionment and manner of collection of the Special Tax within the Revised District is included in Exhibit "A" attached hereto and by this reference incorporated herein. The Special Tax is based upon the cost of refinancing the Facilities and Incidental Expenses, and such other reasonable basis permitted pursuant to the Act and prior approvals, and has been revised pursuant to the Report.

**Section 8.** The Special Tax within the Revised District is apportioned to each parcel on the foregoing basis pursuant to the Act. In the event that a portion of the property within the Revised District shall become for any reason exempt, wholly or partially, from the levy of the Special Tax, the Council shall, on behalf of the Revised District, increase the levy to the extent necessary upon the remaining property within the District which is not delinquent or exempt in order to yield the required payments, subject to the maximum tax. If special taxes of the Revised District are levied against any parcel used for private residential purposes, (i) the maximum special tax rate shall not be increased over time except that it may be increased by an amount not to exceed two percent (2%) per year to the extent permitted in the rate and method of apportionment; (ii) such tax shall be levied for a period not to exceed fourteen (14) years commencing with the fiscal year following the refunding or cancellation of the 93-2 Bonds, no earlier than Fiscal Year 2013/14, as further described in Exhibit "A" hereto; and (iii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcels within the District by more than ten percent (10%) as required by the Act. The Special Tax to be levied within the Revised District shall not commence until the Conditions are met.

**Section 9.** The Special Tax within the Revised District is based on the expected demand that each parcel of real property within the Revised District will place on the Facilities, on the benefit that each parcel derives from the right to access the Facilities, and on other factors. The Council hereby determines the rate and method of apportionment of the Special Tax set forth in Exhibit "A" to be reasonable. The Special Tax within the Revised District is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such Special Tax is not based upon the value or ownership of real property. In the event that a portion of the property within the Revised District shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified on Exhibit "A", the Council shall, on behalf of the Revised District, cause the levy to be increased, subject to the limitation of the maximum Special Tax for a parcel as set forth in Exhibit "A" and described above in Section 7, to the extent necessary upon the remaining property within the Revised District which is not delinquent or exempt in order to yield the Special Tax revenues required for the purposes described herein. The obligation to pay Special Taxes may be prepaid as set forth in Exhibit "A."

**Section 10.** Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the Council hereby establishes the following accountability measures pertaining to the levy by the Revised District of the Special Tax as described in Section 7 above:

- A. Such Special Tax within the Revised District shall be levied for the specific purposes set forth in Section 6 hereof.
- B. The proceeds of the levy of such Special Tax within the Revised District shall be applied only to the specific purposes set forth in Section 6 hereof.
- C. The Revised District shall establish an account or accounts into which the proceeds of such Special Tax shall be deposited.

- D. The City Manager, Assistant City Manager or Finance Director, or his or her designee, acting for and on behalf of the Revised District, shall annually file a report with the Council as required pursuant to Government Code Section 50075.3.

**Section 11.** Pursuant to Section 3117.5 of the Streets and Highways Code, upon adoption of this Resolution, the City Clerk shall record the amended notice of special tax lien (“Amended Notice of Special Tax Lien”) pursuant to the procedures set forth under Section 3114.5 of the Streets and Highways Code. Once recorded, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the Revised District, subject to the Conditions, and this lien shall continue in force and effect until the Special Tax obligation is prepaid or otherwise permanently satisfied and the lien cancelled in accordance with law or until collection of the Special Tax by the Revised District ceases.

**Section 12.** Subject to the occurrence of the Conditions, the Notice of Special Tax Lien with respect to the Revised District (“Amended Lien”) described therein shall supersede Document No. 142933, recorded on May 5, 1995, (“Original Lien”), as such Original Lien applies to the Revised District, and the City Clerk is hereby authorized to take whatever action is necessary to effectuate the purposes of this Section. The Amended Lien may relate back to the date of the Original Lien. In no event shall the Amended Lien supersede the Original Lien unless and until the Conditions occur.

**Section 13.** As per the original approval, the Council finds that the Facilities are necessary to meet the increased demand put upon the City as a result of the development within the Revised District.

**Section 14.** The Council finds that there is not an *ad valorem* property tax currently being levied on property within the District for the exclusive purpose of paying principal of or interest on bonds or other indebtedness incurred to finance construction of capital facilities which provide the same services to the territory of the District of District as provided by the Facilities.

**Section 15.** An appropriation limit for the Revised District is approved and established pursuant to the election at \$5,000,000.

**Section 16.** Pursuant to Section 53338(b) of the Government Code, the Council finds and determines that the new Special Taxes and Changes within the Revised District are lawfully authorized.

**Section 17.** The Office of the City Manager, Assistant City Manager or Finance Director, 101 North “D” Street, Perris, California or its designee is designated to be responsible for preparing annually a current roll of Special Tax levy obligations by assessor’s parcel number and for estimating future Special Tax levies within the Revised District pursuant to 53340.2 of the Government Code.

**Section 18.** Upon issuance of the Refunding Bonds, an account shall be established into which the proceeds of said Refunding Bonds shall be deposited.

***ADOPTED, SIGNED and APPROVED*** this 9th day of October, 2012.

---

Mayor, Daryl R. Busch

ATTEST:

---

City Clerk, Judy L. Haughney, CMC

STATE OF CALIFORNIA    )  
COUNTY OF RIVERSIDE    ) §  
CITY OF PERRIS            )

I, Judy L. Haughney, CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4523 was duly and regularly adopted by the City Council the City of Perris at a regular meeting held on the 9<sup>th</sup> day of October, 2012, by the following called vote:

AYES: EVANS, ROGERS, YARBROUGH, LANDERS, BUSCH

NOES:

ABSENT:

ABSTAIN:

---

City Clerk, Judy L. Haughney, CMC

## EXHIBIT A

---

# COMMUNITY FACILITIES DISTRICT NO. 93-2 (PERRIS PLAZA), OF THE CITY OF PERRIS, REVISED

## RATE AND METHOD OF APPORTIONMENT

---

A Special Tax shall be levied on all Taxable Property within the boundaries of Community Facilities District No. 93-2 (Perris Plaza), Revised City of Perris, (“CFD No. 93-2, Revised”) and collected according to the tax liability determined by the Council, through the application of this Rate and Method of Apportionment of the Special Tax to the extent and in the manner herein provided.

### 1. DEFINITIONS

“**Acreage**” or “**Acre**” 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. An Acre means 43,560 square feet of land.

“**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California.

“**Administrative Fees**” or “**Administrative Expenses**” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 93-2, Revised including, but not limited to the costs associated with:

- (i) Computing the Special Taxes;
- (ii) Preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both);
- (iii) Collecting the Special Taxes (whether by the City, the County or otherwise);
- (iv) Remitting the Special Taxes to the Trustee;
- (v) 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. 93-2, Revised, or any designee thereof complying with arbitrage rebate requirements, including without limitation rebate liability costs and periodic rebate calculations;
- (vi) Complying with disclosure or reporting requirements of the City or CFD No. 93-2, Revised, associated with applicable federal and State laws (whether by the City, CFD No. 93-2, Revised, or any designee thereof);
- (vii) Preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes;
- (viii) The appeal of the Special Tax; and
- (ix) 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. 93-2, Revised for any other administrative purposes of CFD No. 93-2, Revised,

including attorney's fees and other costs related to commencing and pursuing any foreclosure of delinquent Special Taxes.

**"Assessor"** means the Assessor of the County.

**"Assessor's Parcel"** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

**"Assessor's Parcel Map"** means an official map of the Assessor designating parcels by Assessor's Parcel Number.

**"Assessor's Parcel Number"** means the number assigned to an Assessor's Parcel by the County for purposes of identification.

**"Bonds"** means any bonds or other indebtedness (as defined in the Act) of CFD No. 93-2, Revised, whether in one or more series, secured by the levy of Special Taxes, beginning with Bonds issued to refund the Prior Bonds by the Original CFD 93-2.

**"CFD No. 93-2, Revised" or "CFD"** means Community Facilities District No. 93-2 (Perris Plaza), Revised of the City of Perris, Revised 2012.

**"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, and as required, calculating prepayment of Special Tax Obligation amounts.

**"City"** means the City of Perris, California.

**"Conditions"** means that CFD 93-2, Revised has been formed, the Notice of Special Tax Lien has been recorded, and the Prior Bonds have been defeased by the Bonds.

**"Council"** means the City Council of the City acting as the legislative body of CFD No. 93-2, Revised under the Act.

**"County"** means the County of Riverside, California.

**"Debt Service"** means for each Fiscal Year, the total amount of principal and interest payable on any Outstanding Bonds during the calendar year commencing on January 1 of such Fiscal Year.

**"Delinquency Management Fund"** means the fund (regardless of its name), if any, established pursuant to the Indenture, to hold certain funds, not including bond proceeds, for the payment of principal and interest on the Bonds to the extent there are insufficient funds to pay principal and interest on the Bonds prior to any draw on the reserve fund. The Delinquency Management Fund Requirement (as defined in the Indenture) shall be an amount as defined in the Indenture.

**“Developed Property”** means for each Fiscal Year, all Taxable Property, for which a building permit for new construction or renovations was issued prior to April 1 of the previous Fiscal Year. All Taxable Property in Zone B shall be considered Developed Property.

**“Exempt Property”** means Assessor’s Parcels designated as being exempt from Special Taxes pursuant to Section 7.

**“Fiscal Year”** means the period starting on July 1 and ending 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.

**“Maximum Special Tax”** means the greatest amount of Special Tax, determined in accordance with Section 3 below, which may be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

**“Original CFD 93-2”** means Community Facilities District No. 93-2, Revised (Perris Plaza) of the City of Perris formed by adoption of Resolution No. 2320 on October 25, 1993, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California.

**“Outstanding Bonds”** mean all Bonds, which are deemed to be outstanding under the Indenture.

**“Prior Bonds”** means the outstanding Community Facilities District No 93-2; Revised (Perris Plaza) of the City of Perris, 1995 Series A, Special Tax Bonds dated March 10, 1995.

**“Proportionately” or “Proportionate”** means for Developed Property, that the ratio of the actual Special Tax levy to the Maximum 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. The term “Proportionately” may similarly be applied to other categories of Taxable Property as listed in Section 4 below.

**“Special Tax”** means any special tax levied within CFD No. 93-2, Revised pursuant to the Act and this Rate and Method of Apportionment.

**“Special Tax Obligation”** means the total obligation of an Assessor’s Parcel of Taxable Property to pay the Special Tax for the remaining life of CFD No. 93-2, Revised.

**“Special Tax Requirement”** means that amount required in any Fiscal Year to:

- (i) Pay regularly scheduled Debt Service on all Outstanding Bonds;
- (ii) Pay periodic costs on the Outstanding Bonds, including but not limited to, credit enhancement and rebate payments on the Outstanding Bonds;

- (iii) Pay Administrative Fees and Administrative Expenses;
- (iv) Pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds;
- (v) Pay for reasonably anticipated delinquent Special Taxes;
- (vi) Pay any amounts required to establish or replenish the Delinquency Management Fund; provided said amounts do not exceed any amount permitted under the Act.

“**State**” means the State of California.

“**Successor Assessor Parcel(s)**” means an Assessor Parcel created by subdivision, lot line adjustment, or parcel map originating from Assessor Parcel No. 305-240-023 or any of its Successor Assessor Parcel(s).

“**Taxable Property**” means all of the Assessor's Parcels within the boundaries of CFD No. 93-2, Revised, which are not exempt from the levy of the Special Tax pursuant to law or Section 7 below.

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

“**Undeveloped Property**” means, for each Fiscal Year, all Taxable Property within the boundaries of CFD No. 93-2, Revised not classified as Developed Property.

“**Zone A**” means all other property within CFD No. 93-2, Revised not designated as Zone B.

“**Zone B**” means Assessor Parcel Number 305-240-023 or its Successor Assessor Parcel Number(s). All property in Zone B is classified as Developed Property.

## **2. LAND USE CLASSIFICATION**

Each Fiscal Year, all Taxable Property within CFD No. 93-2, Revised shall be classified as Developed Property or Undeveloped Property, and all such Taxable Property shall be subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment determined pursuant to Sections 3 and 4 below.

**3. MAXIMUM SPECIAL TAX RATES**

**A. Developed Property**

The Maximum Special Tax applicable to an Assessor's Parcel classified as Developed Property shall be determined pursuant to Table 1 for Zone A and Zone B below.

**Table 1**

| <b>Zone</b> | <b>Maximum Special Tax</b> |
|-------------|----------------------------|
| A           | \$28,104 per Acre          |
| B           | \$16,570 per Acre          |

**B. Undeveloped Property**

The Maximum Special Tax applicable to an Assessor's Parcel classified as Undeveloped Property shall be determined pursuant to Table 2 for Zone A and Zone B below.

**Table 2**

| <b>Zone</b> | <b>Maximum Special Tax</b> |
|-------------|----------------------------|
| A           | \$8,860 per Acre           |
| B           | N/A                        |

**4. METHOD OF APPORTIONMENT**

For each Fiscal Year the CFD Administrator 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 Proportionately on each Assessor's Parcel of Developed Property in Zone B in an amount equal to 100% of the Maximum Special Tax;

Second: The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property in Zone A in an amount up to 100% of the Maximum Special Tax as necessary to satisfy the Special Tax Requirement;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps has been completed, the Special Tax shall be levied Proportionately on

each Assessor's Parcel of Zone A Undeveloped Property up to 100% of the Maximum Special Tax.

## 5. COLLECTON OF SPECIAL TAXES

The collection of Special Taxes for CFD No. 93-2, Revised shall commence upon the Fiscal Year following the issuance of Bonds, however no sooner that Fiscal Year 2013/14 and only upon the Conditions being met. Collection of the Special Tax shall be by the County in the same manner as ordinary ad valorem property taxes are collected and the Special Tax shall be subject to the same penalties and the same lien priority in the case of delinquency as ad valorem taxes; provided, however, that the Council may provide for (i) other means of collecting the Special Tax, including direct billings thereof to the property owners; and (ii) judicial foreclosure of delinquent Special Taxes.

## 6. PREPAYMENT OF SPECIAL TAX OBLIGATION

Property owners may prepay and permanently satisfy the Special Tax Obligation by a cash settlement with the City as permitted under Government Code Section 53344.

The "Prepayment" shall be an amount equal to the sum of (1) Principal, (2) Premium, (3) Defeasance, and (4) Fees minus the Reserve Fund Credit, where the terms "Principal," "Premium," "Defeasance," "Fees," and "Reserve Fund Credit," have the following meanings:

**"Principal"** means the principal amount of Bonds to be redeemed from the proceeds of such Prepayment and equals the quotient derived by dividing (a) the applicable Maximum Special Tax for the applicable Assessor's Parcel by (b) the projected aggregate Maximum Special Taxes as determined by the CFD Administrator assuming in such calculation that the Assessor Parcel(s) which is prepaying the Special Tax Obligation are classified as Developed Property (and excluding from (b) any Special Taxes for Assessor's Parcels which have fully prepaid the Special Tax), and (c) multiplying the quotient by the principal amount of Bonds outstanding as of the first interest and/or principal payment date following the current Fiscal Year. This result is then rounded up to the nearest \$5,000 increment.

**"Premium"** means an amount equal to the Principal multiplied by the applicable redemption premium, if any, for the Bonds so redeemed with the proceeds of any such Prepayment.

**"Defeasance"** means an amount equal to the amount needed to pay interest on the Principal to be redeemed until the earliest redemption date as determined by the CFD Administrator for the outstanding Bonds less the amount that is estimated by the CFD Administrator to be received from the reinvestment of the difference of the Prepayment and the Fees. Credit shall also be given for any Special Tax heretofore paid and which will not be needed for purposes of funding the current Fiscal Year's Special Tax Requirement.

**"Fees"** equal the fees and expenses of CFD No. 93-2, Revised related to the

Prepayment, including but not limited to City Administrative Expenses, publishing fees, and bond call fees.

**“Reserve Fund Credit”** shall equal the lesser of (i) the expected reduction in the applicable reserve fund requirement (as defined in the Indenture), if any, following the redemption of Bonds from proceeds of the prepayment or (ii) the amount derived by subtracting the new reserve fund requirement in effect after the redemption of Bonds from the balance in the reserve fund (as such term is defined in the Indenture) on the prepayment date, but in no event shall such amount be less than zero.

The sum of the amounts calculated in the preceding steps shall be paid to CFD No. 93-2, Revised and shall be used to pay and redeem Bonds in accordance with the Indenture and to pay the Fees. Upon receipt of such Prepayment by CFD No. 93-2, Revised, the obligation to pay the Special Tax for such Assessor's Parcel shall be deemed to be permanently satisfied, the Special Tax shall not be levied thereafter on such Assessor's Parcel, and the CFD Administrator shall cause notice of cancellation of the Special Tax for such Assessor's Parcel to be recorded within 30 working days of receipt of the Prepayment.

Notwithstanding the foregoing, no Prepayment shall be allowed unless the amount of Special Taxes that may be levied pursuant to this Rate and Method of Apportionment after the proposed Prepayment is at least the sum of (i) the estimated Administrative Expenses, based on the average annual Administrative Expenses to date, and (ii) one hundred ten percent (110%) of the maximum annual Debt Service for the Bonds, taking into account the Bonds to remain outstanding after such Prepayment.

## **7. EXEMPTIONS**

The CFD Administrator shall classify as Exempt Property (i) Assessor's Parcels owned by the State of California, Federal or other local governments, (ii) Assessor's Parcels which are used as places of worship and are exempt from ad valorem property taxes because they are owned by a religious organization, or (iii) Assessor's Parcels with public utility easement by the restriction, as determined reasonably by the CFD Administrator.

The Special Tax Obligation for any property which would be classified as Exempt Property upon its transfer or dedication to a public agency but which is classified as Developed Property shall be prepaid in full by the seller pursuant to Section 6 prior to the transfer/dedication of such property to such public agency. Until the Special Tax Obligation for any such Exempt Property is prepaid, the property shall continue to be subject to the levy of the Special Tax.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in the first paragraph of Section 7 above 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 deemed to be Taxable Property.

## **8. APPEALS**

Any property owner who pays the Special Tax and claims the amount of the Special Tax levied on his or her Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error not later than twelve months after first having paid the first installment of the Special Tax that is disputed. If following such consultation, the CFD Administrator determines that an error has occurred, the CFD Administrator may amend the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action, if any by the CFD Administrator, the property owner believes such error still exists, such person may file a written notice with the City Manager or designee of the City appealing the amount of the Special Tax levied on such Assessor's Parcel. Upon the receipt of such notice, the City Manager or designee may establish such procedures as deemed necessary to undertake the review of any such appeal. The City Manager or designee thereof shall interpret this Rate and Method of Apportionment and make determinations relative to the administration of the Special Tax and any landowner appears are herein specified. The decision of the City Manager or designee shall be final and binding as to all persons.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to CFD No. 93-2, Revised.

#### **9. TERM OF SPECIAL TAX**

The Special Tax shall be levied annually until Fiscal Year 2026-2027.