

**RATE AND METHOD OF APPORTIONMENT  
OF THE SPECIAL TAX  
FOR COMMUNITIES FACILITIES DISTRICT NO. 8  
OF THE POWAY UNIFIED SCHOOL DISTRICT  
(IMPROVEMENT AREA A)**

588

Special taxes shall be levied on and collected in Improvement Area A ("IA A") of Community Facilities District No. 8 ("CFD No. 8") of the Poway Unified School District (the "School District") in amounts to be determined through the application of this Rate and Method of Apportionment of the Special Tax ("RMA"). All of the real property in CFD No. 8, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

**SECTION A  
DEFINITIONS**

The terms hereinafter set forth have the following meanings:

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

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

**"Administrative Expenses"** means any ordinary and necessary expense incurred by the School District on behalf of IA A related to the determination of the amount of the levy of special taxes, the collection of special taxes including the expenses of collecting delinquencies, the administration of Bonds, the cost of complying with disclosure requirements of applicable federal and state security laws and the Act, the costs of the appropriate allocable share of salaries and benefits of any School District employee whose duties are directly related to the administration of IA A, and costs otherwise incurred in order to carry out the authorized purposes of IA A.

**"Affordable Unit"** means a Unit that (i) is either (a) located or shall be located within a building in which each of the individual Units has or shall have at least one common wall with another Unit or (b) is a Companion Unit and (ii) is subject to affordable housing restrictions under any applicable law.

**"Annual Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property, pursuant to Section F.

**"Annual Special Tax Requirement"** means the amount required in any Fiscal Year to pay: (i) the debt service on all Bonds or other indebtedness or other periodic costs on the Bonds or other indebtedness of IA A, (ii) the cost of acquisition, construction, financing or equipping of future Facilities, (iii) Administrative Expenses, (iv) the costs associated with the release of funds from an escrow account, (v) any amount required to establish or replenish any reserve funds established in association with the Bonds or other indebtedness of IA A, (vi) lease payments for existing or future Facilities, (vii) the accumulation of funds reasonably required for future debt service of Bonds and (viii) any other payments required by law.

"**Assessor's Parcel**" means a lot or parcel of land designated on 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.

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

"**Assigned Annual Special Tax**" means the special tax applicable to an Assessor's Parcel of Developed Property or Undeveloped Property determined pursuant to Section E below.

"**Assistant Superintendent**" means the Assistant Superintendent, Business Support Services of the School District or his/her designee.

"**Attached Unit**" means a Unit that (i) is located or shall be located within a building in which each of the individual Units has or shall have at least one common wall with another Unit and (ii) is not an Affordable Unit or a Senior Citizen Unit.

"**Board**" means the Board of Education of the School District or its designee.

"**Bonds**" means any obligation to repay a sum of money, including obligations in the form of bonds, notes, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts, or any refunding thereof, which obligation may be incurred by IA A.

"**Building Permit**" means a permit for construction of a residential or non-residential structure. For purposes of this definition, "Building Permit" shall not include permits for construction or installation of utility improvements, retaining walls, parking structures or other such improvements not intended for human habitation or commercial/industrial use.

"**Building Square Footage**" or "**BSF**" means, for an Assessor's Parcel of Residential Property, the square footage of internal living space, exclusive of garages or other structures not used as living space, as determined by reference to the building permit application for such Assessor's Parcel.

"**Calendar Year**" means the period commencing on January 1 and ending the following December 31.

"**CFD No. 8**" means Community Facilities District No. 8 established by the School District under the Act.

"**Commercial/Industrial Property**" means all Assessor's Parcels of Developed Property other than Residential Property.

"**Companion Unit**" means a Unit of the type defined at page 5 of Exhibit "F" to the Phase I Development Agreement.

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

**"Detached Unit"** means a Unit which is not an Attached Unit, an Affordable Unit, or a Senior Citizen Unit.

**"Developed Property"** means all Assessor's Parcels of Taxable Property for which Building Permits were issued as of January 1 of the prior Fiscal Year.

**"Escalation Termination Date"** means the date on which all of the Permanent Facilities become completely funded.

**"Exempt Property"** means the property designated as being exempt from special taxes in Section J.

**"Facilities"** means those school facilities (including land) and other facilities which the School District is authorized by law to construct, own or operate and which would service the properties within CFD No. 8.

**"Final Map"** means (i) that portion of a final tract map, parcel map, lot line adjustment, or functionally equivalent map or instrument that creates individual lots for which Building Permits could be issued or (ii) for condominiums, a Final Map and a condominium plan recorded pursuant to California Civil Code Section 1352 creating such individual lots. The term "Final Map" shall not include any parcel map or subdivision map or a portion thereof that does not create individual lots for which a Building Permit may be issued. The term "Final Map" shall not include an interim final map or parcel map approved pursuant to provisions of law authorizing or permitting subdivision of land subject to restrictions requiring further subdivision before Building Permits may be issued.

**"Fiscal Year"** means the period commencing on July 1 of any year and ending the following June 30.

**"Gross Floor Area" or "GFA"** means, for an Assessor's Parcel of Commercial/Industrial Property, the covered and enclosed space determined to be within the perimeter of a commercial or industrial structure, not including any storage areas incidental to the principal use of the development, garage, parking structure, unenclosed walkway, or utility or disposal area. The determination of Gross Floor Area shall be made by the Assistant Superintendent in accordance with the standard practice of the building department of the City.

**"Gross Prepayment Amount"** for any Assessor's Parcel means that gross prepayment amount determined by reference to Table 3 and adjusted as set forth in Section G.

**"Improvement Area A" or "IA A"** means the area identified as Improvement Area A on the Community Facilities District Map, attached hereto as Exhibit A.

**"Index"** means the Marshall & Swift Western Region Class D Wood Frame Index, or if the Marshall & Swift Western Region Class D Wood Frame Index ceases to be used by the State Allocation Board, a reasonably comparable index used by the State Allocation Board to estimate changes in school construction costs, or in the absence of such an index, the Engineering News Record, Construction Cost Index (Los Angeles Area) published by McGraw-Hill, Inc.

**"Inflator"** means the greater of (i) 2.00% or (ii) the percentage generated from the following equation:  $4.00\% \times 17.54\% + \Delta\text{Index} \times 82.46\%$ , where  $\Delta\text{Index}$  is the change in the Index as measured between the Index published in December of the prior Calendar Year and the Index published in December of the Calendar Year immediately preceding the prior Calendar Year.

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

**"One-Time Special Tax"** means the single payment special tax which shall be paid to IA A for each Assessor's Parcel of Undeveloped Property, determined pursuant to Section D.

**"Partial Prepayment Amount"** means the dollar amount required to prepay a portion of the Annual Special Tax obligation on any Assessor's Parcel, determined pursuant to Section H.

**"Permanent Facilities"** means all Facilities except interim relocatable classroom facilities and central administrative facilities.

**"Phase I Development Agreement"** means the "Second Amended and Restated Development Agreement between the City of San Diego and Black Mountain Ranch Limited Partnership Negotiated and Entered into Pursuant to City Council Policy 600-37 Adopted by the City Council on August 9, 1988 and as Amended on September 13, 1988," which agreement was approved by the City Council, by adoption of Ordinance No. 0-97-83, which ordinance became effective April 16, 1997, and which agreement was recorded in the official records of the County, June 30, 1997, as Document No. 1997-0307774.

**"Planning Area"** means any of the areas designated as a Planning Area on the Community Facilities District Map, attached hereto as Exhibit A.

**"Prepayment Amount"** means the dollar amount required to prepay all of the Annual Special Tax obligation on any Assessor's Parcel, determined pursuant to Section G.

**"Prepayment Ratio"** means, with respect to an Assessor's Parcel, for each series of Bonds, the ratio of (i) the Assigned Annual Special Tax or portion thereof applicable to the Assessor's Parcel at the time each such series of Bonds was issued and which was used in providing the minimum debt service coverage required to issue such series of Bonds, as reasonably determined by the Assistant Superintendent, to (ii) the sum of all the Assigned Annual Special Taxes used in providing the minimum debt service coverage required to issue such series of Bonds, as reasonably determined by the Assistant Superintendent.

**"Proportionately"** means that the ratio of the Annual Special Tax to the applicable special tax is the same for all applicable Assessor's Parcels.

**"Residential Property"** means all Assessor's Parcels of Developed Property for which the Building Permit was issued for the construction of one or more Units.

**"Senior Citizen Unit"** means a Unit designated as senior citizen housing, part of a residential care facility for the elderly, or part of a multi-level care facility for the elderly as referred to in California Government Code Section 65995.1. For purposes hereof, it shall be sufficient to

designate a Unit as a Senior Citizen Unit if Senior Citizen Restrictions have been effected with respect to such Unit.

"**Senior Citizen Restriction**" means (i) a restriction limiting the use of Units to senior citizen housing under specific plan, a final map or other governmental entitlements, or a declaration of covenants, conditions and restrictions or any similar recorded instrument or (ii) licensing from appropriate agencies received for residential care facilities for the elderly or multi-level care facilities as those terms are defined in Health and Safety Code Section 1569.2 and Government Code Section 15432(d)(9), respectively.

"**Taxable Property**" means all Assessor's Parcels within the boundaries of IA A which are not exempt from the special tax pursuant to law or Section J below.

"**Undeveloped Property**" means all Assessor's Parcels of Taxable Property for which no Building Permit was issued as of January 1 of the prior Fiscal Year.

"**Unit**" means each separate residential dwelling unit which comprises an independent facility capable of conveyance separate from adjacent residential dwelling units. Each Unit shall be classified as a Detached Unit, an Attached Unit, an Affordable Unit, or a Senior Citizen Unit.

## **SECTION B PROPERTY CLASSIFICATION**

For each Fiscal Year, beginning Fiscal Year 1998-99, each Assessor's Parcel in IA A shall be classified as an Assessor's Parcel of Taxable Property or Exempt Property. Each Assessor's Parcel of Taxable Property shall be further classified as Developed Property or Undeveloped Property. Each Assessor's Parcel of Developed Property shall be further classified as Residential Property or Commercial/Industrial Property. In addition, each Unit shall be classified as a Detached Unit, an Attached Unit, an Affordable Unit, or a Senior Citizen Unit.

## **SECTION C MAXIMUM SPECIAL TAX**

### **1. Developed Property**

In any Fiscal Year the Maximum Special Tax for each Assessor's Parcel of Residential Property shall be the sum of (i) any portion of the One-Time Special Tax not collected at the issuance of a Building Permit, which amount may be levied on such Assessor's Parcel when classified as Developed Property in any following Fiscal Year and (ii) the Assigned Annual Special Tax.

### **2. Undeveloped Property**

In any Fiscal Year the Maximum Special Tax for each Assessor's Parcel of Undeveloped Property shall be the sum of (i) the One-Time Special Tax and (ii) the Assigned Annual Special Tax.

**SECTION D  
ONE-TIME SPECIAL TAXES**

A One-Time Special Tax shall be collected for each Assessor's Parcel of Undeveloped Property prior to the time a Building Permit is issued for such Assessor's Parcel. The One-Time Special Tax shall be determined by reference to Table 1 below, subject to increase as described below.

**TABLE 1  
ONE-TIME SPECIAL TAX**

Property Type	Unit Type	One-Time Special Tax Calendar Year 1998
Residential	Detached	\$0.00 per Unit
Residential	Attached	\$0.00 per Unit
Residential	Affordable	\$0.00 per Unit
Residential	Senior Citizen	\$0.31 per BSF
Commercial/Industrial	NA	\$0.31 GFA

On each January 1 until the Escalation Termination Date, commencing January 1, 1999, the amount of the One-Time Special Tax shall be increased by the Inflator.

**SECTION E  
ASSIGNED ANNUAL SPECIAL TAX**

**1. Developed Property**

**a. Assigned Annual Special Tax for New Developed Property**

The Assigned Annual Special Tax for an Assessor's Parcel of Developed Property in the first Fiscal Year in which such Assessor's Parcel is classified as Developed Property shall be determined by reference to Table 2 below, subject to increase as described below.

**TABLE 2  
ASSIGNED ANNUAL SPECIAL TAX**

<b>Property Type</b>	<b>Unit Type</b>	<b>Assigned Annual Special Tax Fiscal Year 1998-99</b>
Residential	Detached	\$1,989.00 per Unit
Residential	Attached	\$856.57 per Unit
Residential	Affordable	\$856.57 per Unit
Residential	Senior Citizen	\$0.00 per BSF
Commercial/Industrial	NA	\$0.00 GFA

On each July 1 until the Escalation Termination Date, commencing July 1, 1999, the amount of the Assigned Annual Special Tax shall be increased by the Inflatior.

**b. Assigned Annual Special Tax for Existing Developed Property**

Each July 1, commencing the July 1 immediately following the Fiscal Year in which the Assessor's Parcel was first classified as Developed Property, the Assigned Annual Special Tax applicable to an Assessor's Parcel shall be increased by two percent (2.00%).

**2. Undeveloped Property**

The Assigned Annual Special Tax for Undeveloped Property shall be \$1,000 per acre of Acreage in Fiscal Year 1998-99. On each July 1, commencing July 1, 1999, the Assigned Annual Special Tax shall be increased by two percent (2.00%).

**SECTION F  
APPORTIONMENT OF ANNUAL SPECIAL TAXES**

Commencing Fiscal Year 1998-99 and for each subsequent Fiscal Year, the Assistant Superintendent shall determine the Annual Special Tax Requirement. Annual Special Taxes shall be levied as follows:

**First:** An Annual Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property up to the Assigned Annual Special Tax applicable to such Assessor's Parcel to satisfy the Annual Special Tax Requirement.

**Second:** If the sum of the amounts levied in the first step is less than the Annual Special Tax Requirement, an Annual Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to the Assigned Annual Special Tax applicable to such Assessor's Parcel to satisfy the Annual Special Tax Requirement.

**SECTION G**  
**PREPAYMENT OF ANNUAL SPECIAL TAXES**

If there are no delinquent special taxes, penalties, or interest charges outstanding with respect to an Assessor's Parcel, the Annual Special Tax obligation for such Assessor's Parcel may be prepaid in full at the issuance of a Building Permit for such Assessor's Parcel. An owner of an Assessor's Parcel intending to prepay the Annual Special Tax obligation shall provide CFD No. 8 with written notice of intent to prepay. Within thirty (30) days of receipt of such written notice, the Assistant Superintendent shall determine the Prepayment Amount of such Assessor's Parcel as described below and shall notify such owner of such Prepayment Amount.

**1. Bond Proceeds Allocation**

Prior to the calculation of any Prepayment Amount, a calculation shall be performed by the Assistant Superintendent to determine the amount of Bond proceeds that are allocable to the Assessor's Parcel for which the Annual Special Tax obligation is to be prepaid, if any. For purposes of this analysis, Bond proceeds shall equal the par amount of Bonds. For each series of Bonds, Bond proceeds of such series shall be allocated to each Assessor's Parcel in an amount equal to the Bond proceeds times the Prepayment Ratio applicable to such Assessor's Parcel for such series of Bonds. If, after such allocations, the amount of Bond proceeds allocated to the Assessor's Parcel for which the Annual Special Tax obligation is to be prepaid is less than the sum of the Gross Prepayment Amounts applicable to such Assessor's Parcel less the sum of all Partial Prepayment Amounts actually paid with respect to such Assessor's Parcel, then the Prepayment Amount for such Assessor's Parcel shall be calculated pursuant to Section G.2. Otherwise, the Prepayment Amount shall be calculated pursuant to Section G.3.

**2. Prepayment Amount for Assessor's Parcel with Allocation of Bonds Less than Applicable Gross Prepayment Amounts Less Partial Prepayment Amounts**

The Prepayment Amount for each Assessor's Parcel for which the Prepayment Amount is to be calculated pursuant to this Section G.2. shall be the sum of the Gross Prepayment Amounts applicable to such Assessor's Parcel, determined by reference to Table 3, subject to adjustment as described below, less the sum of all Partial Prepayment Amounts actually paid with respect to such Assessor's Parcel.

**TABLE 3  
GROSS PREPAYMENT AMOUNT  
CALENDAR YEAR 1998**

Property Type	Unit Type	Gross Prepayment Amount Calendar Year 1998
Residential	Detached	\$15,943.54 per Unit
Residential	Attached	\$6,866.12 per Unit
Residential	Affordable	\$6,866.12 per Unit
Residential	Senior Citizen	\$0.00 per Unit
Commercial/Industrial	NA	\$0.00 per GFA

On each January 1 until the Escalation Termination Date, commencing January 1, 1999, the Gross Prepayment Amounts shall be increased by the Inflator.

**3. Prepayment Amount for Assessor's Parcel with Allocation of Bonds Equal to or More than Applicable Gross Prepayment Amounts Less Partial Prepayment Amounts**

The Prepayment Amount for each Assessor's Parcel for which the Prepayment Amount is to be calculated pursuant to this Section G.3. shall be the amount calculated as shown below.

Bond proceeds allocated to Assessor's Parcel	
plus	A. Redemption Premium
plus	B. Defeasance
plus	C. Prepayment Fees and Expenses
less	D. Reserve Fund Credit
less	E. Regularly Retired Principal Credit
less	F. Partial Prepayment Credit
equals	Prepayment Amount

Detailed explanations of items A through F follow:

**A. Redemption Premium**

The Redemption Premium is calculated by multiplying (i) the principal amount of the Bonds to be redeemed with the proceeds of the Prepayment Amount by (ii) the applicable redemption premium, if any, on the Bonds to be redeemed.

**B. Defeasance**

The Defeasance is the amount needed to pay interest on the portion of the Bonds to be redeemed with the proceeds of the Prepayment Amount until the earliest call date of the Bonds to be redeemed, net of interest earnings

to be derived from the reinvestment of the Prepayment Amount until the redemption date of the portion of the Bonds to be redeemed with the Prepayment Amount. Such amount of interest earnings will be calculated reasonably by the Board.

C. Prepayment Fees and Expenses

The Prepayment Fees and Expenses are the costs of the computation of the Prepayment Amount and an allocable portion of the costs of redeeming Bonds and recording any notices to evidence the prepayment and the redemption, as calculated reasonably by the Board.

D. Reserve Fund Credit

The Reserve Fund credit, if any, shall be calculated as the reduction in the applicable reserve fund requirements resulting from the redemption of Bonds with the Prepayment Amount.

E. Regularly Retired Principal Credit

The Regularly Retired Principal Credit is the total regularly scheduled retirement of principal that has occurred with respect to the Assessor's Parcel. For purposes of this calculation, it shall be assumed that the Annual Special Taxes actually collected from each Assessor's Parcel in any Fiscal Year are applied *prorata* to the regularly scheduled principal payment on the outstanding Bonds in the immediately following Fiscal Year based on each Assessor's Parcel's share of the total Annual Special Taxes which are actually collected from all Taxable Property in the current Fiscal Year and are applied to such regularly scheduled principal payment in the immediately following Fiscal Year. In no event shall any amount of Annual Special Taxes determined to have been used to make a regularly scheduled principal payment on the Bonds be adjusted for any increase in any index or other basis subsequent to the date of the applicable principal payment.

F. Partial Prepayment Credit

Partial prepayments of the Annual Special Tax obligation occurring subsequent to the issuance of Bonds will be credited in an amount equal to the greatest amount of principal of the Bonds that could have been redeemed with the Partial Prepayment Amount(s), taking into account Redemption Premium, Defeasance, Prepayment Fees and Expenses, and Reserve Fund Credit, if any, but exclusive of restrictions limiting early redemption on the basis of dollar increments, i.e., the full amount of the Partial Prepayment Amount(s) will be taken into account in the calculation. The sum of all applicable partial prepayment credits is the Partial Prepayment Credit.

Notwithstanding any of the foregoing, no prepayment will be allowed unless the amount of Assigned Annual Special Taxes that may be levied on Taxable Property, net of Administrative Expenses, shall be at least 1.1 times the regularly scheduled annual interest and principal payments on all currently outstanding Bonds in each future Fiscal Year.

## SECTION H PARTIAL PREPAYMENT OF ANNUAL SPECIAL TAX

At the time a Final Map is recorded for any portion of any Planning Area, the owner filing said Final Map for recordation may concurrently elect to prepay a portion of the applicable Annual Special Tax obligation for all the Assessor's Parcels in such Planning Area. The owner of any Assessor's Parcel who desires such partial prepayment shall notify the Assistant Superintendent of (i) such owner's intent to partially prepay the Annual Special Tax obligation and (ii) the percentage by which the Annual Special Tax obligation shall be prepaid. The Assistant Superintendent shall provide the owner with a statement of the amount required for the partial prepayment of the Annual Special Tax obligation for an Assessor's Parcel within thirty (30) days of the request. The partial prepayment of the Annual Special Tax obligation for each such Assessor's Parcel shall be collected prior to the issuance of a Building Permit.

The Partial Prepayment Amount shall be calculated as follows:

$$PP = P_G \times F$$

These terms have the following meanings:

PP = the Partial Prepayment Amount

$P_G$  = the Prepayment Amount calculated according to Section G

F = the percent by which the owner of the Assessor's Parcel is partially prepaying the Annual Special Tax obligation

With respect to an Annual Special Tax obligation that is partially prepaid, the Assistant Superintendent shall indicate in the records of CFD No. 8 that there has been a partial prepayment of the Annual Special Tax obligation and shall cause a suitable notice to be recorded in compliance with the Act within thirty (30) days of receipt of such partial prepayment of the Annual Special Tax obligation to indicate the partial prepayment of the Annual Special Tax obligation and the partial release of the Annual Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay such prepaid portion of the Annual Special Tax obligation shall cease.

Notwithstanding any of the foregoing, no prepayment will be allowed unless the amount of Assigned Annual Special Taxes that may be levied on Taxable Property, net of Administrative Expenses, shall be at least 1.1 times the regularly scheduled annual interest and principal payments on all currently outstanding Bonds in each future Fiscal Year.

## SECTION I TERMINATION OF ANNUAL SPECIAL TAX

The Annual Special Tax shall be levied for a term of twenty-five (25) Fiscal Years after the Escalation Termination Date, but in no event shall the Annual Special Tax be levied later than Fiscal Year 2037-38.

## SECTION J EXEMPTIONS

The Assistant Superintendent shall not levy a special tax on Assessor's Parcels (i) owned by the State of California, Federal or other local governments except as otherwise provided in Sections 53317.3, 53317.5 and 53340.1 of the Government Code, (ii) used as places of worship and are exempt from *ad valorem* property taxes because they are owned by a religious organization, (iii) designated entirely for use by a homeowners' association, (iv) encumbered with public or utility or access easements making impractical their use for purposes other than those set forth in the easements, or (v) designated entirely as open space on a Final Map.

## SECTION K APPEALS

Any owner of an Assessor's Parcel claiming that the amount or application of the special tax is not correct may file a written notice of appeal with the Assistant Superintendent not later than one (1) Calendar Year after having paid the first installment of the special tax that is being disputed. The Assistant Superintendent shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the special tax, and rule on the appeal. If the Assistant Superintendent's decision requires that the special tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund shall not be made (except for the last Fiscal Year of levy), but an adjustment shall be made to the Annual Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s).

## SECTION L MANNER OF COLLECTION

One-Time Special Taxes shall be collected on or before the date a Building Permit is issued, provided that any portion of a One-Time Special Tax that is not collected at the issuance of a Building Permit may be levied on the applicable Assessor's Parcel in any following Fiscal Year. Annual Special Taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes, provided that CFD No. 8 may collect Annual Special Taxes at a different time or in a different manner if necessary to meet its financial obligations.

EXHIBIT "E"

Form of Assignment, Assumption & Release

RECORDING REQUESTED BY: )  
 )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 )  
 WHEN RECORDED MAIL TO: )  
 )  
 Luce, Forward, Hamilton & Scripps LLP )  
 600 West Broadway, Suite 2600 )  
 San Diego, CA 92101 )  
 Attn: Thomas A. May, Esq. )  
 )

. Above Space for Recorder's Use

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement ("Agreement") is entered into as of \_\_\_\_\_, 199\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ ("Assignor") and \_\_\_\_\_, a \_\_\_\_\_ ("Assignee").

RECITALS

- A. Assignor is the owner of that certain real property located in the County of San Diego, State of California, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property").
- B. Black Mountain Ranch Limited Partnership, a Maryland limited partnership (the "Master Developer") and the Poway Unified School District (the "District") entered into that certain School Impact Mitigation Agreement, dated as of July 1, 1998 and recorded \_\_\_\_\_, 1998 as Instrument No. \_\_\_\_\_ in the official records of the San Diego County Recorder's Office (the "Mitigation Agreement"), a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference.

7. Binding Effect. The terms and conditions of this Agreement will inure to the benefit of, and will be binding on, the successors, assigns, personal representatives, heirs, executors, devisees, administrators, trustees and legatees of Assignor and Assignee.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Agreement as of the date first set forth above.

ASSIGNOR:

ASSIGNEE:

\_\_\_\_\_, a  
\_\_\_\_\_

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

CONSENT AND RELEASE

District hereby consents to the foregoing Assignment and Assumption Agreement and hereby releases Assignor as provided below on the express condition that District's consent shall not be deemed a consent to any subsequent assignment, but rather any subsequent assignment shall require the consent of District (or approval of the assumption agreement to be signed by the proposed assignee if such assumption agreement is not substantially in the form of the above Assignment and Assumption Agreement) pursuant to and in accordance with the terms and conditions of the Mitigation Agreement.

Subject to the foregoing condition, District hereby releases Assignor from the Delegated Obligations.

APPROVED AS TO FORM:

DISTRICT:

Luce, Forward, Hamilton & Scripps LLP  
Legal Counsel  
Poway Unified School District

Poway Unified School District

By: \_\_\_\_\_  
Thomas A. May, Esq.  
Partner

By: \_\_\_\_\_  
Robert J. Cornelius,  
Assistant Superintendent,  
Business Support Services

**EXHIBIT "F"**  
**P E T I T I O N**  
**(INCLUDING WAIVER)**

**REGARDING PROCEEDINGS UNDER  
THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

To the Board of Education  
Poway Unified School District  
13626 Twin Peaks Road  
Poway, CA 92064

**Re: Community Facilities District No. 8 (Black Mountain Ranch Phase II)**

Members of the Board of Education:

The undersigned duly authorized representatives of the owners of the real property identified on the signature page attached hereto hereby request that you institute proceedings to establish a community facilities district pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), and hereby respectfully petition and show as follows:

(1) We request that the property described below be included within the Poway Unified School District Community Facilities District No. 8 (Black Mountain Ranch Phase II) (the "CFD") and that you take all steps necessary to complete the proceedings for the formation of the CFD and the levy of special taxes therein for the purpose of financing all or some of the public improvements identified in Exhibit A hereto.

(2) It being our intention to proceed as quickly as possible with the formation of the CFD, the levy of said special taxes and the issuance of special tax bonds, and it being further understood that, there being fewer than twelve (12) registered voters residing within the CFD and the undersigned being qualified elector(s) of the CFD, we waive all otherwise applicable times for, notices of, and ballot arguments with respect to, any election required under the Act in order to order the levy of the special taxes, to establish an appropriations limit for the CFD, and to authorize the issuance of said special tax bonds of the CFD.

(3) In furtherance of said waiver, we agree that any such election may be conducted by mailed or hand delivered ballot to be returned as quickly as possible to the Secretary of the Board of Education of the District and that the results of said election be canvassed and reported to you as soon as possible.

(4) The property that is the subject of this Petition and owned (not leased or optioned) by the undersigned is identified by San Diego County Assessor's Parcel Number listed below and is more particularly described in the Subarea I Perimeter Properties School Impact Mitigation Agreement dated as of July 1, 1998 (the "Mitigation Agreement") between the District and the undersigned.

*The property that is the subject of this Petition and owned (not leased or optioned) by the above owner is San Diego County Assessor Parcel No.(s) containing the acreages shown below.*

\_\_\_\_\_  
a \_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

APN

Acres

*The address of the above owner for purposes of receiving all notices and ballot is:*

\_\_\_\_\_  
\_\_\_\_\_  
Total Acres

**EXHIBIT "G"**

**Poway Unified School District  
Community Facilities District No. 8  
(Black Mountain Ranch Phase II)**

**OFFICIAL BALLOT  
SPECIAL TAX ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed postage paid envelope to the Secretary of the Board of the Poway Unified School District either by mail or in person. The Board meeting will be held November 16, 1998, at the Morning Creek Elementary School Multi-Purpose Room, 10925 Morning Creek Drive South, San Diego, California 92128 at 7:00 p.m. The Secretary's office is located at 13626 Twin Peaks Road, Poway, California 92064. To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear, or deface this ballot, return it to the Secretary of the Board and obtain another.

**BALLOT MEASURE:** Shall the Poway Unified School District incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$80,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law at the time of sale of such bonds on behalf of Community Facilities District No. 8 (Black Mountain Ranch Phase II) (the "CFD"), the proceeds of which bonds will be used to finance certain public improvements described in the proceedings to form the CFD; shall a special tax payable solely from lands within the CFD be levied annually, upon lands within the CFD to pay for the principal and interest upon such bonds, to pay for the costs of facilities and to pay the costs of the District in administering the CFD, and shall the annual appropriations limit of the CFD be established in the amount of \$30,000,000?

YES: \_\_\_\_\_

NO: \_\_\_\_\_

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for notice of and analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the California Government Code.

Number of Votes: \_\_\_\_\_

Property Owned by Property Owner: see attached page

Property Owner: see attached page

*The property that is owned (not leased or optioned) by the owner shown opposite is San Diego County Assessor Parcel No.(s) containing the acreages shown below.*

APN

Acres

\_\_\_\_\_  
\_\_\_\_\_  
Total Acres

\_\_\_\_\_,  
a \_\_\_\_\_ [limited partnership]  
[corporation] [LLC]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Land Owner and Voter:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# FIRST CLASS MAIL

**To: SUPERINTENDENT  
POWAY UNIFIED SCHOOL DISTRICT  
c/o Thomas A. May, Esq.  
Luce, Forward, Hamilton & Scripps  
600 West Broadway, Suite 2600  
San Diego, California 92101**

I hereby declare under penalty of perjury that the voter listed on the enclosed ballot is the owner of record or the authorized representative of the land owner entitled to vote said ballot.

Executed on \_\_\_\_\_, 1998 at \_\_\_\_\_, California.

\_\_\_\_\_,  
a California \_\_\_\_\_

By: \_\_\_\_\_

Attention: This envelope contains an official ballot and is to be opened only by the canvassing board with respect to the Poway Unified School District Community Facilities District No. 8 (Black Mountain Ranch Phase II) special election to be held on November \_\_, 1998.

607

**Certification of Special Tax Consultant  
Poway Unified School District  
Community Facilities District No. 8  
(Black Mountain Ranch Phase II)**

**CERTIFICATE FOR THE AMENDED RATE AND METHOD OF APPORTIONMENT**

The undersigned authorized officer of David Taussig & Associates, Inc. ("DTA"), Newport Beach, California, the firm which was retained as Special Tax Consultant by Poway Unified School District ("PUSD" or the "District") to assist in the formation of Community Facilities District No. 8 ("CFD") does hereby certify that the amendments to the Rate & Method of Apportionment ("RMA") will not impair the ability of CFD No. 8 either (i) to fund the School Facilities on a timely basis or (ii) to generate special tax revenues sufficient to yield a 110% minimum debt service coverage ratio on all bonds issued by CFD No. 8.

PUSD is entitled to rely on this certificate at the time when the amended RMA is approved for CFD No. 8

Dated:

David Taussig & Associates, Inc.

By: \_\_\_\_\_

**PERIMETER PROPERTY OWNERS  
BLACK MOUNTAIN RANCH PHASE II  
CFD NO. 8**

Area	APN	Property Owner	Petition/Executed (Yes/No)	Ballot/Executed (Yes/No)	Mitigation Agreement /Executed (Yes/No)	Mitigation Agreement Recorded	Title Status	General Status/Comments
A	312-160-02	Numerous/Sciuto Attorney in Fact	Yes	Yes	Yes	12/15/98 Inst. No. 1998-0818067 ✓	Complete	
B	312-010-15	Numerous/Sciuto Attorney in Fact	Yes	Yes	Yes	12/15/98 Inst. No. 1998-0818068 ✓	Complete	
C	312-010-16 160?	DeBevoise	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704697	Complete	
D	313-010-59	Tom VIII Partnership	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704698	Complete	
E	312-141-02 678-230-04	Camelot Investments	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704706	Complete	
F	303-070-07	Security Trust Company	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704699 ✓	Complete	
G	303-070-09	Lincoln	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0708146	Complete	
H	303-070-11	Dale	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704700	Complete	
I	303-070-18	May Family Trust	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704701	Complete	

**PERIMETER PROPERTY OWNERS  
BLACK MOUNTAIN RANCH PHASE II  
CFD NO. 8**

Area	APN	Property Owner	Petition/Executed (Yes/No)	Ballot/Executed (Yes/No)	Mitigation Agreement /Executed (Yes/No)	Mitigation Agreement Recorded	Title Status	General Status/Comments
J	303-070-19	Stewart Trust	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704702	Complete	
K	312-010-09	Vasquez Trust	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704703	Complete	
K	312-010-09	Distabile Trust	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704704	Complete	
K	312-010-09	Taylor Trust	Yes	Yes	Yes	10/29/98 Inst. No. 1998-0704705	Complete	

**BLACK MOUNTAIN RANCH LIMITED PARTNERSHIP  
BLACK MOUNTAIN RANCH PHASE II  
CFD NO. 8**

Petition/ Executed (Yes/No)	Ballot/ Executed (Yes/No)	Option Agreement & Memorandum Executed (Yes/No)	Memorandum Recorded	Mitigation Agreement /Executed (Yes/No)	Mitigation Agreement Recorded	School Site Transfer Agreement & Memorandu m Executed (Yes/No)	Memorandum Recorded	General Status/ Comments
Yes	Yes	Option - Not Executed Memorandum - Executed	10/29/98 Inst. No. 1998-0704695 ✓	Yes	10/20/98 Inst. No. 1998-0678559	Agreement - Executed Memorandum - Not Executed	10/29/98 Inst. No. 1998-0704696 ✓	Option Agreement and Memorandum of School Site Agreement sent back for execution