

**RATE AND METHOD OF APPORTIONMENT FOR
COMMUNITIES FACILITIES DISTRICT NO. 3
OF THE POWAY UNIFIED SCHOOL DISTRICT**

An Annual Special Tax and a One-Time Special Tax shall be levied on and collected in Community Facilities District No. 3 ("CFD No. 3") of the Poway Unified School District (the "School District") in each Fiscal Year, in an amount determined through the application of the rate and method of apportionment described below. All of the real property in CFD No. 3, 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 Communities 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 expenses of the School District to carry out its duties as the legislative body of CFD No. 3.

"Annual Special Tax" means the Special Tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property to fund the Annual Special Tax Requirement.

"Annual Special Tax Requirement" means the amount required in any Fiscal Year to pay: (1) the debt service on all Bonds or other indebtedness or other periodic costs on the Bonds or other indebtedness of CFD No. 3, (2) the cost of acquisition or construction of future Facilities, (3) Administrative Expenses of CFD No. 3, (4) the costs associated with the release of funds from an escrow account, (5) any amount required to establish or replenish any reserve funds established in association with the Bonds or other indebtedness of CFD No. 3, (6) lease payments for existing or future Facilities, and (7) any other payments permitted 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 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 Annual Special Tax on an Assessor's Parcel of Developed Property determined pursuant to Section C1 below.

"Assistant Superintendent" means the Assistant Superintendent of Business of the School District or his/her designee.

"Attached Unit" means an Assessor's Parcel of Residential Property that consists of or shall consist of a building or buildings in which each of the individual Units have at least one common wall with another 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 CFD No. 3.

"Building Square Footage" or **"BSF"** for an Residential Property means 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 of any year and ending on the following December 31.

"CFD No. 3" means Community Facilities District No. 3 (Christopherhill) established by the School District under the Act.

"Chargeable Covered and Enclosed Space" means 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, enclosed walkway, or utility or disposal area. The determination of Chargeable covered and Enclosed Space shall be made by the building department of the County in accordance with the standard practice of the County.

"Commercial Development" means any Assessor's Parcel of Developed Property which is not Residential Property.

"County" means the County of San Diego.

"Detached Unit" means an Assessor's Parcel of Residential Property which is not an Attached Unit.

"Developed Property" means all Assessor's Parcels in CFD No.3 for which building permits for new construction was issued on or before January 1 of the prior Fiscal Year.

"Exempt Property" means the property designated as being exempt from Special Taxes in Section H.

"Facilities" means those 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. 3.

"Final Subdivision Map" means a final tract map, parcel map, lot line adjustment, or functionally equivalent map or instrument that creates building sites, recorded in the County Office of the Recorder.

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

"Gross Prepayment Amount" for any Assessor's Parcel of Developed Property means that gross prepayment amount calculated as provided in Section E.1.

"Index" means the Lee Saylor Construction Cost Index for Class D Construction, the Marshall & Swift Construction Cost Index for Class D Construction or such other index as is used from time to time by the State Allocation Board to estimate school construction costs (collectively, the "SAB Index"), or in the absence of the SAB Index, the Engineering News Record, Construction Cost Index (Los Angeles Area) published by McGraw-Hill, Inc. ("ENR Index"), or in the absence of such ENR Index, an index which reasonably approximates increases in costs of school construction.

"Initial Assigned Annual Special Tax" means the Assigned Annual Special Tax for an Assessor's Parcel which has been designated as Developed Property for the first time in that Fiscal Year.

"Land Use Class" means any of the classes of Developed Property listed in Table 1.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C, that can be levied by CFD No.3 in any Fiscal Year on Taxable Property.

"Mitigation Agreement" means that certain First Amended and Restated Christopherhill School impact Mitigation Agreement dated as of August 1, 1997 between the District and ONA Homebuilding Partners, LLC, a California limited liability company, and recorded in the Official Records of San Diego County on _____, 1997 as Document No. 97-_____.

"Mitigation Credit" means credits issued by District pursuant to the Mitigation Agreement, as further defined therein.

"One-Time Special Tax" means the single payment Special Tax to be levied in any Calendar Year on each Assessor's Parcel of Undeveloped Property.

"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 F.

"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 E.

"Proportionately" means that the ratio of the actual Annual Special Tax levy to the applicable Maximum Annual Special Tax is equal for all applicable Assessor's Parcels.

"Residential Property" means all Assessor's Parcels of Developed Property for which the building permit was issued for purposes of constructing a Unit(s).

"Senior Citizen Housing Unit" means an Assessor's Parcel of Residential Property within CFD No. 3 designated as senior citizen housing, residential care facilities for the elderly, or multi-level

care facilities for the elderly as referred to in California Government Code 65995.1. For purposes hereof, it shall be sufficient to designate units as Senior Citizen Housing if Senior Citizen Restrictions have been effected.

"Senior Citizen Housing Restriction" means (i) a restriction limiting the use of Units to senior citizen housing under the Subarea 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.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor' Parcel of Developed Property.

"Specific Plan" means the Christopherhill Specific Plan approved pursuant to County Resolution No. SPA 96-004 adopted August 21, 1996, and its Subsequent Environmental Impact Report and any amendments or implementing resolutions with respect thereto that do not increase the number of dwelling units or other development affecting the need for School Facilities planned for the Project.

"Taxable Property" means all Assessor's Parcels within the boundaries of CFD No.3 which are not exempt from the Special Tax pursuant to law or Section H below.

"Undeveloped Property" means all Assessor's Parcels in CFD No. 3 for which no building permit was issued on or before 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.

SECTION B ASSIGNMENT TO LAND USE CLASSES

For each Fiscal Year, beginning with Fiscal Year 1997-98, all Taxable Property within CFD No. 3 shall be classified as Developed Property, Undeveloped Property or Exempt Property, and each Assessor's Parcel of Developed Property shall be assigned to a Land Use Class by reference to Table 1.

TABLE 1

<i>DEVELOPED PROPERTY LAND USE CLASSES</i>	
Land Use Class	Land Use
1	Detached Unit
2	Attached Unit
3	Senior Citizen Housing Unit
4	Commercial Development

**SECTION C
MAXIMUM SPECIAL TAX**

1. Developer Property

The Maximum Special Tax for each Assessor's Parcel classified as Developed Property in any Fiscal Year shall be the sum of (i) the amount derived by the application of the Assigned Annual Special Tax, plus (ii) the amount of any portion of the One-Time Special Tax that is not collected at building permit with respect to an Assessor's Parcel of Undeveloped Property which may be levied on such Assessor's Parcel when classified as Developed Property in the following Fiscal Year. The Initial Assigned Annual Special Tax for each Assessor's Parcel of Developed Property in Fiscal year 1997-98 shall be the amount determined by reference to Table 2.

TABLE 2

<i>FISCAL YEAR 1997-98 INITIAL ASSIGNED ANNUAL SPECIAL TAXES FOR DEVELOPED PROPERTY</i>		
Land Use Class	Land Use	Initial Assigned Special Tax
1	Detached Unit	\$1,314 per Unit
2	Attached Unit	\$542 per Unit
3	Senior Citizen Housing Unit	\$0.00 per Unit
4	Commercial Development	\$0.00 per square foot of Chargeable Covered and Enclosed Space

Each January 1, commencing January 1, 1998, the Initial Assigned Annual Special Tax on each Assessor's Parcel of Developed Property shall be increased by the greater of the annual percentage change in the Index or two percent (2.00%) of the amount in effect in the prior Fiscal Year. The annual percentage change in the Index shall be calculated for the twelve (12) months ending December 31 of the prior Fiscal Year. For Fiscal Years following the Fiscal Year in which the Initial Maximum Annual Special Tax was applied, the Assigned Annual Special Tax shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year. The Annual Special Tax actually levied on any Assessor's Parcel cannot be paid with Mitigation Credits.

2. Undeveloped Property

The Maximum Annual Special Tax for any Assessor's Parcel classified as Undeveloped Property in any Fiscal Year shall be the sum of the Maximum Annual Special Tax and the One-Time Special Tax applicable to such Assessor's Parcel in such Fiscal Year.

a. Maximum Annual Special Tax

The Maximum Annual Special Tax per acre of an Assessor's Parcel classified as Undeveloped Property in Fiscal Year 1997-98 shall be the amount required to (i) pay debt service on bonds issued by CFD No. 3, (ii) pay Administrative Expenses for the Fiscal Year, and (iii) provide 110% debt service coverage and shall not exceed \$7,854 per acre. On each January 1, commencing January 1, 1998, the Maximum Annual Special Tax on each Assessor's Parcel of Undeveloped Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year. The Annual Special Tax actually levied on any Assessor's Parcel cannot be paid with Mitigation Credits.

b. One-Time Special Tax

The One-Time Special Tax shall be levied and collected for each Assessor's Parcel of Undeveloped Property on or before the date a building permit for Residential Property is issued for such Assessor's Parcel. The One-Time Special Tax shall be in an amount equal to \$1.84 per square foot of Building Square Footage for Land Use Classes 1 and 2 and \$0.30 per square foot of Building Square Footage for Land Use Class 3 and \$0.30 per square foot Chargeable Covered and Enclosed Space for Land Use Class 4. On each January 1, commencing January 1, 1998, the amount of the One-Time Special Tax shall be increased by the greater of the annual percentage change in the Index, or two percent (2.00%) of the amount in effect in the prior Fiscal Year. The annual percentage change in the index shall be calculated for the twelve (12) month ending December 31 of the prior Fiscal Year. All or any portion of the One-Time Special Tax with respect to any unit may, in lieu of cash, be paid with Mitigation Credits properly registered in the name of the party tendering such Mitigation Credits.

SECTION D
METHOD OF APPORTIONMENT OF THE ANNUAL SPECIAL TAX

Commencing Fiscal Year 1997-98 and for each subsequent Fiscal Year, the Assistant Superintendent shall determine the Annual Special Tax Requirement to be collected from Taxable Property in CFD No. 3 in such Fiscal Year. The Special Tax shall be levied as follows until the amount of the levy equals the Annual Special Tax Requirement:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property at the Maximum Special Tax applicable to such Assessor's Parcel.

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

SECTION E
PREPAYMENT OF ANNUAL SPECIAL TAX

The Annual Special Tax obligation of an Assessor's Parcel of Developed Property or an Assessor's Parcel of Undeveloped Property for which a building permit has been issued may be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Special Tax obligation shall provide CFD No. 3 with written notice of intent to prepay. Within 30 days of receipt of such written notice, CFD No. 3 shall notify such owner of the Prepayment Amount of such Assessor's Parcel.

1. Prior to Issuance of Bonds

Prior to the issuance of any Bonds, the Prepayment Amount for each Assessor's Parcel of Developed Property in Land Use Classes 1 and 2 shall be the amount equal to the Gross Prepayment Amount minus the amount of One-Time Special Tax paid with respect to such Assessor's Parcel. The Gross Prepayment Amount for Calendar Year 1997 shall be the amount determined by reference to Table 3 below:

TABLE 3

<i>CALENDAR YEAR 1997 GROSS PREPAYMENT AMOUNT</i>		
Land Use Class	Land Use	Gross Prepayment Amount
1	Detached Unit	\$15,567
2	Attached Unit	\$6,628

On each January 1, commencing January 1, 1998, the Gross Prepayment Amounts shall be increased by the greater of the annual percentage change in the Index or two percent (2.00%) of the amount in effect in the prior Calendar Year. The annual percentage change in the Index shall be calculated for the twelve (12) months ending December 31 of the prior Fiscal Year. Prior to issuance of any Bonds, all or any portion of the Gross Prepayment Amount

with respect to any Unit may, in lieu of cash, be paid with Mitigation Credits properly registered in the name of the party tendering such Mitigation Credits.

2. Subsequent to Issuance of Bonds

After the issuance of any Bonds, the Prepayment Amount for each Assessor's Parcel of Developed Property in Land Use Classes 1 and 2 shall be the amount equal to the Gross Prepayment Amount (as calculated in Section E.1) minus (i) the amount of One-Time Special Tax paid and (ii) the amount of regularly scheduled principal of such Bonds retired in CFD No 3 with respect to such Assessor's Parcel, which amount shall be determined by multiplying (a) the amount of regularly scheduled principal that has been retired on such Bonds, times (b) the percentage determined by reference to Table 4. Subsequent to issuance of Bonds, no portion of the Gross Prepayment Amount may be paid with Mitigation Credits.

TABLE 4

<i>PRINCIPAL RETIREMENT PERCENTAGE FOR DEVELOPED PROPERTY</i>		
Land Use Class	Land Use	Principal Retirement Percentage
1	Detached Unit	0.002500 per Unit
2	Attached Unit	0.001460 per Unit

**SECTION F
PARTIAL PREPAYMENT OF SPECIAL TAX**

At the time a residential Final Subdivision Map is recorded for any Taxable Property within CFD No. 3, the property owner filing said Final Subdivision Map for recordation concurrently may elect for all of the Assessor's Parcels created by said Final Subdivision Map to prepay all or any portion of the applicable future Maximum Special Taxes. In order to prepay all or any portion of the applicable future Maximum Special Taxes, the residential Final Subdivision Map must contain at least 25 Detached Units or 50 Attached Units. The partial prepayment of the Annual Special Tax shall be collected at the time of the issuance of a building permit. The Partial Prepayment Amount shall be calculated according to the following formula:

$$PP = P_E \times F.$$

These terms have the following meanings:

- PP = the Partial Prepayment Amount
- P_E = the Prepayment Amount calculated according to Section E
- F = the percent by which the owner of the Assessor's Parcel is partially prepaying the Annual Special Tax obligation.

The owner of any Assessor's Parcel who desires such partial prepayment shall notify the Board of (i) such owner's intent to partially prepay the Annual Special Tax obligation and, (iii) the percentage by which the Annual Special Tax obligation shall be prepaid. The Board 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 ten (10) working 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 Board shall indicate in the records of CFD No. 3 that there has been a partial prepayment of the Annual Special Tax and shall cause a suitable notice to be recorded in compliance with the Act within 30 days of receipt of such partial prepayment of Annual Special Taxes, to indicate the partial prepayment of Annual Special Taxes 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 shall cease. The portion of the Annual Special Tax with respect to any Assessor's Parcel, equal to the outstanding percentage (1.00 – F) of the remaining Annual Special Tax, shall continue to be levied on such Assessor's Parcel.

The amount of the Partial Prepayment Amount deposited in applicable redemption fund may be in an amount able to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the applicable redemption fund to be used with the next prepayments of Bonds.

Notwithstanding the foregoing, no partial prepayment shall be allowed unless the amount of Maximum Annual Special Taxes that may be levied on Taxable Property within CFD No. 3 both prior to and after the proposed partial prepayment is at least 1.1 times annual debt service on all Outstanding Bonds.

**SECTION G
TERMINATION OF SPECIAL TAX**

The Annual Special Tax shall be levied for a term of twenty-five (25) Fiscal Years after the last bond series is issued for CFD No. 3, but in no event shall the Annual Special Tax be levied later than Fiscal Year 2045-46.

**SECTION H
EXEMPTIONS**

The Assistant Superintendent shall not levy a Special Tax on properties 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, or on properties within the boundaries of CFD No. 3 which are used as places of worship and are exempt from *ad valorem* property taxes because they are owned by a religious organization. Notwithstanding the above, the Assistant Superintendent shall not levy a Special Tax on properties owned by a homeowners' association or properties with public or utility easements making impractical their utilization for other than the purposes set forth in the easement.

SECTION I APPEALS

Any property owner 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 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 year of levy), but an adjustment shall be made to the Annual Special Tax on the Assessor's Parcel in the subsequent Fiscal Year(s).

SECTION J MANNER OF COLLECTION

The Annual 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. 3 may collect Annual Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. The One-Time Special Tax shall be collected prior to the issuance of a building permit and if not so collected may be added to the levy on the tax rolls in the next following Fiscal Years.

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