

**SECOND AMENDED RATE AND METHOD OF APPORTIONMENT  
OF SPECIAL TAXES FOR  
TUSTIN UNIFIED SCHOOL DISTRICT  
COMMUNITY FACILITIES DISTRICT NO. 07-1  
(ORCHARD HILLS)**

A Special Tax shall be levied and collected within Tustin Unified School District Community Facilities District No. 07-1 (Orchard Hills) each Fiscal Year in an amount determined by the Board of Education as described below. All of the property in CFD No. 07-1, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided.

**A     DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

**"Administrative Expenses"** means any reasonably necessary or appropriate expenses incurred by the School District in the administration of CFD No. 07-1 and the Bonds, including but not limited to the administrative and legal costs of levying and collecting the Special Tax (including costs incurred in connection with any appeals relating thereto and litigation expenses incurred in connection with the collection of the Special Tax); the fees and expenses of any bond trustee, fiscal agent or paying agent; remarketing, credit enhancement and liquidity facility fees; the costs incurred in connection with on-going disclosure in connection with the Bonds; the costs incurred in connection with the disclosure of the Special Tax to property owners and potential purchasers of property; and amounts required to calculate and pay arbitrage rebate payments to the federal government.

**"Age-Restricted Project"** means a residential project or residential community which prohibits residents that are eighteen years of age or less.

**"Apartment Property"** means any one Assessor's Parcel of Residential Developed Property for which a building permit has been issued for construction of a residential structure with two or more Dwelling Units all of which are offered for rent to the general public and which cannot be separately purchased by individual homebuyers.

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

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

**"Backup Special Tax"** means the amount that can be levied, if needed as determined pursuant to Section E below, on Undeveloped Property in the CFD.

**"Board of Education"** means the Board of Education of the School District, acting as the legislative body of CFD No. 07-1,

**"Bond Year"** means, with respect to each issue of Bonds, the period that commences on the date on which such Bonds are issued and, subsequent to such issuance, on each September 2, and ends on the following September 1.

**"Bond"** means any bond or other form of "debt," as defined in Section 53317(d) of the Act, which is payable from Special Taxes and which has been issued pursuant to the Act by or on behalf of CFD No. 07-1.

**"Buildable Lot"** means an individual residential lot, identified and numbered on a recorded Final Map, on which a building permit has been or is permitted to be issued for construction of a detached unit without further subdivision of the lot and for which no further subdivision of the lot is anticipated pursuant to an approved tentative map.

**"CFD No. 07-1"** or **"CFD"** means Tustin Unified School District Community Facilities District No. 07-1 (Orchard Hills).

**"County"** means the County of Orange.

**"Debt Service Requirement"** means for each Fiscal Year the sum of (a) the principal of and interest on Bonds coming due in the Bond Year which begins in such Fiscal Year or, in the case of interest on Variable Rate Bonds, the amount which the CFD reasonably estimates will come due in such Bond Year, except to the extent such principal or interest is expected to be paid from proceeds from the sale of Bonds or other amounts then available and required or permitted to be used for such purpose, (b) the amount of the Special Tax levied but unpaid during the Fiscal Year immediately preceding the Fiscal Year for which the Debt Service Requirement is being determined, (c) the sum of all deposits required to be made into any reserve fund or any sinking fund established with respect to any Bonds during the Bond Year referred to in clause (a), and (d) the Administrative Expenses which the CFD reasonably estimates will be required to be paid through the end of the Bond Year referred to in clause (a) and for the payment of which the CFD reasonably estimates that it will not have other revenues available.

**"Developed Property"** means, for any Fiscal Year, all Taxable Property (other than Excess Public Property and Excess Association Property) for which a building permit for construction of a building was issued either prior to the commencement of such Fiscal Year or, if the Board of Education determines that the efficient levy and collection of the Special Tax so requires, prior to the June 1 preceding the commencement of such Fiscal Year.

**"Dwelling Unit"** means an individual single-family detached unit or an individual residential unit within a duplex, triplex, fourplex, townhome, condominium, cluster-type or apartment structure.

**"Excess Association Property"** means the Parcels of Property Owners Association Property or the portion thereof, as the case may be, the area of which when added to the area of all other Parcels of Property Owners Association Property exceeds the acreage of Property Owners Association Property exempted in Section FE below and which are those Parcel(s) that most

recently became Property Owners Association Property based on the dates reflected on the grant deeds or other instruments pursuant to which Parcels were conveyed to a property owners association or a private land trust.

**"Excess Non-Residential Property"** means the Parcels of Non-Residential Property or the portion thereof, as the case may be, the area of which when added to the area of all other Parcels of Non-Residential Property exceeds the acreage of Non-Residential Property exempted in Section F below and which are those Parcel(s) that most recently became Non-Residential Property based on the dates reflected on the building permits pursuant to which Parcels became Non-Residential Property.

**"Excess Public Property"** means the Parcels of Public Property or the portion thereof, as the case may be, the area of which when added to the area of all other Parcels of Public Property exceeds the acreage of Public Property exempted in Section F below and which are those Parcel(s) that most recently became Public Property based on the dates on which final maps were recorded irrevocably dedicating properties as Public Property or the dates of the other instruments by which Parcels became Public Property.

**"Expected CFD Area"** means the territory expected to be included in CFD No. 07-1 after all annexations have taken place as identified in Exhibit B of the Financing Support Agreement and, in addition thereto, the territory in one or more other community facilities districts formed for the purpose of mitigating such territory's school mitigation obligations as set forth in the mitigation agreement entered into relative to the territory within CFD 07-1.

**"Final Map"** means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates Buildable Lots. The term "Final Map" shall not include any large lot subdivision map, Assessor's Parcel map, or subdivision map or portion thereof, that does not create Buildable Lots, including Assessor's Parcels that are designated as remainder parcels. Notwithstanding the foregoing, the term "Final Map" shall include recorded condominium plans that create individual lots on which detached cluster units or detached condominium units can be constructed.

**"Final Map Property"** means, in any Fiscal Year, all Buildable Lots for which a Final Map had recorded either prior to the commencement of such Fiscal Year or, if the Board of Education determines that the efficient levy and collection of the Special Tax so requires, prior to the June 1 preceding the commencement of such Fiscal Year.

**"Financing Support Agreement"** means the School Facilities and Community Facilities District Financing Support Agreement between the School District, CFD No. 07-1, and ICDC.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"ICDC"** means the Irvine Community Development Company.

**"Land Use Class"** means, individually, Developed Property, Final Map Property, and Undeveloped Property.

**"Land Use Designation"** means the residential product type built or expected to be built on a particular Parcel as determined by the Tax Administrator by reference to applicable zoning ordinances, subdivision maps, condominium plans, building permits and/or information supplied by the owner of such Parcel.

**"Land Use Designation Area"** means a particular area, village, enclave, large lot parcel or anticipated subdivision within a small lot tentative map (one depicting individual lots on which the Tax Administrator determines that structures are planned to be constructed), in each case in which all of the Dwelling Units are, or are determined by the Tax Administrator to be planned to be, in the same Property Classification.

**"Low Density Cluster Unit Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: (i) have had a condominium plan recorded for single-family Dwelling Units which are described or depicted in the condominium plan as being physically detached from one another, (ii) are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, Dwelling Units built at a Net Density less than or equal to ten (10) units per Net Acre, and (iii) have been, or are determined by the Tax Administrator to be planned to be, developed in cluster-type construction.

**"Low Density Rear-Loaded Condominium Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: (i) have had a condominium plan recorded for single-family Dwelling Units which are described or depicted in the condominium plan as being physically detached from one another, (ii) are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, Dwelling Units built at a Net Density less than or equal to ten (10) units per Net Acre, and (iii) have the garage and driveway accessible from an alley located in the back of the Dwelling Unit.

**"Low Density Single Family Attached Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: (i) have, or are determined by the Tax Administrator to be planned to have, single family Dwelling Units which are attached to other Dwelling Units and (ii) are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, Dwelling Units built at a Net Density less than or equal to fifteen (15) units per Net Acre.

**"Low Density Single Family Detached Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, single family Dwelling Units that are detached from one another and that is generally built, or is determined by the Tax Administrator to be planned to be built, at a Net Density less than or equal to five (5) units per Net Acre.

**"Maximum Special Tax"** means:

*For Undeveloped Property:* the highest combined Special Tax that can be levied in any Fiscal Year on Undeveloped Property pursuant to Sections C and E below.

*For All Other Parcels:* the highest Special Tax, determined in accordance with Section C, that can be levied on an Assessor's Parcel in any Fiscal Year.

**"Medium/High Density Cluster Unit Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: (i) have had a condominium plan recorded for single-family Dwelling Units which are described or depicted in the condominium plan as being physically detached from one another, (ii) are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, Dwelling Units built at a Net Density greater than ten (10) units per Net Acre, and (iii) have been, or are determined by the Tax Administrator to be planned to be, developed in cluster-type construction.

**"Medium/High Density Rear-Loaded Condominium Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: (i) have had a condominium plan recorded for single-family Dwelling Units which are described or depicted in the condominium plan as being physically detached from one another, (ii) are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, Dwelling Units built at a Net Density greater than ten (10) units per Net Acre, and (iii) have the garage and driveway accessible from an alley located in the back of the Dwelling Unit.

**"Medium/High Density Single Family Attached Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which: (i) have, or are determined by the Tax Administrator to be planned to have, single family Dwelling Units which are attached to other Dwelling Units and (ii) are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, Dwelling Units built at a Net Density greater than fifteen (15) units per Net Acre.

**"Medium/High Density Single Family Detached Property"** means, in any Fiscal Year, all Assessor's Parcels of Residential Developed Property which are part of a subdivision that has, or is determined by the Tax Administrator to be planned to have, single family Dwelling Units that are detached from one another and that is generally built, or is determined by the Tax Administrator to be planned to be built, at a Net Density greater than five (5) units per Net Acre.

**"Net Acre"** or **"Net Acreage"** means the acreage of a Land Use Designation Area that is determined by subtracting the acreage of the arterial and collector streets from the gross acreage within the Land Use Designation Area.

**"Net Density"** means the residential density determined by dividing the number of Dwelling Units determined by the Tax Administrator to be planned within a Land Use Designation Area by the Net Acreage of that Land Use Designation Area.

**"Non-Residential Property"** means any Assessor's Parcel of Developed Property within CFD No. 07-1 which is not Residential Developed Property.

**"Parcel Area"** means (a) except as provided in clause (b), the square footage or acreage of an Assessor's Parcel or, (b) in the case of an Assessor's Parcel of Property Owners Association Property, Non-Residential Property or Public Property a portion but not all of which is Excess Association Property, Excess Non-Residential Property or Excess Public Property, as the case may be, the square footage or acreage of the Excess Association Property, Excess Non-Residential Property or Excess Public Property, in each case as determined by the Tax Administrator from the subdivision map or parcel map creating such Assessor's Parcel or, if the

square footage or acreage of an Assessor's Parcel cannot be reasonably determined therefrom, from such source or sources as the Tax Administrator determines to be most appropriate under the circumstances.

**"Projected Buildout Revenues"** means, in any Fiscal Year, the sum of the following:

- (1) The current Fiscal Year's Maximum Special Tax rates applied to all Parcels of Developed Property within CFD 07-1 and any other CFD that has been formed and has pledged Special Tax revenues towards the Required CFD Revenues, and
- (2) The current Fiscal Year's Maximum Special Tax rates applied to Dwelling Units expected to be constructed on Final Map Property and Undeveloped Property remaining within the Expected CFD Area, whether within CFD 07-1 or any other CFD that has been formed and has pledged Special Tax revenues towards the Required Special Tax Revenues. Projected Dwelling Units shall be based on the Administrator's review of current land use plans provided by 1CDC, the City of Irvine or other agency responsible for reviewing or approving such plans, including approved tentative maps, recorded Final Maps, site plans, or other maps or plans for such Final Map Property and Undeveloped Property.

**"Property Classification"** means any of the classifications of Developed Property and Final Map Property listed in Section C below.

**"Property Owners Association Property"** means any property within the CFD that is owned by a homeowners association, a property owners association or a private land trust, excluding such property under the pad or footprint of a residential structure. Property Owners Association Property shall also include property designated as association property or open space in a recorded Final Map whether or not such property has yet been conveyed to a homeowners association, a property owners association or a private land trust.

**"Proportionately"** means, for Developed Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor's Parcels of Developed Property and, for Undeveloped Property, that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor's Parcels of Undeveloped Property. For Excess Public Property, "Proportionately" means that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied is equal for all Assessor's Parcels of Excess Public Property. For Excess Association Property, "Proportionately" means that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied is equal for all Assessor's Parcels of Excess Association Property. For Excess Non-Residential Property, "Proportionately" means that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied is equal for all Assessor's Parcels of Excess Non-Residential Property.

**"Public Property"** means any Assessor's Parcel within the boundaries of the CFD that is either (i) owned by or dedicated to the federal government, the State of California, the School District, or any other public agency, provided that any leasehold or other possessory interest in such property (which leasehold or other possessory interest is not owned by a public agency) shall not

be considered Public Property or (ii) determined by the Tax Administrator to be subject to public utility easements or easements for other public purposes to such an extent that it would be impractical to use such property for any substantial purpose other than the purpose or purposes set forth in the easement.

**"Required Special Tax Revenues"** means \$4,932,447 in Fiscal Year 2007-08, which amount shall escalate on July 1, 2008 and on each July 1 thereafter by two percent (2%) of the amount in effect the prior Fiscal Year.

**"Residential Developed Property"** means any Assessor's Parcel of Developed Property, the building permit or permits applicable to which allow the construction of one or more residential Dwelling Units.

**"School District"** means the Tustin Unified School District or any successor thereto.

**"Special Tax"** means the special tax authorized by the qualified electors of the CFD to be levied pursuant to this Rate and Method of Apportionment.

**"Tax Administrator"** means such person or firm as may from time to time be authorized or directed by the Board of Education to undertake the duties of the Tax Administrator thereto.

**"Taxable Property"** means, for any Fiscal Year, all Assessor's Parcels within CFD No. 07-1 that are not exempt from the Special Tax for such Fiscal Year pursuant to law or Section F below.

**"Undeveloped Property"** means, in any Fiscal Year, all Taxable Property that is not classified as Developed Property, Final Map Property, Excess Association Property, Excess Public Property or Excess Non-Residential Property.

**"Undeveloped Property Subject to Mandatory Prepayment Provisions"** means, that amount of Undeveloped Property that is (i) currently within the boundaries of a community facilities district formed to mitigate its school facilities obligation as set forth in the mitigation agreement for CFD 07-1, (ii) is zoned, entitled or reasonably expected to be commercially available to be developed as Residential Developed Property or Non-Residential Developed Property, and (iii) is not zoned, dedicated or anticipated to be used for open space, agricultural or governmental uses.

**"Variable Rate Bond"** means any Bond whose interest rate is not fixed through its maturity.

## **B. DATA FOR CFD ADMINISTRATION**

Prior to the levy of the Special Tax in each Fiscal Year, the Tax Administrator shall make the following determinations, classifications and assignments:

1. All Assessor's Parcels within the CFD shall be determined to be either Taxable Property or exempt from the Special Tax pursuant to law or Section E below.

2. All Taxable Property shall be (a) classified as Developed Property, Final Map Property, Excess Association Property, Excess Public Property, Excess Non-Residential Property

or Undeveloped Property, and (b) in the case of Developed Property and Final Map Property, assigned to a Property Classification, in each case based upon the Land Use Designation for each Parcel as of the July 1 (or June 1, if applicable) of the Fiscal Year in which the Special Tax is to be levied

3, In any Fiscal Year, if it is determined that: (i) a parcel map for property in the CFD was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created parcels is in a different Land Use Class than other parcels created by the subdivision, the Tax Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to the property within each Land Use Class, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the parcel map.

4 At least once each Fiscal Year, the Tax Administrator shall (i) compare the Required Special Tax Revenues to the Projected Buildout Revenues, and (ii) calculate the acreage of remaining Undeveloped Property within the CFD. Such comparison may occur upon the approval of each tentative map or Final Map within the CFD, at the time of each Bond sale, or at certain designated dates throughout the Fiscal Year. Based on this review, the Tax Administrator shall determine whether a Backup Special needs to be levied pursuant to Section E below

**C. MAXIMUM SPECIAL TAX RATES**

The Maximum Special Tax shall be determined pursuant to this Section C, provided that the Maximum Special Tax for an Assessor's Parcel shall be reduced to reflect a partial prepayment of the Special Tax applicable thereto as provided for in Section I. For Fiscal Year 2006-07, the Maximum Special Tax for an Assessor's Parcel of Taxable Property shall be the amount indicated below.

**Developed Property**

<b>Property Classification</b>	<b>Maximum Special Tax Fiscal Year 2006-07</b>
Low Density Single Family Detached Property	\$2,953 per Dwelling Unit
Medium/High Density Single Family Detached Property	\$2,747 per Dwelling Unit
Low Density Cluster Unit Property	\$2,309 per Dwelling Unit
Medium/High Density Cluster Unit Property	\$1,888 per Dwelling Unit
Low Density Rear-Loaded Condominium Property	\$2,729 per Dwelling Unit

Medium/High Density Rear-Loaded Condominium Property	\$2,452 per Dwelling Unit
Low Density Single Family Attached Property	\$2,139 per Dwelling Unit
Medium/High Density Single Family Attached Property	\$1,772 per Dwelling Unit
Apartment Property	\$1,476 per Dwelling Unit

**Final Map Property**

<b>Property Classification</b>	<b>Maximum Special Tax Fiscal Year 2006-07</b>
Low Density Single Family Detached Property	\$2,953 per Buildable Lot
Medium/High Density Single Family Detached Property	\$2,747 per Buildable Lot
Low Density Cluster Unit Property	\$2,309 per Buildable Lot
Medium/High Density Cluster Unit Property	\$1,888 per Buildable Lot
Low Density Rear-Loaded Condominium Property	\$2,729 per Buildable Lot
Medium/High Density Rear-Loaded Condominium Property	\$2,452 per Buildable Lot

<u>Excess Association Property:</u>	\$18,432 per acre of Parcel Area
<u>Excess Non-Residential Property:</u>	\$18,432 per acre of Parcel Area
<u>Excess Public Property:</u>	\$18,432 per acre of Parcel Area
<u>Undeveloped Property:</u>	\$50,000 per acre of Parcel Area *

\* The Maximum Special Tax on Undeveloped Property shall also include any Backup Special Tax that must be levied pursuant to Section E below.

*On July 1, 2007 and on each July 1 thereafter, the Maximum Special Taxes shown above shall be increased by an amount equal to two percent (2%) of the amount in effect for the prior Fiscal Year.*

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

In each Fiscal Year in which a short-term note or Variable Rate Bond is outstanding, the Board of Education shall levy the Special Tax on each Assessor's Parcel of Residential Developed Property at a rate equal to its Maximum Special Tax and, to the extent that additional money is needed in order to pay principal of and interest on the Bonds and Administrative Expenses as the same become due, the Special Tax shall be levied Proportionately on all Undeveloped Property on the dates on which and in the amounts in which such payments are due, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax.

Notwithstanding the foregoing, no Bonds shall be issued without the consent of ICDC if the annual Special Tax applicable to Developed Property in each Fiscal Year is or will be less than the sum of (a) one hundred percent (100%) of the principal and interest on Bonds coming due in the bond year which ends in the next subsequent Fiscal Year (except to the extent such principal or interest is expected to be paid from proceeds from the sale of Bonds or other amounts then available in the applicable debt service fund for such purpose) plus (b) the reasonably estimated Administrative Expenses for the bond year referred to in clause (a). Under no circumstances shall Bonds be issued (other than refunding Bonds) after all facilities required pursuant to the Mitigation Agreement between ICDC and the School District have been fully funded.

In each Fiscal Year to but not including the first Fiscal Year subsequent to the issuance of Bonds in which no Variable Rate Bond is outstanding and in which the aggregate amount of the Maximum Special Tax applicable to all Assessor's Parcels of Residential Developed Property exceeds the Debt Service Requirement for such Fiscal Year, the Board of Education shall levy the Special Tax on each Assessor's Parcel of Residential Developed Property at a rate equal to its Maximum Special Tax. Thereafter, unless the Board of Education determines that it is likely to authorize the issuance of additional Bonds in order to finance facilities (as opposed to refund Bonds), in which case it shall continue to levy the Special Tax as provided in the preceding sentence, until the earlier of (i) the date on which there are no Bonds outstanding, or (ii) June 30, 2056, the Board of Education shall levy the Special Tax Proportionately on each Assessor's Parcel of Residential Developed Property such that the total amount thereof will equal the Debt Service Requirement for such Fiscal Year, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax. To the extent that additional money is needed in order to equal the Debt Service Requirement for any Fiscal Year until the earlier of (i) the date following the issuance of Bonds on which there are no Bonds outstanding, or (ii) June 30, 2056,

First: the Special Tax shall be levied Proportionately on all Final Map Property, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax;

Second: the Special Tax shall be levied Proportionately on all Undeveloped Property, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax;

Third: to the extent additional money is needed in order to equal the Debt Service Requirement for such Fiscal Year, the Special Tax shall be levied Proportionately on all Excess Non-Residential Property, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax;

Fourth: to the extent additional money is needed in order to equal the Debt Service Requirement for such Fiscal Year, the Special Tax shall be levied Proportionately on all Excess Association Property, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax;

Fifth: to the extent additional money is needed in order to equal the Debt Service Requirement for such Fiscal Year, the Special Tax shall be levied Proportionately on all Excess

Public Property, provided that in no event shall the amount of the Special Tax so levied exceed the applicable Maximum Special Tax.

#### **E. BACKUP SPECIAL TAX**

##### *1. Any Fiscal Year in Which There are More Than Twenty (20) Acres of Undeveloped Property Subject to Mandatory Prepayment Provisions*

In any Fiscal Year in which the Tax Administrator determines that there are not less than twenty (20) Acres of Undeveloped Property Subject to Mandatory Prepayment Provisions in the CFD, a Backup Special Tax may be levied on Undeveloped Property Subject to Mandatory Prepayment Provisions if (i) Projected Buildout Revenues are estimated by the Tax Administrator to be less than the Required Special Tax Revenues, and (ii) revenues generated by application of Section D above are insufficient to pay the Debt Service Requirement for the Fiscal Year. The maximum Backup Special Tax that can be levied in such Fiscal Year shall be the amount determined by subtracting the Projected Buildout Revenues from the Required Special Tax Revenues. The Backup Special Tax shall be apportioned on an acreage basis to each Parcel of Undeveloped Property.

The Backup Special Tax may only be levied for the purpose set forth above and shall not be levied to pay directly for facilities, accelerate repayment of Bonds, or redeem Bonds in any Fiscal Year in which the Projected Buildout Revenues exceed the Required Special Tax Revenues. The Backup Special Tax may be collected in the same manner and at the same time as ordinary ad valorem property taxes or billed directly to the record owners of the Undeveloped Property against which the Backup Special Tax is being levied.

##### *1. Fiscal Year in Which There are Less Than or Equal to Twenty (20) Acres of Undeveloped Property Subject to Mandatory Prepayment Provisions*

In the Fiscal Year in which the Tax Administrator determines that there are less than twenty (20) acres of Undeveloped Property Subject to Mandatory Prepayment Provisions, the Tax Administrator shall compare the Projected Buildout Revenues to the Required Special Tax Revenues. If it is determined that Projected Buildout Revenues are less than the Required Special Tax Revenues, the Tax Administrator shall immediately notify the School District of such finding. Within thirty (30) days, the School District shall mail, or cause to be mailed, a notice to the owners of the Undeveloped Property Subject to Mandatory Prepayment Provisions indicating that a mandatory prepayment is required, provided that failure to provide such notice within thirty days does not adversely impact the power to collect the mandatory prepayment. Such notice shall identify (i) the Assessor's Parcel number and acreage of each Parcel of Undeveloped Property Subject to Mandatory Prepayment Provisions, and (ii) the mandatory prepayment that is due from each such Parcel of Undeveloped Property Subject to Mandatory Prepayment Provisions.

The total amount of the mandatory prepayment shall be calculated using the formula set forth in Section 1 below using, for purposes of the first step in the prepayment formula, the amount determined by subtracting Projected Buildout Revenues from the Required Special Tax Revenues. The total mandatory prepayment shall then be allocated on an acreage basis to each

parcel of Undeveloped Property Subject to Mandatory Prepayment Provisions that remains within the Expected CFD Area and has been annexed to the CFD or has been included in another community facilities district that has been formed for the purpose of mitigating such territory's school mitigation obligations as set forth in the mitigation agreement entered into relative to the territory within CFD 07-1 and for which the Tax Administrator had determined that the Rate and Method of Apportionment of such community facilities district has equivalent mandatory prepayment provisions. If the mandatory prepayment due for a particular Parcel has not been received by the School District prior to issuance of the first building permit for new construction on that Parcel, the CFD may levy the mandatory prepayment on such Parcel as part of the next Special Tax levy or as a direct billing to the owner of the Parcel.

Proceeds from the mandatory prepayment shall be used as soon as practicable to redeem Bonds in an amount sufficient to reduce the Required Special Tax Revenues to the amount of Projected Buildout Revenues calculated in that Fiscal Year.

*Notwithstanding the foregoing, at such time as the Administrator determines that the Maximum Special Tax revenues that can be collected from Developed Property within the Expected CFD Area are greater than or equal to the Required Special Tax Revenues, Undeveloped Property within the Expected CFD Area shall be immediately exempted from the levy of a Backup Special Tax or the collection of a mandatory prepayment pursuant to Sections E.1 and E.2 above.*

## **E      EXEMPTIONS**

The Board of Education shall not levy a Special Tax on the first 39.94 acres of land within CFD No. 07-1 to become Public Property, the first 219.06 acres of land within CFD No. 07-1 to become Property Owners Association Property, or the first 15.34 acres of land within CFD No. 07-1 to become Non-Residential Property provided that if the total area within CFD No. 07-1 is increased after its formation but the principal amount of Bonds authorized to be issued is not increased, the foregoing amounts may be increased to such amount as the Board of Education determines appropriate so long as the aggregate amount of such increases do not exceed the aggregate Parcel Area of the Taxable Property so added to CFD No. 07-1, and provided further that the foregoing amount may be increased at the direction of the Board of Education if the Board of Education determines that *the* total Maximum Special Tax that may be levied in each Fiscal Year on all of the Assessor's Parcels within CFD No. 07-1 that will remain Taxable Property will be at least equal to the sum of the estimated Administrative Expenses plus 1.1 times the Debt Service Requirement for such Fiscal Year.

Residential units within an Age-Restricted Project shall be exempt from the levy of Special Taxes if and to the extent such units were expected to be exempt at the time Bonds were sold for CFD No. 07-1, as determined by the Tax Administrator. If such an exemption was not anticipated when Bonds were issued, units within the Age-Restricted Project shall be subject to the Maximum Special Taxes identified in Section C above.

## **G. APPEALS**

Any landowner who feels that the amount of the Special Tax levied on such landowner's property is in error may file a notice with the CFD appealing the amount of the Special Tax; provided, however that the filing of a notice does not relieve such landowner of the obligation to pay in full the actual Special Tax levied. A representative of the CFD will then review the appeal and, if necessary, meet with the applicant. If the findings of the CFD representative verify that the amount of the Special Tax should be modified or changed, then, as appropriate, the Special Tax levy shall be corrected, or if the amount has been paid, then it shall be refunded from available Special Tax levied and collected in the following Fiscal Year.

## **H. MANNER OF COLLECTION**

The Special Tax will be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the CFD may collect such Special Taxes at a different time or in a different manner if necessary or convenient to meet its financial obligations. Under no circumstances may the Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Special Tax levied on another Parcel or Parcels in the CFD.

## **I. PREPAYMENT OF SPECIAL TAX**

The owner of an Assessor's Parcel as to which no Special Tax is delinquent may prepay the Special Tax applicable to such Assessor's Parcel in whole as described in this Section I. Such owner shall provide the Tax Administrator with (i) written notice of intent to prepay and (ii) payment of the fee established by the Tax Administrator to process the prepayment request. Within a reasonable time frame (as determined by the Tax Administrator), the Tax Administrator shall notify such owner of the prepayment amount applicable to such Assessor's Parcel.

The following definitions (in addition to those set forth in the text below) apply to this Section 1:

**"Marketing Phase"** means a phase of not less than ten (10) homes being constructed and sold at approximately the same time.

**"Outstanding Bonds"** means all Previously Issued Bonds which remain outstanding pursuant to the terms of the documents under which they were issued, with the following exception: if a Special Tax has been levied against, or already paid by, an Assessor's Parcel making a prepayment, and a portion of such Special Tax will be used to pay a portion of the next principal payment on the Bonds, that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**"Previously Issued Bonds"** means all Bonds that have been issued on behalf of CFD No. 07-1 prior to the date of prepayment.

**"Public Facilities Requirements"** means either \$73,265,537 in 2007 dollars, which shall increase on January 1, 2008, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for Class 'B' Construction for the prior twelve (12) month period as tabulated by the Office of Public School Construction (OPSC) or other comparable source if the construction cost index is no longer tabulated or otherwise not available, or such other number as shall be determined by the Board of Education to be an appropriate estimate of the net construction proceeds that will be generated from all Bonds that have been and are expected to be issued on behalf of CFD No. 07-1. The Public Facilities Requirements shown above may be adjusted or separate Public Facilities Requirements identified each time property annexes into CFD No. 07-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Special Tax revenues generated within that annexation area.

**"Remaining Facilities Costs"** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

**Bond Redemption Amount**  
plus Remaining Facilities Amount  
plus Redemption Premium  
plus Defeasance Requirement  
plus Administrative Fees and Expenses  
less Reserve Fund Credit  
equals Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Compute the total Maximum Special Tax for the Assessor's Parcel for the Fiscal Year in which prepayment would occur or, if the prepayment is a mandatory prepayment required pursuant to Section E.2 above, use the amount determined by subtracting the Projected Buildout Revenues from the Required Special Tax Revenues.
- Step 2.** Divide the Maximum Special Tax computed pursuant to Step I for such Assessor's Parcel by the lesser of (i) the Maximum Special Tax revenues that could be collected in that Fiscal Year from all Taxable Property in CFD No. 07-1, or (ii) the Projected Buildout Revenues. If the prepayment is a mandatory prepayment required pursuant to Section E.2, use only the Projected Buildout Revenues.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be redeemed or paid at maturity (the "Bond Redemption Amount").

- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 5.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (the "Remaining Facilities Amount").
- Step 6.** Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed in advance of their maturity (the "Redemption Premium").
- Step 7.** Compute the amount needed to assure the payment of interest on the Bond Redemption Amount from the last date on which interest was payable on the Outstanding Bonds until the earliest redemption date for the Outstanding Bonds.
- Step 8:** Compute the minimum amount the Tax Administrator reasonably expects to be derived from the investment of the Bond Redemption Amount plus the Redemption Premium until the redemption date for the Bonds that are expected to be redeemed with the prepayment.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "Defeasance Requirement").
- Step 10.** Calculate the administrative fees and expenses of the CFD in connection with the prepayment, including the costs of computation of the prepayment, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, calculate a reserve fund credit as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the "Reserve Fund Credit").
- Step 12.** The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "Prepayment Amount").

The owner of any Assessor's Parcel as to which no Special Tax is delinquent may discharge the Special Tax applicable to such Assessor's Parcel in part in the same manner described above for prepayments in whole by paying any percentage of the applicable Prepayment Amount (computed without the Administrative Fees and Expenses) plus the applicable Administrative Fees and Expenses, provided that, if such partial prepayment is to be made by a merchant builder prior to selling homes to individual homebuyers, the builder must make such partial prepayment on all units within a Marketing Phase. From and after the School District's receipt of any such partial prepayment, the Maximum Special Tax applicable to such Assessor's Parcel shall be the product of the Maximum Special Tax which would have otherwise been applicable thereto times

the remainder of 100% minus the percentage of the Prepayment Amount (computed without regard to Administrative Fees and Expenses) that was actually prepaid.

**J. LIMITATIONS ON DEBT**

No indebtedness or liability which is payable in whole or in part from Special Taxes shall be incurred if the aggregate amount of the Maximum Special Tax that may be levied on all Assessor's Parcels that are Residential Developed Property at the time such debt or liability is issued or incurred will be less in any Fiscal Year than the applicable Debt Service Requirement unless ICDC shall have first delivered to the CFD its written consent to the levy of a Special Tax on Undeveloped Property.

**K. INTERPRETATION AND APPLICATION**

The interpretation and application of this document are subject to the exercise of discretion by the CFD.

08/16/07