

**ORDINANCE NUMBER 1142**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2004-5 (AMBER OAKS II) OF THE CITY OF PERRIS AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN SAID DISTRICT**

**THE CITY COUNCIL OF THE CITY OF PERRIS ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF THE COMMUNITY FACILITIES DISTRICT NO. 2004-5 (AMBER OAKS II) OF THE CITY OF PERRIS DOES ORDAIN AS FOLLOWS:**

**Section 1.** By the passage of this ordinance, the City Council authorizes the levy of a special tax at the rate and formula set forth in Exhibit "A" to Resolution No. 3329 (the "Resolution"), and which for reference purposes is attached hereto as Exhibit "1" and incorporated herein by this reference.

**Section 2.** The City Council or its designee is hereby further authorized to determine, by ordinance, resolution, or by other action if permitted by then applicable law, on or before August 1 of each year, the specific special tax to be levied on each parcel of land in the District. The special tax to be levied shall not exceed the maximum rates set forth in Exhibit "1", but the special tax may be levied at a lower rate. The City Clerk is authorized and directed to file with the county auditor on or before the 10th day of August of each tax year a certified copy of such ordinance or resolution accompanied by a list of all parcels subject to the special tax levy with the tax to be levied on each parcel.

**Section 3.** Properties or entities of the state, federal or other local governments shall be exempt from the above-referenced and approved special taxes only to the extent set forth in Section C of Exhibit 1 hereto and otherwise shall be subject to the tax consistent with the provisions of Section 53317.3 of the Act in effect as of the date of adoption of this Ordinance.

**Section 4.** All of the collections of the special taxes shall be used only as provided for in the Act and the Resolution. The special taxes shall be levied only so long as needed to accomplish the purposes described in the Resolution.

**Section 5.** The special taxes shall be collected from time to time as necessary to meet the financial obligations of Community Facilities District No. 2004-5 (Amber Oaks II) of the City of Perris (the "District") on the secured real property tax roll in the same manner as ordinary *ad valorem* taxes are collected, or other procedures as may be adopted by the City Council. The City Manager and Finance Director are each hereby authorized and directed to provide or to cause to be provided all necessary information to the auditor/tax collector of the County of Riverside and to otherwise take all actions necessary in order to effect proper billing and collection of the special taxes, so that the special taxes shall be levied and collected in

sufficient amounts and at times necessary to satisfy the financial obligations of the District in each fiscal year until the Bonds are paid in full, the Facilities have been paid for, and provision has been made for payment of all of the administrative costs of District. The special taxes may be subject to the same penalties and the same procedure, sale and lien priority in cases of delinquency as provided for *ad valorem* taxes as such procedure may be modified by law or this City Council from time to time.

Notwithstanding the foregoing, the City Manager may collect, or cause to be collected, one or more installments of the special taxes by means of direct billing by the District of the property owners within the District, if, in the judgment of the City Manager, such means of collection will reduce the administrative burden of the District in administering the District where it is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in any such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for *ad valorem* taxes. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

**Section 6.** As a cumulative remedy, if any amount levied as a special tax for payment of bond interest or principal, together with any penalties and other charges accruing under this ordinance, are not paid when due, the City Council may, not later than four years after the due date of the last installment of principal of the Bonds, order that the same be collected by an action brought in the superior court to foreclose the lien of such special tax.

**Section 7.** This Ordinance relating to the levy of the special taxes shall take effect immediately upon its final passage in accordance with the provisions of Section 36937(a) of the Government Code, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Government Code.

**Section 8.** The City Clerk is hereby directed to execute and cause to be recorded in the office of the County Recorder of the County of Riverside a notice of special tax lien in the form required by the Act, said recording to occur no later than fifteen days following final passage by the City Council of this Ordinance.

**Section 9.** The Mayor shall sign this Ordinance and the City Clerk shall attest to the Mayor's signature and then cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in the City.

**Section 10.** The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

***ADOPTED, SIGNED*** and ***APPROVED*** this 30<sup>th</sup> day of November, 2004.

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Mayor, Daryl R. Busch

ATTEST:

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City Clerk, Margaret Rey

STATE OF CALIFORNIA    )  
COUNTY OF RIVERSIDE   ) ss.  
CITY OF PERRIS            )

I, Margaret Rey, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Ordinance Number 1142, introduced at a regular meeting of the City Council of the City of Perris held on the 9<sup>th</sup> day of November, 2004, was duly adopted by the City Council, acting as the legislative body of Community Facilities District No. 2004-5 (Amber Oaks II) of the City of Perris, at a regular meeting thereof held on the 30<sup>th</sup> day of November, 2004, and that it was so adopted by the following called vote:

AYES:            Yarbrough, Landers, Motte, Rogers, Busch  
NOES:  
ABSENT:  
ABSTAIN:

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City Clerk, Margaret Rey

**EXHIBIT “1”**  
**(ORDINANCE NUMBER 1142)**

**CITY OF PERRIS**  
**COMMUNITY FACILITIES DISTRICT NO. 2004-5**  
**(Amber Oaks II) (Tract 31201)**

**RATE AND METHOD OF APPORTIONMENT**

A Special Tax as hereinafter defined shall be levied on all Assessor’s Parcels in Community Facilities District No. 2004-5 of the City of Perris (“CFD No. 2004-5”) and collected each Fiscal Year commencing in Fiscal Year 2005-06, in an amount determined by the City Council of the City of Perris, through the application of the Rate and Method of Apportionment as described below. All of the real property in CFD No. 2004-5, unless exempted by law or by the provisions hereof, 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:

“**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. The square footage of an Assessor’s Parcel is equal to the Acreage of such parcel multiplied by 43,560.

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

“**Administrative Expenses**” means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2004-5: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2004-5 or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2004-5 or any designee thereof of complying with City, CFD No. 2004-5 or obligated persons disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2004-5 or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from any escrow account; and the City’s annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2004-5 for any other administrative purposes of CFD No. 2004-5, including attorney’s fees and other costs

related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

“**Assessor**” means the Assessor of the County of Riverside.

“**Assessor’s Parcel**” means a lot or parcel shown in an Assessor’s Parcel Map with an assigned Assessor’s parcel number.

“**Assessor’s Parcel Map**” means an official map of the County Assessor of the County designating parcels by Assessor’s parcel number.

“**Assigned Special Tax**” means the Special Tax for each Land Use Class of Developed Property, as determined in accordance with Section C below.

“**Backup Special Tax**” means the Special Tax applicable to each Assessor’s Parcel of Developed Property, as determined in accordance with Section C below.

“**Bonds**” means any bonds or other indebtedness (as defined in the Act), whether in one or more series, secured by the levy of Special Taxes.

“**CFD Administrator**” means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“**CFD No. 2004-5**” means City of Perris Community Facilities District No. 2004-5.

“**City**” means the City of Perris.

“**Council**” means the City Council of the City acting as the legislative body of the CFD under the Act.

“**County**” means the County of Riverside.

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

“**Developed Property**” means for each Fiscal Year, all Taxable Property, exclusive of Taxable Public Property and Taxable Property Owner Association Property, for which the Final Map was recorded as of January 1 and a building permit for new construction was issued after January 1, 2003 and prior to March 1 of the Fiscal Year preceding the Fiscal Year for which the Special Taxes are being levied.

**“Final Map”** means a subdivision of property by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code Section 1352 that creates individual lots for which building permits may be issued without further subdivision.

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

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

**“Land Use Class”** means any of the classes listed in Table 1 below.

**“Maximum Special Tax”** means the greatest amount of Special Tax, determined in accordance with Section C below, that can be levied in any Fiscal Year on any Assessor’s Parcel.

**“Non-Residential Property”** means all Assessor’s Parcels of Developed Property for which a building permit was issued for a non-residential use.

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

**“Property Owner Association Property”** means, for each Fiscal Year, any property within the boundaries of CFD No. 2004-5 that was owned by a property owner association, including any master or sub-association, as of January 1 of the prior Fiscal Year.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Special Tax levy to the Assigned Special Tax is equal for all Assessor’s Parcels of Developed Property, or where the Backup Special Tax is being levied, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels upon which a Backup Special Tax is being levied. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor’s Parcels of Undeveloped Property. The term “Proportionately” may similarly be applied to other categories of Taxable Property as listed in Section C below.

**“Public Property”** means property within the boundaries of CFD No. 2004-5 owned by, irrevocably offered or dedicated to, or for which an easement for purposes of public right-of-way has been granted to the federal government, the State of California, the County of Riverside, the City of Perris, or any local government or other public agency, provided that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use.

**“Residential Floor Area”** means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor’s Parcel.

**“Residential Property”** means all Assessor’s Parcels of Developed Property for which a building permit has been issued for purposes of constructing one or more residential dwelling units.

**“Special Tax”** means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property within CFD No. 2004-5 to fund the Special Tax Requirement.

**“Special Tax Requirement”** means that amount required in any Fiscal Year for CFD No. 2004-5 to: (i) pay Debt Service on all Outstanding Bonds; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) pay directly for acquisition or construction of CFD No. 2004-5 facilities eligible under the Act or accumulate funds therefore, to the extent that the inclusion of such amount does not increase the Special Tax levy on Undeveloped Property; (vi) pay for reasonably anticipated Special Tax delinquencies based on the delinquency rate for the Special Tax levy in the previous Fiscal Year; less (vii) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator pursuant to the Indenture.

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

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2004-5 which are not exempt from the Special Tax pursuant to law or Section E below.

**“Taxable Property Owner Association Property”** means all Assessor’s Parcels of Property Owner Association Property within the boundaries of CFD 2004-5 that are not exempt from the levy of Special Tax pursuant to Section E below.

**“Taxable Public Property”** means all Assessor’s Parcels of Public Property that are not exempt from the levy of Special Tax pursuant to Section E below.

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

**“Undeveloped Property”** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Public Property or Taxable Property Owner Association Property.



**B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property within CFD No. 2004-5 shall be classified as Developed Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Assessor's Parcels of Developed Property shall be classified as Residential Property or Non-Residential Property. Assessor's Parcels of Residential Property shall be further classified to its applicable Land Use Class based on its Residential Floor Area.

**C. MAXIMUM SPECIAL TAX RATES**

**1. Developed Property**

(a). Maximum Special Tax

The Maximum Special Tax for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Special Tax or (ii) the amount derived by application of the Backup Special Tax.

(b). Assigned Special Tax

The Fiscal Year 2005-06 Assigned Special Tax for each Land Use Class is shown below in Table 1.

**TABLE 1**

**Assigned Special Tax for Developed Property in  
Community Facilities District No. 2004-5  
Fiscal Year 2005-06**

Land Use Class	Description	Residential Floor Area	Assigned Special Tax
1	Residential Property	≥ 2,200 s.f.	\$1,499 per unit
2	Residential Property	> 1,800 and < 2,200 s.f.	\$1,450 per unit
3	Residential Property	>1,500 and ≤1,800 s.f.	\$1,353 per unit
4	Residential Property	≤1,500 s.f.	\$1,206 per unit
5	Non-Residential Property	NA	\$15,400 per acre

(c). Backup Special Tax

At the time a Final Map is recorded, the Backup Special Tax for all Assessor's Parcels of Developed Property classified or to be classified as Residential Property within such Final Map shall be determined by multiplying the total Acreage of Taxable Property in such Final Map, by \$15,400 and dividing the product by the total number of residential lots within such Final Map.

Notwithstanding the foregoing, if all or any portion of a Final Map is subsequently changed or modified, then the Backup Special Tax for each Parcel of Developed Property classified or to be classified as Residential Property in such Final Map that is changed or modified shall be a rate per square foot of Net Taxable Acre calculated as follows:

1. Determine the total Backup Special Tax anticipated to apply to the changed or modified portion of the Final Map prior to the change or modification.
2. The amount determined pursuant to paragraph 1 above shall be divided by the Net Taxable Acreage of Residential Property which is expected to be located in such changed or modified portion of the Final Map, as determined by the District.
3. The quotient derived pursuant to paragraph 2 above shall be divided by 43,560. The resulting quotient is the Backup Special Tax per square foot, which shall be applicable to Parcels of Residential Property in such changed or modified portion of the Final Map for all remaining Fiscal Years in which the Special Tax may be levied.

(d). Increase in the Assigned Special Tax and Backup Special Tax

On each July 1, commencing on July 1, 2006, the Assigned Special Tax and the Backup Special Tax shall be increased by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year.

**2. Undeveloped Property, Taxable Public Property, and Taxable Property Owner Association Property.**

(a). Maximum Special Tax

The Fiscal Year 2005-06 Maximum Special Tax for Undeveloped Property, Taxable Public Property, and Taxable Property Owner Association Property shall be \$15,400 per Acre.

(b). Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Tax for Undeveloped Property, Taxable Public Property, and Taxable Property Owner Association Property shall be increased by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year.

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

Commencing with Fiscal Year 2005-06 and for each following Fiscal Year, the Council shall determine the Special Tax Requirement and shall levy the Special Tax until the total Special Tax levy equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

First: The Special Tax shall be levied proportionately on each Assessor's Parcel of Developed Property at up to 100% of the applicable Assigned Special Tax to satisfy the Special Tax Requirement;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property at up to 100% of the Maximum Special Tax for Undeveloped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased Proportionately from the Assigned Special Tax up to the Maximum Special Tax for each such Assessor's Parcel;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property and Taxable Property Owner Association Property at up to 100% of the Maximum Special Tax for Taxable Public Property and Taxable Property Owner Association Property.

Notwithstanding the preceding provisions of this Section D, under no circumstances will the Special Tax levied against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased by more than ten percent as a consequence of delinquency or default by the owner of any other Assessor's Parcel within CFD No. 2004-5.

Notwithstanding the preceding provisions of this Section D and clause (v) of the definition of “Special Tax Requirement,” the Special Tax shall not be levied on Assessor’s Parcels of Undeveloped Property to pay the cost of the construction and acquisition of public facilities or to accumulate funds therefore.

**E. EXEMPTIONS**

No Special Tax shall be levied on up to 4.87 Acres of Public Property and/or Property Owner Association Property. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Public Property or Property Owner Association Property. However, should an Assessor’s Parcel no longer be classified as Public Property or Property Owner Association Property its tax-exempt status will be revoked.

Public Property or Property Owner Association Property that is not exempt from the Special Tax under this section shall be subject to the levy of the Special Tax and shall be taxed Proportionately as part of the fourth step in Section D above, at up to 100% of the applicable Maximum Special Tax for Taxable Public Property or Taxable Property Owner Association Property.

**F. 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 CFD No. 2004-5 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor’s Parcels as permitted by the Act.

**G. PREPAYMENT OF SPECIAL TAX**

The following definition applies to this Section G:

“**CFD Public Facilities**” means either \$2,550,000 in 2004 dollars, which shall increase by the Construction Inflation Index on July 1, 2005, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to provide the public facilities to be provided by CFD No. 2004-5 under the authorized bonding program for CFD No. 2004-5, or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more Bonds to be supported by Special Tax levied under this Rate and Method of Apportionment as described in Section D.

“**Construction Fund**” means an account specifically identified in the Indenture to hold funds which are currently available for expenditure to acquire or construct public facilities eligible under the Act.

**“Construction Inflation Index”** means the annual percentage change in the Engineering News-Record Building Cost Index for the City of Los Angeles, measured as of the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Construction Inflation Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Engineering News-Record Building Cost Index for the City of Los Angeles.

**“Future Facilities Costs”** means the CFD Public Facilities minus (i) public facility costs previously paid from the Construction Fund, (ii) moneys currently on deposit in the Construction Fund, and (iii) moneys currently on deposit in an escrow fund that are expected to be available to finance facilities costs.

**“Outstanding Bonds”** means all Previously Issued Bonds which are deemed to be outstanding under the Indenture after the first interest and/or principal payment date following the current Fiscal Year.

**“Previously Issued Bonds”** means all Bonds that have been issued by CFD No. 2004-5 prior to the date of prepayment.

**1. Prepayment in Full**

The obligation of an Assessor’s Parcel to pay the Special Tax may be prepaid and permanently satisfied as described herein; provided that a prepayment may be made only for Assessor’s Parcels of Developed Property or Undeveloped Property for which a building permit has been issued, and only if there are no delinquent Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. An owner of an Assessor’s Parcel intending to prepay the Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount of such Assessor’s Parcel. The CFD Administrator may charge a reasonable fee for providing this service. Prepayment must be made not less than 45 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Special Tax Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

Bond Redemption Amount	
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
less	Reserve Fund Credit
less	Capitalized Interest Credit
Total: equals	Prepayment Amount

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

**Paragraph No.:**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For Assessor's Parcels of Developed Property, compute the Assigned Special Tax and Backup Special Tax applicable for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property (for which a building permit has been issued) to be prepaid, compute the Assigned Special Tax and Backup Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel.
3. (a) Divide the Assigned Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Special Taxes for CFD No. 2004-5 based on the Developed Property Special Taxes which could be charged in the current Fiscal Year on all expected development through buildout of CFD No. 2004-5, excluding any Assessor's Parcels which have been prepaid, and  
  
(b) Divide the Backup Special Tax computed pursuant to paragraph 2 by the estimated total Backup Special Taxes at buildout of CFD No. 2004-5, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (expressed as a percentage), if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Compute the current Future Facilities Costs
7. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
9. Determine the Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.

10. Compute the minimum amount the CFD Administrator reasonably expects to derive from the reinvestment of the Special Tax Prepayment Amount less the Future Facilities Amount and the Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.

11. Add the amounts computed pursuant to paragraphs 8 and 9 and subtract the amount computed pursuant to paragraph 10 (the “Defeasance Amount”).

12. Verify the administrative fees and expenses of CFD No. 2004-5, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the “Administrative Fees and Expenses”).

13. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture) on the prepayment date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “Reserve Fund Credit”). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.

14. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the “Capitalized Interest Credit”).

15. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 11 and 12, less the amounts computed pursuant to paragraphs 13 and 14 (the “Prepayment Amount”).

16. From the Prepayment Amount, the amounts computed pursuant to paragraphs 4, 5, 11, 13 and 14 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make Debt Service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 12 shall be retained by CFD No. 2004-5.

The Special Tax Prepayment Amount may be sufficient 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 appropriate fund established under the Indenture to be used with the next prepayment of bonds or to make Debt Service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined under paragraph 9 (above), the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid, the Council shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of the Special Tax and the release of the Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay the Special Tax shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Taxes that may be levied on Taxable Property within CFD No. 2004-5 both prior to and after the proposed prepayment is at least 1.1 times the maximum annual Debt Service on all Outstanding Bonds.

**2. Prepayment in Part**

The Special Tax on 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 partially prepaid. The amount of the prepayment shall be calculated as in Section G.1.; except that a partial prepayment shall be calculated according to the following formula:

$$PP = PE \times F.$$

These terms have the following meaning:

- PP = the partial prepayment
- PE = the Special Tax Prepayment Amount calculated according to Section G.1
- F = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax.

The owner of any Assessor's Parcel who desires such prepayment shall notify the CFD Administrator of such owner's intent to partially prepay the Special Tax and the percentage by which the Special Tax shall be prepaid. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within thirty (30) days of the request and may charge a reasonable fee for providing this service. With respect to any Assessor's Parcel that is partially prepaid, the City shall (i) distribute the funds remitted to it according to Section G.1., and (ii) indicate in the records of CFD No. 2004-5 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (1.00 - F) of the remaining Maximum Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D.



**H. TERM OF SPECIAL TAX**

Special Taxes shall be levied for the period necessary to fully satisfy the Special Tax Requirement, but in no event shall it be levied after Fiscal Year 2044-2045.

**I. RELIEF FROM BACKUP SPECIAL TAX**

All Assessor's Parcels within CFD No. 2004-5 will be relieved simultaneously and permanently from the obligation to pay and disclose the Assigned Special Tax if the Council determines that the total amount of the Special Taxes which could be levied in any Fiscal Year on all Assessor's Parcels of Developed Property in CFD No. 2004-5 based on the Assigned Special Tax Rates for such Assessor's Parcels, less the estimated annual Administrative Expenses in any such Fiscal Year, would be equal to at least 110 percent of maximum annual Debt Service on the Outstanding Bonds.