

**RESOLUTION NO. 2018- \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY), DECLARING ITS INTENTION TO CONSIDER AN AMENDMENT TO THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR IMPROVEMENT AREA II OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY)**

**Whereas**, after a public hearing, on February 28, 2006, the City Council (Council) of the City of Lake Elsinore (City) adopted Resolution Nos. 2006-30 and 2006-31 which formed City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) (the "District" or "Community Facilities District No. 2006-1") and Improvement Area Nos. 1 through 3 therein, and called special elections on February 28, 2006, within Improvement Area Nos. 1 through 3 of the District on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness and the establishment of an appropriations limit for the District, which were approved by more than two-thirds vote by the qualified electors on February 28, 2006; and,

**Whereas**, subsequent to the formation of the District, the District received a petition signed by owners of the land within the boundaries of the District to dissolve Improvement Area Nos. 1 through 3 therein and to establish Improvement Areas A through F of the District, to authorize the levy of the special tax in accordance with rates and methods of apportionment of special taxes for Improvement Areas A through F and to authorize the District to incur bonded indebtedness for Improvement Areas A through F; and,

**Whereas**, on January 25, 2011, the Council, acting as the legislative body of the District, adopted Resolution Nos. 2011-005 and 2011-006, dissolving Improvement Area Nos. 1 through 3 therein, establishing Improvement Areas A through F of the District and declaring the intention to incur bonded indebtedness of the District for Improvement Areas A through F; and,

**Whereas**, after a public hearing, on March 8, 2011, the Council adopted Resolution Nos. 2011-119 and 2011-120, which called special elections on March 8, 2011 within Improvement Areas A through F of the District on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness and the establishment of an appropriations limit for the District, which were approved by more than two-thirds vote by the qualified electors on March 8, 2011 (collectively, the "2011 Change Proceedings"); and,

**Whereas**, subsequent to the 2011 Change Proceedings, the District received a petition signed by owners of the land within Improvement Areas C through F of the District to dissolve Improvement Areas C through F and to establish Improvement Areas CC, DD, EE, FF, GG, HH and II of the District from the areas within Improvement Areas C through F of the District; and,

**Whereas**, on February 25, 2014, the Council, acting as the legislative body of the District, adopted Resolution Nos. 2014-2010 and 2011-2011, dissolving Improvement Areas C through F therein, establishing Improvement Areas CC, DD, EE, FF, GG, HH and II of the District and declaring the intention to incur bonded indebtedness of the District for Improvement Areas CC, DD, EE, FF, GG, HH and II; and,

**Whereas**, after a public hearing, on April 8, 2014, the Council adopted Resolution Nos. 2014-016 and 2014-017, which called special elections on April 8, 2014 within Improvement Areas CC, DD, EE, FF, GG, HH and II of the District on three propositions relating to the levying of a special tax,

the incurring of bonded indebtedness and the increase of the appropriations limit for the District, which were approved by more than two-thirds vote by the qualified electors on April 8, 2014 (collectively, the "2014 Change Proceedings"); and,

**Whereas**, the District has received a petition signed by McMillin Summerly, LLC, a Delaware limited liability company, (the "Owner") which owns land within Improvement Area II of the District ("Improvement Area II"), to approve a new rate and method of apportionment for Improvement Area II attached hereto as Attachment "A" (the "First Amended Rate and Method"); and,

**Whereas**, the District desires to enter into a reimbursement agreement with the Owner, the form of which is on file with the City Clerk (the "Reimbursement Agreement"), to provide for the reimbursement of certain amounts advanced by the Owner in connection with the change proceedings described herein; and

**NOW, THEREFORE, THE CITY COUNCIL, ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY), DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOW:**

**Section 1.** Each of the above recitals is true and correct and is adopted by the legislative body of the District.

**Section 2.** The Council, acting as the legislative body of the District, declares its intention to conduct proceedings pursuant to the Act to consider amending and restating the rate and method of apportionment for Improvement Area II approved in connection with the 2014 Change Proceedings with the First Amended Rate and Method.

**Section 3.** The improvements proposed to be financed by the District (the "Improvements") are public facilities as defined in the Act. The Improvements and incidental expenses authorized to be financed by the District are described in Resolution Nos. 2014-010, 2014-011 and 2014-016 adopted by the Council, acting as the legislative body of the District. The City and the Elsinore Valley Municipal Water District, with respect to certain water and sewer facilities, are authorized by law to construct, acquire, own and operate such Improvements for the benefit of the District.

The services proposed to be provided within Improvement Area II (the "Services") are public services as defined in the Act. The Services authorized to be financed by the District are described in the Resolution Nos. 2014-010 and 2014-016 adopted by the Council, acting as the legislative body of the District.

**Section 4.** A public hearing (the "Hearing") on the levy of special taxes in Improvement Area II in accordance with the First Amended Rate and Method shall be held at 7:00 p.m., or as soon thereafter as practicable, on November 27, 2018, at the City Cultural Center, 183 North Main Street, Lake Elsinore, California. Should the City Council determine to submit the proposed First Amended Rate and Method to the qualified electors of Improvement Area II, a special election will be held to authorize the First Amended Rate and Method in accordance with the procedures contained in Government Code Section 53326. If such election is held, the proposed voting procedure at the elections will be a landowner vote with each landowner who is the owner of record of land within Improvement Area II at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within Improvement Area II. Ballots for the special election may be distributed by mail or by personal service.

**Section 5.** At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within Improvement Area II, may appear and be heard.

**Section 6.** The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area within Community Facilities District No. 2006-1. The City Clerk is further directed to mail a copy of the Notice to each of the landowners within the boundaries of Improvement Area II at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters, if any, and landowners in Improvement Area II and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.

**Section 8.** The form of the Reimbursement Agreement is hereby approved. The Mayor, the City Manager, the Assistant City Manager, or their written designees are hereby authorized and directed to execute and deliver the Reimbursement Agreement in the form on file with the City Clerk with such changes, insertions and omissions as may be approved by the officer or officers executing such agreement, said execution being conclusive evidence of such approval.

**Section 9.** This Resolution shall be effective upon its adoption.

**Passed and Adopted** on this 23rd day of October 2018.

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Natasha Johnson, Mayor

**Attest:**

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Susan M. Domen, MMC  
City Clerk

STATE OF CALIFORNIA)  
COUNTY OF RIVERSIDE) ss.  
CITY OF LAKE ELSINORE)

I, Susan M. Domen, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2018-\_\_\_\_\_ was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of October 23, 2018, and that the same was adopted by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Susan M. Domen, MMC  
City Clerk

**ATTACHMENT "A"**  
**PROPOSED FIRST AMENDED AND RESTATED**  
**RATE AND METHOD OF APPORTIONMENT**  
**CITY OF LAKE ELSINORE**  
**COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY)**  
**(IMPROVEMENT AREA II)**

A Special Tax shall be levied on all Assessor's Parcels in City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) Improvement Area II ("CFD No. 2006-1 IA II") and collected each Fiscal Year commencing in Fiscal Year 2019-2020, in an amount determined through the application of this Rate and Method of Apportionment as described below. All of the real property in CFD No. 2006-1 IA II, 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.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311) of Part 1 of 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. 2006-1 IA II: 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 City 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. 2006-1 IA II or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2006-1 IA II or any designee thereof of complying with disclosure requirements of the City, CFD No. 2006-1 IA II or obligated persons associated with applicable federal and state securities laws and 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. 2006-1 IA II or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from an escrow account; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated by the CFD Administrator or advanced by the City or CFD No. 2006-1 IA II for any other administrative purposes of CFD No. 2006-1 IA II, including attorney's fees and other costs, and attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Approved Property"** means all Assessor's Parcels of Taxable Property: (i) that are included in a Final Map that was recorded prior to the January 1st preceding the Fiscal Year in which the Special Tax is being levied, and (ii) that have not been issued a building permit on or before May 1st preceding the Fiscal Year in which the Special Tax is being levied.

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

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

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

**"Assigned Special Tax for Facilities"** means the Special Tax for Facilities for each Land Use Class of Developed Property, as determined in accordance with Section C.1.(b) below.

**"Authorized Facilities"** means those authorized improvements, as listed in an exhibit to the Resolution of Formation.

**"Backup Special Tax for Facilities"** means the Special Tax for Facilities applicable to each Assessor's Parcel of Developed Property, as determined in accordance with Section C.1.(c) below.

**"CFD Administrator"** means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement for Facilities, the Special Tax Requirement for Services as determined in accordance with Section I below, and providing for the levy and collection of the Special Taxes.

**"CFD"** or **"CFD No. 2006-1 IA II"** means Improvement Area II of CFD No. 2006-1 as identified on the boundary map for CFD No. 2006-1.

**"CFD No. 2006-1"** means City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) established by the City under the Act.

**"CFD No. 2006-1 IA II 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, to which Special Tax for Facilities within CFD No. 2006-1 IA II have been pledged.

**"City"** means the City of Lake Elsinore.

**"City Council"** means the City Council of the City of Lake Elsinore, acting as the Legislative Body of CFD No. 2006-1 IA II, or its designee.

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

**"Developed Property"** means, with respect to the Special Tax for Facilities, for each Fiscal Year, all Taxable Property, exclusive of Taxable Public Property and Taxable Property Owner Association Property, for which the Final Subdivision was recorded on or before January 1 of the prior Fiscal Year and a building permit for new construction was issued on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Special Tax for Facilities is being levied. Once an Assessor's Parcel has been designated Developed Property, the Maximum Special Tax for Facilities cannot be reduced for any reason unless a prepayment in full or partial prepayment is made pursuant to Section G.

**"Final Subdivision"** means (i) a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates

individual lots for which building permits may be issued, or (ii) for condominiums, a final map, or portion thereof, approved by the City and a condominium plan recorded pursuant to California Civil Code Section 1352 that creates individual lots for which building permits may be issued.

**"Fiscal Year"** means the period commencing on July 1<sup>st</sup> of any year and ending the following June 30<sup>th</sup>.

**"Funding Agreement"** means the Funding, Construction and Acquisition Agreement entered into by the City, on behalf of CFD No. 2006-1, as it may be amended.

**"Indenture"** means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which CFD No. 2006-1 IA II 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 for Facilities"** means the maximum Special Tax for Facilities, 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 permitting the construction of one or more non-residential units or facilities has been issued by the City.

**"Outstanding Bonds"** means all CFD No. 2006-1 IA II Bonds which are deemed to be outstanding under the Indenture.

**"Property Owner's Association Property"** means, for each Fiscal Year, any property within the boundaries of CFD No. 2006-1 IA II 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 for Facilities levy to the Assigned Special Tax for Facilities is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax for Facilities levy per Acre to the Maximum Special Tax for Facilities 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 D below.

**"Public Property"** means , for each Fiscal Year, (i) any property within the boundaries of CFD No. 2006-1 IA II owned by, irrevocably offered or dedicated to, or over, through or under which an easement for purposes of public use has been granted, to the federal government, the State, the County, the City, the Lake Elsinore Unified School District, or any local government or other public agency as of January 1 of the previous Fiscal Year, 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; or (ii) any property within the boundaries of CFD No. 2006-1 IA II that was encumbered, as of January 1 of the previous Fiscal Year, by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

**"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 for an Assessor's Parcel 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 permitting the construction thereon of one or more residential dwelling units has been issued by the City.

**"Resolution of Formation"** means the resolution of formation for CFD No. 2006-1 IA II.

**"Special Tax(es)"** means any of the special taxes authorized to be levied within CFD No. 2006-1 IA II pursuant to the Act.

**"Special Tax for Facilities"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property, Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property to fund the Special Tax Requirement for Facilities.

**"Special Tax for Facilities Requirement "** means that amount required in any Fiscal Year for CFD No. 2006-1 IA II to: (i) pay debt service on all Outstanding Bonds due in the calendar year commencing in such Fiscal Year; (ii) pay periodic costs on the CFD No. 2006- 1 IA II Bonds, including but not limited to, credit enhancement and rebate payments on the CFD No. 2006-1 IA II Bonds due in the calendar year commencing in such Fiscal Year; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) pay for reasonably anticipated Special Tax for Facilities delinquencies; (vi) pay directly for acquisition or construction of Authorized Facilities to the extent that the inclusion of such amount does not increase the Special Tax for Facilities levy on Approved Property and Undeveloped Property; less (vii) a credit for funds available to reduce the annual Special Tax for Facilities 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. 2006-1 IA II which are not exempt from the Special Tax for Facilities pursuant to law or Section E below.

**"Trustee"** means the trustee, fiscal agent, or paying agent under the Indenture.

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

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Taxable Property within CFD No. 2006-1 IA II shall be classified as Developed Property, Approved Property, Taxable Public Property, Taxable Property Owner Association Property, or Undeveloped Property, and shall be subject to Special Taxes in accordance with this Rate and Method of Apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1 through 5 as listed in Table 1 below based on the Residential Floor Area for each unit. Non-Residential Property shall be assigned to Land Use Class 6. With respect to Residential Property, the Residential Floor Area shall be determined from the most recent building permit issued for such Assessor's Parcel.

## **C. MAXIMUM SPECIAL TAX FOR FACILITIES**



**1. Developed Property**

**(a) Maximum Special Tax for Facilities**

The Maximum Special Tax for Facilities 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 for Facilities or (ii) the amount derived by application of the Backup Special Tax for Facilities.

**(b) Assigned Special Tax for Facilities**

The Fiscal Year 2019-2020 Assigned Special Tax for Facilities for each Land Use Class is shown below in Table 1.

**TABLE 1  
ASSIGNED SPECIAL TAX FOR FACILITIES FOR DEVELOPED PROPERTY  
COMMUNITY FACILITIES DISTRICT NO. 2006-1 IMPROVEMENT AREA II  
FISCAL YEAR 2019-2020**

<b>Land Use Class</b>	<b>Description</b>	<b>Residential Floor Area</b>	<b>Assigned Special Tax for Facilities</b>
1	Residential Property	Less than 1,500 sq. ft	\$1,494 per unit
2	Residential Property	1,500 – 1,599 sq. ft	\$1,613 per unit
3	Residential Property	1,600 – 1,699 sq. ft	\$1,640 per unit
4	Residential Property	1,700 – 1,799 sq. ft	\$1,689 per unit
5	Residential Property	Greater than 1,799 sq. ft.	\$1,797 per unit
6	Non-Residential Property	N/A	\$18,467 per Acre

**(c) Backup Special Tax for Facilities**

The Fiscal Year 2019-2020 Backup Special Tax for Facilities attributable to a Final Subdivision will equal \$18,467, multiplied by the Acreage of all Taxable Property, exclusive of any Taxable Property Owner Association Property and Taxable Public Property, therein. The Backup Special Tax for Facilities for each Assessor's Parcel of Residential Property shall be computed by dividing the Backup Special Tax for Facilities attributable to the applicable Final Subdivision by the number of Assessor's Parcels for which building permits for residential construction have or may be issued (i.e., the number of residential lots). The Backup Special Tax for Facilities for each Assessor's Parcel of Non-Residential Property therein shall equal \$18,467 multiplied by the Acreage of such Assessor's Parcel.

If a Final Subdivision includes Assessor's Parcels of Taxable Property for which building permits for both residential and non-residential construction may be issued, exclusive of Taxable Property Owner Association Property and Taxable Public Property, then the Backup Special Tax for Facilities for each Assessor's Parcel of Residential Property shall be computed exclusive of the Acreage and Assessor's Parcels of property for which building permits for non-residential construction may be issued.

Notwithstanding the foregoing, if all or any portion of the Final Subdivision(s) described in the preceding paragraphs is subsequently changed or modified by recordation of a lot line adjustment or similar instrument, and only if the CFD Administrator determines that such change or modification results in a decrease in the number of Assessor's Parcels of Taxable Property for which building permits for residential construction have or may be issued within

such Final Subdivision, then the Backup Special Tax for Facilities for each Assessor's Parcel of Developed Property that is part of the lot line adjustment or similar instrument for such Final Subdivision shall be a rate per Acre as calculated below. The Backup Special Tax for Facilities previously determined for an Assessor's Parcel of Developed Property that is not a part of the lot line adjustment or similar instrument for such Final Subdivision shall not be recalculated.

1. Determine the total Backup Special Tax for Facilities anticipated to apply to the changed or modified portion of the Final Subdivision area prior to the change or modification.
2. The result of paragraph 1 above shall be divided by the Acreage of Taxable Property which is ultimately expected to exist in such changed or modified portion of the Final Subdivision area, as reasonably determined by the CFD Administrator.
3. The result of paragraph 2 above shall be the Backup Special Tax for Facilities per Acre which shall be applicable to Assessor's Parcels of Developed Property in such changed or modified portion of the Final Subdivision area for all remaining Fiscal Years in which the Special Tax for Facilities may be levied.

(d) Release of Obligation to Pay and Disclose Backup Special Tax

All Assessor's Parcels within CFD No. 2006-1 IA II will be relieved simultaneously and permanently from the obligation to pay and disclose the backup Special Tax if the CFD Administrator determines that the annual debt service required for the Outstanding Bonds, when compared to the Assigned Special Taxes for Facilities that may be levied against all Assessor's Parcels of Developed Property results in 110% debt service coverage (i.e., the aggregate Assigned Special Taxes for Facilities that may be levied against all Developed Property in each remaining Fiscal Year based on then existing development in CFD No. 2006-1 IA II is at least equal to the sum of (i) the Administrative Expenses and (ii) 1.10 times maximum annual debt service, in each remaining Fiscal Year on the Outstanding Bonds).

(e) Increase in the Assigned Special Tax for Facilities and Backup Special Tax for Facilities

The Fiscal Year 2019-2020 Assigned Special Tax for Facilities, identified in Table 1 above, and Backup Special Tax for Facilities shall increase, commencing on July 1, 2020 and on July 1 of each Fiscal Year thereafter, by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year.

(f) Multiple Land Use Classes

In some instances, an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax for Facilities levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax for Facilities for all Land Use Classes located on that Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

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

The Fiscal Year 2019-2020 Maximum Special Tax for Facilities for Approved Property, Taxable Property Owner Association Property, Taxable Public Property, and Undeveloped Property shall be \$18,467 per Acre and shall increase thereafter, commencing on July 1, 2020 and on July 1 of

each Fiscal Year thereafter, by an amount equal to two percent (2%) of the Maximum Special Tax for Facilities in effect for the previous Fiscal Year.

#### **D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX FOR FACILITIES**

Commencing with Fiscal Year 2019-2020 and for each following Fiscal Year, the City Council shall determine the Special Tax Requirement for Facilities and levy the Special Tax for Facilities until the amount of Special Tax for Facilities levy equals the Special Tax Requirement for Facilities. The Special Tax for Facilities shall be levied each Fiscal Year as follows:

- Step One: The Special Tax for Facilities shall be levied on each Assessor's Parcel of Developed Property in an amount equal to 100% of the applicable Assigned Special Tax for Facilities;
- Step Two: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first step has been completed, the Special Tax for Facilities shall be levied Proportionately on each Assessor's Parcel of Approved Property at up to 100% of the Maximum Special Tax for Facilities for Approved Property;
- Step Three: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first two steps has been completed, the Special Tax for Facilities shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property at up to 100% of the Maximum Special Tax for Facilities for Undeveloped Property;
- Step Four: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first three steps have been completed, then the levy of the Special Tax for Facilities on each Assessor's Parcel of Developed Property whose Maximum Special Tax for Facilities is determined through the application of the Backup Special Tax for Facilities shall be increased in equal percentages from the Assigned Special Tax for Facilities up to the Maximum Special Tax for Facilities for each such Assessor's Parcel;
- Step Five: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first four steps have been completed, then the Special Tax for Facilities shall be levied Proportionately on each Assessor's Parcel of Taxable Property Owner Association Property and Taxable Public Property at up to 100% of the Maximum Special Tax for Facilities for Taxable Property Owner Association Property or Taxable Public Property.

Notwithstanding the above, the City Council may, in any Fiscal Year, levy Proportionately less than 100% of the Assigned Special Tax for Facilities in step one (above), when (i) the City Council is no longer required to levy the Special Tax for Facilities pursuant to steps two through four above in order to meet the Special Tax Requirement for Facilities; (ii) all authorized CFD No. 2006-1 IA II Bonds have already been issued or the City Council has covenanted that it will not issue any additional CFD No. 2006-1 IA II Bonds (except refunding bonds) to be supported by the Special Tax for Facilities; and (iii) all Authorized Facilities have been constructed and/or acquired.

Further notwithstanding the above, under no circumstances will the Special Tax for Facilities levied against any Assessor's Parcel of Residential Property 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. 2006-1 IA II.

## **E. EXEMPTIONS**

No Special Tax for Facilities shall be levied on up to 11.94 Acres of Property Owner Association Property and/or Public Property in CFD No. 2006-1 IA II. Tax-exempt status will be assigned by the CFD Administrator in the chronological order in which property becomes Property Owner Association Property or Public Property. However, should an Assessor's Parcel no longer be classified as Property Owner Association Property or Public Property, its tax-exempt status will be revoked.

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

## **F. MANNER OF COLLECTION**

The Special Tax for Facilities shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes, provided, however, that CFD No. 2006-1 IA II may collect Special Tax for Facilities 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 FOR FACILITIES**

The following additional definitions apply to this Section G:

**"Buildout"** means, for CFD No. 2006-1 IA II, that all expected building permits have been issued.

**"CFD Public Facilities Costs"** means either \$6,000,000 in 2019 dollars, which shall increase by the Construction Inflation Index on July 1, 2020, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to fund the Authorized Facilities to be provided by CFD No. 2006-1 IA II under the authorized bonding program for CFD No. 2006-1 IA II, or (ii) shall be determined by the City Council concurrently with a covenant that it will not issue any more CFD No. 2006-1 IA II Bonds (except refunding bonds) to be supported by the Special Tax for Facilities levy under this Rate and Method of Apportionment as described in Section D above.

**"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 Costs minus (i) public facility costs previously paid from the Improvement Fund, (ii) moneys currently on deposit in the Improvement Fund, and (iii) moneys currently on deposit in an escrow fund established pursuant to the Indenture that are expected to be available to finance the cost of Authorized Facilities.

**"Improvement Fund"** means an account specifically identified in the Indenture to hold funds which are currently available for expenditure to acquire or construct Authorized Facilities eligible under the Act.

**"Previously Issued Bonds"** means, for any Fiscal Year, all Outstanding Bonds that are deemed to be outstanding under the Indenture after the first interest and/or principal payment date following the current Fiscal Year.

#### **1. Prepayment in Full**

Only an Assessor's Parcel of Developed Property, or Undeveloped Property for which a building permit has been issued, may be prepaid. The obligation of the Assessor's Parcel to pay the Special Tax for Facilities may be permanently satisfied as described herein, provided that a prepayment may be made with respect to a particular Assessor's Parcel 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 for Facilities 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 for 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 CFD No. 2006-1 IA II Bonds from the proceeds of such prepayment may be given by the Trustee pursuant to the Indenture.

The Special Tax for Facilities 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
Equals:	Prepayment Amount

The Prepayment Amount shall be determined as of the proposed prepayment date as follows:

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 for Facilities and Backup Special Tax for Facilities. For Assessor's Parcels of Undeveloped Property for which a building permit has been issued, compute the Assigned Special Tax for Facilities and Backup Special Tax for Facilities 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 for Facilities computed pursuant to paragraph 2 by the total estimated Assigned Special Tax for Facilities for the entire CFD No. 2006-1 IA II based on the Developed Property Special Tax for Facilities which could be levied in the

current Fiscal Year on all expected development through Buildout of CFD No. 2006-1 IA II, excluding any Assessor's Parcels which have been prepaid, and

(b) Divide the Backup Special Tax for Facilities computed pursuant to paragraph 2 by the total estimated Backup Special Tax for Facilities at Buildout for the entire CFD No. 2006-1 IA II, 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 Previously Issued Bonds to compute the amount of Previously Issued 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 (e.g., the redemption price-100%), if any, on the Previously Issued 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 Previously Issued Bonds.

9. Determine the Special Tax for Facilities 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 for Facilities Prepayment Amount less the Future Facilities Amount and the Administrative Fees and Expenses (defined below) from the date of prepayment until the redemption date for the Previously Issued 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. The administrative fees and expenses of CFD No. 2006-1 IA II are as calculated by the CFD Administrator and include the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming CFD No. 2006-1 IA II Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

13. The reserve fund credit (the "Reserve Fund Credit") shall equal the lesser of: (a) the expected reduction in the reserve requirement (as defined in the Indenture), if any, associated with the redemption of Previously Issued Bonds as a result of the prepayment, or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Previously Issued Bonds as a result of the prepayment from the balance in the reserve fund on the prepayment date, but in no event shall such amount be less than zero. No Reserve Fund Credit shall be granted if the amount

then on deposit in the reserve fund for the Previously Issued Bonds is below 100% of the reserve requirement (as defined in the Indenture).

14. If any capitalized interest for the Previously Issued Bonds will not have been expended as of the date immediately following 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 or account under the Indenture after such first interest and/or principal payment (the "Capitalized Interest Credit").

15. The Special Tax for Facilities 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 "Special Tax for Facilities Prepayment Amount").

From the Special Tax for Facilities 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 CFD No. 2006-1 IA II Bonds or make debt service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Improvement Fund. The amount computed pursuant to paragraph 12 shall be retained by CFD No. 2006-1 IA II.

The Special Tax for Facilities Prepayment Amount may be insufficient to redeem a full \$5,000 increment of CFD No. 2006-1 IA II 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 CFD No. 2006-1 IA II Bonds or to make debt service payments.

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

Notwithstanding the foregoing, no Special Tax for Facilities prepayment shall be allowed unless, at the time of such proposed prepayment, the amount of Maximum Special Tax for Facilities that may be levied on Taxable Property within CFD No. 2006-1 IA II (after excluding 11.94 Acres of Property Owner Association Property and/or Public Property in CFD No. 2006-1 IA II as set forth in Section E) both prior to and after the proposed prepayment is at least equal to the sum of (i) the Administrative Expenses, as defined in Section A above, and (ii) 1.10 times maximum annual debt service, in each remaining Fiscal Year on the Outstanding Bonds.

## **2. Prepayment in Part**

The Special Tax for Facilities 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:

$$PP = ((P_E - A) \times F) + A$$

These terms have the following meaning:

PP = Partial Prepayment Amount

$P_E$  = the Prepayment Amount calculated according to Section G.1

F = the percent by which the owner of the Assessor's Parcel(s) is partially prepaying the Maximum Special Tax for Facilities obligation

A = the Administrative Fees and Expenses determined pursuant to Section G.1

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 for Facilities and the percentage by which the Special Tax for Facilities 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 Facilities for an Assessor's Parcel within 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 Council shall (i) distribute the funds remitted to it according to Section G.1, and (ii) indicate in the records of CFD No. 2006-1 IA II that there has been a partial prepayment of the Special Tax for Facilities and that a portion of the Special Tax for Facilities with respect to such Assessor's Parcel, equal to the outstanding percentage  $(1.00 - F)$  of the remaining Maximum Special Tax for Facilities, shall continue to be levied on such Assessor's Parcel pursuant to Section D above.

#### H. TERM OF SPECIAL TAX FOR FACILITIES

The Special Tax for Facilities shall be levied until Fiscal Year 2059-2060, provided however that the Special Tax for Facilities will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined (i) that all required interest and principal payments on the CFD No. 2006-1 IA II Bonds have been paid; (ii) all Authorized Facilities have been acquired and all reimbursements required by the Funding Agreement have been paid; and (iii) all other obligations of CFD No. 2006-1 IA II have been satisfied.

#### I. SPECIAL TAX FOR SERVICES

The following additional definitions apply to this Section I:

**“Developed Multifamily Unit”** means a residential dwelling unit within a building in which each of the individual dwelling units has or shall have at least one common wall with another dwelling unit and a building permit has been issued by the City for such dwelling unit on or prior to May 1 preceding the Fiscal Year in which the Special Tax for Services is being levied.

**“Developed Single Family Unit”** means a residential dwelling unit other than a Developed Multifamily Unit on an Assessor's Parcel for which a building permit has been issued by the City on or prior to May 1 preceding the Fiscal Year in which the Special Tax for Services is being levied.

**“Maximum Special Tax for Services”** means the maximum Special Tax for Services that can be levied by CFD No. 2006-1 IA II in any Fiscal Year on any Assessor's Parcel.

**“Operating Fund”** means a fund that shall be maintained for CFD No. 2006-1 IA II for any Fiscal Year to pay for the actual costs of maintenance related to the Services, and the applicable Administrative Expenses.



**“Operating Fund Balance”** means the amount of funds in the Operating Fund at the end of the preceding Fiscal Year.

**“Services”** means maintenance services including but not limited to (i) maintenance and lighting of parks, (ii) maintenance of open space, (iii) maintenance and operation of water quality improvements, and (iv) fund an operating reserve for the costs of such services as determined by the CFD Administrator.

**“Special Tax for Services”** means any of the special taxes authorized to be levied within CFD No. 2006-1 IA II pursuant to the Act to fund the Special Tax Requirement for Services.

**“Special Tax Requirement for Services”** means the amount determined in any Fiscal Year for CFD No. 2006-1 IA II equal to (i) the budgeted costs directly related to the Services, including maintenance, repair and replacement of certain components of the Services which have been accepted and maintained or are reasonably expected to be accepted and maintained during the current Fiscal Year, (ii) Administrative Expenses, and (iii) anticipated delinquent Special Taxes for Services based on the delinquency rate in CFD No. 2006-1 IA II for the previous Fiscal Year, less (iv) the Operating Fund Balance, as determined by the CFD Administrator.

#### **1. Rate and Method of Apportionment of the Special Tax for Services**

Commencing Fiscal Year 2019-2020 and for each subsequent Fiscal Year, the City Council shall levy Special Taxes for Services on (i) all Assessor's Parcels containing a Developed Single Family Unit or Developed Multifamily Unit and (ii) all Assessor's Parcels of Non-Residential Property, up to the applicable Maximum Special Tax for Services to fund the Special Tax Requirement for Services.

The Maximum Special Tax for Services for Fiscal Year 2019-2020 shall be \$319.31 per Developed Single Family Unit, \$159.67 per Developed Multifamily Unit, and \$719 per Acre for each Assessor's Parcel of Non-Residential Property.

On each July 1, commencing July 1, 2020, the Maximum Special Tax for Services shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

#### **J. DURATION OF SPECIAL TAX FOR SERVICES**

The Special Tax for Services shall be levied in perpetuity to fund the Special Tax for Services Requirement, unless no longer required as determined at the sole discretion of the City Council.

#### **K. APPEALS AND INTERPRETATIONS**

Any landowner or resident who feels that the amount of the Special Tax levied on their Assessor's Parcel is in error may submit a written appeal to CFD No. 2006-1 IA II. The CFD Administrator shall review the appeal and if the CFD Administrator concurs, the amount of the Special Tax levied shall be appropriately modified.

The City Council may interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals. Any decision of the City Council shall be final and binding as to all persons.

