

ATTACHMENT 5
Rate and Method of Apportionment of Special Tax

**COMMUNITY FACILITIES DISTRICT NO. 98-02
(LIGHTING, LANDSCAPING, OPEN SPACE
AND PRESERVE MAINTENANCE)
IMPROVEMENT AREA NO. F-54**

Exhibit A

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Section 1. Introduction

Special Taxes shall be annually levied on all Assessor's Parcels (as hereinafter defined) in that territory included within Improvement Area No. F-54 (the "Territory") of Community Facilities District No. 98-02 of the City of San Marcos, County of San Diego, State of California (the "District"), in accordance with this Rate and Method of Apportionment of Special Tax (the "RMA") hereinafter set forth. All of the property within the Territory, unless otherwise exempted by law or the express provisions of the RMA, shall be taxed to the extent and in the manner provided below.

Section 2. Definitions

Acreage: The area of an Assessor's Parcel as shown on the latest map of the County Assessor of the County of San Diego, or if the area of an Assessor's Parcel is not shown on such a map, the area shown on a current recorded subdivision map, parcel map, record of survey or other recorded document creating or describing the Assessor's Parcel. If the preceding maps are not available, the area shall be determined by the City Engineer. An ***Acre*** means 43,560 square feet of land. The Acreage attributable to the commercial portion of a mixed-use building, with mixed-use meaning both residential and commercial uses located within the same building, shall be the lesser of (i) the Acreage for the Assessor's Parcel on which such building is or is to be located or (ii) the commercial building square footage multiplied by three and then divided by 43,560. If such commercial building square footage is subdivided into one or more Condominiums pursuant to a Condominium Plan, then the Acreage for each such Condominium for purposes of (i) above shall be equal to the Acreage of the common interest property for such Condominium as determined by the City Engineer.

Active Improvement Area Special Tax: The maximum special tax that can be levied on any Assessor's Parcel in any Fiscal Year to pay for the Active Improvement Area Services.

Administrative Cost: Any ordinary and necessary expense incurred by the City or the District in the administration of the District allocable to the Territory including but not limited to the levy and collection of the Special Tax within the Territory.

Approved Property: Assessor's Parcels for which a final subdivision map has been recorded and/or conditional use permit or other development permit, but not a building permit, has been issued by the City prior to March 1 preceding any Fiscal Year which would permit development of such Assessor's Parcel or portion of such Assessor's Parcel without the necessity to obtain further discretionary land use entitlements.

Assessor's Parcel: A parcel of land or Condominium in the Territory designated and assigned a discrete identifying number on an Assessor's Parcel Map of the County Assessor of the County of San Diego.

Assessor's Parcel Map: An official map of the County Assessor of the County of San Diego designating parcels by Assessor's Parcel number.

Authorized Services: Citywide services including Zone A – Street Lighting, Zone B – Traffic Signals, Zone C – Street Medians, Zone D – Citywide Parks and Zone E – Citywide Trails, ("Citywide Services") as described in the "Special Tax Report Community Facilities District No. 98-02 City of San Marcos Mello-Roos Community Facilities Act of 1982 Citywide Landscaping and Lighting" dated August 25, 1998 and those active and dormant Improvement Area No. F-54 services (individually, the "Active and Dormant Improvement Area Services" and together the "Improvement Area Services") as described in the "Special Tax Report Community Facilities District No. 98-02, Improvement Area F-54, City of San Marcos Mello-Roos Community Facilities Act of 1982 Citywide Landscaping and Lighting."

City: The City of San Marcos.

Citywide Special Tax: The maximum special tax that can be levied on any Assessor's Parcel in any Fiscal Year to pay for the Citywide Services.

Condominium: means a condominium as defined in California Civil Code Section 4125.

Condominium Plan: means a condominium plan pursuant to Civil Code Sections 4120 and 4285.

District: Community Facilities District No. 98-02 (Lighting, Landscaping, Open Space and Preserve Maintenance) of the City.

Developed Property: Any Assessor's Parcel for which a building permit has been issued by the City after March 1, 2015 but prior to the March 1 preceding the Fiscal Year for which the Special Tax is being levied.

Dormant Improvement Area Services Provider(s): The property owner or owners and/or, if applicable, the association(s), including any master or sub-association(s), responsible for the provision of the Dormant Improvement Area Services.

Dormant Improvement Area Special Tax: The maximum special tax rate that can be levied on any Assessor's Parcel in any Fiscal Year to pay for the Dormant Improvement Area Services.

Exempt Property: Property owned by, conveyed, dedicated, or irrevocably offered for dedication to a public agency; land that is in the public right-of-way; and utility easements which are not occupied on a regular basis by employees of the benefiting utility which make utilization of the property encumbered by such easement for purposes other than that set forth in the grant of such easement impractical; privately owned, common area property, streets and parks, and open space lots including, but not limited to, such property owned by a property owners association; property zoned as open space; property used as a golf course, other than clubhouse facilities. However, property owned by a public agency but leased to an end user for purposes other than public use will not be classified as exempt.

Extraordinary Special Tax: That special tax levied pursuant to the provisions of Section 7 below.

Fiscal Year: The period beginning on July 1 and ending on the following June 30.

Index: The Consumer Price Index for the San Diego Region as published by the United States Department of Commerce.

Maximum Annual Special Tax: The maximum special tax that can be levied on any Assessor's Parcel in any Fiscal Year.

Maximum Annual Special Tax Rate: The maximum annual special tax rate or rates as set forth in Section 4 of the RMA.

Operating Reserve: A fund established and maintained from Special Taxes in an amount not to exceed one hundred fifty percent (150%) of the annual budget for the Authorized Services.

Property Classification: A classification of property specified below.

Reserve for Repairs, Removals, Replacements, and Rehabilitation: A fund established and maintained from Special Taxes in an amount not to exceed the difference of the Reserve Fund Requirement and the Operating Reserve.

Reserve Fund: A fund or funds established and maintained from Special Taxes for purposes of the Operating Reserve and Reserve for Repairs, Removals, Replacements, and Rehabilitation, not to exceed in the aggregate \$6,000,000 (the "Reserve Fund Requirement") for Fiscal Year 2016-17. Beginning with Fiscal Year 2017-2018, the Reserve Fund Requirement may be increased annually by the percentage change in the

Index.

Special Tax: The special tax levied on each Assessor's Parcel pursuant to this RMA for any Fiscal Year to meet the Special Tax Requirement.

Special Tax Requirement: The amount sufficient (i) to pay the Territory's proportional share of direct costs to the City, the District and their contractors, agents or assigns associated with providing the Authorized Services, (ii) to pay for the Administrative Costs allocable to the Territory and associated with providing the Authorized Services, and (iii) to establish and replenish the Reserve Fund balance to the Reserve Fund Requirement.

Taxable Assessor's Parcel: An Assessor's Parcel classified as Developed, Approved or Undeveloped Property and which is not Exempt Property.

Undeveloped Property: An Assessor's Parcel not classified as Developed Property, Approved Property or Exempt Property.

Zone: An area consisting of a group of Assessor's Parcels, which may or may not be contiguous, which will participate in the cost of providing a particular facility or service.

Section 3. Property Classification

The Property Classifications to which Assessor's Parcels in the Territory shall be assigned are Developed Property, Approved Property, Undeveloped Property, and Exempt Property. As of July 1 of each Fiscal Year, commencing with July 1, 2017 using the definitions above, the District shall cause each Assessor's Parcel to be classified into one of the Property Classifications noted above.

Section 4. Maximum Annual Special Tax Rates

The Maximum Annual Special Tax Rates are specified in Tables 1 and 2 on the following page. The Maximum Annual Special Tax for any Assessor's Parcel shall be the sum of the applicable Citywide Special Tax, Active Improvement Area Special Tax, and Dormant Improvement Area Special Tax. The Citywide Special Tax for an Assessor's Parcel shall be computed by multiplying the equivalent dwelling units ("EDUs") applicable to such Assessor's Parcel as determined from Table 1 below by the corresponding City Services Special Tax rates determined from Table 2 below. The Active Improvement Area Special Tax and the Dormant Improvement Area Special Tax for an Assessor's Parcel shall similarly be computed by multiplying the equivalent dwelling units ("EDUs") applicable to such Assessor's Parcel as determined from Table 1 below by the corresponding Active Improvement Area Special Tax rate and Dormant Improvement Area Special Tax rate set forth in Table 2 below. Notwithstanding the assignment of an Assessor's Parcel to one of the four Property Classifications above, each Assessor's Parcel may be comprised of residential as well as commercial land uses in

which case the Maximum Annual Special Tax for the Assessor's Parcel shall be the sum of the Maximum Annual Special Taxes for both land uses.

TABLE 1
EQUIVALENT DWELLING UNITS

PROPERTY CLASSIFICATION	CITYWIDE SERVICES ZONES A, D, AND E	CITYWIDE SERVICES ZONE B	IMPROVEMENT AREA SERVICES
Developed Property			
Residential	1 EDU/Residential Unit	1 EDU/Residential Unit	1 EDU/Residential Unit
Commercial	2.65 EDU/Acre	40.00 EDU/Acre	2.65 EDU/Acre
Approved Property¹			
Residential	1 EDU/Residential Unit	1 EDU/Residential Unit	1 EDU/Residential Unit
Commercial	2.65 EDU/Acre	40.00 EDU/Acre	2.65 EDU/Acre
Undeveloped Property			50 EDU/Acre
Exempt Property	NA	NA	NA

TABLE 2
MAXIMUM ANNUAL SPECIAL TAX RATE PER EDU
FISCAL YEAR 2016-2017

AUTHORIZED SERVICE	MAXIMUM ANNUAL SPECIAL TAX RATE (PER EDU)
Citywide Services	\$236.13
Active Improvement Area Services	\$511.55
Dormant Improvement Area Services	\$0.45
TOTAL	\$748.13

¹ For Approved Property, the City in its discretion will determine the number of anticipated or planned residential units and commercial Acres for an Assessor's Parcel from the applicable zoning, tentative map, or conditional or other development permit.

- 4.1 **Assignment of Maximum Annual Special Tax:** A Maximum Annual Special Tax will be assigned to all Assessor's Parcels classified as Developed Property Approved Property or Undeveloped Property as of July 1 of the Fiscal Year in which such classification occurs. All Assessor's Parcels of Developed Property and Approved Property will, to the extent provided for in Section 6 below, participate in Zones A, B, D and E.
- 4.2 **Levy of Dormant Special Tax:** Each Dormant Improvement Area Services Provider is expected to meet the following standards (the "Service Standards") with respect to all Dormant Improvement Area Services: (i) provide such services in a timely manner and quality substantially similar to the manner and quality in which similar services are provided by the City in all other areas of the City and (ii) levy annual assessments, in the event that the Dormant Improvement Area Services Provider is a property owners association, in an amount sufficient to fund such services and to maintain reserve funds in accordance with the most recent reserve study. If the City Manager determines that any Dormant Improvement Area Services Provider has failed to comply with (i) and (ii) for a period exceeding three consecutive months, the City shall provide written notice of such determination to the Dormant Improvement Area Services Provider.

Representatives of the Dormant Improvement Area Services Provider and City shall meet within ten (10) days of such notice to discuss the City Manager's determination. The Dormant Improvement Area Services Provider shall be given fifteen (15) days from such meeting to commence to implement the Service Standards and an additional thirty (30) days to make substantial progress towards conformance with the Service Standards. If, at the end of such forty-five (45) day period, the City Manager, in his or her reasonable discretion, determines that the Dormant Improvement Area Services Provider has not made or is not continuing to make substantial progress toward conformance with the Service Standards, the City Manager's determination shall be provided to the City Council in a written report. Upon receipt of such report, the City Council shall place the matter on the agenda for a subsequent City Council meeting, at which a duly-noticed public hearing shall be conducted. Upon the conclusion of the public hearing, the City Council shall determine, based upon substantial evidence, whether the Dormant Improvement Area Services Provider has failed to comply with the Service Standards and has not cured such failure and will notify the Dormant Improvement Area Services Provider of the same. The City Council's determination shall be final. Upon the City Council's determination of failure, the Dormant Special Tax may be levied on the Assessor's Parcels corresponding to such Dormant Improvement Area Services Provider, as determined by the City Engineer.

- 4.3 **Increasing the Maximum Annual Special Tax:** Beginning with Fiscal Year 2017-2018, the Maximum Annual Special Tax Rates set forth above may be increased annually by the percentage change in the Index.

Section 5. Determination of Special Tax Requirement

The City Council shall annually determine the Special Tax Requirement for each Fiscal Year, commencing with Fiscal Year 2017-2018. The Special Tax Requirement for each Fiscal Year shall include the proportionate share of the cost of Citywide Services allocable to the Developed Properties within the Territory, i.e., the cost per EDU or front foot, as applicable, for each such Citywide Service multiplied by the number of EDU's or front feet assigned to each Assessor's Parcel of Developed Property within the Territory; the cost of those Improvement Area Services which the City is or will be responsible to provide during all or any portion of such Fiscal Year; the proportionate share of the related Administrative Costs allocable to the Territory; and the funding or replenishment of the Reserve Fund to the Reserve Fund Requirement. The initial funding of the Reserve Fund shall be accomplished only through the levy of Special Taxes on Developed Property or Extraordinary Special Taxes on Approved Property and/or Undeveloped Property as provided for herein.

In any Fiscal Year during which the developer or Dormant Improvement Area Services Provider is or will be responsible for providing any Improvement Area Services, the Special Tax Requirement for such Fiscal Year shall include the Developed Properties' proportionate share of the estimated cost of providing the Improvement Area Services by the City from the estimated date following the (i) end of the developer's two (2) year warranty period upon which the City will assume such maintenance responsibility or (ii) end of the period during which the Dormant Improvement Area Services Provider provided the Dormant Improvement Area Services to the next date thereafter on which the City will receive Special Taxes to finance such Improvement Area Services. For example, assume that in preparing the Fiscal Year 2018-2019 Special Tax Requirement, the District determines that the City will become responsible for providing certain Improvement Area Services commencing on May 1, 2019. Assume that from the date the City assumes such responsibility until the end of Fiscal Year 2018-2019 (i.e. May 1, 2019 to June 30, 2019), the City's share of the cost of providing services is \$2,500. In addition, assume that the cost of providing services during Fiscal Year 2019-2020 is \$10,000 such that the cost of providing services for Fiscal Year 2019-2020 until the first receipt of Special Taxes (i.e. July 1, 2019 to December 31, 2019) is \$5,000. On May 1, 2019, the City will need to have on deposit \$7,500 to finance the services from May 1, 2019 until December 31, 2019. To accomplish this, the Special Tax Requirement for Fiscal Year 2017-2018 shall include this additional \$7,500.

Section 6. Method of Apportionment of Special Taxes

- 6.1. As of July 1 of each Fiscal Year, commencing with July 1, 2017 all Assessor's Parcels within the Territory shall be assigned to one of the Property Classifications specified in Section 3.
- 6.2. The City Council shall determine for each Fiscal Year, the Special Tax Requirement.
- 6.3. The City Council shall levy the Special Taxes for each Fiscal Year, commencing on July 1, 2017, in the following order of priority in order to fund the Special Tax Requirement for such Fiscal Year:
 - (a) Levy the Special Tax proportionately up to the Maximum Annual Special Tax upon all Developed Property to generate Special Taxes to fund the Special Tax Requirement;
 - (b) If, after levying Special Taxes pursuant to (a) above, additional Special Taxes are needed to generate sufficient Special Taxes to fund the Special Tax Requirement, levy the Special Tax proportionately up to the Maximum Annual Special Tax upon all Approved Property; and
 - (c) If, after levying Special Taxes pursuant to (a) and (b) above, additional Special Taxes are needed to generate sufficient Special Taxes to fund the Special Tax Requirement, levy the Special Tax proportionately up to the Maximum Annual Special Tax upon all Assessor's Parcels of Undeveloped Property which are subject to the levy of Special Taxes.

Section 7. Extraordinary Special Tax

Prior to the acceptance by the City of areas or improvements to be maintained as a part of the Improvement Area Services and assumption by the City of responsibility for providing such Improvement Area Services, the District shall determine (i) the amount, if any, in addition to those funds received from the levy of the Special Taxes on Developed Properties which are allocated to pay for Improvement Area Services, which the City will need to pay for such Improvement Area Services from the (a) date following the end of the developer's two (2) year warranty period upon which the City will assume such maintenance responsibility or (b) end of the period during which the Dormant Improvement Area Services Provider provided Dormant Improvement Area Services to the next date thereafter on which the City will receive Special Taxes to finance such Improvement Area Services and (ii) the amount, if any, in addition to those funds received from the levy of Special Taxes on Developed Properties which are allocated to funding the Reserve Fund, which will be necessary to increase the amount on deposit in the Reserve Fund to the Reserve Fund Requirement at the commencement of the Fiscal

Year following the date of the assumption by the City of responsibility for providing such Improvement Area Services. Subject to the limitations on the Maximum Annual Special Tax contained in Section 4 above, the sum of (i) and (ii) above shall be levied as an Extraordinary Special Tax by direct billing on all remaining Approved Property and Undeveloped Property and such amount shall become due and payable within sixty (60) calendar days from and after the date of such direct billing.

The City shall not accept any areas or improvements or assume responsibility for providing those Improvement Area Services for which an Extraordinary Special Tax has been levied until such Special Tax has been received by the District. No further building permits shall be issued for Assessor's Parcels within the Territory if any Extraordinary Special Tax levied pursuant to this Section 7 is not paid within the time period set forth in the preceding paragraph.

Section 8. Manner of Collection of Special Taxes.

With the exception of the Extraordinary Special Tax which shall be billed directly, the Special Taxes which shall be levied in each Fiscal Year shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes; provided, however, the City Council may, by resolution, establish and adopt an alternative or supplemental collection procedure, including direct billing. The Special Taxes when levied shall be secured by the lien imposed pursuant to Section 3115.5 of the Streets and Highways Code. This lien shall be a continuing lien and shall secure each levy of Special Taxes. The lien of the Special Taxes shall continue in force and effect until the Special Tax ceases to be levied in the manner provided by Section 53330.5 of the Government Code.