

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

391



FROM: Executive Office

SUBMITTAL DATE:

July 26, 2005

SUBJECT: Ordinance No. 680.2 Amending Ordinance No. 680.1 of the County of Riverside.

RECOMMENDED MOTION: That the Board of Supervisors of the County of Riverside introduce Ordinance No. 680.2 amending Ordinance No. 680.1 of the County of Riverside, and adopt Ordinance No. 680.2 at the next Board meeting, which will be August 9, 2005.

BACKGROUND: Ordinance No. 680.1 was adopted by the Board of Supervisors on January 9, 2001 to provide for the levy of special taxes in Community Facilities District No. 89-1 of the County of Riverside (the "District"). The rate and method of apportionment of special taxes for the District had been amended and restated (the "Amended & Restated RMA") pursuant to a change proceeding taken by the Legislative Body for the District pursuant to the provision of the Mello-Roos Community Facilities Act of 1982, as amended. The Amended and Restated RMA is attached to Ordinance No. 680.1 as Exhibit A.

The Legislative Body for the District by adoption of Resolution No. CFD 2005-07, has determined that there is a clerical error contained in Table 1 of Section B of the Amended & Restated RMA. Ordinance No. 680.2 amends Ordinance No. 680.1 by substituting a corrected Exhibit A to the Ordinance. All other provisions of Ordinance 680.1 are to remain unchanged.

FORM APPROVED
COUNTY COUNSEL

JUL 20 2005

Departmental Concurrence


Jerry Norris, Senior Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N / A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N / A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2006

SOURCE OF FUNDS: N / A

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature



- Policy
- Consent
- Policy
- Consent

Dept't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.:

District: 1

Agenda Number:

3.70

1 COUNTY OF RIVERSIDE

2 ORDINANCE NO. 680.2

3 ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
4 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA,
5 AMENDING ORDINANCE NO. 680.1

6 WHEREAS, the Board of Supervisors (the "Board of Supervisors") of the County of Riverside
7 (the "County"), acting ex officio as the Legislative Body (the "Legislative Body), of Community Facilities
8 District No. 89-1 of the County of Riverside (the" Community Facilities District") adopted Resolution No.
9 CFD 2000-06 on October 24, 2000, pursuant to the provisions of the Mello-Roos Community Facilities
10 Act of 1982, as amended (the "Act"), commencing with Section 53311 of the California Government
11 Code, stating that it would consider certain changes proposed by the entity owning twenty-five percent
12 (25%) or more of the territory within the boundaries of the Community Facilities District and that among
13 the changes to be considered was one to amend and restate the Rate and Method of Apportionment of
14 Special Taxes (the "Rate and Method") for the Community Facilities District in order to, among other
15 things, reflect changes to Specific Plan No. 221 that had been approved by the Board of Supervisors on
16 May 23, 2000, including modifying tax rates, changing property classifications and altering the basis of
17 apportionment of the special taxes; and,

18 WHEREAS, on November 28, 2000, a noticed public hearing (the "Public Hearing") was held by
19 the Legislative Body to consider the proposed changes including the change to the Rate and Method and
20 to receive any written or oral testimony in support of or opposition to the proposed changes; and,

21 WHEREAS, after closing the Public Hearing, the Legislative Body called a special election (the
22 "Special Election") on the proposed changes, including the change to the Rate and Method, for December
23 12, 2000 by the adoption of Resolution No. CFD 2000-10 in which the Legislative Body determined that
24 the qualified elector for the Special Election was the Shea Homes, Inc. (the " Property Owner") which
25 owned all property within the boundaries of the Community Facilities District and had properly waived
26 certain election procedures allowing for an expedited special election date and found that the Registrar of
27 Voters for the County had consented to the date and time of the Special Election; and,

28 WHEREAS, On December 19, 2000, the Legislative Body canvassed the Special Election and

1 determined the proposition regarding the proposed changes was approved by more than two-thirds (2/3)
2 of the votes cast at the Special Election and determined the proposed changes, including the Amended and
3 Restated Rate and Method of Apportionment of Special Taxes for the Community Facilities District (the
4 "Amended Rate and Method") to be fully authorized by the adoption of Resolution No. 2000-14
5 consistent with the provisions of the Act; and,

6 **WHEREAS**, the Board of Supervisors, on January 9, 2001, adopted Ordinance No. 680.1
7 providing for the annual levy of a special tax on the taxable parcels within the boundaries of the
8 Community Facilities District pursuant to the Amended Rate and Method; and,

9 **WHEREAS**, the Amended Rate and Method contains a definition for both "Single Family
10 Attached Dwelling Units" and "Single Family Detached Dwelling Units" but Table 1 of Section B. of the
11 Amended Rate and Method which establishes the tax classifications for all residentially developed
12 property within the Community Facilities District fails to make reference to "Single Family Attached
13 Dwelling Units;" and,

14 **WHEREAS**, declarations have been filed with the Clerk of the Legislative Body from both the
15 Administrator of the Community Facilities District and James Shontere, Secretary of the Property Owner
16 which owned all of the property within the Community Facilities District on the date of the Special
17 Election and was determined to be the qualified elector entitled to cast more than two-thirds of the votes
18 at the Special Election, and both declarations state that each individual has reviewed his respective files
19 with regard to the change proceeding, can find no documents to explain the omission of the term "Single
20 Family Attached Dwelling Units" from Table 1 of Section B. of the Amended Rate and Method, and has
21 no personal knowledge with regard to said omission;; and,

22 **WHEREAS**, the Legislative Body has adopted Resolution No. CFD 2005-07 determining that the
23 omission of the term "Single Family Attached Dwelling Units" from Table 1 of Section B. of the
24 Amended Rate and Method was a clerical error and ordering that all officers of the County, acting ex
25 officio on behalf of the Community Facilities District, to take any and all things necessary to accomplish
26 the purposes of Resolution No. CFD 2005-07;

27 **NOW, THEREFORE**, The Board of Supervisors of the County of Riverside ORDAINS as
28 follows:

1 **Section 1.** This Board so finds and determines that the above recitals are true and correct.

2 **Section 2.** Section 2. and Exhibit A of Ordinance No. 680.1 are amended by causing said
3 Exhibit A to be deleted therefrom in its entirety and in place and stead thereof to substitute the Exhibit A
4 attached hereto, marked as Exhibit A, and entitled "Corrected Amended & Restated Rate and Method of
5 Apportionment of Special Tax for Community Facilities District No. 89-1 (Mountain Cove) of the
6 County of Riverside."

7 **Section 3.** Except as specifically amended by Section 2., above, all provisions of Ordinance
8 No. 680.1 shall remain in full force and effect.

9 **Section 4.** If for any reason any portion of this ordinance is found to be invalid, or if the
10 special tax is found inapplicable to any particular parcel within the Community Facilities District by a
11 court of competent jurisdiction the balance of the Ordinance and the application of the special tax to the
12 remaining parcels within the Community Facilities District shall not be affected.

13 **Section 5.** The Chairman of the Board of Supervisors shall sign this Ordinance and the Clerk
14 of the Board of Supervisors shall attest to the Chairman's signature and then cause the same to be
15 published within fifteen (15) days after its passage at least once in the The Press-Enterprise, a newspaper
16 of general circulation published and circulated in the area of the Community Facilities District.

17 **Section 6.** This Ordinance relating to the correction to the Amend Rate and Method shall take
18 effect immediately upon its final passage in accordance with the provisions of Section 25123(c) of the
19 California Government Code, and specific authorization for adoption is pursuant to the provisions of
20 Section 53340 of the California Government Code.

21 ADOPTED, SIGNED AND APPROVED this ____ day of _____, 2005

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Marion Ashley,
Chairman of the Board of Supervisors

ATTEST:
Nancy Romero
Clerk of the Board of Supervisors

FORM APPROVED
COUNTY COUNSEL

JUL 20 2005
BY *[Signature]*

By: _____
Deputy

Exhibit A

CORRECTED AMENDED & RESTATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 89-1 (MOUNTAIN COVE) OF THE COUNTY OF RIVERSIDE

A Special Tax (all capitalized terms are defined in Section A. Definitions below), shall be applicable to each Parcel of Taxable Property located within the boundaries of Community Facilities District No. 89-1. The amount of Special Tax to be levied each Fiscal Year commencing in Fiscal Year 2001-2002 for a Parcel shall be determined by the Board, acting in its capacity as the legislative body of CFD No. 89-1, by applying the appropriate tax rate methodology as set forth in Sections B, C and D below for Taxable Property. All of the property in CFD No. 89-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent and in the manner, herein provided.

A. DEFINITIONS

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, comprising Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means all actual or reasonably estimated costs and expenses of the County to carry out its duties as the administrator of CFD No. 89-1, as allowed by the Act, which shall include, without limitation, all costs and expenses arising out of or resulting from the annual levy and collection of the Special Tax, trustee fees, rebate compliance calculations fees, any litigation or appeals involving CFD No. 89-1, continuing disclosure undertakings of the County as imposed by applicable laws and regulations, communication with bondholders and normal administrative expenses.

“Administrator” means the County Executive Officer of the County, or his/her designee.

“Approved Property” means, for any Fiscal Year, all Parcels for which a Final Map was recorded prior to January 1 of the preceding Fiscal Year and for which a building permit was not issued prior to April 1 of the preceding Fiscal Year.

“Assessor's Parcel Map” means an official map of the Assessor of the County designating Parcels by assessor's parcel number.

“Board” means the Board of Supervisors of the County.

“Bond(s)” means bonds, notes, or other indebtedness of CFD No. 89-1 payable from Special Taxes.

“Bond Year” means the one-year period ending each September 1.

“CFD No. 89-1” means Community Facilities District No. 89-1 (Mountain Cove) of the County established pursuant to the Act by adoption of Resolution No. 89-198 by the Board.

“County” means the County of Riverside of the State of California.

“Developed Property” means, for any Fiscal Year, all Parcels of Taxable Property, (a) which are included in a Final Map which was recorded prior to January 1 of the preceding Fiscal Year, and (b) for which a building permit was issued prior to April 1 of the preceding Fiscal Year.

“Exempt Property” means any Parcel which is exempt from Special Taxes pursuant to Section E below.

“Final Map” means (i) a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots for which building permits may be issued, or (ii) for condominiums, a final map approved by the County and a condominium plan recorded pursuant to California Civil Code Section 1352 creating such individual lots. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof that does not create individual lots for which a building permit may be issued.

“Fiscal Year” means the period from and including July 1 of any year to and including the following June 30.

“Golf Course Property” means all Parcels that are designated as golf course property as specified on Tentative Tract Map No. 29416 and generally specified in the Specific Plan.

“Indenture” means the fiscal agent agreement, trust agreement, bond indenture, or other instrument pursuant to which Bonds are issued, as the same may be amended from time to time.

“Land Use Class” means any of the classes listed in Tables 1 and 2 in Sections B and C.

“Maximum Special Tax” means the highest Special Tax that can be levied on a Parcel in any Fiscal Year in accordance with Section C.

“Net Taxable Acreage” means the acreage of a Parcel as indicated by the most recent Assessor's Parcel Map.

“Non-Residential Property” means all Parcels of Approved Property or Developed Property, which have been developed or are identified in the Specific Plan for non-residential use.

“Parcel(s)” means, for each Fiscal Year, a lot or parcel shown on an Assessor's Parcel Map with an assigned Parcel number as of January 1 of the preceding Fiscal Year.

“Planning Area” means a geographical area that has been designated as a planning area in the Specific Plan.

“Principal Prepayment” means the principal amount of the Bonds to be paid or redeemed with the proceeds of a prepayment of Special Taxes.

“Property Owners’ Association Property” means, for any Fiscal Year, any Parcel, which, prior to January 1 of the preceding Fiscal Year has been conveyed, dedicated to, or irrevocably offered for dedication to a property owner association, including any master or sub-association.

“Proportionately” means, with respect to the Parcels within a classification of Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is the same for all Parcels within such classification of Property.

“Public Property” means any Parcel within the boundaries of CFD No. 89-1 that is used for rights-of-way or any other purpose and is owned by, dedicated to, or irrevocably offered for dedication to the federal government, the State of California, the County, a city, or any other public agency, provided however, 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 in accordance with its use.

“Residential Property” means all Parcels of Approved Property or Developed Property, which have been developed or designated in the Specific Plan for residential use.

“Single Family Attached Dwelling Units” means all dwelling units for which building permits have been issued for attached residential development, which includes condominium units.

“Single Family Detached Dwelling Units” means all dwelling units for which building permits have been issued for detached residential development.

“Special Tax(es)” means the special tax to be levied, in each Fiscal Year, on each Parcel of Taxable Property to fund the Special Tax Requirement.

“Special Tax Requirement” means that amount required in any Fiscal Year to pay: (1) principal of and interest coming due on all outstanding Bonds of CFD No. 89-1 in the Bond Year commencing in such Fiscal Year, (2) Administrative Expenses, (3) costs of credit enhancement for the Bonds, (4) the amount needed to replenish any reserve fund for the Bonds, (5) any amount required to be rebated the United States of America with respect to the Bonds, (6) an amount equal to any Special Tax delinquency in the prior Fiscal Year, less a credit for funds already on deposit in the funds established under the Indenture and available to reduce the annual Special Tax Requirement, as determined by the Administrator pursuant to the Indenture.

“Specific Plan” means the Specific Plan No. 221 dated as of May 23, 2000, or as subsequently

modified, supplemented or amended.

“Square Feet” means the number of square feet provided on a building permit issued by Riverside County Building and Safety. This includes the area measured from the inside surface of the home.

“Taxable Property” means all Parcels in CFD No. 89-1, which are not exempt from the levy of Special Taxes pursuant to the Act or Section E below.

“Undeveloped Property” means, for any Fiscal Year, all Parcels of Taxable Property, which are not Approved Property, Developed Property, Golf Course Property, Property Owners’ Association Property, or Public Property.

B. ASSIGNMENT TO LAND USE CLASS

For each Fiscal Year (commencing with the 2001-2002 Fiscal Year) all Parcels of Taxable Property shall be classified either as Approved Property, Developed Property, Undeveloped Property, or Golf Course Property. All Parcels other than Exempt Property shall be subject to the levy of the Special Tax in accordance with the rates and method of apportionment set forth in Sections C and D below.

Within Approved Property and Developed Property, all Parcels shall be further classified as Residential Property or Non-Residential Property. Residential Property which is Developed Property, will be classified as listed in Table 1:

**Table 1
Residential Property Land Use Classes in CFD No. 89-1**

Land Use Class	
A	Single Family Attached/Detached Dwelling Unit with 2001 or more Square Feet
B	Single Family Attached/Detached Dwelling Unit with 1500 - 2000 Square Feet
C	Single Family Attached/Detached Dwelling Unit with 1499 or less Square Feet

C. MAXIMUM SPECIAL TAX

1. Maximum Special Tax

The Maximum Special Tax for all classifications of Taxable Property is set forth in Table 2. The Maximum Special Tax applicable to each Parcel shall be obtained by multiplying the applicable Maximum Special Tax rate for the Parcel by one of the following:

- (a) The Net Taxable Acreage of the Parcel, for Parcels classified as Undeveloped

Property, Non-Residential Property, or Golf Course Property; or

- (b) The number of residential units for the Parcel, for Parcels classified as Residential Property.

For any Parcel that has prepaid pursuant to Section H., the Maximum Special Tax for that Parcel shall be zero.

Table 2
Maximum Special Tax by Land Use Class

Land Use Class	Maximum Special Tax
<i>Approved Property</i>	
Residential Property	\$800/lot
Non-Residential Property	\$2,500/acre
<i>Developed Property</i>	
Residential Property	
A	\$987/unit
B	\$766/unit
C	\$610/unit
Non-Residential Property	\$2,500/acre
<i>Golf Course Property</i>	\$5,600/acre
<i>Undeveloped Property</i>	\$7,599/acre

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Starting with Fiscal Year 2001-2002 and for each subsequent Fiscal Year, the Board shall determine the amount of Special Taxes to be levied in order to satisfy the Special Tax Requirement for such Fiscal Year. The Board shall levy the Special Taxes as follows until it has levied the amount necessary to satisfy the Special Tax Requirement for said Fiscal Year:

First: The Special Tax shall be levied Proportionately on each Parcel of Developed Property, exclusive of Exempt Property, up to 100 percent of the Maximum Special Tax;

Second: If additional funds are needed after the first step has been completed, the Special Tax shall be levied Proportionately on each Parcel of Approved Property, exclusive of Exempt Property, up to 100 percent of the Maximum Special Tax;

Third: If additional funds are needed after the first and second steps have been completed, the

Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property, exclusive of Exempt Property, up to 100 percent of the Maximum Special Tax;

Fourth: If additional funds are needed after the three steps above have been completed, the Special Tax shall be levied on each Parcel of Golf Course Property, exclusive of Exempt Property, up to 100 percent of the Maximum Special Tax.

Notwithstanding the above, under no circumstances will the Special Taxes levied against any Parcel of Developed Property which is Residential Property be increased by more than ten percent (10%) per Fiscal Year as a consequence of delinquency or default in the payment of Special Taxes by the owner(s) of any other Parcel(s) within the District.

E. EXEMPTIONS

Land conveyed or irrevocably offered for dedication to a public agency after formation of CFD No. 89-1, and not otherwise exempt pursuant to this Section E, shall be subject to the levy of Special Tax pursuant to Section 53317.3 or Section 53317.5 of the Government Code.

Notwithstanding the above, the Special Tax shall not be imposed upon any of the following:

- (1) The Board shall not levy Special Taxes on up to 317 Acres of Public Property, except as otherwise provided in Section 53317.3 of the Government Code.
- (2) The Board shall not levy Special Taxes on up to 117.2 Acres of Property Owners' Association Property.
- (3) All Parcels located in Planning Areas 2 and 17 (open space), 9B and 16 (Property Owners' Association Property), and 15 (non-conforming property) as identified in the Specific Plan. If such property is not used for exempted property it shall be subject to the levy of Special Tax.

F. APPEALS

Any property owner claiming that the amount or application of the Special Tax is not correct and requesting a refund may file a written notice of appeal with the Administrator once the Special Tax in dispute has been paid but, not later than 12 months after the mailing of the property tax bill on which Special Tax appears. The Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, convene the CFD Special Tax Review Board and decide the appeal. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any legal action by such owner.

G. MANNER OF COLLECTION, PENTALIES, PROCEDURE AND LIEN

PRIORITY

The Special Taxes shall be collected in the same manner and at the same time as ad valorem property taxes 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, that the County may collect Special Taxes at a different time or in a different manner and may covenant to foreclose and may actually foreclose on delinquent Parcels as permitted by the Act if necessary to meet the financial obligations of CFD No. 89-1.

H. PREPAYMENT OF SPECIAL TAX

The Special Tax obligation for Developed Property may be prepaid in whole at any time. A prepayment may be made only if there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment. An owner of a Parcel intending to prepay their Special Tax obligation shall provide the Administrator of CFD No. 89-1 with a written notice of intent to prepay and within 10 business days of receipt of such notice, the Administrator shall notify such owner of the prepayment amount. The Special Tax to be prepaid will equal the sum of the amounts calculated under paragraphs below:

Developed Property

1. *Compute the applicable Bond Principal Prepayment Amount:*
Shall be the greater of:
 - (a) Divide the Parcel's Maximum Special Tax for the Parcel's applicable Land Use Class for the Fiscal Year in which the prepayment is to be made by the projected Maximum Tax at build out of \$1,037,362. Multiply the amount computed under the previous sentence by the outstanding Bonds to determine the Principal Prepayment; or
 - (b) Divide the Parcel's acreage by the total taxable acreage of 162 acres. Multiply the amount computed under the previous sentence by the outstanding Bonds to determine the Principal Prepayment.
2. *Compute the applicable Bond Principal Prepayment premium:*
Multiply the Principal Prepayment by the applicable premium set forth in the Indenture to determine the Bond redemption premium, if any, due on the first date on which Bonds may be redeemed with such Principal Prepayment.
3. *Compute the interest payable with respect to the Principal Prepayment:*
Compute the interest payable on the principal amount of the Bonds to be paid with the Principal Prepayment to the first date that Bonds may be redeemed with such proceeds under the Indenture. Subtract from such total the amount of any Special Taxes paid and collected for such Parcel which are available to be applied toward the payment of the Principal

Prepayment and the interest payable as calculated pursuant to this paragraph 3.

4. *Compute the applicable Administrative Expenses:*
Compute the amount of any Administrative Expenses of CFD No. 89-1 relating to the prepayment as determined by the Administrator, including, but not limited to, the costs of computing and verifying the amount of the prepayment, the costs of redeeming the Bonds and the cost of recording any notices to evidence the prepayment of Special Taxes and the redemption of Bonds.
5. *Compute the applicable reserve fund credit:*
If under the terms of the Indenture the deposit of the prepaid Special Taxes will result in a transfer of amounts from any reserve fund established for such Bonds under the Indenture, then the amount to be transferred shall be treated as a reduction in the amount of Special Taxes to be prepaid on such Parcel.
6. *Compute the applicable defeasance credit:*
Compute the amount the Administrator reasonably expects to derive from the reinvestment of the Special Tax prepayment until the redemption date for the Bonds. This amount shall be treated as a reduction in the amount of Special Taxes to be prepaid on such Parcel.

Golf Course Property

The Golf Course Property owner may request a prepayment calculation if there is no remaining Undeveloped Property and the conditions of Section J. (b) and (c) are satisfied. The Administrator shall establish the prepayment amount so as not to result in the maximum amount of Special Taxes which could be levied on remaining Parcels of Taxable Property for any Fiscal Year being less than 110 percent of maximum annual debt service plus 100% of the annual Administrative Expenses on the outstanding Bonds of CFD 89-1.

I. Term of Special Tax

Special Taxes shall be levied for the period necessary to satisfy the Special Tax Requirement, but in no event shall it be levied after Fiscal Year 2040-2041 for all properties except for Golf Course Property. The Golf Course Property will be obligated to pay the Special Tax until the Bonds have been paid in full or until the Special Tax obligation has been prepaid or has been released pursuant to Section J below.

J. Release of Obligation to Pay and Disclose Special Tax for CFD No. 89-1 on Golf Course Property

All Parcels of Golf Course Property shall be relieved permanently from the obligation to

pay and disclose the Special Taxes if:

- (a) The Administrator determines that the annual debt service required for the Bonds, when compared to the Special Taxes that may be levied against all Parcels of Developed Property, result in 110% coverage service plus 100% of the annual Administrative Expenses for the remaining term of the Bonds; and
- (b) The Bond reserve fund is at reserve requirement pursuant to the Indenture; and
- (c) There are at least 600 occupied residential dwelling units, for which the Special Tax has not been prepaid, that have maintained a delinquency rate below 6.0% for a period of three (3) consecutive Fiscal Years.