

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 18M (OTAY RANCH VILLAGE 3), MAKING CERTAIN DETERMINATIONS AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF CERTAIN TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 18M (OTAY RANCH VILLAGE 3)

(ANNEXATION NO. 1)

WHEREAS, the City Council of the City of Chula Vista (“City Council”), formed a Community Facilities District pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”), and the City of Chula Vista Community Facilities District Ordinance enacted pursuant to the powers reserved by the City of Chula Vista under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California (the “Ordinance”) (the Act and the Ordinance may be referred to collectively as the “Community Facilities District Law”). The Community Facilities District has been designated as COMMUNITY FACILITIES DISTRICT NO. 18M (OTAY RANCH VILLAGE 3) (the “District”); and

WHEREAS, the City Council, at the request of the owner of that property known as Otay Ranch Village 3 located within the Otay Ranch, initiated proceedings pursuant to the Community Facilities District Law to annex such territory to the District; and

WHEREAS, notice of a public hearing relating to the annexation of such territory to the District, the extent of the territory to be annexed, the furnishing of certain public services and all other related matters has been given; and

WHEREAS, the territory proposed to be annexed is known and designated as Community Facilities District No. 18M (Otay Ranch Village 3) Annexation No. 1 (the “Territory”); and

WHEREAS, it has now been determined that written protests have not been received by 50% or more of the registered voters residing either within the Territory or the District and/or property owners representing more than one-half (1/2) or more of the area of land within the Territory or the District; and

WHEREAS, inasmuch as there have been less than twelve (12) persons registered to vote within the Territory for each of the 90 preceding days, this legislative body desires to submit the levy of the required special tax to the landowners of the Territory, such landowners being the qualified electors as authorized by law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, AS FOLLOWS:

SECTION 1. Recitals. The above recitals are all true and correct.

SECTION 2. Determinations. It is determined by this City Council that:

- (a) all minor defects in the proceedings are hereby corrected as authorized by Section 53323 of the Government Code of the State of California;
- (b) all proceedings prior hereto were valid and taken in conformity with the requirements of law, and specifically the provisions of the Community Facilities District Law, and this finding is made pursuant to the provisions and authorization of Section 53325.1 of the Government Code of the State of California;
- (c) the annexation of the Territory to the District as proposed conforms with the City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts;
- (d) less than twelve (12) registered voters have resided within the Territory for each of the ninety (90) days preceding the close of the public hearing and, consequently, the qualified electors shall be the landowners of the Territory and each landowner who is the owner of record as of the close of the public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that she or he owns within the Territory;
- (e) the time limit specified by the Community Facilities District Law for conducting an election to submit the levy of the special taxes to the qualified electors of the Territory and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of the Territory;
- (f) the City Clerk, acting as the election official, has consented to conducting any required election on a date which is less than 125 days following the adoption of any resolution annexing the Territory to the District; and
- (g) the public services described in Section 4 herein proposed to be financed from the proceeds of special taxes to be levied within the Territory are necessary to meet increased demands placed upon the City as a result of development and/or rehabilitation occurring in the Territory.

SECTION 3. Boundaries of the Territory. The boundaries and parcels of land in the Territory and in which the public services are to be provided and on which special taxes will

be levied in order to pay the costs and expenses for such public services are generally described as follows:

All that Territory proposed to be annexed to the District, as such property is shown on a map as previously approved by this legislative body, such map entitled "Annexation Map No. 1 of Community Facilities District No. 18M (Otay Ranch Village 3), City Of Chula Vista, County Of San Diego, State Of California" (the "Annexation Map"), a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection. The Annexation Map was filed in the Office of the San Diego County Recorder on March 29, 2022, in Book 49, Page 98 of Maps of Assessment and Community Facilities Districts and as Document No. 2022-7000106.

SECTION 4. Description of Services. The services that are authorized to be financed by the District from the proceeds of special taxes levied therein are certain services which are in addition to those services that were provided in or required for the District prior to the formation of the District and did not replace services already available in the District at the time of formation of the District. A general description of the services authorized to be financed by the District is as follows:

The maintenance and replacement of (a) landscaping, including without limitation trees, slopes, parkways, and medians; (b) facilities that are directly related to storm water quality control; (c) walls and fencing; and (d) trails within Otay Ranch Village 3 master planned community, in addition to certain administrative expenses.

The District shall finance all direct, administrative and incidental annual costs and expenses necessary to provide such monitoring, maintenance, operation and management of such public property.

The same types of services which are authorized to be financed by the District from the proceeds of special taxes levied therein are the types of services to be financed from the proceeds of special taxes levied within the Territory. If and to the extent possible such services shall be provided in common within the District and the Territory.

SECTION 5. Special Tax. Except where funds are otherwise available, a special tax sufficient to pay for such services and related incidental expenses authorized by the Community Facilities District Law, secured by recordation of a continuing lien against all non-exempt real property in the Territory, will be levied annually within the boundaries of such Territory. For further particulars as to the rate and method of apportionment of the proposed special tax, reference is made to the attached and incorporated Exhibit "A" (the "Rate and Method"), which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within the proposed Territory to clearly estimate the maximum amount that such person will have to pay.

The special tax proposed to be levied within the Territory shall be equal to the special tax levied to pay for the same services in the District, except that a higher or lower special tax may be levied within the Territory to the extent that the actual cost of providing the services in the Territory is higher or lower than the cost of providing those services in the District. Notwithstanding the foregoing, the special tax may not be levied at a rate which is higher than the maximum special tax authorized to be levied pursuant to the Rate and Method.

The special taxes herein authorized, to the extent possible, shall be collected in the same manner as ad valorem property taxes and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency as applicable for ad valorem taxes. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer.

The maximum special tax rate in the District shall not be increased as a result of the annexation of the Territory to the District.

SECTION 6.. Election. The proposition related to the levy of the special tax shall be submitted to the qualified electors of the Territory, such electors being the landowners, with each landowner having one (1) vote for each acre or portion thereof of land which he or she owns within such annexed territory. The special election shall be held on April 26, 2022, immediately following the adoption of this Resolution, and such election shall be a special election to be conducted by the City Clerk (hereinafter “Election Official”). If the proposition for the levy of the special tax receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, the special tax may be levied as provided for in this Resolution.

SECTION 7. Ballot. The ballot proposal to be submitted to the qualified electors at the election shall generally be as follows:

PROPOSITION A

CITY OF CHULA VISTA
COMMUNITY FACILITIES DISTRICT NO. 18M,
ANNEXATION NO. 1
AUTHORIZATION FOR SPECIAL TAX LEVY

Shall Community Facilities District No. 18M (Otay Ranch Village 3) of the City of Chula Vista be authorized to levy special taxes within the territory identified as Annexation No. 1 to the District pursuant to the rate and method of apportionment of special taxes (the “Rate and Method”) attached to this ballot to finance the authorized services and administrative expenses and to fund and replenish a reserve fund, all as provided for in the Rate and Method.

SECTION 8. Vote. The appropriate mark placed in box adjacent to the word “YES” shall be counted in favor of the adoption of the proposition, and the appropriate mark

placed in the box adjacent to the word “NO” in the manner as authorized, shall be counted against the adoption of such proposition.

SECTION 9. Election Procedure. This City Council hereby authorizes the Election Official to take any and all steps necessary for the holding of such election and ratifies any such steps previously taken by such Election Official which were necessary for the holding of such election. Such Election Official shall perform and render all services and proceedings incidental to and connected with the conduct of such election, and such services shall include, but not be limited to the following:

- (a) Prepare and furnish to the election officers necessary election supplies for the conduct of the election.
- (b) Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms.
- (c) Furnish and address official ballots for the qualified electors of the Territory.
- (d) Cause the official ballots to be mailed and/or delivered, as required by law.
- (e) Receive the returns of the election.
- (f) Sort and assemble the election material and supplies in preparation for the canvassing of the returns.
- (g) Canvass the returns of the election.
- (h) Furnish a tabulation of the number of votes given in the election.
- (i) Make all arrangements and take the necessary steps to pay all costs of the election incurred as a result of services performed for the District and pay costs and expenses of all election officials.
- (j) Conduct and handle all other matters relating to the proceedings and conduct of the election in the manner and form as required by law.

PRESENTED BY:

APPROVED AS TO FORM BY:

Tiffany Allen
Director of Developmental Services

Glen R. Googins
City Attorney

EXHIBIT A

Rate and Method of Apportionment of Special Tax

City of Chula Vista
Community Facilities District No. 18M
(Otay Ranch Village 3)
Annexation No. 1

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property within the boundaries of Community Facilities District No. 18M (Otay Ranch Village 3) of the City of Chula Vista and collected each Fiscal Year commencing with Fiscal Year 2022-23 in an amount determined by the CFD Administrator through the application of the procedures described below. All of the real property within CFD No. 18M, 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 Subdivision Map, other final map, other parcel map, other condominium plan, or functionally equivalent map or instrument recorded in the Office of the County Recorder. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

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

"Administrative Expenses" means the actual or estimated costs incurred by the City, acting for and on behalf of the CFD as the administrator thereof, to determine, levy and collect the Special Taxes, including salaries of City employees and a proportionate amount of the City's general administrative overhead related thereto, and the fees of consultants and legal counsel providing services related to the administration of the CFD; the costs of collecting installments of the Special Taxes; and any other costs required to administer the CFD as determined by the City.

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

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

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

“CFD No. 18M” or **“CFD”** means Community Facilities District No. 18M (Otay Ranch Village 3) of the City of Chula Vista.

“City” means the City of Chula Vista.

“Community Purpose Facility Property” or **“CPF Property”** means all Assessor’s Parcels which are classified as community purpose facilities and meet the requirements of City Ordinance No. 2883.

“Construction Cost Index” means, for any Fiscal Year, the applicable Construction Cost Index for the City of Los Angeles as set forth in the Engineering News Record for July of such Fiscal Year. In the event that this rate is no longer published or provided, the CFD Administrator shall choose a comparable rate to use in its place.

“Consumer Price Index for Urban Wage Earners and Clerical Workers” or **“CPI-W”** means the applicable CPI-W as set forth by the United States Department of Labor, Bureau of Labor Statistics for July of such Fiscal Year. In the event that this rate is no longer published or provided, the CFD Administrator shall choose a comparable rate to use in its place.

“Council” means the City Council of the City, acting as the legislative body of the CFD.

“County” means the County of San Diego, California.

“Developed Property” means all Taxable Property for which a building permit was issued prior to the March 1st preceding the Fiscal Year in which the Special Tax is being levied.

“Dwelling Unit” or **“DU”** means each separate residential dwelling unit that comprises an independent facility capable of conveyance or rental separate from adjacent residential dwelling units.

“Exempt Property” means all Assessor’s Parcels within CFD No. 18M that are exempt from the Special Taxes pursuant to law or Section F herein.

“Final Subdivision Map” means a subdivision of property creating residential or non-residential buildable lots by recordation of a final subdivision map or parcel map pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.), or recordation of a condominium plan pursuant to California Civil Code 1352, that creates individual lots for which building permits may be issued without further subdivision and is recorded prior to March 1 preceding the Fiscal Year in which the Special Tax is being levied.

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

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

“Maximum Special Tax Basis” means the amount determined in accordance with Section C below that represents the actual costs associated with providing the Services funded by CFD No. 18M.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C below that may be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

“Multi-Family Property” means all Assessor’s Parcels of Residential Property consisting of two or more for-rent Dwelling Units that share common walls, including, but not limited to, apartments and townhomes that are not for sale to an end user and are under common management.

“Non-Residential Property” means all Assessor’s Parcels of Developed Property for which a building permit(s) has been issued for a structure or structures for non-residential use.

“Otay Water District Commodity Rate” means the maximum rate charged by the Otay Water District for recycled water on July 1st of any Fiscal Year. In the event that this rate is no longer published or provided, the CFD Administrator shall choose a comparable rate to use in its place.

“Property Owner Association Property” means any property within the boundaries of the CFD that is owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to, a property owner association, including any master or sub-association.

“Public Property” means any property within the boundaries of the CFD that is, at the time of the CFD formation, expected to be used for any public purpose and is owned by or dedicated to the federal government, the State, the County, the City or any other public agency.

“Reserve Fund” means a fund that shall be maintained for the CFD each Fiscal Year to provide necessary cash flow for the first six months of each Fiscal Year, working capital to cover monitoring, maintenance and repair cost overruns and delinquencies in the payment of Special Taxes and a reasonable buffer to prevent large variations in annual Special Tax levies.

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

“Services” means those authorized services that may be funded by CFD No. 18M pursuant to the Act, as amended, including, without limitation, those services authorized to be funded by CFD No. 18M as set forth in the documents adopted by the City Council at the time CFD No. 18M was formed.

“Single Family Attached Property” means all Assessor’s Parcels of for-sale Residential Property consisting of one or more Dwelling Unit(s) that share common walls with one or more other Dwelling Unit(s), including, but not limited to, duplexes, triplexes, townhomes, and condominiums.

“Single Family Detached Property” means all Assessor’s Parcels of Residential Property consisting of a single Dwelling Unit.

“Special Tax” means the Special Tax levied pursuant to the provisions of sections C and D below in each Fiscal Year on each Assessor’s Parcel of Developed Property and Undeveloped Property in CFD No. 18M to fund the Special Tax Requirement.

“Special Tax Requirement” means the amount, as determined by the CFD Administrator, for any Fiscal Year to: (i) pay the costs of providing the Services during such Fiscal Year, (ii) pay Administrative Expenses associated with the Special Tax, (iii) establish or replenish the Reserve Fund, (iv) pay incidental expenses related to the Services as authorized pursuant to the Act, (v) fund an amount equal to a reasonable estimate of delinquencies expected to occur in the Fiscal Year in which the Special Tax will be levied (“Estimated Special Tax Delinquency Amount”) and (vi) fund the shortfall, if any, in the Special Tax revenues collected in the preceding Fiscal Year necessary to fund the Special Tax Requirement for Services for such Fiscal Year where such shortfall resulted from delinquencies in the payment of Special Taxes in such Fiscal Year that exceeded the Estimated Special Tax Delinquency Amount included in the Special Tax Requirement for Services for such Fiscal Year, less (vii) any funds available in the Reserve Fund or other funds associated with CFD No. 18M.

“State” means the State of California.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 18M of the CFD that are not exempt from the Special Tax pursuant to law or as defined below.

“Undeveloped Property” means, for each Fiscal Year, all Taxable Property not classified as Developed Property.

B. ASSIGNMENT TO CATEGORIES OF SPECIAL TAX

Each Fiscal Year, beginning with Fiscal Year 2022-23, using the definitions above, each Assessor’s Parcel within CFD No. 18M shall be classified by the CFD Administrator as Taxable Property or Exempt Property. In addition, each such Fiscal Year, each Assessor’s Parcel of Taxable Property shall be further classified by the CFD Administrator as Developed Property or Undeveloped Property.

Developed Property shall be further assigned to a Land Use Class as specified in Table 1. The Land Use Class of each Assessor’s Parcel of Residential Property or Non-Residential Property shall be determined based on the records of the County Assessor or other such information provided by the City. Commencing with Fiscal Year 2022-23 and for each subsequent Fiscal Year, Developed Property shall be subject to the levy of Special Taxes pursuant to Section C below.

In some instances, an Assessor’s Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on such Assessor’s Parcel shall be the sum of the Maximum Special Taxes for all Land Use Classes located on that Assessor’s Parcel.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

The Maximum Special Tax for any Assessor’s Parcel classified as Developed Property shall be determined by reference to Table 1 and the paragraphs that follow Table 1.

**TABLE 1
Maximum Special Tax Basis for Developed Property
Community Facilities District No. 18M
(Fiscal Year 2021-22)**

Land Use Class	Maximum Special Tax Basis for Labor	Maximum Special Tax Basis for Water	Maximum Special Tax Basis for Asset Replacement	Maximum Special Tax Basis
Single Family Detached Property	\$ 1,038.98 per unit	\$409.79 per unit	\$287.40 per unit	\$1,736.17 per unit
Single Family Attached Property	\$831.18 per unit	\$327.83 per unit	\$229.92 per unit	\$1,388.94 per unit
Multi-Family Property	\$83.11 per unit	\$32.77 per unit	\$23.00 per unit	\$138.87 per unit
Non-Residential Property	\$4,155.93 per Acre	\$1,639.17 per Acre	\$1,149.67 per Acre	\$6,944.77 per Acre

The Maximum Special Tax Basis shall be equal to the sum of Maximum Special Tax Basis for Labor, Maximum Special Tax Basis for Water and Maximum Special Tax Basis for Asset Replacement as shown in Table 1 above.

In determining the Maximum Special Tax Basis, the components of the Maximum Special Tax Basis for each Land Use Description shall be increased in the 2022-23 Fiscal Year, and each Fiscal Year thereafter, as follows:

- i. the annual percentage change of the Maximum Special Tax Basis for Labor shall be equal to the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W); and
- ii. the annual percentage change of the Maximum Special Tax Basis for Water shall be equal to the annual percentage change in the Otay Water District Commodity Rate; and
- iii. the annual percentage change of the Maximum Special Tax Basis for Asset Replacement shall be equal to the annual percentage change in the Engineering News Record Construction Cost Index for the Los Angeles Area.

The Fiscal Year 2021-22 Maximum Special Tax shall be equal to the Fiscal Year 2021-22 Maximum Special Tax Basis. In each subsequent Fiscal Year, the Maximum Special Tax shall be increased by an amount not less than two percent (2%) and not greater than six percent (6%) that results in a minimal absolute difference from the Maximum Special Tax Basis for that Fiscal Year.

2. Other Property Types

No Special Tax shall be levied on Undeveloped Property or Exempt Property.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2022-23, and for each subsequent Fiscal Year, the CFD Administrator shall levy the Special Tax on all Taxable Property of CFD No. 18M until the total amount of Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property within CFD No. 18M up to 100% of the applicable Maximum Special Tax to satisfy the Special Tax Requirement.

Notwithstanding the above, under no circumstances will the Special Tax levied against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased as a consequence of delinquency or default by the owner of any other Assessor's Parcel within the CFD by more than ten percent (10%) above what such Special Tax would have been in the absence of delinquencies.

E. PREPAYMENT OF THE SPECIAL TAX

The Special Tax shall be levied in perpetuity for the purpose of financing ongoing authorized Services and therefore may not be prepaid.

F. EXEMPTIONS

The City Council shall classify as Exempt Property: (i) Public Property, (ii) Property Owner Association Property, (iii) CPF Property, (iv) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, including but not limited to property designated for open space, trails, pathways, parks or park and recreation related facilities, and (v) property reasonably designated by the City or CFD Administrator as Exempt Property due to deed restrictions, conservation easement, or similar factors.

G. APPEALS

Any landowner who pays the Special Tax and claims the amount of the Special Tax levied on his or her Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error not later than thirty-six (36) months after first having paid the first installment of the Special Tax that is disputed. If following such consultation, the CFD Administrator determines that an error has occurred, then the CFD Administrator shall take any of the following actions, in order of priority, in order to correct the error:

- (i) Amend the Special Tax levy on the landowner's Assessor's Parcel(s) for the current Fiscal Year prior to the payment date,
- (ii) Require the CFD to reimburse the landowner for the amount of the overpayment to the extent of available CFD funds, or
- (iii) Grant a credit against, eliminate or reduce the future Special Taxes on the landowner's Assessor's Parcel(s) in the amount of the overpayment.

If following such consultation and action by the CFD Administrator the landowner believes such error still exists, such person may file a written notice of appeal with the City Council. Upon the receipt of such notice, the City Council or designee may establish such procedures as deemed necessary to undertake the review of any such appeal. If the City Council or designee determines an error still exists, the CFD Administrator shall take any of the actions described as (i), (ii) and (iii) above, in order of priority, in order to correct the error.

The City Council or designee thereof shall interpret this Rate and Method of Apportionment of Special Tax for purposes of clarifying any ambiguities and make determinations relative to the administration of the Special Tax and any landowner appeals. The decision of the City Council or designee shall be final.

H. MANNER OF COLLECTION

Special Taxes levied pursuant to Section D above shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes, provided that the CFD Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD or as otherwise determined appropriate by the CFD Administrator.

I. TERM OF SPECIAL TAX

Taxable Property in the CFD shall remain subject to the Special Tax in perpetuity.