

# Rate and Method of Apportionment of Special Tax

City of Chula Vista

Community Facilities District No. 97-2

(PRESERVE MAINTENANCE DISTRICT)

Improvement Area C

Annexation No. 12

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A Special Tax of Community Facilities District No. 97-2 (Preserve Maintenance District) of the City of Chula Vista ("CFD") shall be levied on all Assessor's Parcels in Annexation No. 11 of Improvement Area "C" of the CFD and collected each Fiscal Year commencing with Fiscal Year 2022-2023 in an amount determined through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property within Annexation No. 11 of Improvement Area "C" of the CFD, 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 Area C of 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.

**"Building Square Foot or Square Footage"** means the square footage as shown on an Assessor's Parcel's building permit of Residential Property excluding garages or other structures not used as living space.

**"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"** means Community Facilities District No. 97-2 (Preserve Maintenance District) of the City of Chula Vista.

**"City"** means the City of Chula Vista.

**"City Clerk"** means the City Clerk for the City of Chula Vista or his or her designee.

**"City Manager"** means the City Manager for the City of Chula Vista or his or her designee.

**"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 of Chula Vista Ordinance No. 2883.

**"Council"** means the City Council of the City of Chula Vista, 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.

**"Final Map Property"** means any residential lot or non-residential lot created by a Final Subdivision Map, but which is not classified as Developed Property.

**"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.

**"Improvement Area C"** or **"Area C"** means Improvement Area C of the CFD, as identified on the boundary map for the CFD as amended from time to time.

**"Land Use Class"** means any of the classes listed in Table 1, Table 2, or Table 3.

**"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.

**"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.

**"Operating Fund"** means a fund that shall be maintained within the CFD for each Fiscal Year to pay for Resource Monitoring and/or Preserve Operations and Maintenance activities and Administrative Expenses.

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

**"Operating Fund Requirement"** means for any Fiscal Year an amount equal to the Resource Monitoring Fund Requirement and the Preserve Operations and Maintenance Fund Requirement for the current Fiscal Year in which Special Taxes are levied.

**"Preserve Operations and Maintenance"** means those activities described in Attachment A hereto which is incorporated herein by this reference.

**"Preserve Operations and Maintenance Fund Requirement"** means for any Fiscal Year an amount equal to the budgeted costs for Preserve Operations and Maintenance plus a pro-rata share of the budgeted Administrative Expenses of the District for the current Fiscal Year in which Special Taxes are levied.

**"Property Owner Association Property"** means any property within the boundaries of Area C 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 Area C 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.

**"Reserve Fund Balance"** means the amount of funds in the Reserve Fund at the end of the preceding Fiscal Year.

**"Reserve Fund Requirement"** means an amount equal to up to 100% of the Operating Fund Requirement for any Fiscal Year.

**"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.

**"Resource Management Plan"** means the Otay Ranch Phase 1 Resource Management Plan also referred to as "The Otay Ranch Resource Management Plan" dated October 28, 1993, and the Otay Ranch Phase 2, Resource Management Plan dated June 4, 1996, as both such plans may be amended from time to time.

**"Resource Monitoring Program"** means those described in Attachment B hereto which is incorporated herein by this reference.

**"Resource Monitoring Fund Requirement"** means for any Fiscal Year an amount for each Improvement Area equal to the Improvement Area's fair share of the budgeted costs of the Resource Monitoring Program plus a pro rata share of the budgeted Administrative Expenses of the CFD for the current Fiscal Year in which Special Taxes are levied. Improvement Area C's "fair share" shall be based on Improvement Area C's percentage of the total acreage within the Otay Ranch General Development Plan Planning Area for which a Resource Monitoring Program funding mechanism has been established.

**"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 Area C to fund the Special Tax Requirement.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for Area C to: (i) pay the Resource Monitoring Fund Requirement, and Preserve Operations and Maintenance Fund Requirement, less the Operating Fund Balance, and (ii) pay any amounts required to establish or replenish the Reserve Fund to the Reserve Fund Requirement; (iii) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of Area C 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 using the definitions above, all Taxable Property within Annexation No. 11 of Improvement Area "C" of the CFD shall be classified as Category I, Category II, Category III or Exempt as defined in Section C. The Taxable Property shall further be classified as Developed Property, Final Map Property or Undeveloped Property and shall be subject to Special Taxes pursuant to Sections C and D below. Developed Property shall be further assigned to a Land Use Class as specified in Table 1.

## C. MAXIMUM SPECIAL TAX RATE

### CATEGORY I

Category I includes Developed Property within the District (“Category I”).

The Maximum Special Tax for the Resource Monitoring Program and Preserve Operations and Maintenance for Fiscal Year 2021-2022 on Developed Property are the rates set forth in Table 1 below. For Residential Property, the Special Tax shall be levied based upon Building Square Footage and for Non-Residential Property shall be levied based on Acreage.

**TABLE 1**  
**Maximum Special Tax for Category I**  
**Community Facilities District No. 97-2**  
**Improvement Area C**  
**(Fiscal Year 2021-2022)**

Description	Resource Monitoring	Operation & Maintenance	Total
Residential	\$0.0085/sq ft	\$0.0136/sq ft	\$0.0221/sq ft
Non-Residential	\$138.72/acre	\$220.23/acre	\$358.95/acre

### CATEGORY II

Category II includes each Assessor’s Parcel of Taxable Property within the District for which a Final Map has been recorded, but which is not classified as a Developed Parcel (“Category II”).

The Maximum Special Tax for the Resource Monitoring Program, and Preserve Operations and Maintenance approved for Fiscal Year 2020-2021 on each Assessor’s Parcel in Category II is the rate set forth in Table 2 below (said amount to be levied pro rata for any portion of an Acre).

**TABLE 2**  
**Maximum Special Tax for Category II**  
**Community Facilities District No. 97-2**  
**Improvement Area C**  
**(Fiscal Year 2021-2022)**

Resource Monitoring	Operation & Maintenance	Total
\$138.72/acre	\$220.23/acre	\$358.95/acre

### CATEGORY III

Category III includes each Assessor’s Parcel of Taxable Property within the District not subject to Special Tax under any other category (“Category III”).

The Maximum Special Tax approved for Fiscal Year 2021-2022 on Taxable Property within Category III is the rate set forth in Table 3 below (said amount to be levied pro rata for any portion of an Acre).

**TABLE 3**  
**Maximum Special Tax for Category III**  
**Community Facilities District No. 97-2**  
**Improvement Area C**  
**(Fiscal Year 2021-2022)**

Resource Monitoring	Operation & Maintenance	Total
\$89.54/acre	\$142.14/acre	\$231.68/acre

**EXEMPT CATEGORY**

The Exempt Category includes each property owned, conveyed or irrevocably offered for dedication to a public agency, or land which is in the public right-of-way, unmanned utility easements which make utilization for other than the purpose set forth in the easement impractical, common areas, private streets and parks, and open space lots (“Exempt Category”).

**SPECIAL CASES**

In some instances, an Assessor’s Parcel of Developed Property may contain more than one Land Use Class and be considered “Special Case”. The Maximum Special Tax that may be levied on an Assessor’s Parcel identified as Special Case shall be the sum of the Maximum Special Tax levies that may be levied on all Land Use Classes located on that Assessor’s Parcel. The CFD Administrator shall determine the allocation to each Land Use Class.

**ANNUAL ESCALATION OF MAXIMUM SPECIAL TAX**

The Maximum Special Tax as shown in the tables above that may be levied on each Assessor’s Parcel in Improvement Area C, Annexation No. 11, shall be increased each Fiscal Year beginning in Fiscal Year 2021-2022 and thereafter by a factor equal to the annual percentage change in the San Diego Metropolitan Area Consumer Price Index for All Urban Consumers (CPI-U, All Items) or zero percent (0%), whichever is greater.

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

Commencing with Fiscal Year 2022-2023, and for each following Fiscal Year, the Council shall levy the Improvement Area C, Annexation No. 11, Special Tax at the rates established pursuant to steps 1 through 4 below so that the amount of the Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

**Step 1:** Determine the revenue which could be generated by Parcels assigned to Category I by multiplying the Building Square Footage for Parcels classified as Residential Parcels by the Maximum Special Tax per Building Square Foot for the Resource Monitoring Program, and

Preserve Operations and Maintenance for Parcels and adding to that the maximum revenue which could be generated by multiplying the total acres for Parcels classified as Non-Residential Parcels by the Maximum Special Tax per Acre for the Resource Monitoring Program, and Preserve Operations and Maintenance.

**Step 2:** If the total revenue as calculated in Step 1 is greater than the estimated Special Tax Liability for Improvement Area C, reduce the Special Tax for each Parcel proportionately so that the Special Tax levy for the Fiscal Year is equal to the Special Tax Liability for the Fiscal Year.

**Step 3:** If the total revenue as calculated in Step 1 is less than the Special Tax Liability for Improvement Area C, a Special Tax shall be levied upon each Parcel within Improvement Area C, classified as Category II. The Special Tax for Parcels assigned to Category II shall be calculated as the lesser of:

The Special Tax Liability for Improvement Area C as determined by the City, less the total revenue generated for all Parcels under Step 1 above, divided by the total Acres for all Parcels within Improvement Area C assigned to Category II,

OR

The Maximum Special Tax rate for Parcels assigned to Category II.

**Step 4:** If the total revenue as calculated in Step 1 and 3 is less than the Special Tax Liability, for Improvement Area C, a Special Tax shall be levied upon each Parcel within Improvement Area C classified as Category III. The Special Tax for Parcels assigned the Category III shall be calculated as the lesser of:

The Special Tax Liability for Improvement Area C as determined by the City, less the total revenue generated for all Parcels under Step 1 and 3 above, divided by the total Acres for all Parcels within Improvement Area C assigned to Category III,

OR

The Maximum Special Tax rate for Parcels assigned to Category III and within Improvement Area C.

However, in the event it is determined that the Special Tax Liability for Improvement Area C includes delinquent Special Taxes from Parcel in Category III from the prior Fiscal Year, the City shall determine the amount of delinquent taxes that arose from such Parcels and identify the owner(s). The amount of delinquent Special Taxes, if any, that arose from the applicable owner(s) shall first be divided by the total Category III Acres owned by such owner(s) and collected from the applicable owner(s) with the remaining portion of the Special Tax Liability not related to delinquent Special Taxes to be collected from all Parcels in Category III according to the procedure set forth in the preceding paragraph.

Notwithstanding the above, under no circumstances will the Special Tax levied against any Assessor's Parcel of Residential Property or Multi-Family Property for which an occupancy permit for private residential use has been issued be increased by more than ten percent (10%)

annually up to the Maximum Special Tax as a consequence of delinquency or default by the owner of any other Assessor's Parcel within Area C of the CFD.

#### **E. APPEALS**

Any landowner or resident who pays the Special Tax and believes that the amount of the Special Tax levied on their Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error. If following such consultation, the CFD Administrator determines that an error has occurred; the CFD Administrator may amend the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action, if any, by the CFD Administrator, the landowner or resident believes such error still exists; such person may file a written notice with the City Clerk of the City appealing the amount of the Special Tax levied on such Assessor's Parcel. Upon the receipt of any such notice, the City Clerk shall forward a copy of such notice to the City Manager who shall establish as part of the proceedings and administration of the CFD, a special three-member Review/Appeal Committee. The Review/Appeal Committee may establish such procedures, as it deems necessary to undertake the review of any such appeal. The Review/Appeal Committee shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals, as herein specified. The decision of the Review/Appeal Committee shall be final and binding as to all persons.

#### **F. 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, however, 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 Area C of the CFD or as otherwise determined appropriate by the CFD Administrator.

#### **G. TERM OF SPECIAL TAX**

Taxable Property in Improvement Area C of the CFD shall remain subject to the Special Tax in perpetuity.



## Attachment A

### Description of Preserve Operations and Maintenance

Preserve Operations and Maintenance includes the maintenance, operation and management of the public or private property within boundaries of the Otay Ranch Preserve, as such boundaries may be modified from time to time, required by the Resource Management Plan to be maintained as open space or habitat preservation land or both. Such maintenance, operations and management shall include, but not be limited to, the following:

- (i) Preserve Maintenance. Development, implementation and ongoing provision of programs to maintain, operate and manage preserve habitat values through: cultivation, irrigation, trimming, spraying, fertilizing, and/or treatment of disease or injury; removal of trimmings, rubbish, debris and other solid waste; maintenance of trails; removal and control of exotic plant species (weeds); and control of cowbirds through trapping.
- (ii) Security. Development, implementation and ongoing provision of security programs to: enforce "no trespassing" rules; curtail activities that degrade resources, such as grazing, shooting, and illegal dumping; remove trash, litter, and other debris; control access; prohibit off-road traffic; and maintain fences and trails.
- (iii) Preserve improvements: Acquire equipment and/or install improvements necessary to maintain, operate and manage the open space and habitat preservation land described above.

The above description of the Preserve Operations and Maintenance is general in nature. The actual maintenance, operations and management of the open space and habitat preservation land within the Otay Ranch Preserve may be modified from time to time as necessary in order to effectively provide such services in compliance with the requirements of the Resource Management Plan.

## **Attachment B**

### **Description of Resource Monitoring**

Implement the annual biota monitoring and reporting program consistent with the Resource Management Plan to identify changes in the quality and quantity of preserve resources including wildlife species, sensitive plants and sensitive habitat types.

The above description of the Resource Monitoring is general in nature. The actual monitoring and reporting program may be modified from time to time as necessary in order to effectively provide such services consistent with the requirements of the Resource Management Plan.