

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ACTING IN ITS CAPACITY
AS THE LEGISLATIVE BODY OF CFD NO. 18M, AUTHORIZING THE
LEVY OF A SPECIAL TAX IN CFD NO. 18M

WHEREAS, the CITY COUNCIL of the CITY OF CHULA VISTA, CALIFORNIA (the “City Council”), has initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors authorizing the levy of special taxes in a community facilities district, all as authorized 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”). This community facilities district shall hereinafter be referred to as Community Facilities District No. 18M (Otay Ranch Village 3) (“CFD No. 18M”).

THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, ACTING
AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 18M
(OTAY RANCH VILLAGE 3), DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. This City Council does, by the passage of this ordinance, authorize the levy of special taxes on taxable properties located in CFD No. 18M pursuant to the Rate and Method of Apportionment of Special Taxes as set forth in Exhibit “A” attached hereto and incorporated herein by this reference (the “Rate and Method”).

SECTION 2. This City Council, acting as the legislative body of CFD No. 18M, is hereby further authorized, by Resolution, to annually determine the special tax to be levied within CFD No. 18M for the then current tax year or future tax years; provided, however, the special tax to be levied shall not exceed the maximum special tax authorized to be levied pursuant to the Rate and Method.

SECTION 3. The special taxes herein authorized to be levied, 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; provided, however, CFD No. 18M may utilize a direct billing procedure for any special taxes that cannot be collected on the County tax roll or may, by resolution, elect to collect the special taxes at a different time or in a different manner if necessary to meet its financial obligations.

SECTION 4. The special taxes authorized to be levied shall be secured by the lien imposed pursuant to Sections 3114.5 and 3115.5 of the Streets and Highways Code of the State of California, which lien shall be a continuing lien and shall secure each levy of the special taxes. The lien of the special taxes shall continue in force and effect until the special tax ceases to be levied by the City Council in the manner provided in Section 53330.5 of said Government Code.

SECOND READING AND ADOPTION

SECTION 5. This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in the City pursuant to the provisions of Chula Vista's City Charter, Section 312(b).

Introduced at a regular meeting of the City Council of the City of Chula Vista, California, on November 8, 2016;

Enacted at a regular meeting of the City Council of the City of Chula Vista, California, held on the _____ day of _____, 2016, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

PREPARED BY:

Kelly G. Broughton FASLA
Director of Developmental Services

APPROVED AS TO FORM BY:

Glen R. Googins
City Attorney

EXHIBIT A

**RATE AND METHODS OF APPORTIONMENT FOR
COMMUNITY FACILITIES DISTRICT NO. 18M
(OTAY RANCH VILLAGE 3)**

**Rate and Method of
Apportionment of Special Tax**

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

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 2017-18 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 2017-18, 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 2017-18 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 2016-17)

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	\$ 912.16	\$ 341.42	\$ 255.70	\$1,509.28
Single Family Attached Property	\$ 729.73	\$ 273.14	\$ 204.56	\$1,207.43
Multi-Family Property	\$ 72.97	\$ 27.31	\$ 20.46	\$ 120.74
Non-Residential Property	\$3,648.64	\$1,365.68	\$1,022.82	\$6,037.13

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 2017-18 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 2016-17 Maximum Special Tax shall be equal to the Fiscal Year 2016-17 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 2017-18, 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.