

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA  
ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CFD NO.  
18M FORMING AND ESTABLISHING CFD NO. 18M, AND AUTHORIZING  
SUBMITTAL OF THE LEVY OF SPECIAL TAXES OF CFD NO. 18M TO  
THE QUALIFIED ELECTORS

WHEREAS, the CITY COUNCIL of the CITY OF CHULA VISTA, CALIFORNIA (the “City Council”), has previously declared its intention to form a community facilities district and ordered the preparation of a community facilities district report relating to the initiation of proceedings to create such 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”). This community facilities district shall hereinafter be referred to as Community Facilities District No. 18M (Otay Ranch Village 3) (“CFD No. 18M”); and,

WHEREAS, notice of a public hearing relating to the establishment of the CFD No. 18M, the extent of CFD No. 18M, the financing of certain types of services and all other related matters has been given, and a Community Facilities District Report, as ordered by this City Council, has been presented to this City Council and has been made a part of the record of the hearing to establish such District; and,

WHEREAS, all communications relating to the establishment of CFD No. 18M, the proposed services and the rate and methods of apportionment of the special tax proposed to be levied within CFD No. 18M have been presented, and it has further been determined that a majority protest as defined by law has not been received against these proceedings or the levy of the special tax within CFD No. 18M; and

WHEREAS, inasmuch as there have been less than twelve (12) registered voters residing within the territory of CFD No. 18M for at least the preceding ninety (90) days, the authorization to levy special taxes within CFD No. 18M shall be submitted to the landowners of CFD No. 18M, such landowners being the qualified electors as authorized by law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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

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

- A. All prior proceedings pertaining to the formation of CFD No. 18M were valid and taken in conformity with the requirements of the law, and specifically the provisions of the Community Facilities District Law, and that this finding and

determination is made pursuant to the provisions of Government Code Section 53325.1.

- B. The written protests received, if any, do not represent a majority protest as defined by the applicable provisions of the Community Facilities District Law and, therefore, the special tax proposed to be levied within CFD No. 18M has not been precluded by majority protest pursuant to Section 53324 of the Government Code of the State of California.
- C. CFD No. 18M as proposed conforms with the City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts (the “Goals and Policies”), as amended.
- D. Less than twelve (12) registered voters have resided within the territory of CFD No. 18M for each of the ninety (90) days preceding the close of the public hearing, therefore, pursuant to the Act the qualified electors of CFD No. 18M shall be the landowners of CFD No. 18M as such term is defined in Government Code Section 53317(f) and each such 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 CFD No. 18M.
- 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 CFD No. 18M and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of CFD No. 18M.
- 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 forming and establishing CFD No. 18M.

SECTION 3. Community Facilities District Report. The Community Facilities District Report, as now submitted by Willdan Financial Services, Special Tax Consultant, shall stand as the report required pursuant to Government Code Section 53321.5 for all future proceedings and all terms and contents are approved as set forth therein.

SECTION 4. Name of District. The City Council does hereby establish and declare the formation of CFD No. 18M known and designated as “Community Facilities District No. 18M (Otay Ranch Village 3).”

SECTION 5. Boundaries of CFD No. 18M. The boundaries of CFD No. 18M are generally described as follows:

All property within the boundaries of Community Facilities District No. 18M (Otay Ranch Village 3), as shown on a boundary map as previously approved by this legislative body, such map designated “Proposed Boundaries of Community Facilities District No. 18M (Otay Ranch Village 3), City of Chula Vista, County

of San Diego, State of California,” a copy of which is on file in the Office of the City Clerk. The boundary map of the proposed District has been filed pursuant to Sections 3111 and 3113 of the Streets and Highways Code of the State of California in the Office of the County Recorder of the County of San Diego, at Page 5 of Book 46 of the Book of Maps of Assessment and Community Facilities Districts for the County of San Diego (the “County”).

SECTION 6. Description of Services. It is the intention of this City Council to finance certain services (the “Services”) that are in addition to those provided in or required for the territory within CFD No. 18M and will not be replacing services already available. A general description of the services to be provided is provided in Exhibit “A” attached hereto.

SECTION 7. Special Tax. Except where funds are otherwise available special taxes, secured by recordation of a continuing lien against all non-exempt real property in CFD No. 18M, are hereby authorized, subject to voter approval, to be levied annually within the boundaries of such District. For further particulars as to the rate and method of apportionment of the special taxes proposed to be levied within CFD No. 18M, reference is made to the attached and incorporated Exhibit “B,” which sets forth in sufficient detail the rate and method of apportionment to allow each landowner or resident within CFD No. 18M to clearly estimate the maximum amount that such person will have to pay for such services.

The special taxes herein authorized 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; however, as applicable, this legislative body may, by resolution, establish and adopt an alternate or supplemental procedure as necessary. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer of the City of Chula Vista, acting for and on behalf of CFD No. 18M.

Upon recordation of a Notice of Special Tax Lien pursuant to Section 3114.5 of the Streets and Highways Code of the State of California, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in CFD No. 18M and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the legislative body ceases.

SECTION 8. Special Tax Accountability Measures. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, this City Council hereby establishes the following accountability measures pertaining to the levy by CFD No. 18M of the special taxes described in Section 7 above:

- A. Each such special tax shall be levied for the specific purposes set forth in Section 7. above.
- B. The proceeds of the levy of each such special tax shall be applied only to the specific applicable purposes set forth in Section 7. above.

- C. CFD No. 18M shall establish a separate account into which the proceeds of each such special tax shall be deposited.
- D. The City Manager or his or her designee, acting for and on behalf of CFD No. 18M, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

SECTION 9. Preparation of Annual Tax Roll. The name, address and telephone number of the office, department or bureau which will be responsible for preparing annually a current roll of special tax levy obligations by Assessor's parcel number and which shall be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Government Code of the State of California, are as follows:

Engineering Department  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 92010  
(619) 691-5021

SECTION 10. Election. This legislative body herewith submits the levy of the special taxes to the qualified electors of CFD No. 18M, such electors being the landowners within CFD No. 18M, with each landowner having one (1) vote for each acre or portion thereof of land which he or she owns within CFD No. 18M.

This legislative body hereby further directs that a separate ballot proposition relating to the levy of the above referenced special taxes within CFD No. 18M be combined and consolidated with the proposition set forth in Section 11 below relating to the establishment of an appropriations limit for CFD No. 18M.

The proposition related to the levy of the special taxes, together with a proposition to establish an appropriations limit for CFD No. 18M, shall be submitted to the qualified electors of CFD No. 18M at a special election to be held on (a) November 8, 2016, immediately following the adoption of this resolution or (b) such other date as the qualified electors and the City Clerk may mutually agree and such election shall be a special election to be conducted by the City Clerk (hereinafter referred to as the "Election Official"). If either or both of the propositions for the levy of the special taxes receive the approval of more than two-thirds (2/3rds) of the votes cast on the proposition, the special tax thereby approved may be levied as provided for in this Resolution.

SECTION 11. Ballot Proposals. The ballot proposals to be submitted to the qualified electors of CFD No. 18M at the election shall generally be as follows:

#### PROPOSITION A

Shall Community Facilities District No. 18M (Otay Ranch Village 3), subject to the accountability measures required pursuant to Government Code Section 50075.1, levy a special tax throughout Community Facilities District No. 18M

(Otay Ranch Village 3) pursuant to the rate and method of apportionment attached as Exhibit A to this ballot for the purposes of financing the services described in Exhibit B to this ballot?

PROPOSITION B

Shall Community Facilities District No. 18M (Otay Ranch Village 3) establish an Article XIII B appropriations limit equal to \$16,000,000?

SECTION 12. Vote. The appropriate mark placed in the voting square after the word “YES” shall be counted in favor of the adoption of the proposition, and the appropriate mark placed in the voting square after the word “NO” in the manner as authorized, shall be counted against the adoption of such proposition.

SECTION 13. Election Procedure. The Election Official is hereby authorized to take any and all steps necessary for holding the above election. The Election Official shall perform and render all services and proceedings incidental to and connected with the conduct of the election, including but not limited to, the following:

1. Prepare and furnish the necessary election supplies for the conduct of the election.
2. Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms.
3. Furnish official ballots for the qualified electors of CFD No. 18M.
4. Cause the official ballots to be presented to the qualified electors, as required by law.
5. Receive the returns of the election and supplies.
6. Sort and assemble the election material and supplies in preparation for the canvassing of the returns.
7. Canvass the returns of the election.
8. Furnish a tabulation of the number of votes given in the election.
9. Conduct and handle all other matters relating to the proceedings and conduct of the election in the manner and form as required by law.

SECTION 14. Effective Date. This Resolution shall become effective immediately upon its adoption.

PREPARED BY:

APPROVED AS TO FORM BY:

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Kelly G. Broughton, FASLA  
Director of Development Services

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Glen R. Googins  
City Attorney

## EXHIBIT "A"

### Community Facilities District No. 18M (Otay Ranch Village 3)

#### DESCRIPTION OF SERVICES

The types of services (the "Services") to be funded by special taxes levied within CFD No. 18M shall include maintenance, servicing and replacement of (a) landscaping, including, but not limited to, trees, shrubs, grass, other ornamental vegetation located in or on slopes, parkways and medians; (b) facilities that are directly related to storm water quality control; (c) walls and fencing; and (d) trails (collectively, the "Improvements") located in public right-of-way, property owned by the City of Chula Vista ("City") or property over which the City has an easement authorizing the City to maintain such landscaping, facilities, walls and fencing and trails.

For purposes of this description of the Services to be funded by the levy of Special Taxes within CFD No. 18M, "maintenance" includes, but is not limited to, the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any of the Improvements, including:

- (a) Repair, removal, or replacement of all or any part of any Improvement.
- (b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- (c) The removal of trimmings, rubbish, debris, silt, and other solid waste.
- (d) The cleaning, sandblasting, and painting of walls and other Improvements to remove or cover graffiti.
- (e) The elimination, control, and removal of rodents and vermin.
- (f) The maintenance and cleaning of drainage and other storm water control facilities required to provide storm water quality control.

"Service" or "servicing" means the furnishing of:

- (a) Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other Improvements.
- (b) Water for the irrigation of any landscaping or the operation or maintenance of any other Improvements.

For purposes of this description of the Services to be funded by the levy of Special Taxes within CFD No. 18M, "administrative expenses" means the actual or estimated costs incurred by the City, acting for and on behalf of CFD No. 18M as the administrator thereof, to determine, levy and collect the Special Taxes within CFD No. 18M, 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 CFD No. 18M; the costs of collecting installments of the Special Taxes levied within CFD No. 18M; and any other costs required to administer CFD No. 18M as determined by the City.



**EXHIBIT “B”**

**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)**

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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 1<sup>st</sup> 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.