RESOLUTION NO. 2002-319

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 08M (OTAY RANCH VILLAGE 6) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE CERTAIN SERVICES

WHEREAS, the City Council of the City of Chula Vista, California (the "City Council"), desires to initiate proceedings to create a Community Facilities District and to designate two improvement areas therein 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. 08M (Otay Ranch Village 6) (the "District") and the improvement areas shall hereinafter be referred to as Improvement Area No. 1 and Improvement Area No. 2 (each, an "Improvement Area" and collectively, an "Improvement Area"); and

WHEREAS, this City Council is now required to proceed to adopt its Resolution of Intention to initiate the proceedings for the establishment of such District, to set forth the boundaries for such District and the Improvement Areas therein, to indicate the type of public services to be financed by such District, to indicate a rate and method of apportionment of special taxes proposed to be levied within each Improvement Area sufficient to finance such services for and within each such Improvement Area, to set a time and place for a public hearing relating to the establishment of such District and the designation of the Improvement Areas.

WHEREAS, a map of such District has been submitted showing the boundaries of the territory proposed to be included in the District and in each of the Improvement Areas which territory includes the properties and parcels of land proposed to be subject to the levy of a special tax by the District for each such improvement area

NOW, THEREFORE, IT IS HEREBY RESOLVED:

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

SECTION 2. Initiation of Proceedings. These proceedings are initiated by this City Council pursuant to the provisions of the Community Facilities District Law.

SECTION 3. Boundaries of District and The Improvement Areas. It is the intention of this City Council to establish the Community Facilities District and to designate the Improvement Areas therein pursuant to the provisions of the Community Facilities District Law, and to determine the boundaries and parcels on which special taxes may be levied to finance certain services. A description of the boundaries of the territory proposed for inclusion in the District and each Improvement Area therein including properties and parcels of land proposed to be subject to the levy of a special tax by the District is as follows:

All that property as shown on a map as previously approved by this City Council, such map designated by the name of this Community Facilities District, a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection.

SECTION 4. Name of District and Improvement Areas. The proposed Community Facilities District shall be known and designated as "Community Facilities District No. 08M (Otay Ranch Village 6)." The Improvement Areas within the District shall be known and designated as "Improvement Area No. 1" and "Improvement Area No. 2."

SECTION 5. Description of Services. It is the intention of this City Council to finance certain services that are in addition to those provided in or required for the territory within the District and will not be replacing services already available. A general description of the services to be provided is as follows:

The maintenance of (a) landscaped areas within the public rights-of-ways and other public easements throughout the District and (b) facilities that are directly related to storm water quality control throughout the District.

Such maintenance shall include, but not be limited to, the provision of all labor, material, administration, personnel, equipment and utilities necessary to maintain such landscaped areas and such storm water quality control facilities.

SECTION 6. Special Tax. It is hereby further proposed that, 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 each Improvement Area of the District, will be levied annually within the boundaries of each such Improvement Area. Under no circumstances will the special tax authorized to be levied within an Improvement Area be increased as a consequence of delinquency or default by the owner of any other parcel or parcels used for private residential purposes and located within such Improvement Area by more than 10 percent. For further particulars as to the rate and method of apportionment of the special tax proposed to be levied within Improvement Area No. 1, reference is made to the attached and incorporated Exhibit "A", which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within such Improvement Area to clearly estimate the maximum amount that such person will have to pay for such services. For further particulars as to the rate and method of apportionment of the special tax proposed to be levied within Improvement Area No. 2, reference is made to the attached and incorporated Exhibit "B", which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within such Improvement Area to clearly estimate the maximum amount that such person will have to pay for such services.

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.

SECTION 7. Public Hearing. Notice is given that on the 1st day of October, 2002, at the hour of 4 o'clock p.m., in the regular meeting place of the City Council being the Council Chambers, located at 276 4th Avenue, Chula Vista, California, a public hearing will be held where this City Council will consider the establishment of the proposed District, the designation of the Improvement Areas therein, the proposed rate and method of apportionment of the special taxes

proposed to be levied within each Improvement Area, and all other matters as set forth in this resolution of intention. At the above-mentioned time and place for public hearing any persons interested, including taxpayers and property owners may appear and be heard. The testimony of all interested persons for or against the establishment of the District, the extent of the District, or the furnishing of the services, will be heard and considered. Any protests may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk of the City Council on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the public hearing.

If a written majority protest against the establishment of the District is filed, the proceedings shall be abandoned. If such majority protest is limited to certain services or portions of the special tax, those services or that tax shall be eliminated by the City Council.

SECTION 8. Election. If, following the public hearing described in the Section above, the City Council determines to establish the District and proposes to levy a special tax within each of the Improvement Areas within the District, the City Council shall then submit the levy of the special taxes to the qualified electors of each such Improvement Area. If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within any Improvement Area for each of the ninety (90) days preceding the close of the public hearing, the vote shall be by registered voters of such Improvement Area, with each voter having one (1) vote. Otherwise, the vote shall be by the landowners of such Improvement Area who were the owners of record at the close of the subject hearing, with each landowners or the authorized representative thereof, having one (1) vote for each acre or portion of an acre of land owned within such Improvement Area.

A successful election relating to the special tax authorization shall, as applicable, establish and/or change the appropriations limit as authorized by Article XIIIB of the California Constitution as it is applicable to this District.

SECTION 9. Notice. Notice of the time and place of the public hearing shall be given by the City Clerk by causing a Notice of Public Hearing to be published in the legally designated newspaper of general circulation, such publication pursuant to Section 6061 of the Government Code, with such publication to be completed at least seven (7) days prior to the date set for the public hearing.

Presented by

John P. Lippitt
Public Works Director

Approved as to form by

John M. Kaheny
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 20th day of August, 2002, by the following vote:

AYES:	Councilmembers:	Davis, Padilla, and Salas
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	Rindone and Horton

Stephen Padilla, Deputy Mayor

ATTEST:

Susan Bigelow, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2002-319 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 20th day of August, 2002.

Executed this 20th day of August, 2002.

Susan Bigelow, City Clerk

Exhibit "A"

CITY OF CHULA VISTA
COMMUNITY FACILITIES DISTRICT NO. 08M
(VILLAGE 6, MCMILLIN OTAY RANCH AND OTAY RANCH COMPANY)
RATE AND METHOD OF APPORTIONMENT FOR
IMPROVEMENT AREA NO. 1
(Otay Ranch Village 6)

A Special Tax of Community Facilities District No. 08M (Otay Ranch Village 6) of the City of Chula Vista ("CFD") shall be levied on all Assessor's Parcels in Improvement Area No. 1 of the CFD and collected each Fiscal Year commencing in Fiscal Year 2002-03 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 in 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 IA No. 1 of the CFD as determined by the City.

"**Assessor's 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**" means Community Facilities District No. 08M 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. 2452.

"**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 after January 1, 2002, but prior to the March 1st preceding the Fiscal Year in which the Special Tax is being levied.

"**Final Map Property**" means a single family 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 single family 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 No. 1**" or "**IA No. 1**" means Improvement Area No. 1 of the CFD, as identified on the boundary map for the CFD.

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

"**Landscape Maintenance**" means the labor, material, administration, personnel, equipment and utilities necessary to maintain landscaped improvements within the public right-of-ways, parkways, slopes, wetlands and other public easements throughout the CFD.

"**Landscape Maintenance Requirement**" means, for any Fiscal Year in which Special Taxes are levied, the amount equal to the budgeted costs for Landscape Maintenance applicable to IA No. 1 for such Fiscal Year.

"**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 Developed Property for which a building permit has been issued for a residential structure consisting of two or more residential units that share common walls, including, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartment units.

"**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. Including lot S-2 and CPF-2.

"**Operating Fund**" means a fund that shall be maintained for IA No. 1 for each Fiscal Year to pay for Landscape Maintenance and Storm Water Quality Maintenance and Administrative Expenses.

"**Operating Fund Requirement**" means, for any Fiscal Year, the sum of the applicable Landscape Maintenance Requirement and the applicable Storm Water Quality Maintenance Requirement.

"**Other Taxable Property**" means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Map Property, or Taxable Property Owners Association Property.

"**Property Owner Association Property**" means any property within the boundaries IA No. 1 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.

"**Proportionately**" means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Property within each Land Use Class.

"**Public Property**" means any property within the boundaries of IA No. 1 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 IA No. 1 for each Fiscal Year to provide necessary cash flow for the first six months of each Fiscal Year, reserve 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 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 residential 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 IA No. 1 to fund the Special Tax Requirement.

"**Special Tax Requirement**" means that amount required in any Fiscal Year for IA No. 1 to: (a) (i) pay the Landscape Maintenance Requirement; (ii) pay the Storm Water Quality Maintenance Requirement; (iii) pay reasonable Administrative Expenses; (iv) pay any amounts required to establish or replenish the Reserve Fund to the Reserve Fund Requirement; (v) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less (b) a credit for funds available to reduce the annual Special Tax levy, including the excess, if any, in the Reserve Fund above the Reserve Fund Requirement.

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

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

"**Storm Water Quality Maintenance**" means the maintenance of detention basins, storm drains, catch basin inserts, hydrodynamic devices, infiltration basins, and all other facilities that are directly related to storm water quality control throughout IA No. 1.

"**Storm Water Quality Maintenance Requirement**" means for any Fiscal Year an amount equal to the budgeted costs for Storm Water Quality Maintenance applicable to IA No. 1 for the current Fiscal Year in which Special Taxes are levied.

"**Taxable Property**" means all of the Assessor's Parcels within the boundaries of IA No. 1 of the CFD that are not exempt from the Special Tax pursuant to law or as defined below.

"**Tax-Exempt Property**" means an Assessor's Parcel not subject to the Special Tax. Tax-Exempt Property includes: (i) Public Property, or (ii) Property Owner Association Property, or (iii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement.

"**Taxable Property Owner Association Property**" means all Association Property which is not exempt from the Special Tax pursuant to Section E below.

"**Undeveloped Property**" means, for each Fiscal Year, all Taxable Property not classified as Developed Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year using the definitions above, all Taxable Property within IA No. 1 of the CFD shall 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. Undeveloped Property shall be further assigned to a Land Use Class as specified in Table 2.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

TABLE 1
Maximum Special Tax for Developed Property
Community Facilities District No. 08M
Improvement Area No. 1

Land Use Class	Description	Landscape Maintenance	Storm Water Quality Maintenance	Maximum Special Tax
1	Residential Property	$0.170 per Sq Ft	$0.038 per Sq Ft	$0.208 per Sq Ft
2	Multi-Family Property	$0.170 per Sq Ft	$0.038 per Sq Ft	$0.208 per Sq Ft
3	Non-Residential Property	$2,926.95 per Acre	$659.35 per Acre	$3,586.30 per Acre

Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax that may be levied on an Assessor's Parcel 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's shall determine the allocation to each Land Use Class.

2. **Undeveloped Property**

TABLE 2
Maximum Special Tax for Undeveloped Property
Community Facilities District No. 08M
Improvement Area No. 1

Land Use Class	Description	Landscape Maintenance	Storm Water Quality Maintenance	Maximum Special Tax
4	Final Map Property	$2,926.95 per Acre	$659.35 per Acre	$3,586.30 per Acre
5	Other Taxable Property	$2,926.95 per Acre	$659.35 per Acre	$3,586.30 per Acre
6	Taxable Property Owner Association Property	$2,926.95 per Acre	$659.35 per Acre	$3,586.30 per Acre

3. **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 IA No. 1 shall be increased each Fiscal Year beginning in Fiscal Year 2003-04 and thereafter by a factor equal to the annual percentage change in the San Diego Metropolitan Area All Urban Consumer Price Index (All Items).

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2002-03, and for each following Fiscal Year, the Council shall levy the IA No. 1 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:

First: The Special Tax shall be levied proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Maximum Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Final Map Property at up to 100% of the Maximum Special Tax for Final Map Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Other Taxable Property at up to 100% of the Maximum Special Tax for Other Taxable Property;

Fourth: If additional moneys are needed to satisfy the Special Tax Requirement after the first three steps have been completed, the Special Tax shall be levied proportionately on each Assessor's Parcel of Taxable Property Owner Association Property at up to 100% of the Maximum Special Tax for Taxable Property Owner Association Property.

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 annually up to the Maximum Special Tax as a consequence of delinquency or default by the owner of any other Assessor's Parcel within IA No. 1 of the CFD.

E. EXEMPTIONS

The CFD Administrator shall classify as exempt property (i) Assessor's Parcels defined as Public Property, and (ii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement.

The CFD Administrator shall classify as exempt property those Assessor's Parcels defined as Property Owner's Association Property provided that no such classification would reduce the sum of all taxable Property to less than 128.11 Acres. Assessor's Parcels defined as Property Owner Association Property that cannot be classified as exempt property will be classified as Taxable Property Owner Association Property and shall be taxed as part of the fourth step in Section D.

The CFD Administrator will assign Tax-Exempt status in the chronological order in which property becomes exempt.

F. 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.

G. 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 IA No. 1 of the CFD or as otherwise determined appropriate by the CFD Administrator.

H. TERM OF SPECIAL TAX

Taxable Property in IA No. 1 of the CFD shall remain subject to the Special Tax in perpetuity.

Exhibit "B"

CITY OF CHULA VISTA
COMMUNITY FACILITIES DISTRICT NO. 08M
(VILLAGE 6, MCMILLIN OTAY RANCH AND OTAY RANCH COMPANY)
RATE AND METHOD OF APPORTIONMENT FOR
IMPROVEMENT AREA NO. 2
(Otay Ranch Village 6)

A Special Tax of Community Facilities District No. 08M(Otay Ranch Village 6) of the City of Chula Vista ("CFD") shall be levied on all Assessor's Parcels in Improvement Area No. 2 of the CFD and collected each Fiscal Year commencing in Fiscal Year 2002-03 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 in 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.

I. 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 IA No. 2 of the CFD as determined by the City.

"**Assessor's 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**" means Community Facilities District No. 08M 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. 2452.

"**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 after January 1, 2002, but prior to the March 1st preceding the Fiscal Year in which the Special Tax is being levied.

"**Final Map Property**" means a single family 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 single family 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 No. 2**" **or** "**IA No. 2**" means Improvement Area No. 2 of the CFD, as identified on the boundary map for the CFD.

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

"**Landscape Maintenance**" means the labor, material, administration, personnel, equipment and utilities necessary to maintain landscaped improvements within the public right-of-ways, parkways, slopes, wetlands and other public easements throughout the CFD.

"**Landscape Maintenance Requirement**" means, for any Fiscal Year in which Special Taxes are levied, the amount equal to the budgeted costs for Landscape Maintenance applicable to IA No. 2 for such Fiscal Year.

"**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 Developed Property for which a building permit has been issued for a residential structure consisting of two or more residential units that share common walls, including, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartment units.

"**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 for IA No. 2 for each Fiscal Year to pay for Landscape Maintenance and Storm Water Quality Maintenance and Administrative Expenses.

"**Operating Fund Requirement**" means, for any Fiscal Year, the sum of the applicable Landscape Maintenance Requirement and the applicable Storm Water Quality Maintenance Requirement.

"**Other Taxable Property**" means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Map Property, or Taxable Property Owners Association Property.

"**Property Owner Association Property**" means any property within the boundaries IA No. 2 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.

"**Proportionately**" means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Taxable Property within each Land Use Class.

"**Public Property**" means any property within the boundaries of IA No. 2 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 IA No. 2 for each Fiscal Year to provide necessary cash flow for the first six months of each Fiscal Year, reserve 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 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 residential 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 IA No. 2 to fund the Special Tax Requirement.

"**Special Tax Requirement**" means that amount required in any Fiscal Year for IA No. 2 to: (a) (i) pay the Landscape Maintenance Requirement; (ii) pay the Storm Water Quality Maintenance Requirement; (iii) pay reasonable Administrative Expenses; (iv) pay any amounts required to establish or replenish the Reserve Fund to the Reserve Fund Requirement; (v) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less (b) a credit for funds available to reduce the annual Special Tax levy, including the excess, if any, in the Reserve Fund above the Reserve Fund Requirement.

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

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

"**Storm Water Quality Maintenance**" means the maintenance of detention basins, storm drains, catch basin inserts, hydrodynamic devices, infiltration basins, and all other facilities that are directly related to storm water quality control throughout IA No. 2.

"**Storm Water Quality Maintenance Requirement**" means for any Fiscal Year an amount equal to the budgeted costs for Storm Water Quality Maintenance applicable to IA No. 2 for the current Fiscal Year in which Special Taxes are levied.

"**Taxable Property**" means all of the Assessor's Parcels within the boundaries of IA No. 2 of the CFD that are not exempt from the Special Tax pursuant to law or as defined below.

"**Tax-Exempt Property**" means an Assessor's Parcel not subject to the Special Tax. Tax-Exempt Property includes: (i) Public Property, or (ii) Property Owner Association Property, or (iii) Assessor's Parcels defined as Community Purpose Facility Property that is owned by a non-profit organization and has provided proof to the City prior to the March 1st preceding the Fiscal Year in which the Special Tax is being levied of the organization's non-profit status, or (v) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement.

"**Taxable Property Owner Association Property**" means all Association Property which is not exempt from the Special Tax pursuant to Section E below.

"**Undeveloped Property**" means, for each Fiscal Year, all Taxable Property not classified as Developed Property.

J. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year using the definitions above, all Taxable Property within IA No. 2 of the CFD shall 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. Undeveloped Property shall be further assigned to a Land Use Class as specified in Table 2. Assessor's Parcels of CPF Property not classified as exempt in accordance with Section E below shall be taxed as Non-Residential Property when such Assessor's Parcel is classified as Developed Property. If the Assessor's Parcel is Undeveloped it shall be classified as Other Taxable Property.

K. MAXIMUM SPECIAL TAX RATE

1. Developed Property

TABLE 1
Maximum Special Tax for Developed Property
Community Facilities District No. 08M
Improvement Area No. 2

Land Use Class	Description	Landscape Maintenance	Storm Water Quality Maintenance	Maximum Special Tax
1	Residential Property	$0.168 per Sq Ft	$0.012 per Sq Ft	$0.180 per Sq Ft
2	Multi-Family Property	$0.168 per Sq Ft	$0.012 per Sq Ft	$0.180 per Sq Ft
3	Non-Residential Property	$3,475.96 per Acre	$251.35 per Acre	$3,727.31 per Acre

Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax that may be levied on such an Assessor's Parcel 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's shall determine the allocation to each Land Use Class.

2. Undeveloped Property

TABLE 2
Maximum Special Tax for Undeveloped Property
Community Facilities District No. 08M
Improvement Area No. 2

Land Use Class	Description	Landscape Maintenance	Storm Water Quality Maintenance	Maximum Special Tax
4	Final Map Property	$3,475.96 per Acre	$251.35 per Acre	$3,727.31 per Acre
5	Other Taxable Property	$3,475.96 per Acre	$251.35 per Acre	$3,727.31 per Acre
6	Taxable Property Owner Association Property	$3,475.96 per Acre	$251.35 per Acre	$3,727.31 per Acre

3. 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 IA No. 2 shall be increased each Fiscal Year beginning in Fiscal Year 2004-05 and thereafter by a factor equal to the annual percentage change in the San Diego Metropolitan Area All Urban Consumer Price Index (All Items).

L. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2003-04, and for each following Fiscal Year, the Council shall levy the IA No. 2 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:

First: The Special Tax shall be levied proportionately on each Assessor's Parcel of Developed Property up to 100% of the applicable Maximum Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Final Map Property at up to 100% of the Maximum Special Tax for Final Map Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on

each Assessor's Parcel of Other Taxable Property at up to 100% of the Maximum Special Tax for Other Taxable Property;

Fourth: If additional moneys are needed to satisfy the Special Tax Requirement after the first three steps have been completed, the Special Tax shall be levied proportionately on each Assessor's Parcel of Taxable Property Owner Association Property at up to 100% of the applicable Maximum Special Tax for Taxable Property Owner Association Property.

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 annually up to the Maximum Special Tax as a consequence of delinquency or default by the owner of any other Assessor's Parcel within IA No. 2 of the CFD.

M. EXEMPTIONS

The CFD Administrator shall classify as exempt property (i) Assessor's Parcels defined as Public Property, (ii) Assessor's Parcels defined as Community Purpose Facility Property that are owned by a non-profit organization which has provided proof to the City prior to the March 1st preceding the Fiscal Year in which the Special Tax is being levied of the organization's non-profit status, and (iii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement.

The CFD Administrator shall classify as exempt property those Assessor's Parcels defined as Property Owner's Association Property provided that no such classification would reduce the sum of all taxable Property to less than 124.90 Acres. Assessor's Parcels defined as Property Owner Association Property that cannot be classified as exempt property will be classified as Taxable Property Owner Association Property and shall be taxed as part of the fourth step in Section D.

The CFD Administrator will assign Tax-Exempt status in the chronological order in which property becomes exempt.

N. 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. IA No. 2

O. 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 IA No. 2 of the CFD or as otherwise determined appropriate by the CFD Administrator.

P. TERM OF SPECIAL TAX

Taxable Property in IA No. 2 of the CFD shall remain subject to the Special Tax in perpetuity.