

RESOLUTION NO. 2003-149

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING ITS INTENTION TO CONSIDER CHANGES AND MODIFICATIONS TO THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES AUTHORIZED TO BE LEVIED WITHIN IMPROVEMENT AREA NO. 2 OF COMMUNITY FACILITIES DISTRICT NO. 07M (EASTLAKE - WOODS, VISTAS AND LAND SWAP), AND SETTING THE PUBLIC HEARING FOR THE CITY COUNCIL MEETING OF MAY 20, 2003 AT 6:00 P.M.

WHEREAS, the City Council of the City of Chula Vista, California, (the "City Council") previously has previously undertaken proceedings to form Community Facilities District No 07M (Eastlake - Woods, Vistas and Land Swap) (the "District"), to designate two improvement areas therein ("Improvement Area No. 1" and "Improvement Area No. 2") and to authorize the levy of special taxes within each Improvement Area pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended (Government Code Section 53311 and following) (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") to finance the maintenance of maintenance of (a) wetlands and 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.

WHEREAS, the qualified electors of each Improvement Area of the District, voting in a special election held on August 13, 2002, approved the authorization to levy special taxes within each Improvement Area pursuant to a separate rate and method of apportionment of such special taxes for each Improvement Area (the rate and method of apportionment of special taxes approved for Improvement Area No. 2 shall be referred to as the "Existing Improvement Area No. 2 RMA"); and

WHEREAS, subsequent to the formation of the District and such election, the EastLake Company ("EastLake"), the master developer of the property within Improvement Area No. 2 of the District, requested that the City Council, acting as the legislative body of the District, initiate proceedings to modify the Existing Improvement Area No. 2 RMA; and

WHEREAS, this City Council desires to initiate such proceedings and to set the time and place for a public hearing on this Resolution.

NOW, THEREFORE, the City Council of the City of Chula Vista, California, acting in its capacity as the legislative body of Community Facilities District No. 07M (EastLake - Woods, Vistas and Land Swap), does hereby resolve, declare, find, determine and order as follows:

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

SECTION 2. DESCRIPTION OF THE AREA TO BE AFFECTED. The area to be affected by the proposed modification, if approved, is all of Improvement Area No. 2 of the District which is generally described as follows:

All property within the boundaries of Improvement Area No. 2 of Community Facilities District No. 07M (Eastlake - Woods, Vistas and Land Swap), as shown on a map as previously approved by the City Council of the City, such map designated by the name of such District, a copy of which is on file in the office of the City Clerk of the City.

SECTION 3. DECLARATION OF INTENTION TO CONSIDER THE MODIFICATION OF THE EXISTING IMPROVEMENT AREA NO. 2 RATE AND METHOD OF APPORTIONMENT (RMA). This City Council hereby declares its intention to consider modifying the Existing Improvement Area No. 2 RMA so that the rate and method of apportionment of special taxes authorized to be levied within Improvement Area No. 2 reads as set forth in Exhibit A attached hereto and incorporated herein by this reference.

SECTION 4. PUBLIC HEARING. NOTICE IS HEREBY GIVEN that on May 20, 2003, at the hour of 6 p.m., in the regular meeting place of the City Council, being the Council Chambers located at 276 Fourth Street, Chula Vista, California, the City Council will hold a public hearing to consider this resolution and to consider the approval of the modification of the Existing Improvement Area No. 2 RMA. At such time and place all interested persons or taxpayers for or against the approval of the modification of the Existing Improvement Area No. 2 RMA will be heard.

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 modification of the Existing Improvement Area RMA 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 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 is filed against the modification of the Existing Improvement Area RMA, the proceedings shall be abandoned.

SECTION 5. ELECTION. If, following the public hearing described in the Section above, the City Council determines to approve the modification of the Existing Improvement Area No. 2 RMA, the City Council shall then submit the modification to the qualified electors of Improvement Area No. 2 of the District. If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within Improvement Area No. 2 for each of the ninety (90) days preceding the close of the public hearing, the vote shall be by registered voters of Improvement Area No. 2, with each voter having one (1) vote. Otherwise, the vote shall be by the landowners of Improvement Area No. 2 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 Improvement Area No. 2.

SECTION 6. NOTICE OF PUBLIC HEARING. The City Clerk is hereby authorized and directed to give notice of such public hearing by causing a Notice of Public Hearing to be published pursuant to Government Code Section 6061 in a legally designated newspaper of general circulation with such publication to be completed at least seven (7) days prior to the date set for such public hearing.

SECTION 7. EFFECTIVE DATE. This resolution shall become effective immediately upon its adoption.

Prepared by

Approved as to form by


Clifford Swanson
Engineering Director


Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 15th day of April, 2003, by the following vote:

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


Stephen Padilla, 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. 2003-149 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 15th day of April, 2003.

Executed this 15th day of April, 2003.


Susan Bigelow, City Clerk

CITY OF CHULA VISTA
 COMMUNITY FACILITIES DISTRICT NO. 07M
 RATE AND METHOD OF APPORTIONMENT FOR
 IMPROVEMENT AREA NO. 2 (REVISED)
 (Land Swap Parcel)

A Special Tax of Community Facilities District No. 07M (Eastlake III Woods, Vistas and Land Swap Parcel) 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.

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. 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. 07M 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 Subdivision Map" means a subdivision of property creating 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 areas 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 Undeveloped Property not classified as Developed Property, Subdivided Lot 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.

"Subdivided Lot Property" means a single family residential lot created by a Final Subdivision Map, but which is not classified as Developed Property.

"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 Property Owner 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. 2 of the CFD shall be classified as Developed Property, Subdivided Lot 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.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

TABLE 1
Maximum Special Tax for Developed Property
Community Facilities District No. 07M
Improvement Area No. 2

Land Use Class	Description	Maximum Special Tax
1	Residential Property	\$ 0.070 per Sq Ft
2	Multi-Family Property	\$0.070 per Sq Ft
3	Non-Residential Property	\$547.75 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 imposed on all Land Use Classes located on that Assessor's Parcel. The CFD Administrator shall determine the allocation to each Land Use Class.

2. Undeveloped Property

TABLE 2
Maximum Special Tax for Undeveloped Property
Community Facilities District No. 07M
Improvement Area No. 2

Land Use Class	Description	Maximum Special Tax
4	Subdivided Lot Property	\$1,054.95 per Acre
5	Other Taxable Property	\$1,054.95 per Acre
6	Taxable Property Owner Association Property	\$1,054.95 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 2003-04 and thereafter by a factor equal to the annual percentage increase, if any, 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. 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 Subdivided Lot Property at up to 100% of the Maximum Special Tax for Subdivided Lot 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. 2 of the CFD.

E. 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 76.23 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. IA No. 2

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. 2 of the CFD or as otherwise determined appropriate by the CFD Administrator.

H. TERM OF SPECIAL TAX

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

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