

## EXHIBIT C

### RATE AND METHOD OF APPORTIONMENT

#### IMPROVEMENT AREA NO. 1 (McMillin Otay Ranch)

A Special Tax of Community Facilities District No. 08M (Village 6, McMillin Otay Ranch and Otay Ranch Company) 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	\$0.220 per Sq Ft	\$0.038 per Sq Ft	\$0.258 per Sq Ft
2	Multi-Family Property	\$0.220 per Sq Ft	\$0.038 per Sq Ft	\$0.258 per Sq Ft
3	Non-Residential Property	\$3,777.89 per Acre	\$653.99 per Acre	\$4,431.88 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	\$3,777.89 per Acre	\$653.99 per Acre	\$4,431.88 per Acre
5	Other Taxable Property	\$3,777.89 per Acre	\$653.99 per Acre	\$4,431.88 per Acre
6	Taxable Property Owner Association Property	\$3,777.89 per Acre	\$653.99 per Acre	\$4,431.88 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.