

RESOLUTION NO. 19114

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 98-1 (INTERIM OPEN SPACE MAINTENANCE DISTRICT [OTAY PROJECT, LLC-OVP-SPA ONE, VILLAGES 1 WEST, 2, 2 WEST, 6, 7 AND PLANNING AREA 12]) AND TO AUTHORIZE THE LEVY A SPECIAL TAX THEREIN TO FINANCE CERTAIN SERVICES

WHEREAS, the City Council of the City of Chula Vista (the "City Council"), at this time is desirous to initiate proceedings to create a 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. 9801 (Interim Open Space Maintenance District [Otay Project, LLC-OVP-SPA One, Villages 1 West, 2, 2 West, 6, 7 and Planning Area 12]) (hereinafter referred to as the "District"); 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, to indicate the type of public services to be financed by such District, to indicate the rate and apportionment of a special tax sufficient to finance such services, to set a time and place for a public hearing relating to the establishment of such District; and,

WHEREAS, a map of such District has been submitted showing the boundaries of the territory proposed for inclusion in the District including properties and parcels of land proposed to be subject to the levy of a special tax by the District.

NOW, THEREFORE, IT IS HEREBY RESOLVED:

RECITALS

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

INITIATION OF PROCEEDINGS

SECTION 2. These proceedings are initiated by this City Council pursuant to the authorization of Section 53318 of the Government Code of the State of California.

BOUNDARIES OF DISTRICT

SECTION 3. It is the intention of this City Council to establish a Community Facilities District 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 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.

NAME OF DISTRICT

SECTION 4. The name of the proposed Community Facilities District to be established shall be known and designated as Community Facilities District No. 98-1 (Interim Open Space Maintenance District [Otay Project, LLC-OVP-SPA One, Villages 1 West, 2, 2 WEST, 6, 7 and Planning Area 12]).

DESCRIPTION OF SERVICES

SECTION 5. It is the further 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 and servicing of public facilities including irrigation, cultivation, installation and replacement of plant material, tree trimming and necessary supplies, personnel, utility and equipment costs; contract services where applicable; maintenance and servicing of parks, parkway landscaping and medians, drainage facilities, pedestrian bridges and open space slopes, trails and walls.

SPECIAL TAX

SECTION 6. 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 the District, will be levied annually within the boundaries of such District. Under no circumstances will the special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels used for private residential purposes within the District by more than 10 percent. For further particulars as to the rate and method of apportionment of the proposed special tax, 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 the proposed District 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.

PUBLIC HEARING

SECTION 7. NOTICE IS GIVEN THAT ON THE 1st DAY OF SEPTEMBER, 1998, AT THE HOUR OF 4:00 O'CLOCK P.M., IN THE REGULAR MEETING PLACE OF THE CITY COUNCIL BEING THE COUNCIL CHAMBERS, CITY HALL, LOCATED AT 276 FOURTH AVENUE, CHULA VISTA, CALIFORNIA, A PUBLIC HEARING WILL BE HELD WHERE THIS CITY COUNCIL WILL CONSIDER THE ESTABLISHMENT OF THE PROPOSED COMMUNITY FACILITIES DISTRICT, THE PROPOSED METHOD AND APPORTIONMENT OF THE SPECIAL TAX, AND ALL OTHER MATTERS AS SET FORTH IN THIS RESOLUTION OF INTENTION. THAT AT THE ABOVE-MENTIONED TIME AND PLACE FOR PUBLIC HEARING ANY PERSONS INTERESTED, INCLUDING TAXPAYERS AND PROPERTY OWNERS MAY APPEAR AND BE HEARD, AND THAT 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.

ELECTION

SECTION 8. 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 the District, the City Council shall then submit the levy of the special taxes to the qualified electors 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 the District for each of the ninety (90) days preceding the close of the public hearing, the vote shall be by registered voters of the District, with each voter having one (1) vote. Otherwise, the vote shall be by the landowners of the District 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 the District.

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

NOTICE

SECTION 9. Notice of the time and place of the public hearing shall be given by the City Clerk in the following manner:

- A. A Notice of Public Hearing shall 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.

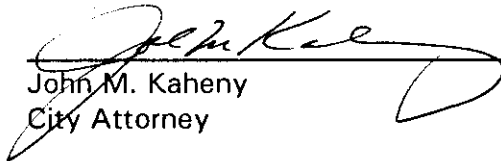
- B. A Notice of Public Hearing shall be mailed, postage prepaid, to each property owner within the boundaries of the proposed District; such mailing to the property owners shall be to the address as shown on the last equalized assessment roll. Such mailing shall be completed at least fifteen (15) days prior to the date set for the public hearing.

Presented by

Approved as to form by



John P. Lippitt
Public Works Director



John M. Kaheny
City Attorney

EXHIBIT ARATE AND METHOD OF APPORTIONMENT**ANNUAL TAX**

A Special Tax shall be levied annually on land within Community Facilities District No. 98-1 (Interim Open Space Maintenance District) of the City of Chula Vista (the "District"), and collected according to the Special Tax Liability determined by the City of Chula Vista (the "City") through the application of the following procedures. All of the property within the District, unless otherwise exempted by law or the express provisions of the rate and method of apportionment expressed below, shall be taxed to the extent and in the manner provided below.

All Special Taxes applicable to Parcels shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, and that Special Taxes so levied will be subject to the same penalties and procedures, sale and lien priority in case of delinquency as is provided for ad valorem taxes.

DEFINITIONS

Acre or Acreage means the area of a Parcel as shown on the latest maps of the Assessor of the County of San Diego, or, if the area of such Parcel is not shown on such Assessor's maps, the area as shown on a current recorded subdivision map, parcel map, record of survey or other recorded document creating or describing the Parcel. If the preceding maps are not available, the area shall be determined by the City Engineer.

Administrative Expenses means the direct and indirect expenses incurred by the City in carrying out its duties with respect to the District (including, but not limited to, the levy and collection of the Special Taxes) including the fees and expenses of its counsel. Any fees of the County related to the District or the collection of Special Taxes, an allocable share of the salaries of City staff directly related thereto, any amounts paid by the City from its general fund with respect to the District, and expenses incurred by the City in undertaking actions to foreclose on properties for which the payment of Special Taxes is delinquent, and all other costs and expenses of the City related to the District.

City means the City of Chula Vista

District means the Interim Open Space Maintenance District - SPA One (Villages One West, Two West, and portions of Villages Two, Six, Seven and

Planning Area 12) of the Community Facilities District No. 98-1 of the City of Chula Vista.

Facilities means those improvements defined in Part II of the Special Tax Report dated July 1, 1998 for Community Facilities District No. 98-1 of the City of Chula Vista.

Fiscal Year means the period starting on July 1 and ending the following June 30.

Maximum Special Tax means the maximum special tax that can be levied within CFD No. 98-1 by the City Council in any Fiscal Year for each Parcel of Taxable Property.

Operating Fund means a fund that shall be maintained within the District for any Fiscal Year to pay for the actual costs of maintenance, repair, and replacement of the Facilities, and the Administrative Expenses.

Operating Fund Balance means the amount of funds in the Operating Fund at the end of the preceding Fiscal Year.

Operating Fund Requirement means for any Fiscal Year an amount equal to the budgeted costs of the maintenance, repair and replacement of the Facilities which have been accepted and maintained by the District or are reasonably expected to be accepted and maintained by the District during the current Fiscal Year plus the budgeted Administrative Expenses of the District for the current Fiscal Year in which Special Taxes are levied.

Parcel means any San Diego County Assessor's Parcel or portion thereof that is within the boundaries of the District designated on a map of the San Diego County Assessor and which has been assigned a discrete identifying number on the equalized tax rolls of the County.

Reserve Fund means a fund that shall be maintained to provide necessary cash flow for operations and maintenance for the first six months of each Fiscal Year, working capital to cover maintenance and repair cost overruns and delinquencies that may arise in connection with the collection of Special Taxes and a reasonable buffer against large variations in annual special tax amounts.

Reserve Fund Balance means the amount of funds in the Reserve Fund at the end of the preceding Fiscal Year.

Reserve Fund Requirement means the required balance in the Reserve Fund equal to up to 100% of the Operating Fund Requirement.

Special Tax means the special tax or special taxes actually levied within CFD No. 98-1.

Special Tax Liability for any Fiscal Year is an amount determined sufficient to pay the costs of the District, including: (i) the amount required to be deposited into the Operating Fund to meet the Operating Fund Requirement, less the Operating Fund Balance, and (ii) the total amount required to be deposited into the Reserve Fund if any, to meet the Reserve Fund Requirement, less the Reserve Fund Balance.

Taxable Property is all real property or Parcels within the boundaries of the District which are not exempt from the Special Tax pursuant to law, or which are not classified or assigned to the Exempt Category as defined herein.

Categories of Special Taxes

Taxable Category

The taxable land category includes each Parcel of Taxable Property assigned to the District (Taxable Category).

The Maximum Special Tax which may be levied on each Parcel within the Taxable Category for Fiscal Year 1998/99 shall be \$ 103 per Acre (said amount to be levied pro rata for any portion of an Acre). Said Maximum Special Tax shall be increased or decreased each Fiscal Year thereafter by a factor which shall be the lesser of the annual percentage change in the January to January San Diego Metropolitan Area All Urban Consumer Price Index (All Items) or the annual percentage change in the estimated California Fourth Quarter Per Capita Personal Income as contained in the Governor's budget published every January.

Exempt Category

The exempt category includes each property owned by, conveyed or irrevocably offered for dedication to a public agency, land which is in the public right-of-way, unmanned utility easements which make utilization for other than the purpose set forth in the easement impractical, common areas, private streets and parks, and open space lots (Exempt Category).

Assignment to Categories of Special Taxes

On or about July 1 of each year (but in any event in sufficient time to include the levy of the Special Taxes on the County's secured tax roll) the City shall assign each Parcel within the District to the Taxable Category, or Exempt Category. Parcels subject to levy shall be determined based upon the records of the San Diego County Assessor.

Levy and Apportionment of Special Taxes

The City shall determine the Special Tax Liability for the District in each Fiscal Year on or about every July 1 (but in any event in sufficient time to include the levy of the Special Taxes on the County's secured tax roll). Special Taxes shall then be levied on each Parcel within the District as follows:

Step 1: The Special Tax per Acre for Parcels assigned to the Taxable Category shall be calculated as the lessor of:

(i) The Special Tax Liability for the District as determined by the City, divided by the total Acres for all Parcels assigned to the Taxable Category,

OR,

(ii) the Maximum Special Tax rate for Parcels assigned to the Taxable Category

Step 2: The City shall advise the owner of Parcels within the District of the Special Tax Liability for the next Fiscal Year.

Step 3: The owner(s) of Parcels within the District, may at its election, deposit funds with the City prior to July 15 each Fiscal Year, in an amount equal to the Parcel's Special Tax which shall be deposited into the Operating Fund and Reserve Fund of the District.

Step 4: If the funds deposited with the City is less than the Parcel's Special Tax for the Fiscal Year, then a Special Tax shall be levied equal to the Parcel's Special Tax as determined in Step 1 minus any funds deposited for the current Fiscal Year pursuant to Step 3.

PROPOSED BOUNDARY MAP
COMMUNITY FACILITIES DISTRICT NO. 98-1
 INTERIM OPEN SPACE MAINTENANCE DISTRICT
 (OTAY PROJECT, LLC-OVP-SPA ONE, VILLAGES 1 WEST, 2 WEST, AND PORTIONS OF VILLAGES 2, 6, 7, & PLANNING AREA 12)
 CITY OF CHULA VISTA, COUNTY OF SAN DIEGO
 STATE OF CALIFORNIA

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF CHULA VISTA, THIS _____ DAY OF _____, 199__.

BY: _____
 CITY CLERK
 CITY OF CHULA VISTA
 STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF SAID DISTRICT IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 199__ BY ITS RESOLUTION NO. _____.

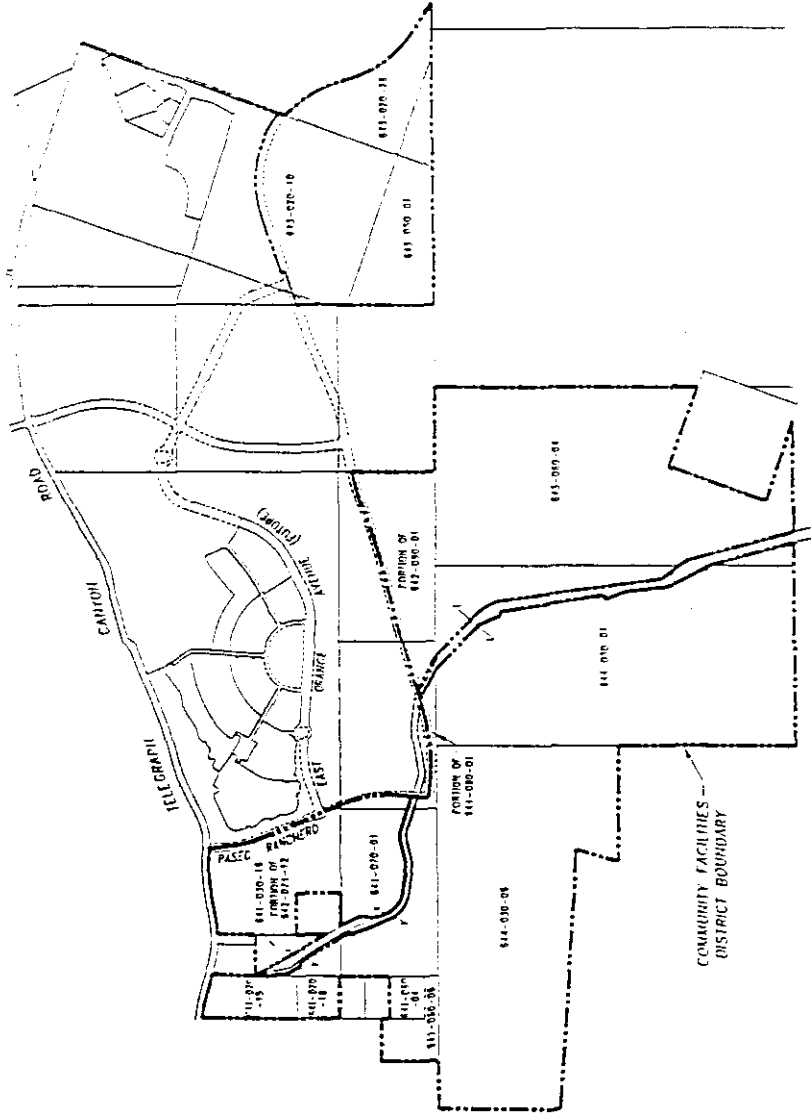
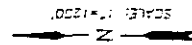
BY: _____
 CITY CLERK
 CITY OF CHULA VISTA
 STATE OF CALIFORNIA

FILED THIS _____ DAY OF _____, 199__ AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ PAGE _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN DIEGO, CALIFORNIA.

BY: _____
 COUNTY RECORDER
 COUNTY OF SAN DIEGO
 STATE OF CALIFORNIA

LEGEND

- MAINTENANCE DISTRICT BOUNDARY
- 188-310-10 ASSESSOR PARCEL NUMBER
- PARCEL LINE



PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 28th day of July, 1998, by the following vote:

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



Shirley Horton, Mayor

ATTEST:



Beverly A. Authelet, City Clerk

I, Beverly A. Authelet, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 19114 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista Council held on the 28th day of July, 1998.

Executed this 28th day of July, 1998.



Beverly A. Authelet, City Clerk