

For a more detailed presentation of facility maintenance costs and the method used to distribute the costs for each type of maintained facility, please refer to Exhibit B of this report.

#### **Part IV - Rate and Method of Apportionment of Special Taxes**

A Special Tax shall be levied annually on land within Community Facilities District No. 98-3 (Open Space Maintenance District No. 35 [Sunbow II]) 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.

It is intended that all Special Taxes applicable to Parcels 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:** The area of a Parcel as shown on the latest maps of the Assessor of the County of San Diego, or 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. *Gross Acreage as shown on P.F.P. for community.*

**Administrative Expenses:** 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, 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.

**Assessor's Parcel:** 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.

**City:** The City of Chula Vista.

**Developed Property:** Non-exempt Property Assessor's Parcels in the District that have been included within a recorded Final Map, in the case of Single Family detached land use, or an approved Site Development Plan, in the case of other land uses, as of March 1 of the preceding Fiscal Year.

**District:** Community Facilities District No. 98-3 (Open Space Maintenance District No. 35 [Sunbow II]) of the City of Chula Vista.

**Dwelling Unit:** Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for no more than one family, or a congregated residence for 10 or fewer persons.

**Equivalent Dwelling Unit:** A unit of measurement whereby a single family detached dwelling unit is equal to one basic unit and all other land uses are a ratio relative to this measure.

**Exempt Property:** Assessor's parcels of property existing at the time of the establishment of the District or which will be conveyed, dedicated or irrevocably offered for dedication to a public agency pursuant to a City plan or agreement which are exempt for the levy of special taxes, including property owned by a public agency which is in public use; property which is utilized for public utility purposes and which is not occupied on a regular basis by employees of the public utility; property irrevocably offered for dedication to a public agency, or 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.

**Extraordinary Special Tax:** That tax over and in addition to any Special Tax authorized to be collected in conjunction with a reduction in the special tax revenue that could be collected upon full development of the land in the District.

**Extraordinary Special Tax Account:** A special City account established for holding and administrating Extraordinary Special Tax funds received, including interest earnings thereon.

**Fiscal Year:** The period starting on July 1 and ending the following June 30.

**Maximum Special Tax:** The maximum special tax that can be levied within CFD No. 98-3 by the City Council in any Fiscal Year for each Parcel of Taxable Property.

**Operating Fund:** A fund that shall be maintained for the District for any Fiscal year to pay for the actual maintenance, repair, and replacement, and the Administrative Expenses.

**Operating Fund Balance:** The amount of funds in the Operating Fund at the end of the

preceding Fiscal Year.

**Operating Fund Requirement:** For any Fiscal Year an amount equal to the budget costs of the maintenance, repair and replacement of eligible 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.

**Reserve Fund:** A fund that shall be maintained for the District 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:** The amount of funds in the Reserve Fund at the end of the preceding Fiscal Year.

**Reserve Fund Requirement:** The required balance in the Reserve Fund equal to up to 100% of the Operating Fund Requirement.

**Special Tax:** The special tax or special taxes actually levied for a fiscal year within CFD No. 98-3.

**Special Tax Liability:** For any Fiscal Year, an amount determined to be 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) an amount, if any, required to be deposited into the Reserve Fund to meet the Reserve Fund Requirement, less the Reserve Fund Balance.

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

**Undeveloped Property:** An Assessor's Parcel in the District not classified as Developed Property or Exempt Property.

## **PROPERTY CATEGORIES**

The property categories to which Assessor's parcels in the District shall be assigned are as follows:

Class 1 - Developed Property

Class 2 - Undeveloped Property

Class 3 - Exempt Property

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 one of the three property categories as defined above. Parcels subject to levy shall be determined based upon the records of the San Diego County Assessor as of the March 1 preceding such July 1.

**MAXIMUM SPECIAL TAX RATE**

**Class 1 - Developed Property**

The maximum special tax rate for Class 1 - Developed Properties per Equivalent Dwelling Unit (EDU) or acre for the various land uses within the District commencing with July 1, 1998 are specified in Table 2 below:

**TABLE 2**

**OPEN SPACE MAINTENANCE DISTRICT NO. 35 - SUNBOW II**

**MAXIMUM SPECIAL TAX RATE - CLASS 1 - DEVELOPED PROPERTY**

<b>MAINTAINED FACILITY</b>	<b>RESIDENTIAL COST/EDU/YR</b>	<b>INDUSTRIAL COST/ACRE/YR</b>	<b>COMMERCIAL COST/ACRE/YR</b>	<b>TOTAL COST PER YR</b>
1. Street Medians and Parkways	\$64.81	\$1,296.20	\$1,620.25	\$189,055
2. Landscaped and Irrigated slopes	\$240.68	\$1,203.40	\$1,203.40	\$522,507
3. Natural non irrigated open space	\$34.40	\$172.00	\$172.00	\$74,686
4. Poggi Canyon drainage channels and basins	\$0.92	\$4.60	\$4.60	\$2,000
5. Telegraph Canyon drainage channel	\$0.62	\$3.10	\$3.10	\$1,350
6. Community Walls	\$6.43	\$32.15	\$32.15	\$13,964
<b>Max Special Tax Rate</b>	<b>\$347.86</b>	<b>\$2,711.45</b>	<b>\$3,035.50</b>	<b>\$803,562</b>

## **Class 2 - Undeveloped Property**

The maximum special tax rate that may be levied within the District commencing with July 1, 1998 for Class 2 - Undeveloped Property is as follows:

**Maximum Special Tax Rate Equals \$2,078.54 per Acre**

## **INCREASING THE MAXIMUM SPECIAL TAX RATE**

Beginning with Fiscal Year 1998-99, the Maximum Special Tax Rates shall be increased or decreased each Fiscal Year thereafter by a factor which shall be the lesser of the January to January San Diego Metropolitan Area All Urban Consumer Price Index (CPI) or the annual change in the estimated California Fourth Quarter Per Capita Personal Income as contained in the Governor's budget published every January.

## **LEVY AND APPORTIONMENT OF SPECIAL TAXES**

The City shall determine the Special Tax Liability in each Fiscal Year on or about every July 1. The Special Tax Liability shall be then levied on each Parcel in the Class 1 - Developed Category and Class 2 - Undeveloped Category in the following order of priority:

- Step 1:** Determine the maximum revenue which could be generated in the District by multiplying the total Equivalent Dwelling Units (EDU's) of all Developed Parcels assigned to the Class 1 - Developed Category by the Maximum Special Tax per EDU.
- Step 2:** If the total revenue as calculated in Step 1 is greater than the Special Tax Liability for the District, reduce the Special Tax for each Parcel proportionately so that the Special Tax levy for the Fiscal Year is equal to the Special Tax Liability for the Fiscal Year.
- Step 3:** If the total revenue as calculated in Step 1 is less than the Special Tax Liability of such Special Tax Area, a Special Tax shall be levied upon each Parcel assigned to the Class 2 - Undeveloped Category.

The Special Tax for the Class 2 - Undeveloped Category shall be calculated as the lesser of:

- (i) The Special Tax Liability for the District, less the total of funds generated for all Parcels under Step 1 above, divided by the total Acres for all Parcels

assigned to the "Class 2 - Undeveloped Category" within the District.

OR,

(ii) the Maximum Special Tax rate for Class 2 - Undeveloped Category Parcels.

**Step 4:** The total Special Tax Liability for each Parcel shall be the sum of the Special Tax Liability for each of the type of maintained facilities as defined in Table 2.

### **EXTRAORDINARY SPECIAL TAX**

At the beginning of each Fiscal Year, the City shall determine whether the levy and collection of the Extraordinary Special Tax is required to protect against any changes in density or development that would result in the generation of insufficient Special Tax revenues within the District. The Extraordinary Special Tax shall be in addition to any annual Special Tax levied upon the Parcel for that year.

**Step 1:** The City will determine the Maximum Special Tax Revenue that can be collected from the Class 1 - Developed Category at build out for each of the SPA Planning Areas as shown in Exhibit C. Exhibit C shall be modified each Fiscal Year to reflect changes in land use, number of units, total acres and total EDU's within the planning areas within the District.

**Step 2:** If the amount calculated in Step 1 for any of the SPA Planning Areas is less than the Special Tax Liability for that SPA Planning Area, the difference between the amount calculated above and the Special Tax Liability is the "Special Tax Deficiency." The first time a Special Tax Deficiency applies to a SPA Planning Area, the amount of Extraordinary Special Tax shall be determined by calculating the present value of the Special Tax Deficiency using an interest rate of 5.5% and a term of 50 years. The Extraordinary Special Tax as determined above shall be proportionately levied to all Parcels assigned to the Class 2 - Undeveloped Category, provided, however prior to June 1 of each year in which there is a Special Tax Deficiency, the owner of Class 2 - Undeveloped Land may, at its election, post security in lieu of the Extraordinary Special Tax that would otherwise be levied plus an amount sufficient to compensate for lost earnings on investment of the Extraordinary Special Tax if it were to be levied.

**Step 3:** Any Extraordinary Special Taxes collected by the City shall be deposited in the Extraordinary Special Tax Account, including interest earnings thereon. Monies held in the Extraordinary Special Tax Account may be used annually to the extent that the Special Taxes to be collected from Developed Parcels and Parcels assigned to the Class 2 - Undeveloped Category are insufficient to fund the Special Tax Liability of the District; provided, however, that under no circumstance shall the City use monies in the Extraordinary Special Tax Account to fund Special Tax Delinquencies.

**Step 4:** In each Fiscal Year subsequent to the first time a Special Tax Deficiency applies to the District, the City shall calculate the Extraordinary Special Tax as provided for in Step 3 (i.e., using an interest rate of 5.5% and a term of 50 years) and apply one of the following procedures:

(i) if the amount of Extraordinary Special Tax is greater than the balance in the Extraordinary Special Tax Account, then the difference shall be proportionately levied to all Parcels assigned to the Class 2 - Undeveloped Category within the District;

(ii) if the amount of Extraordinary Special Tax is equal to the balance in the Extraordinary Special Tax Account, then no Extraordinary Special Tax shall be levied for the Fiscal Year;

(iii) if the amount of Extraordinary Special Tax is less than the balance in the Extraordinary Special Tax Account, then the difference shall be refunded to the property owner that previously paid such Extraordinary Special Tax.