

# **RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

## **CHULA VISTA ELEMENTARY SCHOOL DISTRICT COMMUNITY FACILITIES DISTRICT NO. 21 (OTAY RANCH VILLAGE 8-WEST)**

This Rate and Method of Apportionment of Special Tax (“RMA”) sets forth the Special Tax applicable to each Assessor’s Parcel within Community Facilities District No. 21 of the Chula Vista Elementary School District (“CFD”) to be apportioned, levied and collected according to the Special Tax liability determined by the Board of Education of the Chula Vista Elementary School District (“Board”), acting as the Legislative Body of the CFD. The applicable Annual Maximum Special Tax shall be determined by applying the appropriate amount or rate for Developed Property and Undeveloped Property, as described below. All Developed Property and Undeveloped Property within the CFD, unless exempted by law or the provisions of Section IX below, shall in each Fiscal Year be subject to the levy and collection of the applicable Annual Maximum Special Tax to the extent and in the manner hereinafter provided.

### **SECTION I DEFINITIONS**

**“Acre(s)” or “Acreage”** means the acreage of an Assessor’s Parcel as set forth on the latest San Diego County Assessor’s Parcel Map if such acreage is shown thereon. If such acreage is not shown on such Assessor’s Parcel Map, the acreage shall be the acreage information shown upon any recorded subdivision map, parcel map, record of survey, or other recorded document describing the property. If none of the above information is available, the determination of the Acreage shall be made by the School District.

**“Act”** means the Mello-Roos Community Facilities Act of 1982 as amended, being Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the California Government Code.

**“Administrative Expense”** means any cost incurred by the School District on behalf of the CFD related to the determination of the amount of the annual levy of the Special Tax, the collection of the Special Tax, the administration of the Bonds of the CFD, and the other costs incurred in order to carry out the authorized purposes of the CFD.

**“Administrator”** means an official of the School District or designee thereof, responsible for determining the levy and collection of the Special Taxes.

**“Age Restricted Unit”** means a Unit designated as senior citizen housing, part of a residential care facility for the elderly, or part of a multilevel care facility for the elderly as referred to in California Government Code Section 65995.1 for which a senior citizen restriction has been effected. Age Restricted Units shall not be subject to a Special Tax; however, they shall be required to pay all applicable contractual mitigation payments, as detailed in the Mitigation Agreement.

**“Annual Maximum Special Tax”** means the maximum Special Tax that may be levied in each Fiscal Year pursuant to Section III on each Assessor’s Parcel classified as Developed Property or Undeveloped

Property.

**“Annual Special Tax Requirement”** means the amount required in any Fiscal Year to pay for: (i) the debt service on all outstanding Bonds, (ii) the costs associated with the release of funds from an escrow account(s) established in association with the Bonds, (iii) any amount required to establish or replenish any reserve funds established in connection with the Bonds, (iv) a sinking fund for the acquisition, construction, equipment and finance costs of future facilities provided that the inclusion of such amount does not cause an increase in the levy of Special Tax on Undeveloped Property, (v) Administrative Expense, less (vi) a credit for funds available to reduce the annual Special Tax levy as determined pursuant to any bond indenture.

**“Assessor’s Parcel”** means a parcel of land as designated on an applicable Assessor’s Parcel Map and that has been assigned a discrete identifying Assessor’s Parcel Number.

**“Assessor’s Parcel Map”** means an official map of the San Diego County Assessor designating parcels by Assessor’s Parcel Number.

**“Assessor’s Parcel Number”** means that number assigned to an Assessor’s Parcel by the San Diego County Assessor for purposes of identifying the Assessor’s Parcel.

**“Assigned Annual Special Tax”** means the Special Tax of that name described in Section IV.

**“Backup Annual Special Tax”** means the Special Tax of that name described in Section V.

**“Bond Yield”** means the yield of the most recent series of Bonds, calculated at the time such Bonds are issued, pursuant to Section 148 of the Internal Revenue Code of 1986, as amended, for the purpose of the non-arbitrage certificate or other similar bond issuance document.

**“Bonds”** means the bonds or other debt obligations (as defined in Section 53317(d) of the Act), including, but not limited to certificates of participation or leases, as to which the School District uses, or anticipates that it will use, the Special Taxes to pay some or all of the debt service for such debt obligations.

**“Building Square Footage”** or **“BSF”** of a Unit means the square footage of “assessable space” (as defined in Government Code Section 65995 or any successor law) of the Unit, as determined by reference to the building permit(s) for such Unit or to other reasonable and verifiable information.

**“Condominium”** means a Unit, whether attached or detached, meeting the statutory definition of a condominium set forth in California Civil Code Section 4125.

**“Cost Index”** means the latest Building Cost Index for the City of Los Angeles available as of July 1<sup>st</sup> of each year and published in the Engineering News Record, McGraw-Hill Construction Weekly, or if not available, the School District shall determine a suitable replacement.

**“Developed Property”** means each and all Assessor’s Parcels of Taxable Property for which building permits were issued to permit the construction of Residential Dwelling Units on or before June 30 of the preceding Fiscal Year.

**“Exempt Property”** means all Assessor’s Parcels designated as being exempt from Special Taxes pursuant to Section IX.

**“Final Map”** means a subdivision of property by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) or recordation of a condominium plan pursuant to California Civil Code 4285 that creates individual lots for which building permits may be issued without further subdivision.

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

**“Initial Fiscal Year”** means the first Fiscal Year in which the Annual Maximum Special Tax will be apportioned and levied on an Assessor's Parcel of Developed Property, i.e., the first Fiscal Year after a Taxable Property becomes Developed Property on or before June 30 of the preceding Fiscal Year.

**“Lot”** means an individual legal lot created by a Final Map for which a building permit for residential construction has been or could be issued. Notwithstanding the foregoing, in the case of an individual legal lot created by a Final Map and upon which Condominiums are entitled to be developed, the number of Lots allocable to such legal lot for purposes of calculating the Backup Annual Special Tax applicable to such Final Map shall equal the number of Condominiums which are permitted to be constructed on such legal lot as shown on such Final Map.

**“Mitigation Agreement”** means the “School Facilities Mitigation Agreement for Otay Ranch Village 8 West” as it may be amended.

**“Multi-Family Apartment Unit”** means one or more apartment units available for rent or lease, and not purchase, by the general public and not subject to a condominium map. For the purpose of classifying Residential Dwelling Units, only the first 1,205 apartment units issued a building permit will be classified as a Multi-Family Apartment Unit and all apartments units permitted that are in excess of 1,205 will be classified as Residential Dwelling Units. The apartment units classified as Multi-Family Apartment Units shall not be subject to a Special Tax; however, they shall be required to pay all applicable contractual mitigation payments, as detailed in the Mitigation Agreement. The apartment units classified as Residential Dwelling Units will be subject to the levy of the Special Tax.

**“Net Taxable Acreage”** means the total Acreage of Developed Property expected to exist in the CFD after all Final Maps are recorded. When making this determination, the Administrator shall exclude all Acreage expected to be classified as Exempt Property, Restricted Residential Property, or Non-Residential Property.

**“Non-Residential Property”** means each and all Assessor’s Parcels for which building permits were issued for non-residential uses. Non-Residential Property shall not be subject to the Annual Maximum Special Tax; however, it shall be required to pay all applicable contractual mitigation payments, as detailed in the Mitigation Agreement.

**“Prepayment Administrative Fees”** means any fees or expenses of the School District or the CFD associated with the prepayment of the Special Tax obligation of an Assessor's Parcel. Prepayment Administrative Fees shall include among other things the cost of computing the Prepayment

Amount, redeeming Bonds, and preparing and recording any notices to evidence the prepayment and redemption of Bonds.

**“Prepayment Amount”** means the amount required to prepay the Special Tax obligation in full for an Assessor’s Parcel as described in Section VII.

**“Present Value of Taxes”** means for any Assessor's Parcel the sum total of (i) the unpaid portion, if any, of the Special Tax applicable to such Assessor’s Parcel in the then-current Fiscal Year, plus (ii) the present value of the Special Taxes expected to be levied on such Assessor's Parcel in each remaining Fiscal Year, as determined by the Administrator, until the termination date specified in Section VIII. The discount rate used to calculate the Present Value of Taxes shall: (i) prior to issuance of Bonds, be equal to four and one-quarter percent (4.25%); and (ii) after issuance of Bonds, be equal to the lesser of (a) the Bond Yield plus 100 basis points or (b) 4 and one-quarter percent (4.25%).

**“Proportionately”** means that the ratio of (i) the Special Tax levied or to be levied to (ii) the applicable Assigned Annual Special Tax, is equal for all applicable Assessor's Parcels. In the case of Developed Property subject to apportionment of the Special Tax under Step Three of Section VI, “Proportionately” shall mean that the quotient of (i) the Special Tax less the Assigned Annual Special Tax, divided by (ii) the applicable Backup Annual Special Tax less the Assigned Annual Special Tax, is equal for all applicable Assessor’s Parcels.

**“Provisional Undeveloped Property”** means all Assessor's Parcels of Taxable Property that would otherwise be classified as Exempt Property pursuant to Section IX, but cannot be classified as Exempt Property because to do so would reduce the Net Taxable Acreage below the required minimum Acreage set forth in Section IX, as applicable.

**“Residential Dwelling Unit”** means a Unit that is not an Age Restricted Unit or a Multi-Family Apartment Unit.

**“Restricted Residential Property”** means each and all Assessor's Parcels for which building permits have been issued for the construction of Age Restricted Units and/or Multi-Family Apartment Units.

**“School District”** means the Chula Vista Elementary School District.

**“Special Tax”** means any of the special taxes authorized to be levied by the CFD pursuant to the Act and this RMA.

**“Taxable Property”** means all Assessor’s Parcels that are not Exempt Property.

**“Undeveloped Property”** means all Assessor’s Parcels of Taxable Property that are not Developed Property.

**“Unit”** means each separate residential dwelling unit, including, but not limited to, a single family attached or detached unit, Condominium, apartment unit, mobile home or otherwise, but not including hotel and motels.

**SECTION II  
CLASSIFICATION OF ASSESSOR'S PARCELS**

Each Fiscal Year, beginning with Fiscal Year 2021/22, each Assessor's Parcel within the CFD shall be classified as Taxable Property or Exempt Property. In addition, each Assessor's Parcel of Taxable Property shall be classified as Developed Property, Undeveloped Property, or Provisional Undeveloped Property.

**SECTION III  
ANNUAL MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

The Annual Maximum Special Tax for each Assessor's Parcel classified as Developed Property shall be the greater of the amount derived by the application of the (a) Assigned Annual Special Tax or (b) Backup Annual Special Tax.

**2. Undeveloped Property**

The Annual Maximum Special Tax for each Assessor's Parcel classified as Undeveloped Property or Provisional Undeveloped Property shall be derived by the application of the Assigned Annual Special Tax.

**SECTION IV  
ASSIGNED ANNUAL SPECIAL TAXES**

**1. Developed Property**

Subject to increases as described below in this Section, the Assigned Annual Special Tax for each Assessor's Parcel of Developed Property for Fiscal Year 2021/22 shall be an amount equal to \$0.7336 multiplied by the applicable Building Square Footage.

**2. Undeveloped Property and Provisional Undeveloped Property**

Subject to increases as described below in this Section, the Assigned Annual Special Tax per Acre for each Assessor's Parcel of Undeveloped Property or Provisional Undeveloped Property for Fiscal Year 2021/22 shall be \$18,513 per Acre.

**3. Increases in the Assigned Annual Special Tax**

**a. Newly Classified Developed Property**

On July 1 of each Fiscal Year, commencing on July 1, 2022, the Assigned Annual Special Tax rate for Assessor's Parcels of Developed Property specified in

Paragraph 1 of this Section IV shall be increased by an amount equal to the greater of: (i) the positive change in the Cost Index over the previous 12-month period (as a percentage) multiplied by the applicable Assigned Annual Special Tax in effect in that prior Fiscal Year, and (ii) the applicable Assigned Annual Special Tax rate in effect in that preceding Fiscal Year multiplied by two percent (2.0%). For avoidance of doubt, the Assigned Annual Special Tax rate applicable in the Initial Fiscal Year of any particular Assessor's Parcel of Developed Property shall be subject to adjustment in accordance with this Paragraph 3.a.

**b. Existing Developed Property**

On July 1 of each Fiscal Year following the Initial Fiscal Year of an Assessor's Parcel of Developed Property, the Assigned Annual Special Tax rate for such Assessor's Parcel shall be increased by an amount equal to the Assigned Annual Special Tax rate in effect in the immediately prior Fiscal Year multiplied by two percent (2.0%).

**c. Undeveloped Property and Provisional Undeveloped Property**

On July 1 of each Fiscal Year, commencing on July 1, 2022, the Assigned Annual Special Tax rate per Acre for Undeveloped Property and for Provisional Undeveloped Property shall be increased by an amount equal to the greater of: (i) the Assigned Annual Special Tax rate in effect in the immediately prior Fiscal Year multiplied by the positive change in the Cost Index over the previous 12-month period (as a percentage), and (ii) the Assigned Annual Special Tax rate in effect in the immediately prior Fiscal Year multiplied by two percent (2.0%).

**SECTION V  
BACKUP ANNUAL SPECIAL TAX**

Each Fiscal Year, each Assessor's Parcel of Developed Property shall be subject to a Backup Annual Special Tax.

**1. Calculation of the Backup Annual Special Tax Rate**

Subject to increases as described below in this Section, the Backup Annual Special Tax rate for an Assessor's Parcel of Developed Property within a Final Map shall be the rate per Lot calculated in accordance with the following formula, as of the Fiscal Year in which the Final Map is recorded:

$$B = (U \times A) / L$$

The terms above have the following meanings:

B = Backup Annual Special Tax per Lot for the applicable Fiscal Year

- U = Assigned Annual Special Tax per Acre of Undeveloped Property in the Fiscal Year the calculation is performed
- A = Acreage of Developed Property expected to exist in such Final Map at the time of calculation, as determined by the Administrator. The Acreage applicable to a Condominium shall be computed as described in the definition of “Lot” herein.
- L = Number of Lots in the applicable Final Map at the time of calculation, exclusive of any Lots which are expected to be classified as Exempt Property or Provisional Undeveloped Property.

**2. Changes to a Final Map**

If the Final Map(s) described in the preceding paragraph are subsequently changed or modified, then the Backup Annual Special Tax for each Assessor’s Parcel of Developed Property changed or modified in each such Final Map shall be a rate per square foot of Acreage calculated as follows:

- a. Determine the total Backup Annual Special Tax revenue anticipated to apply to the changed or modified Assessor's Parcels prior to the change or modification.
- b. The result of paragraph a above shall be divided by the Acreage of Taxable Property of the modified Assessor's Parcels, as reasonably determined by the Administrator.
- c. The result of paragraph b above shall be divided by 43,560. The result is the Backup Annual Special Tax per square foot of Acreage that shall be applicable to the modified Assessor's Parcels, subject to increases as described below.

**3. Increase in the Backup Annual Special Tax**

On July 1 of each Fiscal Year, commencing on July 1, 2022, the Backup Annual Special Tax rate for Assessor’s Parcels of Developed Property shall be increased by an amount equal to the greater of: (i) the Backup Annual Special Tax rate in effect in the immediately prior Fiscal Year multiplied by the positive change in the Cost Index over the preceding 12-month period , and (ii) the Backup Annual Special Tax rate in effect in the immediately prior Fiscal Year multiplied by two percent (2.00%) of the Backup Annual Special Tax amount in effect in the immediately prior Fiscal Year. For avoidance of doubt, the Backup Annual Special Tax rate applicable in the Initial Fiscal Year of any particular Assessor’s Parcel of Developed Property shall be subject to adjustment in accordance with this the foregoing provisions of this Paragraph 3. On July 1 of each Fiscal Year following the Initial Fiscal Year of an Assessor’s Parcel of Developed Property, the Backup Annual Special Tax rate for such Assessor's Parcel shall be increased by an amount equal to the Backup Annual Special Tax rate in effect in the immediately prior Fiscal Year multiplied by two percent (2.0%).

**SECTION VI  
METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing Fiscal Year 2021/2022 and for each subsequent Fiscal Year, the Board shall levy Special Taxes on all Taxable Property in accordance with the following steps:

**Step One:** The Special Tax shall be levied on each Assessor's Parcel of Developed Property in an amount not in excess of the Assigned Annual Special Tax applicable to each such Assessor's Parcel.

**Step Two:** If additional moneys will be needed to satisfy the Annual Special Tax Requirement after the Step One calculations have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property in an amount not in excess of the Assigned Annual Special Tax applicable to each such Assessor's Parcel, as needed to satisfy the Annual Special Tax Requirement.

**Step Three:** If additional moneys will be needed to satisfy the Annual Special Tax Requirement after the Step Two calculations have been completed, the Special Tax on each Assessor's Parcel of Developed Property whose Annual Maximum Special Tax is the Backup Annual Special Tax shall be increased Proportionately from the Assigned Annual Special Tax by an amount not in excess of the Backup Annual Special Tax applicable to each such Assessor's Parcel, as needed to satisfy the Annual Special Tax Requirement.

**Step Four:** If additional moneys will be needed to satisfy the Annual Special Tax Requirement after the Step Three calculations have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Provisional Undeveloped Property in an amount not in excess of the Assigned Annual Special Tax applicable to each such Assessor's Parcel, as needed to satisfy the Annual Special Tax Requirement.

**SECTION VII  
PREPAYMENT OF SPECIAL TAXES**

The Special Tax obligation of an Assessor's Parcel of Developed Property or Undeveloped Property for which a building permit has been issued may be prepaid, in full only, provided that there are no delinquent Special Taxes, penalties, or interest charges outstanding with respect to such Assessor's Parcel, or that all of such amounts are paid concurrently with the Prepayment Amount. An owner of an Assessor's Parcel intending to prepay the Annual Maximum Special Tax shall provide the CFD with written notice of intent to prepay. Within thirty (30) days of receipt of such written notice, the Administrator shall determine the Prepayment Amount for such Assessor's Parcel and shall notify the owner of such Prepayment Amount.

**Full Prepayment of Special Tax**

The Prepayment Amount shall be calculated according to the following formula:

$$P = PVT + PAF$$

The terms above have the following meanings:

P	=	Prepayment Amount
PVT	=	Present Value of Taxes
PAF	=	Prepayment Administrative Fees

With respect to any Assessor's Parcel for which the Special Tax has been prepaid, the Board shall indicate in the records of the CFD that there has been a prepayment of the Special Tax obligation and shall cause a suitable notice to be recorded in compliance with the Act to indicate the prepayment of the Special Tax obligation and the release of the Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay such Special Tax shall cease.

Notwithstanding the foregoing, no prepayment shall be allowed unless the amount of Assigned Annual Special Taxes that subsequently may be levied on Taxable Property, other than Provisional Undeveloped Property, less Administrative Expenses, shall be at least 1.1 times the regularly scheduled annual interest and principal payments on all currently outstanding Bonds in each future Fiscal Year, and such prepayment will not impair the security of all currently outstanding Bonds, as reasonably determined by the Administrator. Such determination shall take into account all Assessor's Parcels that are expected to be classified as Exempt Property, Restricted Residential Property, or Non-Residential Property.

## **SECTION VIII TERMINATION OF SPECIAL TAX**

Provided that Special Taxes previously levied on an Assessor's Parcel are not delinquent, the lien of Special Taxes of the CFD shall terminate as to such Assessor's Parcel as follows: i) the close of the 30<sup>th</sup> Fiscal Year following the beginning of the Initial Fiscal Year for such Assessor's Parcel, or ii) the Special Tax obligation has been fully and completely discharged pursuant to Section VII.

The Board shall cause to be recorded in the official records of San Diego County a Notice of Cessation of Special Tax applicable to an Assessor's Parcel upon termination of the lien on such Assessor's Parcel.

## **SECTION IX EXEMPTIONS**

The Administrator shall classify as Exempt Property in the chronological order in which each Assessor Parcel becomes (i) owned by any State of California, federal or local governmental entity, (ii) owned by a homeowners' association, (iii) burdened with one or more public or utility easements making impractical its use for other than the purposes set forth in the easement(s), (iv) Restricted Residential Property, (v) Non-Residential Property, or (vi) any other Assessor's Parcels at the reasonable discretion of the Board, provided that no such classification would reduce the Net Taxable Acreage to less than 103.16 Acres. Notwithstanding the above, the Administrator or Board shall not classify an Assessor's Parcel as Exempt Property if such classification would reduce the

sum of all Taxable Property to less than 103.16 Acres. Assessor's Parcels that otherwise would be Exempt Property, but cannot be classified as Exempt Property because such classification would reduce the Acreage of all Taxable Property to less than the minimum Net Taxable Acreage, shall be classified as Provisional Undeveloped Property, and shall be subject to the levy and collection of Special Taxes accordingly.

## **SECTION X APPEALS**

Any owner or resident of a property within the CFD who paid a Special Tax levied on such property and who reasonably believes that the Special Tax was not correctly calculated and/or levied in accordance with this RMA may file a notice with the School District, to thereby appeal the levy of that Special Tax, together with such documentation as the property owner or resident believes evidences the incorrect calculation or levy. An appeal panel of three members appointed by the School District ("Appeals Panel") will review the appeal and communicate its findings to the property owner or resident. If the Appeals Panel determines that the Special Tax should be modified or other correction implemented, it will recommend such correction to the Board and, as appropriate, the Special Tax levy shall be corrected, and in applicable cases, refunds shall be granted. An appeal relating to any particular Special Tax must be filed with the School District not later than one year and five days following the mailing to the property owner or resident of the tax bill that includes such Special Tax, and the Property Owner and/or resident shall be deemed and construed to have waived any and all rights to an appeal and to any refund, if the appeal is not filed within such one-year and five-day period.

Interpretations may be made by the School District for purposes of clarifying any vagueness or ambiguity as it relates to any category, rate or definition applicable to any appeal proceedings so long as such interpretations are consistent with the Mitigation Agreement.

## **SECTION XI MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes and shall be subject to the same penalties, the same procedure, sale and lien priority in the case of delinquency; provided, however, that the CFD may directly bill all or a portion of the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and if so collected, a delinquent penalty of ten percent (10%) of the Special Tax will attach at 5:00 p.m. on the date the Special Tax becomes delinquent and interest at 1.5% per month of the Special Tax will attach on the July 1 after the delinquency date and the first of each month thereafter until such Special Taxes are paid.