

**RESOLUTION NO. 12,936**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD  
OF FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 5  
(RIVERPARK) OF THE CITY OF OXNARD, AUTHORIZING THE LEVY  
OF A SPECIAL TAX WITHIN THE DISTRICT AND PRELIMINARILY  
ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT**

**WHEREAS**, on July 26, 2005, the City Council (the "City Council") adopted Resolution No. 12,920 entitled "Resolution of the City Council of the City of Oxnard Declaring Its Intention to Establish Community Facilities District No. 5 (RiverPark) and to Authorize the Levy of Special Taxes Therein" (the "Resolution of Intention"), stating its intention to form Community Facilities District No. 5 (RiverPark) of the City of Oxnard (the "District"), pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, as amended, commencing with Section 53311, of the California Government Code (the "Act"), to finance all or some of the services, capital improvements and incidental expenses set forth in Exhibit A attached hereto and incorporated herein by this reference (herein referred to respectively as the "Services," the "Improvements" and the "Incidental Expenses"); and

**WHEREAS**, the Resolution of Intention, incorporating a map of the proposed boundaries of the District, is on file with the City Clerk (the "City Clerk") of the City of Oxnard (the "City") and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

**WHEREAS**, under the Resolution of Intention, the Finance and Management Services Director of the City was directed to study the Services and Improvements and to make, or cause to be made, and file with the City Clerk a report (the "CFD Report") in writing, presenting the following: (i) a brief description of the Services and Improvements; and (ii) an estimate of the fair and reasonable cost of providing the Services and Improvements, including the Incidental Expenses in connection therewith, including any City administrative costs, and all other related costs. The CFD Report was prepared and submitted to the City Clerk prior to the public hearing described below; and

**WHEREAS**, the Resolution of Intention called for a public hearing pertaining to the formation of the District and the levy of said special tax to be held on September 13, 2005 at 7:30 p.m. at the meeting place of the City Council; and

**WHEREAS**, under the Resolution of Intention, the City Clerk was directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District, and the City Clerk caused the publication of such notice at least seven (7) days before the date set for said hearing; and

**WHEREAS**, on this date, the City Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the District; and

**WHEREAS**, at said hearing all interested persons desiring to be heard on all matters pertaining to the formation of the District and the levy of said special tax were heard and a full and fair hearing was held; and

**WHEREAS**, at said hearing evidence was presented to the City Council on said matters before it, and at the conclusion of said hearing the City Council was fully advised; and

**WHEREAS**, written protests with respect to the formation of the District have not been filed with the City Clerk of the City by fifty percent (50%) or more of the registered voters residing within the territory of the District or the owners of one-half (1/2) or more of the area of land within the District and not exempt from the special tax; and

**WHEREAS**, the special tax proposed to be levied in the District under the Rate and Method of Apportionment, as set forth in Exhibit B hereto (the "Rate and Method"), has not been eliminated by protest by fifty percent (50%) or more of the registered voters residing within the territory of the District or the owners of one-half (1/2) or more of the area of land within the District and not exempt from the special tax.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** The proposed special tax to be levied within the District has not been precluded by majority protest pursuant to Section 53324 of the Act. All protests and objections, if any, are hereby overruled.

**Section 3.** All prior proceedings taken by the City Council in connection with the establishment of the District and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the requirements of the Act. The City Council has heretofore adopted Local Goals and Policies for Community Facilities Districts, and the City Council hereby finds and determines that the District is in conformity with said goals and policies.

**Section 4.** The community facilities district designated "Community Facilities District No. 5 (RiverPark) of the City of Oxnard" is hereby established pursuant to the Act.

**Section 5.** The CFD Report is hereby approved.

**Section 6.** The boundaries of the District, as set forth in the map of the District heretofore recorded as Instrument Number 20050803-0191533, in Book 19 of Maps of Assessment and Community Facilities District at Page 21-22, in the office of the County Recorder for the County of Ventura, State of California, are hereby approved, are incorporated herein by reference and shall be the boundaries of the District.

**Section 7.** The Rate and Method is attached hereto as Exhibit B. The Rate and Method allows each landowner within the proposed District to estimate the maximum amount such owner will have to pay, and which otherwise complies with applicable provisions of the Act. The Rate and Method is hereby approved.

**Section 8.** The Services, Improvements and Incidental Expenses to be eligible for funding by the District and pursuant to the Act shall consist of those items listed on Exhibit A

hereto under the heading "Services and Improvements" which Exhibit is by this reference incorporated herein. The City Council finds that the Services and Improvements are in addition to those provided or already located in the territory of the District before the creation of the District. The City Council further finds that that Services and Improvements do not supplant services and public facilities already available within that territory when the District was created.

**Section 9.** A special tax, secured by a continuing lien against all non-exempt real property in the District, will be levied annually within the District pursuant to the Rate and Method to finance the Services, Improvements and Incidental Expenses described in Exhibit A, and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council or its designee shall determine, including direct billing of the affected landowners. The Rate and Method contains sufficient detail to allow each landowner within the District to estimate the maximum amount such landowner will have to pay.

**Section 10.** The Financial Services Manager of the City of Oxnard, 300 West Third Street, Oxnard, California 93030, telephone number (805) 385-7480 is the officer of the City which will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and for estimating future special tax levies pursuant to Section 53340.2 of the Act.

**Section 11.** Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the District and this lien shall continue in force and effect until collection of the special tax by the City ceases.

**Section 12.** In accordance with Section 53325.7 of the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the District is hereby preliminarily established at the amount of special taxes collected by the District in each fiscal year, and said appropriations limit shall be submitted to the voters of the District as hereafter provided. The proposition establishing said annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of Section 53325.7 of the Act.

**Section 13.** Pursuant to the provisions of the Act, the proposition of the levy of the special tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the District at an election, the time, place and conditions of which election shall be as specified by a separate resolution of the City Council.

**Section 14.** This Resolution shall take effect upon its adoption.

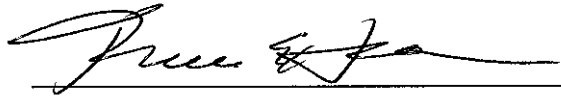
APPROVED AND ADOPTED this 13th day of September, 2005, by the following vote:

AYES: Councilmembers Holden, Maulhardt, Zaragoza, Flynn and Herrera.

NOES: None.

ABSENT: None.

ABSTAIN: None.



Dr. Thomas E. Holden, Mayor

ATTEST:

  
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

  
Gary L. Gillig, City Attorney

**EXHIBIT A**

**CITY OF OXNARD  
COMMUNITY FACILITIES DISTRICT NO. 5  
(RIVERPARK)**

**DESCRIPTION OF SERVICES AND IMPROVEMENTS  
TO BE FUNDED BY THE DISTRICT**

**SERVICES AND IMPROVEMENTS**

All services that are authorized pursuant to Government Code Section 53313 are authorized expenditures under this resolution. The District expects to use such funds, but is not limited to use such funds, for the following purposes:

- Maintenance of parks, parkways, and open space.
- Recreation program services, library services, maintenance services for elementary and secondary school sites and structures, and the operation and maintenance of museums and cultural facilities.
- Flood and storm protection services.
- Costs incurred in establishing the District and creating the levy of the special tax, financial advisor fees and expenses, appraisal and price point study costs, maintenance reserves, and District counsel fees and expenses.
- Ongoing administrative fees of the District, the City of Oxnard and any trustee, fiscal agent or financial administrator related to the District.
- Reimbursement of costs related to the formation of the District advanced by the City of Oxnard, any landowner in the District, or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the City of Oxnard, any landowner in the District or any party related to any of the foregoing, for services, fees or other purposes or costs of the District.
- Police protection services.
- Fire protection and suppression services.
- Ambulance and paramedic services.
- Local park, recreation, parkway, and open-space facilities.

**EXHIBIT B**

**RATE AND METHOD OF APPORTIONMENT FOR  
CITY OF OXNARD  
COMMUNITY FACILITIES DISTRICT NO. 5  
(RIVERPARK)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in City of Oxnard Community Facilities District No. 5 (RiverPark) ("CFD No. 5") and collected each Fiscal Year commencing in Fiscal Year 2005-2006, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property" and "Undeveloped Property" as described below. All of the real property in CFD No. 5, 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 map, parcel map, condominium plan, or other recorded County parcel map.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 5: the Formation Costs; the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the City, CFD No. 5 or any designee thereof of complying with City or CFD No. 5 disclosure requirements; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 5 or any designee thereof related to an appeal of the Special Tax; that portion of the City's overhead and staff time related to the administration of CFD No. 5; and the City's third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 5 for any other administrative purposes of CFD No. 5, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Affordable Units"** means, for each Fiscal Year, those dwelling unit(s) located on an Assessor's Parcel(s) of Residential Property, that are subject to deed restrictions, resale restrictions, and/or regulatory agreements providing for affordable housing and recorded in favor of the City prior to January 1 of the prior Fiscal Year. In order to ensure that a

dwelling unit is correctly classified as an Affordable Unit, the owner of such property shall provide the CFD Administrator with a copy of any applicable deed restrictions, resale restrictions, and/or regulatory agreements. When the deed restrictions, resale restrictions, and/or regulatory agreements terminate, the affected units shall no longer be classified as Affordable Units, and shall be assigned to Land Use Classes 1 through 10, and 12, as appropriate.

**"Assessor's Parcel"** means a lot or parcel shown on 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 No. 5"** means City of Oxnard Community Facilities District No. 5 (RiverPark).

**"City"** means the City of Oxnard.

**"Consumer Price Index"** means the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the Los Angeles - Riverside - Orange County Area, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the City of Los Angeles.

**"Council"** means the City Council of the City, acting as the legislative body of CFD No.

5.

**"County"** means the County of Ventura.

**"Developed Property"** means, for each Fiscal Year, all Taxable Property for which a building permit for new construction was issued after January 1, 2004 and as of January 1 of the previous Fiscal Year.

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

**"Formation Costs"** means any costs related to the formation of CFD No. 5 and the authorization of the levy of the special tax, including, but not limited to, financial advisor fees and expenses, special tax consultant fees and expenses, appraisal and price point study costs, district counsel fees and expenses; and including reimbursement of any such costs advanced by the City, any landowner in CFD No. 5, or any other party.

**"High Density Property"** means any Assessor's Parcel of Residential Property that (i) consists of a building or buildings comprised of attached residential units and (ii) is

located within lots 3, 4, 5, 7, 8, 11, 12, 16, 17 and/or 18 of Tract Map No. 5352-1, as recorded in Book 150 Page 76 through 92 inclusive of Miscellaneous Records (Maps), in the office of the County Recorder as document number 20040831-0239661, excluding Affordable Units.

**"Land Use Class"** means any of the classes listed in Table 1.

**"Maximum Special Tax"** means the Maximum Special, determined in accordance with Section C.1 below, that can be levied in any Fiscal Year on any Assessor's Parcel.

**"Non-Residential Floor Area"** for any Non-Residential Property means the total square footage of the building(s) located on such property, measured from outside wall to outside wall, exclusive of overhangs, porches, patios, carports, or similar spaces attached to the building but generally open on at least two sides. The determination of Non-Residential Floor Area shall be made by reference to the building permit(s) issued for such Assessor's Parcel.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit(s) was issued for a non-residential use.

**"Occupied Residential Property"** means all Assessor's Parcels of Residential Property, which have been sold to the initial occupant.

**"Property Owner Association Property"** means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 5 that was owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, as of January 1 of the previous Fiscal Year.

**"Proportionately"** means for Developed Property that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property.

**"Public Property"** means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 5 that was owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency as of January 1 of the previous Fiscal Year; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 5 that was encumbered, as of January 1 of the previous Fiscal Year, by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

**"Residential Property"** means all Assessor's Parcels of Developed Property for which a building permit has been issued for purposes of constructing one or more residential dwelling units.



**"Residential Floor Area"** for any Residential Property means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area shall be made by reference to the building permit(s) issued for each dwelling unit prior to it being classified as Occupied Residential Property.

**"Single Family Attached Property"** means all Assessor's Parcels of Residential Property for which building permits have been issued for attached residential units, excluding Affordable Units and High Density Property.

**"Single Family Detached Property"** means all Assessor's Parcels of Residential Property for which building permits have been issued for detached residential units, excluding Affordable Units and High Density Property.

**"Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property and Undeveloped Property to fund the Special Tax Requirement.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for CFD No. 5 to: (i) pay directly for police protection services, fire protection and suppression services, ambulance and paramedic services, flood and storm protection services, maintenance of parks, parkways and open space, recreation program services, library services, maintenance services for elementary and secondary school sites and structures, and the operation and maintenance of museums and cultural facilities; (ii) pay directly for local park, recreation, parkway and open space facilities, and (iii) pay Administrative Expenses; less (iv) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator. Notwithstanding the foregoing, the maximum Special Tax Requirement shall not be greater than: (i) \$1.7 million in Fiscal Year 2005-2006; (ii) \$2.5 million in Fiscal Year 2006-2007 (provided that the amount indicated shall escalate by the Consumer Price Index on July 1, 2006); and (iii) \$3.8 million in Fiscal Year 2007-2008 (provided that the amount indicated shall escalate by the Consumer Price Index on July 1, 2006 and July 1, 2007).

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 5 which are not exempt from the Special Tax pursuant to law or 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, all Taxable Property within CFD No. 5 shall be classified as Developed Property or Undeveloped Property, and shall be subject to Special Taxes in accordance with

the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1 through 12 based on the type of structure and Residential Floor Area. Non-Residential Property shall be assigned to Land Use Class 13.

**C. MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

a. Maximum Special Tax

The Fiscal Year 2005-2006 Maximum Special Tax for each Land Use Class is shown below in Table 1.

**TABLE 1**

Maximum Special Tax for Developed Property

**For Fiscal Year 2005-2006  
Community Facilities District No. 5 (RiverPark)**

<b>Land Use Class</b>	<b>Description</b>	<b>Residential Floor Area</b>	<b>Maximum Special Tax</b>
1	Single Family Attached Property	< 1,400 SF	\$1,266.86 per unit
2	Single Family Attached Property	1,400 – 1,699 SF	\$1,557.21 per unit
3	Single Family Attached Property	1,700 – 1,999 SF	\$1,704.10 per unit
4	Single Family Attached Property	2,000 – 2,199 SF	\$2,000.17 per unit
5	Single Family Attached Property	≥ 2,200 SF	\$2,147.06 per unit
6	Single Family Detached Property	< 1,750 SF	\$1,857.01 per unit
7	Single Family Detached Property	1,750 – 2,099 SF	\$2,104.41 per unit
8	Single Family Detached Property	2,100 – 2,299 SF	\$2,289.27 per unit
9	Single Family Detached Property	2,300 – 2,799 SF	\$2,641.11 per unit
10	Single Family Detached Property	≥ 2,800 SF	\$3,014.65 per unit
11	Affordable Units	NA	\$461.23 per unit
12	High Density Property	NA	\$459.06 per unit
13	Non-Residential Property	NA	\$0.1347 per square foot of Non-Residential Floor Area

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Tax each Land Use Class shall be increased by based on the percentage change in the Consumer Price Index with a maximum annual increase of five percent (5%) and a minimum annual increase of two percent (2%) per Fiscal Year.

d. 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 levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax for all Land Use Classes located on that Assessor's Parcel.

2. **Undeveloped Property**

a. Maximum Special Tax

The Fiscal Year 2005-2006 Maximum Special Tax for Undeveloped Property shall be \$19,793.43 per Acre.

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Tax for Undeveloped Property shall be based on the percentage change in the Consumer Price Index with a maximum annual increase of five percent (5%) and a minimum annual increase of two percent (2%) per Fiscal Year.

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2005-2006 and for each following Fiscal Year, the Council shall levy the Special Tax until the amount of Special Tax 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 at up to 100% of the applicable Maximum Special Tax as needed to satisfy the Special Tax Requirement;

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 Undeveloped Property at up to 100% of the Maximum Special Tax for Undeveloped Property.

Notwithstanding the above, under no circumstances will the Special Tax levied against any Assessor's Parcel of Occupied Residential Property be increased by more than ten percent as a consequence of delinquency or default by the owner of any other Assessor's Parcel within CFD No. 5.

**E. EXEMPTIONS**

No Special Tax shall be levied on Public Property and Property Owner Association Property.

**F. APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

**G. MANNER OF COLLECTION**

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 5 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Act.

**H. PREPAYMENT OF SPECIAL TAX**

The Special Tax may not be prepaid.

**I. TERM OF SPECIAL TAX**

The Special Tax shall be levied as long as necessary to meet the Special Tax Requirement.