

**ORDINANCE NO. 1998-02**

**AN ORDINANCE LEVYING SPECIAL TAXES WITHIN  
COMMUNITY FACILITIES DISTRICT NO. 3**

**Half Moon Bay Fire Protection District  
Community Facilities District No. 3**

WHEREAS, on March 3, 1998, the Board of Directors of the Half Moon Bay Fire Protection District adopted Resolution 1998-08 entitled "A Resolution of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Pursuant to the Mello-Roos Community Facilities Act of 1982" (the "Resolution of Intention"), stating its intention to establish the Half Moon Bay Fire Protection District Community Facilities District No. 3 ("CFD No. 3") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), to finance certain services.

WHEREAS, notice was published as required by the Act relative to the intention of this Board to form CFD No. 3 and to provide for the financing of the services specified in the Resolution of Intention (the "Services");

WHEREAS, on April 7, 1998, this Board held a noticed public hearing as required by the Act relative to the determination to proceed with the formation of CFD No. 3 and the rate and method of apportionment of the special tax to be levied within CFD No. 3 to finance a portion of the costs of the Services;

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of CFD No. 3 and the levy of said special taxes were heard, substantial evidence was presented and considered by this Board and a full and fair hearing was held;

WHEREAS, subsequent to said hearing, this Board adopted Resolution 1998-14 "A Resolution of Formation of the Half Moon Bay Fire Protection District Community Facilities District No. 3, Authorizing the Levy of a Special Tax Within the District, Preliminarily Establishing an Appropriations Limit for the District and Submitting Levy of the Special Tax and the Establishment of the Appropriations Limit to the Qualified Electors of the District" (the "Resolution of Formation") and Resolution No. 1998-15 "A Resolution Calling a Special Election for the Levy of a Special Tax for the Establishment of an Appropriations Limit on the Half Moon Bay Fire Protection District Community Facilities District No. 3," which resolutions established the District, authorized the levy of a special tax within the CFD No. 3, and called an election within the District on the proposition of levying a special tax, and establishing an appropriations limit within CFD No. 3, respectively; and

WHEREAS, an election was held within CFD No. 3 in which the eligible landowner electors approved said propositions by more than the two-thirds vote required by the Act.

NOW, THEREFORE, the Board of Directors of the Half Moon Bay Fire Protection District does hereby ordain as follows:

1. By the passage of this Ordinance, this Board hereby authorizes and levy special taxes within CFD No. 3 pursuant to California Government Code Sections 53328 and 53340, at the rate and in accordance with the formula set forth in the Resolution of Intention which Resolution is by this reference incorporated herein. The special taxes are hereby levied

commencing in fiscal year 1998-99 and in each fiscal year thereafter to provide the Services and all costs of administering the CFD No. 3 in accordance with the provisions of the Rate and Method of Apportionment of the Special Taxes for CFD No. 3, which is attached hereto and incorporated herein as Exhibit A. The Board of Directors shall determine the special tax rate in the manner and as provided in Exhibit A.

2. The Fire Chief of the Half Moon Bay Fire Protection District is hereby authorized and directed each fiscal year to implement the special tax rate and determine the amount to be levied for the next ensuing fiscal year for each parcel of real property within CFD No. 3, in the manner and as provided in the Resolution of Intention and the Resolution of Formation.

3. Properties or entities of the State or local governments shall be exempt from any levy of the special taxes to the extent set forth in the rate and method of apportionment of special taxes included by reference in the Resolution of Formation; provided that, pursuant to Section 53340.1 of the Act and the Resolution of Formation, the special taxes shall be levied on any leasehold or possessory interests of nonexempt persons or entities in such properties. In no event shall the special taxes be levied on any parcel within the CFD No. 3 in excess of the maximum tax specified in the rate and method of apportionment of special taxes included by reference in the Resolution of Formation.

4. All of the collections of the special tax shall be used as provided for in the Act and in the Resolution of Formation including, but not limited to, the payment of the costs of the District in administering CFD No. 3, the payment of the costs of the Services and the costs of collecting and administering the special tax.

5. The special taxes shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided that any levies on leasehold or possessory interests shall be made on the unsecured County roll. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments. The Fire Chief of the District is hereby authorized and directed to provide all necessary information to the appropriate officials of the County of San Mateo ("County") in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured (or unsecured, as applicable) real property tax roll of the County for fiscal year 1998-99 and for each fiscal year thereafter.

Notwithstanding the foregoing, the Fire Chief may collect the special taxes by means of district billing of the owners of land or interests therein subject to the levy of the special tax if the Fire Chief, in his sole discretion, determines that said method of collection will be more efficient and/or better serve the financial needs of the District and CFD No. 3. If any special taxes are collected by means of direct billing of the owners of land or interests therein, any such special taxes shall be delinquent if not paid when due as stated in such billing.

6. If for any reason any portion of this ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within CFD No. 3, by a Court of competent jurisdiction, the balance of this ordinance and the application of the special tax to the remaining parcels within CFD No. 3 shall not be affected.

7. The Board President shall sign this Ordinance and the Secretary shall cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published in the area of the CFD No. 3.


8. This Ordinance shall take effect thirty (30) days from the date of final passage.

PASSED AND ADOPTED by the Board of Directors of the Half Moon Bay Fire Protection District on this 5th day of May, 1998, by the following vote, to wit:

AYES: Francis Navin, Robert Myers, Bert Silva, Doug Mackintosh, Tim Moran

NOES:

ABSENT:

  
Francis J. Navin, President  
Board of Directors  
Half Moon Bay Fire Protection District

ATTEST:

  
Bert Silva, Board Secretary  
Half Moon Bay Fire Protection District



**EXHIBIT A**

**CANVASS AND STATEMENT OF RESULT OF ELECTION**

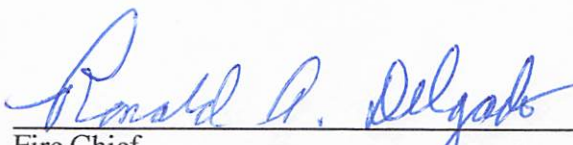
Half Moon Bay Fire Protection District  
Community Facilities District No. 3

I hereby certify that on May 5, 1998, I canvassed the returns of the election held on May 5, 1998, in the Half Moon Bay Fire Protection District Community Facilities District No. 3 and the total number of ballots cast in said District and the total number of votes cast for and against the measure are as follows and the totals as shown for and against the measure are full, true and correct:

	Qualified Landowner Votes	Votes Cast	YES	NO
Community Facilities District No. 3 Special Tax Election, May 5, 1998.	<u>  /  </u>	<u>  /  </u>	<u>  /  </u>	<u>      </u>

**BALLOT MEASURE:** Shall a special tax payable solely from lands within Community Facilities District No. 3 ("CFD No. 3") to be levied annually upon lands within CFD No. 3 to pay for services to be provided by CFD No. 3, in accordance with Resolution 1998-14 of the Half Moon Bay Fire Protection District, and shall the annual appropriations limit of CFD No. 3 be established in the amount of \$5,000,000?

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND this 5th day of May, 1998.

By:   
Fire Chief  
HALF MOON BAY FIRE PROTECTION  
DISTRICT

Half Moon Bay Fire Protection District  
Community Facilities District No. 3

OFFICIAL BALLOT  
SPECIAL TAX ELECTION

This ballot is for a special landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the Fire Chief of the Half Moon Bay Fire Protection District no later than 8:00 p.m. on May 5, 1998, either by mail or in person. The Fire Chief's office is located at 210 San Mateo Road, Suite 101, Half Moon Bay, California, 94019.

To vote, mark a cross (X) on the voting line after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the Fire Chief of the Half Moon Bay Fire Protection District and obtain another.

BALLOT MEASURE: Shall a special tax payable solely from lands within Community Facilities District No. 3 ("CFD No. 3") be levied annually upon lands within CFD No. 3 to pay for services to be provided by CFD No. 3, in accordance with Resolution 1998-16 of the Half Moon Bay Fire Protection District, and shall the annual appropriations limit of CFD No. 3 be established in the amount of \$5,000,000?

Yes:   X  

No:           

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Section 53326(a) and 53327(b) of the California Government Code.

Number of Votes:   1    
Property Owner(s): David V. Cresson

By:           D. V. Cresson            
David V. Cresson

*I am very uncomfortable with the underlying principal of this question, and with the explanation by the FD Councils that indicates that it is incumbent upon me to vote "yes."*