

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2013-1 (PIPER MONTAGUE), DETERMINING THE NECESSITY TO INCUR A BONDED INDEBTEDNESS, AND CALLING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF THE SPECIAL TAX, THE INCURRENCE OF BONDED INDEBTEDNESS, AND THE ESTABLISHMENT OF AN APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE PROPOSED COMMUNITY FACILITIES DISTRICT**

**WHEREAS**, the City Council, on September 17, 2013, adopted its Resolution No. 8297 (the “Resolution of Intention”) (i) declaring its intention to establish Community Facilities District No. 2013-1 (Piper Montague) (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, Part 1, Division 2, Title 5 (commencing with Section 53311) of the California Government Code) (the “Act”), (ii) proposing to levy a special tax therein to finance the acquisition and construction of certain public capital facilities (the “Facilities”) described in Exhibit B thereto, (iii) declaring the necessity of incurring a bonded indebtedness to finance the acquisition and construction costs of the Facilities and the incidental expenses thereof, and (iv) calling a public hearing on the establishment of the District and the incurrence of bonded indebtedness; and

**WHEREAS**, before the time for the hearing, as directed in the Resolution of Intention, the City Engineer filed with the City Council the report required by California Government Code section 53321.5 (the “Hearing Report”), by submitting it to the City Clerk and including said report in the Council packet; and

**WHEREAS**, a notice of the hearing was duly published as required by the Act, as evidenced by the affidavit of publication on file with the City Clerk; and

**WHEREAS**, pursuant to the Act and the Resolution of Intention, a noticed public hearing was convened by the Council on November 5, 2013, not earlier than the hour of 7:00 p.m. at City Hall, 455 East Calaveras Blvd., Milpitas, California, relative to the establishment of the District; and

**WHEREAS**, at the hearing, the testimony of all interested persons, including all taxpayers, property owners, and registered voters within the District, desiring to be heard on the establishment of the District, the extent thereof, the acquisition and construction of the Facilities, the proposed special tax, the establishment of an appropriations limit for the District, or any other matters set forth in the Resolution of Intention was heard and a full and fair hearing was conducted thereon; and

**WHEREAS**, written protests against the establishment of the District, the acquisition and construction of the Facilities in the District as listed in the Hearing Report, or the levying of the special tax have not been filed by six registered voters residing within the territory proposed to be included in the District or by the owners of one-half or more of the area of land in the territory proposed to be included in the District and not exempt from this special tax;

**WHEREAS**, due to updated cost estimate for the Facilities, the special tax amounts attached to the Resolution of Intention were at amounts greater than intended; and

**WHEREAS**, it is necessary to modify the rate and method of apportionment found in the Resolution of Intention so as to reduce the maximum special tax amounts to the amounts described in Exhibit B hereto; and

**WHEREAS**, on the basis of all of the foregoing, the City Council has determined at this time to establish the District and to submit to the qualified electors of the District the levy of the special tax therein (as such tax is modified and more particularly described in Exhibit B hereto), the incurrence of a bonded indebtedness, and the establishment of an appropriations limit for the District; and

**WHEREAS**, the Santa Clara County Registrar of Voters has certified that fewer than twelve persons were registered to vote within the territory of the District as of September 26, 2013, which date is within the 90-day period preceding the close of the hearing; and

**WHEREAS**, the City Council has received a written instrument from each landowner in the District consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election; and

**WHEREAS**, the City Clerk has concurred in the election date set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milpitas, that:

1. **Recitals.** The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. **Hearing Report.** The City Council hereby makes the Hearing Report a part of the record of the hearing.

3. **No Majority Protest.** The proposed special tax to be levied in the District has not been precluded by majority protest pursuant to Section 53324 of the Act.

4. **Establishment of the District.** As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated “Community Facilities District No. 2013-1 (Piper Montague).”

5. **Finding of Procedural Regularity.** The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the District are valid and in conformity with requirements of the Act.

6. **Boundaries of the District.** The boundaries of the District shall be as set forth in the map entitled “Proposed Boundaries of Community Facilities District No. 2013-1 (Piper Montague), City of Milpitas, Santa Clara County, State of California” that was filed with the Santa Clara County Recorder on October 2, 2013, in Book 49 of maps of Assessment and Community Facilities Districts at page 31.

7. **Description of Facilities.** The Facilities to be financed by the District are set forth in Exhibit A hereto. The Facilities authorized to be financed by the District are in addition to those provided in the territory of the District and do not supplant facilities already available within that territory.

8. **Special Tax.** As stated in the Resolution of Intention (as modified to reflect the lower special tax amounts which are now found in Exhibit B hereto), except where funds are otherwise available, subject to the approval of the qualified electors of the District, a special tax sufficient to pay the costs of the Facilities (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually in the District. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B hereto.

9. **Apportionment of Tax.** The special tax as apportioned to each parcel is based on the cost of making the Facilities available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

10. **Tax Roll Preparation.** The office of the Finance Director, 455 East Calaveras Blvd., Milpitas, telephone 408-586-3145, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor’s parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The Finance Director may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

11. **Necessity of Bonded Indebtedness.** The City Council deems it necessary to incur the bonded indebtedness.

12. **Purpose of Debt.** The indebtedness will be incurred for the purpose of financing the construction and acquisition of the Facilities described in Exhibit A.

13. **Territory to be Taxed.** The whole of the Community Facilities District No. 2013-1 (Piper Montague) shall pay for the bonded indebtedness.

14. **Amount of Debt.** The amount of bonded indebtedness to be incurred is Ten Million Dollars (\$10,000,000).

15. **Maximum Term of the Debt.** The maximum term of the bonds of any series shall not exceed forty years from their date.

16. **Maximum Interest Rate on the Bonds.** The bonds shall bear interest at rate or rates not to exceed the maximum rate permitted by law at the time the bonds are issued, payable annually or semiannually or in such other manner as the City Council shall determine, the actual rate or rates and times of payment of such interest to be determined by the City Council at the time or times the bonds are issued.

17. **Appropriations Limit.** The City Council proposes that the appropriations limit, as defined by Article XIII B, Section 8(h), of the Constitution of the State of California, for the District be established in the amount of special taxes collected.

18. **Accountability Measures.** Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Finance Director annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Facilities financed in the District.

19. **Special Election; Voting Procedures.** The City Council hereby submits the questions of levying the special tax, incurring the bonded indebtedness, and the establishment of the annual appropriations limit for the District to the qualified electors within the District, in accordance with and subject to the Act. The special election shall be held on November 5, 2013, and shall be conducted as follows:

(a) **Qualified Electors.** The City Council hereby determines that the Facilities are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the District. Because fewer than twelve registered voters resided within the District on September 26, 2013 (a date within the 90 days preceding the close of the public hearing on the establishment of the District), the qualified electors shall be the landowners within the District, and each landowner who was the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the District.

(b) **Consolidation of Elections; Combination of Propositions on Ballot.** The elections on the questions of levying the special tax, and establishing an appropriations limit, and incurring a bonded indebtedness for the District shall be consolidated; and, as authorized by Government Code Section 53353.5, the three propositions shall be combined into a single ballot proposition for submission to the voters. The combined ballot proposition shall read as shown in the form of the ballot attached hereto as Exhibit C.

(c) **Mail Ballot Election.** Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The City Council hereby ratifies the City Clerk's delivery of a ballot to each landowner in the District. The City Council hereby ratifies the form of the ballot, which is attached hereto as Exhibit C.

(d) **Return of Ballots.** The City Clerk shall accept the ballots of the landowners up to 4:00 p.m. on November 5, 2013. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(e) **Canvass of Election.** The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (on November 5, 2013, or when all qualified electors have voted) at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) **Declaration of Results.** The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

20. **Filing of Resolution and Map with City Clerk.** The City Council hereby directs the City Clerk to file a copy of this Resolution and the map of the boundaries of the District in her office.

21. **Lien to Secure Special Tax.** Upon a determination by the City Council that two-thirds of the votes cast upon the question of levying the special tax were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until collection of the tax by the City Council ceases.

22. **CEQA Exemption.** The Council hereby determines that the formation of the proposed District is not a project pursuant to the California Environmental Quality Guidelines section 15378(b)(4), and authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTESTED:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**EXHIBIT A**

**CITY OF MILPITAS  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (PIPER MONTAGUE)  
SANTA CLARA COUNTY, CALIFORNIA**

**List of Authorized Facilities**

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Authorized facilities are Shared Infrastructure Improvements and Storm Water Facilities, as identified in the Cost Sharing and Reimbursement Agreement entered in to by the City and property owners dated September 10, 2009 (Recorded as Document No. 20427520).

**Other Expenses of the Community Facilities District**

In addition to the above facilities, other incidental expenses as authorized by the Mello-Roos Community Facilities Act of 1982, including, but not limited to, the cost of planning and designing the facilities (including the cost of environmental evaluation and environmental remediation); engineering and surveying; construction staking; utility relocation and demolition costs incidental to the construction of the public facilities; costs of project/construction management; costs (including the costs of legal services) associated with the creation of the Mello-Roos community facilities district; issuance of bonds; determination of the amount of taxes, collection of taxes; payment of taxes; or costs otherwise incurred in order to carry out the authorized purposes of the community facilities district; and any other expenses incidental to the formation and implementation of the community facilities district and to the construction, completion, inspection and acquisition of the authorized facilities.

**EXHIBIT B**

City of Milpitas  
Community Facilities District No. 2013-1 (Piper Montague)  
RATE, METHOD OF APPORTIONMENT, AND  
MANNER OF COLLECTION OF SPECIAL TAX

**1. Basis of Special Tax Levy**

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 applicable to the land in the Community Facilities District No. 2013-1 (Piper Montague) of the City of Milpitas (City) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate, as described below.

**2. Definitions**

“**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following, of the California Government Code.

“**Administrative Expenses**” means the actual or reasonably estimated costs related to the administration of the Community Facilities District (CFD), including these (to the extent they are applicable):

- a. Costs of computing Special Taxes and preparing annual Special Tax collection schedules (whether by the City or any designee thereof or both).
- b. Costs of collecting the Special Taxes (whether by the County, the City, or otherwise).
- c. Costs of remitting the Special Taxes to the Trustee.
- d. Costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Bond Indenture.
- e. Costs to the City, CFD, or any designee thereof of complying with arbitrage rebate requirements.
- f. Costs to the City, CFD, or any designee thereof of complying with City, CFD, or obligated persons disclosure requirements.
- g. Costs associated with preparing Special Tax disclosure statements.
- h. Costs incurred in responding to public inquiries regarding the Special Taxes.
- i. Costs to the City, CFD, or designee thereof related to any appeal of the Special Tax.
- j. Costs associated with the release of funds from an escrow account, if any.
- k. Costs to the City for the issuance of bonds authorized by this CFD that are not recovered through the bond sale proceeds.

- l. Amounts estimated to be advanced or advanced by the City for any other administrative purposes, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.
- m. Costs associated with the review and updates of financing plans, engineering and planning studies, and the recalculation of the Special Tax rates.

**“Administrator”** means the Finance Director of the City, or his or her designee.

**“Annual Costs”** means, for any Fiscal Year, the total of these:

- a. Debt Service OR Annualized Costs of Remaining Unpaid Units to be paid from Special Taxes.
- b. Administrative Expenses for such Fiscal Year.
- c. The amount needed to replenish the reserve fund for the Bonds to the level required under the Bond Indenture, as needed.
- d. The amount needed to fund current Special Tax delinquencies from previous Fiscal Years and anticipated delinquencies for the current Fiscal Year. Collections from prior delinquencies should be first used to offset the amount needed for current and future delinquencies.
- e. Less any available earnings on the reserve fund, Special Tax funds, or any other available revenues of the CFD or the City that may be used to fund Annual Costs.

**“Annualized Costs of Remaining Unpaid Units”** means the amount of Maximum Annual Special Tax per Planned Residential Unit assigned to a Taxable Parcel.

**“Assessor's Parcel Number”** means the Parcel or parcel number as recorded by the County Assessor on the equalized tax roll.

**“Authorized Facilities”** means those facilities to be financed as identified in the resolution forming the CFD. Authorized Facilities are further defined as those improvements defined as Shared Infrastructure Improvements and Storm Water Facilities in the Cost Sharing and Reimbursement Agreement.

**“Benefit Share”** means the Maximum Annual Special Tax for a Parcel divided by the Maximum Annual Special Tax Revenue.

**“Bond(s)”** means bond(s) issued or other indebtedness incurred by the City for the CFD under the Act.

**“Bond Indenture”** means the indenture, resolution, fiscal agent agreement, or other financing document pursuant to which any Bonds are issued.

**“Bond Reserve Fund”** means the Debt Service reserve fund established pursuant to the Bond Indenture.

**“Bond Share”** means the share of Bonds assigned to a Parcel as specified in **Section 7** of this Rate and Method of Apportionment of Special Tax.

**“Building Permit”** means the issuance of a City building permit for the construction of a residential unit or building in the CFD.

“**CFD**” means Community Facilities District No. 2013-1 (Piper Montague) of the City.

“**City**” means the City of Milpitas.

“**Constructing Owner**” means the property owner/developer that constructs Authorized Facilities within the CFD.

“**Cost Sharing and Reimbursement Agreement**” means the agreement entered in to by the City and property owners dated September 10, 2009 (Recorded as Document No. 20427520), as amended, within the CFD that defines the Authorized Facilities to be constructed and the method of reimbursement of costs incurred by the Constructing Owner through the Special Taxes of the CFD.

“**Council**” means the City Council of the City.

“**County**” means Santa Clara County.

“**Debt Service**” means the total amount of bond principal, interest, and the scheduled sinking fund payments of the Bonds.

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

“**Initial Completion Date**” means date upon which the City determines that the first phase of Authorized Facilities have been constructed by the Constructing Owner in accordance with the Cost Sharing and Reimbursement Agreement.

“**Maximum Annual Special Tax**” means the maximum amount of the Special Tax that is assigned in a Fiscal Year for a Taxable Parcel.

“**Maximum Annual Special Tax Revenue**” means the sum of the Maximum Annual Special Taxes that could be levied in a Fiscal Year on all Taxable Parcels.

“**Original Parcel**” means a Parcel identified in **Attachment 1** at formation of the CFD.

“**Outstanding Bonds**” means the total principal amount of Bonds that have been issued by the CFD and not retired or defeased.

“**Parcel**” means any Assessor’s Parcel Number defining a parcel of land in the CFD based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“**Planned Residential Units**” means the number of Residential Units assigned to Original Parcels, as shown in **Attachment 1**.

“**PMIP**” means the Piper-Montague Infrastructure Payment as defined in the Cost Sharing and Reimbursement Agreement.

“**Prepayment**” means the permanent satisfaction of the Special Tax Obligation. When a Building Permit is issued for a Taxable Parcel within the CFD, the Special Tax Obligation will be permanently satisfied and the Parcel is reclassified as a Tax-Exempt Parcel. If a Taxable Parcel that has been assigned Unpaid Units receives a request to the City to issue a Building Permit, the Special Tax Obligation must first be satisfied using the provisions of **Section 7**.

**“Remaining Planned Residential Units”** means the number of Planned Residential Units currently assigned to a Taxable Parcel, minus the number of Building Permits issued for the Taxable Parcel during a given Fiscal Year.

**“Repayment Period”** means the five Fiscal Years that the City will levy a Special Tax against all Unpaid Units remaining beginning in the Tax Levy Base Year.

**“Reserve Fund”** means the total amount held in the Bond Reserve Fund.

**“Reserve Fund Requirement”** means the amount required by the Bond Indenture to be held in the Bond Reserve Fund.

**“Reserve Fund Share”** means the amount on deposit in the Bond Reserve Fund, but in any event not to exceed the Reserve Fund Requirement, multiplied by the Benefit Share for a given Taxable Parcel.

**“Residential Unit”** means an individual dwelling unit created by the issuance of a City Building Permit. A Building Permit for a single family residential structure would have one Residential Unit. A Building Permits for an apartment building structure would have multiple Residential Units allocated to a Taxable Parcel.

**“RMA”** means the Rate and Method of Apportionment of the Special Tax.

**“Shared Infrastructure TASP Fee Credits”** means Transit Area Specific Plan development impact fees granted by the City to a Constructing Owner pursuant to Section 3.2.3 of the Cost Sharing and Reimbursement Agreement.

**“Special Tax(es)”** mean(s) any tax levy under the Act in the CFD.

**“Special Tax Obligation”** means the requirement of Taxable Parcels to pay the Special Tax each Fiscal Year until all Annual Costs have been satisfied.

**“Subdivision”** or **“Subdivided”** means a division of a Parcel into two or more Parcels through the Subdivision Map Act process. A Subdivision also may include the merging of two or more Parcels to create new Parcels.

**“Successor Parcel”** means a Parcel created by the Subdivision of an Original Parcel or a Successor Parcel.

**“Tax Collection Schedule”** means the document prepared by the Administrator for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

**“Tax Levy Base Year”** means the Fiscal Year beginning July 1 of the year that is seven years from when the Initial Completion Date has occurred.

**“Taxable Parcel”** means any Parcel that is a Parcel assigned Planned Residential Units, Remaining Planned Residential Units, and/or Unpaid Units.

**“Tax-Exempt Parcel”** means a Parcel not subject to the Annual Special Tax, such as a Parcel for which a Building Permit has been issued and has paid its PMIP or the Special Tax Obligation. Tax-Exempt Parcels include Parcels owned by the City, State and Federal governments as well as Parcels owned by a public school or public school district.

“**Trustee**” means a nationally regulated banking association organized and existing under the laws of the United States.

“**Unpaid Unit(s)**” means a Taxable Parcel for which no Building Permit has been issued by July 1 of the Base Year.

### **3. Duration of the Special Tax**

The Special Tax will be levied and collected for as long as it is needed to pay Annual Costs. The Special Tax shall not be levied on any Parcel in the CFD after Fiscal Year 2059–2060.

When all Shared Infrastructure TASP Fee Credits have been reimbursed to the City through either the payment of the PMIP and/or the Special Tax Obligation and Annual Costs have been paid, the Special Taxes under this Special Tax programs shall cease to be levied. The City shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. In addition, the Notice of Cessation of Special Tax shall identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

### **4. Administrative Tasks**

Administrative tasks required of the Administrator are discussed below.

A. Assignment of the Maximum Annual Special Tax to Original Parcels. The Maximum Annual Special Tax and Planned Residential Units are assigned to Original Parcels at formation of the CFD and are identified by Assessor’s Parcel Number in **Attachment 1**.

B. Assignment of the Maximum Annual Special Tax to Successor Parcels. As Taxable Parcels in the CFD are Subdivided, the Administrator will perform the following tasks after each Subdivision:

Step 1: Identify the Parcel or Parcels that are included in the Subdivision.

Step 2: Sum the total Maximum Annual Special Tax for the Parcel or Parcels to be Subdivided.

Step 3: Sum the total Planned Residential Units assigned to the Parcel or Parcels to be Subdivided.

Step 4: Using City records, assigned land uses, and City zoning for the Parcels created by the Subdivision, the Administrator shall determine the number of Planned Residential Units to be assigned to each Successor Parcel.

Step 5: For each Successor Parcel, divide the number of Planned Residential Units determined for such Parcel in **Step 4** by the sum of Planned Residential Units for Parcels to be Subdivided determined in **Step 3** to derive the Parcel’s percentage share of Planned Residential Units.

Step 6: For each Successor Parcel, multiply the percentage share of Planned Residential Units determined in the previous step by the total Maximum Annual Special Tax determined in **Step 2**.

Update **Attachment 1** with the new Successor Parcels, the associated Assessor's Parcel Number, Planned Residential Unit assignments, and Maximum Annual Special Tax assignments.

- C. Determine if Building Permits have been issued for Taxable Parcels of the CFD. As Building Permits are issued for Taxable Parcels, the Administrator will perform the following tasks after each issuance of a Building Permit:

- Step 1: Identify the Taxable Parcel for which a Building Permit or Building Permits is to be issued.
- Step 2: Determine the number of Planned Residential Units, or Remaining Planned Residential Units assigned to the Taxable Parcel.
- Step 3: Determine the number of Residential Units identified in the Building Permit for the Taxable Parcel.
- Step 4: Subtract the amount determined in **Step 3** from the amount determined in **Step 2**.
- Step 5: If the calculation in **Step 4** results in a positive number, assign this amount as the Remaining Residential Units for the Taxable Parcel.
- Step 6: If the calculation in **Step 4** results in an amount equal to zero, the Taxable Parcel has fulfilled the Special Tax Obligation and shall be reclassified as a Tax-Exempt Parcel. The result of the calculation in **Step 4** should not result in a negative amount if the provisions of **Sections 4.A** and **4.B** have been followed properly.

Update **Attachment 1** with the Remaining Planned Residential Units. If the Parcel has been reclassified as a Tax-Exempt Parcel, update the Parcel's status in **Attachment 1** and assign the Parcel a Maximum Annual Special Tax of zero.

- D. Determine the Number of Unpaid Units per Taxable Parcel. Each Fiscal Year, determine the number of Unpaid Units assigned to a Taxable Parcel.

- Step 1: Identify the number of Planned Residential Units and/or Remaining Planned Residential Units assigned to each Taxable Parcel.
- Step 2: For each Planned Residential Units and/or Remaining Planned Residential Units assigned to each Taxable Parcel, assign an Unpaid Unit to the Taxable Parcel.
- Step 3: Multiply the number of Unpaid Units assigned to a Parcel in Step 2 times the Maximum Annual Special Tax per Planned Residential Unit as established in **Sections 4.A** and **4.B** above to derive the Maximum Annual Special Tax for the Taxable Parcel.

Update **Attachment 1** with the number of Unpaid Units and the Maximum Annual Special Tax for the Taxable Parcel.

## 5. **Assignment of the Maximum Annual Special Tax**

- A. Classification of Parcels. By June 30 of each Fiscal Year, using the Definitions in **Section 2**, above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other City

records, the Administrator shall cause each Parcel to be classified as a Taxable Parcel or Tax-Exempt Parcel.

- B. Assignment of the Maximum Annual Special Tax to Taxable Parcels. Using the provisions of **Section 4**, determine the Maximum Special Tax Revenue for all Taxable Parcels by assigning the Maximum Annual Special Tax to each Taxable Parcel.

## **6. Calculating Annual Special Tax Levy**

Beginning in the Tax Levy Base Year and each Fiscal Year thereafter, the Administrator will compute the Annual Costs and determine the Maximum Annual Special Tax for each Taxable Parcel based on the assignment of the Special Tax in **Section 5**. The Administrator then will determine the tax levy for each Taxable Parcel using the following process.

### **Compute Special Tax Levy**

- A. Compute the Annual Costs using the definition in **Section 2**.
- B. Calculate the Special Tax levy for each Taxable Parcel by the following steps:
- Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Taxable Parcels.
  - Step 2: Compare the Annual Costs with the amount calculated in the previous step.
  - Step 3: If the Annual Costs are lower than the amount calculated in **Step 1**, decrease proportionately the Special Tax levy for each Taxable Parcel until the revenue from the Special Tax levy equals the Annual Costs.
- C. Levy on each Taxable Parcel the amount of Special Tax calculated above.

### **Prepare the Tax Collection Schedule**

Prepare the Tax Collection Schedule for the Special Tax levy and, unless an alternative method of collection has been selected pursuant to **Section 8**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule will not be sent later than the date required by the Auditor for such inclusion.

## **7. Prepayment of the Special Tax Obligation**

A property owner may permanently satisfy the Special Tax Obligation on a Parcel by Prepayment as permitted under Government Code Section 53344. Prepayment is permitted only under the following conditions:

- The City determines that the Prepayment of the Special Tax does not jeopardize its ability to make timely payments of Debt Service on outstanding Bonds.
- The landowner prepaying the Special Tax on a Parcel has paid any delinquent Special Tax and penalties on that Parcel before Prepayment.

If CFD Bonds have **NOT** been issued, the Prepayment amount shall be established by following the steps below.

- Step 1: Determine the Maximum Annual Special Tax for the Taxable Parcel for which the Special Tax is to be prepaid using the provisions of **Section 4.A** and **4.B**.
- Step 2: Determine if the Maximum Annual Special Tax has been levied in previous Fiscal Years. Determine the number of Fiscal Years in which the Maximum Annual Special Tax has been levied.
- Step 3: Subtract the number of Fiscal Years determined in *Step 2* from 5.
- Step 4: Multiply the Maximum Annual Special Tax times the number of Fiscal Years calculated in *Step 3*. This is the amount of the Prepayment that must be collected to fully satisfy the Special Tax Obligation for the Taxable Parcel.

If CFD Bonds have been issued, the Prepayment amount shall be established by following the steps below.

- Step 1 Determine the Maximum Annual Special Tax for the prepaying Parcel by following the procedures in **Section 5**.
- Step 2 Divide the Maximum Annual Special Tax from *Step 1* by the Maximum Annual Special Tax Revenue to derive the Benefit Share.
- Step 3 Determine the Bond Share for the Parcel by multiplying the Benefit Share from *Step 2* by the Outstanding Bonds. For the purpose of the calculation, reduce the Outstanding Bond balance by the amount of the principal payment for which Special Taxes have been levied but not collected.
- Step 4 Determine the Reserve Fund Share associated with the Bond Share determined in *Step 3* and reduce the Bond Share by the amount of the Reserve Fund Share. The Reserve Fund Share is calculated using the Reserve Fund Requirement on all Outstanding Bonds or the actual Reserve Fund, whichever is less, multiplied by the Benefit Share.
- Step 5 Determine the Prepayment amount by adding to the revised Bond Share amount calculated in *Step 4* any fees, call premiums, and expenses incurred by the City in connection with the Prepayment calculation or the application of the proceeds of the Prepayment to the call of Bonds. If Special Taxes have already been levied, but not collected, at the time the Prepayment is calculated, the owner of the Parcel must pay the Special Taxes included on the property tax bill in addition to the Prepayment amount.

## **8. Interpretation, Application, and Appeal of Special Tax Formula and Procedures**

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the Administrator appealing the levy of the Special Tax. The Administrator will then promptly review the appeal and, if necessary, meet with the applicant. If the Administrator verifies that

the tax should be modified or changed, the Special Tax levy will be corrected and, if applicable in any case, a credit on a subsequent annual tax levy or a refund will be granted.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to the CFD.

Without Council approval, the Administrator may make minor, non-substantive administrative and technical changes to the provisions of this Exhibit that do not materially affect the RMA for purposes of administrative efficiency or convenience or to comply with new applicable federal, state, or local law.

The Administrator will make every effort to correctly calculate the Special Tax for each Parcel. It will be the burden of the taxpayer to correct any errors in the determination of the Parcels subject to the tax and their Special Tax assignments.

## **9. Manner of Collection**

The Special Taxes will be collected in the same manner and at the same time as ad valorem property taxes, provided, however, that the Administrator or its designee may directly bill the Special Taxes and may collect the Special Taxes at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the City's financial obligations.



**EXHIBIT C**

**OFFICIAL BALLOT**

**SPECIAL TAX ELECTION  
CITY OF MILPITAS  
COMMUNITY FACILITIES DISTRICT NO. 2013-1 (PIPER MONTAGUE)  
(November 5, 2013)**

**Number of votes entitled to cast: \_\_\_\_**

**INSTRUCTIONS TO VOTERS:** To vote on the measure, mark an (X) in the voting square 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 City Clerk, City of Milpitas, 455 East Calaveras Blvd., Milpitas, California, to obtain another.

---

**MEASURE SUBMITTED TO QUALIFIED ELECTORS**

<p><b>Ballot Measure:</b> Shall the City of Milpitas be authorized to levy a special tax at the rates and apportioned as described in the Resolution of Formation (the “Resolution of Formation”) for Community Facilities District No. 2013-1 (Piper Montague) (the “District”) adopted by the City Council on November 5, 2013, which is incorporated herein by this reference, within the District to finance certain public facilities as set forth in Exhibit A to the Resolution of Formation, including any incidental expenses related thereto, and shall a bonded indebtedness in the amount of \$10,000,000 be incurred for the District, and shall an appropriations limit be established for the District in the amount of the special taxes collected?</p>	<p>YES    <input type="checkbox"/></p> <p>NO     <input type="checkbox"/></p>
---	---

**NOTE: This is a special landowner election. You must return this ballot to the City Clerk, City of Milpitas, to her office at City Hall, 455 East Calaveras Blvd., Milpitas, California, by 4:00 p.m. on November 5, 2013.**

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DECLARING THE RESULTS OF THE SPECIAL ELECTION HELD ON NOVEMBER 5, 2013 IN COMMUNITY FACILITIES DISTRICT NO. 2013-1 (PIPER MONTAGUE)**

**WHEREAS**, the City Council on November 5, 2013, duly adopted its Resolution No. \_\_\_\_\_ (the “Resolution of Formation”), which ordered a consolidated election in Community Facilities District No. 2013-1 (Piper Montague) (the “District”) on the levy of the special tax, the establishment of an appropriations limit for the District, and the incurrence of a bonded indebtedness for the District; and

**WHEREAS**, pursuant to the terms of the resolution, the special election was held on November 5, 2013, and the City Clerk has duly canvassed the returns of the election as required by the resolution and has filed with the City Council a statement of all votes cast at the election showing the whole number of votes cast in the District and the whole number of votes cast for and against the measure and also filed, attached to the statement, her certificate as to the correctness of the statement (the “Statement of Election Results”), which is attached hereto as Exhibit A;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milpitas that:

**1. Recitals.** The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**2. Canvass.** The canvass by the City Clerk as shown by the Statement of Election Results is hereby ratified, confirmed, approved, and entered upon the minutes of this meeting.

**3. Measure.** At the election, the following measure was submitted to the qualified electors of the District:

**Ballot Measure:** Shall the City of Milpitas be authorized to levy a special tax at the rates and apportioned as described in the Resolution of Formation (the “Resolution of Formation”) for Community Facilities District No. 2013-1 (Piper Montague) (the “District”) adopted by the City Council on November 5, 2013, which is incorporated herein by this reference, within the District to finance certain public facilities as set forth in Exhibit A to the Resolution of Formation, including any incidental expenses related thereto, and shall a bonded indebtedness in the amount of \$10,000,000 be incurred for the District, and shall an appropriations limit be established for the District in the amount of the special taxes collected?

**4. Votes Cast; Election Results.** The total number of votes cast in the District at the election was \_\_\_\_\_ (\_\_\_). The number of votes cast in favor of the measure was \_\_\_\_\_ (\_\_\_) and the number of votes cast against the measure was \_\_\_\_\_ (\_\_\_). Therefore, more than two-thirds of all the votes cast at the election on the measure were in favor of the measure and the measure passed.

**5. Notice of Special Tax Lien.** The City Clerk is hereby directed to record a Notice of Special Tax Lien with the County Recorder of Santa Clara County, in accordance with the provisions of

Section 3114.5 of the California Streets and Highways Code within fifteen (15) days of the adoption of this resolution.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTESTED:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**EXHIBIT A**

**STATEMENT OF ELECTION RESULTS**

I, Mary Lavelle, City Clerk of the City of Milpitas (the "City"), hereby certify that:

1. On November 5, 2013, at City Hall, 455 East Calaveras Blvd., Milpitas, California, I canvassed the returns of the election called for November 5, 2013, in Community Facilities District No. 2013-1 (Piper Montague) on the following measure:

**Ballot Measure:** Shall the City of Milpitas be authorized to levy a special tax at the rates and apportioned as described in the Resolution of Formation (the "Resolution of Formation") for Community Facilities District No. 2013-1 (Piper Montague) (the "District") adopted by the City Council on November 5, 2013, which is incorporated herein by this reference, within the District to finance certain public facilities as set forth in Exhibit A to the Resolution of Formation, including any incidental expenses related thereto, and shall a bonded indebtedness in the amount of \$10,000,000 be incurred for the District, and shall an appropriations limit be established for the District in the amount of the special taxes collected?

2. The total number of qualified landowner votes eligible to be cast, the total number of votes actually cast at the election, and the total number of votes cast for and against the measure are set forth below. The totals as shown for and against the measure are full, true, and correct. More than two-thirds of all the votes cast at the election on the measure were in favor of the measure and the measure passed.

Qualified Landowner Votes	Votes Cast	YES	NO

Dated: November 5, 2013.

\_\_\_\_\_  
Mary Lavelle, City Clerk

**REGULAR**

**NUMBER: 286**

**TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS LEVYING AND APPORTIONING THE SPECIAL TAX IN COMMUNITY FACILITIES DISTRICT NO. 2013-1 (PIPER MONTAGUE)**

**HISTORY:** This Ordinance was introduced (first reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_ and was adopted (second reading) by the City Council at its meeting of \_\_\_\_\_, upon motion by \_\_\_\_\_. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Mary Lavelle, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael J. Ogaz, City Attorney

**RECITALS AND FINDINGS:**

**WHEREAS**, the City Council has established Community Facilities District No. 2013-1 (Piper Montague) (the “District”) pursuant to Resolution No. \_\_\_\_\_ (the “Resolution of Formation”), duly adopted on November 5, 2013, for the purpose of providing for the financing of certain public facilities in and for the City; and

**WHEREAS**, at an election held in the District on November 5, 2013, the qualified electors of the District authorized the levy of the special tax described in the Resolution of Formation.

**NOW, THEREFORE**, the City Council of the City of Milpitas does ordain as follows:

**1. Record and Basis for Action.** The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**2. Levy of Special Tax.** Pursuant to Section 53340 of the California Government Code, the special tax is hereby levied at the maximum rates and apportioned in the manner specified in the Resolution of Formation.

**3. Collection of Special Tax.** Pursuant to Section 53340 of the California Government Code and the Resolution of Formation, the special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same procedure, sale, and lien priority in case of delinquency as is provided for *ad valorem* taxes; provided, however, that the City may directly bill the special tax, may collect special taxes at a different time or in a different manner if necessary to meet the financial obligations of the District or as otherwise determined appropriate by the City.

**4. Claims for Refund.** Claims for refund of the tax shall comply with the following and any additional procedures as established by the City Council:

(a) All claims shall be filed, in writing, with the City Finance Director during the Fiscal Year in which the error is believed to have occurred. The claimant shall file the claim within this time period and the claim shall be finally acted upon by the City Council as a prerequisite to bringing suit thereon.

(b) Pursuant to Government Code section 935(b), the claim shall be subject to the provisions of Government Code sections 945.6 and 946.

(c) The City Council shall act on a timely claim within the time period required by Government Code section 912.4.

(d) The procedure described in this Ordinance, and any additional procedures established by the City Council, shall be the exclusive claims procedure for claimants seeking a refund of the tax. The decision of the City Council shall be final.

**5. No Mandatory Duty of Care.** This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**6. Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**7. Effective Date and Publication.** This Ordinance shall take effect thirty (30) days after adoption, and thereafter the same shall be in full force and effect. Prior to the expiration of 15 days from the passage thereof, this Ordinance shall be published at least once in a newspaper of general circulation, published and circulated in the City of Milpitas, County of Santa Clara. At the election of the City, this Ordinance may be published in summary form if prior to adoption the complete text is posted in the City Clerk's Office pursuant to Government Code Section 36933(c).

## Final Report

### Hearing Report Community Facilities District No. 2013-1 (Piper Montague)

*The Economics of Land Use*



Prepared for:

City of Milpitas

Prepared by:

Economic & Planning Systems, Inc.

October 2013

*Economic & Planning Systems, Inc.  
2295 Gateway Oaks Drive, Suite 250  
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Los Angeles  
Sacramento*

EPS #132073

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### Exhibits:

Exhibit A: Rate, Method of Apportionment, and Manner of Collection of Special Tax

Exhibit B: List of Authorized Facilities

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# 1. INTRODUCTION

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## **Purpose**

The City of Milpitas (City) retained Economic & Planning Systems, Inc. (EPS) to support its efforts to create a Mello-Roos Community Facilities District (CFD) in the Piper Montague Subdistrict located in the Transit Area Specific Plan (TASP). The objective of establishing a CFD is to create a land-secured funding mechanism to be used to reimburse the City in the event that the City incurs unreimbursed credits associated with the authorized facilities of the CFD.

Three builder/developers intend to construct approximately 1,435 residential units on approximately 34 acres within the Piper Montague Subdistrict, located east of Piper Drive, north of Montague Expressway, and west of Milpitas Boulevard. The three builder/developers are listed below.

- SCS Development Co. dba
- Milpitas Station (San Jose) Venture, L.L.L.P.
- Southside Industrial Park dba

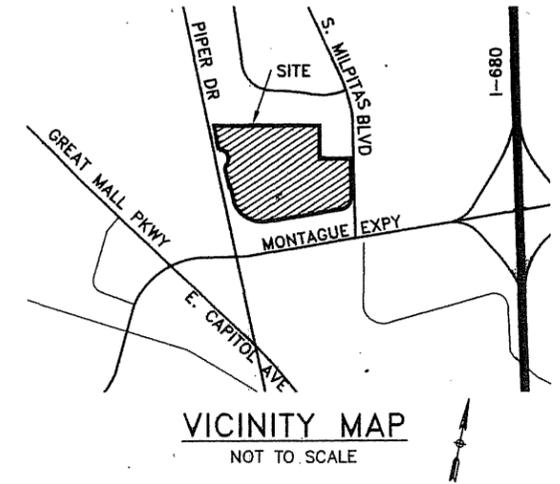
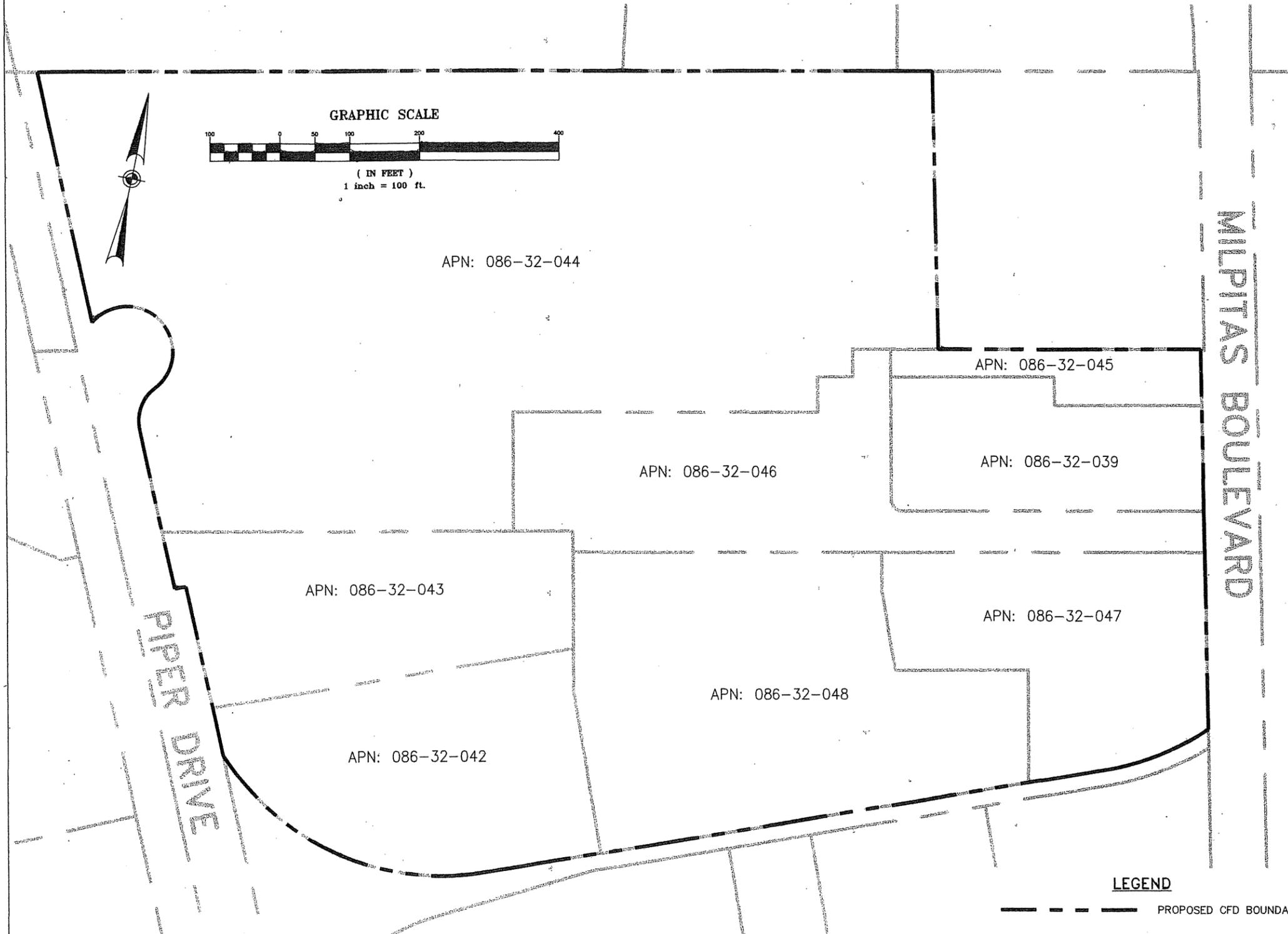
In order to develop their projects, the builder/developers must construct certain public infrastructure improvements to serve the residential uses. These improvements are described in the "Cost Sharing and Reimbursement Agreement" (Agreement). The City entered into the Agreement with the builder/developers on September 10, 2009. The infrastructure improvements are defined as Shared Infrastructure Improvements and Storm Water Facilities in the Agreement.

The City anticipates that one or more builder/developers will construct the facilities. The Agreement delineates the fair share cost allocations between the builder/developers for these facilities. To the extent a builder/developer constructs more than its fair share of the required facilities (an "Excess Builder"), the City will grant the Excess Builder credit against the Excess Builder's TASP Impact Fees (and possibly other development fees as permitted by law (the "Fee Credits") for the cost of the infrastructure that was built beyond its fair share. The source of revenue that the City will use to reimburse itself for such Fee Credits is the "Piper Montague Infrastructure Payment" (PMIP) which is collected upon issuance of building permits to all of the builder/developers in the project area. The City would eventually be reimbursed for the Fee Credits when all building permits for the proposed 1,435 residential units have been issued. If the City has not been fully reimbursed in 7 years, the CFD will be "activated" so that the City can be reimbursed for the Fee Credits it has granted.

The formation of the City's Community Facilities District No. 2013-1 (Piper Montague) (CFD 2013-1) has been initiated with the adoption of the Resolution of Intention (ROI) to form the CFD. City Council (Council) adopted the ROI on September 17, 2013. The Resolution of Formation (ROF) will be considered by the Council on November 5, 2013. The boundaries for the proposed CFD 2013-1 are shown in Map 1.

# PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT 2013-1 (PIPER MONTAGUE)

CITY OF MILPITAS  
SANTA CLARA COUNTY, STATE OF CALIFORNIA



FILED IN THE OFFICE OF THE CLERK OF THE CITY OF MILPITAS THIS 30th DAY OF SEPTEMBER, 2013.

*Mary Lavelle*  
MARY LAVELLE, CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT 2013-1, CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MILPITAS AT A REGULAR MEETING THEREOF, HELD ON THE 17TH DAY OF SEPTEMBER, 2013, BY RESOLUTION NO. 8297.

*Mary Lavelle*  
MARY LAVELLE, CITY CLERK



Instrument # 22404772

FILED THIS 2nd DAY OF October 2013 AT THE HOUR OF 1:49 O'CLOCK P. M. IN BOOK 49 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 31, IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.  
Fee \$8-

*Regina Alcomendras*  
COUNTY RECORDER OF  
THE COUNTY OF SANTA CLARA

by *Jan Ari* (June Aliason)



980 9TH STREET, SUITE 1770  
SACRAMENTO, CA 95814  
PH: (916) 556-5800  
FAX: (916) 556-5899

**LEGEND**

--- PROPOSED CFD BOUNDARY

22404772

49  
/31  
/31

31

## Organization of the Report

This report consists of five chapters including this introduction. **Chapter 2** describes the land uses in the CFD. **Chapter 3** describes the public services to be funded in the CFD, the costs, and cost allocations. **Chapter 4** describes the structure of the CFD and the Tax Formula.

Two exhibits are attached to this report. **Exhibit A** is the Facilities Rate, Method of Apportionment, and Manner of Collection of Special Tax (RMA). **Exhibit B** is the List of Authorized Services.

## 2. LAND USE

---

Three builder/developers propose to construct approximately 1,435 residential units within the boundaries of CFD 2013-1, located in the Piper Montague Subdistrict of the TASP. The residential products will consist of attached and detached single family, townhouses, and apartments. There are currently no plans to construct nonresidential uses within the boundaries of CFD 2013-1. The boundaries of CFD 2013-1 include 34 acres of public and private uses.

Original parcels, builder/developer, acreages, planned units, and land use densities are shown in **Table 1**. Planned residential units for each builder/developer were provided by the City. Acreages for each original parcel were derived from the records of the Santa Clara County Assessor.

**Table 1**  
**CFD Land Uses**

<b>Original Parcel</b>	<b>Builder/ Developer</b>	<b>Acres</b>	<b>Planned Residential Units</b>	<b>Density</b>
086-32-044	Citation	15.331	732	47.75
086-32-046	Milpitas Station	2.972	303	23.16
086-32-039		1.960		
086-32-045		0.653		
086-32-048		4.887		
086-32-047		2.611		
086-32-042	Barry Swenson	2.990	400	70.05
086-32-043		2.720		
<b>Totals</b>		<b>34.124</b>	<b>1,435</b>	42.05
				"land_use"

Sources: Santa Clara County Assessor and City of Milpitas.

### *3. AUTHORIZED FACILITIES OF THE CFD, COSTS, AND COST ALLOCATIONS TO LAND USES*

---

The public facilities funding program will enable the City to reimburse itself Fee Credits that it may need to pay to builder/developers constructing authorized facilities serving CFD 2013-1. This chapter describes the public facilities eligible to be financed or otherwise funded through the mechanism of the Fee Credits and the estimated cost of these public facilities.

#### **Authorized Facilities of the CFD**

The CFD is authorized to fund certain facilities required to serve the Piper Montague Subdistrict. Authorized facilities are Shared Infrastructure Improvements and Storm Water Facilities, as identified in the Agreement entered into by the City and property owners dated September 10, 2009 (Recorded as Document No. 20427520).

Exhibit F of the Agreement more specifically identifies the following facilities as Shared Infrastructure Improvements:

- Public Street A: Site preparation, grading, underground utilities, paving, curb, gutter, sidewalk, lighting, landscaping
- Public Street B: Site preparation, grading, underground utilities, paving, curb, gutter, sidewalk, lighting, landscaping
- Public Street C: Site preparation, grading, underground utilities, paving, curb, gutter, sidewalk, lighting, landscaping
- Public Street D: Site preparation, grading, underground utilities, paving, curb, gutter, sidewalk, lighting, landscaping
- Interim Piper Drive: Street improvements, storm drain installation, media filter, curb, gutter, sidewalk, joint trench, lighting landscaping.
- Milpitas Boulevard: Traffic signal at intersection of A Street and Milpitas Boulevard.

Authorized facilities also include certain soft costs associated with the projects listed above.

#### **Other Expenses of CFD 2013-1**

In addition to the above facilities, other incidental expenses as authorized by the Mello-Roos Community Facilities Act of 1982, including, but not limited to, the cost of planning and designing the facilities (including the cost of environmental evaluation and environmental remediation); engineering and surveying; construction staking; utility relocation and demolition costs incidental to the construction of the public facilities; costs of project/construction management; costs (including the costs of legal services) associated with the creation of the CFD; issuance of bonds; determination of the amount of taxes, collection of taxes; payment of taxes; or costs otherwise incurred in order to carry out the authorized purposes of the CFD; and any other expenses incidental to the

formation and implementation of the CFD and to the construction, completion, inspection and acquisition of the authorized facilities.

## **Constructing Owner**

The Agreement states that one or more of the builder/developers may elect to construct authorized facilities, and thereby becoming the Constructing Owner. The Constructing Owner may construct some or all shared infrastructure facilities. The Agreement assigns a prorata share of the cost of constructing shared infrastructure facilities to each builder/developer. The Constructing Owner will be reimbursed the prorata share for non-constructing builder/developers of shared infrastructure costs by the City through the mechanism of certain Fee Credits granted to the Constructing Owner by the City. The source of reimbursement of such Fee Credits will be the PMIP paid by each of the builders at the issuance of a building permit.

The Agreement also identifies a prorata share of costs for storm water facilities. Prorata shares for shared infrastructure facilities and storm water facilities are shown in **Table 2**. Note that a portion of the costs for storm water facilities are allocated to the public park.

## **Authorized Facilities Estimated Costs**

The costs for shared infrastructure improvements were estimated to be approximately \$3.4 million in 2009. This amount did not include the estimated costs for storm water facilities. The Agreement states that once the shared infrastructure facilities and storm water facilities have been constructed, the costs for authorized facilities would be updated and updated cost shares would be assigned to each builder/developer.

Authorized facilities have not been completed, but in order to establish assigned cost shares for authorized facilities for the purposes of the CFD and the RMA, the City provided updated cost estimates for the purposes of establishing "maximum" cost shares for authorized facilities prior to the ROI. These cost shares are in turn used to establish a maximum annual special tax for each builder/developer. The RMA must establish "maximum" amounts for an annual special tax in the event the CFD is used to levy special taxes for the purposes of reimbursing the City should the revenue stream of the PMIP not be sufficient to provide the source of reimbursement to the City.

The authorized facilities costs that were used to establish the maximum annual special tax rates shown in the RMA at the time of ROI were approximately \$6.7 million. Since the adoption of the ROI, the City has been able to update the estimated authorized facilities costs. As such, the revised costs have been used to recalculate the maximum annual special taxes shown in the RMA at ROI. **Table 2** shows the methodology for recalculating the allocation of authorized facilities costs to each builder/developer.

**Table 2** shows that shared infrastructure costs have been revised to be approximately \$5.2 million and storm water facilities \$400,000. In the event the actual costs for these facilities are less than shown in **Table 2**, then these amounts would be adjusted once more to reflect the actual lower costs. Since the costs in **Table 2** are used to establish

maximum annual special taxes under the RMA, any downward adjustment of the estimated authorized facilities costs could result in reduced maximum annual special taxes. This will be discussed further in **Chapter 4**.

Once the total prorata share of authorized facilities costs are established by builder/developer, costs are allocated to each "planned residential unit" for each builder/develop and confirmed by the City. The "planned residential unit" is the number of residential units planned for each development included in the CFD. The shared costs are divided by the number of planned residential units to derive cost allocation for each planned residential unit. This cost per unit is rounded up to the nearest \$100 in **Table 2**. **Table 2** is used to establish a conservative estimate of the maximum cost share per residential unit for each builder/developer. Once actual costs have been established after all facilities have been constructed, the City may, by resolution, reduce the cost allocation per planned residential unit.

Note that in **Table 2** the cost allocation per planned residential unit is divided by 5 years to establish an annualized amount of the fair share costs. While the Agreement states that CFD bonds could be issued to reimburse the City for advanced funds, an alternative method could be to pay the fair share costs over a shorter period of time. This will be discussed further in **Chapter 4**.

Maximum costs shares per planned residential unit are established under the RMA and cannot be increased without an election of affected property owners.

**Table 2**  
**Community Facilities District No. 2013-1 (Piper Montague)**  
**Authorized Facilities Estimated Costs**

Property Owner/ Developer	Assigned Share of Costs	Shared Infrastructure Improvements	Storm Water Facilities Cost Share	Storm Water Facilities	Total Facility Costs	Planned Residential Units	Cost Allocation Per Planned Unit [1]	Annual Amount During 5 Year Collection Period [2]
	<i>a</i>	<i>b</i>	<i>c</i>	<i>d</i>	<i>e</i>	<i>f</i>	$g = (b + d / f)$	$h = g / 5$
Citation	44%	\$2,288,000	31.6%	\$126,400	\$2,414,400	732	\$3,300	\$660
Milpitas Station	26%	\$1,352,000	39.3%	\$157,080	\$1,509,080	303	\$5,000	\$1,000
Barry Swenson	30%	\$1,560,000	16.1%	\$64,440	\$1,624,440	400	\$4,100	\$820
Public Facilites	0%	\$0	13.0%	\$52,080	\$52,080	-	\$0	\$0
<b>Totals</b>	<b>100%</b>	<b>\$5,200,000</b>	<b>100%</b>	<b>\$400,000</b>	<b>\$5,600,000</b>	<b>1,435</b>	<b>\$4,000</b>	<b>\$800</b>

"fac\_costs"

[1] Rounded up to the nearest \$100

[2] Rounded up to the nearest \$10

Source: City of Milpitas

## 4. STRUCTURE OF THE CFD

---

### Description of the CFD

In the event the CFD is “activated” after 7 years, parcels in the CFD that have not been issued building permits issued and paid its PMIP fees, will pay special taxes based on the RMA. The City will reimburse the Constructing Owner the authorized facilities cost shares of the builder/developers that do not construct facilities once such facilities are completed in the form of the Fee Credits. The City will reimburse itself for the funds advanced to the Constructing Owner from PMIP fees paid by the remaining builder/developers. The City and builder/developers anticipate that the City will be fully reimbursed for any Fee Credits granted to the Constructing Owner in the 7-year period, and that the CFD will not be “activated”.

In the event the CFD is “activated” after 7 years, parcels in the CFD will pay special taxes based on the RMA. The attached exhibits are documents contained in the Resolution of Formation. **Exhibit A** is the RMA. **Exhibit B** is the List of Authorized Facilities.

The purpose of the CFD is to fund the cost of authorized facilities serving new residents in the Piper Montague Subdistrict.

### Calculation of the Maximum Annual Special Tax

As stated above, the City and builder/developers believe the City will be fully reimbursed through the payment of PMIP fees in 7 years. However, in forming a CFD, maximum annual special tax rates must be established for the CFD in the event the City is not fully reimbursed for Fee Credits provided to the Constructing Owner. In the previous chapter, estimated costs for authorized facilities were presented in **Table 2** in the amount of \$5.6 million total. The Agreement discussed the possibility of issuing CFD bonds in order to reimburse the City, so maximum annual special tax rates need to be calculated in such a way as to allow for the payment of debt service for a possible CFD bond issuance.

The maximum costs for authorized facilities were established at \$5.6 million. Under the Agreement, the first Constructing Owner would build more than its agreed upon fair share of the authorized facilities and receive Fee Credits. The remaining owner/builders would reimburse the City for such Fee Credits through the payment of the PMIP fee at building permit issuance. What this means is that while the total costs for authorized facilities are estimated at \$5.6 million, the initial Constructing Owner will satisfy its required share of authorized facilities by constructing the first phase of the facilities. Other owner/builders will in turn reduce their obligation for the fair share of costs by constructing subsequent phases of the facilities and paying the PMIP fee with each building permit issued to such builder. After 7 years, the remaining fair share of costs to be paid will have been reduced significantly, if not fully satisfied through the issuance of building permits.

In calculating the maximum annual special tax, it is assumed that the City may bond for the maximum costs for facilities. This is done because the Agreement stipulates only that bonds would be issued to reimburse the City for the cost of funding facilities, or a portion thereof. The maximum annual special tax is structured to be able to fund the “worst case” scenario.

The more likely scenario is that the City would have been reimbursed a significant amount of the Fee Credits granted through the payment of PMIP fees, and that if any building permits have not been issued after 7 years, it would be a relatively small number of remaining permits to be issued. A bond issuance for an amount less than \$2.0 million may be an inefficient reimbursement mechanism. This may be true because some costs of bond issuance are fixed, and therefore the issuance costs could be relatively significant when compared to the amount of bonds issued.

In **Table 2** the cost allocation per planned residential unit was divided by 5 years to develop an annualized cost allocation allowing for the payment of the cost share over a shorter period, rather than through the issuance of a 30-year CFD bond. This amount is used to establish the basis for the base cost share per unit for each builder/developer.

**Table 3** shows the calculation of the maximum annual special tax. Added to the base amount from **Table 2** is a 10-percent special tax coverage in the event CFD bonds are issued. This coverage factor is required for a CFD bond issuance. An administrative charge of 3-percent is added to the base amount to fund the costs of the CFD. All authorized annual costs of the CFD are discussed below.

If a 5-year repayment period is established, the City would be carrying those costs over that period of time. The City would want to establish a rate for cost of the use of City funds to be paid by parcels with a remaining cost share. The calculation uses 5-percent as the cost for use of City funds.

The maximum annual special tax per builder/developer is calculated by summing all calculated components, then rounding up to the nearest \$100 (as shown in **Table 3**). Again, the maximum annual special tax is calculated for the purposes of funding the "worst case" scenario. The actual amount of special tax levied should reflect the actual fair share costs to each planned residential unit.

If the actual costs for constructing authorized facilities are less than the \$5.6 million shown in **Table 2**, the City could reduce the maximum annual special tax shown in **Table 3** by resolution of the City Council.

## Definition of Annual Costs

The maximum annual special tax established under the RMA is the maximum exposure to an annual special tax levy for a given parcel of land. The actual amount of the levy is derived through the determination of the "annual costs" of the CFD. The RMA identifies these costs components as the following:

- Debt service or the annual costs of the remaining unpaid units (authorized facilities costs)
- Administrative expenses of the CFD
- An amount needed to replenish a reserve fund in the event CFD bonds are issued
- An amount to fund current special tax collection delinquencies, in the event CFD bonds are issued
- Less any available earning on the reserve fund, in the event CFD bonds are issued

**Table 3**  
**Community Facilities District No. 2013-1 (Piper Montague)**  
**Determination of Maximum Annual Special Tax per Planned Unit by Developer**

Description	Citation	Milpitas Station	Barry Swenson
5 Year Repayment Amount per Developer	\$660	\$1,000	\$820
10% Special Tax Coverage of Debt Service	\$66	\$100	\$82
3% CFD Administrative Charge	\$20	\$30	\$25
Interest Component [1]	\$38	\$57	\$47
<b>Maximum Annual Special Tax per Planned Unit [2]</b>	<b>\$800</b>	<b>\$1,200</b>	<b>\$1,000</b>

*"max\_tax"*

[1] The City will use charge an additional 5-percent for "use of City funds" as part of the fee repayment program.

[2] Rounded up to the nearest \$100.

If CFD bonds are issued, then the amount needed to fund debt service would be that portion of the maximum annual special tax required to pay a parcel's share of the debt service. If no CFD bonds are issued, the annualized amount should be the portion of the maximum annual special tax required to fund a parcel's fair share of the authorized facility costs.

If there is an annualized payment program, or CFD bonds are issued, the City would establish an estimate of the annual costs of administering the CFD, and each parcel would pay a fair share portion of this amount through the annual special tax levy.

The other components of "annual costs" delineated in the RMA are only included in the event CFD bonds are issued. The City may levy up to the maximum amount of special tax for each parcel to fund "annual costs" of the CFD, as defined in the RMA.

## **Determination of Parcels Subject to Special Tax**

Parcels that have not had a building permit issued in the first fiscal year following the seventh year after the authorized facilities have been completed will be subject to the special tax, if an annual special tax is to be collected by the City.

## **Termination of the Special Tax**

The special tax will be levied and collected for as long as it is needed to pay annual costs. The special tax shall not be levied on any parcel in the CFD after Fiscal Year 2059–2060.

When all Fee Credits have been reimbursed to the City through either the payment of the PMIP and/or the special tax obligation and annual costs have been paid, the Special Taxes under this Special Tax programs shall cease to be levied. The City shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. In addition, the Notice of Cessation of Special Tax shall identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

In the event the CFD has not been activated after 7 years and the City has been fully reimbursed for any Fee Credits granted to the Constructing Owner, the City should follow the procedures of the previous paragraph.

## **Classification of Parcels**

Before assigning the maximum annual special tax, each parcel in the CFD is classified as either a taxable parcel or a tax-exempt parcel. Tax-exempt parcels are public parcels or parcels for which the PMIP has been paid or the special tax obligation has been satisfied.

## **Assignment of Maximum Annual Special Tax**

**Section 4** of the RMA describes in detail the precise method for assigning the maximum annual special tax to parcels in the CFD. The RMA assigns a total maximum annual special tax to residential parcels based on the number of planned residential units assigned to such parcels.

**Table 4 (Attachment 1** in the RMA) shows the original parcel numbers for each

builder/developer and the total number of planned residential units assigned to each owner/builder. In the case of Milpitas Station and Barry Swenson, there are multiple original parcels but planned residential units are not assigned to each original parcel. As subdivision maps are finalized, the CFD administrator will assign planned residential units to "successor parcels" created by the subdivision map. The total number of planned residential units assigned to a successor parcel is multiplied by the maximum annual special tax per planned unit to derive the maximum annual special tax for the successor parcel(s).

As building permits are issued to parcels, the CFD administrator will identify the parcels for which building permits have been issued and reclassify such parcels as tax-exempt parcels. The CFD administrator must identify those parcels that have "remaining" planned residential units assigned to them and each fiscal year classify these units as "unpaid" units. These unpaid units are taxable and the maximum annual special tax for each original or successor parcel is determined each year by multiplying the maximum annual special tax per planned unit times the number of unpaid units assigned to a parcel.

The CFD administrator will update **Attachment 1 (Table 4)** in this report) each fiscal year with new Assessor Parcel Numbers, remaining residential units, and maximum annual special tax per parcel.

## **Tax Levy Base Year for Special Tax**

The tax levy base year is fiscal year beginning July 1 of the year that is seven years from the completion date of the authorized facilities.

## **Tax Escalation Factor for Special Tax**

The maximum annual special tax does not increase in any fiscal year.

## **Setting the Special Tax Levy for Taxable Parcels**

To determine the annual levy, the administrator will use the process presented in **Section 5** of the Special Tax Formula and shown below:

Compute the annual costs using the definitions in **Section 2** of the RMA:

Step 1: Compute 100 percent of the maximum annual special tax revenue for all taxable parcels.

Step 2: Compare the annual costs with the maximum annual special tax revenue calculated in the previous step.

Step 3: If the annual costs are less than the maximum annual special tax revenue, decrease proportionately the special tax levy for each developed parcel until the revenue from the special tax levy equals the annual costs.

**Table 4**  
**Community Facilities District No. 2013-1 (Piper Montague)**  
**Maximum Annual Special Tax for Taxable Parcels**

<b>Original Parcel</b>	<b>Developer</b>	<b>Planned Residential Units</b>	<b>Maximum Annual Special Tax per Planned Unit</b>	<b>Maximum Annual Special Tax per Original Parcel</b>
086-32-044	Citation	732	\$800	\$585,600
086-32-046 086-32-039 086-32-045 086-32-048 086-32-047	Milpitas Station	303	\$1,200	\$363,600
086-32-042 086-32-043	Barry Swenson	400	\$1,000	\$400,000
<b>Totals</b>		<b>1,435</b>		<b>\$1,349,200</b>

"att1"

Sources: Santa Clara County Assessor and City of Milpitas.

## **Prepayment of the Special Tax Obligation**

The special tax obligation is satisfied when the PMIP has been paid for a parcel in the CFD. Parcels that remain taxable if and/or when the CFD is "activated", may satisfy the special tax obligation either (i) prepaying all remaining PMIP fees for the parcels in question, or (ii) by prepaying an amount sufficient to fully satisfy the special tax obligation. **Section 7** of the RMA provides two methods by which the special tax obligation may be satisfied, the first method assumes CFD bonds have not been issued, and the second one assumes bonds are issued.

If CFD bonds have not been issued and a parcel has become subject to the annual special tax levy, the special tax obligation may be satisfied by paying the maximum annual special tax for the number of years remaining (of the five) for which special taxes have not yet been levied. If CFD bonds have been issued, the CFD administrator will use the provisions of **Section 7** to calculate a parcel's proportionate share of the outstanding bonds that a parcel must prepay.

A parcel may become subject to an annual special tax levy, but then when a builder seeks to take out a building permit for residential uses, the builder will pay all or a portion of the PMIP fee, thereby satisfying the special tax obligation. The City shall grant a parcel credit towards the PMIP fee for special taxes levied and collected from the parcel in previous fiscal years, net of administrative expenses and interest.

## **Manner of Collection**

The special tax will be collected in the same manner and at the same time as ad valorem property taxes. As specified in **Section 9** of the Special Tax Formula, the administrator or its designee may directly bill the special tax and may collect the special tax at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the City's financial obligations.

## **Interpretation, Application, and Appeal of Special Tax Formula and Procedures**

Any taxpayer who feels that the amount of the special tax assigned to a parcel is in error may file a notice with the Administrator appealing the levy of the special tax. The Administrator will then promptly review the appeal and, if necessary, meet with the applicant. If the Administrator verifies that the tax should be modified or changed, the special tax levy will be corrected and, if applicable in any case, a credit on a subsequent annual tax levy or a refund will be granted.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the special tax rate, the method of apportionment, the classification of properties, or any definition applicable to the CFD.

Without Council approval, the Administrator may make minor, non-substantive administrative and technical changes to the provisions of the RMA that do not materially affect the RMA for purposes of administrative efficiency or convenience or to comply with new applicable federal, state, or local law.

The Administrator will make every effort to correctly calculate the special tax for each parcel. It will be the burden of the taxpayer to correct any errors in the determination of the parcels subject to the tax and their special tax assignments.



**EXHIBITS:**

- Exhibit A: Rate, Method of Apportionment, and  
Manner of Collection of Special Tax
- Appendix B: List of Authorized Facilities

## APPENDIX A:

### Rate, Method of Apportionment, and Manner of Collection of Special Tax



# Exhibit A

City of Milpitas

Community Facilities District No. 2013-1 (Piper Montague)

## DRAFT RATE, METHOD OF APPORTIONMENT, AND MANNER OF COLLECTION OF SPECIAL TAX

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### 1. Basis of Special Tax Levy

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 applicable to the land in the Community Facilities District No. 2013-1 (Piper Montague) of the City of Milpitas (City) shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate, as described below.

### 2. Definitions

“**Act**” means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following, of the California Government Code.

“**Administrative Expenses**” means the actual or reasonably estimated costs related to the administration of the Community Facilities District (CFD), including these (to the extent they are applicable):

- a. Costs of computing Special Taxes and preparing annual Special Tax collection schedules (whether by the City or any designee thereof or both).
- b. Costs of collecting the Special Taxes (whether by the County, the City, or otherwise).
- c. Costs of remitting the Special Taxes to the Trustee.
- d. Costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Bond Indenture.
- e. Costs to the City, CFD, or any designee thereof of complying with arbitrage rebate requirements.
- f. Costs to the City, CFD, or any designee thereof of complying with City, CFD, or obligated persons disclosure requirements.
- g. Costs associated with preparing Special Tax disclosure statements.
- h. Costs incurred in responding to public inquiries regarding the Special Taxes.
- i. Costs to the City, CFD, or designee thereof related to any appeal of the Special Tax.
- j. Costs associated with the release of funds from an escrow account, if any.

- k. Costs to the City for the issuance of bonds authorized by this CFD that are not recovered through the bond sale proceeds.
- l. Amounts estimated to be advanced or advanced by the City for any other administrative purposes, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.
- m. Costs associated with the review and updates of financing plans, engineering and planning studies, and the recalculation of the Special Tax rates.

"**Administrator**" means the Finance Director of the City, or his or her designee.

"**Annual Costs**" means, for any Fiscal Year, the total of these:

- a. Debt Service OR Annualized Costs of Remaining Unpaid Units to be paid from Special Taxes.
- b. Administrative Expenses for such Fiscal Year.
- c. The amount needed to replenish the reserve fund for the Bonds to the level required under the Bond Indenture, as needed.
- d. The amount needed to fund current Special Tax delinquencies from previous Fiscal Years and anticipated delinquencies for the current Fiscal Year. Collections from prior delinquencies should be first used to offset the amount needed for current and future delinquencies.
- e. Less any available earnings on the reserve fund, Special Tax funds, or any other available revenues of the CFD or the City that may be used to fund Annual Costs.

"**Annualized Costs of Remaining Unpaid Units**" means the amount of Maximum Annual Special Tax per Planned Residential Unit assigned to a Taxable Parcel.

"**Assessor's Parcel Number**" means the Parcel or parcel number as recorded by the County Assessor on the equalized tax roll.

"**Authorized Facilities**" means those facilities to be financed as identified in the resolution forming the CFD. Authorized Facilities are further defined as those improvements defined as Shared Infrastructure Improvements and Storm Water Facilities in the Cost Sharing and Reimbursement Agreement.

"**Benefit Share**" means the Maximum Annual Special Tax for a Parcel divided by the Maximum Annual Special Tax Revenue.

"**Bond(s)**" means bond(s) issued or other indebtedness incurred by the City for the CFD under the Act.

"**Bond Indenture**" means the indenture, resolution, fiscal agent agreement, or other financing document pursuant to which any Bonds are issued.

"**Bond Reserve Fund**" means the Debt Service reserve fund established pursuant to the Bond Indenture.

"**Bond Share**" means the share of Bonds assigned to a Parcel as specified in **Section 7** of this Rate and Method of Apportionment of Special Tax.

“**Building Permit**” means the issuance of a City building permit for the construction of a residential unit or building in the CFD.

“**CFD**” means Community Facilities District No. 2013-1 (Piper Montague) of the City.

“**City**” means the City of Milpitas.

“**Constructing Owner**” means the property owner/developer that constructs Authorized Facilities within the CFD.

“**Cost Sharing and Reimbursement Agreement**” means the agreement entered into by the City and property owners dated September 10, 2009 (Recorded as Document No. 20427520), as amended, within the CFD that defines the Authorized Facilities to be constructed and the method of reimbursement of costs incurred by the Constructing Owner through the Special Taxes of the CFD.

“**Council**” means the City Council of the City.

“**County**” means Santa Clara County.

“**Debt Service**” means the total amount of bond principal, interest, and the scheduled sinking fund payments of the Bonds.

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

“**Initial Completion Date**” means date upon which the City determines that the first phase of Authorized Facilities have been constructed by the Constructing Owner in accordance with the Cost Sharing and Reimbursement Agreement.

“**Maximum Annual Special Tax**” means the maximum amount of the Special Tax that is assigned in a Fiscal Year for a Taxable Parcel.

“**Maximum Annual Special Tax Revenue**” means the sum of the Maximum Annual Special Taxes that could be levied in a Fiscal Year on all Taxable Parcels.

“**Original Parcel**” means a Parcel identified in **Attachment 1** at formation of the CFD.

“**Outstanding Bonds**” means the total principal amount of Bonds that have been issued by the CFD and not retired or defeased.

“**Parcel**” means any Assessor’s Parcel Number defining a parcel of land in the CFD based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“**Planned Residential Units**” means the number of Residential Units assigned to Original Parcels, as shown in **Attachment 1**.

“**PMIP**” means the Piper-Montague Infrastructure Payment as defined in the Cost Sharing and Reimbursement Agreement.

“**Prepayment**” means the permanent satisfaction of the Special Tax Obligation. When a Building Permit is issued for a Taxable Parcel within the CFD, the Special Tax Obligation will be permanently satisfied and the Parcel is reclassified as a Tax-Exempt Parcel. If a Taxable Parcel

that has been assigned Unpaid Units receives a request to the City to issue a Building Permit, the Special Tax Obligation must first be satisfied using the provisions of **Section 7**.

**Remaining Planned Residential Units** means the number of Planned Residential Units currently assigned to a Taxable Parcel, *minus* the number of Building Permits issued for the Taxable Parcel during a given Fiscal Year.

**Repayment Period** means the five Fiscal Years that the City will levy a Special Tax against all Unpaid Units remaining beginning in the Tax Levy Base Year.

**Reserve Fund** means the total amount held in the Bond Reserve Fund.

**Reserve Fund Requirement** means the amount required by the Bond Indenture to be held in the Bond Reserve Fund.

**Reserve Fund Share** means the amount on deposit in the Bond Reserve Fund, but in any event not to exceed the Reserve Fund Requirement, multiplied by the Benefit Share for a given Taxable Parcel.

**Residential Unit** means an individual dwelling unit created by the issuance of a City Building Permit. A Building Permit for a single family residential structure would have one Residential Unit. A Building Permits for an apartment building structure would have multiple Residential Units allocated to a Taxable Parcel.

**RMA** means the Rate and Method of Apportionment of the Special Tax.

**Shared Infrastructure TASP Fee Credits** means Transit Area Specific Plan development impact fees granted by the City to a Constructing Owner pursuant to Section 3.2.3 of the Cost Sharing and Reimbursement Agreement.

**Special Tax(es)** mean(s) any tax levy under the Act in the CFD.

**Special Tax Obligation** means the requirement of Taxable Parcels to pay the Special Tax each Fiscal Year until all Annual Costs have been satisfied.

**Subdivision** or **Subdivided** means a division of a Parcel into two or more Parcels through the Subdivision Map Act process. A Subdivision also may include the merging of two or more Parcels to create new Parcels.

**Successor Parcel** means a Parcel created by the Subdivision of an Original Parcel or a Successor Parcel.

**Tax Collection Schedule** means the document prepared by the Administrator for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

**Tax Levy Base Year** means the Fiscal Year beginning July 1 of the year that is seven years from when the Initial Completion Date has occurred.

**Taxable Parcel** means any Parcel that is a Parcel assigned Planned Residential Units, Remaining Planned Residential Units, and/or Unpaid Units.

**Tax-Exempt Parcel** means a Parcel not subject to the Annual Special Tax, such as a Parcel for which a Building Permit has been issued and has paid its PMIP or the Special Tax Obligation.

Tax-Exempt Parcels include Parcels owned by the City, State and Federal governments as well as Parcels owned by a public school or public school district.

“**Trustee**” means a nationally regulated banking association organized and existing under the laws of the United States.

“**Unpaid Unit(s)**” means a Taxable Parcel for which no Building Permit has been issued by July 1 of the Base Year.

### **3. Duration of the Special Tax**

The Special Tax will be levied and collected for as long as it is needed to pay Annual Costs. The Special Tax shall not be levied on any Parcel in the CFD after Fiscal Year 2059–2060.

When all Shared Infrastructure TASP Fee Credits have been reimbursed to the City through either the payment of the PMIP and/or the Special Tax Obligation and Annual Costs have been paid, the Special Taxes under this Special Tax programs shall cease to be levied. The City shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. In addition, the Notice of Cessation of Special Tax shall identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

### **4. Administrative Tasks**

Administrative tasks required of the Administrator are discussed below.

- A. Assignment of the Maximum Annual Special Tax to Original Parcels. The Maximum Annual Special Tax and Planned Residential Units are assigned to Original Parcels at formation of the CFD and are identified by Assessor’s Parcel Number in **Attachment 1**.
- B. Assignment of the Maximum Annual Special Tax to Successor Parcels. As Taxable Parcels in the CFD are Subdivided, the Administrator will perform the following tasks after each Subdivision:
  - Step 1: Identify the Parcel or Parcels that are included in the Subdivision.
  - Step 2: Sum the total Maximum Annual Special Tax for the Parcel or Parcels to be Subdivided.
  - Step 3: Sum the total Planned Residential Units assigned to the Parcel or Parcels to be Subdivided.
  - Step 4: Using City records, assigned land uses, and City zoning for the Parcels created by the Subdivision, the Administrator shall determine the number of Planned Residential Units to be assigned to each Successor Parcel.
  - Step 5: For each Successor Parcel, divide the number of Planned Residential Units determined for such Parcel in **Step 4** by the sum of Planned Residential Units

for Parcels to be Subdivided determined in **Step 3** to derive the Parcel's percentage share of Planned Residential Units.

Step 6: For each Successor Parcel, multiply the percentage share of Planned Residential Units determined in the previous step by the total Maximum Annual Special Tax determined in **Step 2**.

Update **Attachment 1** with the new Successor Parcels, the associated Assessor's Parcel Number, Planned Residential Unit assignments, and Maximum Annual Special Tax assignments.

C. Determine if Building Permits have been issued for Taxable Parcels of the CFD. As Building Permits are issued for Taxable Parcels, the Administrator will perform the following tasks after each issuance of a Building Permit:

Step 1: Identify the Taxable Parcel for which a Building Permit or Building Permits is to be issued.

Step 2: Determine the number of Planned Residential Units, or Remaining Planned Residential Units assigned to the Taxable Parcel.

Step 3: Determine the number of Residential Units identified in the Building Permit for the Taxable Parcel.

Step 4: Subtract the amount determined in **Step 3** from the amount determined in **Step 2**.

Step 5: If the calculation in **Step 4** results in a positive number, assign this amount as the Remaining Residential Units for the Taxable Parcel.

Step 6: If the calculation in **Step 4** results in an amount equal to zero, the Taxable Parcel has fulfilled the Special Tax Obligation and shall be reclassified as a Tax-Exempt Parcel. The result of the calculation in **Step 4** should not result in a negative amount if the provisions of **Sections 4.A** and **4.B** have been followed properly.

Update **Attachment 1** with the Remaining Planned Residential Units. If the Parcel has been reclassified as a Tax-Exempt Parcel, update the Parcel's status in **Attachment 1** and assign the Parcel a Maximum Annual Special Tax of zero.

D. Determine the Number of Unpaid Units per Taxable Parcel. Each Fiscal Year, determine the number of Unpaid Units assigned to a Taxable Parcel.

Step 1: Identify the number of Planned Residential Units and/or Remaining Planned Residential Units assigned to each Taxable Parcel.

Step 2: For each Planned Residential Units and/or Remaining Planned Residential Units assigned to each Taxable Parcel, assign an Unpaid Unit to the Taxable Parcel.

Step 3: Multiply the number of Unpaid Units assigned to a Parcel in Step 2 times the Maximum Annual Special Tax per Planned Residential Unit as established in

**Sections 4.A and 4.B** above to derive the Maximum Annual Special Tax for the Taxable Parcel.

Update **Attachment 1** with the number of Unpaid Units and the Maximum Annual Special Tax for the Taxable Parcel.

## **5. Assignment of the Maximum Annual Special Tax**

- A. Classification of Parcels. By June 30 of each Fiscal Year, using the Definitions in **Section 2**, above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other City records, the Administrator shall cause each Parcel to be classified as a Taxable Parcel or Tax-Exempt Parcel.
- B. Assignment of the Maximum Annual Special Tax to Taxable Parcels. Using the provisions of **Section 4**, determine the Maximum Special Tax Revenue for all Taxable Parcels by assigning the Maximum Annual Special Tax to each Taxable Parcel.

## **6. Calculating Annual Special Tax Levy**

Beginning in the Tax Levy Base Year and each Fiscal Year thereafter, the Administrator will compute the Annual Costs and determine the Maximum Annual Special Tax for each Taxable Parcel based on the assignment of the Special Tax in **Section 5**. The Administrator then will determine the tax levy for each Taxable Parcel using the following process.

### **Compute Special Tax Levy**

- A. Compute the Annual Costs using the definition in **Section 2**.
- B. Calculate the Special Tax levy for each Taxable Parcel by the following steps:
  - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Taxable Parcels.
  - Step 2: Compare the Annual Costs with the amount calculated in the previous step.
  - Step 3: If the Annual Costs are lower than the amount calculated in **Step 1**, decrease proportionately the Special Tax levy for each Taxable Parcel until the revenue from the Special Tax levy equals the Annual Costs.
- C. Levy on each Taxable Parcel the amount of Special Tax calculated above.

### **Prepare the Tax Collection Schedule**

Prepare the Tax Collection Schedule for the Special Tax levy and, unless an alternative method of collection has been selected pursuant to **Section 8**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule will not be sent later than the date required by the Auditor for such inclusion.

## 7. Prepayment of the Special Tax Obligation

A property owner may permanently satisfy the Special Tax Obligation on a Parcel by Prepayment as permitted under Government Code Section 53344. Prepayment is permitted only under the following conditions:

- The City determines that the Prepayment of the Special Tax does not jeopardize its ability to make timely payments of Debt Service on outstanding Bonds.
- The landowner prepaying the Special Tax on a Parcel has paid any delinquent Special Tax and penalties on that Parcel before Prepayment.

If CFD Bonds have **NOT** been issued, the Prepayment amount shall be established by following the steps below.

- Step 1: Determine the Maximum Annual Special Tax for the Taxable Parcel for which the Special Tax is to be prepaid using the provisions of **Section 4.A** and **4.B**.
- Step 2: Determine if the Maximum Annual Special Tax has been levied in previous Fiscal Years. Determine the number of Fiscal Years in which the Maximum Annual Special Tax has been levied.
- Step 3: Subtract the number of Fiscal Years determined in *Step 2* from 5.
- Step 4: Multiply the Maximum Annual Special Tax times the number of Fiscal Years calculated in *Step 3*. This is the amount of the Prepayment that must be collected to fully satisfy the Special Tax Obligation for the Taxable Parcel.

If CFD Bonds have been issued, the Prepayment amount shall be established by following the steps below.

- Step 1 Determine the Maximum Annual Special Tax for the prepaying Parcel by following the procedures in **Section 5**.
- Step 2 Divide the Maximum Annual Special Tax from *Step 1* by the Maximum Annual Special Tax Revenue to derive the Benefit Share.
- Step 3 Determine the Bond Share for the Parcel by multiplying the Benefit Share from *Step 2* by the Outstanding Bonds. For the purpose of the calculation, reduce the Outstanding Bond balance by the amount of the principal payment for which Special Taxes have been levied but not collected.
- Step 4 Determine the Reserve Fund Share associated with the Bond Share determined in *Step 3* and reduce the Bond Share by the amount of the Reserve Fund Share. The Reserve Fund Share is calculated using the Reserve Fund Requirement on all Outstanding Bonds or the actual Reserve Fund, whichever is less, multiplied by the Benefit Share.
- Step 5 Determine the Prepayment amount by adding to the revised Bond Share amount calculated in *Step 4* any fees, call premiums, and expenses incurred by the City in connection with the Prepayment calculation or the application of the proceeds of

the Prepayment to the call of Bonds. If Special Taxes have already been levied, but not collected, at the time the Prepayment is calculated, the owner of the Parcel must pay the Special Taxes included on the property tax bill in addition to the Prepayment amount.

## **8. Interpretation, Application, and Appeal of Special Tax Formula and Procedures**

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the Administrator appealing the levy of the Special Tax. The Administrator will then promptly review the appeal and, if necessary, meet with the applicant. If the Administrator verifies that the tax should be modified or changed, the Special Tax levy will be corrected and, if applicable in any case, a credit on a subsequent annual tax levy or a refund will be granted.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties, or any definition applicable to the CFD.

Without Council approval, the Administrator may make minor, non-substantive administrative and technical changes to the provisions of this Exhibit that do not materially affect the RMA for purposes of administrative efficiency or convenience or to comply with new applicable federal, state, or local law.

The Administrator will make every effort to correctly calculate the Special Tax for each Parcel. It will be the burden of the taxpayer to correct any errors in the determination of the Parcels subject to the tax and their Special Tax assignments.

## **9. Manner of Collection**

The Special Taxes will be collected in the same manner and at the same time as ad valorem property taxes, provided, however, that the Administrator or its designee may directly bill the Special Taxes and may collect the Special Taxes at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the City's financial obligations.





**APPENDIX B:**  
**List of Authorized Facilities**

## EXHIBIT B

Community Facilities District No. 2013-1 (Piper Montague)  
City of Milpitas, California

### LIST OF AUTHORIZED FACILITIES

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Authorized facilities are Shared Infrastructure Improvements and Storm Water Facilities, as identified in the Cost Sharing and Reimbursement Agreement entered in to by the City and property owners dated September 10, 2009 (Recorded as Document No. 20427520).

#### **Other Expenses of the CFD**

In addition to the above facilities, other incidental expenses as authorized by the Mello-Roos Community Facilities Act of 1982, including, but not limited to, the cost of planning and designing the facilities (including the cost of environmental evaluation and environmental remediation); engineering and surveying; construction staking; utility relocation and demolition costs incidental to the construction of the public facilities; costs of project/construction management; costs (including the costs of legal services) associated with the creation of the Mello-Roos CFD; issuance of bonds; determination of the amount of taxes, collection of taxes; payment of taxes; or costs otherwise incurred in order to carry out the authorized purposes of the CFD; and any other expenses incidental to the formation and implementation of the CFD and to the construction, completion, inspection and acquisition of the authorized facilities.