

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, ADOPTING BOUNDARY MAP SHOWING TERRITORY PROPOSED TO BE AUTHORIZED TO BE ANNEXED IN THE FUTURE TO COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

WHEREAS, the City Council of the City Of Milpitas (“City Council”) desires to initiate proceedings to authorize the annexation in the future of certain territory to Community Facilities District No. 2008-1 (Public Services) (the “District”) pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”); and

WHEREAS, there has been submitted a map showing the territory proposed to be authorized to be annexed in the future to the District, such territory to be designated as Future Annexation Area, Community Facilities District No. 2008-1 (Public Services) (the "Future Annexation Area").

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

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. Approval of Future Annexation Area Map. The map showing the property and territory proposed to be authorized to be annexed in the future to the District and to be subject to the special tax to be levied is hereby approved and adopted. Said map is designated as “Future Annexation Area, Community Facilities District No. 2008-1 (Public Services), City of Milpitas, County of Santa Clara, State of California” (the “Future Annexation Area Map”) and is attached hereto as **Exhibit A** and incorporated herein by this reference.
3. Recordation of Future Annexation Area Map. A certificate shall be endorsed on the original and on at least one (1) copy of the map of the Future Annexation Area, evidencing the date and adoption of this Resolution, and within fifteen (15) days after the adoption of the Resolution fixing the time and place of the hearing on the establishment or extent of such Future Annexation Area, a copy of such map shall be filed with the correct and proper endorsements thereon with the County Recorder, all in the manner and form provided for in Sections 3110 and 3111 of the Streets and Highways Code of the State of California.
4. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2016, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

EXHIBIT "A"

**BOUNDARIES OF FUTURE ANNEXATION AREA,
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(Public Services),
MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA**



FUTURE ANNEXATION AREA BOUNDARY MAP
COMMUNITY FACILITIES DISTRICT 2008-1 (PUBLIC SERVICES)
CITY OF MILPITAS
SANTA CLARA COUNTY
STATE OF CALIFORNIA

FILED IN THE OFFICE OF THE CLERK OF THE CITY OF MILPITAS
THIS ____ DAY OF _____, 2016.

MARY LAVELLE, CITY CLERK

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED FUTURE ANNEXATION AREA BOUNDARIES OF COMMUNITY FACILITIES DISTRICT 2008-1, 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 THEREFORE, HELD ON THE ____ DAY OF _____ 2016, BY RESOLUTION NO. ____.

MARY LAVELLE, CITY CLERK

FILED THIS ____ DAY OF _____, 20____, AT THE HOUR OF ____ O'CLOCK ____M. IN BOOK ____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE ____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

COUNTY RECORDER OF THE COUNTY OF SANTA CLARA



Scale: 1"=500'

Legend

-  Initial Formation Area of CFD 2008-1
-  Previously Annexed to CFD 2008-1
-  Future Annexation Area of CFD 2008-1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, DECLARING INTENTION TO AUTHORIZE THE ANNEXATION IN THE FUTURE TO COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

WHEREAS, the City Council of the City of Milpitas (“City Council”), desires to initiate proceedings to authorize the annexation in the future of certain territory to Community Facilities District No. 2008-1 (Public Services) (the “District”) pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”); and

WHEREAS, it is determined to be within the public interest and convenience to establish a procedure to allow and provide for future annexations to the District and further to specify the amount of special tax that would be levied and set forth the terms and conditions for certification of any annexation in the future; and

WHEREAS, the territory proposed to be authorized to be annexed in the future shall be known and designated as Future Annexation Area, Community Facilities District No. 2008-1 (Public Services) (the “Future Annexation Area”), and a map designated as “Future Annexation Area, Community Facilities District No. 2008-1 (Public Services), City of Milpitas, County of Santa Clara, State of California” (the “Future Annexation Area Boundary Map”) showing the territory proposed to be authorized to be annexed in the future has been previously submitted and approved and a copy thereof shall be kept on file with the transcript of these proceedings.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

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. Authorization. These proceedings for future annexations are authorized and initiated by this legislative body pursuant to the authorization of the Act and specifically Section 53339.2 of the Government Code of the State of California.
3. Public Convenience and Necessity. The City Council hereby determines that the public convenience and necessity requires a procedure to allow and authorize territory to be annexed in the future to the District in order to finance the Public Services for the territory that may be annexed to the District.
4. Boundaries of the District and the Future Annexation Area. A general description of the territory included in the District is hereinafter described as follows:

All that property and territory as previously included within District as originally established or as annexed thereto, as said property was shown on a map or maps as approved by this City Council, a copy or copies of which is on file in the Office of the City Clerk and shall remain open for public inspection.

A description of the boundaries and territory proposed to be authorized to be annexed in the future includes all that territory shown on the Future Annexation Area Boundary Map, a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection.

5. Name of the District and Future Annexation Area. The name of the District is the City of Milpitas Community Facilities District No. 2008-1 (Public Services) and the designation for the Future Annexation Area shall be Future Annexation Area, City of Milpitas Community Facilities District No. 2008-1 (Public Services).

6. Description of the Public Services. It is the intention of the City Council to finance the public services described in Exhibit A hereto (the "Public Services"). The Public Services that are authorized to be financed by the District from the proceeds of special taxes levied within the Future Annexation Area are certain services which are in addition to those currently provided in or required for the territory within the Future Annexation Area and will not be replacing public services already available.

The same types of Public Services which are authorized to be financed by the District from the proceeds of special taxes levied within the District are the types of Public Services to be provided in the territory within the Future Annexation Area. If and to the extent possible, such services shall be provided in common within the District and the Future Annexation Area.

The District shall finance all direct, administrative and incidental annual costs and expenses necessary to provide such Public Services ("Incidental Expenses").

7. Special Taxes. It is hereby further proposed that, except where funds are otherwise available, a special tax sufficient to finance the Public Services for the territory of the Future Annexation Area upon the annexation of such territory to the District and related Incidental Expenses authorized by the Act, secured by recordation of a continuing lien against all non-exempt territory in the Future Annexation Area that annexes to the District, will be levied annually within the boundaries of such territory upon the annexation thereof to the District. For further particulars as to the rates and method of apportionment of the proposed Special Tax (the "Rate and Method of Apportionment"), reference is made to the attached and incorporated Exhibit B, which sets forth in sufficient detail the rates and method of apportionment of the Special Tax to allow each landowner or resident within the territory in the proposed Future Annexation Area to clearly estimate the maximum amount of the Special Tax that such person will have to pay upon the annexation of such territory to the District. The Special Tax for any parcel may not be prepaid and permanently satisfied.

Notwithstanding the foregoing, if the actual cost of the Public Services applicable to any parcel within the proposed Future Annexation Area is higher or lower than the cost of the Public Services applicable to the parcels within the existing District, a higher or lower Special Tax may be levied on such parcel within the proposed Future Annexation Area subject to the unanimous approval and election of the owner or owners of such parcel. In any such circumstance, the Rate and Method of Apportionment may be revised to reflect the higher or lower Special Tax, as applicable.

The Special Tax herein proposed, to the extent possible, shall be collected in the same manner as ad valorem property taxes or in such other manner as the City Council or its designee shall determine, including, without limitation, direct billing of the affected property owners, and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency as applicable for ad valorem taxes. Any Special Tax that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer of the City of Milpitas (the "City"), acting for and on behalf of the District.

Pursuant to Government Code Section 53340 and except as provided in Government Code Section 53317.3, properties of entities of the State, federal, and local governments shall be exempt from the levy of the Special Tax.

8. Effective Date of Future Annexation. Annexation of any parcel in the Future Annexation Area to the District in the future shall be effective only upon the unanimous approval and election of the owner or owners of any such parcel authorizing the levy of the Special Tax upon such parcel following the annexation of such parcel to District, and no further public hearings or additional proceedings will be required to accomplish such annexation.

9. Public Hearing. Notice is given that on November 1, 2016 at 7:00 p.m., or as soon thereafter as the public hearing may be called, in the regular meeting place of the City Council of the City of Milpitas, being the Council Chambers, City Hall, located at 455 East Calaveras Blvd., Milpitas, California, a public hearing will be held where the City Council will consider the authorization for annexation of certain territory in the future to the District, the proposed method and apportionment of the Special Tax to be levied within said proposed Future Annexation Area upon the annexation thereof to the District, and all other matters as set forth in this Resolution of intention. Any interested persons may appear and be heard, and written protests shall be filed on or before the time fixed for the public hearing.

10. Notice. Notice of the time and place of the public hearing shall be given by the City Clerk by causing the publication of a Notice of Public Hearing in the legally designated newspaper of general circulation, such publication pursuant to Section 6061 of the Government Code, with such publication to be completed at least seven (7) days prior to the date set for the public hearing.

11. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTESTED:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

EXHIBIT A

DESCRIPTION OF SERVICES

The community facilities district is established to finance any one or more of the following types of services within the District:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance and lighting of parks, parkways, streets, roads, street landscaping, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

**City of Milpitas
Community Facilities District No.2008-1
(Public Services)
Santa Clara County, California**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

City of Milpitas
Community Facilities District No. 2008-1
(Public Services)
Santa Clara County, California

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 (Act) applicable to the land in the Community Facilities District No. 2008-1 (Public Services) (CFD) 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 estimated costs incurred by the City to form the CFD and to determine, levy, and collect the Special Taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the costs of collecting installments of the Special Taxes on the general tax rolls, preparation of required reports, and any other costs required to administer the CFD as determined by the City.

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

“Affordable Housing” means a Dwelling Unit on a Developed Parcel that is subject to deed restrictions, resale restrictions, or regulatory agreements recorded on the property that provide housing for persons that meet Low-, Very Low-, or Extremely Low-Income levels pursuant to the California Health and Safety Code Sections 5079.5, 50105, or 50106. The Dwelling Unit shall no longer be considered Affordable Housing following termination of the agreement containing covenants or similar instruments.

“Annexation Parcel” means any Parcel that is annexed to the CFD after it is formed.

“Annual Costs” means for each Fiscal Year, the total of (1) Authorized Services, (2) Administrative Expenses, and (3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

“Authorized Services” mean those services, as listed in the resolution forming the CFD.

“Base Year” means the Fiscal Year beginning July 1, 2009 and ending June 30, 2010.

“Certificate of Occupancy” means a permit issued by the City authorizing the occupancy of a Dwelling Unit.

“CFD” means the Community Facilities District No. 2008-1 (Public Services) of the City of Milpitas, Santa Clara County, California.

“City” means the City of Milpitas in Santa Clara County, California.

“Council” means the City Council of the City of Milpitas acting for the CFD under the Act.

“County” means the County of Santa Clara, California.

“County Assessor’s Parcel” means a lot or Parcel with an assigned Assessor’s Parcel Number in the maps used by the County Assessor in the preparation of the tax roll.

“County Median Income” means the current median income for the County as determined by the U.S. Department of Housing and Urban Development, or successor agency as published annually by the State Department of Housing and Community Development pursuant to the Health and Safety Code Section 50093 et. seq.

“Developed Parcel” means a Parcel that has Certificate of Occupancy for residential land uses issued after January 1, 2009.

“Dwelling Unit(s)” means the number of taxable developed residential unit(s) assigned to a Parcel, or a portion thereof, by the Administrator.

“Extremely Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 30 percent of the County Median Income.

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

“Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel for Affordable Housing for households with incomes at or below 80 percent of the County Median Income.

“Market Rate” means a Dwelling Unit located on a Developed Parcel that is not Affordable Housing.

“Maximum Annual Special Tax” means the greatest amount of Special Tax that can be levied against a Developed Parcel calculated by summing the Maximum Annual Special Tax Rate for each Dwelling Unit and Tax Category assigned to a Developed Parcel.

“Maximum Annual Special Tax Rate per Unit” means the amount shown in **Attachment 1** for a Fiscal Year that is assigned to a Dwelling Unit by Tax Category.

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

“Parcel Number” means the Assessor’s Parcel Number for any Parcel based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“Public Parcel” means any Parcel, in its entirety, that is or is intended to be publicly owned that is normally exempt from the levy of general ad valorem property taxes under California law, including public streets, schools, parks, public drainageways, public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel will be a Tax-Exempt Parcel.

“Second-Family Unit” means an attached or detached additional residential dwelling unit on a single-family residential Developed Parcel. The Second-Family Unit is not considered a Dwelling Unit in terms of assigning the Maximum Annual Special Tax.

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

“Tax Category” means the four categories of housing Dwelling Units shown in **Attachment 1**.

“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 Escalation Factor” means an annual percentage increase in the Maximum Annual Special Tax Rate per Unit based on the Consumer Price Index (CPI) (as of February, San Francisco, All Urban Consumers [CPI-U] Index), the CPI (prior calendar year annual average, San Francisco, All Urban Wage Earners and Clerical Workers), or 2 percent, whichever is greater. The Tax Escalation Factor is applied in each Fiscal Year following the Base Year.

“Taxable Parcel” means any Parcel that is not a Tax-Exempt Parcel.

“Tax-Exempt Parcel” means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth in **Section 4**, below), Undeveloped Parcels, and nonresidential use parcels, such as commercial, office, retail, industrial, etc.

“Undeveloped Parcel” means a Parcel that is not a Developed Parcel.

“Very Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 50 percent of the County Median Income.

3. DURATION OF THE SPECIAL TAX

Parcels in the CFD will remain subject to the Special Tax in perpetuity.

If the Special Tax ceases to be levied, the City will 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. The Notice of Cessation of Special Tax, in addition, will 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. ASSIGNMENT OF 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 development approval records, the Administrator shall cause these:
1. Each Parcel to be classified as a Developed Parcel or Tax-Exempt Parcel.
 2. Each Developed Parcel to be assigned a number of Dwelling Units.
 3. Each Dwelling Unit to be further classified as Market Rate, Low-Income Affordable, Very Low-Income Affordable, or Extremely Low-Income Affordable.
- B. Assignment of Maximum Annual Special Tax. **Attachment 1** shows the Base Year Maximum Annual Special Tax Rates per Unit. Each Fiscal Year following the Base Year, the Maximum Annual Special Tax Rate per Unit may be increased in accordance with the Tax Escalation Factor.

The Maximum Annual Special Tax is then assigned to Taxable Parcels using the steps below:

1. **Developed Parcels.** Dwelling Units are assigned by the Administrator by Tax Category (as shown in **Attachment 1**) to Developed Parcels. The Maximum Annual Special Tax for each Developed Parcel is the sum of the Maximum Annual Special Tax Rates per Unit (as increased by the Tax Escalation Factor each Fiscal Year after the Base Year) for each Dwelling Unit (and Tax Category assigned thereto).
 2. **Undeveloped Parcels.** Undeveloped Parcels are Tax-Exempt Parcels until developed as one of the residential uses discussed above.
- C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel will be assigned according to the **Section 4.A** and **Section 4.B** above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. CALCULATING ANNUAL SPECIAL TAXES

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 4**. The Administrator will then determine the tax levy for each Taxable Parcel using the following process:

- A. Compute the Annual Costs using the definition of Annual Costs in **Section 2**.
- B. Calculate the Special Tax levy for each Developed Parcel by the following steps:
 - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Developed 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 lower 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.
- C. Levy on each Taxable Parcel the amount calculated above.
- D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, 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.

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.

6. RECORDS MAINTAINED FOR THE CFD

As development and subdivision occurs in the CFD, the Administrator will maintain a file containing records of the following information for each Parcel:

- The current County Assessor's Number.
- Number of Dwelling Units assigned by the Administrator to Developed Parcels.
- The Tax Category for each Dwelling Unit assigned to a Developed Parcel.

The file containing the information listed above will be available for public inspection.

7. 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 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 rate, method of apportionment, and manner of collection of the Special tax for purposes of the administrative efficiency or convenience or to comply with new applicable federal, state or local law.

8. PREPAYMENT OF THE SPECIAL TAX OBLIGATION

The Maximum Annual Special Tax for a Taxable Parcel may not be prepaid. The Special Tax is collected to fund Authorized Services in perpetuity, or until the Council determines that the Special Tax should no longer be collected.

9. MANNER OF COLLECTION

The Special Tax 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 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.

**Attachment 1
City of Milpitas
CFD No. 2008-1 (Public Services)
Maximum Annual Special Tax Rates Per Unit Base Year 2009-2010**

Dwelling Unit Tax Category	Maximum Annual Special Tax Rate Per Unit
	[1]
Market Rate	\$510
Low-Income Residential [2]	\$408
Very Low-income Residential [3]	\$255
Extremely Low-Income Residential	\$0

"att_1"

[1] May be increased by the Tax Escalation Factor in each Fiscal Year after the Base Year 2009-2010.

[2] Initially set at 80% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[3] Initially set at 50% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[4] Initially set at 0% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.



Fees.... * No Fees
Taxes...
Copies...
AMT PAID

Recording Requested By and
When Recorded Mail to:

CITY OF MILPITAS
Attention: City Clerk
455 East Calaveras Blvd
Milpitas, California 95035

REGINA ALCOMENDRAS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
City

RDE # 003
1/15/2009
10:10 AM

NOTICE OF SPECIAL TAX LIEN

**CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)
FORMATION**

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned City Clerk of the City of Milpitas, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the City Council of the City of Milpitas, State of California. The special tax secured by this lien is authorized to be levied for the purpose of financing the services described on Exhibit A attached hereto and incorporated herein and to pay any other related incidental costs or expenses authorized by law.

The special tax is authorized to be levied within the City of Milpitas, Community Facilities District 2008-1 (Public Services), which has now been officially formed. The lien of the special tax is a continuing lien that shall secure each annual levy of the special tax and that shall continue in force and effect until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as set forth in Exhibit B attached hereto and incorporated herein. No provision has been made under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled.

Notice is further given that, upon the recording of this notice in the office of the county recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the Community Facilities District No. 2008-1 in accordance with Section 3115.5 of the Streets and Highways Code.

The names of the owners and the assessor's tax parcel numbers of the real property included within the Community Facilities District No. 2008-1 and not exempt from the special tax are shown on Exhibit C.

Reference is made to the boundary map of the Community Facilities District No. 2008-1 recorded on October 30, 2008, in Book 44 of maps of Assessment and Community Facilities

Districts at page 30 in the office of the County Recorder for the County of Santa Clara, State of California, which map is now the final boundary map of the Community Facilities District No. 2008-1.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the Office of the Finance Director, City of Milpitas, at (408) 586-3000.

Dated: January 14, 2009

City of Milpitas

By: Mary h Lovelle
City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Santa Clara

On 1-14-09 before me, Donna Biles, Notary Public
Date Here insert Name and Title of the Officer

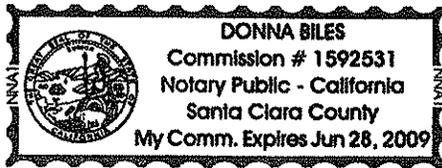
personally appeared Mary A. Couille
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Donna Biles
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Notice of Special Tax Lien

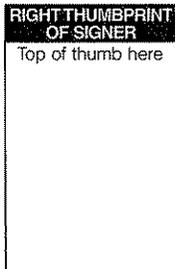
Document Date: 1-14-09 Number of Pages: 14

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Mary A. Couille

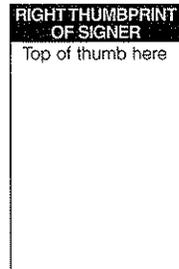
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: Self

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

EXHIBIT A

DESCRIPTION OF SERVICES

The community facilities district is established to finance any one or more of the following types of services within the District:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance and lighting of parks, parkways, streets, roads, street landscaping, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

**City of Milpitas
Community Facilities District No.2008-1
(Public Services)
Santa Clara County, California**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

City of Milpitas
Community Facilities District No. 2008-1
(Public Services)
Santa Clara County, California

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 (Act) applicable to the land in the Community Facilities District No. 2008-1 (Public Services) (CFD) 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 estimated costs incurred by the City to form the CFD and to determine, levy, and collect the Special Taxes, including compensation of City employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel, the costs of collecting installments of the Special Taxes on the general tax rolls, preparation of required reports, and any other costs required to administer the CFD as determined by the City.

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

“Affordable Housing” means a Dwelling Unit on a Developed Parcel that is subject to deed restrictions, resale restrictions, or regulatory agreements recorded on the property that provide housing for persons that meet Low-, Very Low-, or Extremely Low-Income levels pursuant to the California Health and Safety Code Sections 5079.5, 50105, or 50106. The Dwelling Unit shall no longer be considered Affordable Housing following termination of the agreement containing covenants or similar instruments.

“Annexation Parcel” means any Parcel that is annexed to the CFD after it is formed.

“Annual Costs” means for each Fiscal Year, the total of (1) Authorized Services, (2) Administrative Expenses, and (3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

“Authorized Services” mean those services, as listed in the resolution forming the CFD.

“Base Year” means the Fiscal Year beginning July 1, 2009 and ending June 30, 2010.

“Certificate of Occupancy” means a permit issued by the City authorizing the occupancy of a Dwelling Unit.

“CFD” means the Community Facilities District No. 2008-1 (Public Services) of the City of Milpitas, Santa Clara County, California.

“City” means the City of Milpitas in Santa Clara County, California.

“Council” means the City Council of the City of Milpitas acting for the CFD under the Act.

“County” means the County of Santa Clara, California.

“County Assessor’s Parcel” means a lot or Parcel with an assigned Assessor’s Parcel Number in the maps used by the County Assessor in the preparation of the tax roll.

“County Median Income” means the current median income for the County as determined by the U.S. Department of Housing and Urban Development, or successor agency as published annually by the State Department of Housing and Community Development pursuant to the Health and Safety Code Section 50093 et. seq.

“Developed Parcel” means a Parcel that has Certificate of Occupancy for residential land uses issued after January 1, 2009.

“Dwelling Unit(s)” means the number of taxable developed residential unit(s) assigned to a Parcel, or a portion thereof, by the Administrator.

“Extremely Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 30 percent of the County Median Income.

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

“Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel for Affordable Housing for households with incomes at or below 80 percent of the County Median Income.

“Market Rate” means a Dwelling Unit located on a Developed Parcel that is not Affordable Housing.

“Maximum Annual Special Tax” means the greatest amount of Special Tax that can be levied against a Developed Parcel calculated by summing the Maximum Annual Special Tax Rate for each Dwelling Unit and Tax Category assigned to a Developed Parcel.

“Maximum Annual Special Tax Rate per Unit” means the amount shown in **Attachment 1** for a Fiscal Year that is assigned to a Dwelling Unit by Tax Category.

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

“Parcel Number” means the Assessor’s Parcel Number for any Parcel based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“Public Parcel” means any Parcel, in its entirety, that is or is intended to be publicly owned that is normally exempt from the levy of general ad valorem property taxes under California law, including public streets, schools, parks, public drainageways, public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel will be a Tax-Exempt Parcel.

“Second-Family Unit” means an attached or detached additional residential dwelling unit on a single-family residential Developed Parcel. The Second-Family Unit is not considered a Dwelling Unit in terms of assigning the Maximum Annual Special Tax.

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

“Tax Category” means the four categories of housing Dwelling Units shown in **Attachment 1**.

“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 Escalation Factor” means an annual percentage increase in the Maximum Annual Special Tax Rate per Unit based on the Consumer Price Index (CPI) (as of February, San Francisco, All Urban Consumers [CPI-U] Index), the CPI (prior calendar year annual average, San Francisco, All Urban Wage Earners and Clerical Workers), or 2 percent, whichever is greater. The Tax Escalation Factor is applied in each Fiscal Year following the Base Year.

“Taxable Parcel” means any Parcel that is not a Tax-Exempt Parcel.

“Tax-Exempt Parcel” means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth in **Section 4**, below), Undeveloped Parcels, and nonresidential use parcels, such as commercial, office, retail, industrial, etc.

“Undeveloped Parcel” means a Parcel that is not a Developed Parcel.

“Very Low-Income Affordable” means a Dwelling Unit located on a Developed Parcel that is Affordable Housing for households with incomes at or below 50 percent of the County Median Income.

3. DURATION OF THE SPECIAL TAX

Parcels in the CFD will remain subject to the Special Tax in perpetuity.

If the Special Tax ceases to be levied, the City will 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. The Notice of Cessation of Special Tax, in addition, will 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. ASSIGNMENT OF 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 development approval records, the Administrator shall cause these:
1. Each Parcel to be classified as a Developed Parcel or Tax-Exempt Parcel.
 2. Each Developed Parcel to be assigned a number of Dwelling Units.
 3. Each Dwelling Unit to be further classified as Market Rate, Low-Income Affordable, Very Low-Income Affordable, or Extremely Low-Income Affordable.
- B. Assignment of Maximum Annual Special Tax. **Attachment 1** shows the Base Year Maximum Annual Special Tax Rates per Unit. Each Fiscal Year following the Base Year, the Maximum Annual Special Tax Rate per Unit may be increased in accordance with the Tax Escalation Factor.

The Maximum Annual Special Tax is then assigned to Taxable Parcels using the steps below:

1. **Developed Parcels.** Dwelling Units are assigned by the Administrator by Tax Category (as shown in **Attachment 1**) to Developed Parcels. The Maximum Annual Special Tax for each Developed Parcel is the sum of the Maximum Annual Special Tax Rates per Unit (as increased by the Tax Escalation Factor each Fiscal Year after the Base Year) for each Dwelling Unit (and Tax Category assigned thereto).
 2. **Undeveloped Parcels.** Undeveloped Parcels are Tax-Exempt Parcels until developed as one of the residential uses discussed above.
- C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel will be assigned according to the **Section 4.A** and **Section 4.B** above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. CALCULATING ANNUAL SPECIAL TAXES

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 4**. The Administrator will then determine the tax levy for each Taxable Parcel using the following process:

- A. Compute the Annual Costs using the definition of Annual Costs in **Section 2**.
- B. Calculate the Special Tax levy for each Developed Parcel by the following steps:
 - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Developed 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 lower 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.
- C. Levy on each Taxable Parcel the amount calculated above.
- D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, 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.

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.

6. RECORDS MAINTAINED FOR THE CFD

As development and subdivision occurs in the CFD, the Administrator will maintain a file containing records of the following information for each Parcel:

- The current County Assessor's Number.
- Number of Dwelling Units assigned by the Administrator to Developed Parcels.
- The Tax Category for each Dwelling Unit assigned to a Developed Parcel.

The file containing the information listed above will be available for public inspection.

7. 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 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 rate, method of apportionment, and manner of collection of the Special tax for purposes of the administrative efficiency or convenience or to comply with new applicable federal, state or local law.

8. PREPAYMENT OF THE SPECIAL TAX OBLIGATION

The Maximum Annual Special Tax for a Taxable Parcel may not be prepaid. The Special Tax is collected to fund Authorized Services in perpetuity, or until the Council determines that the Special Tax should no longer be collected.

9. MANNER OF COLLECTION

The Special Tax 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 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.

**Attachment 1
City of Milpitas
CFD No. 2008-1 (Public Services)
Maximum Annual Special Tax Rates Per Unit Base Year 2009-2010**

Dwelling Unit Tax Category	Maximum Annual Special Tax Rate Per Unit
	[1]
Market Rate	\$510
Low-Income Residential [2]	\$408
Very Low-income Residential [3]	\$255
Extremely Low-Income Residential	\$0

"att_1"

[1] May be increased by the Tax Escalation Factor in each Fiscal Year after the Base Year 2009-2010.

[2] Initially set at 80% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[3] Initially set at 50% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

[4] Initially set at 0% of the Market-Rate Maximum Annual Special Tax Rate per Unit. When such Parcel is no longer subject to Affordable Housing status, it will be assigned to the Market Rate Tax Category.

EXHIBIT C

**Assessor's Parcel Numbers and Owners
Of Land Included in
City of Milpitas
Community Facilities District No. 2008-1 (Public Services)**

APN

LANDOWNER

086-32-033, 034, 035, 036

Milpitas Station LLC
