

## RESOLUTION NO. \_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, ACTING AS THE  
LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES),  
AUTHORIZING THE ANNEXATION OF TERRITORY IN THE FUTURE TO SUCH COMMUNITY  
FACILITIES DISTRICT**

**WHEREAS**, the City Council (the "City Council") of the City of Milpitas (the "City") has declared its intention, conducted proceedings and held a public hearing relating to the authorization to annex territory in the future 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 specifically Article 3.5 thereof; and

**WHEREAS**, notice of such public hearing was given in the form and manner as required by the Act; and

**WHEREAS**, all communications relating to the authorization to annex territory in the future were presented at such public hearing, and it has been determined that a majority protest as defined by Government Code Section 53339.6 has not been received against the authorization to annex territory in the future to the District; and

**WHEREAS**, it has now been 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 taxes that would be authorized to be levied on any parcels that may be annexed to the District in the future, as well as setting forth the terms and conditions for certification for any annexation in the future; and

**WHEREAS**, the territory proposed 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" showing the territory proposed to be annexed in the future has been 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:

**Section 1.**     **Recitals.** The above recitals are all true and correct.

**Section 2.**     **Determinations.** It is hereby determined by this City Council as follows:

- A. All prior proceedings pertaining to authorization for the annexation of the Future Annexation Area to the District in the future were valid and taken in conformity with the requirements of the law, and specifically the provisions of the Act, and this finding and determination is made pursuant to the provisions of Government Code Section 53325.1.
- B. The written protests against the authorization for the annexation of the Future Annexation Area to the District in the future received do not represent a majority protest as defined by Government Code Section 53339.6 and, therefore, the authorization for the annexation of the Future Annexation Area to the District in the future has not been precluded by majority protest pursuant to Government Code Section 53339.6.
- C. The public convenience and necessity require a procedure to authorize and provide for territory to be annexed in the future to the District in order to finance the costs and expenses necessary to provide the public services described below made necessary by the development or redevelopment of such territory.
- D. The authorization for the annexation of territory within the Future Annexation Area to the District in the future as proposed conforms with the City of Milpitas' statement of goals and policies regarding the establishment of community facilities districts.

- E. The provision for the annexation of territory within the Future Annexation Area to the District in the future and the authorization to levy special taxes on territory within the Future Annexation Area upon the annexation thereof to the District to finance the public services described below constitutes the creation of a government funding mechanism which does not involve the commitment to any specific project which may result in a potentially significant physical impact on the environment. Therefore, the provision for the annexation of territory within the Future Annexation Area to the District in the future and the authorization to levy special taxes within such territory upon the annexation thereof to the District does not constitute a “project” which is subject to the provisions of the California Environmental Quality Act (California Public Resources Code Section 21000 and following).

**Section 3. Annexation Authority.** This legislative body does hereby authorize the annexation of territory within the Future Annexation Area to the District in the future pursuant to the provisions and authorization of Article 3.5 of the Act.

**Section 4. Description of the Future Annexation Area.** A description of the Future Annexation Area is as follows:

All that property and territory proposed to be annexed in the future to the District, as said property is shown on a map as previously approved by this legislative body, said 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 Map”), a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection. The Future Annexation Area Map has been filed in the Office of the Santa Clara County Recorder, in Book 51, Page 46 of Maps of Assessment and Community Facilities Districts and as Document No. 23452534.

Future annexation proceedings may only be completed with the unanimous consent of the owner or owners of any parcel within the Future Annexation Area proposed for annexation.

**Section 5. Authorized Services.** The types of services to be financed from the levy of the special tax in the District, including the Future Annexation Area, are those described in **Exhibit A** hereto, which is incorporated herein by this reference ("Public Services").

The Public Services to be financed by the levy of special taxes to be levied on specific territory within the Future Annexation Area to be annexed to the District may include some or all of such Authorized Services or may include alternatives to the Authorized Services.

The Public Services shall to the maximum extent practicable, taking into account budgetary and operational demands of the City, be provided in common within the District and the territory within the Future Annexation Area.

The City Council finds that the Public Services described in this Section 5 hereto are necessary to meet increased demands placed upon the City as a result of new development occurring within the boundaries of 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”).

**Section 6. Special Tax.** It is the intention of this legislative body that, except where funds are otherwise available, a special tax sufficient to finance the Public Services (the “Special Tax”) to be provided in 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 real property in the territory within the Future Annexation Area that annexes to the District, will be levied annually within the boundaries of such territory upon the annexation thereof to District. For further particulars as to the rates and method of apportionment of the proposed Special Tax, reference is made to the attached and incorporated **Exhibit B** (the “Rate and Method”), which sets forth in sufficient detail the rate and method of apportionment of the Special Tax to allow each landowner or resident within the territory in the Future Annexation Area to clearly estimate the maximum amount of the Special Tax that such person will have to pay for the Authorized Services upon the annexation of such territory to the District. The Special Tax may not be prepaid.

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

The proposed Special Tax, to the extent possible, shall be collected in the same manner as ad valorem property taxes or in such other manner as this City Council or its designee shall determine, including direct billing of the affected property owners. Such Special Tax 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 City.

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.

**Section 7. Special Tax Accountability Measures.** Pursuant to and in compliance with the provisions of Government Code Section 50075.1, this City Council hereby establishes the following accountability measures pertaining to the levy by the District of the special taxes described in Section 6 above.

- A. The Special Tax shall be levied for the specific purposes set forth in Section 6 above.
- B. The proceeds of the levy of the Special Tax shall be applied only to the specific applicable purposes set forth in Section 6 above.
- C. The District shall establish a separate account into which the proceeds of the Special Tax shall be deposited.
- D. The Director of Financial Services of the City of Milpitas, or his or her designee, acting for and on behalf of CFD No. 2008-1, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3

**Section 8. Annexation Effective Date.** Annexation of territory in the Future Annexation Area to the District in the future shall be effective only upon the unanimous approval of the owner or owners of each parcel or parcels to the annexation of such parcel or parcels to the election by such owner or owners to subject such parcel or parcel to the levy of the special tax at any time that any parcel is proposed for annexation. Upon receipt of the written consent and election by such owner or owners, no further public hearings will be required to effectuate the annexation of such parcel or parcels to the District.

**Section 9. Effective Date.** This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Christopher J. Diaz, City Attorney

**EXHIBIT A**

**COMMUNITY FACILITIES DISTRICT NO. 2008-1  
OF THE CITY OF MILPITAS**

**DESCRIPTION OF PUBLIC 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

### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

#### 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**

<b>Dwelling Unit Tax Category</b>	<b>Maximum Annual Special Tax Rate Per Unit</b>
<b>Market Rate [1]</b>	<b>\$510</b>
<b>Low-Income Residential [2]</b>	<b>\$408</b>
<b>Very Low-income Residential [3]</b>	<b>\$255</b>
<b>Extremely Low-Income Residential [4]</b>	<b>\$0</b>

[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.

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10/04/2016 2:50 PM



# 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 26<sup>th</sup> DAY OF Sept., 2016.

*Mary Lavelle*

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 20<sup>th</sup> DAY OF SEPTEMBER 2016, BY RESOLUTION NO. 0591.

*Mary Lavelle*

MARY LAVELLE, CITY CLERK

FILED THIS 04 DAY OF October, 2016, AT THE HOUR OF 2:50 O'CLOCK P.M. IN BOOK 4857 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 46, IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

*Regina Alcomendras*

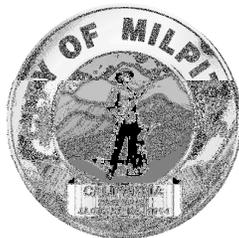
COUNTY RECORDER, REGINA ALCOMENDRAS  
COUNTY OF SANTA CLARA



Scale: 1"=500'

**Legend**

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



**CITY OF MILPITAS  
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN THAT THE MILPITAS CITY COUNCIL will hold a public hearing on Tuesday, November 1, 2016 to consider the following:

ANNEXATION OF TERRITORY IN THE FUTURE TO COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES)

On September 20, 2016, the Milpitas City Council adopted Resolution No. 8592 declaring its intention to authorize the annexation of territory in the future to City of Milpitas Community Facilities District No. 2008-1 (Public Services) (“CFD No. 2008-1”).

Resolution No. 8592 provides in summary as follows:

1. The City Council determines that the public convenience and necessity requires a procedure to allow and authorize territory to be annexed in the future to CFD No. 2008-1 in order to finance the provision of Public Services (defined below) for the territory that is annexed to CFD No. 2008-1.
2. The name of CFD No. 2008-1 is 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).
3. The boundaries and territory proposed to be authorized to be annexed in the future (the “Future Annexation Area”) to CFD No. 2008-1 are described and shown on the map entitled “Future Annexation Area, Community Facilities District No. 2008-1 (Public Services), City of Milpitas, County of Santa Clara, State of California,” which is on file in the Office of the City Clerk (the “City Clerk”).

Future annexation proceedings may only be completed with the unanimous consent of the owner or owners of any parcel proposed for annexation.

4. It is the intention of the City Council to finance the public services. A general description of the services to be provided is set forth in Exhibit A to Resolution No. 8592 (the “Public Services”). The Public Services to be financed by the levy of special taxes to be levied on specific territory within the Future Annexation Area to be annexed to CFD No. 2008-1 may include some or all of such Authorized Services or may include alternatives to the Authorized Services.

The Public Services shall to the maximum extent practicable, taking into account budgetary and operational demands of the City, be provided in common with CFD No. 2008-1 and the Future Annexation Area.

The City Council finds that the Public Services are necessary to meet increased demands and needs placed upon the City as a result of development occurring within the boundaries of CFD No. 2008-1 and the Future Annexation Area.

CFD No. 2008-1 shall finance all direct, administrative and incidental annual costs and expenses necessary to provide such Public Services (“Incidental Expenses”).

5. Except where funds are otherwise available, a special tax sufficient to finance the payment of the Public Services (the “Special Tax”) for the territory of the Future Annexation Area upon the annexation of such territory to CFD No. 2008-1 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 CFD No. 2008-1, will be levied annually within the boundaries of such territory upon the annexation thereof to CFD No. 2008-1. The rate and method of apportionment of the proposed Special Tax (the “Rate and Method of Apportionment”) to be levied on such parcels shall be as set forth in Exhibit B to Resolution No. 8592, which sets forth in sufficient detail the rate 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 CFD No. 2008-1.

Notwithstanding the foregoing, if the actual cost of the Authorized Services applicable to any parcel within the proposed Future Annexation Area is higher or lower than the cost of the providing the Public Services applicable to the parcels within the existing CFD No. 2008-1, 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, to the extent possible, shall be collected in the same manner as ad valorem property taxes or in such other manner as this 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, acting for and on behalf of CFD No. 2008-1.

The Special Tax obligation for any parcel may not be prepaid.

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.

6. Annexation of any parcel in the Future Annexation Area to CFD No. 2008-1 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 CFD No. 2008-1, and no further public hearings or additional proceedings will be required to accomplish such annexation.

Resolution No. 8592 contains other provisions which are not summarized above. A complete copy of Resolution No. 8592 may be reviewed or obtained at the office of the City Clerk at 455 East Calaveras Boulevard, Milpitas, California, during normal business hours.

NOTICE IS FURTHER GIVEN that at the hearing the testimony of all interested persons for or against the authorization of future annexation of territory to CFD No. 2008-1 or the levying of the Special Tax within the Future Annexation Area will be heard. If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be annexed in the future and not exempt from the Special Tax, or if the owners of one-half or more of the area of the land in the Future Annexation Area and not exempt from the Special Tax, file written protests against the proposed annexation of territory to CFD No. 2008-1 in the future, and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings to authorize the Future Annexation Area, shall be taken for a period of one year from the date of the decision of the City Council.

THE PUBLIC HEARING WILL BE HELD on **Tuesday, November 1, 2016 at 7:00 pm** in the City Council Chambers on the 2<sup>nd</sup> floor, 455 East Calaveras Boulevard, Milpitas, CA, at which time any person desiring to be heard may appear.

**NOTICE IS FURTHER GIVEN**, pursuant to CA Government Code §65009, that any challenge of these matters in court may be limited to raising only those issues raised at the public hearings on November 1, 2016 or in written or e-mailed correspondence delivered to the City Council at, or prior to, this hearing.

**ANY PERSONS** who wish to comment are encouraged to attend the public hearing or to submit written comments to the City Council prior to the hearings. Written comments may be mailed or delivered to: City Clerk, City of Milpitas, 455 E. Calaveras Blvd, Milpitas, CA 95035, or sent by e-mail to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov).

Mary Lavelle  
City Clerk  
10/25/2016