

**Council Meeting: June 23, 2009****SUBJECT: A Resolution Considering Amendment and Restatement of the Rate and Method of Apportionment of Special Tax and Changes to the Boundary Map for the City of Sunnyvale Community Facilities District Number 1****REPORT IN BRIEF**

In 2001, the City formed Community Facilities District Number 1 to provide financing for the construction of parking facilities for the Sunnyvale Town Center project. Since the Community Facilities District was formed, the development plan for and configuration of many of the legal parcels has changed. As a result, certain inconsistencies now exist between the original Community Facilities District documents and the current and proposed development plans for these parcels.

Staff and the property owners seek Council approval of the attached resolution of consideration, which will initiate the process by which certain changes may be made to the Community Facilities District. The change proceedings consist of (i) amending and restating the Rate and Method of Apportionment of Special Tax for the Community Facilities District, and (ii) amending the Boundary Map for the Community Facilities District.

Staff recommends the City Council adopt the attached resolution to consider an Amendment and Restatement of the Rate and Method of Apportionment of Special Tax and changes to the boundary map for the Community Facilities District Number 1 (Attachment A).

BACKGROUND

The City originally formed Community Facilities District Number 1 to provide a financing mechanism for the construction of two parking facilities in connection with the remodel of the Sunnyvale Town Center. In May 2001, the City issued its initial \$36,000,000 principal amount Special Tax Bonds, Series 2001, which are payable solely from the special taxes levied on the taxable property within the Community Facilities District.

Due to changes in the development of the Sunnyvale Town Center, only a single parking garage was constructed, and a portion of the Bonds was subsequently called for early redemption of \$16,010,000 in September 2002. The current outstanding principal amount of the Bonds is \$18,660,000.

The property within the Community Facilities District Number 1 has changed hands since 2000, and is currently held by three owners: Downtown Sunnyvale Mixed Use, LLC, which is an affiliate of RREEF; Target Corporation; and the Sunnyvale Redevelopment Agency.

EXISTING POLICY

The Goals and Policies adopted by Council outline how projects eligible for Community Facilities District financing will be evaluated. These policies are generally designed to ensure that the Community Facilities Districts created are made for the public good. They define credit requirements for projects under consideration that protect bondholders from default and set forth disclosure requirements that notify prospective property purchasers of the lien associated with the properties they seek to buy.

DISCUSSION

Since the Community Facilities District was formed, the development plan for and configuration of many of the legal parcels has changed. Specifically, Downtown Sunnyvale Mixed Use has created a number of condominium "air parcels," the classification of which is unclear under the original Rate and Method. Also, the property owners desire to exclude from the Community Facilities District boundaries the parcel currently owned by Target Corporation. This parcel was not previously in the district but now overlaps a portion of the Community Facilities District boundaries. Certain inconsistencies now exist between the original Community Facilities District boundaries and the current and proposed development plans due to the Target expansion.

Staff and the property owners seek Council approval of the attached resolution of consideration, which will initiate the process by which certain changes may be made to the Community Facilities District, namely:

- (i) Amending and restating the Rate and Method to cure ambiguities, to reflect the current parcelization of the property within the Community Facilities District, and to make certain changes consistent with the current development plan for the property within the Community Facilities District. These changes include (a) expressly providing for the levy of special taxes on air parcels, (b) clarifying that only those parcels

used as commercial property will be subject to the special taxes (other uses, including residential and publicly owned property, are exempt), (c) allowing the parcel owners to prepay their special tax obligations, and (d) otherwise clarifying the Rate and Method. In addition, the maximum special tax rate will be reduced from the existing rate of \$6.50 per square foot of parcel area to \$6.00 per square foot of parcel area, which staff and the City's consultants have determined is sufficient to pay debt service and administrative costs for the Bonds.

(ii) Changing the boundaries of the Community Facilities District to exclude the Target parcel and conform to the existing legal parcels that have been created or changed since the Community Facilities District was formed.

Staff, working with the City's special tax consultant and bond counsel, has determined that these changes will not adversely affect the interest of the Bond holders, or the ability of the City to levy special taxes sufficient to pay debt service on the Bonds.

The City Council meeting of July 28, 2009 is proposed for a public hearing, at which time the City Council, acting as the legislative body of the Community Facilities District, will receive public testimony on the proposed changes to the Rate and Method and Boundary Map. After completion of the public hearing, the City Council will call a landowner election on the matter of the proposed changes. If two-thirds of the ballots cast at the election are in favor of the proposed changes, Council will adopt certain resolutions confirming the results of the landowner election approving the change proceedings.

Working collaboratively with staff, both Downtown Sunnyvale Mixed Use and Target Corporation have each submitted a petition asking the City Council to initiate the change proceedings and waiving certain time periods associated with the change proceedings. Staff expects that both Downtown Sunnyvale Mixed Use and Target Corporation will submit ballots in favor of the change proceedings. In addition, the Redevelopment Agency has submitted a document that contains the same waivers of time periods associated with the change proceedings. The Redevelopment Agency will also be asked to submit a ballot approving the change proceedings.

At the same meeting, following the public hearing and the adoption of the resolutions described above, the City Council will also hold a first reading of an amended ordinance levying the special tax in the Community Facilities District according to the amended and restated Rate and Method. Any changes to the

Community Facilities District will be effective starting with the special taxes to be levied for the 2009-10 tax year.

FISCAL IMPACT

All debt service on the Bonds is and will continue to be paid from the special taxes levied on the non-exempt property within the Community Facilities District, which, once the change proceedings are completed, will consist solely of the property currently owned by Downtown Sunnyvale Mixed Use.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Adopt a Resolution of the City Council of the City of Sunnyvale Considering Amendment and Restatement of the Rate and Method of Apportionment of Special Tax and Changes to the Boundary Map for the City of Sunnyvale Community Facilities District Number 1 and Authorizing and Directing Certain Actions with Respect Thereto
2. Do not adopt the Resolution

RECOMMENDATION

Staff recommends the City Council approve Alternative #1; adopt a Resolution of the City Council of the City of Sunnyvale Considering Amendment and Restatement of the Rate and Method of Apportionment of Special Tax and Changes to the Boundary Map for the City of Sunnyvale Community Facilities District Number 1 and Authorizing and Directing Certain Actions with Respect Thereto.

The Resolution will initiate the proposed change proceedings for the Community Facilities District. These changes will not adversely affect the interest of the Bond holders, or the ability of the City to levy special taxes sufficient to pay debt service on the Bonds.

If this action is not taken certain inconsistencies now existing between the original Community Facilities District documents and the current and proposed development plans for these parcels would remain.

Reviewed by:

Hanson Hom Director, Community Development
Prepared by: Brice McQueen, Redevelopment Manager

Reviewed by:

Mary Bradley
Director, Finance

Approved by:

Gary M. Luebbers
City Manager

Attachments

- A. Resolution of the City Council of the City of Sunnyvale Considering amendment and Restatement of the Rate and Method of Apportionment of Special Tax and Changes to the Boundary Map for the city of Sunnyvale Community Facilities District Number 1 and Authorizing and Direction Certain Actions with Respect Thereto.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CONSIDERING AMENDMENT AND RESTATEMENT OF THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX AND CHANGES TO THE BOUNDARY MAP FOR THE CITY OF SUNNYVALE COMMUNITY FACILITIES DISTRICT NO. 1 AND AUTHORIZING AND DIRECTING CERTAIN ACTIONS WITH RESPECT THERETO

WHEREAS, the City Council (this "City Council") of the City of Sunnyvale (the "City") has conducted proceedings under the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the "Act"), to form the City of Sunnyvale Community Facilities District No. 1 (the "Community Facilities District"), to authorize the levy of special taxes upon the land within the Community Facilities District, and to issue bonds secured by the special taxes, all as described in those proceedings;

WHEREAS, the Rate and Method of Apportionment of Special Tax for the Community Facilities District (the "Rate and Method"), was approved by this City Council pursuant to Resolution No. 115-99 adopted by the City Council on February 23, 1999, and subsequently amended pursuant to Resolution No. 134-00, adopted by the City Council on April 25, 2000, and is attached to the Amendment to Notice of Special Tax Lien recorded in the office of the Recorder for the County of Santa Clara on May 8, 2000, as Document No. 15239631;

WHEREAS, on May 24, 2001, the City issued its \$36,000,000 initial principal amount City of Sunnyvale Community Facilities District No. 1 Special Tax Bonds, Series 2001 (the "Bonds"), a portion of which were subsequently redeemed. The outstanding Bonds are secured by the special taxes levied within the Community Facilities District under the Rate and Method;

WHEREAS, pursuant to landowner petitions received by the City Council, the City has been asked to (i) amend and restate the Rate and Method to cure ambiguities, to reflect the current parcelization of the property within the Community Facilities District, and to make certain changes consistent with the current development plan for the property within the Community Facilities District, and (ii) change the boundaries of the Community Facilities District to exclude certain parcels;

WHEREAS, the proposed changes may only be considered by this City Council following a public hearing and must be approved by two-thirds of the votes cast on the proposition at an election of the qualified electors in the Community Facilities District; and

WHEREAS, the documents specified below have been filed with the City, and the members of the City Council, with the aid of its staff, have reviewed those documents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

SECTION 1. NAME OF AFFECTED AREA. This Resolution relates to the property in the Community Facilities District and the Rate and Method for the Community Facilities District.

SECTION 2. AMENDMENT AND RESTATEMENT OF THE RATE AND METHOD. The proposed Amended and Restated Rate and Method, in the form attached hereto as Exhibit A and incorporated herein by reference, is hereby approved by this City Council, subject to approval by two-thirds of the votes cast on the proposition of amending and restating the Rate and Method at an election of the qualified electors in the Community Facilities District.

SECTION 3. AMENDMENT OF BOUNDARY MAP. The proposed Amended Boundary Map, in the form attached hereto as Exhibit B and incorporated herein by reference, is hereby approved by this City Council, subject to approval by two-thirds of the votes cast on the proposition of amending the Boundary Map at an election of the qualified electors in the Community Facilities District.

SECTION 4. NO ADVERSE EFFECT ON BOND HOLDERS. The City Council hereby finds that the changes to be made under the proposed Amended and Restated Rate and Method and proposed Amended Boundary Map will not adversely affect the holders of the outstanding Bonds or the ability of the City to levy annual special taxes within the Community Facilities District in an amount sufficient to pay debt service on the Bonds and all other obligations of the Community Facilities District.

SECTION 5. PUBLIC HEARING. The City Council hereby sets July 28, 2009, at 7:00 p.m. (which date is at least 30 days and not more than 60 days after the date of this Resolution) or as soon thereafter as possible, at the City Council Chambers, 456 West Olive Avenue, Sunnyvale, California, as the date, time and place for the public hearing on the question of (i) amending and restating the Rate and Method, and (ii) amending the Boundary Map.

The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the Community Facilities District. The publication shall be completed at least 7 days before the date of the public hearing specified above. The notice shall comply with the provisions of Section 53335 of the Act.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect upon its adoption.

Adopted by the City Council at a regular meeting held on _____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

EXHIBIT A

CITY OF SUNNYVALE Community Facilities District No. 1

AMENDED AND RESTATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

This Amended and Restated Rate and Method of Apportionment of Special Taxes (this "Rate and Method") restates and amends the Rate and Method of Apportionment of Special Taxes for the City of Sunnyvale Community Facilities District No. 1 (the "CFD") approved by the qualified electors of the CFD at a special election held on February 23, 1999, as subsequently amended and approved by the qualified electors of the CFD at a special election held on April 25, 2000.

GENERAL

A Special Tax shall be levied on all Taxable Parcels within the CFD and collected according to the Rate and Method of Apportionment of Special Taxes described herein.

The Special Tax shall be collected by the Santa Clara County Auditor's office by means of inclusion on the annual ad-valorem property tax billings or in such other manner (including by means of direct billing of the affected Property Owners) as the City Council or its designee may determine.

DEFINITIONS

Act: Means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

Annual Administrative Cost: Means the following actual or reasonably estimated costs directly related to the administration of the CFD and the Bonds, as determined by the Finance Director of the City or its designee: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designees thereof or both); the costs of levying and collecting the Special Taxes (including any charges levied by the County in connection therewith); the costs of remitting the Special Taxes to the Fiscal Agent; the fees and expenses of the Fiscal Agent (including its legal counsel) in the discharge of the duties required of it under the Fiscal Agent Agreement; the costs to the City, the CFD, or any designees thereof of complying with arbitrage rebate requirements, including without limitation, rebate liability costs and periodic rebate calculations; the costs to the City, the CFD, or obligated persons of complying with disclosure requirements associated with applicable federal and state securities laws and of the Act; the costs of any State reporting requirements; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, the CFD, or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative costs shall also include amounts estimated or advanced by the City or the CFD for any other administrative purposes of the CFD, including attorney's fees and expenses, and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

Annual Special Tax Requirement: Means the amount necessary in any Fiscal Year for the following purposes:

(i) to pay principal of and interest on the Bonds due in the Calendar Year which commences in such Fiscal Year,

(ii) to create or replenish reserve funds,

(iii) to cure any delinquencies in the payment of principal of or interest on the Bonds that have occurred in the prior Fiscal Year (based on delinquencies in the payment of Special Taxes which have already taken place) or are expected to occur in the Fiscal Year in which the Special Tax will be collected,

(iv) to pay Annual Administrative Costs, and

(v) to pay the costs of constructing Facilities.

The Annual Special Tax Requirement may be reduced in any Fiscal Year by (i) credits from available monies from sources identified in the Fiscal Agent Agreement, including without limitation excess interest earnings in the reserve fund, (ii) proceeds from the collection of penalties and interest associated with delinquent Special Taxes, and (iii) any other revenues available to pay debt service on the Bonds as determined by the Finance Director.

Assessor Parcel: Means any legally created lot or parcel within the boundaries of the CFD referenced by an Assessor's parcel number assigned by the Santa Clara County Assessor's office, and shall include without limitation parcels of land, condominium parcels and air parcels.

Bonds: Means any bonds or other indebtedness of the CFD issued under the Act.

Calendar Year: Means January 1 through December 31.

City: Means the City of Sunnyvale.

City Council: Means the City Council of the City, in its capacity, as legislative body of the CFD.

CFD: Means the City of Sunnyvale Community Facilities District No. 1.

Commercial Parcel: Means any Assessor Parcel which is wholly or partially classified by the Finance Director for commercial use, as set forth in Table No. 1 under the definition of Taxable Parcel below.

County: Means the County of Santa Clara.

Exempt Parcels: Means all Assessor Parcels: (1) owned by the State, the federal government, the City or any other governmental entity (except as otherwise provided in the Act), (2) used exclusively for landscaping, open space or common area, (3) County Assessor Parcel No. 209-35-028 and any successor or resulting parcels following the subdivision of County Assessor Parcel No. 209-35-028 or (4) classified as Exempt in Table No. 1 under the definition of "Taxable Property" below unless these parcels subsequently become Provisional Taxable Parcels.

Facilities: Means the facilities the CFD is authorized to fund.

Finance Director: Means the City's Finance Director or any duly appointed deputy or designee.

Fiscal Agent: Means the fiscal agent or trustee under the Fiscal Agent Agreement.

Fiscal Agent Agreement: Means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended or supplemented from time to time.

Fiscal Year: Means the period starting on July 1 and ending the following June 30.

Maximum Annual Special Tax per Taxable Parcel: Means the rate of \$6.00 multiplied by the Taxable Parcel Area of each Taxable Parcel or Provisional Taxable Parcel.

Property Owner: The Property Owner as shown on the records in the Santa Clara County Assessor's office for each Assessor Parcel, or if more accurate and updated information is known then that information would supersede the records in the Santa Clara County Assessor's office.

Provisional Taxable Parcel: Means any Assessor Parcel, or portion thereof, that was originally classified or planned to be classified by the City as a Commercial Parcel (see Table No. 1 under the definition of Taxable Parcel) and was subsequently re-classified as an Exempt Parcel and the Special Tax obligation for the Assessor Parcel was not pre-paid per the Mandatory Property Owner Buy Down provisions described herein, or means any Assessor Parcel, or portion thereof, that was originally classified or planned to be classified by the City as an Exempt Parcel (see Table No. 1 under the definition of Taxable Parcel) and was subsequently re-classified as a Taxable Parcel and the Special Tax obligation for the Assessor Parcel was not pre-paid per the "Prepayment Calculation of Special Taxes For A Taxable Parcel After Bonds Are Issued" as described herein.

Special Tax: The annual amount of tax each Taxable Parcel or Provisional Taxable Parcel pays based upon the Rate and Method of Apportionment of Special Taxes.

State: Means the State of California.

Taxable Parcel: Means an Assessor Parcel that is not classified as an Exempt Parcel as shown below in Table No. 1.

Table No. 1

Assessor's Parcel Number	Current & Future Land Use	Taxable or Provisional Taxable or Exempt
209-34-019	Commercial	Taxable
209-34-020	Residential	Exempt
209-34-021	Governmental	Exempt
209-34-022	Commercial/Residential	Taxable
209-34-023	Commercial/Residential	Taxable
209-34-024	Commercial	Taxable
209-34-025	Governmental	Exempt
209-34-026	Commercial/Residential	Taxable
209-34-029	Commercial	Taxable
209-34-030	Commercial	Taxable
209-35-013	Residential	Exempt
209-35-014	Governmental	Exempt
209-35-015	Commercial	Taxable
209-35-016	Commercial	Taxable
209-35-017	Commercial	Taxable
209-35-018	Governmental	Exempt
209-35-019	Commercial	Taxable
209-35-023	Commercial	Taxable
209-35-024	Residential	Exempt
209-35-029	Commercial	Taxable

Taxable Parcel Area: Means square footage of each Taxable Parcel or Provisional Taxable Parcel as shown on the Santa Clara County Assessor's maps or databases or, if more accurate and updated information is known, then the more accurate information would supersede the records in the Santa Clara County Assessor's office.

ASSIGNMENT OF SPECIAL TAXES

The Special Taxes will be assigned to all Taxable Parcels and Provisional Taxable Parcels based upon the Calculation of Special Taxes described below.

CALCULATION OF SPECIAL TAXES

Each Fiscal Year, on or about July 1, but in sufficient time to include the ensuing year's Special Tax levy on the County of Santa Clara's secured property tax roll, the City shall:

- 1) Classify all parcels within the boundaries of the CFD as; Taxable Parcels, Provisional Taxable Parcels or Exempt Parcels. In conjunction with classifying all Parcels in the boundaries of the CFD as Taxable Parcels, Provisional Taxable Parcels or Exempt Parcels, modify Table No. 1 to reflect each Fiscal Year's classifications.
- 2) Calculate the Taxable Parcel Area for each Taxable Parcel and Provisional Taxable Parcel within the boundaries of the CFD.
- 3) Calculate the Maximum Annual Special Tax per Taxable Parcel and Provisional Taxable Parcel that can be levied on each Taxable Parcel and Provisional Taxable Parcel within the boundaries of the CFD.
- 4) Determine the Annual Special Tax Requirement for the ensuing Fiscal Year.
- 5) If the total Annual Special Tax Requirement identified in Step No. 4 above is less than the total Maximum Annual Special Tax for all Taxable Parcels and Provisional Taxable Parcels then proportionately reduce the Maximum Annual Special Tax for all Taxable Parcels and Provisional Taxable Parcels until it equals the Annual Special Tax Requirement identified in Step No. 4 above.
- 6) If the total Annual Special Tax Requirement identified in Step No. 4 above is equal to or greater than the total Maximum Annual Special Tax for all Taxable Parcels and Provisional Taxable Parcels then apply the Maximum Annual Special Tax for all Taxable Parcels and Provisional Taxable Parcels.

SAMPLE CALCULATION OF FY 2009-10 SPECIAL TAXES

- 1) Classify all parcels within the boundaries of the CFD as; Taxable Parcels, Provisional Taxable Parcels or Exempt Parcels. In conjunction with classifying all Parcels in the boundaries of the CFD as Taxable Parcels, Provisional Taxable Parcels or Exempt Parcels, modify Table No. 1 to reflect each Fiscal Year's classifications.

Assessor's Parcel Number	Current & Future Land Use	Taxable or Provisional Taxable or Exempt
209-34-019	Commercial	Taxable
209-34-020	Residential	Exempt
209-34-021	Governmental	Exempt
209-34-022	Commercial/Residential	Taxable
209-34-023	Commercial/Residential	Taxable
209-34-024	Commercial	Taxable
209-34-025	Governmental	Exempt
209-34-026	Commercial/Residential	Taxable
209-34-029	Commercial	Taxable
209-34-030	Commercial	Taxable
209-35-013	Residential	Exempt
209-35-014	Governmental	Exempt
209-35-015	Commercial	Taxable
209-35-016	Commercial	Taxable
209-35-017	Commercial	Taxable
209-35-018	Governmental	Exempt
209-35-019	Commercial	Taxable
209-35-023	Commercial	Taxable
209-35-024	Residential	Exempt
209-35-029	Commercial	Taxable

- 2) Calculate the Taxable Parcel Area for each Taxable Parcel and Provisional Taxable Parcel within the boundaries of the CFD.

Assessor's Parcel Number	Current & Future Land Use	Taxable or Provisional Taxable or Exempt	Total Taxable Parcel Area (Sq. Ft.)
209-34-019	Commercial	Taxable	82,874
209-34-020	Residential	Exempt	0
209-34-021	Governmental	Exempt	0
209-34-022	Commercial/Residential	Taxable	49,452
209-34-023	Commercial/Residential	Taxable	49,709
209-34-024	Commercial	Taxable	7,848
209-34-025	Governmental	Exempt	0
209-34-026	Commercial/Residential	Taxable	32,335
209-34-029	Commercial	Taxable	66,173
209-34-030	Commercial	Taxable	66,177
209-35-013	Residential	Exempt	0
209-35-014	Governmental	Exempt	0
209-35-015	Commercial	Taxable	83,487
209-35-016	Commercial	Taxable	47,156
209-35-017	Commercial	Taxable	10,690
209-35-018	Governmental	Exempt	0
209-35-019	Commercial	Taxable	24,840
209-35-023	Commercial	Taxable	219,149
209-35-024	Residential	Exempt	0
209-35-029	Commercial	Taxable	<u>39,115</u>
Total			779,005

- 3) Calculate the Maximum Annual Special Tax per Taxable Parcel and Provisional Taxable Parcel that can be levied on each Taxable Parcel and Provisional Taxable Parcel within the boundaries of the CFD.

Assessor's Parcel Number	Current & Future Land Use	Taxable or Provisional Taxable or Exempt	Total Taxable Parcel Area (Sq. Ft.)	Max. Annual Special Tax per Taxable Parcel (\$6.00/sq. ft.)
209-34-019	Commercial	Taxable	82,874	\$497,244.00
209-34-020	Residential	Exempt	0	\$0.00
209-34-021	Governmental	Exempt	0	\$0.00
209-34-022	Commercial/Residential	Taxable	49,452	\$296,712.00
209-34-023	Commercial/Residential	Taxable	49,709	\$298,254.00
209-34-024	Commercial	Taxable	7,848	\$47,088.00
209-34-025	Governmental	Exempt	0	\$0.00
209-34-026	Commercial/Residential	Taxable	32,335	\$194,010.00
209-34-029	Commercial	Taxable	66,173	\$397,038.00
209-34-030	Commercial	Taxable	66,177	\$397,062.00
209-35-013	Residential	Exempt	0	\$0.00
209-35-014	Governmental	Exempt	0	\$0.00
209-35-015	Commercial	Taxable	83,487	\$500,922.00
209-35-016	Commercial	Taxable	47,156	\$282,936.00
209-35-017	Commercial	Taxable	10,690	\$64,140.00
209-35-018	Governmental	Exempt	0	\$0.00
209-35-019	Commercial	Taxable	24,840	\$149,040.00
209-35-023	Commercial	Taxable	219,149	\$1,314,894.00
209-35-024	Residential	Exempt	0	\$0.00
209-35-029	Commercial	Taxable	<u>39,115</u>	<u>\$234,690.00</u>
Total			779,005	\$4,674,030.00

- 4) Determine the Annual Special Tax Requirement for the FY 2009-10.

FY 2009-10 Special Tax Requirement

(i) Principal & Interest on Bonds	\$1,727,920.00
(ii) Replenishment of Reserve Fund	\$0.00
(iii) Prior Year Delinquencies	\$0.00
(iv) Administrative Costs	\$9,200.00
(v) Future Construction	\$0.00
(vi) Less Credits	<u>\$0.00</u>
Total	\$1,737,120.00

- 5) If the total Annual Special Tax Requirement identified in Step No. 4 above is less than the total Maximum Annual Special Tax for all Taxable Parcels and Provisional Taxable Parcels then proportionately reduce the Maximum Annual Special Tax for all Taxable Parcels and Provisional Taxable Parcels until it equals the Annual Special Tax Requirement identified in Step No. 4 above.

Assessor's Parcel Number	Current & Future Land Use	Taxable or Provisional Taxable or Exempt	Total Taxable Parcel Area (Sq. Ft.)	Max. Annual Special Tax per Taxable Parcel (\$6.00/sq. ft.)	FY 2009-10 Special Tax per Taxable Parcel (Approx. \$2.23/sq. ft.)
209-34-019	Commercial	Taxable	82,874	\$497,244.00	\$184,802.51
209-34-020	Residential	Exempt	0	\$0.00	\$0.00
209-34-021	Governmental	Exempt	0	\$0.00	\$0.00
209-34-022	Commercial/Residential	Taxable	49,452	\$296,712.00	\$110,274.08
209-34-023	Commercial/Residential	Taxable	49,709	\$298,254.00	\$110,847.17
209-34-024	Commercial	Taxable	7,848	\$47,088.00	\$17,500.42
209-34-025	Governmental	Exempt	0	\$0.00	\$0.00
209-34-026	Commercial/Residential	Taxable	32,335	\$194,010.00	\$72,104.51
209-34-029	Commercial	Taxable	66,173	\$397,038.00	\$147,560.60
209-34-030	Commercial	Taxable	66,177	\$397,062.00	\$147,569.52
209-35-013	Residential	Exempt	0	\$0.00	\$0.00
209-35-014	Governmental	Exempt	0	\$0.00	\$0.00
209-35-015	Commercial	Taxable	83,487	\$500,922.00	\$186,169.46
209-35-016	Commercial	Taxable	47,156	\$282,936.00	\$105,154.18
209-35-017	Commercial	Taxable	10,690	\$64,140.00	\$23,837.86
209-35-018	Governmental	Exempt	0	\$0.00	\$0.00
209-35-019	Commercial	Taxable	24,840	\$149,040.00	\$55,391.25
209-35-023	Commercial	Taxable	219,149	\$1,314,894.00	\$488,685.06
209-35-024	Residential	Exempt	0	\$0.00	\$0.00
209-35-029	Commercial	Taxable	39,115	\$234,690.00	\$87,223.38
Total			779,005	\$4,674,030.00	\$1,737,120.00

COLLECTION OF THE ANNUAL SPECIAL TAX

Each year, the City will coordinate with the Santa Clara County Auditor's office to have the Annual Special Tax for each applicable Taxable Parcel placed on the property tax roll, or will effect a direct billing of the Annual Special Tax to the Property Owners of the Taxable Parcel.

TERM OF SPECIAL TAX

The Special Tax shall be levied and collected annually in order to satisfy the Annual Special Tax Requirement. The Special Tax may be levied annually for a period not to exceed forty (40) years commencing in Fiscal Year 2000-01.

PROPERTY OWNER APPEALS OF SPECIAL TAX LEVIES

Any Property Owner claiming that the amount or application of the Special Tax is not correct and requesting a refund may file a written notice of appeal and refund to that effect with the Finance Director not later than one calendar year after having paid the Special Tax that is disputed. The Finance Director shall promptly review the appeal, and if necessary, meet with the Property Owner, consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the Finance Director's decision requires that the Special Tax be modified or changed in favor of the Property Owner, a cash refund shall not be made (except for the last year of

levy), but an adjustment shall be made to the next Special Tax levy. Any dispute over the decision of the Finance Director shall be referred to the City Council and the decision of the City Council shall be final. This procedure shall be exclusive and its exhaustion by any Property Owner shall be a condition precedent to any legal action by such owner.

MANDATORY PROPERTY OWNER BUY DOWN

In the event a Taxable Parcel (as show in Table No. 1) or a Provisionally Taxable Parcel is subsequently changed to an Exempt Parcel or the Taxable Parcel Area for a Taxable Parcel or a Provisionally Taxable Parcel is reduced as determined by the Finance Director, the Property Owner may be responsible for prepaying the Special Tax obligation associated with the reclassification of the Assessor Parcel or the reduction in the Taxable Parcel's or Provisionally Taxable Parcel's Taxable Parcel Area. The City's Finance Director will determine if the Property Owner is required to prepay the Special Tax obligation associated with the reclassification of the Assessor Parcel or the reduction in the Taxable Parcel's or Provisionally Taxable Parcel's Taxable Parcel Area. The prepayment calculation will be calculated similarly and pursuant to the section entitled "Prepayment Calculation of Special Taxes For A Taxable Parcel After Bonds Are Issued" as described below. The City will provide written notice and a calculation of the buy down amount to the affected Property Owner regarding their mandatory buy down requirement.

PREPAYMENTCALCULATION OF SPECIAL TAXES FOR A TAXABLE PARCEL AFTER BONDS ARE ISSUED

PREPAYMENT CALCULATION OF SPECIAL TAXES FOR A TAXABLE PARCEL PRIOR TO JUNE 16, 2011

The Special Tax obligation for a Taxable Parcel may be prepaid on any date prior to May 18, 2011 if the Taxable Parcel is not delinquent in their Special Tax payments based upon the following formula. The Property Owner requesting the prepayment must provide the City a minimum of 75 days notice prior to the redemption date of the Bonds to be redeemed with the proceeds of the prepaid Special Taxes. The prepayment must be received by the Finance Director 45 days prior to the next Bond redemption date.

- 1) Determine the Maximum Annual Special Tax per Taxable Parcel for the Taxable Parcel which is proposed to be prepaid.
- 2) Determine the total Maximum Annual Special Taxes for all Taxable Parcels within the boundaries of the CFD which have not prepaid their Special Taxes.
- 3) Determine the Taxable Parcel's pro-rata share of the prepayment obligation by dividing the Maximum Annual Special Tax for the Taxable Parcel which is proposed to be prepaid by the Total Maximum Annual Special Taxes for all Taxable Parcels within the boundaries of the CFD which have not prepaid their Special Taxes.
- 4) Calculate the total amount of outstanding unpaid principal of the Bonds.
- 5) Determine the Taxable Parcel's pro-rata share of the outstanding unpaid principal of the Bonds by multiplying the Taxable Parcel's pro-rata share of prepayment obligation as calculated in Step No. 3 by the total amount of outstanding unpaid principal of the Bonds in Step No. 4.
- 6) Calculate the total amount of interest due through August 1, 2011 for the Bonds.
- 7) Determine the Taxable Parcel's pro-rata share of the interest due through August 1, 2011 for the Bonds by multiplying the Taxable Parcel's pro-rata share of prepayment obligation as calculated in Step No. 3 by the total amount of interest due through August 1, 2011.
- 8) Calculate the redemption premium on the outstanding unpaid principal of the Taxable Parcel's pro-rata share of the Bonds pursuant to the terms and conditions in the Fiscal Agent Agreement for the Bonds, if any.

- 9) Calculate the reserve fund credit to be applied to the Taxable Parcel's pro-rata share of the Bonds pursuant to the terms and conditions in the Fiscal Agent Agreement for the Bonds, if any.
- 10) Calculate the City administrative fee for the prepayment of Special Taxes as determined by the Finance Director.
- 11) Calculate the prepayment of Special Taxes for each Taxable Parcel as follows:

The Taxable Parcel's pro-rata share of the outstanding unpaid principal of the Bonds as calculated in Step No. 5, plus,

The Taxable Parcel's pro-rata share of the interest due through August 1, 2011 as calculated in Step No. 7, plus,

The Taxable Parcel's pro-rata share of the redemption premium due on the outstanding unpaid principal of the Bonds as calculated in Step No. 8, less,

The Taxable Parcel's pro-rata share of the Reserve Fund as calculated in Step No. 9, plus,

A City administrative processing fee for calculating and administering the prepayment, including any filing costs or other out of pocket costs for removing the lien as determined by the Finance Director, to reasonably reflect the City's cost for performing these tasks. The City's administrative processing fees may include any outside consulting or administrative fees associated with the pre-payment.

In addition, the Finance Director has the authority to adjust the prepayment amount per Taxable Parcel calculated above if the; (1) Property Owner has paid a portion or all of their current property tax bill and that portion attributable to the payment of Special Taxes have not been used in the calculations described above, (2) if the City will earn interest on the prepayment funds received, (3) if the prepayment calculation described above is in conflict with any of the CFD or Bond documents which pertain to the prepayment of Special Taxes.

PREPAYMENT CALCULATION OF SPECIAL TAXES FOR A TAXABLE PARCEL ON OR AFTER JUNE 16, 2011

The Special Tax obligation for a Taxable Parcel may be prepaid on any date on or after June 16, 2011 if the Taxable Parcel is not delinquent in their Special Tax payments based upon the following formula. The Property Owner requesting the prepayment must provide the City a minimum of 75 days notice prior to the redemption date of the Bonds to be redeemed with the proceeds of the prepaid Special Taxes. The prepayment must be received by the Finance Director 45 days prior to the next Bond redemption date.

- 1) Determine the Maximum Annual Special Tax per Taxable Parcel for the Taxable Parcel which is proposed to be prepaid.
- 2) Determine the total Maximum Annual Special Taxes for all Taxable Parcels within the boundaries of the CFD which have not prepaid their Special Taxes.
- 3) Determine the Taxable Parcel's pro-rata share of the prepayment obligation by dividing the Maximum Annual Special Tax for the Taxable Parcel which is proposed to be prepaid by the Total Maximum Annual Special Taxes for all Taxable Parcels within the boundaries of the CFD which have not prepaid their Special Taxes.
- 4) Calculate the total amount of outstanding unpaid principal of the Bonds.

- 5) Determine the Taxable Parcel's pro-rata share of the outstanding unpaid principal of the Bonds by multiplying the Taxable Parcel's pro-rata share of prepayment obligation as calculated in Step No. 3 by the total amount of outstanding unpaid principal of the Bonds in Step No. 4.
- 6) Calculate the total amount of interest due at the next interest payment date for the Bonds.
- 7) Determine the Taxable Parcel's pro-rata share of the interest due at the next interest payment date for the Bonds by multiplying the Taxable Parcel's pro-rata share of prepayment obligation as calculated in Step No. 3 by the total amount of interest due at the next interest payment date.
- 8) Calculate the redemption premium on the outstanding unpaid principal of the Taxable Parcel's pro-rata share of the Bonds pursuant to the terms and conditions in the Fiscal Agent Agreement for the Bonds, if any.
- 9) Calculate the reserve fund credit to be applied to the Taxable Parcel's pro-rata share of the Bonds pursuant to the terms and conditions in the Fiscal Agent Agreement for the Bonds, if any.
- 10) Calculate the City administrative fee for the prepayment of Special Taxes as determined by the Finance Director.
- 11) Calculate the prepayment of Special Taxes for each Taxable Parcel as follows:

The Taxable Parcel's pro-rata share of the outstanding unpaid principal of the Bonds as calculated in Step No. 5, plus,

The Taxable Parcel's pro-rata share of the interest due at the next interest payment date as calculated in Step No. 7, plus,

The Taxable Parcel's pro-rata share of the redemption premium due on the outstanding unpaid principal of the Bonds as calculated in Step No. 8, less,

The Taxable Parcel's pro-rata share of the Reserve Fund as calculated in Step No. 9, plus,

A City administrative processing fee for calculating and administering the prepayment, including any filing costs or other out of pocket costs for removing the lien as determined by the Finance Director, to reasonably reflect the City's cost for performing these tasks. The City's administrative processing fees may include any outside consulting or administrative fees associated with the pre-payment.

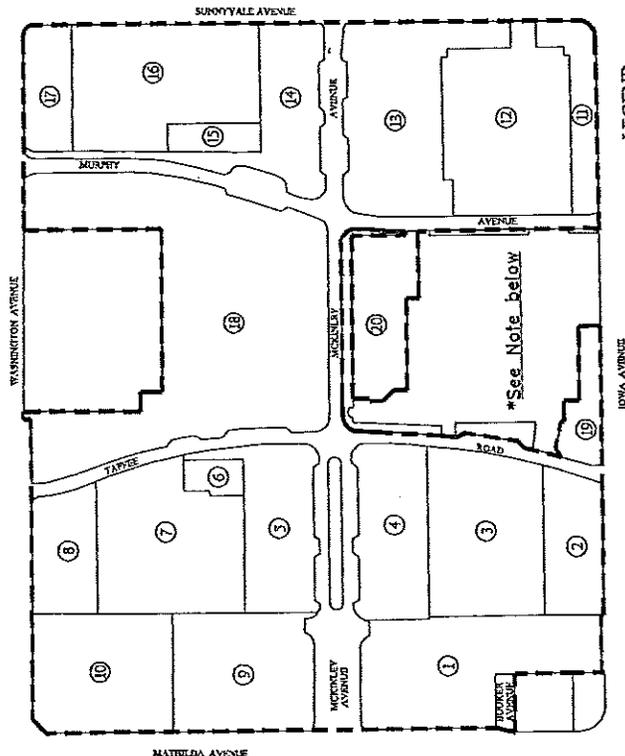
In addition, the Finance Director has the authority to adjust the prepayment amount per Taxable Parcel calculated above if the; (1) Property Owner has paid a portion or all of their current property tax bill and that portion attributable to the payment of Special Taxes have not been used in the calculations described above, (2) if the City will earn interest on the prepayment funds received, (3) if the prepayment calculation described above is in conflict with any of the CFD or Bond documents which pertain to the prepayment of Special Taxes.

EXHIBIT B

AMENDED BOUNDARY MAP

**AMENDED BOUNDARY MAP
COMMUNITY FACILITIES DISTRICT No. 1**

CITY OF SUNNYVALE
COUNTY OF SANTA CLARA, STATE OF CALIFORNIA



Reference Number	Assessor's Parcel Number
1	209-34-019
2	209-34-020
3	209-34-021
4	209-34-022
5	209-34-023
6	209-34-024
7	209-34-025
8	209-34-026
9	209-34-029
10	209-34-030
11	209-35-013
12	209-35-014
13	209-35-015
14	209-35-016
15	209-35-017
16	209-35-018
17	209-35-019
18	209-35-023
19	209-35-024
20	209-35-029

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SUNNYVALE THIS _____ DAY OF _____, 2009.

CITY CLERK
CITY OF SUNNYVALE
COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING AMENDED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT No. 1, CITY OF SUNNYVALE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE, AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2009, BY ITS RESOLUTION NO. _____

CITY CLERK
CITY OF SUNNYVALE
COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

FILED THIS _____ DAY OF _____, 2009, AT THE HOUR OF _____ O'CLOCK _____ IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____ DOCUMENT No. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

COUNTY RECORDER
COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

THIS AMENDS THE BOUNDARY MAP FOR COMMUNITY FACILITIES DISTRICT No. 1, CITY OF SUNNYVALE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, PRIOR TO RECORD AT BOOK 34 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 4, ON JANUARY 21, 1999, IN THE OFFICE OF THE COUNTY RECORDER FOR THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA.

COUNTY RECORDER
COUNTY OF SANTA CLARA
STATE OF CALIFORNIA

*Note: Assessor Parcel Number 209-35-028 is not located within the boundaries of Community Facilities District No. 1 and will not be taxed.

ASSESSOR PARCELS WITHIN BOUNDARY;
FOR PARTICULARS OF LINES AND DIMENSIONS OF PARCELS, REFERENCE IS MADE TO THE ASSESSOR PARCEL NUMBERS OF THE COUNTY OF SANTA CLARA.

MAP REC'D 1/21/09 - 10:00 AM 1/21/09 No. 110005 (09) Filed in Sunnyvale, CA 10/20/09

PREPARED BY FRANCISCO & ASSOCIATES, INC.