

ORDINANCE NO. 2022-17
(Uncodified)

ORDINANCE LEVYING A SPECIAL TAX WITHIN THE CONTRA COSTA COUNTY
FIRE PROTECTION DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2022-1
(ANTIOCH FIRE PROTECTION AND EMERGENCY RESPONSE SERVICES)

The Contra Costa County Board of Supervisors, as and constituting the Board of Directors of the Contra Costa County Fire Protection District, ordains as follows:

SECTION I. Authority. This ordinance is enacted pursuant to Health and Safety Code section 13912.

SECTION II. Background.

- A. On March 8, 2022, the Board of Directors (the "Board") of the Contra Costa County Fire Protection District (the "District") adopted Resolution No. 2022/4 (the "Resolution of Intention"), stating its intention to establish the Contra Costa County Fire Protection District Community Facilities District No. 2022-1 (Antioch Fire Protection and Emergency Response Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code Section 53311 et seq. (the "Law"), to levy a special tax to fund certain services (the "Services"), and identifying territory that may be annexed to the CFD in the future (the "Future Annexation Area"). The CFD and Future Annexation Area are identified in the map attached as Exhibit A. The Services to be funded by the special tax are described in Exhibit B.
- B. On April 26, 2022, in accordance with the Resolution of Intention and the Law, the Board held a noticed public hearing for the purpose of establishing the CFD and to authorize the levying of a special tax within the CFD to provide for the costs of the Services. At the public hearing, all persons desiring to be heard on all matters pertaining to the formation of the CFD and the levy of the special tax were heard, substantial evidence was presented and considered by the Board, and a full and fair hearing was held.
- C. Upon conclusion of the hearing, the Board adopted Resolution No. 2022/5 (the "Resolution of Formation"), to establish the CFD and authorize the levy of a special tax within the CFD (the "Special Tax"), and Resolution No. 2022/6, to call an election within the CFD on the proposition of levying the Special Tax and establishing an appropriations limit for the CFD.
- D. On April 26, 2022, an election was held within the CFD in which the eligible landowner electors approved the propositions, and the Board adopted Resolution No. 2022/7, to declare the results of the election.

SECTION III. Levy of Special Tax. The Board hereby authorizes and levies the Special Tax within the CFD, pursuant to the Law, at the rate and in accordance with the method of

apportionment of the Special Tax as set forth in Exhibit C (the "Rate and Method"). The Special Tax is to be levied commencing in fiscal year 2021/22, and in each fiscal year thereafter.

SECTION IV. Determination of Special Tax Rate. The Fire Chief, or his or her designee, is hereby authorized and directed each fiscal year to determine, or to cause to be determined, the specific Special Tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, including any parcel in the Future Annexation Area that is annexed into the CFD, in the manner and as provided in the Rate and Method.

SECTION V. Exempt Properties. Exemptions from the levy of the Special Tax are as provided in the Rate and Method. In no event shall the Special Tax be levied on any parcel within the CFD in excess of the maximum tax specified in the Rate and Method.

SECTION VI. Use of Special Tax. All proceeds of the Special Tax shall be used as provided for in the Law and in the Resolution of Formation, including the payment of costs of the Services, the payment of costs incurred by the District in administering the CFD, and the payment of costs of collecting and administering the Special Tax.

SECTION VII. Collection on Tax Roll. The Special Tax shall be collected in the same manner as ordinary ad valorem taxes and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Board may provide for other appropriate methods of collection by resolution(s) of the Board. In addition, the provisions of Section 53356.1 of the California Government Code shall apply to delinquent special tax payments. The Fire Chief is authorized and directed to provide all necessary information to the Auditor-Controller of the County of Contra Costa in order to effect proper billing and collection of the Special Tax, so that the Special Tax will be included on the secured property tax roll of the County of Contra Costa for fiscal year 2021/22, and for each fiscal year thereafter, until no longer required to pay for the Services or until otherwise terminated by the District.

SECTION VIII. Accountability. Under Section 50075.1 of the Government Code, the following accountability provisions shall apply to the Special Tax: (a) the provision and/or acquisition of the Services and the incidental costs thereof, all as defined in the Resolution of Formation, shall constitute the specific single purpose of the special tax; (b) the proceeds shall be applied only to the specific purposes identified in (a) above; (c) the Fire Chief of the District shall create or cause to be created a special account into which the proceeds shall be deposited; (d) the Fire Chief, or his or her designee, is directed to prepare and provide an annual report to the Board as required by Section 50075.3 of the Government Code.

SECTION IX. Severability. If for any reason any portion of this ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the CFD, by a Court of competent jurisdiction, the balance of this ordinance and the application of the Special Tax to the remaining parcels within the CFD shall not be affected.

SECTION X. Effective Date. This ordinance becomes effective 30 days after passage. Within 15 days after its passage, this ordinance shall be published once with the names of the directors voting for and against it in the East Bay Times, a newspaper published in this County.

PASSED ON April 26, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: MONICA NINO,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

EXHIBIT A
BOUNDARY MAP

**PROPOSED BOUNDARY MAP AND FUTURE ANNEXATION AREA OF
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(ANTIOCH FIRE PROTECTION AND EMERGENCY RESPONSE SERVICES)**

COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

FILED IN THE OFFICE OF THE ADMINISTRATIVE OFFICER OF THE
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT THIS
DAY OF _____, 2022.

ADMINISTRATIVE OFFICER
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE
PROPOSED BOUNDARIES AND FUTURE ANNEXATION AREA OF
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2022-1 (ANTIOCH FIRE
PROTECTION AND EMERGENCY RESPONSE SERVICES) WAS
APPROVED BY THE BOARD OF DIRECTORS OF THE CONTRA COSTA COUNTY
FIRE PROTECTION DISTRICT AT A REGULAR MEETING
THEREOF, HELD ON THE _____ DAY OF _____, 2022, BY
ITS RESOLUTION NO(S) _____.

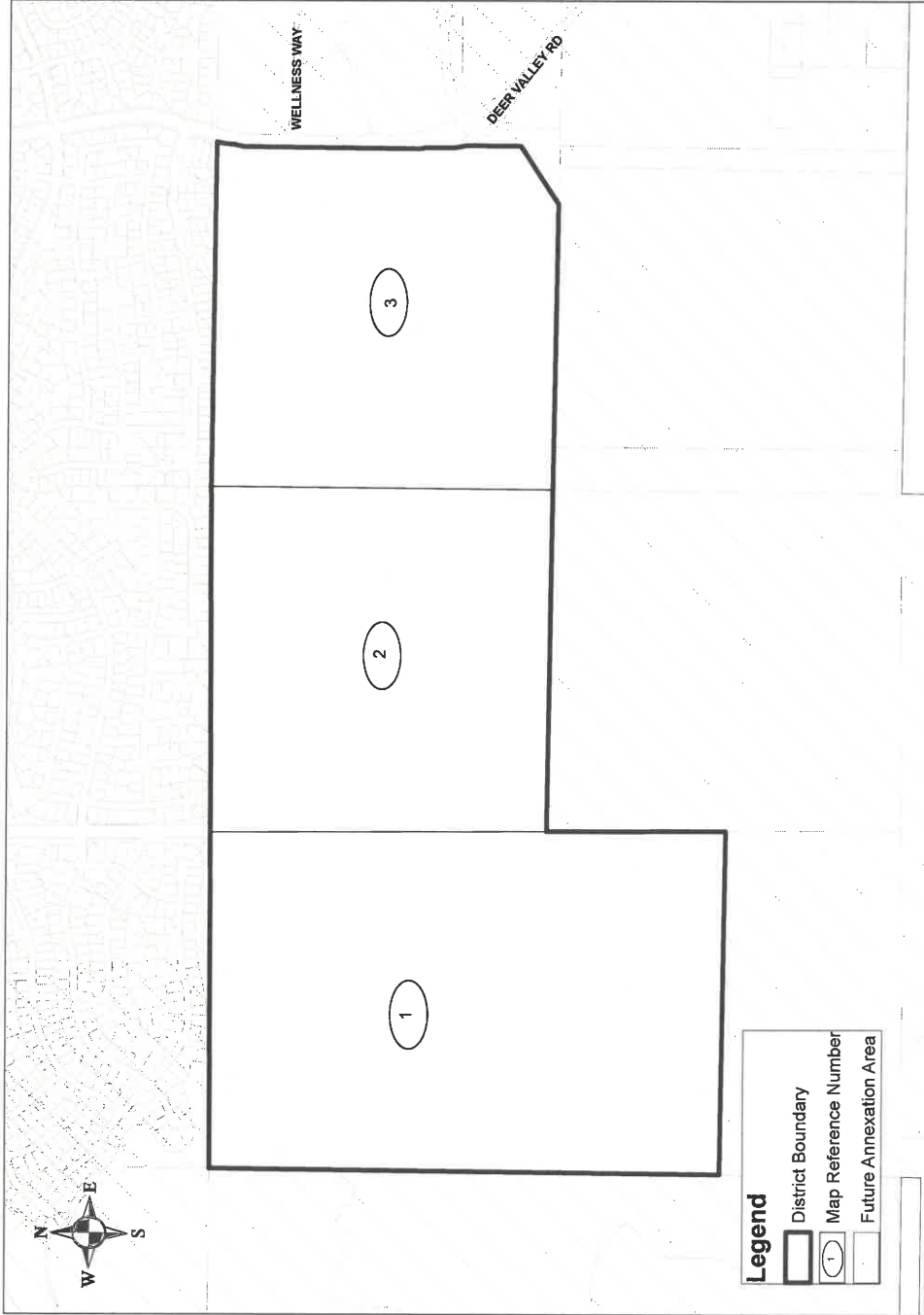
ADMINISTRATIVE OFFICER
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT

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

BY DEPUTY
COUNTY RECORDER
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL
ENCOMPASSED BY THIS MAP SHALL BE THOSE LINES AND
DIMENSIONS AS SHOWN ON THE CONTRA COSTA COUNTY
ASSESSOR'S MAPS.

THE CONTRA COSTA COUNTY ASSESSOR'S MAPS SHALL GOVERN
FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF
SUCH LOTS OR PARCELS.



MAP REFERENCE	ASSESSOR'S
1	057-010-002
2	057-010-003
3	057-021-003



**PROPOSED BOUNDARY MAP AND FUTURE ANNEXATION AREA OF
CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2022-1
(ANTIOCH FIRE PROTECTION AND EMERGENCY RESPONSE SERVICES)**

COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA

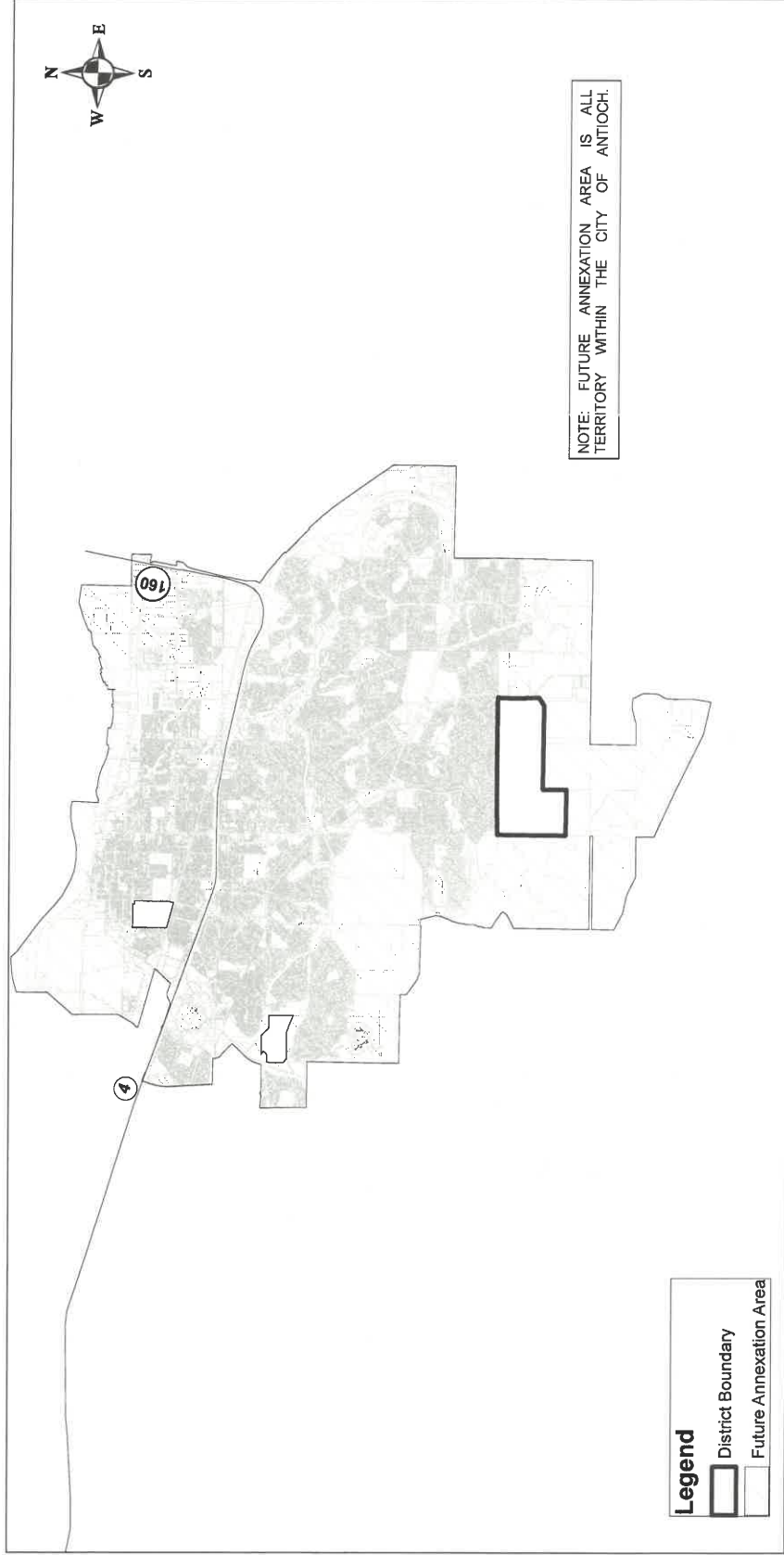


EXHIBIT B

DESCRIPTION OF SERVICES

Services:

The services to be funded, in whole or in part, by the community facilities district (the "CFD") include: (a) fire protection and suppression services, and (b) ambulance and paramedic services ("Services"). The Services include all direct and incidental costs related to providing for the maintenance of public infrastructure within the area of the CFD and areas adjacent to or in the vicinity of such areas. The CFD may fund any of the following related to the Services: furnishing, operating, and maintaining equipment, apparatus, or facilities related to providing the Services, paying the salaries and benefits of personnel necessary or convenient to provide the Services, payment of insurance costs and other related expenses, and the provision of reserves for repairs and replacements and for the future provision of Services. It is expected that the Services will be provided by the Contra Costa County Fire Protection District (the "District"), either with its own employees or by contract with third parties, or any combination thereof.

Administrative Expenses:

The administrative expenses to be funded by the CFD include the direct and indirect expenses incurred by the District in carrying out its duties with respect to the CFD (including, but not limited to, the levy and collection of the special taxes) including the fees and expenses of attorneys, any fees of Contra Costa County related to the CFD or the collection of special taxes, an allocable share of the salaries of the District staff directly related thereto and a proportionate amount of the District's general administrative overhead related thereto, any amounts paid by the District from its general fund with respect to the CFD or the services authorized to be financed by the CFD, and expenses incurred by the District in undertaking action to foreclose on properties for which the payment of special taxes is delinquent, and all other costs and expenses of the District in any way related to the CFD.

Other:

The incidental expenses that may be funded by the CFD include, in addition to the administrative expenses identified above, the payment or reimbursement to the District of all costs associated with the establishment and administration of the CFD.

EXHIBIT C

RATE AND METHOD OF APPORTIONMENT

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

For the Contra Costa County Fire Protection District Community Facilities District No. 2022-1 (Antioch Fire Protection and Emergency Response Services), County of Contra Costa, State of California

The Special Tax as hereinafter defined shall be levied on all Assessor's Parcels within the boundaries of Contra Costa County Fire Protection District Community Facilities District No. 2022-1 (Antioch Fire Protection and Emergency Response Services), ("CFD No. 2022-1"), other than Assessor's Parcels classified as Exempt Property as defined herein, and collected each Fiscal Year commencing in Fiscal Year 2021-22, in an amount determined by the CFD Administrator through the application of the procedures described below. All of the real property within the boundaries of CFD No. 2022-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Communities Facilities Act of 1982 as amended, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated expenses related to the administration of CFD No. 2022-1: the costs of determining the amount of the levy of the Special Tax; the collection of Special Taxes, including the expenses of collecting delinquencies and pursuing foreclosures; the payment of a proportional share of salaries and benefits of any District employee, including District overhead, whose duties are directly related to the administration of CFD No. 2022-1; fees and expenses for counsel, audits, and costs associated with responding to public inquiries regarding CFD No. 2022-1; and any and all other costs incurred in connection with the administration of CFD No. 2022-1.

"Annual Escalation Factor" means the annual percentage increase of the All Urban Consumers Consumer Price Index ("CPI") or two percent (2%), whichever is greater. The annual CPI used shall be for the area of San Francisco-Oakland-Hayward as determined by the Bureau of Labor Statistics for the 12 months ending the preceding December 31, or such other replacement index as may be determined by the District.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned assessor's parcel number.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by assessor’s parcel number.

“Building Permit” means a permit issued for new construction of a residential dwelling or non-residential structure. For purposes of this definition, “Building Permit” shall not include permits for construction or installation of retaining walls, grading, utility improvements, or other such improvements not intended for human habitation.

“CFD Administrator” means an official of the District, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Tax for CFD No. 2022-1.

“CFD No. 2022-1” means Contra Costa County Fire Protection District Community Facilities District No. 2022-1 (Antioch Fire Protection and Emergency Response Services) established by the Board under the Act.

“District” means the Contra Costa County Fire Protection District.

“Board” means the Board of Directors of the Contra Costa County Fire Protection District, acting as the legislative body of CFD No. 2022-1.

“County” means the County of Contra Costa.

“Developed Property” means an Assessor’s Parcel of Taxable Property for which a Building Permit was issued on or before the May 1 preceding the Fiscal Year for which the Special Tax is being levied.

“Exempt Property” means all Assessor’s Parcels within CFD No. 2022-1 that are exempt from the Special Tax pursuant to the Act or Section F herein.

“Fiscal Year” means the period commencing on July 1 of any year and ending the following June 30.

“Land Use Type” means any of the land use types listed in Table 1 below.

“Maximum Special Tax” means the maximum Special Tax determined in accordance with Section C, which may be levied in any Fiscal Year on an Assessor’s Parcel of Taxable Property.

“Multi-Family Residential Property” means all Assessor’s Parcels of Residential Property for which a Building Permit has been issued for the purpose of constructing a building or buildings comprised of attached Residential Units available for rent by the general public, not for sale to an end user, and under common management.

“Non-Residential Property” means any Assessor’s Parcel classified as Developed Property, which is not classified as Residential Property, Public Property, or Property Owner Association Property.

“Property Owner Association Property” means for each Fiscal Year any property within the boundaries of CFD No. 2022-1 that was owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to, a property owner association, including any master or sub-association, as of June 1.

“Proportionately” means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels within each Land Use Class.

“Public Property” means any property that is owned by, dedicated to, or irrevocably dedicated to, a city, the federal government, the State of California, the County, or any other public agency.

“Public Safety Services” means those authorized services that may be funded by CFD No. 2022-1 pursuant to the Act, as amended, including but not limited to (a) fire protection and suppression services and (b) ambulance and paramedic services.

“Residential Property” means all Assessor’s Parcels of Developed Property within CFD No. 2022-1 for which a Building Permit has been issued for purposes of constructing one or more Residential Unit(s).

“Residential Unit” means any residence in which a person or persons may live, which is not used for non-residential purposes.

“Single-Family Residential Property” means all Assessor’s Parcels of Residential Property not classified as Multi-Family Residential Property.

“Special Tax” means the special tax authorized to be levied within CFD No. 2022-1 pursuant to the Act to fund the Special Tax Requirement.

“Special Tax Requirement” means the amount, as determined by the CFD Administrator, for any Fiscal Year to: (i) pay the costs of providing the Public Safety Services during the Fiscal Year, (ii) pay Administrative Expenses associated with the Special Tax, (iii) establish or replenish any operational reserve fund established for Public Safety Services, (iv) pay incidental expenses related to the Public Safety Services as authorized pursuant to the Act, (v) fund an amount equal to a reasonable estimate of delinquencies expected to occur in the Fiscal Year in which the Special Tax will be levied (“Estimated Special Tax Delinquency Amount”) and (vi) fund the shortfall, if any, in the Special Tax revenues collected in the preceding Fiscal Year necessary to fund the Special Tax Requirement for the preceding Fiscal Year where the shortfall resulted from delinquencies in the payment of the Special Tax in the preceding Fiscal Year that

exceeded the Estimated Special Tax Delinquency Amount included in the Special Tax Requirement for the preceding Fiscal Year.

“**Taxable Property**” means all Assessor’s Parcels that are not exempt from the Special Tax pursuant to the Act or Section F.

“**Undeveloped Property**” means an Assessor’s Parcel of Taxable Property which is not classified as Developed Property.

B. CLASSIFICATION OF ASSESSOR’S PARCELS

Each Fiscal Year, beginning with Fiscal Year 2021-22, each Assessor’s Parcel within the boundaries of CFD No. 2022-1 shall be classified by the CFD Administrator as Taxable Property or Exempt Property. In addition, for each Fiscal Year, each Assessor’s Parcel of Taxable Property shall be further classified by the CFD Administrator as Developed Property or Undeveloped Property. Commencing with Fiscal Year 2021-22 and for each subsequent Fiscal Year, all Taxable Property shall be assigned a Land Use Type and be subject to the levy of the Special Tax pursuant to Section C below.

C. SPECIAL TAX RATES

1. Developed Property

Each Fiscal Year commencing in Fiscal Year 2021-22, each Assessor’s Parcel of Developed Property shall be subject to the Special Tax.

The Maximum Special Tax for Developed Property for Fiscal Year 2021-22 is shown below in Table 1.

TABLE 1

Land Use Type	Maximum Special Tax
Single-Family Residential Property	\$381 per Residential Unit
Multi-Family Residential Property	\$267 per Residential Unit

For each subsequent Fiscal Year following Fiscal Year 2021-22, the Maximum Special Tax rates shall be increased from the Maximum Special Tax rate in effect for the prior Fiscal Year by the Annual Escalation Factor.

2. Undeveloped Property

Each Fiscal Year commencing in Fiscal Year 2021-22, each Assessor’s Parcel classified as Undeveloped Property shall be exempt from the levy of the Special Tax.

3. Exempt Property

No Special Tax shall be levied on Exempt Property as defined in Section F.

For each Fiscal Year, if the use or ownership of an Assessor's Parcel of Exempt Property changes so that the Assessor's Parcel is no longer classified as one of the uses set forth in Section F, therefore making the Assessor's Parcel no longer eligible to be classified as Exempt Property, the Assessor's Parcel shall be deemed to be Taxable Property and shall be taxed pursuant to the provisions of Section C.

D. METHOD OF APPORTIONMENT OF SPECIAL TAX

Commencing in Fiscal Year 2021-22 and for each subsequent Fiscal Year, the CFD Administrator shall levy the Special Tax on all Taxable Property within the boundaries of CFD No. 2022-1 until the total amount of Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property within the boundaries of CFD No. 2022-1 up to 100% of the Maximum Special Tax to satisfy the Special Tax Requirement.

Notwithstanding any provision of this Section D to the contrary, under no circumstances will the Special Tax levied against any Assessor's Parcel of Developed Property that is classified as Residential Property be increased by more than ten percent (10%) per Fiscal Year as a consequence of delinquency or default in the payment of the Special Tax by the owner of any other Assessor's Parcel within the boundaries of CFD No. 2022-1.

E. PREPAYMENT OF SPECIAL TAX

The Special Tax shall be levied in perpetuity for the purpose of financing ongoing authorized services and therefore may not be prepaid.

F. EXEMPTIONS

Notwithstanding any other provision of the Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on any of the following Exempt Property: (i) Public Property, provided that if the public entity owning or controlling a Public Property grants a lease or other possessory interest in the Public Property to a private entity, and the Public Property is thereby subject to taxation pursuant to Section 53340.1 of the Act, the leasehold or possessory interest shall be classified and taxed according to the use thereof; (ii) Property Owner Association Property; (iii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, including but not limited to property designated for open space, trails, pathways, parks, or park and recreation-related facilities; (iv) property reasonably designated by the District or CFD Administrator as Exempt Property due to deed restrictions, conservation easement, or similar factors.

G. APPEALS

Any property owner claiming that the amounts or application of the Special Tax is not correct may file a written notice of appeal with the CFD Administrator not later than 12 months after having paid the first installment of the Special Tax. The CFD Administrator 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 rule on the appeal. If the decision of the CFD Administrator requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund shall not be made but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s) to compensate for the overpayment of the Special Tax.

H. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the Special Tax may be billed and collected at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 2022-1.

I. DURATION OF TAX

The Special Tax shall be levied in perpetuity to fund the Special Tax Requirement unless such tax is no longer required as determined by the Board.