

**CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 2
(ABORN - MURILLO)**

CFD REPORT

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Prepared For:

CITY OF SAN JOSE

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I. INTRODUCTION

In November 1989, the San Jose City Council adopted an amendment to the City's General Plan which designated 865 acres in the Evergreen area as the "Evergreen Planned Residential Community". With this recommendation came the requirement that a specific plan be prepared and adopted prior to the approval of any development in the area. On July 2, 1991, the City Council adopted the Evergreen Specific Plan, which will ultimately accommodate up to 2,996 residential units and more than 150,000 square feet of retail space. Already, homes have been built and sold within the community and much of the public infrastructure has been completed.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT No. 2

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parks, parkways and open space.

The Resolution of Intention to Establish CFD No. 2 was adopted by the City Council on June 24, 1997. After a public hearing and a successful election, the CFD will be formed and the levy of a special tax will be authorized. Because there are currently less than 12 registered voters within the CFD, the landowners will vote at the election to authorize the annual levy of special taxes; a two-thirds vote is required.

B. Boundaries of CFD No. 2

The initial boundaries of the CFD includes multiple assessor's parcels that are primarily undeveloped at this time. Additional property is expected to annex into the CFD. It is anticipated that property subsequently annexed into the CFD will be subject to the same special tax levy as property in the CFD when it was initially formed. The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in the Book of Maps of Assessment and Community Facilities in the Santa Clara County Recorder's Office.

C. CFD Special Tax Structure

Each year a special tax will be levied and collected from parcels within the CFD to pay costs associated with maintaining the improvements described in Section III below. The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix A of this report. Only property for which a final map has been recorded will be subject to the levy of special

taxes each fiscal year. The RMA identifies the maximum special tax that can be levied on each parcel of property in fiscal year 1997-98; these maximum taxes are subject to increase each year based on the increase, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

III. DESCRIPTION OF SERVICES TO BE FUNDED BY CFD No. 2

CFD No. 2 is being formed to fund maintenance of various improvements that are required to achieve the type of community described in the Evergreen Specific Plan. Ensuring that improvements are properly maintained in future years is critical to protect the vision for the community set forth in the Specific Plan.

Maintenance of the improvements will include necessary repairs, replacements, equipment, supplies, water, fuel, power, electric current, care, supervision, and any and all other items necessary for the safe and proper maintenance and operation of the improvements listed below. An annual replacement fund has also been established to provide ongoing funding for replacement of any amenity damaged by normal wear, accident or vandalism. The improvements to be maintained by CFD No. 2 special tax proceeds include the following:

- Perimeter landscaping and lakes and water features including lake aeration jets and pump/filter systems.
- Landscaping and trails along the corridors of Quimby and Fowler Creeks
- Median island landscaping along Aborn Rd., Murillo Ave., Ruby Ave., Yerba Buena Rd., Street A (Classico Ave.), Street B, Street C and Street F
- Parkway landscaping in all public streets (area strips within the right-of-way between and/or behind curbs and sidewalks)
- Benches, bollards, special lighting, hardscape, landscaping, gazebos, trellises, play equipment, monuments, focal art, fountains, and other amenities.
- Internal trails and pedestrian walkways in the District
- Structural pruning of all street trees and tree replacement as required (excludes repair of damage to concrete sidewalks, curb and gutters, driveways or pavement that may be caused by the trees which remains the responsibility of private property owners)
- Landscaping around two debris basins located near the upstream limits of Quimby and Fowler Creeks (excludes normal maintenance by Santa Clara Valley Water District)
- Litter and graffiti removal on soundwalls and other amenities within public rights-of-way (such as Aborn Rd., Murillo Ave., Quimby Rd., Yerba Buena Rd., Classico Ave.) plus normal painting as required.

- Fountain, benches, hardscape, landscaping, focal art and other amenities within the Village Center Rotary
- Benches, hardscape, landscaping, focal art and other amenities within Fowler Creek Park Rotary
- High level maintenance of Mirassou Winery vineyards, approximately one acre, (excluding winery buildings) at the corner of Aborn Road and Ruby Avenue north of the Village Rotary
- Public open spaces

IV. COST ESTIMATES FOR SERVICES TO BE FUNDED BY CFD No. 2

Following is an estimate of the annual maintenance costs that will be funded by CFD No. 2. Regardless of actual costs of maintenance in future years, the special taxes levied within the CFD will never exceed the maximum rates identified in Attachment A of this report.

<u>Maintenance Item</u>	<u>Annual Maintenance Costs (1997 Dollars)</u>
Back-up Landscaping	\$258,864
Creek Corridors	113,267
Debris Basins (landscape around perimeters)	8,203
Lakes (maintenance and landscaping)	71,344
Litter & Graffiti Removal	22,938
Median Island Landscaping	50,612
Play Equipment	9,114
Pocket Park & Trail Lighting	27,342
Pocket Parks	56,579
Street Trees	51,038
Trails, Pedestrian Paseos	51,193
Village Center Rotary	41,616
Fowler Creek Park Rotary	20,808
Vineyards	13,525
Replacement Fund	<u>12,759</u>
Total Annual Maintenance Costs	\$809,201

APPENDIX A

**CITY OF SAN JOSE
COMMUNITY FACILITIES DISTRICT NO. 2**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT B

City of San Jose Community Facilities District No. 2 (Aborn - Murillo)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 2 (Aborn-Murillo) [herein "CFD No. 2"] shall be levied and collected according to the tax liability determined by the City Council of the City of San Jose, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, or other recorded County parcel map.

"Act" means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code and Chapter 14.27 of Title 14 of the Municipal Code of the City.

"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 County Assessor of the County of Santa Clara designating parcels by Assessor's Parcel Number.

"Church Property" means any Parcel within the CFD that meets the following criteria: (1) a structure has been built that is used as a place of worship, rectory, convent or private school, and (2) the Parcel is exempt from ad valorem property taxes because it is owned by a religious organization.

"City" means the City of San Jose.

"Code" means the San Jose Municipal Code.

"Council" means the City Council of the City of San Jose, acting as the legislative body of CFD No. 2.

“Developed Property” means, in any Fiscal Year, all Taxable Property for which a Final Map has been approved by the City Council prior to June 30 of the preceding Fiscal Year.

“Evergreen Specific Plan” means the Evergreen Specific Plan as approved by the City Council on July 2, 1991 and as amended in future years.

“Final Map” means a final map, or portion thereof, approved by the Council pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) and Chapter 19.16 of the Code that creates individual lots for which building permits may be issued. The term "Final Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create individual lots for which a building permit may be issued, including Assessor's Parcels that are designated as a remainder parcel.

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

“Land Use Class” means any of the four classes listed in Table 1 below.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property in CFD No. 2.

“Non-Residential Property” means Parcels with, or anticipated to have, a structure used for commercial, office or industrial activities or any other use which is not Single Family Attached, Single Family Detached, Multi-Family or Church Property and which is not exempt from Special Taxes pursuant to Section E below.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

"Single Family Attached and Multi-Family Property" means Parcels with, or anticipated to have, a residential structure consisting of two or more residential units that share common walls, including duplex, triplex, fourplex, townhome, condominium and apartment units. However, Carriage Homes, as described in the Evergreen Specific Plan, shall be categorized as Single Family Detached Property even if the carriage unit shares a common wall with the primary single family unit.

"Single Family Detached Property" means Parcels with, or anticipated to have, a residential structure consisting of only one residential unit, or a residential structure that consists of one primary single family unit and a smaller attached or detached secondary “carriage” unit.

“Special Tax” means any special tax to be levied each Fiscal Year on Assessor's Parcels of Taxable Property to fund the Special Tax Requirement.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2, and (iii) cure any delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on

delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

“Taxable Property” means all of the Assessor's Parcels within the boundaries of CFD No. 2 which are not exempt from the Special Tax pursuant to law or Section E below.

B. ASSIGNMENT TO LAND USE CLASS

After July 1 of each Fiscal Year, all Parcels in CFD No. 2 shall be assigned to the appropriate Land Use Class based upon the land use proposed for the Parcel. For Single Family Attached and Multi-Family Property, the number of residential units shall be determined by referencing the condominium plan, apartment plan, site plan or other development plan. The Acreage for Non-Residential Property in Land Use Class 4 shall be determined by reference to the Final Map or Assessor's Parcel Map. Determination of the appropriate Land Use Class for each Parcel of Taxable Property shall be based on the description of each product type set forth in the Evergreen Specific Plan and the zoning for the property identified as PDCC 94-10-044 and approved on November 29, 1994; such determination shall be at the sole discretion of the City.

C. MAXIMUM SPECIAL TAX

The following table identifies the Maximum Special Tax to be levied on Developed Property in CFD No. 2:

TABLE 1 MAXIMUM SPECIAL TAX (Fiscal Year 1998-99)			
Land Use Class	Land Use Category	Product Type	Maximum Special Tax
1	Single Family Detached Property	Hillside Lots 8,000 sqft Lots 7,000 sqft Lots	\$400.49 per unit
2	Single Family Detached Property	Carriage Homes 6,000 sqft Lots 5,000 sqft Lots 4,000 sqft Lots	\$308.07 per unit
3	Single Family Attached and Multi-Family Property	Duplex/Triplex Fourplex Townhome Condominium Apartments	\$246.46 per unit
4	Non-Residential Property	All types	\$616.14 per Acre

Beginning January 2, 1999 and each January 2 thereafter, the Maximum Special Tax shall be adjusted by applying the increase, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 1998-99, the Special Tax shall be levied on all Parcels of Developed Property as follows:

Step 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;

Step 2: Calculate the total Special Tax revenues that could be collected from Developed Property within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section C above;

Step 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax set forth in Table 1 above on all Parcels of Developed Property in the CFD. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in CFD No. 2, only the Maximum Special Tax set forth for each Land Use Class may be collected unless a higher Maximum Special Tax is approved by two-thirds of the registered voters voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 is equal to the amount calculated in Step 2, levy the Maximum Special Tax set forth in Table 1 above on all Parcels of Developed Property in the CFD.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax against all Parcels of Developed Property in equal percentages up to 100% of the Maximum Special Tax for each Land Use Class until the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

The Special Tax for CFD No. 2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 2 may (under the authority of Government Code Section 53340 and the Code), in any particular case, bill the taxes directly to the property owner off the County tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on Parcels that have been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. In addition, no Special Tax shall be levied in any Fiscal Year on Church Property or property with structures used for wine making or wine tasting activities of the Mirassou vineyard.

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