

BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO

A RESOLUTION OF FORMATION OF) Resolution No. 2018-____
COMMUNITY FACILITIES DISTRICT)
NO. 2018-1 (Residential Services))
_____)

RESOLVED, by the Board of Supervisors (the "Board") of the County of San Benito (the "County"), State of California that:

WHEREAS, this Board adopted a resolution entitled "Resolution of Intention to Establish Community Facilities District" (the "Resolution of Intention"), stating its intention to form "County of San Benito Community Facilities District No. 2018-1 (Residential Services)" (the "CFD") pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act");

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the CFD and stating the services to be provided and the rate and method of apportionment of the special tax to be levied within the CFD to pay for the services, is on file with the Clerk of the Board and the provisions of the Resolution of Intention are incorporated herein by this reference as if fully set forth herein;

WHEREAS, on this date, this Board held a noticed public hearing as required by the Act and the Resolution of Intention with respect to the proposed formation of the CFD;

WHEREAS, at the hearing, all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the services to be provided therein and the levy of such special tax were heard and a full and fair hearing was held;

WHEREAS, at the hearing, evidence was presented to this Board on such matters before it, including a special report (the "Report") as to the services to be provided through the CFD and the costs thereof, a copy of which is on file with the Clerk of the Board, and this Board at the conclusion of said hearing is fully advised in the premises;

WHEREAS, no written protests have been filed with the Clerk of the Board by 50% or more of the registered voters residing within the territory of the CFD or property owners that own one-half or more of the area of land within the CFD and not exempt from the proposed special taxes.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of San Benito, that it hereby makes the following findings and determinations and authorizes and directs the County Officials identified herein to take the following actions:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein as if fully set forth in the body of this Resolution of Formation.

Section 2. No Majority Protest. The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.

Section 3. Prior Proceedings Valid. All prior proceedings taken by this Board in connection with the establishment of the CFD and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.

Section 4. Name of CFD. The community facilities district designated "County of San Benito Community Facilities District No. 2018-1 (Residential Services)" of the County is hereby established pursuant to the Act.

Section 5. Boundaries of CFD. The boundaries of the CFD, as set forth in the map of the CFD heretofore recorded in the San Benito County Recorder's Office on August 30, 2018 at 3:15 p.m., in Book 1 at Page 75 in the Book of Maps of Assessment and Community Facilities Districts as Document No. 2018-0008002, are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD.

Section 6. Description of Services. The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein (the "Services").

Section 7. Special Tax.

a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, is intended to be levied annually within the CFD, and collected in the same manner as ordinary ad valorem property taxes or in such other manner as may be prescribed by this Board.

b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are shown in Exhibit B attached hereto and hereby incorporated herein.

Section 8. Increased Demands. It is hereby found and determined that the Services are necessary to meet increased demands placed upon local agencies, including the County, as the result of development occurring in the CFD. The Services are in addition to those provided in the territory of the CFD as of the date hereof and will not supplant services already available within the territory of the CFD as of the date hereof.

Section 9. Responsible Official. The County Treasurer, 440 Fifth Street, Room 106, County Courthouse, Hollister, California, telephone number (831) 636-4043, is the officer of the County who will be responsible for preparing annually a current roll of the levy of the Special Tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the Special Tax.

Section 10. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the CFD, and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the County ceases.

Section 11. Appropriations Limit. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at \$1,000,000 and such appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act and the Constitution.

Section 12. Election. Pursuant to the provisions of the Act, the proposed levy of the Special Tax and the proposed establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Board.

Section 13. Effective Date. This Resolution of Formation shall take effect immediately upon its passage.

PASSED AND ADOPTED by the San Benito County Board of Supervisors at the meeting of said Board held on 25th day of September, 2018, by the following vote:

AYES: Supervisor(s)
NOES: Supervisor(s)
ABSTAIN: Supervisor(s)
ABSENT: Supervisor(s)

Anthony Botelho,
Chair

ATTEST:

By: _____

Janet Slibsager
Clerk of the Board

Date: _____

APPROVED AS TO LEGAL FORM:

By: _____

Laura E. Zagaroli
Interim County Counsel

Date: _____

EXHIBIT A

COUNTY OF SAN BENITO Community Facilities District No. 2018-1 (Residential Services)

DESCRIPTION OF SERVICES

Services:

The services to be funded, in whole or in part, by the community facilities district (the "District") include all direct and incidental costs related to providing for the maintenance of public infrastructure within the area of the District, the future annexation area, and areas adjacent to or in the vicinity of such areas. More specifically, the services shall include, but not be limited to: (i) police, fire and related paramedic services of the County of San Benito required to sustain the public safety service delivery capability for emergency and non-emergency services including related facilities, equipment, vehicles, fire apparatus, services, supplies and personnel; (ii) recreation program services and library services; (iii) maintenance and lighting of parks, parkways, streets, roads and open space; (iv) flood and storm protection services; as well as the provision of other public services authorized to be funded under Section 53313 of the California Government Code. The District may fund any of the following related to the services described in the preceding sentence: obtaining, constructing, furnishing, operating and maintaining equipment, apparatus or facilities related to providing the services and/ or equipment, apparatus, facilities or fixtures in areas to be maintained, 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 County, either with its own employees or by contract with third parties, or any combination thereof.

The services to be financed by the District are in addition to those provided in the territory of the District before the date of creation of the District, and will not supplant services already available within that territory when the District is created.

Administrative Expenses:

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

Other:

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

EXHIBIT B

**COUNTY OF SAN BENITO
Community Facilities District No. 2018-1
(Residential Services)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

[begins on following page]

EXHIBIT B

COUNTY OF SAN BENITO COMMUNITY FACILITIES DISTRICT NO. 2018-1 (RESIDENTIAL SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax shall be levied and collected in County of San Benito Community Facilities District No. 2018-1 (Residential Services) (the "District") each Fiscal Year, in an amount determined by the application of the procedures described below. All of the Taxable Property (as defined below) in the District, unless exempted by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

I. DEFINITIONS

The terms used herein shall have the following meanings:

"Accessory Unit" means a secondary residential unit of limited size (e.g., granny cottage, second unit) that shares a Parcel with a Unit of Single Family Detached Property.

"Acreage" or "Acre" means that acreage shown on the Assessor's Parcel Map or in the Assessor's Data for each Assessor's Parcel. In the event that the Assessor's Parcel Map or Assessor's Data shows no acreage, the Acreage for any Assessor's Parcel shall be determined by the District Administrator based upon the applicable condominium plan, final map or parcel map. If the preceding maps for a land area are not available, the Acreage of such land area may be determined utilizing available spatial data and geographic information systems (GIS).

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of the District: the costs of computing the Annual Special Tax Requirement and the annual Special Tax and of preparing the annual Special Tax collection schedules; the costs of collecting the Special Taxes, including any charges levied by the County Auditor's Office, Tax Collector's Office or Treasurer's Office; the costs of the County or designee in complying with the disclosure requirements of the California Government Code (including the Act), including public inquiries regarding the Special Taxes; the costs of the County or designee related to an appeal of the Special Tax; and the costs of commencing and pursuing to completion any foreclosure action arising from delinquent Special Taxes in the District. Administrative Expenses shall also include costs related to the formation of the District and of annexing territory to the District as well as any amounts advanced by the County for any administrative purposes of the District and an allocable share of the salaries of County staff and an allocable portion of County overhead costs relating to the foregoing, or costs of the County in any way related to the establishment or administration of the District.

"Annual Services Costs" means the amounts required to fund services authorized to be funded by the District.

"Annual Special Tax Requirement" means that amount with respect to each Tax Zone as required in any

Fiscal Year to pay: (1) the Administrative Expenses, (2) the Annual Services Costs, (3) the Contingent Special Tax Requirement, if applicable, (4) any amount required to establish or replenish any reserve or replacement fund established in connection with the District, and (5) reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year.

“Assessor’s Data” means Acreage or other Parcel information contained in the records of the County Assessor.

“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.

“Board” means the Board of Supervisors of the County, acting as the legislative body of the District.

“Contingent Special Tax” means that amount levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Contingent Special Tax Requirement.

“Contingent Special Tax Requirement” means that amount with respect to each Tax Zone as required in any Fiscal Year if the HOA is unable to pay the costs of services incurred or otherwise payable.

“County” means the County of San Benito, California.

“Developed Property” means for each Fiscal Year, all Taxable Property for which a building permit was issued on or before June 1 of the prior Fiscal Year.

“District” means the County of San Benito Community Facilities District No. 2018-1 (Residential Services).

“District Administrator” means an official of the County, or designee or agent or consultant, responsible for determining the Annual Special Tax Requirement and providing for the levy and collection of Special Taxes each Fiscal Year.

“Exempt Property” means all property located within the boundaries of the District which is exempt from the Special Tax pursuant to Section V below.

“Finance Director” means the official of the County who is the chief financial officer or other comparable officer of the County or designee thereof.

“Fiscal Year” means the period from July 1st of any calendar year through June 30th of the following calendar year.

“Homeowner’s Association” or “HOA” means any homeowner’s association established to provide specific services within a Tax Zone.

“Maximum Special Tax Rate” means the maximum Special Tax authorized for levy in any Fiscal Year that may apply to Taxable Property as described in Section III.

“Multifamily Residential Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit or use permit has been issued for construction of a residential structure with five or more Units that share a single Assessor’s Parcel Number, are offered for rent to the general public, and cannot be purchased by individual homebuyers.

“Parcel” means a lot or parcel with a parcel number assigned by the Assessor of the County.

“Proportionately” means that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax Rate authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels.

“Public Property” means property within the boundaries of the District owned by, irrevocably offered or dedicated to, or for which an easement for purposes of public or private road right-of-way making the property unusable for any other purpose has been granted to the federal government, the State of California, the County, the County, or any local government or other public agency.

“Single Family Attached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit or use permit was issued for construction of a residential structure consisting of two or more Units that share common walls, have separate Assessor’s Parcel Numbers assigned to them (except for a duplex triplex, or fourplex unit, which may share a Parcel with another duplex, triplex or fourplex Unit(s)), and may be purchased by individual homebuyers (which shall still be the case even if the Units are purchased and subsequently offered for rent by the owner of the Unit), including such residential structures that meet the statutory definition of a condominium project contained in Civil Code Section 4125.

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a Unit that does not share a common wall with another Unit.

“Special Tax” means the amount levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Annual Special Tax Requirement.

“Tax Escalation Factor” means the percentage change from the previous year ending in April of the Consumer Price Index, All Urban Consumers (CPI-U), for the San Francisco-Oakland-San Jose area. In the case where the annual change in the specified Consumer Price Index is negative, the annual percentage increase shall be equal to zero.

“Tax Zone” means a mutually exclusive geographic area within which the Special Tax may be levied pursuant to this Rate and Method of Apportionment. All of the Taxable Property within the District at the time of its formation is within the Tax Zone specified in Section III. Additional Tax Zones may be created when Taxable Property is annexed to the District, and a separate Maximum Special Tax shall be identified for Taxable Property within the new Tax Zone at the time of such annexation. The Assessor’s Parcels included within a new Tax Zone when such Parcels are annexed to the District shall be identified by Assessor’s Parcel number in the Unanimous Approval Form that is signed by the owner(s) of the Parcels.

“Taxable Property” means all Parcels for which a building permit was issued prior to the June 1 preceding the Fiscal Year for which the Special Tax is being levied and located within the boundaries of the District which is not otherwise Exempt Property.

“Unanimous Approval Form” means that form executed by the record owner of fee title to a Parcel or Parcels of Taxable Property annexed into the District that constitutes the property owners approval and unanimous vote in favor of annexing into the District and the levy of Special Tax against his/her Parcel or Parcels pursuant to this Rate and Method of Apportionment of Special Tax.

“Unit” means an individual single family detached or attached home, townhome, condominium, apartment, or other residential dwelling unit, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure. An Accessory Unit that shares a Parcel with a Unit of Single Family Detached Property shall not be considered a separate Unit for purposes of calculating the Special Tax.

II. DETERMINATION OF TAXABLE PARCELS

On or about July 1 of each Fiscal Year, the District Administrator shall determine the valid Assessor’s Parcel Numbers for the current Fiscal Year for all Taxable Property within the District. If any Assessor’s Parcel Numbers are no longer valid from the previous Fiscal Year, the District Administrator shall determine the new Assessor’s Parcel Number(s) that are in effect for the current Fiscal Year. To the extent an Assessor’s Parcel Number(s) or Parcels of Taxable Property are subdivided, consolidated or otherwise reconfigured, the Special Tax rates shall be assigned to the new Assessor’s Parcels Number(s) pursuant to Section III. The District Administrator shall also determine: (i) the Tax Zone within which each Parcel is located; (ii) which Parcels are Developed Property; (iii) the number of Units each Parcel contains; and (iv) the Annual Special Tax Requirement for the Fiscal Year.

III. ANNUAL SPECIAL TAX - METHOD OF APPORTIONMENT

All Taxable Property shall be subject to a Special Tax defined as follows.

The Special Tax shall be levied each Fiscal Year by the District Administrator. The Annual Special Tax Requirement shall be apportioned to each Parcel of Developed Property within each Tax Zone of the District by the method shown below.

- First. Determine the Annual Special Tax Requirement.
- Second. Levy the Special Tax on each Parcel of Developed Property Proportionately, up to the Maximum Special Tax Rate described in the following tables to satisfy the Annual Special Tax Requirement.

TABLE 1
MAXIMUM SPECIAL TAX RATES – TAX ZONE NO. 1 (BRIGANTINO)
FISCAL YEAR 2018/19

<u>Property Type</u>	<u>Rate</u>	<u>Per</u>
Single Family Detached Property	\$1,465.00	Unit

TABLE 2
MAXIMUM SPECIAL TAX RATES – TAX ZONE NO. 2 (BENNETT RANCH)
FISCAL YEAR 2018/19

<u>Property Type</u>	<u>Rate</u>	<u>Per</u>
Single Family Detached Property	\$1,692.45	Unit

TABLE 3
MAXIMUM SPECIAL TAX RATES – TAX ZONE NO. 1 (THE BLUFFS)
FISCAL YEAR 2018/19

<u>Property Type</u>	<u>Special Tax Rate</u>	<u>Contingent Special Tax Rate</u>	<u>Per</u>
Single Family Detached Property	\$762.37	\$887.44	Unit

A different Maximum Special Tax Rate may be identified in Tax Zones added to the District as a result of future annexations.

On each July 1, commencing on July 1, 2019, the Maximum Special Tax Rate for each Tax Zone shall be subject to increase by the Tax Escalation Factor.

IV. FORMULA FOR PREPAYMENT OF SPECIAL TAX OBLIGATIONS

The Special Tax may not be prepaid.

V. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except as otherwise provided in Sections 53317.3 and 53317.5 of the Act. Any Taxable Property acquired by a public entity for non-public use development shall be subject to the Special Tax.

VI. INTERPRETATION OF RATE AND METHOD OF APPORTIONMENT

The County reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning the Maximum Special Tax Rates. In addition, the interpretation and application of any section of this document shall be at the County's discretion. Interpretations may be made by the Board by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

VII. MANNER AND DURATION OF SPECIAL TAX

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided that the County may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner if needed to meet the financial obligations of the District, and may collect delinquent Special Taxes through foreclosure or other available methods.

A Special Tax shall continue to be levied and collected within the District to fund the Annual Special Tax Requirement in perpetuity.

VIII. APPEAL OF SPECIAL TAX LEVY

Any property owner may file a written appeal of the Special Tax with the District Administrator claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Taxes that are disputed, and the appellant must be current in all payments of Special Taxes. In addition, during the term of the appeal process, all Special Taxes levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Taxes are in error. The District Administrator shall review the appeal, meet with the appellant if the District Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the District Administrator's decision relative to the appeal, the owner may then file a written appeal with the Board whose subsequent decision shall be final and binding on all interested parties. If the decision of the District Administrator or subsequent decision by the Board requires the Special Taxes to be modified or changed in favor of the property owner, no cash refund shall be made for prior years' Special Taxes, but an adjustment shall be made to credit future Special Taxes.

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.