

RESOLUTION NO. 2023-08

RESOLUTION OF THE BOARD OF DIRECTORS OF THE BURNEY FIRE PROTECTION DISTRICT, CALIFORNIA, AUTHORIZING THE ANNEXATION OF TERRITORY TO BURNEY FIRE PROTECTION DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2006-1 AND AUTHORIZING THE LEVY OF A SPECIAL TAX AND SUBMITTING THE LEVY OF TAX TO THE QUALIFIED ELECTORS

WHEREAS, the Board of Directors of the Burney Fire Protection District (“**Board**”), adopted Resolution No. 2023-07 on July 18, 2023 (“**Resolution of Intention**”) stating its intention to annex territory to the Burney Fire Protection District Community Facilities District No. 2006-1 (“**Existing CFD**”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (“**Act**”); and

WHEREAS, a copy of the Resolution of Intention, which states the authorized services to be provided and financed by CFD, and a description and map of the proposed boundaries of the territory to be annexed to the Existing CFD (“**Annexation No. 23-1**”), is on file with the District Secretary and the provisions thereof are fully incorporated herein by this reference as if fully set forth herein; and

WHEREAS, on August 22, 2023, this Board held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed annexation of territory to the Existing CFD; and

WHEREAS, at said hearing, all interested persons desiring to be heard on all matters pertaining to Annexation No. 23-1 and the levy of said special tax within the area proposed to be annexed to the Existing CFD were heard and a full and fair hearing was held; and

WHEREAS, prior to the time fixed for said hearing, written protests had not been filed against the proposed annexation of territory to the Existing CFD by (i) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the Existing CFD; or (ii) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed to the Existing CFD; or (iii) owners of one-half or more of the area of land in the Existing CFD and not exempt from the special tax; or (iv) owners of one-half or more of the area of land in the territory proposed to be annexed to the Existing CFD and not exempt from the special tax; and

WHEREAS, a boundary map for Annexation No. 23-1 to the Existing CFD has been filed with the County Recorder of the County of Shasta, which map shows the territory to be annexed in these proceedings, and a copy thereof is on file with the District Secretary.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Burney Fire Protection District as follows:

SECTION 1. Recitals. The above recitals are all true and correct.

SECTION 2. Authorization. All prior proceedings taken by this Board with respect to the Existing CFD and the proposed annexation of territory thereto have been duly considered and are hereby determined to be valid and in conformity with the Act.

SECTION 3. Boundaries. The description and boundaries of the territory to be annexed to the Existing CFD, on file in the office of the District Secretary and recorded in the Shasta County Recorder's Office on July 27, 2023, in Book 5 at Page 101 of Maps of Assessment and Community Facilities Districts as Document No. DOC478S2580, are hereby finally approved as the boundaries of Annexation 23-1, are incorporated herein by reference, and shall be included within the boundaries of the Existing CFD.

SECTION 4. Services. The services that are authorized to be financed by the Existing CFD are in addition to those provided in or required for the territory within the Existing CFD and Annexation No. 23-1 and will not be replacing services already available. A general description of the services to be financed is as follows:

Fire suppression services, emergency medical services, and fire prevention activities and other services including but not limited to (i) the costs of contracting services, (ii) equipment, vehicles, ambulances and paramedics, fire apparatus, supplies, (iii) the salaries and benefits of District staff that directly provide fire suppression services, emergency medical services, fire prevention activities and other services, respectively, and (iv) District overhead costs associated with providing such services within the Existing CFD. The Special Tax provides only partial funding for fire suppression services, emergency medical services, and fire prevention activities operation and maintenance.

The types of services that are authorized to be financed by the Existing CFD are the types of services to be provided in Annexation No. 23-1. If and to the extent possible, such services shall be provided in common within the Existing CFD and Annexation No. 23-1.

SECTION 5. Special Tax. It is the intention of this Board that, except where funds are otherwise available, a special tax sufficient to pay for said services to be provided in the Existing CFD and Annexation No. 23-1 secured by recordation of a continuing lien against all non-exempt real property in Annexation No. 23-1 will be levied annually within the boundaries of Annexation No. 23-1 from and after the annexation of such property to the Existing CFD. The special tax shall be that as originally authorized through the formation of the Existing CFD and adopted by ordinance of this Board, and no changes or modifications are proposed in the special tax from that as originally set forth and made applicable to the Existing CFD.

For particulars as to the rate and method of apportionment of the proposed special tax ("**Rate and Method**"), reference is made to the attached and incorporated Exhibit A, which sets forth in sufficient detail the method of apportionment to allow each property owner or resident within Annexation No. 23-1 to clearly estimate the maximum annual amount that said person will have to pay on said special tax.

SECTION 6. Election. The provisions of the Resolution of Intention as heretofore adopted by this Board are by this reference incorporated herein as if fully set forth herein.

- (a) Pursuant to the provisions of the Act, the proposition of the levy of the special tax within Annexation No. 23-1 shall be submitted to the voters within Annexation No. 23-1 at an election called therefore as hereinafter provided. This Board hereby finds that fewer than 12 persons have been registered to vote within Annexation No. 23-1 for each of the 90 days preceding the close of the hearing heretofore conducted and concluded by this Board for the purposes of these annexation proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Board finds that for purposes of these proceedings, the qualified electors are the landowners within Annexation No. 23-1, and the vote shall be by said landowners, each having one vote for each acre, or portion thereof, such landowner owns within Annexation No. 23-1.
- (b) Pursuant to Section 53326 of the Act, the election shall be conducted by mail ballot under applicable sections of the California Elections Code, commencing with Section 4000 of said code with respect to elections conducted by mail. The Board called a special election to consider the measures described and incorporated in the ballot, attached as Exhibit B which election was held on August 22, 2023 (“**Election Day**”). The District Secretary was the election official to conduct the election and provided each landowner in the territory proposed to be annexed to the Existing CFD as Annexation No. 23-1, a ballot in the form of Exhibit B, which form is hereby approved. The District Secretary has accepted the ballots of the qualified electors received prior to 3:00 p.m. on Election Day, whether received by mail or by personal delivery.
- (c) This Board hereby further finds that the provision of Section 53326 of the Act requiring a minimum of 90 days to elapse before said election is for the protection of voters, that the voters have waived such requirement and the date for the election hereinabove specified is established accordingly.

Passed, Approved, and Adopted by the Board of Directors of the Burney Fire Protection District this 22 day of August, 2023.

AYES: Valinoti, Bartell, I. May, Vancleave
 NOES: None
 ABSENT: Grant
 ABSTAIN: None


 Roger Valinoti, Chair

Attest: Kathy Newton
 Kathy Newton, Administrative Assistant

EXHIBIT A
RATE AND METHOD OF APPORTIONMENT

{INSERT RMA}

RATE AND METHOD OF APPORTIONMENT

BURNEY FIRE PROTECTION DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2006-1

A Special Tax of Community Facilities District No. 2006-1 (the "CFD") of the Burney Fire Protection District (the "District") shall be levied on all Assessor's Parcels in the CFD and collected each Fiscal Year commencing in Fiscal Year 2006/2007 in an amount determined by the District through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property in the CFD, 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:

"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, other final map, other parcel map, other condominium plan, or functionally equivalent map or instrument recorded in the Office of the County Recorder. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

"Act" means the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California, as amended, which authorizes the establishment of the CFD to finance: a) fire suppression services b) emergency medical services, and c) fire prevention activities and other services as defined herein including but not limited to ambulance and paramedic services.

"Administrative Expenses" means the actual or estimated costs incurred by the District as administrator of the CFD to determine, levy and collect the Special Taxes, including the proportionate amount of the salaries and benefits of District employees whose duties are directly related to administration of the CFD and the fees of consultants, legal counsel, the costs of collecting installments of the Special Taxes upon the general tax rolls, preparation of required reports, and any other costs required to administer the CFD as determined by the District.

"Annual Escalation Factor" means the greater of the increase in the annual percentage change of the All Urban Consumers Consumer Price Index (CPI) or three percent (3%). The annual CPI used shall be for the area of San Francisco-Oakland-San Jose, CA as reflected in the then-current April update. The annual CPI used shall be as determined by the United States Department of Labor, Bureau of Labor Statistics, and may be obtained through the California Division of Labor Statistics and Research (www.dir.ca.gov/dlsr). If the foregoing index is not available, the CFD Administrator shall select a reasonably comparable index.

"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.

"Base Year" means the Fiscal Year ending June 30, 2007.

"Board" means the Board of Directors of the Burney Fire Protection District, acting as the legislative body of the District and the CFD.

"CFD" means Community Facilities CFD No. 2006-1 of the Burney Fire Protection District.

"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 Taxes.

"County" means the County of Shasta, California.

"Developed Multi-Family Residential Property" means all Assessor's Parcels of Developed Property for which a building permit has been issued for purposes of constructing a residential structure consisting of two or more residential units that share common walls, including, but not limited to, duplexes, triplexes, town homes, condominiums, and apartment units. Residential care facilities for the elderly, including those for semi-independent care of the elderly, are classified as Multi-Family Residential Property.

"Developed Property" means all Taxable Property, exclusive of Property Owner Association Property, Non-Residential Property, or Public Property, for which a building permit was issued prior to May 1st preceding the Fiscal Year in which the Special Tax is being levied.

"Developed Single-Family Residential Property" means all Assessor's Parcels of Developed Property for which a building permit(s) has been issued for purposes of constructing one single-family residential dwelling unit.

"District" means the Burney Fire Protection District.

"Entitled Property" means an Assessor's Parcel and/or Lot in the CFD, which has a Final Map recorded prior to January 1st preceding the Fiscal Year in which the Special Tax is being levied, but for which no building permit has been issued prior to the May 1st preceding the Fiscal Year in which the Special Tax is being levied. The term "Entitled Property" shall apply only to Assessors' Parcels and/or Lots, which have been subdivided for the purpose of residential development, excluding any Assessor's Parcel that is designated as a remainder parcel determined by final documents and/or maps available to the CFD Administrator.

"Final Map" means an Assessor's Parcel Map, a final subdivision map, other parcel map, other final map, other condominium plan, or functionally equivalent map that has been recorded in the Office of the County Recorder.

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

"**Land Use Class**" means any of the classes listed in Table 1 or Table 2.

"**Lot**" means property within a recorded Final Map identified by a lot number for which a building permit has been issued or may be issued.

"**Maximum Special Tax**" means the maximum Special Tax, determined in accordance with Section C below that can be levied in the CFD in any Fiscal Year on any Assessor's Parcel.

"**Non-Residential Property**" means all Assessors' Parcels for which a building permit(s) has been issued for a non-residential use and does not contain any residential units as defined under Developed Single Family Residential or Developed Multi-Family Residential.

"**Property Owner Association Property**" means any property within the boundaries of the CFD that is 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.

"**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 within the boundaries of the CFD that is, at the time of the CFD formation or at the time of an annexation, expected to be used for rights-of-way, parks, schools or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State, the County, the District or any other public agency.

"**Reserve Fund**" means a fund that shall be maintained for the CFD during each Fiscal Year to provide necessary cash flow, reserve capital to cover monitoring, maintenance and repair cost overruns and delinquencies in the payment of Special Tax and a reasonable buffer to prevent large variations in annual Special Tax levies.

"**Residential Property**" means all Assessors' Parcels of Developed Property within CFD No. 2006-1 for which a building permit(s) has been issued for purposes of constructing one or more residential dwelling units.

"**Service Costs**" means the estimated and reasonable costs of providing fire suppression services, emergency medical services, and fire prevention activities and other services including but not limited to (i) the costs of contracting services, (ii) equipment, vehicles, ambulances and paramedics, fire apparatus, supplies, (iii) the salaries and benefits of District staff that directly provide fire suppression services, emergency medical services, fire prevention activities and other services as defined herein, respectively, and (iv) District overhead costs associated with providing such services within the CFD. On each July 1 following the Base Year, the increases attributed to salaries and benefits shall be calculated and limited to the increase based on the Annual Escalation Factor. The Special Tax will finance Services that are in addition to those provided in or required for the territory within the CFD and will not be replacing Services already available. The Special Tax provides only partial funding for fire suppression services, emergency medical services, and fire prevention activities operation and maintenance.

"**Special Tax**" means the Special Tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property to fund the Special Tax Requirement, and shall include Special Taxes levied or to be levied under Sections C and D, below.

"**Special Tax Requirement**" means that amount required in any Fiscal Year for the CFD to: (i) pay for Service Costs; (ii) pay reasonable Administrative Expenses; (iii) pay any amounts required to establish or replenish any reserve funds; and (iv) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less any surplus of funds available from the previous Fiscal Year's Special Tax levy.

"**State**" means the State of California.

"**Taxable Property**" means all of the Assessor's Parcels within the boundaries of the CFD and any future annexation(s) to the CFD that are not exempt from the Special Tax pursuant to law or as defined herein. Taxable Property includes houses of worship, hospices and residential care facilities for the elderly.

"**Tax-Exempt Property**" means an Assessor's Parcel not subject to the Special Tax. Tax-Exempt Property includes: (i) Public Property, (ii) Property Owner Association Property, (iii) Undeveloped Property and (iv) property designated by the County or CFD Administrator as Tax-Exempt Property.

"**Undeveloped Property**" means, for each Fiscal Year, all Assessor's Parcels of Taxable Property not classified as Developed Property or Entitled Property, including an Assessor's Parcel that is designated as a remainder parcel and is not identified as potential Public Property by any final documents and/or maps available to the CFD Administrator.

"**Unit**" means any separate residential dwelling unit in which a person or persons may live, which comprises an independent facility capable of conveyance separate from adjacent residential dwelling units and is not considered to be for commercial or industrial use.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year using the definitions above, all Taxable Property within the CFD shall be classified as Developed Property, Entitled Property, or Undeveloped Property. Developed Property shall be further classified as Developed Single-Family Residential or Developed Multi-Family Residential. Commencing with the Base Year and for each subsequent Fiscal Year, all Taxable Property shall be subject to Special Taxes pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

TABLE 1
Maximum Annual Special Tax
Developed Property
Fiscal Year 2006/2007

<u>Land Use Class</u>	<u>Category</u>	<u>Maximum Annual Special Tax¹</u>
Residential Property	<i>Single-Family</i>	\$312 per Lot
	<i>Multi-Family</i>	\$250 per Unit
Non-Residential Property		\$6,229 per Acre ²

¹ Maximum Annual Special Tax includes Administrative Expenses.
² Non-Residential Property's Maximum Annual Special Tax is calculated at \$0.15 per square foot.

2. Entitled Property

TABLE 2
Maximum Annual Special Tax
Entitled Property
Fiscal Year 2006/2007

<u>Land Use Class</u>	<u>Category</u>	<u>Maximum Annual Special Tax¹</u>
Residential Property	<i>Planned Single-Family</i>	\$78 per Lot
	<i>Planned Multi-Family</i>	\$63 per Lot

¹ Maximum Annual Special Tax includes Administrative Expenses.

On each July 1 following the Base Year, beginning with July 1, 2007, the Maximum Special Tax Rates in Table 1 and Table 2 shall be increased in accordance with the Annual Escalation Factor.

3. Tax-Exempt Property

No Special Tax shall be levied on Tax-Exempt Property.

4. Multiple Land Use Classes

In some instances an Assessor's Parcel may contain more than one Land Use Class. The Maximum Special Tax levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax levies that can be imposed on all Land Use Classes located on that Assessor's Parcel.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2006/2007, and for each subsequent Fiscal Year, the CFD Administrator shall calculate the Special Tax Requirement based on the definitions in Section A and levy the Special Tax as follows until the amount of the Special Tax levied equals the Special Tax Requirement. First, the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Developed Property Proportionately between Developed Single-Family Residential Property, Developed Multi-Family Residential Property, and Developed Non-Residential Property, up to 100% of the applicable Maximum Special Tax. Second, if the Special Tax Requirement has not been satisfied by the first step, then the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Entitled Property Proportionately between Entitled Planned Single-Family Lot Residential Property and Entitled Planned Multi-Family Units Residential Property up to 100% of the applicable Maximum Special Tax for Entitled Property.

E. APPEALS

Any taxpayer that believes that the amount of the Special Tax assigned to an Assessor's Parcel is in error may file a written notice with the CFD Administrator appealing the levy of the Special Tax. This notice is required to be filed with the CFD Administrator during the Fiscal Year the error is believed to have occurred. The CFD Administrator or designee will then promptly review the appeal and, if necessary, meet with the taxpayer. If the CFD Administrator verifies that the tax should be changed, the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

F. EXEMPTIONS

No Special Tax shall be levied on Undeveloped Property, Property Owner Association Property or Public Property.

G. MANNER OF COLLECTION

The Special Tax C shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the CFD Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD or as otherwise determined appropriate by the CFD Administrator.

H. TERM OF SPECIAL TAX

After the establishment of the CFD, the Board may re-examine, if deemed necessary by the Board, the necessity of the continuance of the Special Tax through the preparation of a Fiscal Impact Analysis, otherwise the Special Tax shall be levied in perpetuity.

**EXHIBIT B
OFFICIAL BALLOT**

(INSERT BALLOT(S))



OFFICIAL BALLOT
SPECIAL ELECTION

BURNEY FIRE PROTECTION DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2006-1
ANNEXATION NO. 23-1

This ballot is for a special landowner election. You must return this ballot in the enclosed postage paid envelope to the office of the District Secretary of the Burney Fire Protection District. The District Secretary must receive your ballot no later than 3:30 p.m. on AUGUST 22, 2023, either by mail or in person. The District Secretary's office is located at 37072 Main Street, Burney, California, 96013.

To vote, mark a cross (X) in the voting square next to the word "YES" or next to the word "NO". All distinguishing marks otherwise made are forbidden and make the ballot void.

If you wrongly mark, tear, or deface this ballot, return it to the District Secretary of the Burney Fire Protection District and obtain another ballot.

<p>PROPOSITION A: Shall a special tax be levied annually on taxable property within the territory to be annexed into the Burney Fire Protection District Community Facilities District No. 2006-1, County of Shasta, State of California ("Annexation No. 23-1"), and collected so long as the special tax is needed to pay for fire suppression services, emergency medical services, and fire prevention activities and services, and to pay expenses incidental thereto and to the levy and collection of the special taxes at the special tax rates and pursuant to the method of apportioning the special taxes set forth in Exhibit A to the Resolution of Intention to Annex Territory adopted by the Board of Directors of the Burney Fire Protection District on July 18, 2023?</p>	<input type="checkbox"/>	Yes
	<input type="checkbox"/>	No
<p>PROPOSITION B: Shall an appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, be established for Annexation No. 23-1 in the amount of \$270,000?</p>	<input type="checkbox"/>	Yes
	<input type="checkbox"/>	No

APN(s): 028-100-020-000
Property Owner: **Burney Commons LP, a California limited partnership**

Number of votes: **6.0**

By: Burney Commons LP, a California limited partnership

By: Burney Commons, LLC, a California limited liability corporation
It's Administrative General Partner

By: _____
Daniel Knott, Manager