

MEMORANDUM
OFFICE OF EMERGENCY SERVICES
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: David Boesch, County Executive Officer
by John McEldowney, Emergency Services Program Manager

DATE: December 9, 2014

SUBJECT: Public hearing to annex CP 3500 Cincinnati LLC (Annexation #2) into the Sunset Industrial Area Community Facilities District 2012-1 and establishing a charge for fire protection services and emergency medical services on each parcel within the said district.

ACTION REQUESTED

Conduct a public hearing, consider all protests, tabulate ballots, and adopt a Resolution to annex Assessor's Parcel Numbers 017-063-027 and 017-063-025, owned by CP 3500 Cincinnati, LLC, (Annexation #2) into Community Facilities District Number 2012-1, Sunset Industrial Area Services and apply the established charge for fire protection services and emergency medical services on each parcel within the said district.

BACKGROUND

In November 2012, this Board approved the formation of Community Facilities District Number 2012-1 Sunset Industrial Area Services (CFD 2012-1) to fund ongoing fire protection and emergency services within the Sunset Industrial Area (SIA) of unincorporated Placer County. CFD 2012-1 is intended to equitably spread costs of both fire protection and emergency medical services to development within the SIA via a special assessment on the property taxes of annexed parcels. The maximum annual assessment would be the greater of either \$0.08 per square foot of building or \$757 per acre. These unit rates were presented in 2012 dollars and are subject to annual Consumer Price Index inflationary adjustments for properties annexed into the CFD.

FISCAL IMPACT

This annexation meets Placer County's General Plan Goals and Policies associated with the equitable apportionment of fire protection service and emergency medical service costs within the SIA.

Attachments:

1. Resolution to annex Assessor's parcel numbers 017-063-027 and 017-063-025, owned by CP 3500 Cincinnati, LLC, into community facilities district number 2012-1, Sunset Industrial Area Services (Annexation #2)
2. Resolution 2012 – 260 - To Form CFD 2012-1, Sunset Industrial Area Services with Rate and Method Attachment and Map of Future Annexation Area

Before the Board of Supervisors County of Placer, State of California

IN THE MATTER OF A RESOLUTION TO
ANNEX ASSESSOR'S PARCEL NUMBERS
017-063-027 AND 017-063-025, OWNED BY
CP 3500 CINCINNATI, LLC, INTO COMMUNITY
FACILITIES DISTRICT NUMBER 2012-1,
SUNSET INDUSTRIAL AREA SERVICES
(ANNEXATION #2)

Resolution No: _____

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held, December 9, 2014 by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, at its June 22, 2010 meeting, the Placer County Board of Supervisors unanimously approved the amended Sunset Industrial Area Plan (SIA) and supported the use of a Community Facilities District (CFD) as an appropriate funding mechanism for fire protection and emergency medical services within the SIA; and

WHEREAS, at its March 22, 2012 meeting, the Placer County Bond Screening Committee unanimously supported the formation of a CFD for the Sunset Industrial Area; and

WHEREAS, the name of the Community Facilities District is, "Community Facilities District Number 2012-1 *Sunset Industrial Area Services*", County of Placer, State of California aka "CFD 2012-1" formally approved by the Board of Supervisors on November 6, 2012 ; and

WHEREAS, the County of Placer established a Community Facilities District under terms of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Division 2 of Title 5 of the California Government Code, Section 53311 *et seq.*; and

WHEREAS, discretionary land development projects in the Sunset Industrial Area, boundaries of which are as shown in Exhibit B (incorporated herein by reference), were designated for future annexation to CFD 2012-1; and

PAGE 2
Resolution No. _____

WHEREAS, CP 3500 CINCINNATI, LLC , owner of record of properties within the future annexation area of CFD 2012-1, has approved, a Consent and Waiver of Notice and formal ballot (Exhibits C & D attached), to impose a tax on its parcels to join CFD 2012-1, said tax is based on the engineered rates as shown in Exhibit A (*County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) Rate and Method of Apportionment of Special Tax*) which is incorporated herein by reference; and

WHEREAS, the services provided by CFD 2012-1 are fire protection and emergency medical services, and as a condition of approval for development within CFD 2012-1, a special tax is imposed to provide said services for benefit of properties with CFD 2012-1; and

WHEREAS, said ballot constitutes unanimous approval of the charge to property owners within the CFD and will therefore apply to the parcel (s) submitted by CP 3500 CINCINNATI, LLC as referenced on Exhibit E (Annexation #2 map) showing the annexation area to be incorporated into CFD 2012-1.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

That it annexes the parcel (s) owned by CP 3500 CINCINNATI, LLC referenced above, into CFD 2012-1 to secure fire protection and emergency medical services within said area; and

That the tax established in Exhibit A shall be subject to modification each year in an amount not to exceed the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco/Oakland/San Jose Metropolitan Area commencing with the 2012 tax year.

Attachments:

EXHIBIT A: *County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area) Rate and Method of Apportionment of Special Tax*

EXHIBIT B: CFD 2012-1 Future Annexation Area Map

EXHIBIT C: Consent and Waiver of Notice with Legal Description (Annexation #2)

EXHIBIT D: Official Ballot with Legal Description (Annexation #2)

EXHIBIT E: Annexation #2 Map

Exhibit A

**COUNTY OF PLACER
COMMUNITY FACILITIES DISTRICT NO. 2012-1
(SUNSET INDUSTRIAL AREA SERVICES)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) shall be levied and collected according to the tax liability determined by the County of Placer or its designee, through the application of this Rate and Method of Apportionment of Special Tax. All of the 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, including property subsequently annexed to the CFD unless otherwise provided for the annexed property.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

"Administrative Expenses" means the expenses of the County in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, costs related to annexing property into the CFD, and all other costs and expenses of the County in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the County to administer the Special Tax according to the Rate and Method.

"Assessor's Parcel" or "Parcel" means a lot or parcel with an assigned County Assessor's Parcel number shown on a County Assessor's Parcel map.

"Authorized Services" means the public services authorized to be financed, in whole or in part, by the Special Taxes in the CFD.

"CFD" or "CFD No. 2012-1" means the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services).

"County" means the County of Placer.

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

“**Maximum Special Tax**” means the greatest amount of Special Tax that can be levied in any Fiscal Year according to this Rate and Method.

“**Public Property**” means any Parcel of Taxable Property that is owned by or irrevocably offered for dedication to the federal government, State of California, County, or other local governments or public agencies.

“**Rate and Method**” means this Rate and Method of Apportionment of Special Tax.

“**Special Tax**” means any tax levied in any Fiscal Year pursuant to the Rate and Method to pay the Special Tax Requirement.

“**Special Tax Requirement**” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

“**Square Footage,**” or “**Square Foot**” means the floor area square footage reflected on the original building permit issued for construction of a building and any square footage subsequently added to a building after issuance of a permit for expansion or renovation.

“**Taxable Property**” means, in any Fiscal Year, all Assessor’s Parcels: (i) which are not exempt from the Special Tax pursuant to law or Section E below, and (ii) for which a certificate of occupancy for new construction or expansion of a vertical structure was issued by the County prior to June 30 of the preceding Fiscal Year. In the absence of a certificate of occupancy, any Parcel that is not exempt from the Special Tax shall be classified as Taxable Property if a structure on the Parcel has been occupied prior to June 30 of the preceding Fiscal Year.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel number for all Parcels of Taxable Property in the CFD. The Administrator shall also determine the Acreage of each Parcel and the amount of Square Footage built on each Parcel and the Special Tax Requirement for the then current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, and (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for Fiscal Year 2012-13 for all Parcels of Taxable Property within CFD No. 2012-1 shall be the greater of (i) \$0.08 per Square Foot or (ii) \$757.00 per Acre. After a Parcel is classified as Taxable Property, if, in any future Fiscal Year, the amount of Square Footage on the Parcel is increased, the Administrator shall determine the Maximum Special Tax by applying the greater of (i) or (ii) based on the increased Square Footage.

On July 1, 2013, and on each July 1 thereafter, the Maximum Special Tax shall be escalated by the increase, if any, in the Local Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers. The CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and the Special Tax shall be levied proportionately on each Parcel of Taxable Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

The Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the County may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner, and may collect delinquent Special Taxes through other available methods.

E. EXEMPTIONS

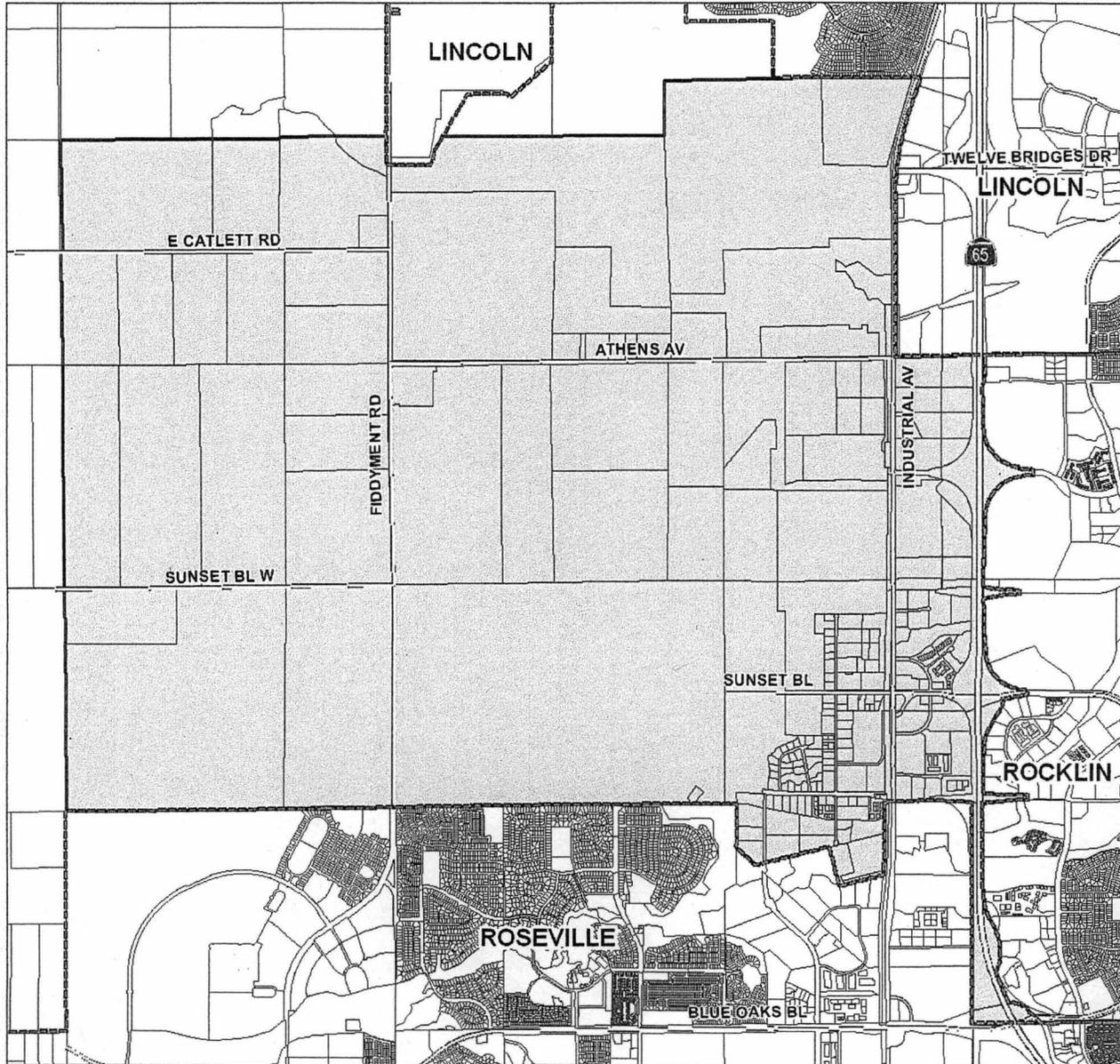
Notwithstanding any other provision of this Rate and Method, no Special Tax shall be levied on Parcels of Public Property for which a separate agreement or contract has been entered into with the County to pay the costs of Authorized Services.

F. INTERPRETATION

The County may interpret, clarify, and revise this Rate and Method to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes.

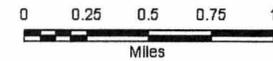
CFD 2012-1 Annexation Area,

Exhibit B

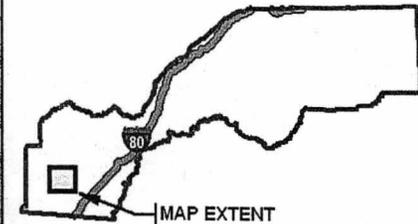


LEGEND

- SUNSET INDUSTRIAL AREA
- CITY LIMITS
- PARCEL
- HIGHWAY 65
- MAJOR ROAD



LOCATION MAP



CONSENT AND WAIVER OF NOTICE
County of Placer
Community Facilities District No. 2012-1
Sunset Industrial Area Services
Exhibit C

THIS CONSENT AND WAIVER is executed this 1 day of December, 2014, by CP 3500 CINCINNATI LLC, A CALIFORNIA LIMITED LIABILITY COMPANY ("OWNER").

WHEREAS, Owner is the sole owner of record in fee of the real property described on Exhibit A, attached hereto and incorporated herein by reference (the "Annexation Property"); and,

WHEREAS, on November 6, 2012, the Placer County Board of Supervisors passed "Resolution 2012-260" to form County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) (the "CFD") to fund fire and emergency medical services within the Sunset Industrial Area of Placer County, and being formed under the provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, Section 53311 et seq.; and,

WHEREAS, the undersigned is, or is authorized to represent the Owner and is his/her designated representative to give consent and waiver contained herein with respect to annexation of Annexation Property into the CFD; and

WHEREAS, Resolution 2012-260 incorporated as Exhibit A the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) Rate and Method of Apportionment of Special Tax (the "Rate and Method") and as Exhibit B the CFD Annexation Area (the "Annexation Area"); and

WHEREAS, the Rate and Method contains the Method of Levy and Collection of Special Tax; and

WHEREAS, the Rate and Method states that the maximum special tax that will be levied on developed property shall be the greater of (i) \$0.08 per building square foot or (ii) \$757.00 per acre; and

WHEREAS, the Rate and Method Study further states that on July 1, 2013, and each July 1 thereafter, any escalation to the maximum special tax assessed will be based on the local consumer price index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers; and, that the CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013; and

WHEREAS, the Annexation Area includes within its boundaries those properties eligible for annexation into the CFD, including the boundaries of the property referenced as Annexation # 2 described by the legal description attached.

NOW, THEREFORE:

1. The undersigned Owner requests and consents to the annexation of the Annexation Property into the CFD.

2. In accordance with the provisions of the Act, and specifically Sections 53339.7, the County may provide for the annexation of territory proposed for annexation in the future upon the unanimous approval of the owner or owners of each parcel or parcels at the time that the parcel or parcels are annexed, without additional hearings.

3. The undersigned Owner hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the annexation of the Annexation Property into the CFD or the special election therein shall be invalidated or affected by any such irregularity, error, mistake or departure.

4. The undersigned Owner warrants and represents that it is the owner of record of the Annexation Property, and has full authority to execute this Consent and Waiver. This Consent and Waiver shall be binding upon Owner and Owner's successors-in-interest, heirs, and assigns, and shall run with the Annexation Property and all separate legal parcels therefrom as may later be created.

OWNER:

CP 3500 CINCINNATI LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: 

Print Name: BRETT BAUMGARTEN
Title: Chief Executive Officer

Date: 12/1/14

Signature(s) must be notarized

California Acknowledgment Form

State of California }
County of PLACER } ss.

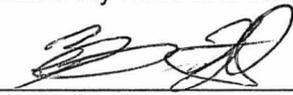
On December 1, 2014 before me, BLAKE BAUMGARTEN,
personally appeared BRETT R BAUMGARTEN

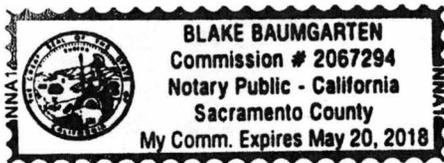
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Seal


Signature of Notary



Notes _____

Please provide information about the document that this form is attached to.
This is not required under California State notary public law.

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LEGAL DESCRIPTION

Annexation #2

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF PLACER, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS: BEING A PORTION OF THAT CERTAIN REAL PROPERTY DESCRIBED IN THE DEED TO CP 3500 CINCINNATI, LLC, LOCATED IN SECTIONS 4 AND 9, TOWNSHIP 11 NORTH, RANGE 6 EAST, M.D.B.&M., COUNTY OF PLACER, STATE OF CALIFORNIA AND RECORDED ON MARCH 26, 2014 AT DOCUMENT NO. 2014-0018722, PLACER COUNTY OFFICIAL RECORDS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 1-1/4" IRON PIPE, TAGGED RCE 7726, MARKING THE NORTHEAST CORNER OF THE ABOVE DESCRIBED LAND OF CP 3500 CINCINNATI, LLC AS SAID PARCEL OF LAND IS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON DECEMBER 5, 2005 IN BOOK 18 OF SURVEYS AT PAGE 152, OFFICIAL RECORDS OF PLACER COUNTY,

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL SOUTH 00°01'15" WEST FOR A DISTANCE OF 682.25 FEET;

THENCE LEAVING SAID EASTERLY LINE, NORTH 89°58'45" WEST FOR A DISTANCE OF 523.00 FEET TO THE **POINT OF BEGINNING**.

THENCE SOUTH 00°01'15" WEST FOR A DISTANCE OF 1805.00 FEET;

THENCE NORTH 89°58'45" WEST FOR A DISTANCE OF 700.00 FEET;

THENCE NORTH 00°01'15" EAST FOR A DISTANCE OF 1805.00 FEET;

THENCE SOUTH 89°58'45" EAST FOR A DISTANCE OF 700.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINING A TOTAL AREA OF 29.01 ACRES MORE OR LESS.

OFFICIAL BALLOT

**County of Placer
Community Facilities District No. 2012-1
Sunset Industrial Area Services**

Owner: CP 3500 CINCINNATI LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

Do you approve of the imposition of a special tax to be levied under the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, Section 53311 et seq., to fund fire protection and emergency medical services on the following parcels in the amount described as follows?

The maximum special tax that will be levied on developed property shall be the greater of (i) \$0.08 per building square foot or (ii) \$794.54 per acre. On July 1, 2015, and each July 1 thereafter, any escalation to the maximum special tax assessed will be based on the local consumer price index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers. The CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2014 to January 2015.

ASSESSOR PARCEL NUMBERS and LEGAL DESCRIPTION

Portion of APN(s) 017-063-025, 017-063-027, as more fully described on attached Annexation #2 Legal Description.

YES **NO**

The undersigned declares that he or she is the authorized representative of the owner of record of the above-described Parcels and is lawfully authorized to execute this ballot on behalf of said owner of record.

OWNER: CP 3500 CINCINNATI LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: 
Print Name: BRETT BAUMGARTEN
Title: Chief Executive Officer

Date: 12/1/14

Signature(s) must be notarized

California Acknowledgment Form

State of California }
County of PLACER } ss.

On DECEMBER 1, 2014 before me, BLAKE BAUMGARTEN,
personally appeared BRETT R. BAUMGARTEN

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Seal



Signature of Notary



Notes _____

Please provide information about the document that this form is attached to.
This is not required under California State notary public law.

Annexation #2

Legal Description of 3500 CP Cincinnati LLC,
a California Limited Liability Company Annexation Property

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF PLACER, UNINCORPORATED AREA, AND IS DESCRIBED AS FOLLOWS: BEING A PORTION OF THAT CERTAIN REAL PROPERTY DESCRIBED IN THE DEED TO CP 3500 CINCINNATI, LLC, LOCATED IN SECTIONS 4 AND 9, TOWNSHIP 11 NORTH, RANGE 6 EAST, M.D.B.&M., COUNTY OF PLACER, STATE OF CALIFORNIA AND RECORDED ON MARCH 26, 2014 AT DOCUMENT NO. 2014-0018722, PLACER COUNTY OFFICIAL RECORDS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 1-1/4" IRON PIPE, TAGGED RCE 7726, MARKING THE NORTHEAST CORNER OF THE ABOVE DESCRIBED LAND OF CP 3500 CINCINNATI, LLC AS SAID PARCEL OF LAND IS SHOWN AND DELINEATED ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON DECEMBER 5, 2005 IN BOOK 18 OF SURVEYS AT PAGE 152, OFFICIAL RECORDS OF PLACER COUNTY,

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL SOUTH 00°01'15" WEST FOR A DISTANCE OF 682.25 FEET;

THENCE LEAVING SAID EASTERLY LINE, NORTH 89°58'45" WEST FOR A DISTANCE OF 523.00 FEET TO THE **POINT OF BEGINNING**.

THENCE SOUTH 00°01'15" WEST FOR A DISTANCE OF 1805.00 FEET;

THENCE NORTH 89°58'45" WEST FOR A DISTANCE OF 700.00 FEET;

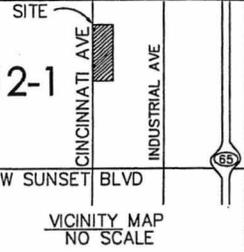
THENCE NORTH 00°01'15" EAST FOR A DISTANCE OF 1805.00 FEET;

THENCE SOUTH 89°58'45" EAST FOR A DISTANCE OF 700.00 FEET TO THE **POINT OF BEGINNING**.

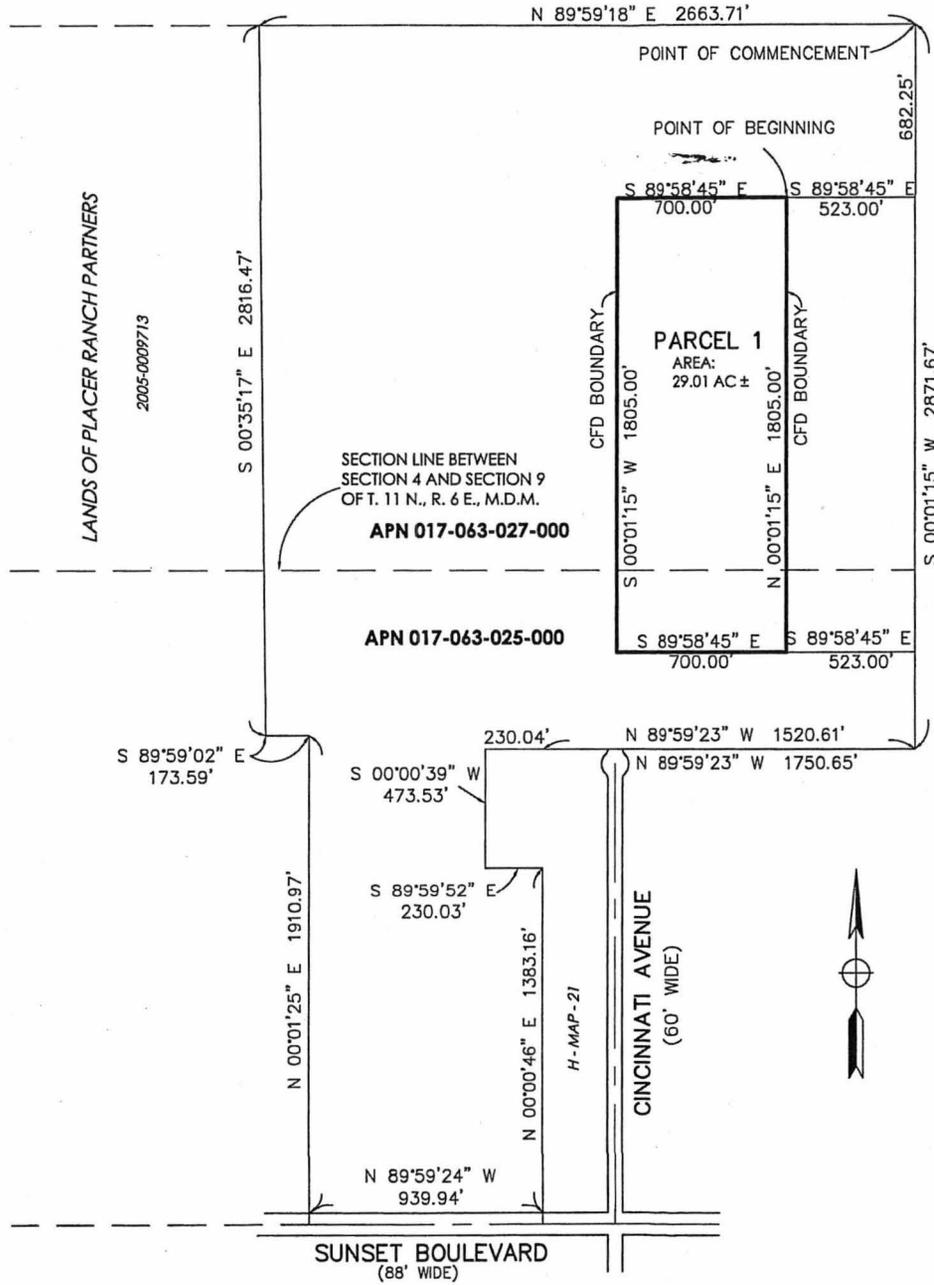
CONTAINING A TOTAL AREA OF 29.01 ACRES MORE OR LESS.

BOUNDARIES OF
ANNEXATION # 2
COMMUNITY FACILITIES DISTRICT NO. 2012-1
SUNSET INDUSTRIAL AREA SERVICES

PLACER COUNTY, CALIFORNIA
 A PORTION OF SECTION 4 AND SECTION 9, T. 11 N., R. 6 E., M.D.M.
 NOVEMBER 13, 2014
 MORTON AND PITALO, INC.



LANDS OF AUBURN DEVELOPMENT, INC.
 2003-0168113



Before the Board of Supervisors County of Placer, State of California

**IN THE MATTER OF A RESOLUTION TO
FORM COMMUNITY FACILITIES DISTRICT
NO. 2012-1, SUNSET INDUSTRIAL AREA SERVICES**

Resolution No: 2012-260

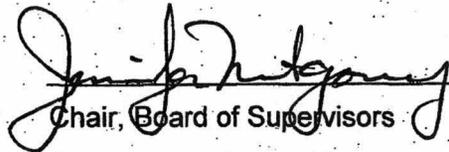
The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held, November 6, 2012, by the following vote on roll call:

Ayes: DURAN, WEYGANDT, HOLMES, UHLER, MONTGOMERY

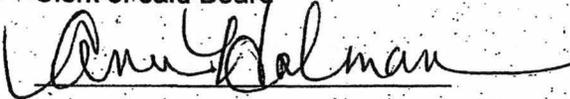
Noes: NONE

Absent: NONE

Signed and approved by me after its passage.


Chair, Board of Supervisors

**Attest:
Clerk of said Board**



WHEREAS, the County of Placer establishes a Community Facilities District under terms of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Division 2 of Title 5 of the California Government Code, Section 53311 *et seq.*; and

WHEREAS, the name of the Community Facilities District is, "Community Facilities District Number 2012-1 *Sunset Industrial Area Services*", County of Placer, State of California aka "CFD 2012-1", and the boundaries of the district comprise the outer boundary of the four contiguous parcels owned by Magnus Real Estate Group, LLC (Magnus Pacific, APNs: 495-020-005; -006; -007; -008); and

WHEREAS, discretionary land development projects in the Sunset Industrial Area, boundaries of which are as shown at Exhibit B (*incorporated herein by reference*), are designated for future annexation to CFD 2012-1; and

WHEREAS, the services provided by CFD 2012-1 are fire protection and emergency medical services, and as a condition of approval for future development within CFD 2012-1, a special tax is imposed to provide said services for benefit of properties with CFD 2012-1; and

WHEREAS, Magnus Real Estate Group, LLC, owner of record of the properties within the CFD, have approved, by formal ballot, a tax on its four parcels within the CFD that is based on the engineered rates as shown in Exhibit A (*County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) Rate and Method of Apportionment of Special Tax*) which is incorporated herein by reference; and

WHEREAS, said ballot constitutes unanimous approval of the charge to property owners within the CFD.

PAGE 2

Resolution No. 2012-260

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA DOES HEREBY RESOLVE AS FOLLOWS:

That it establishes Community Facilities District 2012-1 Sunset Industrial Area Services to allow for equitable funding by all development within Community Facilities District 2012-1 for fire protection and emergency medical services.

That it annexes the four contiguous parcels owned by Magnus Real Estate Group, LLC referenced above, into the CFD, the outer boundary of which forms the perimeter of the CFD.

That the tax established in Exhibit A shall be subject to modification each year in an amount not to exceed the change in the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco/Oakland/San Jose Metropolitan Area commencing with the 2012 tax year.

That future discretionary land development projects in the Sunset Industrial Area whose boundaries are shown at Exhibit B shall be conditioned for annexation into CFD 2012-1.

Attachments:

EXHIBIT A: *County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area) Rate and Method of Apportionment of Special Tax*

EXHIBIT B: *CFD 2012-1 Annexation Area*

EXHIBIT C: *Consent and Waiver of Notice*

EXHIBIT D: *Official Ballot*

**COUNTY OF PLACER
COMMUNITY FACILITIES DISTRICT NO. 2012-1
(SUNSET INDUSTRIAL AREA SERVICES)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) shall be levied and collected according to the tax liability determined by the County of Placer or its designee, through the application of this Rate and Method of Apportionment of Special Tax. All of the 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, including property subsequently annexed to the CFD unless otherwise provided for the annexed property.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

"Administrative Expenses" means the expenses of the County in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, costs related to annexing property into the CFD, and all other costs and expenses of the County in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the County to administer the Special Tax according to the Rate and Method.

"Assessor's Parcel" or "Parcel" means a lot or parcel with an assigned County Assessor's Parcel number shown on a County Assessor's Parcel map.

"Authorized Services" means the public services authorized to be financed, in whole or in part, by the Special Taxes in the CFD.

"CFD" or "CFD No. 2012-1" means the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services).

"County" means the County of Placer.

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

“Maximum Special Tax” means the greatest amount of Special Tax that can be levied in any Fiscal Year according to this Rate and Method.

“Public Property” means any Parcel of Taxable Property that is owned by or irrevocably offered for dedication to the federal government, State of California, County, or other local governments or public agencies.

“Rate and Method” means this Rate and Method of Apportionment of Special Tax.

“Special Tax” means any tax levied in any Fiscal Year pursuant to the Rate and Method to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

“Square Footage,” or “Square Foot” means the floor area square footage reflected on the original building permit issued for construction of a building and any square footage subsequently added to a building after issuance of a permit for expansion or renovation.

“Taxable Property” means, in any Fiscal Year, all Assessor’s Parcels: (i) which are not exempt from the Special Tax pursuant to law or Section E below, and (ii) for which a certificate of occupancy for new construction or expansion of a vertical structure was issued by the County prior to June 30 of the preceding Fiscal Year. In the absence of a certificate of occupancy, any Parcel that is not exempt from the Special Tax shall be classified as Taxable Property if a structure on the Parcel has been occupied prior to June 30 of the preceding Fiscal Year.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel number for all Parcels of Taxable Property in the CFD. The Administrator shall also determine the Acreage of each Parcel and the amount of Square Footage built on each Parcel and the Special Tax Requirement for the then current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, and (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for Fiscal Year 2012-13 for all Parcels of Taxable Property within CFD No. 2012-1 shall be the greater of (i) \$0.08 per Square Foot or (ii) \$757.00 per Acre. After a Parcel is classified as Taxable Property, if, in any future Fiscal Year, the amount of Square Footage on the Parcel is increased, the Administrator shall determine the Maximum Special Tax by applying the greater of (i) or (ii) based on the increased Square Footage.

On July 1, 2013, and on each July 1 thereafter, the Maximum Special Tax shall be escalated by the increase, if any, in the Local Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers. The CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year and the Special Tax shall be levied proportionately on each Parcel of Taxable Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

The Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the County may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner, and may collect delinquent Special Taxes through other available methods.

E. EXEMPTIONS

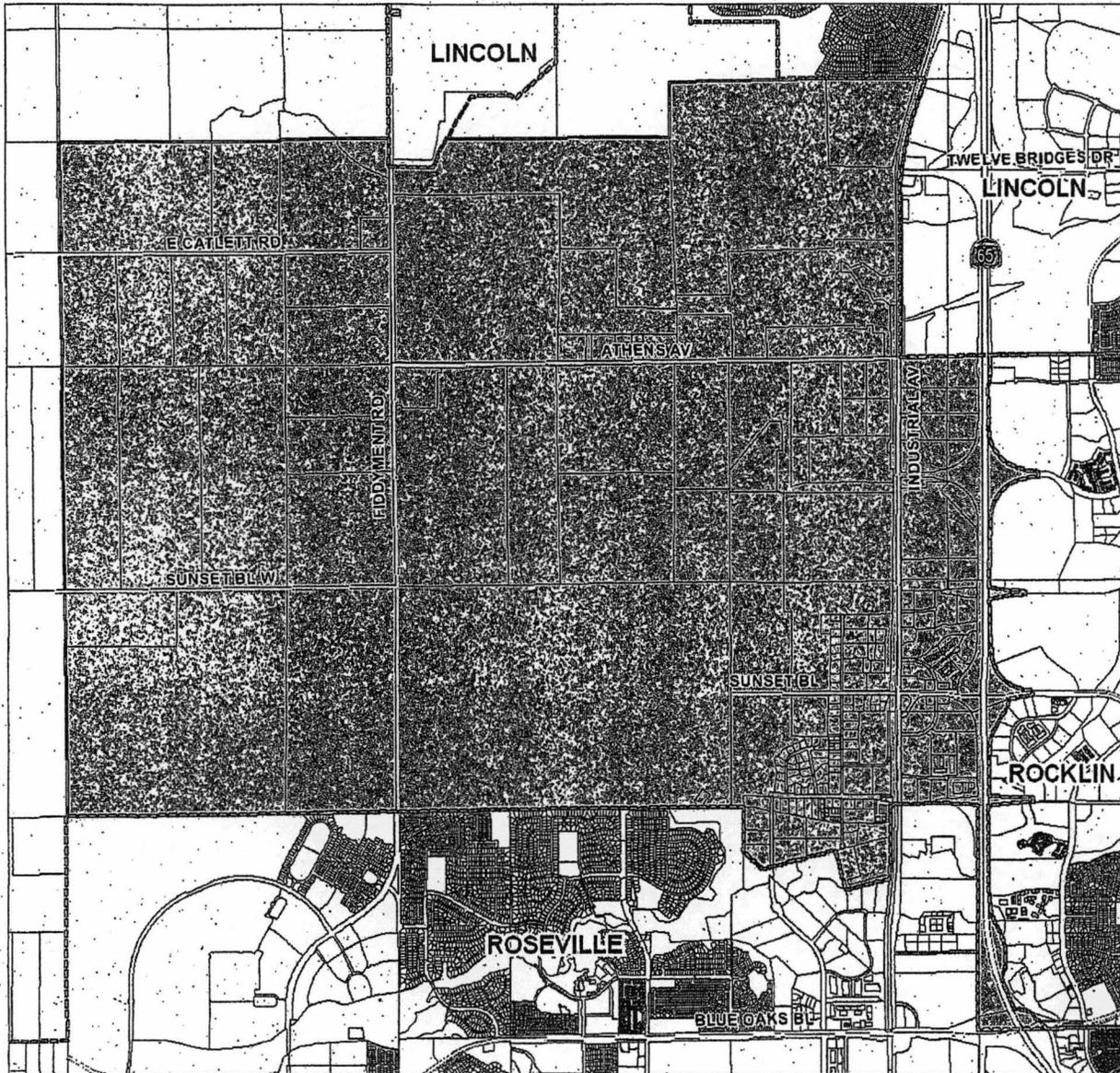
Notwithstanding any other provision of this Rate and Method, no Special Tax shall be levied on Parcels of Public Property for which a separate agreement or contract has been entered into with the County to pay the costs of Authorized Services.

F. INTERPRETATION

The County may interpret, clarify, and revise this Rate and Method to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Taxes.

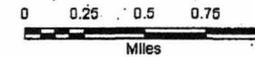
CFD 2012-1 Annexation Area

39

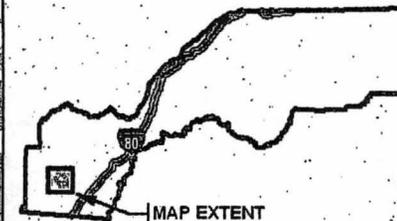


LEGEND

-  SUNSET INDUSTRIAL AREA
-  CITY LIMITS
-  PARCEL
-  HIGHWAY 65
-  MAJOR ROAD



LOCATION MAP



CONSENT AND WAIVER OF NOTICE

**County of Placer
Community Facilities District No. 2012-1
Sunset Industrial Area Services**

THIS CONSENT AND WAIVER OF NOTICE is executed this 18th day of October, 2012, by MAGNUS REAL ESTATE GROUP, LLC, a California LLC ("OWNER").

WHEREAS, Owner is the owner of record in fee of the real property described on Exhibit A, attached hereto and incorporated herein by reference (the "Annexation Property"); and,

WHEREAS, on September 25, 2012, the Placer County Board of Supervisors adopted Resolution of Intention 2012-226 ("Resolution 2012-226") to form County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area Services) (the "CFD") to fund fire and emergency medical services within the Sunset Industrial Area of Placer County, and being formed under the provisions of the "Mello-Roos Community Facilities Act of 1982" (the "Act"), being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, Section 53311 et seq.; and,

WHEREAS, the undersigned is authorized to represent the Owner and is its designated representative to give the consent and waiver contained herein with respect to annexation of Annexation Property into the CFD.

WHEREAS, Resolution 2012-226 incorporated as Exhibit A the County of Placer Community Facilities District No. 2012-1 (Sunset Industrial Area) Rate and Method of Apportionment of Special Tax (the "Rate and Method") and as Exhibit B the CFD Annexation Area (the "Annexation Area").

WHEREAS, the Rate and Method contains the Method of Levy and Collection of Special Tax.

WHEREAS, the Rate and Method states that the maximum special tax that will be levied on developed property shall be the greater of (i) \$0.08 per square foot or (ii) \$757.00 per acre

WHEREAS, the Rate and Method Study further states that on July 1, 2013, and each July 1 thereafter, any escalation to the maximum special tax assessed will be based on the local consumer price index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers; and, that the CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

WHEREAS, the Annexation Area includes within its boundaries those properties eligible for annexation into the CFD.

NOW, THEREFORE:

1. The undersigned Owner requests and consents to the annexation of the Annexation Property into the CFD.
2. In accordance with the provisions of the Act, and specifically Sections 53326(a) and 53327(b) thereof allowing certain time and conduct requirements relative to a special landowner election to be waived with the unanimous consent of all the landowners to be included in a community facilities district, the undersigned Owner (i) expressly consents to the conduct of the special election at the earliest possible time relative to the annexation of the Annexation Property into the CFD and (ii) expressly waives any requirement to have the special election conducted within the time periods specified in Section 53326 of the Act or in the California Elections Code.
3. The undersigned Owner waives any requirement for the mailing of the ballot for the special election and expressly agrees that said election may be conducted by mailed or hand-delivered ballot to be returned to the designated election official, being the Clerk of the Placer County Board of Supervisors, and the undersigned requests that the results of said election be canvassed and reported to the Board of Supervisors at the same meeting of the Board of Supervisors as the public hearing on the annexation of the Annexation Property into the CFD or the next available meeting.
4. The undersigned Owner expressly waives all applicable waiting periods for the election and waives the requirement for analysis and arguments relating to the special election, as set forth in Section 53327 of the Act, and consents to not having such materials provided to the Owner in the ballot packet, and expressly waives any requirements as to the form of the ballot.
5. The undersigned Owner expressly waives all notice requirements relating to hearings and special elections, whether by posting, publishing or mailing, and whether such requirements are found in the California Elections Code, the California Government Code or other laws or procedures, including but limited to any notice provided for by compliance with the provisions of Section 4101 of the California Elections Code.
6. The undersigned Owner hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the annexation of the Annexation Property into the CFD or the special election therein shall be invalidated or affected by any such irregularity, error, mistake or departure.
7. The undersigned Owner warrants and represents that it is the owner of record of the Annexation Property, and has full authority to execute this Consent and Waiver. This Consent and Waiver shall be binding upon Owner and Owner's successors-in-interest, heirs, and assigns, and shall run with the Annexation Property and all separate legal parcels therefrom as may later be created.

OWNER:

MAGNUS REAL ESTATE GROUP, LLC, a California LLC

By: 
Print Name: Bruce Dietert
Title: Managing Member
Dated: October 18, 2012

Exhibit A

Legal Description of Magnus Real Estate Group, LLC Annexation Property

All that portion of Section 9, T 11, R6E, M.D.B.&M. located in Placer County California, more particularly described as follows:

Lots 16-19 as shown on that Plat filed in Book CC of maps at page 7, Official Records of Placer County.

OFFICIAL BALLOT

**County of Placer
Community Facilities District No. 2012-1
Sunset Industrial Area Services**

MAGNUS REAL ESTATE GROUP, LLC, a California LLC

Do you approve of the imposition of a special tax to be levied under the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, Section 53311 et seq., to fund fire protection and emergency medical services on the following parcels in the amount described as follows:

The maximum special tax that will be levied on developed property shall be the greater of (i) \$0.08 per square foot or (ii) \$757.00 per acre. On July 1, 2013, and each July 1 thereafter, any escalation to the maximum special tax assessed will be based on the local consumer price index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers. The CPI used shall be as determined by the Bureau of Labor Statistics from January to January beginning with the period from January 2012 to January 2013.

ASSESSOR PARCEL NUMBERS and LEGAL DESCRIPTION

APN's 495-020-005, 495-020-006, 495-020-007, and 495-020-008, as more fully described on attached Exhibit A.

YES NO

The undersigned declares that he or she is the authorized representative of the owner of record of the above-described Parcels and is lawfully authorized to execute this ballot on behalf of said owner of record.

OWNER:
MAGNUS REAL ESTATE GROUP, LLC, a California LLC

By: *Bruce Dietert*
Print Name: Bruce Dietert
Title: Managing Member
Dated: June 18, 2012
1st October

Signature(s) must be notarized

Exhibit A

Legal Description of Magnus Real Estate Group, LLC Annexation Property

All that portion of Section 9, T 11, R6E, M.D.B.&M. located in Placer County California, more particularly described as follows:

Lots 16-19 as shown on that Plat filed in Book CC of maps at page 7, Official Records of Placer County.

ACKNOWLEDGEMENT

State of California)
) ss
County of Placer)

On 10/18/12, before me, Robin Vincenti, Notary Public, personally appeared Bruce Diettert who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Robin Vincenti
Signature of Notary

My Commission Number is #1931484.
My Commission Expires April 4, 2015.



