

**CITY OF SAN JOSE  
COMMUNITY FACILITIES DISTRICT NO. 1  
(CAPITOL EXPRESSWAY AUTO MALL)**

**CFD REPORT**

**August 21, 1997**

Prepared For:

**CITY OF SAN JOSE**

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## **I. INTRODUCTION**

In 1994, the Capitol Expressway Auto Mall Dealers Advertising Association (the "Association") requested City of San Jose staff to determine the feasibility of constructing public improvements through municipal bond financing to enhance the "auto mall" concept and the image of the Capitol Expressway area between Route 87 and Almaden Expressway. On March 18, 1997, the City Council approved a cooperation agreement with the Association and the corporation responsible for development of the Capitol Auto Mall Plaza to finance improvements and continued maintenance of the Capitol Expressway Auto Mall.

On June 24, 1997, the City Council of the City of San Jose, pursuant to Chapter 14.27 of the San Jose Municipal Code which incorporates and modifies the Mello-Roos Community Facilities Act of 1982, adopted a Resolution of Intention to Establish Community Facilities District No. 1 ("CFD No. 1"). CFD No. 1 will fund the construction and maintenance of the public improvements identified in Section III below. These improvements will benefit 21 parcels within the Auto Mall that have agreed to participate in the CFD. All infrastructure will be funded from proceeds of a Mello-Roos bond issue, which will be sold before the end of 1997.

## **II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 1**

### **A. Introduction**

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

The Resolution of Intention to Establish CFD No. 1 was adopted by the City Council on June 24, 1997. After a public hearing and a successful election by the landowners within the CFD, the District will be formed and the levy of a special tax will be authorized. CFD No. 1 will also be authorized to issue up to \$4.1 million in bonds to fund the construction or acquisition of the public facilities identified in Section III below.

### **B. CFD Bonds and Special Tax Structure**

It is anticipated the City will issue one bond issue on behalf of CFD No. 1, which will generate net construction proceeds sufficient to fund the public improvements listed below. The bonds will have a term of 25 years, and the annual debt service will be relatively level

throughout the term. Each year a special tax will be levied and collected from parcels within the CFD to pay debt service on the bonds as well as administrative expenses of the CFD; this special tax is referred to as the "Facilities Special Tax" for purposes of the annual tax levy. In addition, a special tax will be levied to pay costs associated with maintenance of the public facilities. This tax is defined as the "Services Special Tax". The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix A of this report.

As explained in Section D of the RMA, both the Facilities and Services Special Tax will be levied each fiscal year until the amount levied matches the Facilities Special Tax Requirement and Services Special Tax Requirement (as defined in the RMA). If, for any reason, revenues generated from the levy of the maximum Facilities Special Tax is insufficient to pay the Facilities Special Tax Requirement, proceeds from the levy of the Services Special Tax shall be applied to cover the shortfall.

The maximum Facilities Special Tax that can be levied in any fiscal year on parcels in CFD No. 1 is identified in Section C of the RMA. A maximum Services Special Tax is also identified, but this tax shall be adjusted each year by applying the increase, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

Section F of the RMA sets forth a prepayment formula which will be used to calculate the one-time payment required to release a parcel in CFD No. 1 from the annual levy of the Facilities Special Tax. The Services Special Tax cannot be prepaid and will be levied on an annual basis on all taxable parcels in the CFD.

### ***III. DESCRIPTION OF FACILITIES AND SERVICES TO BE FUNDED BY CFD No. 1***

The facilities and services described below are authorized to be funded by the City of San Jose and are required to adequately meet the needs of CFD No. 1. Cost estimates for these items are provided in Section IV below.

The public improvements and services to be provided within and financed by CFD No. 1 include the following::

The design, acquisition and construction of the following improvements:

Capitol Expressway Auto Mall from State Route 87 to Almaden Expressway including resurfacing, signing, striping, new signalization at assessor's parcel numbers 459-05-014 and 459-06-039, medians, curbs, gutters, driveway modifications, median and parkway landscaping, irrigation system, special signing/monumentation, street lighting and other improvements associated with the enhancement of Capitol Expressway Auto Mall.

Storm drainage system improvements in the vicinity of Capitol Expressway and Almaden Expressway to eliminate existing street flooding conditions during heavy rain, and work required to eliminate costs to the City associated with the acceptance of Capitol Expressway Auto Mall from the County.

Additional improvements required to complete the project in accordance with the City requirements to upgrade the roadway condition to City standards for the Auto Mall enhancement project.

2. The acquisition of all lands, easements and right-of-way and necessary appurtenances to complete and use the above-described improvements. All public right-of-way will be dedicated to the City of San Jose or County of Santa Clara as appropriate for public use.
3. Maintenance of all facilities and improvements set forth above.

These public facilities and services are necessary to meet increased demands imposed upon the City as a result of development occurring within the CFD. The description of facilities and services, as set forth herein, is general in nature. The final nature of improvements will be determined upon the preparation of final plans and specifications.

#### ***IV. COST ESTIMATES***

##### **A. Facility and Financing Cost Estimates**

Following are the estimated costs of facilities to be funded by CFD No. 1, including design, engineering, permits, and contingencies. In addition, all costs associated with issuing bonds and required bond reserves are identified below. All figures are reflected in 1997 dollars.

<b>Construction Costs</b>		<b>\$2,280,900</b>
<b>Design &amp; Construction Management:</b>		
Consultant Engineer	\$495,100	
City Engineering	122,000	
City Inspection	73,000	
City Administration	73,000	
Contingencies	<u>56,000</u>	
Subtotal, Design & C.M.		<b>\$819,100</b>
<b>Bond Issuance Costs:</b>		
Bond Counsel	\$ 55,000	
Underwriter's Discount	81,500	
Underwriter's Counsel	25,000	

Financial Consultant	37,500	
Special Tax Consultant	20,000	
Trustee	3,000	
Trustee's Counsel	1,000	
Bond & Official Statement Printing	10,000	
Arbitrage Accounting	10,000	
Debt Service Administration	78,000	
Maintenance District Funding	50,000	
Contingencies	<u>8,900</u>	
<b>Subtotal, Bond Issuance Costs</b>		<b>\$379,900</b>
<b>Other Fund Deposits:</b>		
Debt Service Reserve Fund	\$346,275	
Capitalized Interest Fund	<u>262,915</u>	
<b>Subtotal, Other Fund Deposits</b>		<b><u>\$609,190</u></b>
<b>Total, Facility and Financing Costs</b>		<b>\$4,089,000</b>

**B. Maintenance Cost Estimates**

In addition to capital costs, CFD No. 1 will generate revenues to pay for the ongoing maintenance of the public facilities identified above. Each fiscal year, the City will estimate the costs associated with maintaining the facilities and a "Services Special Tax" (as defined in Appendix A) will be levied to pay such costs. The Services Special Tax will be used to maintain both facilities that currently exist in the Auto Mall and new facilities that will be built with bond proceeds. Following is an estimate of the maintenance costs that will be funded with special tax proceeds:

**Existing Facilities:**

Roadways, traffic signals and street lighting	\$50,000/year
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**New Facilities:**

Trees, shrubs, mowing, water, fertilizer, mulch replacement, traffic signals, pump station	<u>\$60,000/year</u>
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<b>Total Maintenance Costs</b> (includes annual administration costs)	<b>\$110,000/year</b>
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***V. BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 1***

The boundaries of CFD No. 1 incorporate 21 assessor's parcels, all but one of which have existing auto dealerships. The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in the Book of Maps of Assessment and Community Facilities in the Santa Clara County Recorder's Office, and include the following assessor's parcel numbers which were valid for the 1997-98 fiscal year:

459-03-002	459-05-019
459-03-003	459-27-002
459-03-004	459-27-003
459-04-003	459-27-009
459-04-004	459-27-010
459-04-005	459-27-014
459-04-006	459-06-015
459-04-007	459-06-039
459-05-016	459-06-043
459-05-017	459-06-044
459-05-018	

If any of these assessor's parcel numbers become invalid in future fiscal years, or if the parcels are subdivided and/or combined to form new parcel numbers, the special taxes assigned to the parcels in the RMA will continue to apply and will be reallocated to the new parcels to ensure CFD revenues are not reduced.

**APPENDIX A**

**CITY OF SAN JOSE  
COMMUNITY FACILITIES DISTRICT No. 1**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

## **EXHIBIT B**

### **CITY OF SAN JOSE COMMUNITY FACILITIES DISTRICT NO. 1 (Capitol Expressway Auto Mall)**

#### **RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

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A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1 (Capitol Expressway Auto Mall) [herein "CFD No. 1"] shall be levied and collected according to the tax liability determined by the City Council of the City of San Jose, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided.

#### **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 Map, parcel map, or other recorded County parcel map.

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

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

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Santa Clara designating parcels by Assessor's Parcel Number.

"Bonds" means any bonds or other debt (as defined in the Act), whether in one or more series, issued by CFD No. 1 under the Act.

"City" means the City of San Jose.

"Code" means the San Jose Municipal Code.

"Council" means the City Council of the City of San Jose, acting as the legislative body of CFD No. 1.

**“Facilities Special Tax”** means a Special Tax levied in any Fiscal Year to pay the Facilities Special Tax Requirement.

**“Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year (i) to pay principal and interest on Bonds, (ii) to create or replenish reserve funds, (iii) to cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, (iv) to pay administrative expenses of the CFD, and (v) to pay construction expenses to be funded directly from Special Tax proceeds.

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

**“Maximum Special Tax”** means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

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

**“Public Property”** means any property within the boundaries of CFD No. 1 that is owned by the federal government, State of California or other local governments or public agencies.

**“Services Special Tax”** means a Special Tax levied in any Fiscal Year to pay the Services Special Tax Requirement.

**“Services Special Tax Requirement”** means the amount necessary in any Fiscal Year (i) to pay for services authorized to be funded by CFD No. 1, (ii) to cure any delinquencies in the payment of Services Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iii) to cover any shortfall that exists if, in any Fiscal Year, the levy of the maximum Facilities Special Tax on each Parcel is insufficient to pay the Facilities Special Tax Requirement in that Fiscal Year.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 1 which are not exempt from the Special Tax pursuant to law or Section E below.

## **B. DETERMINATION OF TAXABLE PARCELS**

On July 1 of each Fiscal Year, the City or its designee shall determine whether the Assessor’s Parcel numbers identified in Table 1 below are valid Parcel numbers for the Fiscal Year. If any Parcel numbers are no longer valid, the City or its designee shall determine the new Parcel number or numbers that are in effect for the Fiscal Year. To the extent a Parcel or Parcels are subdivided, consolidated or otherwise reconfigured, the Special Tax obligation set forth in Section

C below shall be reallocated to the new Assessor's Parcels on an Acreage basis until the combined Maximum Special Tax that can be collected from the new Parcels is equal to the Maximum Special Tax set forth below for the original Parcel or Parcels.

The City or its designee shall be required to maintain an annual record of Assessor Parcel numbers that will clearly identify the Fiscal Year 1997-98 Parcel numbers and all future activity related to those Parcels, including a history of successor Parcels. At no time shall a reconfiguration of any Assessor's Parcel in CFD No. 1 result in a reduction of Special Tax revenues.

**C. MAXIMUM SPECIAL TAX**

The Maximum Facilities Special Tax and Maximum Services Special Tax applicable to each Assessor's Parcel in CFD No. 1 are set forth in Table 1 below.

<b>FISCAL YEAR 1997-98 ASSESSOR'S PARCEL NUMBER /1</b>	<b>MAXIMUM FACILITIES SPECIAL TAX ASSIGNED TO PARCEL (FISCAL YEAR 1997-98)</b>	<b>MAXIMUM SERVICES SPECIAL TAX ASSIGNED TO PARCEL (FISCAL YEAR 1997-98) /2</b>
459-03-002	\$3,188.31	\$885.51
459-03-003	\$3,286.42	\$912.76
459-03-004	\$17,594.59	\$4,886.66
459-04-003	\$22,072.95	\$6,130.46
459-04-004	\$22,661.56	\$6,293.94
459-04-006	\$2,852.12	\$792.14
459-04-005	\$16,024.96	\$4,450.71
459-04-007	\$33,152.00	\$9,207.51
459-05-019	\$22,867.57	\$6,351.15
459-05-018	\$19,237.80	\$5,343.03
459-05-017	\$14,362.13	\$3,988.88
459-05-016	\$24,236.10	\$6,731.24
459-05-014	\$46,312.86	\$12,862.76
459-27-010	\$24,849.23	\$6,901.53
459-27-003	\$18,565.80	\$5,156.40

459-27-009	\$9,434.80	\$2,620.39
459-27-002	\$3,286.42	\$912.76
459-06-015	\$28,429.96	\$7,896.03
459-06-044	\$12,998.52	\$3,610.16
459-06-043	\$26,119.65	\$7,254.37
459-06-039	\$24,525.50	\$6,811.62

1. If any of the Assessor's Parcel numbers identified above become invalid in future Fiscal Years, or if the Parcels are subdivided and/or combined to form new Parcel numbers, the Special Taxes identified above shall continue to apply to all Parcels within the CFD based on the Fiscal Year 1997-98 Assessor's Parcel number that would have applied to that area.

2. Beginning January 2, 1998 and each January 2 thereafter, the Maximum Services Special Tax shall be adjusted by applying the increase, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

**D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX**

*1. Facilities Special Tax*

Commencing with Fiscal Year 1998-99 and for each following Fiscal Year, the City or its designee shall determine the Facilities Special Tax Requirement to be collected from Taxable Property in CFD No. 1 in that Fiscal Year. The Facilities Special Tax shall then be levied Proportionately on each Assessor's Parcel in CFD No. 1 up to 100% of the Maximum Facilities Special Tax applicable to that Parcel until the total amount levied is equal to the Facilities Special Tax Requirement for the Fiscal Year.

If, in any Fiscal Year, the Maximum Facilities Special Tax is levied against each Parcel within CFD No. 1 and the revenues generated are insufficient to pay the Facilities Special Tax Requirement, such shortfall shall be deemed a component of the Services Special Tax Requirement in that Fiscal Year, and proceeds from the levy of the Services Special Tax shall first be applied to mitigate the shortfall in the Facilities Special Tax Requirement before being used to pay for authorized services.

*2. Services Special Tax*

Commencing with Fiscal Year 1998-99 and for each following Fiscal Year, the City or its designee shall determine the Services Special Tax Requirement to be collected from

Taxable Property in CFD No. 1 in that Fiscal Year. The Services Special Tax shall then be levied Proportionately on each Assessor's Parcel in CFD No. 1 up to 100% of the Maximum Services Special Tax applicable to that Parcel until the total amount levied is equal to the Services Special Tax Requirement for the Fiscal Year.

The Special Tax for CFD No. 1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1 may (under the authority of Government Code Section 53340 and the Code), in any particular case, bill the taxes directly to the property owner (or leasehold owner in the event of a long-term leasehold interest in a Parcel owned by a Public Agency) off the County tax roll, and the Special Taxes shall be equally subject to penalties and foreclosure if delinquent. The Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid and authorized facilities to be constructed directly from Special Taxes proceeds have been completed. However, in no event shall a Facilities Special Taxes be levied after Fiscal Year 2029-2030. The Services Special Tax may continue to be levied until such time as the City determines that Special Tax revenues are no longer needed for authorized maintenance expenses.

**E. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on Parcels that have been conveyed to a Public Agency, except that as otherwise provided in the Act.

**F. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section F:

"Remaining Facilities Costs" means the Public Facilities Requirements minus public facility costs funded by Outstanding Bonds, developer equity and/or any other source of funding.

"Outstanding Bonds" means all Previously Issued Bonds which remain outstanding.

"Previously Issued Bonds" means all Bonds that have been issued by CFD No. 1 prior to the date of prepayment.

"Public Facilities Requirements" means either \$3,100,000 in 1997 dollars, which shall increase by three percent (3%) on January 1, 1998, and on each January 1 thereafter, or such lower number as shall be determined by the City as sufficient to fund public facilities to be provided by CFD No. 1 under the authorized bonding program for CFD No. 1.

*Only the Facilities Special Tax may be prepaid; the Services Special Tax shall continue to be levied on an annual basis on all Taxable Property in CFD No. 1.*

The Special Tax obligation applicable to such Assessor's Parcel in CFD No. 1 may be prepaid and the obligation of the Assessor's Parcel to pay the Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor's Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance
plus	Administrative Fees and Expenses
less	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

Step Number:

1. Compute the total Maximum Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
2. Divide the Maximum Facilities Special Tax computed pursuant to Step 1 for such Assessor's Parcel by the Maximum Facilities Special Taxes that can be collected within the entire CFD in the Fiscal Year in which prepayment would be received by the City.
3. Multiply the quotient computed pursuant to Steps 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
4. Compute the current Remaining Facilities Costs (if any).
5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (*the "Remaining Facilities Amount"*).

6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (*the "Redemption Premium"*).
7. Compute the amount needed to pay interest on the Bond Redemption Amount from the last date on which interest was paid on the Outstanding Bonds until the earliest redemption date for the Outstanding Bonds.
8. Compute the amount of Facilities Special Taxes levied or paid with respect to the Assessor's Parcel during the current Fiscal Year and confirm that no Special Tax delinquencies apply to such Assessor's Parcel. The Assessor's Parcel shall receive a credit for any Facilities Special Taxes levied or paid which have not yet been utilized to pay the Facilities Special Tax Requirement, but no credit shall be given for Facilities Special Taxes that have already been paid and used to pay the Facilities Special Tax Requirement.
9. Compute the amount the City or its designee reasonably expects to derive from the reinvestment of the Bond Redemption Amount plus the Redemption Premium until the redemption date for the Outstanding Bonds that the City or its designee expects to redeem with the prepayment.
10. Take the amount computed pursuant to Step 7 and subtract the amounts computed pursuant to Steps 8 and 9 (*the "Defeasance"*).
11. The administrative fees and expenses of CFD No. 1 are as calculated by the City and include the costs of computing the prepayment, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
12. A reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (*the "Reserve Fund Credit"*).
13. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 10, and 11, less the amount computed pursuant to Step 12 (*the "Prepayment Amount"*).