

CITY OF MILL VALLEY MEASURE E

E Shall the special tax be levied within the City of Mill Valley Community Facilities District No. 2006-1 (Municipal Services) to pay costs of facilities and services (including maintenance, repair and improvement of streets and storm drains, landslide repairs, and fire suppression activities) and shall the appropriations limit be established, all as specified in Mill Valley City Council Resolution No. 06-30?

FULL TEXT OF MEASURE E

EXHIBIT 1

RESOLUTION NO. 06-30

A RESOLUTION OF FORMATION OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY TO ESTABLISH CITY OF MILL VALLEY COMMUNITY FACILITIES DISTRICT NO. 2006-1 (MUNICIPAL SERVICES), TO MAKE ENVIRONMENTAL FINDINGS AND DETERMINATIONS WITH RESPECT THERETO PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, TO ESTABLISH AN APPROPRIATIONS LIMIT THEREFOR, TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN, AND TO SUBMIT THE ESTABLISHMENT OF AN APPROPRIATIONS LIMIT AND THE LEVY OF A SPECIAL TAX TO THE QUALIFIED ELECTORS THEREOF

RECITALS:

WHEREAS, the City Council (the "City Council") of the City of Mill Valley (the "City"), has previously adopted a resolution entitled "A Resolution of Intention of the City Council of the City of Mill Valley to Establish City of Mill Valley Community Facilities District No. 2006-1 (Municipal Services) and to Authorize the Levy of a Special Tax within City of Mill Valley Community Facilities District No. 2006-1 (Municipal Services)" (the "Resolution of Intention to Establish District") stating its intention to conduct proceedings to form City of Mill Valley Community Facilities District No. 2006-1 (Municipal Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the California Government Code (the "Act") to finance certain public facilities and services (the "Facilities and Services") to serve the District; and

WHEREAS, a copy of the Resolution of Intention to Establish District setting forth a description of the proposed boundaries of the District, the Facilities and Services to be financed by the District, including incidental expenses, and the rate and method of apportionment of the special tax proposed to be levied within the District (the "Rate and Method") is on file in the office of the City Clerk of the City (the "City Clerk"); and

WHEREAS, the Resolution of Intention to Establish District set August 7, 2006 as the date of a public hearing on the establishment of the District, the extent of the District, the furnishing of Facilities and Services to serve the District, and the proposed rate and method of apportionment of the special tax within the District; and

WHEREAS, a notice of the public hearing was published and was mailed to all registered owners residing within the territory of the District and to all landowners proposed to be included in the District in accordance with the Act; and

WHEREAS, prior to the date of the public hearing there was filed with the City Council a report containing a description of the facilities and services necessary to adequately meet the needs of the District and an estimate of the cost of financing such facilities and services as required by Section 53321.5 of the Act (the "Report"); and

WHEREAS, at the public hearing all persons desiring to be heard on all matters pertaining to the establishment of the District, the extent of the District, the furnishing of Facilities and Services to serve the District, and the proposed rate and method of apportionment of the special tax were heard and a full and fair hearing was held; and

WHEREAS, at the public hearing evidence was presented to the City Council on the matters before it and the City Council at the conclusion of the hearing is fully advised as to all matters relating to the formation of the District and the levy of the special tax; and

WHEREAS, written protests with respect to the establishment of the District, the extent of the District, and the furnishing of Facilities and Services to serve the District have not been filed with the City Clerk by fifty percent or more of the registered voters residing within the territory of the District or property owners of one-half or more of the area of land within the District and not exempt from the levy of the special tax; and

WHEREAS, the special tax proposed to be levied in the District to pay for the costs of the Facilities and Services has not been eliminated by protest by fifty percent or more of the registered voters residing within the territory of the District or property owners of one-half or more of the area of land within the District and not exempt from the levy of the special tax; and

WHEREAS, the City has determined that this project will not have any significant environmental impacts and is exempt from the California Environmental Quality Act, commencing with Section 21000 of the California Public Resources Code and the California Environmental Quality Act Guidelines, Article 5 of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations, (collectively "CEQA"), pursuant to Section 15273 (Rates, Tolls, Fares and Charges) of the State CEQA Guidelines; and

WHEREAS, the City Council desires to proceed with the establishment of the District;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILL VALLEY:

1. Recitals. The above recitals are all true and correct.
2. Finding of Validity. Pursuant to Section 53325.1(b) of the Act, the City Council finds and determines that all of the proceedings prior hereto were valid and taken in conformity with the requirements of the law, and specifically the provisions of the Act.
3. Name of District. The City Council hereby establishes and declares the formation of a community

facilities district pursuant to the Act to be designated "City of Mill Valley Community Facilities District No. 2006-1 (Municipal Services)."

4. Boundaries of District. The exterior boundaries of the District are shown on the map entitled "Boundary Map of Proposed Community Facilities District No. 2006-1 (Municipal Services)" (the "Map") and recorded in the Marin County Recorder's office in Book 2006, Page 146, of Maps of Assessment and Community Facilities Districts. The Map is hereby approved and incorporated herein by reference.
5. Facilities and Services. The type of Facilities and Services proposed to be provided to serve the District and to be financed under the Act shall consist of those facilities and services set forth on Exhibit "A" and incorporated herein by reference. The City Council hereby finds that the proposed Facilities and Services are necessary to meet increased demands placed upon the City as a result of development occurring in the District.
6. CEQA. The City Council hereby finds and determines that this project is exempt from CEQA pursuant to Section 15273 (a) of the State CEQA Guidelines because this project is the formation of a community facilities district as a funding mechanism for operating expenses incurred by the City for on-going municipal service activities including but not limited to road maintenance, fire suppression services, flood control facility maintenance, landslide repair and stabilization, and vegetation removal. The project will allow for continued funding of capital project necessary to maintain existing services to the City. The City Council therefore directs City staff to prepare and file a Notice of Exemption with the County Clerk within five days of the adoption of this Resolution pursuant to Section 21080 of the California Public Resources Code and Section 15062 of the State CEQA Guidelines.
7. No Majority Protest. The City Council hereby finds that written protests against the establishment of the District, against the furnishing of a specified type of facility or services within the District, or against the levying of a specified special tax within the District have not been filed by fifty percent or more of the registered voters residing within the territory of the District or property owners of one-half or more of the area of land within the District and not exempt from the levy of the special tax. Therefore, the City Council finds and declares that the special tax to be levied in the District has not been precluded by majority protest pursuant to Section 53324 of the Act.
8. Special Tax.
 - a. Except where funds are otherwise available to pay for the Facilities and Services, a special tax (the "Special Tax") is hereby authorized, subject to approval by two-thirds of the votes cast within the District, to be levied

annually, commencing Fiscal Year 2008-2009, in accordance with the procedures of the Act within the boundaries of the District sufficient to pay for the costs thereof, including incidental expenses. Incidental expenses are defined in Exhibit B to the Resolution of Intention as costs associated with formation of the District, determination of the amount of the Special Tax, collection of the Special Tax, payment of the Special Tax, costs incurred in order to carry out the authorized purposes of the District, and the costs of engineering, inspecting, coordinating, completing, planning and designing the Facilities and Services, including the costs of environmental evaluations. The Special Tax will be secured by recordation of a continuing lien against all non-exempt real property in the District and will be collected in the same manner as ordinary ad valorem property taxes are collected, or in such other manner as may be provided by the City Council including, without limitation, direct billing of the affected property owner, and shall be subject to the same penalties, procedure, sale and lien priority in case of delinquency as applicable for ad valorem property taxes. In the first year in which the Special Tax is levied, the levy shall include a sum sufficient to repay to the City all amounts, if any, transferred to the District pursuant to Section 53314 of the Act and interest thereon. The authority to levy the Special Tax will expire following Fiscal Year 2017-2018.

- b. The Rate and Method, which is the proposed rate and method of apportionment of the Special Tax among parcels of real property in the District, in sufficient detail to allow each resident or landowner to estimate the maximum amount such resident or owner will have to pay, is shown in Exhibit "B", attached hereto and incorporated herein by reference. The City Council hereby determines the Rate and Method set forth in Exhibit "B" to be reasonable.
9. Notice of Special Tax Lien. Upon recordation of a notice of special tax lien with respect to the District pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until collection of the Special Tax by the City Council ceases.
 10. Appropriations Limit. An appropriations limit for the District is hereby established, subject to voter approval, as an amount equal to all the proceeds of the Special Tax collected annually within such District and as defined by Article XIII B of the California Constitution, as adjusted for changes in the cost of living and changes in population.

11. Preparation of Annual Roll. The then current Director of Finance, 26 Corte Madera Avenue, Mill Valley, California 94941, telephone number (415) 388-4033, is designated to be responsible for preparing annually, or authorizing a designee to prepare, a current roll of Special Tax levy obligations by assessor's parcel number and for estimating future Special Tax levies pursuant to Section 53340.2 of the Act.

12. Report. The Report is hereby approved, made a part of the record of the public hearing regarding the formation of the District, and ordered to be kept on file in the office of the City Clerk and open for public inspection.

13. Special Tax Accountability Measures. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, the City Council hereby establishes the following accountability measures pertaining to the levy by the District of the Special Tax described in Section 8 above:

- a. Such Special Tax shall be levied for the specific purposes set forth in Section 8(a) hereof.
- b. The proceeds of the levy of such Special Tax shall be applied only to the specific purposes set forth in Section 8(a) hereof.
- c. The District shall establish an account or accounts into which the proceeds of such Special Tax shall be deposited.
- d. The City Manager, or his or her designee, acting for and on behalf of the District, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

14. Election. The proposition relating to the levy of the Special Tax, together with a proposition to establish an appropriations limit for the District, shall be submitted by the City Council to the qualified electors of the District, such electors being the registered voters within the District, with each voter having one vote. The City Council hereby directs that the ballot proposition relating to the levy of the Special Tax and the proposition relating to the establishment of the appropriations limit be combined into one ballot proposition.

15. Transmittal to Election Official. The City Council hereby authorizes and directs, within three business days following adoption of this Resolution, that there be transmitted to the Election Official a certified copy of this Resolution and a certified copy of the boundary map described in Section 4 hereof and a sufficient description to allow the Election Official to determine the boundaries of the District.

PASSED AND ADOPTED this 7th day of August, 2006, by the following vote:

AYES: Councilmembers Berman, Marshall, Raker, Solem

NOES: None

ABSENT: Councilmember Swanson

ABSTAIN: None

s/ANNE B. SOLEM
Mayor

ATTEST:

s/MARY H. HERR
City Clerk

EXHIBIT "A"

DESCRIPTION OF FACILITIES AND SERVICES

Authorized Facilities and Services shall be the following:

- Maintenance, Repair, and Improvement of Streets and Roads
- Maintenance, Repair, and Improvement of Flood Control Facilities
- Repair and Stabilization of Areas Damaged Due to Landslides
- Fire Suppression Activities, Including Removal of Vegetation
- All other tangible property with an expected useful life of 5 years or longer necessary or useful for, or in connection with, the authorized Facilities and Services listed above.

EXHIBIT "B"

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 2006-1 (MUNICIPAL SERVICES) CITY OF MILL VALLEY MARIN COUNTY, STATE OF CALIFORNIA

I. Definitions

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, commencing with section 53311 of the Government Code of the State of California.

"City" means the City of Mill Valley, California.

"CFD 2006-1" means Community Facilities District No. 2006-1 (Municipal Services), City of Mill Valley, Marin County, State of California".

"Commercial Property" means any Property used for business, commercial or industrial purposes.

"Council" means the City Council of the City of Mill Valley, Marin County, California.

"Dwelling Unit" means a residential living space containing at least bathroom and kitchen facilities.

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

"Improved" means a Property for which a certificate of occupancy has been issued.

“Maximum Annual Special Tax” means the Maximum Annual Special Tax, determined in accordance with Section II below, that may be levied in any Fiscal Year. It is anticipated that each year, the Council will levy the Maximum Annual Special Tax authorized.

“Multiple Family Residential Property” means a Property consisting of two or more Dwelling Units that share common walls, including, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartments.

“Occupied” means a Property that is occupied as a residence or used for commercial purposes for any portion of a Fiscal Year.

“Property” means legal parcels (as of March 1 of the previous Fiscal Year, or later if adjustments are made by the County of Marin in its property tax roll after that date, and whether residential or commercial) of real property in private ownership within CFD 2006-1.

“Residential Second Unit” means an attached or detached Dwelling Unit in addition to the primary unit allowed in all residential zoning districts that provides complete independent living facilities for one or more persons. A Residential Second Unit may include a kitchen or cooking area, sleeping area, or sanitation facilities on the same parcel as the primary unit.

“Resolution” means the Council’s Resolution of Intention to form Community Facilities District No. 2006-1 and levy a special tax.

“Single Family Residential Property” means Property for which a building permit has been issued for purposes of constructing one Dwelling Unit or for which building permits have been issued for the purposes of constructing one Dwelling Unit and one Residential Second Unit.

“Special Tax” means the Special Tax levied pursuant to Sections II and III below to fund the Special Tax Requirement and expiring following Fiscal Year 2017-2018.

“Special Tax Requirement” is an amount to be determined annually by the Council. It shall be: (i) the amount necessary to pay for the types of public facilities and services as set forth in Exhibit “A” of the Resolution and for the types of incidental expenses as set forth in Exhibit “B” of the Resolution and such incidental expenses include the administrative costs and expenses to carry out the authorized purposes of CFD 2006-1, less (ii) the amount of any funds available to pay for the types of public facilities and services as set forth in Exhibit “A” of the Resolution and for the types of incidental expenses as set forth in Exhibit “B” of the Resolution.

II. Maximum Annual Special Tax

A. Maximum Annual Special Tax Rate

Each fiscal year, commencing with Fiscal Year 2008-2009, each Property shall be subject to the Maximum Annual Special Tax as follows:

1. \$195.00 for an Occupied Dwelling Unit of a Single Family Residential Property and \$97.50 for a Residential Second Unit of a Single Family Residential Property.
2. \$195.00 for the first Dwelling Unit of a Multiple

Family Residential Property and \$97.50 for each additional Dwelling Unit of a Multiple Family Residential Property, the total to be allocated equally to each unit; provided, however, that if no unit on a Multiple Family Residential Property has more than 700 or more square feet, then the rate shall be \$97.50 for each unit.

3. \$195.00 per Occupied Commercial Property containing 2,071 square feet or less.
4. \$0.09 per square foot for Occupied Commercial Property containing more than 2,071 square feet.

Where a Commercial Property is Occupied by more than one business, commercial, or industrial establishment, the Maximum Annual Special Tax is to be allocated pro rata to each establishment on the basis of its square footage.

Any Property which is Occupied for any portion of a Fiscal Year shall be considered Occupied for the entire Fiscal Year for purposes of determining the Maximum Annual Special Tax applicable to that Property for that Fiscal Year.

A Single Family Residential Property or a Multiple Family Residential Property that is never Improved or Occupied during the Fiscal Year shall be subject to a Maximum Annual Special Tax of \$48.75 per year. A Commercial Property which is never Improved or Occupied during the Fiscal Year shall be subject to a Maximum Annual Special Tax of \$48.75 per year. Proof of such vacancy or unimproved status for the specified Fiscal Year shall be documented on forms provided by the City Manager of the City of Mill Valley. Such forms must be submitted in the manner and at the time specified by the City Manager.

B. Exemptions

There are exceptions to this application of the Special Tax set forth below. Where proof is required, the proof must be submitted by June 1 in order for the exception to apply in the next Fiscal Year. The exceptions are:

1. Parcels in public ownership, which are being used in the performance of a public function, shall not be subject to the Special Tax; provided, however, that where public property is leased for private use, the private leasehold interest shall be subject to the Special Tax on the unsecured tax roll;
2. Property exempt from regular ad valorem property taxation shall not be subject to the Special Tax – this exception contemplates, for example, churches, condominium complex common areas (to the extent the value of such areas is distributed among the condominium units for purposes of ad valorem taxation), and welfare exemptions;
3. Property which is not buildable or developable because of some reasonably permanent incapacity shall not be subject to the Special Tax – this contemplates odd parcels which for historical or other reasons have not been merged into adjacent parcels, but which, because of size or other

reasonably permanent disability, do not or cannot comprise a separate building site – provided the owner thereof has supplied proof of these facts satisfactory to the City (such as confirmation from the planning department) and has agreed to notify the City of any change in these facts (if these facts change, and notification is not given, the parcel shall be subject to the Special Tax from and including the year of the change, plus interest, penalties and costs as if the Special Tax had been levied and not paid); and

4. A Dwelling Unit of a Single Family Residential Property owned and occupied by a resident over 65 years of age and whose income falls at or below the Housing Authority of Marin County's Median Income Scale shall be exempt from the Special Tax.

III. Method of Apportionment

The Special Taxes shall be levied for each Fiscal Year by the Council so that the amount of Special Tax levied equals the Special Tax Requirement. The Special Tax as determined by the Council shall be stated as a percentage of the Maximum Annual Special Tax. The Special Tax on each Property shall be that same percentage of its Maximum Annual Special Tax. It is intended that the Special Tax will be levied at the Maximum Annual Special Tax Amount. The Special Tax may not be levied beyond the 2017-2018 Fiscal Year. Should the Special Tax ever be levied at less than 91% of the maximum Annual Special Tax, then under no circumstances will the Special Tax levied against any Property be increased from year to year as a consequence of delinquency or default by the owner or owners of any other Property or Properties within CFD 2006-1 by more than ten percent (10%) per year. The levy may never, under any circumstances, exceed the Maximum Annual Special Tax authorized for any Property.

IV. Collection

The Resolution provides that the Special Tax is to be collected by the County of Marin in the same manner as ordinary ad valorem property taxes are collected and, is to be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem property taxes.

V. Appeals and Interpretation Procedure

Any landowner or resident who pays the Special Tax and who feels that the amount of the Special Tax levied on his or her property is in error, may file an application with the City contesting the levy of the Special Tax within 90 days of the delinquency date of the questioned installment. If not filed within that time, the objection is forever waived. The City Clerk, or her or his appointee, shall promptly review the application, and if necessary, meet with the applicant. If the findings of the City Clerk or the appointee verify that the Special Tax should be modified or changed, a recommendation to that effect will be made to the Council, and as appropriate, the modified or changed Special Tax shall be granted. If the City Clerk or the appointee denies the application, the taxpayer may appeal

that determination within 14 days of the mailing of notification of denial, to the Council under such procedures as the Council shall establish. The determination of the Council on the appeal shall be final for all purposes. The filing of an application or an appeal shall not relieve the taxpayer of the obligation to pay the Special Tax when due. Any claims for refund of a Special Tax installment, except as otherwise set forth herein, shall be filed in accordance with the procedures set forth in the Mill Valley Municipal Code and applicable State law.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to any of the terms or provisions of this Exhibit.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE E

The City of Mill Valley currently imposes a municipal services tax on residential and commercial properties in the City. This tax was first authorized in 1985 at the existing base rate of \$145 per single family residence per year. The tax in its current form as part of a community facilities district was approved by the voters in 1997 and will expire on June 30, 2008. In anticipation of the expiration of this tax, the City Council recently formed City of Mill Valley Community Facilities District No. 2006-1 (the "District") to pay for the maintenance, repair and improvement of streets and storm drains, landslide repairs, and fire suppression activities. The exterior boundaries of the District are identical to the city limits of Mill Valley.

Measure E has two components:

First, Measure E seeks the voters' approval for the District to levy an annual special tax to pay for the above-described facilities and services at the following maximum rates:

- (1) \$195.00 per occupied single family residential unit and \$97.50 per second unit
- (2) \$195.00 per first dwelling unit of a multiple family residential property and \$97.50 per additional dwelling unit, unless no unit has more than 700 square feet, then the rate shall be \$97.50 per unit
- (3) \$195.00 per occupied commercial property containing 2,071 square feet or less
- (4) \$0.09 per square foot for occupied commercial property containing more than 2,071 square feet
- (5) \$48.75 per residential or commercial property that is not occupied or issued a certificate of occupancy during the fiscal year

Exempted from the special tax are publicly-owned parcels, property exempt from property taxation, property that cannot be developed, and single family residential parcels owned and occupied by residents over 65 years of age with qualifying incomes.

The measure would renew the current municipal services tax, when it expires on June 30, 2008, with the maximum tax being increased to the levels stated above. If approved, the proposed special tax will be levied annually for ten years, commencing in fiscal year 2008-09, in the same manner as ad valorem property taxes. The special tax proceeds can be spent only on the purposes specified in City Council Resolution No. 06-31.

Second, Measure E would establish an appropriations limit for the District, which prevents the District from spending more money on facilities and services than is projected to be collected in special tax revenues.

A "Yes" vote on this Measure is a vote in support of the proposed special tax and the establishment of an appropriations limit for the District.

A "No" vote on this Measure is a vote against the proposed special tax and the establishment of an appropriations limit for the District.

The Measure must be approved by 2/3 of those voting at the election to be adopted.

s/GREGORY STEPANICICH
City Attorney
City of Mill Valley

The above statement is an impartial analysis of Measure E. If you desire a copy of Resolution 06-31, which more fully sets forth the details regarding the special tax and the appropriations limit, please call the City Clerk at (415) 388-4033 and a copy will be mailed at no cost to you.

ARGUMENT IN FAVOR OF MEASURE E

Since 1987, Mill Valley residents have supported the City's Municipal Services Tax to fund its long-term program of street rehabilitation and fire prevention services, including:

- Maintaining, repairing and improving streets (safety curbing and striping, regular repaving of most-traveled streets, and improving less-traveled streets)
- Preventing wildfires by removing brush and vegetation, creating fire breaks, and improving emergency vehicle access
- Repairing and improving storm drains
- Restoring areas damaged by landslides

To date, 35 of our 57 miles of streets have been repaired. The City has cleared 5,000 tons of roadside brush and established a system of fire breaks to act as wildfire buffer zones. The dollars spent have improved the condition of city streets and storm drains, reduced fire hazards, and shortened emergency response times.

These large annual expenditures are beyond the means of our small city and cannot continue without the supplemental funds generated by a renewed Municipal Services Tax.

The amount of the Tax has remained constant for the past 20 years, despite continual increases in the cost of labor and materials. Measure E provides for a tax of \$195 per occupied dwelling unit, a \$50 increase over the historic level, to assure that the steady pace of 20 years of investment in our infrastructure does not stall in the face of increased costs over the next decade.

The devastating floods we experienced last winter and the ever present threat of a catastrophic wildfire in our hills are reminders of the need to keep our streets in good condition. A well-maintained street system and ongoing fire prevention programs are fundamental to our safety, to the accessibility and value of our homes, and to civic life and commerce. Let's keep these crucial programs on track by renewing the Municipal Services Tax. Please vote YES on Measure E.

s/ANNE B. SOLEM

Mayor, Mill Valley

s/DENNIS P. FISCO

s/ROBERT F. CANEPA

s/SCOTT HARRINGTON

s/STEPHANIE MOULTON-PETERS

**NO ARGUMENT AGAINST MEASURE E
WAS FILED.**