

RESOLUTION NO. 2012-15

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
AMADOR WATER AGENCY DECLARING INTENTION
TO ESTABLISH A COMMUNITY FACILITIES DISTRICT**

**AMADOR WATER AGENCY
Community Facilities District No. 1
(Amador Water System)**

RESOLVED by the Board of Directors (the "Board") of the Amador Water Agency (the "Agency"), County of Amador, State of California, that:

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311 of the California Government Code, this Board is authorized to establish a community facilities district and to act as the legislative body for such community facilities district; and

WHEREAS, the Board having received a petition of one hundred percent of the property owners in the proposed community facilities district requesting that the Agency initiate proceedings for the establishment of a community facilities district pursuant to the Act, for the purposes of paying the costs of facilities ("Facilities") to be provided by the Agency as authorized to be financed pursuant to Sections 53313 and 53313.5 of the California Government Code that are necessary to meet increased demands placed upon the Agency as a result of the development of said real property (the "Property"), and agreeing to the Facilities to be provided by the Agency and the costs incidental thereto; and

WHEREAS, the Clerk of the Board of Directors of the Amador Water Agency has certified that the Petition, Consent and Waiver presented to the Board complies with the requirements of Sections 53318 and 53319 of the California Government Code; and

WHEREAS, the Agency desires to proceed with the establishment of a community facilities district in order to finance (1) a portion of the annual debt service on the 2006 Series A Amador Water System Certificate of Participation ("COP") which financed the construction of the Amador Transmission Project; (2) the initial improvements to the Amador Water System Tanner and Ione water treatment plants, which will provide additional treatment plant capacity in order to serve the properties subject to the special tax, as such facilities are defined as the Phase I Water Treatment Plant Improvements in Agency Ordinance No. 2012-1; and (3) all incidental expenses of the Agency to determine, levy and collect the special taxes as determined by the Agency; and

WHEREAS, Board adopted Ordinance No. 2012-1 on April 26, 2012 ("Ordinance") establishing certain policies and procedures in furtherance of the formation of the CFD, the financing of the public improvements addressed in the CFD, and the special tax to be levied therein.

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. Authority. This Board proposes to conduct proceedings to establish a community facilities district pursuant to the Act.

Section 2. Boundaries Described. The proposed boundaries of the CFD are as shown on the map on file with the Board Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The Board Clerk is hereby directed to record, or cause to be recorded, said map of the boundaries of the CFD in the Office of the County Recorder of Amador County within fifteen days of the date of adoption of this Resolution, but in any event at least fifteen days prior to the public hearing specified in Section 7 below.

Section 3. Name of CFD. The name proposed for the community facilities district is the Amador Water Agency Community Facilities District No. 1 (Amador Water System) (the "CFD").

Section 4. Facilities. The type of facilities proposed to be financed by the CFD and pursuant to the Act shall consist of those items listed as facilities on Exhibit A – Description of Facilities to Be Financed by the CFD hereto and hereby incorporated herein (the "Facilities").

Section 5. Special Tax. A special tax (the "Special Tax") sufficient to pay for the Facilities, secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually within the CFD, and collected in the same manner as ordinary ad valorem property taxes, or in such other manner as this Board or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay are described in Exhibit B – Rate and Method of Apportionment of Special Tax attached hereto and hereby incorporated herein (the "RMA").

Section 6. Adjustments in Property Taxation. This Board hereby finds that the provisions of Sections 53313.6, 53313.7 and 53313.9 of the Act relating to adjustments to ad valorem property taxes and schools financed by a community facilities district are inapplicable to the proposed CFD.

Section 7. Public Hearing. On August 27, 2012 at 9 a.m. or as soon as possible thereafter, in the Agency Boardroom, located at Amador Water Agency, 12800 Ridge Road, Sutter Creek, California, this Board, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD and the levy of the Special Tax. The Clerk of the Board is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication shall be completed at least seven days before the date of the public hearing referenced herein. The notice shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

Section 8. Special Tax Report. The Agency General Manager, as the officer having

charge and control of the Facilities in and for the CFD, or the designee of such official, is hereby directed to study said proposed Facilities and to make, or cause to be made, and file with the Board Clerk a report in writing (the "Special Tax Report") presenting 1) a description of the Facilities by type which will be required to adequately meet the needs of the CFD; and 2) an estimate of the fair and reasonable cost of the Facilities including the cost of incidental expenses in connection therewith. The Special Tax Report shall be made a part of the record of the public hearing specified in Section 7.

Section 9. Election. The levy of the Special Tax shall be subject to the approval of the qualified electors of the CFD at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD.

PASSED AND ADOPTED by the Board of Directors of Amador Water Agency at a meeting of said Board held on the 26th day of July, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gary Thomas, President

ATTEST:

Chis Thompson, Clerk of the Board

EXHIBIT A

DESCRIPTION OF FACILITIES TO BE FINANCED BY THE CFD

**AMADOR WATER AGENCY
Community Facilities District No. 1
(Amador Water System)**

The facilities described below are proposed to be financed by Community Facilities District No. 1 (the "CFD") of the Amador Water Agency (the "Agency") for the Amador Water System ("AWS"):

The types of facilities to be financed by the CFD ("Facilities") shall include a) a portion of the annual debt service costs on the 2006 Series A Amador Water System Certificate of Participation ("COP") which financed the construction of the Amador Water System Transmission Project; b) the initial improvements to the AWS Tanner and Ione water treatment plants, which will provide additional treatment plant capacity in order to serve the properties subject to the special tax as such facilities are defined as the Phase I Water Treatment Plant Improvements in Agency Ordinance No. 2012-1; and c) all incidental expenses incurred by the Agency to determine, levy and collect the special taxes as determined by the Agency.

EXHIBIT B

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

AMADOR WATER AGENCY Community Facilities District No. 1 (Amador Water System)

A special tax authorized under the Mello-Roos Community Facilities Act of 1982 applicable to the land in the Community Facilities District No. 1 (the "CFD") of the Amador Water Agency (the "Agency") shall be levied and collected according to the tax liability determined by the Agency through the application of the appropriate amount or rate, as shown below.

A. DEFINITIONS

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final subdivision map, other final map, other parcel map, or other condominium plan, or functionally equivalent map or instrument recorded in the Office of the Amador County Recorder.

"Act" means the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California, as amended, which authorizes the establishment of the CFD to finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or to finance planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property.

"Administrative Expenses" means the actual or estimated costs incurred by the Agency to determine, levy and collect the special taxes, including the proportionate amount of the salaries and benefits of Agency employees whose duties are directly related to administration of the CFD, the fees of the special tax levy administrator, other consultants and legal counsel, the costs of collecting installments of the special taxes upon the County tax rolls or by any other lawful means, and any other incidental costs as determined by the Agency.

"Agency" means the Amador Water Agency.

"Annual Special Tax" means the annual special tax, determined in accordance with Sections D and J below, to be levied in the CFD in any Fiscal Year on any Assessor's Parcel.

"Assessor's Parcel" or "Parcel" or "Property" means a parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number or a legally created lot not yet assigned a parcel number or a legal parcel with multiple Assessor's Parcel Numbers assigned thereto.

“Assessor’s Parcel Map” means an official map of the Assessor of Amador County designating parcels by Assessor’s Parcel Number.

“ATP Special Tax” means the portion of the Annual Special Tax used to pay debt service in connection with the certificates of participation issued in 2006 (“2006 Series A COP”) in order to construct the Amador Water System Transmission Project (“ATP”).

“Base Year” means the Fiscal Year ending June 30, 2013.

“Board” means the Board of Directors of the Amador Water Agency, acting as the legislative body of the Agency and the CFD.

“Catch-Up Special Tax” means the total amount of Annual Special Taxes that would have been paid for an EDU added to a Parcel or for a Parcel’s conversion to Taxable Property with Treatment Option from the inception of the CFD through the Fiscal Year prior to the Fiscal Year in which a new adjusted Annual Special Tax is levied against the Parcel for such added EDU or due to the conversion.

“CFD” means Community Facilities District No. 1 (Amador Water System) (“AWS”) of the Amador Water Agency.

“CFD Administrator” means an official of the Agency, or designee thereof, responsible for determining and providing for the levy and collection of the Annual Special Taxes.

“Conditional Will Serve Commitment” means a water will serve commitment issued by the Agency pursuant to the Agency Water Code, which provides that water service will be provided to the project addressed in the commitment letter subject to specified conditions.

“COP” means the 2006 Series A Certificate of Participation of the Agency related to the construction of the ATP.

“County” means the County of Amador, California.

“Equivalent Dwelling Unit” or “EDU” means the equivalent water usage for one 5/8 x 3/4 inch metered service connection.

“Exempt Property” means property as defined by Section E.

“Facility Costs” means costs related to 1) debt service in connection with the COP in order to construct the ATP; 2) the Phase I Water Treatment Plant Improvements, as defined in Agency Ordinance No. 2012-1; and 3) Administrative Expenses.

“Final Will Serve Commitment” means a final water will serve commitment issued by the Agency to an applicant pursuant to the Agency Water Code, which obligates the Agency to provide water service to the project covered by the commitment consistent with the terms of the commitment.

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

“General Manager” means the General Manager of the Agency.

“Government Property” means property owned by the state, federal or local government, including property that has been dedicated on a recorded final map to, but not yet accepted by, any such governmental entity for parks, roadways, utilities, drainage, open space or other such public use or purpose.

“Implementation Agreement” means that certain Implementation Agreement for Landowner’s Participation in Amador Water System Community Facilities District entered into between the Agency and owners of Property within the CFD.

“Land Use Class” means any of the classes listed in Section B.

“Mitigated Property” means one or more Parcels for which the Parcel owner(s) and the Agency have executed an agreement (“Mitigation Agreement”) by which the owner(s) agrees to provide for payment of full mitigation of the Parcel’s impact on Agency’s transmission and treatment facilities as specified in any future Mitigation Agreement. Parcels that become Mitigated Property shall be treated as exempt from the Annual Special Taxes thereafter, as described in Section E hereof.

“Maximum Special Tax” means the total amount of the Annual Special Taxes that can be levied on any Assessor’s Parcel in the CFD for the duration of the CFD, determined in accordance with Section C.

“Related Properties” means Assessor Parcels within the CFD that are owned by the same person or entity or by persons or entities who share ownership interests therein, as shown on the last equalized County Assessor’s roll; provided that the Assessor’s Parcels groupings listed on Exhibit A attached hereto are deemed Related Properties so long as the ownership of the Related Properties does not change from the inception of the CFD.

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

“State” means the State of California.

“Taxable Property” means any Property that is not Exempt Property as defined in Section E.

“Taxable Property without Treatment Option” means any Taxable Property that 1) will not pay the Water Treatment Plant Special Tax; and 2) has not requested to be converted to Taxable Property with Treatment Option prior to May 1 preceding the Fiscal Year in which the Annual Special Tax is being levied.

“Taxable Property with Treatment Option” means any Taxable Property that will pay the Water Treatment Plant Special Tax as of May 1 preceding the Fiscal Year in which the Annual Special Tax is being levied.

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“**Water Treatment Plant Special Tax**” means that portion of the Annual Special Tax used to finance certain initial improvements to the AWS Tanner and Ione water treatment plants, which will provide additional treatment plant capacity to serve the Parcels subject to the Annual Special Tax, as such improvements are more particularly defined in Agency Ordinance No. 2012-1 (“Water Treatment Facilities”).

B. CLASSIFICATION OF AND ASSIGNMENT OF EDUs TO PARCEL

Each Fiscal Year, and using May 1 of the previous Fiscal Year as the date of classification, the Agency shall cause each Parcel in the CFD to be classified as Taxable Property with Treatment Option, Taxable Property without Treatment Option, or Exempt Property.

Similarly, each Fiscal Year, and using May 1 of the previous Fiscal Year as the date of assignment, for each Parcel in the CFD, the Agency shall confirm and/or adjust the EDUs assigned to such Parcel. For Taxable Property without a Conditional or Final Will Serve Commitment or a building permit, the Agency shall use the EDUs assigned thereto by the landowner in the Petition, Consent and Waiver delivered in connection with the inclusion of such Property into the CFD. For all other Taxable Property, the Agency shall use the EDUs assigned thereto by the Conditional or Final Will Serve Commitment or building permit. The initial EDU assignments shall be subject to adjustment as and when either the landowner requests additional EDUs to be allocated to the Parcel, or upon a subdivision, permitted transfer or issuance of a Conditional or Final Will Serve Commitment that triggers an adjustment in the number of EDUs assigned thereto.

Owner(s) of Related Properties may transfer the EDUs between such Related Properties, upon written notice to the CFD Administrator and General Manager of a request to transfer such EDUs. Any such requests received on or before May 1 will be effective for the next Fiscal Year. Similarly, upon any subdivision of any Property, the owner thereof may notify the CFD Administrator and General Manager of its proposed assignment of the EDUs for such Property to the Parcels created by such subdivision, including any assignments of zero EDUs to Parcels dedicated on a recorded final map for public or quasi-public use. Such notice shall occur on or before the date of recording the final map for such subdivision. Once EDUs have been utilized for a Parcel, they cannot be transferred. When a final map is recorded, no transfers of EDUs shall be made with respect to residential subdivisions; and at all times there shall be assigned to each parcel at least one EDU, except as specifically allowed herein.

C. TOTAL MAXIMUM SPECIAL TAX

The total Maximum Special Tax for any Parcel shall be \$3,050.75 per EDU (\$1,550.75 for the ATP Special Tax component and \$1,500.00 for the Water Treatment Plant Special Tax component) for any Taxable Property with Treatment Option and \$1,550.75 per EDU for any Taxable Property without Treatment Option for the duration of the CFD as determined in accordance with Section F.

EXHIBIT B

D. CALCULATION OF THE ANNUAL SPECIAL TAX

1. **Assignment of the Annual Special Tax.** Commencing with the Base Year, and for each subsequent Fiscal Year, the Board shall levy the Annual Special Tax on each Parcel based on the rates and schedule provided below and the provisions of this Section D.

Annual Special Tax		
Land Use Classes	First 15 Fiscal Years (i.e. through 6/30/2027)	Next 10 Fiscal Years (i.e. through 6/30/2037)
Taxable Property with Treatment Option	\$162.03 per assigned EDU	62.03 per assigned EDU
Taxable Property without Treatment Option	\$62.03 per assigned EDU	\$62.03 per assigned EDU
Exempt Property	\$0.00	\$0.00

2. **Calculation of New Adjusted Annual Special Tax.** Each Fiscal Year after the Base Year and upon triggering an event detailed in Section D.(3.) and / or Section D.4. prior to May 1 of a Fiscal Year, unless the owner elects to pay a Catch-Up Special Tax associated with such triggering event pursuant to Section D.5. below, a new adjusted Annual Special Tax for a Parcel shall be calculated and levied against the Parcel (or credited against the current Annual Special Tax, if negative) for the remaining duration of the Annual Special Tax. If the credit exceeds the current Annual Special Tax, the annual amount in excess thereof shall be creditable to other participation fees that may be required to be paid by or levied against the applicable Parcel.

- a. **A New Adjusted Annual Special Tax Upon Change in Number of EDUs for Parcel**

i. **Taxable Property With Treatment Option**

For the Fiscal Year following a triggering event described in Section D.3. occurring before May 1 of such Fiscal Year, the new Annual Special Tax for a Parcel shall be based on the new number of EDUs assigned to the Parcel, plus an adjustment over the remaining Water Treatment Plant Special Tax and ATP Special Tax periods to recover such taxes on the additional EDUs that escaped taxation during the preceding years (or provide a credit for the prior years' levy of such taxes on the excess EDUs).

This calculation is expressed by the following formula:

$$\text{NAST} = (\text{AST} \times \text{New Total Number of EDUs in Parcel}) + \text{R1} + \text{R2}$$

[Note: R1 is included in calculation only through 2027]

Where:

NAST is the New Annual Special Tax for the Changed Parcel

AST is the Annual Special Tax (based on the table in Section D.1.)

$$\text{R1} = (\text{C} \times \$100 \times \text{PTY}) / \text{RTY2027}$$

Where:

C = Changed number of EDUs (positive or negative)

PTY = Number of Prior Tax Years

RTY2027 = Number of Tax Years Remaining through June 2027

$$\text{R2} = (\text{C} \times \$62.03 \times \text{PTY}) / \text{RTY2037}$$

Where:

C = Changed number of EDUs (positive or negative)

PTY = Number of Prior Tax Years

RTY2037 = Number of Tax Years Remaining through June 2037

As provided above, the numerator for R1 calculates the shortfall (or credit) in the annual Water Treatment Plant Special Taxes that would have been collected (or were collected) from inception of the CFD on the extra EDUs, and the denominator spreads this shortfall (or credit) over the remainder of the 15 years for the levy of the Water Treatment Plant Special Tax.

Similarly, as provided above, the numerator for R2 calculates the shortfall (or credit) in the ATP Special Taxes that would have been collected (or were collected) from inception of the CFD on the extra EDUs, and the denominator spreads this shortfall (or credit) over the remainder of the 25 years for the levy of the ATP Special Tax.

ii. Taxable Property Without Treatment Option

Use the same formula in i. above, but omit R1 from the calculation, since no adjustment for the collection of the Water Treatment Plant Special Tax is necessary.

$$\text{NAST} = (\text{AST} \times \text{New Total Number of EDUs in Parcel}) + \text{R2}$$

b. A New Adjusted Annual Special Tax Upon Conversion to Include Treatment Option

$$\text{NAST} = (\$62.03 \times \text{NU}) + ((\$1,500 \times \text{NU})/\text{RTY2027})$$

Where:

NAST is the New Annual Special Tax for the Converted Parcel

NU = Number of EDUs in Parcel

RTY2027 = Number of Tax Years Remaining through June 2027

c. A New Adjusted Annual Special Tax Upon Transfer of EDUs between Related Properties, With No Change in Total Number of EDUs Within Such Related Properties.

Assuming transfers between two Parcels within Related Properties identified as P1 and P2 occurred prior to May 1 of the preceding Fiscal Year and the aggregate number of EDUs is unchanged, then the new Annual Special Tax for these two Parcels for the following fiscal years shall be as follows:

$$\text{NAST P1} = \text{AST} \times \text{NUP1}$$

$$\text{NAST P2} = \text{AST} \times \text{NUP2}$$

Where:

NAST P1 is the New Annual Special Tax for Parcel P1

AST is Annual Special Tax Pursuant to the Table in Section D.1. (Either With or Without Treatment Option)

NUP1 = New Number of EDUs in Parcel P1, After the Transfer

NAST P2 is the New Annual Special Tax for Parcel P2

NUP2 = New Number of EDUs in Parcel P2, After the Transfer

d. A New Adjusted Annual Special Tax Upon Subdivision and Reallocation of EDUs within a Parcel

If the total number of EDUs are unchanged following the subdivision of a Parcel, then the formula provided in Section D.2.c. above shall apply (i.e., the new Annual Special Taxes for each of the resulting, subdivided Parcels would be equal to the applicable AST times the number of EDUs allocated to each Parcel).

If the total, aggregate number of EDUs changes as a result of a subdivision, then before assigning the new Annual Special Taxes based on the EDU allocations to the subdivided Parcels, the new Annual Special Tax for the Parcel subdivided shall be recalculated based on the formula in subsection D.2.a. above, and then this aggregate revised Annual Special Tax shall be divided by the revised number of EDUs (to obtain a per EDU tax), and the revised Annual Special Tax then shall be determined for each of the subdivided Parcels based on the number of EDUs assigned to each such Parcel.

- 3. Trigger Events Related to Changes in Assigned EDUs.** Any one of the following events that occur prior to May 1 of a Fiscal Year after the Base Year that results in a change in the number of EDUs assigned to a Parcel shall trigger an adjustment of the Parcel's Annual Special Tax, as detailed in Section D.2. for such Parcel to become effective the following Fiscal Year and levied for the remaining duration of the Annual Special Tax.

 - a. A Conditional Will Serve Commitment is provided by the Agency for the Parcel.
 - b. A Final Will Serve Commitment is provided by the Agency for the Parcel.
 - c. The Agency receives written notification for additional EDUs to be assigned to a Parcel.
 - d. Exempt Property is converted to a Taxable Property.
 - e. Transfer of EDUs between Parcels within Related Properties.
 - f. Taxable Property is converted to Exempt Property.
- 4. Conversion of a Taxable Property without Treatment Option to Taxable Property with Treatment Option Trigger Event.** Owners of Taxable Property without Treatment Option may opt to change the classification of a Property to Taxable Property with Treatment Option therefor by notifying the Agency in writing prior to May 1 of a Fiscal Year after the Base Year to become effective the following Fiscal Year; provided that there is treatment plant capacity available in the Phase I Treatment Plant Improvements to serve such Taxable Property; provided further that no such conversion shall be permitted after May 1 of 2026.
- 5. Option to Pay Catch-up Special Tax Upon Triggering Event.** Upon any triggering event for a Parcel that increases the number of EDUs or converts the Parcel to Taxable Property with Treatment Option, the owner thereof may pay a Catch-Up Special Tax equal to the additional Annual Special Tax obligation that would have been paid for such Parcel from the inception of the CFD through the Fiscal Year prior to when the new adjusted Annual Special Tax for the Parcel commences had the associated increased number of EDUs or conversion to Taxable Property with Treatment Option occurred at the inception of the CFD. If the owner pays the Catch-Up Special Tax in the case where EDUs are added to a Parcel, then in the formula in Section D.2.a. above, the R1 and/or R2, as applicable, shall be deleted. If the owner pays the Catch-Up Special Tax in the case where the Parcel is converted to Taxable Property with Treatment Option, then in the formula in Section D.2.b. above, the amount of \$1,500 shall be reduced by the amount derived from multiplying \$100 times the number of years from the inception of the CFD through the Fiscal Year prior to the Fiscal Year in which the new adjusted Annual Special Tax is levied.

6. **Minimum EDUs per Taxable Property.** In no circumstances shall a Taxable Property be assigned less than one EDU per Parcel, unless a Parcel is allocated zero EDUs by the owner due to a dedication of the Parcel on a recorded final map for a public or quasi-public use. If a Parcel is a legal parcel with multiple Assessor Parcel Numbers assigned thereto, the owner may allocate zero EDUs to some of the Assessor Parcel Numbers assigned to such Parcel, so long as the aggregate number of EDUs assigned to the Parcel, which in no event shall be less than one EDU, are allocated to the remaining Assessor Parcel Numbers assigned to such Parcel.
7. **Parcel Mergers or Splits.** In the event of a subdivision or merger of Parcel(s), unless the owner of the Parcel(s) notifies the Agency as to the proposed allocation of the EDUs between the Parcel(s), EDUs will be automatically reallocated proportionality to the new Parcels based on the number of acres in each new Parcel. To affect the Annual Special Tax levied against a Parcel in a Fiscal Year, the notice must be received by the Agency on or before May 1 of the prior Fiscal Year.

E. EXEMPT PROPERTY

1. **Government Property.** Government Property will not be taxed, except as follows:
 - a. In accordance with Section 53340.1 of the Act, if the public agency owning the Government Property, including property held in trust for any beneficiary, grants a leasehold or other possessory interest in the property to a nonexempt person or entity, the Special Taxes shall, notwithstanding Section 53340(c) of the Act, be levied on the leasehold or possessory interest and shall be payable by the owner of the leasehold or possessory interest.
 - b. In accordance with Section 53317.3 of the Act, if property is not otherwise exempt from the Special Taxes is acquired by a public entity through a negotiated transaction, or by gift or devise, the Special Taxes shall, notwithstanding Section 53340(c) of the Act, continue to be levied on the property acquired and shall be enforceable against the public entity that acquired the property.
 - c. In accordance with Section 53317.5 of the Act, if property subject to a Special Tax is acquired by a public entity through eminent domain proceedings, the obligation to pay the Special Tax shall be treated as if it were a special annual assessment. For this purpose, the present value of the obligation to pay the Special Taxes to pay the principal and interest on any indebtedness incurred by the Agency prior to the date of apportionment determined pursuant to Section 5082 of the Revenue and Tax Code shall be treated the same as a fixed lien special assessment.
2. **Mitigated Property.** Mitigated Property shall be deemed to have prepaid and permanently satisfied its Special Tax obligation pursuant to Government Code Section 53340(h) as of the final day of the Fiscal Year during which all amounts due under the Mitigation Agreement have been paid in full to the Agency and thereafter shall be treated as Exempt Property. Pursuant to Government Code Section 53344, the Agency shall

EXHIBIT B

record a Notice of Cancellation of Special Tax Lien in the office of the County Recorder on all Parcels comprising the Mitigated Property.

- 3. Property with Zero EDU Allocation.** Any Parcel dedicated on a recorded final map for quasi-public use, such as private streets, parks, landscape and open space, may be allocated zero EDUs by the owner thereof upon any subdivision creating such Parcels. Also, any Parcel created by a recorded final map to which the Agency has not committed to serve pursuant to a final will serve commitment may be allocated zero EDUs by the owner thereof upon such subdivision. For any such Parcel allocated zero EDUs, the provisions of Sections K and L below shall not apply to the Parcel in the event the owner thereof ever applies for water service to the Parcel; and any such application for water service thereto would be subject to the Agency's Water Code provisions governing applications for service as of the time of such application as if such Parcel were not within the CFD. Any such Parcel(s) that are allocated zero EDUs shall be exempt from the Annual Special Tax. The owner of the Parcel shall notify the Agency in writing of any such allocation. The exemption shall take effect in the Fiscal Year following the Fiscal Year in which the notice is given if provided on or before May 1 of such Fiscal Year.

F. DURATION OF THE SPECIAL TAX

Taxable Property in the CFD shall remain subject to the Annual Special Tax until June 30, 2037. If the Agency refinances the COP, the amount of the Annual Special Tax and the duration of the Annual Special Tax shall remain unchanged.

Taxable Property in the CFD shall not be subject to the Annual Special Tax, and the Agency shall have no authority to levy the Annual Special Tax hereunder, if the Implementation Agreement related thereto is terminated or held to be unenforceable for any reason other than a default or breach of said Agreement by the owner of the Taxable Property.

If the Annual Special Tax ceases to be levied, the Agency or its designee shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Annual Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished.

G. PREPAYMENT (PAYOFF) OF SPECIAL TAX

The remaining Annual Special Taxes to be levied on a Taxable Property in the CFD may be prepaid and the obligation of the Taxable Property to pay any Annual Special Tax will thereby be extinguished. An owner of Taxable Property intending to prepay the remaining Annual Special Tax obligation shall provide the Agency (or the CFD Administrator) with written notice of intent to prepay and identify the company or agency that will be acting as the escrow agent, if any. The Agency shall provide such property owner with a statement of the prepayment amount for such Taxable Property within thirty (30) days of the request and may charge a reasonable fee for providing this service.

The prepayment amount shall be calculated as summarized below:

$$\text{Prepayment Amount} = \text{RST} + \text{F}$$

Where:

RST = Remaining Special Tax to be levied on the Parcel

F = Fees

“Fees” means the fees of the CFD, the Agency, the CFD Administrator and any consultants retained by the Agency in connection with the prepayment calculation.

In addition, any property owner prepaying its Annual Special Taxes must pay current and any delinquent Annual Special Taxes and penalties prior to prepayment.

H. APPEALS AND INTERPRETATION PROCEDURE

Any property owner who feels that any portion of the Annual Special Tax levied on a Parcel is in error may file a written appeal no later than April 10 of the Fiscal Year in which the levy occurred with the CFD Administrator, appealing the levy of the Annual Special Tax on the subject property. The CFD Administrator will promptly review the appeal, and, if necessary, meet with the appellant, and decide the merits of the appeal. If the findings of the CFD Administrator verify that the Annual Special Tax levied should be modified, the Annual Special Tax levy for future Fiscal Years shall be corrected, and a credit against future Annual Special Taxes shall be arranged, if applicable. Any overcharges shall be corrected solely by means of adjustments to future Annual Special Tax levies and/or credits against other participation fees payable by development of any overcharged Property or Related Property; no cash refunds shall be made, unless such refund is due to the mistake of the Agency or the CFD Administrator in causing the aggregate Annual Special Taxes to exceed the Maximum Special Tax and credits that could otherwise be provided cannot be used by the owner of the overcharged Property or any Related Property. Any dispute over the decision of the CFD Administrator, the General Manager or his or her designee shall be referred to the Board and the decision of the Board shall be final.

Interpretation may be made by resolution of the Board for purposes of clarifying any vagueness or uncertainty as it relates to the application of the Annual Special Tax rate, or application of the method of apportionment, or classification of properties or any definition applicable to the CFD.

I. COLLECTION OF THE ANNUAL SPECIAL TAX

The Annual Special Tax shall be collected each year in the same manner and at the same time as ad valorem property taxes are collected or by other lawful means, and shall be subject to the same penalties and lien priorities in the case of delinquency as is provided for ad valorem taxes. The Agency shall cause the actions required above to be done for each Fiscal Year in a timely manner to assure that the schedule of the Annual Special Taxes to be collected are received by the County Auditor for inclusion with billings for such ad valorem taxes for the applicable Fiscal Year.

J. ANNEXATION OF TERRITORY

Any request for territory to be annexed to the CFD shall be processed in accordance with Government Code Sections 53339, et seq., and shall be subject to payment of any costs, including but not limited to administrative, legal and consultant fees and costs, incurred by the Agency in conducting the annexation process, and shall be subject to the total Maximum Special Tax determined from Section C. The Annual Special Tax for the Parcels in the territory annexed (each, an “Annexed Parcel”) shall be determined from the following formula:

$$\text{ASTAP} = (\text{AST} \times \text{NUAP}) + \text{RAP1} + \text{RAP2}$$

[Note: RAP1 is included in calculation only through June 30, 2027, and only if the Annexed Parcel is classified as Taxable Property with Treatment Option]

Where:

ASTAP is the Annual Special Tax for the Annexed Parcel

AST is the Annual Special Tax (based on Section D.1)

NUAP is the Number of EDUs in the Annexed Parcel

$$\text{RAP1} = (\text{NUAP} \times \$100 \times \text{PTY}) / \text{RTY2027}$$

Where:

PTY = Number of Prior Tax Years

RTY2027 = Number of Tax Years Remaining through June 30, 2027

$$\text{RAP2} = (\text{NUAP} \times \$62.03 \times \text{PTY}) / \text{RTY2037}$$

Where:

PTY = Number of Prior Tax Years

RTY2037 = Number of Tax Years Remaining through June 30, 2037

For annexations occurring prior to May 1, 2026, the owner may opt to classify its Annexed Parcel(s) as Taxable Property with Treatment Option by notifying the Agency in writing at the time of its request for annexation; provided that there is treatment plant capacity available in the Phase I Treatment Plant Improvements to serve such Annexed Parcel(s). If the annexation occurs after May 1, 2026, then the Parcel(s) to be annexed shall not have the ability to be classified as Taxable Property with Treatment Option. The owner of the Annexed Parcel(s) may take advantage of the Catch-Up Special Tax set forth in Section D.5. in order to avoid the inclusion of RAP1 and/or RAP2 in the above calculation.

K. WILL SERVE COMMITMENT AND WATER SERVICE APPLICATIONS

The following applies for the duration of the ATP Special Tax, i.e., through June 30, 2037: If a Property owner applies to the Agency for water service or a will serve commitment pursuant to the Agency Water Code (i) in connection with Taxable Property without Treatment Option upon which the ATP Special Tax is levied, then such application for water service shall not be denied or otherwise conditioned on the basis of the unavailability of capacity in the ATP or (ii) in connection with Taxable Property with Treatment Option upon which the ATP Special Tax and the Water Treatment Plant Special Tax is levied, then such application for water service shall not be denied or otherwise conditioned on the basis of the unavailability of capacity in the ATP or water treatment plant capacity; provided that the number of EDUs for which service or a commitment is requested does not exceed the number of EDUs used to calculate the ATP Special Tax and the Water Treatment Plant Special Tax, as applicable, levied on the subject property at the time of the application; and provided further that the Property owner is not delinquent at the time of the application in the payment of any applicable Annual Special Tax levied on the property subject to the application as provided in Section B of Agency Ordinance No. 2012-1.

L. CREDITS AGAINST AWS PARTICIPAION FEES

1. For those Parcels included within the CFD, that portion of the AWS participation fee associated with the ATP will not be imposed in connection with the AWS participation fees required of the owners of such Parcels.
2. For those Parcels included within the CFD and upon which the Water Treatment Plant Special Tax is imposed, the portion of the AWS participation fee to be paid in connection with such Parcels and associated with water treatment plant capacity shall be limited to a proportionate share of the costs of the Phase I Water Treatment Plant Improvements, as defined in Agency Ordinance No. 2012-1, based on the ratio of the number of EDUs proposed for such Parcel to the total number of EDUs that can be served by such improvements. The total amount of the Water Treatment Plant Special Tax to be paid for Parcels covered by an application for service or a will serve commitment shall be applied against that portion of the AWS participation fees owing for such Parcels in connection with the Phase I Water Treatment Plant Improvements. If the credit associated with the Water Treatment Plant Special Tax to be paid by a Parcel exceeds the portion of the AWS participation fees owing for such Parcel in connection with the Phase I Water

Treatment Plant Improvements, the amount in excess thereof shall be creditable to other participation fees that may be required to be paid by or levied against the applicable Parcel.

3. The credits against the payment of AWS participation fees addressed in subsections 1 and 2 above shall be effective only if the Property owner is not delinquent in the payment of the applicable Annual Special Taxes as provided in Section B of Agency Ordinance No. 2012-1. If the delinquency is not cured at the time of application for service or for a will serve commitment, then the amount of any ATP Special Tax and Water Treatment Plant Special Tax previously paid with respect to the Parcel subject to such application shall be credited against the applicable AWS participation fees then required to be paid in connection with such application.
4. The total Annual Special Taxes levied against and paid for a Parcel that is not credited against participation fees during the term of the CFD may, after the expiration of the CFD, be used as a credit against then-applicable participation fees or other Agency charges due respecting said Parcel. Said amount paid shall not earn interest.

EXHIBIT A TO RATE AND METHOD OF APPORTIONMENT

PRELIMINARY DESCRIPTION OF RELATED PROPERTIES

**AMADOR WATER AGENCY
Community Facilities District No. 1
(Amador Water System)**

Petition 1	Petition 3	005-480-044	005-480-003	005-050-007	Petition 15
044-450-017	040-030-093	005-480-045	005-480-004	005-080-015	008-060-006
044-450-020	040-030-094	005-490-001	005-480-005	005-090-009	
044-480-005	008-310-031	005-490-002	005-480-006	005-090-012	
044-480-014	008-310-027	005-490-003	005-480-007	005-090-016	
044-480-017		005-490-005	005-480-008	005-100-010	
044-480-020	Petition 4	005-490-006	005-480-009	005-110-010	
044-480-022	018-133-004	005-490-007	005-480-010	005-110-011	
044-480-025		005-490-008	005-480-011	005-120-008	
044-480-008	Petition 5	005-490-009	005-480-012	005-120-010	
044-480-026	008-310-026	005-490-010	005-480-013	005-130-052	
044-480-027	008-292-002	005-490-011	005-480-014	005-140-008	
044-010-123		005-490-012	005-480-015	005-150-011	
044-010-125	Petition 6	005-490-013	005-480-016	005-150-012	
044-540-019	044-020-036	005-490-014	005-480-017	005-170-014	
044-540-018	044-020-037	005-490-015	005-480-018	005-180-019	
044-540-001		005-490-016	005-480-020	005-190-002	
044-540-002	Petition 7	005-490-017	005-480-023	005-190-020	
044-540-003	008-030-027	005-490-018	005-480-024	005-070-013	
044-540-004	010-011-047	005-490-019	005-480-025	005-320-006	
044-540-005		005-490-022	005-480-026	005-320-007	
044-540-006	Petition 8	005-490-023	005-480-027		
044-540-008	015-150-026	005-490-024	005-480-028	Petition 14	
044-540-009		005-490-025	005-480-029	011-330-004	
044-540-011	Petition 9	005-490-026	005-480-030	011-330-005	
044-540-012	005-070-002	005-490-027	005-480-031	011-330-006	
044-540-013	005-070-012	005-490-028	005-480-032	011-330-007	
044-540-014		005-490-029	005-480-033	011-330-008	
044-540-015	Petition 10	005-490-030	005-480-034	011-330-009	
044-540-016	008-060-034	005-490-031	005-480-035	044-430-001	
044-540-017	008-060-004	005-490-032		044-430-002	
	008-060-015	005-490-033	Petition 13	044-430-003	
Petition 2	008-100-031	005-490-034	004-290-002	044-430-004	
005-130-012	008-020-031	005-490-035	005-020-016	044-430-005	
005-130-035		005-490-036	005-030-004	044-430-006	
005-130-051	Petition 11	005-490-038	005-040-004	044-430-007	
005-160-006	008-030-032	005-490-039	005-300-001	044-430-008	
005-160-009		005-490-040	005-010-004	044-430-009	
005-160-010	Petition 12	005-320-031	005-020-006	044-430-010	
005-160-012	005-480-036	005-320-032	005-020-017	044-430-011	
005-160-014	005-480-037	005-320-033	005-030-005	044-430-012	
005-160-015	005-480-038	005-320-035	005-040-005	044-430-013	
005-190-007	005-480-039	005-320-041	005-050-006	044-430-014	
005-190-017	005-480-040	005-320-042	005-060-013	044-430-015	
011-180-017	005-480-041	005-320-043	005-080-017	044-430-016	
012-010-001	005-480-042	005-480-001	005-010-003		
012-010-002	005-480-043	005-480-002	005-010-005		

EXHIBIT B