

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CLOSING MEMORANDUM**

**Time and Place**

The pre-closing will take place at the offices of Stradling Yocca Carlson & Rauth, 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660 at 1:00 p.m. on Monday December 15, 2014. Closing will take place at 8:00 a.m., on Tuesday, December 16, 2014, via telephone.

**Parties**

District	Gloriette Genereux, Director of Finance Jim Holgersson, City Manager and District Administrator Tina Rocha, Administrator – Infrastructure Financing Programs
District's Counsel	Adam Lindgren, Esq. City Attorney
Financial Advisor	Peter Miller, Managing Director Samuel Becerra, Senior Managing Consultant Kevin Dong, Analyst Public Financial Management, Inc.
Bond Counsel	Bradley R. Neal, Esq. Carol L. Lew, Esq. Stradling Yocca Carlson & Rauth
Purchaser	Scott Johnson, Vice President City National Bank
Purchaser's Agent	William A. Morton Municipal Finance Corporation
Placement Agent	Dennis McGuire, Managing Director Katie Koster, Managing Director Piper Jaffray & Co.
Trustee	Myrna Presto-Choroski, Vice President U.S. Bank National Association
Trustee's Counsel	Dennis Wong, Esq. Dorsey & Whitney LLP

Escrow Bank                    Mark Golder, Vice President  
   Eladia Burgos, Vice President  
   Josephine Libunao, Vice President  
   The Bank of New York Mellon Trust Company, N.A.

Escrow Bank's Counsel        Samuel D. Waldman, Esq.  
   Law Offices of Samuel D. Waldman

Special Tax Consultant        Susan Goodwin, Managing Principal  
   Andrew Bavender, Associate  
   Goodwin Consulting Group, Inc.

Verification Agent            Laurence H. Wadler  
   Samuel Klein and Company

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**CLOSING INDEX**

**DOCUMENTS TO BE DELIVERED BY THE COMMUNITY FACILITIES DISTRICT/CITY**

1. Resolution No. 2014-425 entitled, "Resolution of the City Council of the City of Modesto Authorizing the Issuance of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds, in an Aggregate Principal Amount of Not to Exceed \$5,000,000, Authorizing the Execution and Delivery of an Indenture and an Escrow Agreement, and Authorizing the Execution of Necessary Documents and Certificates and Related Actions," adopted October 14, 2014; Minutes.
2. Bond Indenture
3. Escrow Agreement
4. CDIAC Report of Proposed Debt Issuance, Acknowledgment from CDIAC and Report of Final Sale
5. Incumbency and Signature Certificate of the City/Community Facilities District
6. Certificate of the City Clerk of the City Bringing Forward Resolutions and Ordinances
7. Certificate of City Clerk Regarding Community Facilities District Documents
8. Closing Certificate of the City
9. Instructions to Trustee
10. Requisition No. 1 for Disbursement of Costs of Issuance
11. Irrevocable Instructions and Request to Trustee
12. Tax Certificate together with Certificate of the Placement Agent; IRS Form 8038-G
13. Uniform Facsimile Signature Filings of the Mayor and City Clerk
14. Specimen Bond

**DOCUMENTS TO BE DELIVERED IN CONNECTION WITH THE SALE OF THE BONDS**

15. Investor Letter

16. Purchaser's Receipt for the Bonds

**DOCUMENTS TO BE DELIVERED BY THE TRUSTEE**

17. Assistant Secretary's Certificate
18. Closing Certificate of Trustee
19. Trustee's Receipt for Proceeds

**DOCUMENTS TO BE DELIVERED BY THE ESCROW BANK**

20. Assistant Secretary's Certificate
21. Closing Certificate of the Escrow Bank
22. Escrow Bank's Receipt of Proceeds
23. Evidence of EMMA Filing Notices of Full Optional Redemption

**OPINIONS**

24. Approving Opinion of Bond Counsel
25. Reliance Letter to Trustee and Purchaser
26. Defeasance Opinion
27. Opinion of City Attorney
28. Opinion of Counsel to Trustee
29. Opinion of Counsel to Escrow Bank

**MISCELLANEOUS**

30. Certificate of Special Tax Consultant
31. Verification Report
32. Evidence of EMMA Filing of Notice of Defeasance
33. Distribution List

**DOCUMENTS RE FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 2003-1**

34. Resolution No. 2003-558 of the City entitled "A Resolution Declaring the City Council's Intention to Establish City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Authorize the Levy of a Special Tax within said Community Facilities District," adopted October 28, 2003.

35. Resolution No. 2003-559 of the City entitled "A Resolution Declaring the City Council's Intention to Incur Bonded Indebtedness in the Amount not to Exceed \$25,000,000 within Proposed City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," adopted October 28, 2003.
36. Resolution No. 2003-560 of the City entitled "A Resolution Approving an Advanced Funding Agreement for City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," adopted October 28, 2003.
37. Resolution No. 2003-660 of the City entitled "A Resolution Establishing City of Modesto Community Facilities No. 2003-1 (Fairview Village), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit," adopted December 11, 2003.
38. Resolution No. 2003-661 of the City entitled "A Resolution Determining it Necessary to Incur Bonded Indebtedness within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," adopted December 11, 2003.
39. Resolution No. 2003-662 of the City entitled "A Resolution Calling a Special Election for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," adopted December 11, 2003.
40. Resolution No. 2003-663 of the City entitled "A Resolution Declaring the Results of A Special Election and Approving Certain Related Actions Pertaining to City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," adopted December 11, 2003.
41. Ordinance No. 2003-3339 of the City entitled "An Ordinance of the City Council of the City of Modesto Authorizing the Levy of Special Taxes Within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," adopted December 11, 2003.
42. Resolution No. 2004-173 of the City entitled "A Resolution of Consideration of the City Council of the City of Modesto, California, Acting in its Capacity as the Legislative Body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), to Alter the Existing Rate and Method of Apportionment of the Special Tax," adopted March 23, 2004.
43. Resolution No. 2004-260 of the City entitled "Resolution Declaring the Results of a Special Election on a Proposition to Alter the Existing Rate and Method of Apportionment of the Special Tax Pertaining to the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Changing Said Rate and Method," adopted May 11, 2004.
44. Resolution No. 2004-261 of the City entitled "Resolution of the City Council of Modesto Acting in its Capacity as the Legislative Body of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Certifying the Results of the May 11, 2004 Election and Changing the Existing Rate and Method of Apportionment of the Special Tax," adopted May 11, 2004.

45. Ordinance No. 2004-3348 of the City entitled “An Ordinance of the City Council of the City of Modesto Acting in its Capacity as the Legislative Body of The City Of Modesto Community Facilities District No. 2003-1 (Fairview Village) Repealing Ordinance No. 2003-3339 and Authorizing the Levy of A Special Tax of the District,” adopted June 1, 2005.
46. Resolution No. 2004-328 of the City entitled “A Resolution Approving An Acquisition and Shortfall Agreement with Del Valle Homes, a California Corporation,” adopted June 22, 2004.
47. Resolution No. 2004-329 of the City entitled “A Resolution Approving An Acquisition and Shortfall Agreement with Del Valle Homes, a California Corporation,” adopted June 22, 2004.
48. Excerpts of Minutes of the City Council Meetings for all proceedings listed in 33 through 46 above.
49. City of Modesto’s Policies and Procedures for the Formation, Annexation and Administration of Community Facilities District
50. Certification of Publication of Notice of Public Hearing on Intention to Form City of Modesto Community Facilities District No. 2003-1 (Fairview Village), to Levy of a Special Tax and to Issue Bonded Indebtedness
51. CFD Report
52. Official Ballot and Envelope
53. Certificate and Waiver of Certain Election Procedures with Respect to Landowner Election for City of Modesto Community Facilities District No. 2003-1 (Fairview Village)
54. Notice of Special Tax Lien for City of Modesto Community Facilities District No. 2003-1 (Fairview Village)
55. Petition Requesting Institution of Change Proceedings for the Establishment of a Community Facilities District - Community Facilities District No. 2003-1 (Fairview Village)
56. Certification of Publication of Notice of Public Hearing on Resolution of Consideration to Alter Existing Rate and Method of Apportionment of Special Tax for City of Modesto Community Facilities District No. 2003-1 (Fairview Village)
57. Amended Notice of Special Tax Lien for City of Modesto Community Facilities District No. 2003-1 (Fairview Village)
58. Evidence of Recordation of the District Map

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2014-425**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
AUTHORIZING THE ISSUANCE OF CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) 2014 SPECIAL TAX  
REFUNDING BONDS, IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO  
EXCEED \$5,000,000, AUTHORIZING THE EXECUTION AND DELIVERY OF  
AN INDENTURE AND AN ESCROW AGREEMENT, AND AUTHORIZING THE  
EXECUTION OF NECESSARY DOCUMENTS AND CERTIFICATES AND  
RELATED ACTIONS**

WHEREAS, the City Council (the “City Council”) of the City of Modesto (the “City”) has formed the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “Community Facilities District”) under the provisions of the Mello-Roos Community Facilities Act of 1982 (the “Act”); and

WHEREAS, the Community Facilities District is authorized under the Act to levy special taxes (the “Special Taxes”) to pay for the costs of certain public facilities (the “Facilities”) and to issue bonds payable from the Special Taxes; and

WHEREAS, in order to provide funds to finance certain of the Facilities, the Community Facilities District previously issued its City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds, Series 2005 (the “Prior Bonds”), in the aggregate principal amount of \$4,960,000; and

WHEREAS, the Community Facilities District is authorized under the Act to issue bonds payable from the Special Taxes in order to refund the Prior Bonds; and

WHEREAS, the Community Facilities District desires to refund the Prior Bonds;  
and

WHEREAS, the City’s Policies & Procedures for the Formation, Annexation, and Administration of Community Facilities Districts, as amended (the “Policies and Procedures”) state that bonds issued by a City-formed community facilities district will

be refunded if (1) the refunding will generate at least 5% net present value savings, or (2) there is another reason the City determines is compelling enough to complete a refunding; and

WHEREAS, the City expects the refunding to generate over 4% net present value savings, but less than 5% net present value savings; and

WHEREAS, the Community Facilities District is fully built out with single family residential homes with occupants with lower incomes which will benefit from the special tax savings that will be achieved through the refunding of the Prior Bonds; and

WHEREAS, interest rates with respect to land secured bonds such as the Series 2014 Bonds are low by historic standards; and

WHEREAS, in order to provide a portion of the moneys required to refund the Prior Bonds, the Community Facilities District proposes to issue its City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds (the "Series 2014 Bonds"), in the aggregate principal amount of not to exceed \$5,000,000; and

WHEREAS, in order to provide for the authentication and delivery of the Series 2014 Bonds, to establish and declare the terms and conditions upon which the Series 2014 Bonds are to be issued and secured and to secure the payment of the principal thereof, premium, if any, and interest thereon, the Community Facilities District proposes to enter into an Indenture with U.S. Bank National Association, as trustee (the "Trustee") (such Indenture, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the "Indenture"); and

WHEREAS, the City Council, acting as the legislative body of the Community Facilities District, has determined in accordance with Section 53360.4 of the Act that a private placement of the Series 2014 Bonds to City National Bank (the “Original Purchaser”) will result in a lower overall cost to the District than a public sale or a negotiated sale to an underwriter publicly offering the Series 2014 Bonds; and

WHEREAS, the Series 2014 Bonds shall be sold to the Original Purchaser with the assistance of Piper Jaffray & Co. (the “Placement Agent”); and

WHEREAS, in order to provide for the redemption of the Prior Bonds, the Community Facilities District desires to enter into an Escrow Agreement, by and between the Community Facilities District and The Bank of New York Mellon Trust Company, N.A., as Escrow Bank (the “Escrow Agreement”); and

WHEREAS, there have been prepared and submitted to this meeting forms of the Indenture and the Escrow Agreement; and

WHEREAS, Section 4(a)(1) of the Policies and Procedures requires a debt service reserve fund with respect to the Series 2014 Bonds be funded in an amount equal to not less than 10% of the par amount of the Series 2014 Bonds, subject to federal tax regulations; and

WHEREAS, due to the low special tax delinquency rate in the Community Facilities District and other credit factors, the Community Facilities District has determined, and the Original Purchaser has agreed to accept, a reserve fund funded in amount equal to the lesser of (i) 5% of the initial principal amount of the Series 2014 Bonds, (ii) 50% of the maximum annual debt service on the Series 2014 Bonds, and (iii)

50% of 125% of average annual debt service on the Series 2014 Bonds (“50% Reserve Amount”); and

WHEREAS, the Community Facilities District desires to proceed to issue and sell the Series 2014 Bonds and to authorize the execution of such documents and the performance of such acts as may be necessary or desirable to effect the offering, sale and issuance of the Series 2014 Bonds; and

WHEREAS, the City Council is the legislative body of the Community Facilities District (the “Legislative Body”);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. The foregoing recitals are true and correct, and the City Council so finds and determines.

Section 2. Subject to the provisions of Section 3 hereof, the issuance of the Series 2014 Bonds, in an aggregate principal amount of not to exceed \$5,000,000, on the terms and conditions set forth in, and subject to the limitations specified in, the Indenture, be and the same is hereby authorized and approved. The Series 2014 Bonds shall be dated, shall bear interest at the rates, shall mature on the dates, shall be subject to call and redemption, shall be issued in the form and shall be as otherwise provided in the Indenture, as the same shall be completed as provided in this Resolution. The Legislative Body hereby makes an exception to the Policies and Procedures and determines to fund the reserve fund with respect to the Series 2014 Bonds at the 50% Reserve Amount.

Section 3. The refunding of the Prior Bonds is hereby approved. Such refunding shall be accomplished by paying the interest due and payable on the Prior Bonds to and including March 1, 2015 and redeeming the Prior Bonds on March 1, 2015 by paying the redemption price thereof. In accordance with Section 53363.8 of the Act, the Legislative Body hereby designates the following costs and expenses as the “designated costs of issuing the Bonds:”

(i) all expenses incident to the calling, retiring, or paying of the Prior Bonds and incident to the issuance of the Series 2014 Bonds, including the charges of any agent, including any charges of the Original Purchaser and Placement Agent, in connection with the issuance of the Series 2014 Bonds or in connection with the redemption or retirement of the Prior Bonds;

(ii) the interest upon the Prior Bonds from the date of sale of the Series 2014 Bonds to the date upon which the Prior Bonds will be paid pursuant to call; and

(iii) any premium necessary in the calling or retiring of the Prior Bonds.

In satisfaction of the requirements contained in Section 53364.2 of the Act, the Legislative Body hereby determines that any savings achieved through the issuance of the Series 2014 Bonds shall be used to reduce special taxes of the Community Facilities District, and such reductions shall be made in accordance with the Act.

The Legislative Body also hereby determines that the location of the community facilities district and the desire for homeowners therein to benefit from the special tax savings that will be achieved through the refunding of the Prior Bonds as presented, combined with the historically low interest rates on bonds such as the Series 2014 Bonds,

are compelling reasons to complete the refunding of the Prior Bonds through the issuance of the Series 2014 Bonds as authorized herein.

Section 4. The Indenture, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. Each of the Mayor of the City, and such other member of the City Council as the Mayor may designate, the City Manager of the City and the Director of Finance of the City, and such other officer or employee of the City as the City Manager may designate (the "Authorized Officers") is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute and deliver the Indenture in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Indenture by such Authorized Officer; provided, however, that such changes, insertions and omissions shall not authorize an aggregate principal amount of Series 2014 Bonds in excess of \$5,000,000, shall not result in a final maturity date of beyond the last maturity date of the Prior Bonds and shall not result in a true interest cost for the Series 2014 Bonds in excess of the true interest cost of the Prior Bonds.

Section 5. In accordance with the requirements of Section 53345.8 of the Act, the Legislative Body hereby determines that the value of the real property in the Community Facilities District subject to the special tax to pay debt service on the Series 2014 Bonds is at least three times the principal amount of the Series 2014 Bonds and the principal amount of all other bonds outstanding that are secured by a special tax levied

pursuant to the Act or a special assessment levied on property within the Community Facilities District.

Section 6. The Escrow Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth in full herein, be and the same is hereby approved. Each of the Authorized Officers is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the Community Facilities District, to execute and deliver the Escrow Agreement in the form presented to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Escrow Agreement by such Authorized Officer.

Section 7. The Authorized Officers and the officers and employees of the City are, and each of them is, hereby authorized and directed, for and in the name of the Community Facilities District to do any and all things and to execute and deliver any and all documents which they or any of them deem necessary or advisable in order to consummate the transactions contemplated by this Resolution and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

Section 8. All actions heretofore taken by the officers and employees of the City with respect to the issuance and sale of the Series 2014 Bonds, or in connection with or related to any of the agreements or documents referred to herein, are hereby approved, confirmed and ratified.

Section 9. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was adopted at a regular meeting of the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), held on the 14<sup>th</sup> day of October, 2014, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki, Mayor Marsh

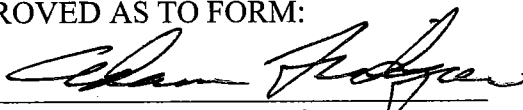
NOES: Councilmembers: None

ABSENT: Councilmembers: Cogdill

ATTEST:   
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
ADAM LINDGREN, City Attorney

THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.

DATE December 11, 2014



SIGNATURE  
CITY CLERK  
CITY OF MODESTO, CA

The following draft minutes are scheduled for approval at the next regular City Council meeting.



# MODESTO CITY COUNCIL

[www.modestogov.com](http://www.modestogov.com)

## MINUTES

City of Modesto  
**CITY COUNCIL MEETING**  
 Chambers, Basement Level  
 Tenth Street Place, 1010 10th Street  
 Modesto, California  
 Tuesday October 14, 2014, at 5:30 p.m.

Roll Call – Present: Councilmembers Cogdill, Gunderson, Kenoyer, Lopez, Madrigal, Zoslocki,  
Mayor Marsh

Absent: None

Pledge of Allegiance to the Flag

Invocation: Jim Applegate, Redeemer

City Clerk’s Announcements: : Item Nos. 9 & 10 - Removed from Consent

Declaration of Conflicts of Interest: Cogdill - Item No. 17

Reports from Closed Session: City Attorney Lindgren reported on Closed Session matters

### ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Presentation of Proclamation declaring October 2014 as National Head Start Month.  
 (Funding Source: Not Applicable)  
 City Council; Kathy Espinoza, 571-5597, [kespinoza@modestogov.com](mailto:kespinoza@modestogov.com)

**ACTION:** Mayor Marsh presented a Proclamation declaring October 2014 as National Head Start Month.

### MISCELLANEOUS

- Legislation
- Appointments
- Other

2. Consider accepting the resignation of Gilbert Gonzalez from the City of Modesto Equal Opportunity/Disability Commission and Human Relations Commission. (Funding Source: Not Applicable)

- Resolution accepting the resignation of Gilbert Gonzalez from the City of Modesto Equal Opportunity/Disability Commission and Human Relations Commission.

*Administrative Services; Joe Lopez, 571-5126 , jlopez@modestogov.com*

**ACTION: Resolution 2014-403 (Lopez/Madrigal; 7/0)** accepting the resignation of Gilbert Gonzalez from the City of Modesto Equal Opportunity/Disability Commission and Human Relations Commission.

3. Consider approving the following appointments: (i) Leng Power and Anne Bailey to the Culture Commission as registered County voters residing outside Modesto and Rosa Escutia-Braaton, David Burkett, Bob Barzan, and Sarah Stevenson to the Culture Commission as representatives of residents of Modesto; and (ii) Matthew Scott Lippert to the Landmark Preservation Commission. (Funding Source: Not Applicable)

- Resolution appointing Leng Power and Anne Bailey to fill the vacancies of the Culture Commission as registered County voters residing outside Modesto and appointing Rosa Escutia-Braaton, David Burkett, Bob Barzan, and Sarah Stevenson to fill the remaining vacancies of the Culture Commission.
- Resolution appointing Matthew Scott Lippert to fill the vacancy of the Landmark Preservation Commission.

*Parks, Recreation, & Neighborhoods; Joanne Azevedo, 577-5346, jazevedo@modestogov.com*

**ACTION: Resolution 2014-404 (Lopez/Kenoyer; 7/0)** appointing Leng Power and Anne Bailey to fill the vacancies of the Culture Commission as registered County voters residing outside Modesto and appointing Rosa Escutia-Braaton, David Burkett, Bob Barzan, and Sarah Stevenson to fill the remaining vacancies of the Culture Commission.

**ACTION: Resolution 2014-405 (Lopez/Kenoyer; 7/0)** appointing Matthew Scott Lippert to fill the vacancy of the Landmark Preservation Commission.

**PUBLIC COMMENT PERIOD**

- Vernon Price spoke regarding homeless in Modesto and tickets for camping in public parks.
- Ray Pefferini spoke regarding trees in Modesto.
- Louisa Bryant spoke regarding complaints to the Utilities Department regarding excessive watering.
- Gaetana Drake spoke regarding employment background checks and social media.
- Loretta Carhart spoke regarding trees and buses in Modesto.

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED**

**ACTION CONSENT ITEMS: 4-8; 11-15 (Lopez/Madrigal; unan.)**

**CONSENT ITEMS**

An item may be removed from consent and discussed at the request of an audience member or Councilmember.

Consent

- 4. Consider approving the minutes from the October 7, 2014 City Council meeting. (Funding Source: Not Applicable)
  - Motion approving the minutes from the October 7, 2014 City Council meeting. *City Clerk; Stephanie Lopez, 577-5396, slopez@modetogov.com*

**ACTION: Motion (Lopez/Madrigal; 7/0)** approving the minutes from the October 7, 2014 City Council meeting.

Consent

- 5. Consider approving the 2015 City Council Meeting Calendar. (Funding Source: Not Applicable)
  - Resolution approving the 2015 City Council Meeting Calendar. *City Clerk; Stephanie Lopez, 577-5396, slopez@modestogov.com*

**ACTION: Resolution 2014-406 (Lopez/Madrigal; 7/0)** approving the 2015 City Council Meeting Calendar.

Consent

- 6. Consider authorizing one additional year extension for the contract for external financial statement audit services to Brown Armstrong Accountancy Corporation, Bakersfield, CA, to complete the auditing services for Fiscal Year 2013-14 financials. (The contract shall be for one additional year, for an estimated annual cost of \$134,950.) (Funding Source: General Fund)
  - Resolution authorizing one additional year extension for the contract for external financial statement audit services to Brown Armstrong Accountancy Corporation, Bakersfield, CA, to complete the auditing services for Fiscal Year 2013-14 financials, and authorizing the Interim City Manager or his designee, to execute the amendment agreement. *Finance; DeAnna Espinoza, 577-5387, daespinoza@modestogov.com*

**ACTION: Resolution 2014-407 (Lopez/Madrigal; 7/0)** authorizing one additional year extension for the contract for external financial statement audit services to Brown Armstrong Accountancy Corporation, Bakersfield, CA, to complete the auditing services for Fiscal Year 2013-14 financials, and authorizing the Interim City Manager or his designee, to execute the amendment agreement.

Consent

- 7. Consider approving the revised Debt Management Policy. (Funding Source: Not Applicable)
  - Resolution to adopt the revised Debt Management Policy. *Finance; Gloria Garza, 577-5219, ggarza@modestogov.com*

**ACTION: Resolution 2014-408 (Lopez/Madrigal; 7/0)** to adopt the revised Debt Management Policy.

## Consent

8. Consider approving the revised Annual Investment Policy. (Funding Source: Not Applicable)
- Resolution to adopt the revised Annual Investment Policy.  
*Finance; Gloria Garza, 577-5219, ggarza@modestogov.com*

**ACTION: Resolution 2014-409 (Lopez/Madrigal; 7/0)** adopting the revised Annual Investment Policy.

*Removed from Consent*

9. Consider: (i) approving a Community-Based Development Organization (CBDO) grant funding agreement in the amount of \$200,000 with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative (the Collaborative) to carry out a Microenterprise Incubator based out of the King-Kennedy Memorial Center; and authorizing the Interim City Manager, or his designee, to sign all related documents; and (ii) amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement Budgets to reflect approved allocation funded in the 2014-2015 Annual Action Plan and noted in Appendix C of the funding agreement with Collaborative to carry out a Microenterprise Incubator; and authorizing the Finance Director, or their designee, to take the necessary steps to implement the provision of this resolution. (Funding Source: Community Development Block Grant (CDBG) Program))
- Resolution approving a Community-Based Development Organization (CBDO) grant funding agreement in the amount of \$200,000 with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative (the Collaborative) to carry out a Microenterprise Incubator based out of the King-Kennedy Memorial Center; and authorizing the Interim City Manager, or his designee, to sign all related documents.
  - Resolution amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement Budgets to reflect approved allocation funded in the 2014-2015 Annual Action Plan and noted in Appendix C of the funding agreement with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative to carry out a Microenterprise Incubator; and authorizing the Finance Director, or their designee, to take the necessary steps to implement the provision of this resolution.  
*Parks, Recreation & Neighborhoods; Hugo H. Ramirez, 577-5368, hramirez@modestogov.com*

**ACTION: Resolution 2014-410 (Gunderson/Lopez; 7/0)** approving a Community-Based Development Organization (CBDO) grant funding agreement in the amount of \$200,000 with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative (the Collaborative) to carry out a Microenterprise Incubator based out of the King-Kennedy Memorial Center; and authorizing the Interim City Manager, or his designee, to sign all related documents.

**ACTION: Resolution 2014-411 (Gunderson/Lopez; 7/0)** amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement Budgets to reflect approved allocation funded in the 2014-2015 Annual Action Plan and noted in Appendix C of the funding agreement with Stanislaus Multi-Cultural Community Health Coalition – West Modesto/King Kennedy Neighborhood Collaborative to carry out a Microenterprise Incubator; and

authorizing the Finance Director, or their designee, to take the necessary steps to implement the provision of this resolution.

*Removed from Consent*

10. Consider: (i) approving Fresno Community Development Financial Institution (Fresno CDFI) to administer Community Development Block Grant (CDBG) Small Business Loan Program; and authorizing the Interim City Manager, or his designee, to sign all related documents, and (ii) amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement Budgets to reflect approved allocation funded in the 2014-2015 Annual Action Plan and noted in the Funding Agreement with Community Development Financial Institution (CDFI) for \$250,000, and authorizing the Finance Director, or their designee, to take the necessary steps to implement the provision of this resolution. (Funding Source: CDBG Program)
- Resolution approving Fresno Community Development Financial Institution (Fresno CDFI) to administer Community Development Block Grant (CDBG) Small Business Loan Program; and authorizing the Interim City Manager, or his designee, to sign all related documents.
  - Resolution amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement Budgets to reflect approved allocation funded in the 2014-2015 Annual Action Plan and noted in the Funding Agreement with Community Development Financial Institution (CDFI) for \$250,000, and authorizing the Finance Director, or their designee, to take the necessary steps to implement the provision of this resolution.

*Parks, Recreation & Neighborhoods; Hugo Ramirez, 577-5368, HRamirez@modestogov.com*

**ACTION: Resolution 2014-412 (Lopez/Gunderson; 7/0)** approving Fresno Community Development Financial Institution (Fresno CDFI) to administer Community Development Block Grant (CDBG) Small Business Loan Program; and authorizing the Interim City Manager, or his designee, to sign all related documents.

**ACTION: Resolution 2014-413 (Lopez/Gunderson; 7/0)** amending the Fiscal Year 2014-2015 Annual Operating and Capital Improvement Budgets to reflect approved allocation funded in the 2014-2015 Annual Action Plan and noted in the Funding Agreement with Community Development Financial Institution (CDFI) for \$250,000, and authorizing the Finance Director, or their designee, to take the necessary steps to implement the provision of this resolution.

Consent

11. Consider: (i) accepting an Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) in the amount of \$20,000 and (ii) amending the Multi-Year Budget to recognize the revenue and offsetting expenses; and (iii) authorizing staff to accept annual Party Patrol Agreements with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) for overtime and reimbursement as they become available in the future, amending the annual budget to recognize the revenue and offsetting expenses, and authorizing the City Manager, or his designee, to execute all necessary documents. (Funding Source: 1341 Grants - Operations Grants Reimbursed)
- Resolution accepting an Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) in the amount of \$20,000 to provide Party Patrol Police Officers to conduct juvenile alcohol education, prevention

and intervention programs for the City of Modesto and Stanislaus County, and authorizing the City Manager, or his designee, to execute all necessary documents.

- Resolution amending the multi-year budget estimating revenue of \$20,000 for overtime and reimbursement for the Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS).
- Resolution authorizing staff to accept annual Party Patrol Agreements with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) for overtime and reimbursement as they become available in the future, amending the annual budget to recognize the revenue and offsetting expenses, and authorizing the City Manager, or his designee, to execute all necessary documents.

*Police; Rick Armendariz, 342-6142, armendarizr@modestopd.com*

**ACTION: Resolution 2014-414 (Lopez/Madrigal; 7/0)** accepting an Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) in the amount of \$20,000 to provide Party Patrol Police Officers to conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County, and authorizing the City Manager, or his designee, to execute all necessary documents.

**ACTION: Resolution 2014-415 (Lopez/Madrigal; 7/0)** amending the multi-year budget estimating revenue of \$20,000 for overtime and reimbursement for the Party Patrol Agreement with the County of Stanislaus Behavioral Health and Recovery Services (BHRS).

**ACTION: Resolution 2014-416 (Lopez/Madrigal; 7/0)** authorizing staff to accept annual Party Patrol Agreements with the County of Stanislaus Behavioral Health and Recovery Services (BHRS) for overtime and reimbursement as they become available in the future, amending the annual budget to recognize the revenue and offsetting expenses, and authorizing the City Manager, or his designee, to execute all necessary documents.

Consent

12. Consider: (i) amending the FY 2014-2015 position allocation to re-establish 6 Maintenance Worker I/II positions in the Forestry Division, establish 2 Maintenance Worker I/II positions in the Compost Division, and establish 2 Maintenance Worker I positions in the Solid Waste Division; and (ii) Reallocating funds currently budgeted for 20 temporary labor positions, administrative costs, and professional services in Fund 4892, Cost Centers 56040/Forestry, and 56020/Green Waste, Fund 4890-56030/Compost, and Fund 4891-56010/Solid Waste to fund the Maintenance Worker positions. (Funding Source: Forestry/Green Waste, Compost, Solid Waste Funds)

- Resolution amending the Position Allocation for Fiscal Year 14/15 as adopted in the Operating Budget to establish Maintenance Worker Positions in the Forestry, Compost, and Solid Waste Enterprise Funds, and Reallocating Funds currently Budgeted to fund the positions.

*Public Works; Jocelyn Reed, 577-5492, jreed@modestogov.com*

**ACTION: Resolution 2014-417 (Lopez/Madrigal; 7/0)** amending the Position Allocation for Fiscal Year 14/15 as adopted in the Operating Budget to establish Maintenance Worker Positions in the Forestry, Compost, and Solid Waste Enterprise Funds, and Reallocating Funds currently Budgeted to fund the positions.

Consent

- 13. Consider supporting the redesignation of the Stanislaus County Recycling Market Development Zone (RMDZ) and Rescinding Resolution No. 2004-464. (Funding Source: Not Applicable)
  - Resolution in support of the renewal of the Stanislaus County Recycling market Development Zone and Rescinding Resolution No. 2004-464.  
*Public Works; Vicki Rice, 577-5494, Vrice@modestogov.com*

**ACTION: Resolution 2014-418 (Lopez/Madrigal; 7/0)** in support of the renewal of the Stanislaus County Recycling market Development Zone and Rescinding Resolution No. 2004-464.

Consent

- 14. Consider authorizing the increase of funds allocated for Annual Agreement #19078 issued to Amerine Systems, Oakdale, Ca, and Annual Agreement #19079 issued to Don Pedro Pumps, Hughson, Ca for pump station rejuvenation services for the total amount of \$560,000. (Funding Source: Water Fund)
  - Resolution authorizing the increase of funds allocated for Annual Agreement #19078 issued to Amerine Systems, Oakdale, Ca, and Annual Agreement #19079 issued to Don Pedro Pumps, Hughson, Ca for pump station rejuvenation services for the total amount of \$560,000, and authorizing the Purchasing Manager, or his designee, to issues change orders to the agreements.  
*Utilities; David Savidge, 342-2217, dsavidge@modestogov.com*

**ACTION: Resolution 2014-419 (Lopez/Madrigal; 7/0)** authorizing the increase of funds allocated for Annual Agreement #19078 issued to Amerine Systems, Oakdale, Ca, and Annual Agreement #19079 issued to Don Pedro Pumps, Hughson, Ca for pump station rejuvenation services for the total amount of \$560,000, and authorizing the Purchasing Manager, or his designee, to issues change orders to the agreements.

Consent

- 15. Consider approving a Lease Agreement with Accurate Collision Services, Inc., a California corporation, for a portion of a City-owned property located at 402 Ninth Street, APN:106-045-003. (Funding Source: Revenue to General Fund)
  - Resolution approving a Lease Agreement with Accurate Collision Services, Inc., a California corporation, for a 0.30-acre portion of City-owned property located at 402 Ninth Street, APN:106-045-003, and authorizing the City Manager, or his designee, to execute the Lease Agreement, Memorandum of Lease, and all related documents.  
*Utilities; Jon Yuriar, 577-5399, jyuriar@modestogov.com*

**ACTION: Resolution 2014-420 (Lopez/Madrigal; 7/0)** approving a Lease Agreement with Accurate Collision Services, Inc., a California corporation, for a 0.30-acre portion of City-owned property located at 402 Ninth Street, APN:106-045-003, and authorizing the City Manager, or his designee, to execute the Lease Agreement, Memorandum of Lease, and all related documents.

*Councilmember Cogdill left meeting at 6:30 p.m.*

**COUNCIL COMMENTS & REPORTS**

Councilmember Kenoyer thanked the City of Modesto staff; she recognized Margaret James,

Jeff Barnes, Jack Hunt, Bert Lippert, Julie Corgiat, Hugo Ramirez, and Steve Fischio. Councilmember Gunderson thanked everyone for their help with the Tuolumne River Clean-Up last Saturday. Councilmember Madrigal announced approval of a policy regarding free use of city facilities by neighborhood watch groups.

### CITY MANAGER COMMENTS & REPORTS

None.

### UNFINISHED BUSINESS

*Councilmember Cogdill absent*

16. Consider approving the plans and specifications for the Strengthen & Replace Water System - South Modesto Phase 2 project, accepting the bid, and approving a contract with DSS Company dba Knife River Construction, of Stockton, California in the amount of \$1,825,105. (Total estimated cost for the construction portion of this project is \$2,216,113) (Funding Source: Water Fund - CIP)

- Resolution approving the plans and specifications for the Strengthen & Replace Water System - South Modesto Phase 2 project, accepting the bid, and approving a contract with DSS Company dba Knife River Construction, of Stockton, California in the amount of \$1,825,105, and authorizing the City Manager, or his designee, to execute the contract.

*Utilities; Kris Ohlson, 571-5869, kohlson@modestogov.com*

**ACTION: Resolution 2014-421 (Lopez/Gunderson; 6/0; Cogdill absent)** approving the plans and specifications for the Strengthen & Replace Water System - South Modesto Phase 2 project, accepting the bid, and approving a contract with DSS Company dba Knife River Construction, of Stockton, California in the amount of \$1,825,105, and authorizing the City Manager, or his designee, to execute the contract.

### **HEARINGS**

*Councilmember Cogdill absent*

*Published in the Modesto Bee on October 4, 2014*

17. Hearing to consider a General Plan Amendment to re-designate approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) and to rezone the project site from Medium Density Residential (R-2), Neighborhood Commercial (C-1), and Planned Development Zone P-D (300) to General Commercial (C-2) Zone (Funding Source: Not Applicable)

- Resolution approving an amendment to the Modesto Urban Area General Plan, to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road (Solar Cool Properties III, L. P.).
- Motion introducing and waving the first reading of an Ordinance amending Section 27-3-9 of the Zoning Map of the City of Modesto to rezone from Medium Density Residential (R-2), Neighborhood Commercial (C-1), and Planned Development Zone P-D (300) to General Commercial (C-2) Zone for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road (Solar Cool Properties III, L. P.).
- Resolution adopting a Negative Declaration for a General Plan Amendment to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU),

and Residential (R) to Commercial (C) and to rezone from Medium Density Residential (R-2), Neighborhood Commercial (C-1), and Planned Development Zone P-D (300) to General Commercial (C-2) Zone for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road (Solar Cool Properties III, L. P.).

*Community & Economic Development; Paul Liu, 577-5282, pliu@modestogov.com*

**ACTION: Resolution 2014-422 (Lopez/Madriral; 6/0; Cogdill absent)** approving an amendment to the Modesto Urban Area General Plan, to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road (Solar Cool Properties III, L. P.).

**ACTION: Motion (Lopez/Madriral; 6/0; Cogdill absent)** introducing and waving the first reading of **Ordinance No. 3609-C.S.** amending Section 27-3-9 of the Zoning Map of the City of Modesto to rezone from Medium Density Residential (R-2), Neighborhood Commercial (C-1), and Planned Development Zone P-D (300) to General Commercial (C-2) Zone for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road (Solar Cool Properties III, L. P.).

**ACTION: Resolution 2014-423 (Lopez/Madriral; 6/0; Cogdill absent)** adopting a Negative Declaration for a General Plan Amendment to re-designate from Redevelopment Planning District (RPD), Mixed-Use (MU), and Residential (R) to Commercial (C) and to rezone from Medium Density Residential (R-2), Neighborhood Commercial (C-1), and Planned Development Zone P-D (300) to General Commercial (C-2) Zone for approximately 4.7 acres located on the north side of Scenic Drive and east of Coffee Road (Solar Cool Properties III, L. P.).

*Councilmember Cogdill absent*

*Published in the Modesto Bee on October 4, 2014*

18. Hearing to consider approving the installation of a 160' Public Safety Communication Tower at Modesto Fire Station 6 located at 2700 Standiford. (Funding Source: Not Applicable)

- Resolution approving the installation of a 160' Public Safety Communication Tower at Modesto Fire Station 6 located at 2700 Standiford.

*Police; Galen L. Carroll, 572-9501, carrollg@modestopd.com*

**ACTION: Resolution 2014-424 (Kenoyer/Zoslocki; 6/0; Cogdill absent)** approving the installation of a 160' Public Safety Communication Tower at Modesto Fire Station 6 located at 2700 Standiford.

**NEW BUSINESS**

19. Consider authorizing: (i) the issuance of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding bonds, in an aggregate principal amount not to exceed \$5,000,000, (ii) the execution and delivery of an Indenture and an Escrow Agreement; and (iii) the execution of necessary documents and certificates and related actions. (Funding Source: CFD No. 2003-1 (Fairview Village) Special Tax Bonds)

- Resolution authorizing: (i) the issuance of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding

bonds, in an aggregate principal amount not to exceed \$5,000,000, (ii) the execution and delivery of an Indenture and an Escrow Agreement ; and (iii) the execution of necessary documents and certificates and related actions.

(Funding Source: CFD No. 2003-1 (Fairview Village) Special Tax Bonds).  
*Community and Economic Development; Tina Rocha, 577-5321, trocha@modestogov.com*

**ACTION: Resolution 2014-425 (Lopez/Kenoyer; 6/0; Cogdill absent)** authorizing: (i) the issuance of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding bonds, in an aggregate principal amount not to exceed \$5,000,000, (ii) the execution and delivery of an Indenture and an Escrow Agreement ; and (iii) the execution of necessary documents and certificates and related actions. (Funding Source: CFD No. 2003-1 (Fairview Village) Special Tax Bonds).

**MATTERS TOO LATE FOR THE AGENDA**

None.

**ADJOURNMENT**

This meeting was adjourned at 6:57 p.m.

**CLOSED SESSION**

*All Closed Session Matters Heard Prior to Meeting*

**CONFERENCE WITH LABOR NEGOTIATOR:**

**(Pursuant to Section 54957.6 of the Government Code) – MCEA**

Negotiator: Joe Lopez  
Agency Negotiators: Law Offices of Renne Sloan Holtzman & Sakai

Employee Organization: Modesto City Employees Association

**CONFERENCE WITH LABOR NEGOTIATOR:**

**(Pursuant to Section 54957.6 of the Government Code) – MCMA**

Negotiator: Joe Lopez  
Agency Negotiators: Law Offices of Renne Sloan Holtzman & Sakai

Employee Organization: Modesto Confidential & Management Association

**CONFERENCE WITH LABOR NEGOTIATOR:**

**(Pursuant to Section 54957.6 of the Government Code) – MPOA**

Negotiator: Joe Lopez  
Agency Negotiators: Law Offices of Renne Sloan Holtzman & Sakai

Employee Organization: Modesto Police Officers’ Association

**CONFERENCE WITH LABOR NEGOTIATOR:**

**(Pursuant to Section 54957.6 of the Government Code) – MPNSA**

Negotiator: Joe Lopez  
 Agency Negotiators: Law Offices of Renne Sloan Holtzman & Sakai  
 Employee Organization: Modesto Police Non Sworn Association

**CONFERENCE WITH LABOR NEGOTIATOR:  
 (Pursuant to Section 54957.6 of the Government Code) –MPMA**

Negotiator: Joe Lopez  
 Agency Negotiators: Law Offices of Renne Sloan Holtzman & Sakai  
 Employee Organization: Modesto Police Management Association

**CONFERENCE WITH LABOR NEGOTIATOR:  
 (Pursuant to Section 54957.6 of the Government Code) - MCFFA**

Negotiator: Joe Lopez  
 Agency Negotiators: Law Offices of Renne Sloan Holtzman & Sakai  
 Employee Organization: Modesto City Firefighters Association

**CONFERENCE WITH LABOR NEGOTIATOR:  
 (Pursuant to Section 54957.6 of the Government Code) – Unrepresented**

Negotiator: Joe Lopez  
 Agency Negotiators: Jim Holgersson, Interim City Manager  
 Employee Organization: Unrepresented Management and Confidential Employees

Attest: \_\_\_\_\_  
 Stephanie Lopez, City Clerk

**BOND INDENTURE**

Between

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

and

**U.S. BANK NATIONAL ASSOCIATION,  
as Trustee**

Relating To

**\$4,420,000  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**2014 SPECIAL TAX REFUNDING BONDS**

**Dated as of December 1, 2014**

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## BOND INDENTURE

THIS BOND INDENTURE (“Indenture”) dated as of December 1, 2014, by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “District”) and U.S. Bank National Association, as Trustee (the “Trustee”), governs the terms of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds (the “Bonds”) issued in accordance herewith.

### *RECITALS:*

WHEREAS, the City Council of the City of Modesto, California (hereinafter sometimes referred to as the “legislative body of the District”), has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of the District pursuant to the terms and pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code (the “Act”); and

WHEREAS, the District has previously issued its City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds (the “Refunded Bonds”) in the aggregate principal amount of \$4,960,000 pursuant to that certain Trust Indenture by and between the District and The Bank of New York Mellon Trust Company, N.A., formerly known as The Bank of New York Trust Company, N.A., as trustee (the “Prior Trustee”), dated as of June 1, 2005 (the “Prior Indenture”), and the Refunded Bonds are the only bonds of the District outstanding; and

WHEREAS, the Refunded Bonds were issued by the District to finance certain infrastructure improvements within the District; and

WHEREAS, the legislative body of the District intends to accomplish the refunding of the Refunded Bonds through the issuance of bonds in an aggregate principal amount of \$4,420,000 designated as the “the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds” (the “Bonds”) and to fund a deposit to the Reserve Account and pay certain costs related to the issuance of the Bonds; and

WHEREAS, the District has determined that the issuance of the Bonds will provide significant public benefits by reducing the total amount of Special Taxes to be levied for debt service on indebtedness of the District; and

WHEREAS, the Bonds are to be issued and sold in accordance with Resolution No. 2014-425 adopted by the City Council of the City of Modesto (the “City”) on October 14, 2014, acting in its capacity as the legislative body of the District, and with this Indenture; and

WHEREAS, the District has determined that all requirements of the Act for the issuance of the Bonds have been satisfied; and

WHEREAS, upon their issuance, the Bonds will be the only outstanding bonds of the District, and the District is covenanting herein not to issue any future obligation or security having a lien, charge, pledge or encumbrance on a parity with the Bonds upon the Special Taxes, except to defease the Bonds;

NOW, THEREFORE, in order to establish the terms and conditions upon and subject to which the Bonds are to be issued, and in consideration of the premises and of the mutual covenants contained herein and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the District does hereby covenant and agree, for the benefit of the Owners of the Bonds which may be issued hereunder from time to time, as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1 Definitions. Unless the context otherwise requires, the following terms shall have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Sections 53311 *et seq.* of the California Government Code.

“Administration Fund” means that certain fund by that name established pursuant to Section 3.4 hereof.

“Administrative Expenses Cap” means \$25,000 per Fiscal Year escalating two percent (2%) each Fiscal Year beginning in Fiscal Year 2015-16; provided that the District may, in its sole discretion, fund Administrative Expenses, without limitation, from any other funds available to the District, including the Surplus Fund.

“Administrative Expenses” means the administrative costs with respect to the calculation and collection of the Special Taxes, including all attorneys’ fees and other costs related thereto, the fees and expenses of the Trustee and any Special Tax Consultant to the District, any costs related to the District’s compliance with state and federal laws requiring continuing disclosure of information concerning the Bonds and/or the District, if any, and any other costs otherwise incurred by the City staff on behalf of the District in order to carry out the purposes of the District as set forth in the Resolution of Formation and any obligation of the District hereunder.

“Alternative Penalty Account” means the account by that name created and established in the Rebate Fund pursuant to Section 3.1 hereof.

“Annual Debt Service” means the principal amount of any Outstanding Bonds payable in a Bond Year either at maturity or pursuant to a Sinking Fund Payment and any interest payable on any Outstanding Bonds in such Bond Year, if the Bonds are retired as scheduled.

“Authorized Investments” means any of the following investments, if and to the extent the same are at the time legal for investment of the District’s funds (the Trustee is entitled to rely upon investment direction from the District as a certification such investment is an Authorized Investment):

- (a) Federal Securities;
- (b) Senior debt obligations, participations, or other instruments issued by a federal agency or United States government-sponsored enterprise, including those issued by or fully

guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises (stripped securities are only permitted if they have been stripped by the agency itself);

(c) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933 and having a rating of AAA or better by a Nationally Recognized Statistical Rating Organization (NRSRO), including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(d) Certificates of deposit secured at all times by collateral described in (a) and (b) above. Such certificates must be issued by commercial banks, savings and loan associations or mutual savings banks. The collateral must be held by a third party or the Trustee and the Trustee on behalf of the Bond Owners must have a perfected first security interest in the collateral;

(e) Certificates of deposit, savings accounts, deposit accounts or money market deposits which are fully insured by FDIC;

(f) U.S. dollar denominated deposit accounts, federal funds and banker's acceptances with domestic commercial banks, including the Trustee and its affiliates, which have a rating on their short term certificates of deposit on the date of purchase that is rated at least A-1 or its equivalent by a NRSRO and maturing no more than 360 days after the date of purchase (i.e., ratings on holding companies are not considered as the rating of the bank);

(g) Commercial Paper rated, at the time of purchase, at least A-1 or its equivalent by a NRSRO and maturing no more than 270 days after the date of purchase;

(h) Repurchase agreements with financial institutions insured by the FDIC; or any broker-dealer with "retail customers" which falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC); or a bank or other financial institution rated in the top two rating categories by one or more Rating Agencies; provided that: (i) the over-collateralization is at one hundred two percent (102%), computed weekly, consisting of such securities as described in this section, items (a) through (c); (ii) a third party custodian, the Trustee or the Federal Reserve Bank shall have possession of such obligations; (iii) the Trustee shall have perfected a first priority security interest in such obligations; and (iv) failure to maintain the requisite collateral percentage will require the Trustee to liquidate the collateral;

(i) County or State-administered pooled investment funds in which the District is statutorily permitted or required to invest to the extent that any amounts are deposited by the Trustee into such funds and the Trustee shall have direct access to such fund; and

(j) California Asset Management Program (CAMP).

“Authorized Officer” means any of the Mayor, City Manager and Director of Finance of the City, or their written designees.

“Average Annual Debt Service” means the average of the Annual Debt Service for all Bond Years, including the Bond Year in which the calculation is made.

“Bond Counsel” means an attorney at law or a firm of attorneys selected by the District of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on bonds issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Register” means the books which the Trustee shall keep or cause to be kept on which the registration and transfer of the Bonds shall be recorded.

“Bond Year” means the twelve (12) month period commencing on September 2 of each year and ending on September 1 of the following year, except for the first Bond Year commencing on the Delivery Date and ending on September 1, 2015.

“Bondowner” or “Owner” means the Person or Persons in whose name or names any Bond is registered, as shown in the Bond Register.

“Bonds” means the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds issued in the original principal amount of \$4,420,000.

“Business Day” means a day which is not a Saturday or Sunday or a day of the year on which banks in New York, New York, Los Angeles, California, San Francisco, California, or the city where the corporate trust office of the Trustee is located, are not required or authorized to remain closed.

“Certificate of an Authorized Officer” means a written certificate executed by one of the Mayor, City Manager and Director of Finance of the City, or their written designees.

“City” means the City of Modesto, California.

“City Council” means the City Council of the City.

“Code” means the Internal Revenue Code of 1986, as amended, and any regulations, rulings, judicial decisions, and notices, announcements, and other releases of the United States Treasury Department or Internal Revenue Service interpreting and construing it.

“Costs of Issuance” means the costs and expenses incurred in connection with the issuance and sale of the Bonds, including the acceptance and initial annual fees and expenses of the Trustee, legal fees and expenses, costs of printing the Bonds and the preliminary and final Official Statements, if any, or other offering materials, financial consultants, special tax consultants, placement agents and other fees and expenses set forth in a Certificate of an Authorized Officer.

“County” means the County of Stanislaus, California.

“Costs of Issuance Fund” means the fund by that name established pursuant to Section 3.1 hereof.

“Delivery Date” means the date on which the Bonds were issued and delivered to the initial purchasers thereof.

“Depository” means The Depository Trust Company, New York, New York, and its successors and assigns as securities depository for the Bonds, to the extent eligible for book-entry registration as provided herein, or any other securities depository acting as Depository under Article II hereunder.

“Dissemination Agent” means Goodwin Consulting Group, Inc., and any successor thereto.

“District” means City of Modesto Community Facilities District No. 2003-1 (Fairview Village) established pursuant to the Act and the Resolution of Formation.

“Escrow Agreement” means the Escrow Agreement, by and between The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, and the District, dated as of December 1, 2014.

“Escrow Bank” means The Bank of New York Mellon Trust Company, N.A.

“Escrow Fund” means the Escrow Fund established under the Escrow Agreement.

“Extraordinary Administrative Expenses” means Administrative Expenses required for extraordinary District events such as foreclosure actions against delinquent taxpayers within the District required to be prosecuted on an expedited basis pursuant to this Indenture, the approval and implementation of actions requiring Bondowner consent under this Indenture, or actual or threatened Bondowner or property owner litigation arising out of the Bonds or the District.

“Federal Securities” means any of the following:

- (1) Cash,
- (2) Non-callable direct obligations of (including obligations issued or held in book-entry form on the books of) the Department of the Treasury of the United States of America, or
- (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated,
- (4) pre-refunded municipal obligations rated “AAA” and “Aaa” by S&P and Moody’s, respectively, and
- (5) securities eligible for “AAA” defeasance under then existing criteria of S&P.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next following June 30.

“Gross Special Taxes” means the amount of all Special Taxes received by the District from the Treasurer, together with the net proceeds collected from the sale of property pursuant to the foreclosure provisions of this Indenture, penalties and interest received by the District in connection

with the delinquency of such Special Taxes and proceeds from any security for payment of Special Taxes taken in lieu of foreclosure after payment of administrative costs and attorneys' fees payable from such proceeds to the extent not previously paid as an Administrative Expense.

"Indenture" means this Bond Indenture, together with any Supplemental Indenture approved pursuant to Article VI hereof.

"Independent Financial Consultant" means a financial consultant or firm of such consultants generally recognized to be well qualified in the financial consulting field, appointed and paid by the District or the City, who, or each of whom:

- (a) is in fact independent and not under the domination of the District or the City;
- (b) does not have any substantial interest, direct or indirect, in the District or the City; and
- (c) is not connected with the District as a member, officer or employee of the District or the City, but who may be regularly retained to make annual or other reports to the District or the City.

"Interest Payment Date" means each March 1 and September 1, commencing March 1, 2015; provided, however, that, if any such day is not a Business Day, interest up to the Interest Payment Date will be paid on the Business Day next succeeding such date.

"Letter of Representations" means a letter substantially in the form attached hereto as Exhibit C delivered by each purchaser of the Bonds to the District to the effect, among other things, that such purchaser (a) has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the Bonds, (b) is acquiring the Bonds for its own account for the purpose of investment and not with a view to the distribution thereof, and (c) has no present intention of selling, negotiating, transferring, or otherwise disposing of the Bonds so purchased.

"Maximum Annual Debt Service" means the maximum sum obtained for any Bond Year by adding the following for each Bond Year:

- (1) the principal amount of all Outstanding Bonds payable in such Bond Year either at maturity or pursuant to a Sinking Fund Payment; and
- (2) the interest payable on the aggregate principal amount of the Bonds Outstanding in such Bond Year if the Bonds are retired as scheduled.

"Moody's" means Moody's Investors Service, its successors and assigns.

"Net Special Taxes" means Gross Special Taxes minus amounts, not in excess of the Administrative Expenses Cap, set aside to pay Administrative Expenses.

"Nominee" means the nominee of the Depository, which may be the Depository, as determined from time to time pursuant to Section 2.12 hereof.

“Ordinance” means Ordinance No. 2003-3339 adopted by the City Council, acting as the legislative body of the District on December 11, 2003, which was repealed and amended by Ordinance No. 2004-3348 adopted by the City Council, acting as the legislative body of the District on June 1, 2005, providing for the levying of the Special Tax.

“Original Purchaser” means City National Bank.

“Outstanding” or “Outstanding Bonds” means all Bonds theretofore issued by the District, except:

(1) Bonds theretofore cancelled or surrendered for cancellation in accordance with Section 10.1 hereof;

(2) Bonds for payment or redemption of which monies shall have been theretofore deposited in trust (whether upon or prior to the maturity or the redemption date of such Bonds), provided that, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in this Indenture; and

(3) Bonds which have been surrendered to the Trustee for transfer or exchange pursuant to Section 2.9 hereof or for which a replacement has been issued pursuant to Section 2.10 hereof.

“Participants” means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds the Bonds as a securities depository.

“Person” means natural persons, firms, corporations, limited liability companies, partnerships, associations, joint ventures, trusts, public bodies and other entities.

“Principal Office of the Trustee” means the corporate trust office of the Trustee located in San Francisco, California; provided that for purposes of redemption, payment, exchange, transfer or surrender of Bonds such term shall mean the corporate trust office of the Trustee located in St. Paul, Minnesota, or such other office or offices as the Trustee may designate from time to time, or the office of any successor Trustee where it principally conducts its corporate trust and agency business.

“Rating Agency” means Moody’s Rating Service and Standard & Poor’s or both, as the context requires.

“Rate and Method of Apportionment” means that certain Rate and Method of Apportionment of Special Tax approved pursuant to the Resolution of Formation as it may be amended from time to time in accordance with the Act and this Indenture.

“Rebatable Arbitrage” means the amount (determinable as of the last day of each fifth Bond Year and upon retirement of the Bonds) of arbitrage profits payable to the United States at all times and in the amounts specified in Section 148(f) of the Code and any applicable Regulations.

“Rebate Regulations” means any final, temporary or proposed Regulations promulgated under Section 148(f) of the Code.

“Record Date” means the fifteenth day of the month preceding an Interest Payment Date, regardless of whether such day is a Business Day.

“Redemption Account” means the account by that name in the Special Tax Fund.

“Regulations” means the regulations adopted or proposed by the Department of Treasury from time to time with respect to obligations issued pursuant to Section 103 of the Code.

“Representation Letter” shall mean the Blanket Letter of Representations from the District to the Depository as described in Section 2.13 hereof.

“Reserve Account” means the account by that name in the Special Tax Fund.

“Reserve Requirement” means that amount as of any date of calculation equal to the lesser of (i) 5% of the initial principal amount of the Bonds, (ii) 50% of the Maximum Annual Debt Service on the then Outstanding Bonds and (iii) 50% of 125% of average Annual Debt Service on the then Outstanding Bonds.

“Resolution of Formation” means Resolution No. 2003-660 adopted by the City Council on December 11, 2003, pursuant to which the City formed the District.

“Resolution of Issuance” means Resolution No. 2014-425 duly adopted by the City Council, acting in its capacity as the legislative body of the District on October 14, 2014, approving this Indenture, and any supplemental bond indenture approved pursuant to Article VI hereof.

“S&P” means Standard & Poor’s Ratings Group, a division of The McGraw Hill Companies, its successors and assigns.

“Sinking Fund Payment” means the annual payment to be deposited in the Redemption Account to redeem a portion of the Term Bonds in accordance with the schedules set forth in Section 4.1(b) hereof.

“Special Tax Prepayments” means any amounts paid by the District to the Trustee and designated by the District as a prepayment of Special Taxes for one or more parcels in the District made in accordance with the Rate and Method of Apportionment.

“Special Taxes” means the Annual Facilities Special Tax (as defined in the Rate and Method of Apportionment) authorized to be levied by the District in accordance with the Ordinance, the Resolution of Formation, the Act and the Rate and Method of Apportionment.

“Special Tax Consultant” means any firm specializing in the levying and collection of special taxes and the administration of community facilities districts under the Act which has been engaged by the District to administer the calculation and collection of the Special Taxes. Goodwin Consulting Group shall act as the initial Special Tax Consultant for the District.

“Special Tax Fund” means the fund by that name established pursuant to Section 3.1.

“Supplemental Indenture” means any supplemental indenture amending or supplementing this Indenture.

“Surplus Fund” means the fund by that name established pursuant to Section 3.10.

“Tax Certificate” means the certificate by that name to be executed by the District on a Delivery Date to establish certain facts and expectations and which contains certain covenants relevant to compliance with the Code.

“Taxable Property” means the area within the boundaries of the District which is not exempt from application of the Special Tax by operation of law or the Rate and Method of Apportionment.

“Treasurer” means the Treasurer-Tax Collector of the County.

“Term Bonds” means the Bonds maturing on September 1, 2035.

“Trustee” means U.S. Bank National Association, and any successor thereto.

## ARTICLE II

### GENERAL AUTHORIZATION AND BOND TERMS

Section 2.1 Amount, Issuance, Purpose and Nature of Bonds. Under and pursuant to the Act, the Bonds in the aggregate principal amount of \$4,420,000 shall be issued for the purposes of refunding the Refunded Bonds, funding the Reserve Account and paying Costs of Issuance. The Bonds shall be and are limited obligations of the District and shall be payable as to the principal thereof and interest thereon and any premiums upon the redemption thereof solely from the Net Special Taxes and the other amounts in the funds created hereunder, other than amounts in the Rebate Fund or the Administration Fund.

Section 2.2 Type and Nature of Bonds. Neither the faith and credit nor the taxing power of the City, the State of California, or any political subdivision thereof other than the District is pledged to the payment of the Bonds. Except for the Special Taxes, no other taxes are pledged to the payment of the Bonds. The Bonds are not general or special obligations of the City or general obligations of the District, but are limited obligations of the District payable solely from certain amounts deposited by the District in the Special Tax Fund, as more fully described herein. The District’s limited obligation to pay the principal of, premium, if any, and interest on the Bonds from amounts in the Special Tax Fund is absolute and unconditional, free of deductions and without any abatement, offset, recoupment, diminution or set-off whatsoever. No Owner of the Bonds may compel the exercise of the taxing power by the District (except as pertains to the Special Taxes) or the City or the forfeiture of any of their property. The principal of and interest on the Bonds and premiums upon the redemption thereof, if any, are not a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. The Bonds are not a legal or equitable pledge, charge, lien, or encumbrance upon any of the District’s property, or upon any of its income, receipts or revenues, except the Net Special Taxes and other amounts in the Special Tax Fund which are, under the terms of this Indenture and the Act, set aside for the payment of the Bonds and interest thereon and neither the members of the legislative body of the District or the City Council of the City nor any persons executing the Bonds, are liable personally on the Bonds, by reason of their issuance.

Notwithstanding anything to the contrary contained in this Indenture, the District shall not be required to advance any money derived from any source of income other than the Net Special Taxes for the payment of the interest on or the principal of the Bonds or for the performance of any

covenants contained herein. The District may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose.

Section 2.3 Equality of Bonds and Pledge of Net Special Taxes. Subject only to the provisions of this Indenture permitting the application thereof for the purposes and on the terms and conditions set forth herein, in order to secure the payment of the principal of and interest on the Bonds in accordance with their terms, the provisions of this Indenture and the Act, the District hereby pledges to the Owners, and grants thereto a lien on and a security interest in, all of the Net Special Taxes and any other amounts held in the Special Tax Fund. Said pledge shall constitute a first lien on and security interest in such assets, which shall immediately attach to such assets and be effective, binding and enforceable against the District, its successors, purchasers of any of such assets, creditors and all others asserting rights therein, to the extent set forth in, and in accordance with, this Indenture, irrespective of whether those parties have notice of the pledge of, lien on and security interest in such assets and without the need for any physical delivery, recordation, filing or further act.

Pursuant to the Act and this Indenture, the Bonds shall be equally payable from the Net Special Taxes and other amounts in the Special Tax Fund, without priority for number, date of the Bonds, date of sale, date of execution, or date of delivery, and the payment of the interest on and principal of the Bonds and any premiums upon the redemption thereof, shall be exclusively paid from the Net Special Taxes and other amounts in the Special Tax Fund, which are hereby set aside for the payment of the Bonds. Amounts in the Special Tax Fund shall constitute a trust fund held for the benefit of the Owners to be applied to the payment of the interest on and principal of the Bonds and so long as any of the Bonds or interest thereon remain Outstanding shall not be used for any other purpose, except as permitted by this Indenture or any Supplemental Indenture. Notwithstanding any provision contained in this Indenture to the contrary, Net Special Taxes deposited in the Rebate Fund or the Surplus Fund shall no longer be considered to be pledged to the Bonds, and none of the Rebate Fund, the Costs of Issuance Fund, the Surplus Fund or the Administration Fund shall be construed as a trust fund held for the benefit of the Owners.

Nothing in this Indenture or any Supplemental Indenture shall preclude, subject to the limitations contained hereunder, the redemption prior to maturity of any Bonds subject to call and redemption and payment of said Bonds from proceeds of refunding bonds issued under the Act as the same now exists or as hereafter amended, or under any other law of the State of California.

Section 2.4 Description of Bonds; Interest Rates. The Bonds shall be issued in fully registered form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof and shall consist of one Term Bond, which shall be issued in the form of a single fully registered Bond. The ownership of such Bond shall be registered in the Bond Register in the name of the Original Purchaser, and shall be numbered as desired by the Trustee.

The Bonds shall be designated "CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) 2014 SPECIAL TAX REFUNDING BONDS." The Bonds shall be dated as of their Delivery Date and shall mature and be payable on September 1 in the years and in the aggregate principal amounts and shall be subject to and shall bear interest at the rates set forth in the table below payable on March 1, 2015 and each Interest Payment Date thereafter.

Interest shall be payable on each Bond from the date established in accordance with Section 2.5 below on each Interest Payment Date until the principal sum of that Bond has been paid; provided, however, that if at the maturity date of any Bond (or if the same is redeemable and shall be duly called for redemption, then at the date fixed for redemption) funds are available for the payment or redemption thereof in full, in accordance with the terms of this Indenture, such Bonds shall then cease to bear interest. Interest due on the Bonds shall be calculated on the basis of a 360 day year comprised of twelve 30 day months.

Section 2.5 Place and Form of Payment. The Bonds shall be payable both as to principal and interest, and as to any premiums upon the redemption thereof, in lawful money of the United States of America. The principal of the Bonds and any premiums due upon the redemption thereof shall be payable upon presentation and surrender thereof at the Principal Office of the Trustee. The Trustee shall note on its Bond Register the remaining outstanding principal amount of each Bond subsequent to each Sinking Fund Payment, which, absent manifest error, shall be binding and conclusive as to the outstanding principal amount of such Bond. Notwithstanding any provision in this Indenture to the contrary, so long as the Bonds are owned by the Original Purchaser, (i) the Trustee shall pay principal of and interest and redemption premium, if any, on the Bonds when due by wire transfer in immediately available funds to the Original Purchaser in accordance with such wire transfer instructions as shall be filed by the Original Purchaser with the Trustee from time to time, (ii) payments of principal on the Bonds shall be made without the requirement for presentation and surrender by the Original Purchaser, provided that principal which is payable at maturity shall be made only upon presentation and surrender at the Principal Office of the Trustee, and (iii) the Trustee shall not be required to give notice to the Original Purchaser of the Sinking Fund Payments described in Section 4.1(b).

Interest on any Bond shall be payable from the Interest Payment Date next preceding the date of authentication of that Bond, unless (i) such date of authentication is an Interest Payment Date in which event interest shall be payable from such date of authentication; (ii) the date of authentication is after a Record Date but prior to the immediately succeeding Interest Payment Date, in which event interest shall be payable from the Interest Payment Date immediately succeeding the date of authentication; or (iii) the date of authentication is prior to the close of business on the first Record Date occurring after the issuance of such Bond, in which event interest shall be payable from the dated date of such Bond; provided, however, that if at the time of authentication of such Bond, interest is in default, interest on that Bond shall be payable from the last Interest Payment Date to which the interest has been paid or made available for payment or, if no interest has been paid or made available for payment on that Bond, interest on that Bond shall be payable from its dated date. Interest on any Bond shall be paid to the Person whose name shall appear in the Bond Register as the Owner of such Bond as of the close of business on the Record Date. Such interest shall be paid by check of the Trustee mailed by first class mail, postage prepaid, to such Bondowner at his or her address as it appears on the Bond Register. In addition, upon a request in writing received by the Trustee on or before the applicable Record Date from an Owner of \$1,000,000 or more in principal amount of the Bonds, payment shall be made on the Interest Payment Date by wire transfer in immediately available funds to an account designated by such Owner.

Section 2.6 Form of Bonds. The Bonds and the certificate of authentication shall be substantially in the form attached hereto as Exhibit A, which form is hereby approved and adopted as the form of such Bonds and of the certificate of authentication. In no event shall the Bonds be eligible for book-entry registration, unless requested by the Owners of all of the Bonds then Outstanding.

Section 2.7 Execution and Authentication. The Bonds shall be signed on behalf of the District by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Clerk, or any duly appointed deputy clerk, in their capacity as officers of the District and attested by the signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer before the Bonds so signed have been authenticated and delivered by the Trustee (including new Bonds delivered pursuant to the provisions hereof with reference to the transfer and exchange of Bonds or to lost, stolen, destroyed or mutilated Bonds), such Bonds shall nevertheless be valid and may be authenticated and delivered as herein provided, and may be issued as if the person who signed such Bonds had not ceased to hold such office.

Only such Bonds bearing thereon such certificate of authentication in the form set forth in Exhibit A hereto shall be entitled to any right or benefit under this Indenture, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Trustee.

Section 2.8 Bond Register. The Trustee will keep or cause to be kept, at the Principal Office of the Trustee, sufficient books for the registration and transfer of the Bonds which shall be open to inspection by the District during all regular business hours upon reasonable prior notice, and, subject to the limitations set forth in Section 2.9 herein, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be transferred on said Bond Register, Bonds as herein provided.

The District and the Trustee may treat the Person whose name appears on the Bond Register as the absolute Owner of that Bond for any and all purposes, and the District and the Trustee shall not be affected by any notice to the contrary. The District and the Trustee may rely on the address of the Bondowner as it appears in the Bond Register for any and all purposes. It shall be the duty of the Bondowner to give written notice to the Trustee of any change in the Bondowner's address so that the Bond Register may be revised accordingly.

Section 2.9 Registration of Exchange or Transfer. Subject to the limitations of the following paragraph, the registration of any Bond may, in accordance with its terms, be transferred upon the Bond Register by the Person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation at the Principal Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee and duly executed by the Bondowner or his or her duly authorized attorney.

Notwithstanding the foregoing, an Owner may only transfer the Bonds so long as the Bonds are transferred to a new Owner who has delivered a Letter of Representations (in the form attached as Exhibit C hereto) to the District. An Owner may only transfer Bonds in aggregate principal amounts of not less than \$500,000 to an "accredited investor" within the meaning of Section 2(a)(15) of the Securities Act of 1933, as amended; provided that such transferee executes a Letter of Representations in the form attached as Exhibit C hereto) to the District. Any transfer of Bonds that is not made in accordance with this Section 2.9 shall be null and void.

Bonds may be exchanged at the Principal Office of the Trustee for a like aggregate principal amount of Bonds for other authorized denominations of the same maturity and issue. The Trustee shall not collect from the Owner any charge for any new Bond issued upon any exchange or transfer, but shall require the Bondowner requesting such exchange or transfer to pay any tax or other

governmental charge required to be paid with respect to such exchange or transfer. Whenever any Bonds shall be surrendered for registration of transfer or exchange, the District shall execute and the Trustee shall authenticate and deliver a new Bond or Bonds, as applicable, of the same issue and maturity, for a like aggregate principal amount; provided that the Trustee shall not be required to register transfers or make exchanges of (i) Bonds for a period of 15 days next preceding any selection of the Bonds to be redeemed; or (ii) any Bonds chosen for redemption.

Section 2.10 Mutilated, Lost, Destroyed or Stolen Bonds. If any Bond shall become mutilated, the District, at the expense of the Bondowner, shall execute, and the Trustee shall authenticate and deliver, a new Bond of like tenor, date, issue and maturity in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled by the Trustee pursuant to Section 10.1 hereof. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory to the Trustee and, if any indemnity satisfactory to the Trustee shall be given, the District, at the expense of the Bondowner, shall execute and the Trustee shall authenticate and deliver, a new Bond of like tenor, maturity and issue, numbered and dated as the Trustee shall determine in lieu of and in substitution for the Bond so lost, destroyed or stolen. Any Bond issued in lieu of any Bond alleged to be mutilated, lost, destroyed or stolen, shall be equally and proportionately entitled to the benefits hereof with all other Bonds issued hereunder. The Trustee shall not treat both the original Bond and any replacement Bond as being Outstanding for the purpose of determining the principal amount of Bonds which may be executed, authenticated and delivered hereunder or for the purpose of determining any percentage of Bonds Outstanding hereunder, but both the original and replacement Bond shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Bond which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Bonds upon receipt of indemnification satisfactory to the Trustee.

Section 2.11 Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be affected in any way by any defect in any proceedings taken by the District and the recital contained in the Bonds that the same are issued pursuant to the Act and other applicable laws of the State shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 2.12 Book-Entry System. The Bonds shall be initially delivered in the form of a separate single fully registered Bond (which may be typewritten) for each maturity. The Bonds shall be registered in the Bond Register in the name of the Original Purchaser of the Bonds and shall not be delivered in book-entry form. The District shall not convert the Bonds to book-entry Bonds without the written consent of the Owners of all Outstanding Bonds. The Owners of all Outstanding Bonds may request the District convert the Bonds to book-entry Bonds, and, in such event, the District, in its sole discretion, may elect to convert the Bonds to book-entry Bonds and such Bonds shall become subject to the provisions of Sections 2.12 through 2.15.

With respect to the book-entry Bonds registered in the Bond Register in the name of the Nominee, the District and the Trustee shall have no responsibility or obligation to any Participant or to any Person on behalf of which such Participant holds an interest in such book-entry Bonds. Without limiting the immediately preceding sentence, the District and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee, or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other Person, other than an Owner as shown in the Bond Register, of any

notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository and its Participants of the beneficial interests in the Bonds to be redeemed in the event the Bonds are redeemed in part, or (iv) the payment to any Participant or any other Person, other than an Owner as shown in the Bond Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The District and the Trustee may treat and consider the Person in whose name each Bond is registered in the Bond Register as the absolute Owner of such Bond for the purpose of payment of the principal of, premium, if any, and interest on such book-entry Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal of, premium, if any, and interest due on the Bonds only to or upon the order of the respective Owner as shown in the Bond Register, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the District's obligations with respect to payment of the principal of, premium, if any, and interest due on the Bonds to the extent of the sum or sums so paid. No Person other than an Owner, as shown in the Bond Register, shall receive a Bond evidencing the obligation of the District to make payments of principal, premium, if any, and interest pursuant to this Indenture. Upon delivery by the Depository to the Trustee and the District of written notice to the effect that the Depository has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the term "Nominee" in this Indenture shall refer to such new nominee of the Depository.

Section 2.13 Representation Letter. In order to qualify the Bonds which the District elects to register in the name of the Nominee for the Depository's book-entry system, an authorized representative of the District may execute from time to time and deliver to such Depository the Representation Letter. The execution and delivery of the Representation Letter shall not in any way limit the provisions of Section 5.1 or in any other way impose upon the District or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Owners, as shown in the Bond Register. The Trustee agrees to take all action necessary to continuously comply with all representations made by it in the Representation Letter. In addition to the execution and delivery of the Representation Letter, the Authorized Officers are hereby authorized to take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

Section 2.14 Transfers Outside Book-Entry System. The Bonds shall be initially issued as provided in Section 2.4 hereof. If the Bonds are held in book-entry form and in the event (i) the Depository determines not to continue to act as securities depository for the Bonds, or (ii) the District determines that the Depository shall no longer so act, then the District will discontinue the book-entry system with the Depository. If the District fails to identify another qualified securities depository to replace the Depository then the Bonds so designated shall no longer be restricted to being registered in the Bond Register in the name of the Nominee, but shall be registered in whatever name or names Persons transferring or exchanging Bonds shall designate, in accordance with the provisions of Section 2.9 hereof.

Section 2.15 Payments to the Nominee. Notwithstanding any other provisions of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal, premium, if any, and interest due with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the Representation Letter or as otherwise instructed by the Depository.

Section 2.16 Initial Depository and Nominee. Upon an election by the District to register the Bonds as book-entry Bonds, the initial Depository under this Article shall be The Depository Trust Company, New York, New York. The initial Nominee shall be Cede & Co., as Nominee of The Depository Trust Company, New York, New York.

Section 2.17 No Issuance of Additional Bonds. Except for refunding bonds, the District covenants that it will not issue any additional bonds payable from the Net Special Taxes or from any other amounts in the Special Tax Fund.

### ARTICLE III

#### CREATION OF FUNDS AND APPLICATION OF PROCEEDS AND NET SPECIAL TAXES

Section 3.1 Creation of Funds. There is hereby created and established and shall be maintained by the Trustee the following funds and accounts:

(1) The Community Facilities District No. 2003-1 Special Tax Fund (the "Special Tax Fund") in which there shall be established and created, a Debt Service Account, a Redemption Account and a Reserve Account;

(2) The Community Facilities District No. 2003-1 Rebate Fund (the "Rebate Fund") in which there shall be established a Rebate Account and an Alternative Penalty Account; and

(3) The Community Facilities District No. 2003-1 Costs of Issuance Fund (the "Costs of Issuance Fund").

The amounts on deposit in the foregoing funds and accounts shall be held by the Trustee; and the Trustee shall invest and disburse the amounts in such funds and accounts in accordance with the provisions of this Article III and shall disburse investment earnings thereon in accordance with the provisions of Section 3.11 hereof.

Section 3.2 Disposition of Bond Proceeds.

(a) The proceeds of the sale of the Bonds shall be received by the Trustee on behalf of the District and deposited as follows:

(1) \$4,077,882.88 shall be transferred to the Escrow Bank for deposit into the Escrow Fund pursuant to the terms of the Escrow Agreement, together with \$747,627.97 of moneys held by the Prior Trustee under the Prior Indenture which the District shall direct the Prior Trustee to deposit in the Escrow Fund pursuant to the Escrow Agreement;

(2) \$146,929.62 representing the amount of Costs of Issuance with respect to the Bonds shall be deposited in the Costs of Issuance Fund, and such amount shall be applied to the payment of Costs of Issuance for the Bonds; and

(3) \$195,187.50 shall be deposited in the Reserve Account of the Special Tax Fund.

The Trustee may, in its discretion, establish a temporary fund or account in its books and records to facilitate such deposits and transfer.

Section 3.3 Deposits to and Disbursements from Special Tax Fund. The Director of Finance shall, no later than the last day of each month during which the Special Taxes are received by the District, transfer the Special Taxes net of (a) Special Tax Prepayments (which amounts shall immediately be transferred by the Director of Finance to the Trustee for deposit into the Redemption Account of the Special Tax Fund to be applied in accordance with Section 3.6(b) hereof) and (b) an amount for Administrative Expenses up to the Administrative Expense Cap (which amount shall be deposited in the Administration Fund), to the Trustee for deposit in the Special Tax Fund for the Bonds, to be held in trust by the Trustee in the Special Tax Fund. Notwithstanding the foregoing, no more than half of the amount of Administrative Expenses up to half of the Administrative Expense Cap (plus Extraordinary Administrative Expenses in the event there are Extraordinary Administrative Expenses) levied for the current Fiscal Year shall be deposited in the Administration Fund until the earlier of (i) the date moneys on deposit in the Debt Service Account of the Special Tax Fund are sufficient to pay debt service on the Bonds on March 1 of such Fiscal Year, or (ii) March 2 of such Fiscal Year. The Trustee will then transfer the money on deposit in the Special Tax Fund on the dates and in the amounts set forth in the following Sections, in the following order of priority, to:

- (1) The Debt Service Account of the Special Tax Fund;
- (2) The Redemption Account;
- (3) The Reserve Account of the Special Tax Fund;
- (4) Rebate Fund; and
- (5) Surplus Fund.

At the maturity of all Bonds and, after all principal and interest then due on the Bonds then Outstanding has been paid or provided for and any amounts owed to the Trustee have been paid in full, moneys in the Special Tax Fund and any accounts therein may be used by the District for any lawful purpose.

Section 3.4 Administration Fund. There is hereby established as a separate fund to be held by the Director of Finance the Administration Fund. Moneys in the Administration Fund may be invested in any Authorized Investments, provided that the maturity or maturities thereof shall not exceed 30 days from the date of purchase. Moneys on deposit in the Administration Fund shall be used to pay Administrative Expenses.

Section 3.5 Debt Service Account of the Special Tax Fund. The principal or Sinking Fund Payment of, and interest on, the Bonds until maturity shall be paid by the Trustee from amounts transferred to the Debt Service Account of the Special Tax Fund. For the purpose of assuring that the payment of principal or Sinking Fund Payment of and interest on, the Bonds will be made when due, at least one Business Day prior to each Interest Payment Date, the Trustee shall make the following transfers to the Debt Service Account; provided, however, that to the extent that deposits have been made in the Debt Service Account from the proceeds of the sale of the Bonds, or otherwise, or to the extent that a transfer will be made from the Reserve Account to the Debt Service Account in accordance with the last paragraph of Section 3.7 hereof, the transfer from the Special Tax Fund need

not be made: an amount such that the balance in the Debt Service Account one (1) Business Day prior to each Interest Payment Date shall be equal to the installments of interest, principal and Sinking Fund Payments due on the Bonds on said Interest Payment Date. Moneys in the Debt Service Account shall be used for the payment of the interest, principal and Sinking Fund Payments of the Bonds as the same become due.

Section 3.6 Redemption Account of the Special Tax Fund.

(a) After making the deposit to the Debt Service Account of the Special Tax Fund pursuant to Section 3.5 above and in accordance with the District's election to call Bonds for optional redemption as set forth in Section 4.1(a) hereof, the Trustee shall transfer from the Special Tax Fund and deposit in the Redemption Account moneys available for the purpose and sufficient to pay the principal of and interest on the Bonds called for redemption, and the premiums payable as provided in Section 4.1(a) hereof on the Bonds called for optional redemption one (1) Business Day prior to the redemption date; provided, however, that Net Special Taxes may be applied to optionally redeem Bonds only if immediately following such redemption the amount in the Reserve Account will equal the Reserve Requirement.

(b) Special Tax Prepayments deposited to the Redemption Account shall be applied on the redemption date established pursuant to Section 4.1(c) hereof for the use of such Special Tax Prepayments to the payment of the principal of, premium, if any, and interest on the Bonds to be redeemed with such Special Tax Prepayments.

(c) Moneys set aside in the Redemption Account shall be used solely for the purpose of redeeming Bonds and shall be applied on or after the redemption date to the payment of principal of and premium, if any, on the Bonds to be redeemed upon presentation and surrender of such Bonds; provided, however, in lieu or partially in lieu of such call and redemption, upon receipt by the Trustee of written direction of the District to purchase Bonds, moneys deposited in the Redemption Account may be used to purchase Outstanding Bonds in the manner hereinafter provided. Purchases of Outstanding Bonds may be made by the District at public or private sale as and when and at such prices as the District may in its discretion determine but only at prices (including brokerage or other expenses) not more than par plus accrued interest, or, in the case of purchases to be made from funds to be applied to a redemption pursuant to Section 4.1(a), par plus accrued interest, plus premium, if any, in the case of moneys set aside for an optional redemption. Any accrued interest payable upon the purchase of Bonds may be paid from the amount reserved in the Special Tax Fund for the payment of interest on the next following Interest Payment Date.

Section 3.7 Reserve Account of the Special Tax Fund. There shall be maintained in the Reserve Account of the Special Tax Fund an amount equal to the Reserve Requirement.

Moneys in the Reserve Account shall be used solely for the purpose of paying the principal of, including Sinking Fund Payments, and interest on the Bonds when due in the event that the moneys in the Debt Service Account of the Special Tax Fund are insufficient therefor and for the purpose of making any required transfer to the Rebate Fund pursuant to Section 3.8 upon written direction from the District; provided, however, amounts in the Reserve Account may be applied to pay the principal and interest due on any Bonds in the final Bond Year in which any Bonds are Outstanding. If the amounts in the Debt Service Account of the Special Tax Fund are insufficient to pay the principal of, including Sinking Fund Payments, or interest on the Bonds when due, or amounts in the Special Tax Fund are insufficient to make transfers to the Rebate Fund when required,

the Trustee shall withdraw from the Reserve Account for deposit in the Debt Service Account of the Special Tax Fund or the Rebate Fund, as applicable, moneys necessary for such purposes. Following any transfer to the Debt Service Account of the Special Tax Fund or to the Rebate Fund as described above, the District shall then take the steps necessary to cause to be deposited to the Reserve Account the amount needed to replenish the Reserve Account to the Reserve Requirement by transferring such amount from Special Taxes held by the Treasurer or, if the District so elects, by including such amount in the next annual Special Tax levy to the extent of the permitted maximum Special Tax rates.

Notwithstanding anything herein to the contrary, whenever moneys are withdrawn from the Reserve Account, after making the required transfers pursuant to Sections 3.5 and 3.6 above, the Trustee shall transfer to the Reserve Account from available moneys in the Special Tax Fund the amount needed to restore the amount of such account to the Reserve Requirement. Moneys in the Special Tax Fund shall be deemed available for transfer to the Reserve Account only if the Trustee determines that such amounts will not be needed to make the deposits required to be made to the Debt Service Account of the Special Tax Fund. In no event shall amounts in the Reserve Account be used to pay fees or expenses of the Trustee or its counsel.

In connection with a redemption of Bonds pursuant to Section 4.1(a) or (c), or a defeasance of Bonds in accordance with Section 9.1 hereof, amounts in the Reserve Account shall be applied to such redemption or defeasance so long as the amount on deposit in the Reserve Account following such redemption or any partial defeasance equals the Reserve Requirement. The District shall set forth in a Certificate of an Authorized Officer the amount in the Reserve Account to be transferred to the Redemption Account on a redemption date or to be transferred pursuant to this Indenture to partially defease Bonds, and the Trustee shall make such transfer on the applicable redemption or defeasance date, subject to the limitation in the preceding sentence.

Notwithstanding any provision herein to the contrary, moneys in the Reserve Account in excess of the Reserve Requirement shall be withdrawn from the Reserve Account on the Business Day before each Interest Payment Date and transferred to the Debt Service Account to be applied to the interest on the Bonds on the next Interest Payment Date.

Notwithstanding anything to the contrary set forth in this Indenture, amounts on deposit in the Reserve Account shall be applied solely to the payment of debt service due on the Bonds.

### Section 3.8 Rebate Fund.

(a) The Trustee shall establish and maintain a fund separate from any other fund established and maintained hereunder designated as the Rebate Fund and shall establish a separate Rebate Account and Alternative Penalty Account therein. The District shall cause to be deposited in the Rebate Fund such amounts as required under the Tax Certificate. All money at any time deposited in the Rebate Account or the Alternative Penalty Account of the Rebate Fund shall be held by the Trustee in trust, for payment to the United States Treasury. All amounts on deposit in the Rebate Fund shall be governed by this Section 3.8 and the Tax Certificate.

Without limiting the generality of the foregoing, the District agrees that there shall be paid from time to time all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any temporary, proposed or final treasury regulations as may be applicable to the Bonds from time to time, which the District covenants to pay or cause to be paid to the United

States at the times and in the amounts determined under the Tax Certificate. The Trustee agrees to comply with all instructions given to it by the District in accordance with this covenant. The Trustee shall conclusively be deemed to have complied with the provisions of this Section 3.8 if it follows the instructions of the District and shall not be required to take any actions hereunder in the absence of instructions from the District. The Trustee may rely conclusively upon the District's determinations, calculations and certifications required by this Section. The Trustee shall have no responsibility to independently make any calculation or determination or to review the District's calculations hereunder.

(b) Disposition of Unexpended Funds. Any funds remaining in the Accounts of the Rebate Fund with respect to the Bonds after payment in full of such issue and after making the payments required to comply with this Section 3.8 and the Tax Certificate may be withdrawn by the Trustee at the written direction of the District and utilized in any manner by the District.

(c) Survival of Defeasance and Final Payment. Notwithstanding anything in this Section or this Indenture to the contrary, the obligation to comply with the requirements of this Section shall survive the defeasance and final payment of the Bonds.

(d) Amendment Without Consent of Owners. This Section 3.8 may be deleted or amended in any manner without the consent of the Owners, provided that prior to such event there is delivered to the District an opinion of Bond Counsel to the effect that such deletion or amendment will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds issued on a tax exempt basis. Notwithstanding any provision of this Section, if the District shall provide to the Trustee an opinion of a nationally recognized bond or tax counsel that any specified action required under this Section 3.8 is no longer required or that some further or different action is required to maintain the tax-exempt status of interest on the Bonds, the Trustee and the District may conclusively rely on such opinion in complying with the requirements of this Section, and the covenants hereunder shall be deemed to be modified to that extent.

Section 3.9 Costs of Issuance Fund.

(a) The moneys in the Costs of Issuance Fund shall be applied exclusively to pay the Costs of Issuance for the Bonds. Amounts for Costs of Issuance shall be disbursed from the Costs of Issuance Fund by the Trustee only upon receipt of a sequentially numbered written requisition, substantially in the form attached hereto as Exhibit B from the Director of Finance or such other person as is designated in writing to the Trustee by the legislative body of the District. Each such written requisition of the District shall be sufficient evidence to the Trustee of the facts stated therein and the Trustee shall have no duty to confirm the accuracy of such facts.

(b) Upon the receipt of a Certificate of an Authorized Officer that all or a specified portion of the amount remaining in the Costs of Issuance Fund is no longer needed to pay Costs of Issuance, respectively, the Trustee shall transfer all or such specified portion of the moneys remaining on deposit in such account to the Debt Service Account of the Special Tax Fund. Any moneys remaining in the Cost of Issuance Fund on February 15, 2015 shall be transferred to the Debt Service Account of the Special Tax Fund and the Trustee shall close the Costs of Issuance Fund.

Section 3.10 Surplus Fund. There is hereby created and established the "Surplus Fund," to be held by the Director of Finance. After making the transfers required by Sections 3.5, 3.6, 3.7 and 3.8, as soon as practicable after each September 1, the Trustee shall transfer all remaining amounts in

the Special Tax Fund to the District for deposit in the Surplus Fund. Moneys deposited in the Surplus Fund may be transferred by the District (i) to the Trustee for deposit in the Debt Service Account of the Special Tax Fund to pay the principal of, including Sinking Fund Payments, and interest on the Bonds when due in the event that moneys in the Special Tax Fund and the Reserve Account of the Special Tax Fund are insufficient therefor, (ii) to the Trustee for deposit in the Reserve Account in order to replenish the Reserve Account to the Reserve Requirement, (iii) to the Administration Fund to pay Administrative Expenses to the extent that the amounts on deposit in the Administration Fund are insufficient to pay Administrative Expenses, or (iv) may be used by the District for any other lawful purpose of the District.

The amounts in the Surplus Fund are not pledged to the repayment of the Bonds and may be used by the District for any lawful purpose. In the event that the District reasonably expects to use any portion of the moneys in the Surplus Fund to pay debt service on any Outstanding Bonds, the District shall segregate such amount into a separate subaccount and the moneys on deposit in such subaccount of the Surplus Fund shall be invested in Authorized Investments the interest on which is excludable from gross income under Section 103 of the Code (other than bonds the interest on which is a tax preference item for purposes of computing the alternative minimum tax of individuals and corporations under the Code) or in Authorized Investments at a Yield not in excess of the Yield on the Bonds, unless, in the opinion of Bond Counsel, investment at a higher Yield will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds then Outstanding.

Section 3.11 Investments. Moneys held in any of the Funds and Accounts held by the Trustee under this Indenture shall be invested by the Trustee at the written direction of the District in accordance with the limitations set forth below only in Authorized Investments which shall be deemed at all times to be a part of such Funds and Accounts. Any loss resulting from such Authorized Investments shall be charged to the Fund or Account from which such investment was made, and any investment earnings on a Fund or Account shall be applied as follows: (i) investment earnings on all amounts deposited in the Costs of Issuance Fund shall be deposited in that Fund, (ii) investment earnings on all amounts in the Rebate Fund shall be deposited in that Fund, (iii) investment earnings on all amounts deposited in the Reserve Account of the Special Tax Fund shall be used to satisfy the Reserve Requirement and any investment earnings not needed to satisfy the Reserve Requirement shall be withdrawn from the Reserve Account one (1) Business Day before each Interest Payment Date and transferred to the Debt Service Account as provided in Section 3.7 hereof; and (iv) all other investment earnings shall be deposited in the Debt Service Account of the Special Tax Fund. Moneys in the Funds and Accounts held by the Trustee under this Indenture may be invested by the Trustee, upon the written direction of the District, from time to time, in Authorized Investments which written direction shall be made in accordance with the following restrictions:

(a) Moneys in the Costs of Issuance Fund shall be invested in Authorized Investments which will by their terms mature, as close as practicable to the date the District estimates the moneys represented by the particular investment will be needed for withdrawal from the Costs of Issuance Fund.

(b) Moneys in the Debt Service Account of the Special Tax Fund shall be invested only in Authorized Investments which will by their terms mature or are available for withdrawal without penalty, on such dates so as to ensure the payment of principal of, premium, if any, and interest on the Bonds as the same become due.

(c) One-half of the amount in the Reserve Account of the Special Tax Fund may be invested only in Authorized Investments which mature not later than six (6) months from their date of purchase by the Trustee, and one-half of such amount shall be invested in Authorized Investments which mature not more than two (2) years from the date of purchase by the Trustee; provided that such amounts may be invested in an investment or repurchase agreement so long as such amounts may be withdrawn at any time, without penalty, for application in accordance with Section 3.5 hereof; and provided that no such Authorized Investment of amounts in the Reserve Account allocable to the Bonds shall mature later than the respective final maturity date of the Bonds to which such amounts relate.

(d) Moneys in the Rebate Fund shall be invested only in Authorized Investments of the type described in clause (a) of the definition thereof which by their terms will mature, as nearly as practicable, on the dates such amounts are needed to be paid to the United States Government pursuant to Section 3.8 hereof.

The Trustee, at the direction of the District, shall sell, or present for redemption, any Authorized Investments so purchased whenever it may be necessary to do so in order to provide moneys to meet any payment or transfer to such Funds and Accounts or from such Funds and Accounts. For the purpose of determining at any given time the balance in any such Funds and Accounts, any such investments constituting a part of such Funds and Accounts shall be valued at their cost, except that amounts in the Reserve Account shall be valued at the market value thereof at least semiannually on or before each Interest Payment Date. In making any valuations hereunder, the Trustee may utilize such computerized securities pricing services as may be available to it, including without limitation those available through its regular accounting system, and conclusively rely thereon. Notwithstanding anything herein to the contrary, the Trustee shall not be responsible for any loss from investments, sales or transfers undertaken in accordance with the provisions of this Indenture.

The Trustee may act as principal or agent in the making or disposing of any investment and shall be entitled to its customary fee for making such investment. The Trustee may sell or present for redemption, any Authorized Investment so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the Fund or Account to which such Authorized Investment is credited, and, subject to the provisions of Section 7.4, the Trustee shall not be liable or responsible for any loss resulting from such investment. For investment purposes, the Trustee may commingle the funds and accounts established hereunder, but shall account for each separately. In the absence of written investment direction the Trustee shall hold such funds uninvested pending the receipt of written investment instructions. The Trustee may rely on the investment directions of the District as to the suitability and legality of the directed investments.

The District acknowledges that regulations of the Comptroller of the Currency grant the District the right to receive brokerage confirmations of security transactions to be effected by the Trustee hereunder as they occur. The District specifically waives the right to receive such confirmations to the extent permitted by applicable law and agrees that it will instead receive periodic cash transaction statements which shall include detail for the investment transactions effected by the Trustee hereunder; provided, however, that the District retains its right to receive brokerage confirmation on any investment transaction requested by the District.

ARTICLE IV

REDEMPTION OF BONDS

Section 4.1 Redemption of Bonds.

(a) Optional Redemption. The Bonds are subject to call and redemption on any date on and after September 1, 2019, at the option of the District, from any available source of funds prior to their stated maturity, as a whole or in part, and by lot, at a redemption price equal to One Hundred One Percent (101%) of the principal amount to be redeemed, together with accrued interest to the date of redemption.

(b) Mandatory Sinking Fund Redemption. Bonds maturing on September 1, 2035 shall be called before maturity and redeemed, from the Sinking Fund Payments that have been deposited into the Redemption Account, on September 1, 2015, and on each September 1 thereafter prior to maturity, in accordance with the schedule of Sinking Fund Payments set forth below. The Term Bonds so called for redemption shall be selected by the Trustee by lot and shall be redeemed at a redemption price for each redeemed Term Bond equal to the principal amount thereof, plus accrued interest to the redemption date, without premium, as follows:

**Term Bonds Due on September 1, 2035**

<i>Year (September 1)</i>	<i>Principal Amount</i>
2015	\$175,000
2016	90,000
2017	100,000
2018	115,000
2019	120,000
2020	130,000
2021	140,000
2022	155,000
2023	165,000
2024	180,000
2025	195,000
2026	205,000
2027	225,000
2028	240,000
2029	255,000
2030	275,000
2031	290,000
2032	310,000
2033	330,000
2034	350,000
2035 (Maturity)	375,000

In the event the District shall elect to redeem Bonds as provided in Section 4.1(a), the District shall give written notice to the Trustee of its election so to redeem, the redemption date and the principal amount of the Bonds to be redeemed. The notice to the Trustee shall be given at least

35 but no more than 60 days prior to the redemption date or such shorter period as shall be acceptable to the Trustee in the sole determination of the Trustee, such notice for the convenience of the Trustee.

Special Tax Prepayments and amounts released from the Reserve Account in connection with Special Tax Prepayments in accordance with Section 3.7 hereof shall be allocated to the redemption of the Bonds as nearly as practicable on a proportionate basis based on the outstanding principal amount of the Bonds as applied in a written certificate from the District to the Trustee.

(c) Special Mandatory Redemption from Special Tax Prepayments. The Bonds are subject to Special Mandatory Redemption from Special Tax Prepayments as a whole, or in part on a pro rata basis among maturities, on any Interest Payment Date, and shall be redeemed by the Trustee, from Special Tax Prepayments deposited to the Redemption Account pursuant to Section 3.6(b), plus amounts transferred from the Reserve Account pursuant to Section 3.7, at a following redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date of redemption, without premium.

In the event of a partial optional redemption or special mandatory redemption of the Term Bonds, each of the remaining Sinking Fund Payments for such Term Bonds will be reduced, as nearly as practicable, on a pro rata basis. The District shall provide the Trustee with a revised sinking fund schedule.

(d) Purchase of Bonds. In lieu of payment at maturity or redemption, moneys in the Special Tax Fund may be used and withdrawn by the Trustee for purchase of Outstanding Bonds, upon the filing with the Trustee of a Certificate of an Authorized Officer requesting such purchase, at a public or private sale as and when, and at such prices (including brokerage and other charges) as such Certificate of an Authorized Officer may provide, but in no event will Bonds be purchased at a price in excess of the principal amount thereof, plus interest accrued to the date of purchase and any premium which would otherwise be due if the Bonds were to be redeemed in accordance with this Indenture.

Section 4.2 Selection of Bonds for Redemption. If less than all of the Bonds Outstanding are to be redeemed (except with respect to mandatory sinking fund redemption in which case selection shall be by lot), the Trustee shall select Bonds pro rata among maturities and by lot within a maturity. The portion of any Bond of a denomination of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or an integral multiple thereof, and, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of \$5,000 denominations which is obtained by dividing the principal amount of such Bond to be redeemed in part by \$5,000. The Trustee shall promptly notify the District in writing of the Bonds, or portions thereof, selected for redemption.

Section 4.3 Notice of Redemption. When Bonds are to be called for optional or special mandatory redemption under Section 4.1(a) or (c), if the Trustee has received the required notice from the District, the Trustee shall give notice, in the name and at the expense of the District, of the redemption of such Bonds. Such notice of redemption shall (a) specify the serial numbers and the maturity date or dates of the Bonds selected for redemption, except that where all the Bonds subject to redemption, or all the Bonds of one maturity, are to be redeemed, the serial numbers thereof need not be specified; (b) state the date fixed for redemption and surrender of the Bonds to be redeemed; (c) state the redemption price; (d) state the place or places where the Bonds are to be surrendered for

redemption; and (e) in the case of Bonds to be redeemed only in part, state the portion of such Bond which is to be redeemed. Such notice may state that redemption is contingent upon the availability of refunding bond proceeds. Such notice shall further state that on the date fixed for redemption, there shall become due and payable on each Bond or portion thereof called for redemption, the principal thereof, together with any premium, and interest accrued to the redemption date, and that from and after such date, interest thereon shall cease to accrue and be payable. At least 30 days but no more than 60 days prior to the redemption date, the Trustee shall mail a copy of such notice, by first class mail, postage prepaid, to the respective Owners thereof at their addresses appearing on the Bond Register and to the Original Purchaser of the Bonds, or electronically in accordance with the procedures of the Depository with respect to Bonds that the District has elected to register as book-entry Bonds. The actual receipt by the Owner of any Bond or the Original Purchaser of notice of such redemption shall not be a condition precedent to redemption, and neither the failure to receive nor any defect in such notice shall affect the validity of the proceedings for the redemption of such Bonds, or the cessation of interest on the redemption date. A certificate by the Trustee that notice of such redemption has been given as herein provided shall be conclusive as against all parties and the Owner shall not be entitled to show that such Person failed to receive notice of such redemption. The actual receipt by the Owner of any Bond of notice of such redemption shall not be a condition precedent to redemption, and neither the failure to receive such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds, or the cessation of interest on the redemption date. A certificate by the Trustee that notice of such redemption has been given as herein provided shall be conclusive as against all parties, and the Owner shall not be entitled to show that he or she failed to receive notice of such redemption.

With respect to any notice of optional redemption of Bonds, such notice may state that such redemption shall be conditional upon the receipt by the Trustee on or prior to the date fixed for such redemption of moneys sufficient to pay the principal of, premium, if any, and interest on such Bonds to be redeemed and that, if such moneys shall not have been so received, said notice shall be of no force and effect and the Trustee shall not be required to redeem such Bonds. In the event that such notice of redemption contains such a condition and such moneys are not so received, the redemption shall not be made, and the Trustee shall within a reasonable time thereafter give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

Upon the payment of the redemption price of any Bonds being redeemed, each check or other transfer of funds issued for such purpose shall to the extent practicable bear the CUSIP number (if any) identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

**Section 4.4 Partial Redemption of Bonds.** Upon surrender of any Bond to be redeemed in part only, the District shall execute and the Trustee shall authenticate and deliver to the Bondowner, at the expense of the District, a new Bond or Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered, with the same interest rate and the same maturity.

Section 4.5 Effect of Notice and Availability of Redemption Money. Notice of redemption having been duly given, as provided in Section 4.3, and the amount necessary for the redemption having been made available for that purpose and being available therefor on the date fixed for such redemption:

(a) The Bonds, or portions thereof, designated for redemption shall, on the date fixed for redemption, become due and payable at the redemption price thereof as provided in this Indenture, anything in this Indenture or in the Bonds to the contrary notwithstanding;

(b) Upon presentation and surrender thereof at the Corporate Trust Office of the Trustee, the redemption price of such Bonds shall be paid to the Owners thereof;

(c) As of the redemption date the Bonds, or portions thereof so designated for redemption shall be deemed to be no longer Outstanding and such Bonds, or portions thereof, shall cease to bear further interest; and

(d) As of the date fixed for redemption no Owner of any of the Bonds, or portions thereof so designated for redemption shall be entitled to any of the benefits of this Indenture, or to any other rights, except with respect to payment of the redemption price and interest accrued to the redemption date from the amounts so made available.

## ARTICLE V

### COVENANTS AND WARRANTY

Section 5.1 Warranty. The District shall preserve and protect the security pledged hereunder to the Bonds against all claims and demands of all persons.

Section 5.2 Covenants. So long as any of the Bonds issued hereunder are Outstanding and unpaid, the District makes the following covenants with the Bondowners under the provisions of the Act and this Indenture (to be performed by the District or its proper officers, agents or employees), which covenants are necessary and desirable to secure the Bonds and tend to make them more marketable; provided, however, that said covenants do not require the District to expend any funds or moneys other than the Special Taxes and other amounts deposited to the Special Tax Fund:

(a) Punctual Payment; Against Encumbrances. The District covenants that it will receive all Gross Special Taxes in trust and will deposit the Gross Special Taxes with the Trustee, as provided in Section 3.3, and the District shall have no beneficial right or interest in the amounts so deposited except as provided by this Indenture. All such Gross Special Taxes shall be disbursed, allocated and applied solely to the uses and purposes set forth herein, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the District. Notwithstanding the provisions of this Section, as set forth in Section 8.2, the District shall have the right to accept less than the minimum bid on any delinquent parcel, and is indemnified from legal claim for Owners of the Bonds, if the City Council determines that the acceptance of less than the minimum bid or another action as described in Section 8.2 is in the best interest of the District.

The District covenants that it will duly and punctually pay or cause to be paid the principal of and interest on every Bond issued hereunder, together with the premium, if any, thereon on the date, at the place and in the manner set forth in the Bonds and in accordance with this

Indenture to the extent that Net Special Taxes and other amounts pledged hereunder are available therefor, and that the payments into the Funds and Accounts created hereunder will be made, all in strict conformity with the terms of the Bonds and this Indenture, and that it will faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and of the Bonds issued hereunder.

The District will not mortgage or otherwise encumber, pledge or place any charge upon any of the Gross Special Taxes, except as provided in this Indenture, and (except as set forth herein) will not issue any obligation or security having a lien or charge upon the Net Special Taxes superior to or on a parity with the Bonds. Nothing herein shall prevent the District from issuing or incurring indebtedness which is payable from a pledge of Special Taxes which is subordinate in all respects to the pledge of Net Special Taxes to repay the Bonds.

(b) Levy and Collection of Special Tax. Subject to the maximum Special Tax rates, the District will comply with all requirements of the Act so as to assure the timely collection of the Special Taxes, including without limitation, the enforcement of delinquent Special Taxes.

On or before each June 1, commencing June 1, 2015, the Trustee shall provide a written notice to the District stating the amounts then on deposit in the various funds and accounts established by the Trustee pursuant to this Indenture. The receipt of such notice by the District shall in no way affect the obligations of the District under the following paragraphs. Upon receipt of a copy of such notice, the District shall communicate with the Treasurer or other appropriate official of the County to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits during the preceding and then current year.

The District shall retain a Special Tax Consultant to assist in the levy of the Special Taxes each Fiscal Year, commencing Fiscal Year 2015-16, in accordance with the Ordinance, such that the computation of the levy is complete before the final date on which the Treasurer will accept the transmission of the Special Tax amounts for the parcels within the District for inclusion on the next secured tax roll. Upon the completion of the computation of the amounts of the levy, and approval by the legislative body of the District, the District shall prepare or cause to be prepared, and shall transmit to the Treasurer, such data as the Treasurer requires to include the levy of the Special Taxes on the next secured tax roll.

The District shall fix and levy the amount of Special Taxes within the District required for the payment of principal of and interest on Outstanding Bonds becoming due and payable during the ensuing year including any necessary replenishment or expenditure of the Reserve Account for the Bonds, an amount equal to the estimated Administrative Expenses and any additional amounts necessary for expenses incurred in connection with administration or enforcement of delinquent Special Taxes. The District further covenants that it will take no actions that would discontinue or cause the discontinuance of the Special Tax levy or the District's authority to levy the Special Tax for so long as the Bonds are Outstanding, including the initiation of proceedings under the Act to reduce the Maximum Special Tax rates (the "Maximum Rates") on Taxable Property in the District below the amounts which are necessary to pay Administrative Expenses and to provide Special Taxes in an amount equal to one hundred ten percent (110%) of Maximum Annual Debt Service on the Outstanding Bonds.

The Special Taxes shall be payable and collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same

priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property; provided, the legislative body of the District may provide for direct collection of the Special Taxes in certain circumstances.

The fees and expenses of the Special Tax Consultant retained by the District to assist in computing the levy of the Special Taxes hereunder and any reconciliation of amounts levied to amount received, as well as the costs and expenses of the District (including a charge for District staff time) in conducting its duties hereunder, shall be an Administrative Expense hereunder.

(c) Commence Foreclosure Proceedings. Pursuant to Section 53356.1 of the Act, the District hereby covenants with and for the benefit of the Bondowners that it will order, and cause to be commenced, on or before September 1 of the Fiscal Year immediately following the Fiscal Year in which a delinquency in the payment of a Special Tax occurs, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due, provided that the District need not commence or pursue such proceedings with respect to any property owned by a single property owner who is delinquent in the payment of Special Taxes for two or less Fiscal Years if both (i) the aggregate amount of such delinquent Special Taxes does not exceed 5% of the total Special Taxes due and payable for the Fiscal Year in question (ii) the balance on deposit in the Reserve Account of the Special Tax Fund is not less than the Reserve Requirement.

Special Taxes collected as a result of a foreclosure proceeding shall be deposited in the Special Tax Fund and only inure to the benefit of the Bonds in the manner provided in Section 3.2.

(d) Payment of Claims. The District will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Net Special Taxes or any part thereof, or upon any funds in the hands of the Trustee, or which might impair the security of the Bonds then Outstanding; provided however that nothing herein contained shall require the District to make any such payments so long as the District in good faith shall contest the validity of any such claims.

(e) Books and Accounts. The District will keep proper books of records and accounts, separate from all other records and accounts of the District, in which complete and correct entries shall be made of all transactions relating to the levy of the Special Tax and the deposits to the Special Tax Fund. Such books of records and accounts shall at all times during business hours be subject to the inspection of the Owners of not less than ten percent (10%) of the principal amount of the Bonds then Outstanding or their representatives authorized in writing.

(f) Federal Tax Covenants. Notwithstanding any other provision of this Indenture, absent an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the Bonds issued on a tax-exempt basis will not be adversely affected, the District covenants to comply with all applicable requirements of the Code necessary to preserve such exclusion from gross income and specifically covenants, without limiting the generality of the foregoing, as follows:

(1) Private Activity. The District will take no action or refrain from taking any action or make any use of the proceeds of the Bonds or of any other moneys or property

which would cause the Bonds issued on a tax-exempt basis for federal income tax purposes to be “private activity bonds” within the meaning of Section 141 of the Code.

(2) Arbitrage. The District will make no use of the proceeds of the Bonds or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action which will cause the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(3) Federal Guaranty. The District will make no use of the proceeds of the Bonds or take or omit to take any action that would cause the Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(4) Information Reporting. The District will take or cause to be taken all necessary action to comply with the informational reporting requirement of Section 149(e) of the Code.

(5) Hedge Bonds. The District will make no use of the proceeds of the Bonds or any other amounts or property, regardless of the source, or take any action or refrain from taking any action that would cause the Bonds to be considered “hedge bonds” within the meaning of Section 149(g) of the Code unless the District takes all necessary action to assure compliance with the requirements of Section 149(g) of the Code to maintain the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(6) Miscellaneous. The District will take no action or refrain from taking any action inconsistent with its expectations stated in the Tax Certificate executed on the Delivery Date by the District in connection with the Bonds and will comply with the covenants and requirements stated therein and incorporated by reference herein.

(g) Covenants to Defend. The District covenants that, in the event that any initiative is adopted by the qualified electors in the District or any other legal action taken which purports to reduce the maximum Special Tax below the levels specified in Section 5.2(b) above or to challenge or limit the power of the District to levy the Special Taxes for the purposes set forth in Section 5.2(b) above, it will commence and pursue legal action or defend such legal action in order to preserve its ability to comply with such covenants.

(h) Limitation on Right to Tender Bonds. The District hereby covenants that it will not adopt any policy pursuant to Section 53341.1 of the Act permitting the tender of Bonds in full payment or partial payment of any Special Tax unless the District shall have first received a certificate from an Independent Financial Consultant that the acceptance of such a tender will not result in the District having insufficient Special Tax revenues to pay the principal of and interest on the Bonds when due.

(i) Continuing Disclosure. So long as the Bonds remain Outstanding, within 270 days of the end of each Fiscal Year, the District shall provide the Bondowner with: (1) an annual audited financial statement prepared in accordance with generally accepted accounting principles as promulgated to apply to government entities from time to time by the Governmental Accounting Standards Board; and (2) any information not already included under the foregoing item (1) that the District is required to file in its annual report to the California Debt and Investment Advisory Commission pursuant to the provisions of the Act. All information required to be provided

by the District pursuant to this Section 5.2(i) may be furnished to the Bondowner or to the Electronic Municipal Market Access website of the Municipal Securities Rulemaking Board (“EMMA”), together with notice to the Bondowner that information required by this section has been posted on EMMA. Notwithstanding any other provision of this Indenture, failure of the District to comply with this Section 5.2(i) shall not be considered an Event of Default; however, any Bondowner or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to comply with its obligations under this Section 5.2(i). For purposes of this Section, “Beneficial Owner” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bond (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bond for federal income tax purposes.

(j) Opinions. In the event that an opinion is rendered by Bond Counsel as provided herein from a firm other than the firm which rendered the Bond Counsel opinion at closing, such subsequent opinion by Bond Counsel shall also include the conclusions set forth in numbered paragraphs 1, 2, 3, 4 and 5 of the original Bond Counsel opinion.

(k) Further Assurances. The District shall make, execute and deliver any and all such further agreements, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture and for the better assuring and confirming unto the Owners of the Bonds of the rights and benefits provided in this Indenture.

## ARTICLE VI

### AMENDMENTS TO INDENTURE

Section 6.1 Supplemental Indentures or Orders Not Requiring Bondowner Consent. The District may from time to time, and at any time, without notice to or consent of any of the Bondowners, adopt Supplemental Indentures for any of the following purposes:

(a) to cure any ambiguity, to correct or supplement any provisions herein which may be inconsistent with any other provision herein, or to make any other provision with respect to matters or questions arising under this Indenture or in any Supplemental Indenture, provided that such action is not materially adverse to the interests of the Bondowners;

(b) to add to the covenants and agreements of and the limitations and the restrictions upon the District contained in this Indenture, other covenants, agreements, limitations and restrictions to be observed by the District which are not contrary to or inconsistent with this Indenture as theretofore in effect or which further secure Bond payments;

(c) to modify, amend or supplement this Indenture in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, or to comply with the Code or regulations issued thereunder, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute, and which shall not materially adversely affect the interests of the Owners of the Bonds then Outstanding;

(d) to modify, alter or amend the Rate and Method of Apportionment in any manner so long as such changes do not reduce the maximum Special Taxes that may be levied in

each year on Developed Property (as defined in the Rate and Method of Apportionment) below the amounts which are necessary to pay Administrative Expenses and to provide Special Taxes in an amount equal to one hundred ten percent (110%) of Maximum Annual Debt Service on the Bonds Outstanding as of the date of such amendment;

(e) to modify, alter, amend or supplement this Indenture in any other respect which is not materially adverse to the Bondowners; provided that any amendment or supplement to this Indenture which will affect the Trustee's duties or protections set forth hereunder shall be effective only upon written consent of the Trustee; or

Section 6.2 Supplemental Indentures or Orders Requiring Bondowner Consent. Exclusive of the Supplemental Indentures set forth in Section 6.1, the Owners of not less than a majority of in aggregate principal amount of the Bonds Outstanding shall have the right to consent to and approve the adoption by the District of such Supplemental Indentures as shall be deemed necessary or desirable by the District for the purpose of waiving, modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture; provided, however, that nothing herein shall permit, or be construed as permitting, (a) an extension of the maturity date of the principal, or the payment date of interest on, any Bond; (b) a reduction in the principal amount of, or redemption premium on, any Bond or the rate of interest thereon; (c) a preference or priority of any Bond over any other Bond; or (d) a reduction in the aggregate principal amount of the Bonds the Owners of which are required to consent to such Supplemental Indenture, without the consent of the Owners of all Bonds then Outstanding.

If at any time the District shall desire to adopt a Supplemental Indenture, which pursuant to the terms of this Section shall require the consent of the Bondowners, the District shall so notify the Trustee and shall deliver to the Trustee a copy of the proposed Supplemental Indenture. The Trustee shall, at the expense of the District, cause notice of the proposed Supplemental Indenture to be mailed, by first class mail, postage prepaid, to all Bondowners at their addresses as they appear in the Bond Register. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that a copy thereof is on file at the office of the Trustee for inspection by all Bondowners. The failure of any Bondowners to receive such notice shall not affect the validity of such Supplemental Indenture when consented to and approved by the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding as required by this Section. Whenever at any time within one year after the date of the first mailing of such notice, the Trustee shall receive an instrument or instruments purporting to be executed by the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding, which instrument or instruments shall refer to the proposed Supplemental Indenture described in such notice, and shall specifically consent to and approve the adoption thereof by the District substantially in the form of the copy referred to in such notice as on file with the Trustee, such proposed Supplemental Indenture, when duly adopted by the District, shall thereafter become a part of the proceedings for the issuance of the Bonds. In determining whether the Owners of a majority of the aggregate principal amount of the Bonds have consented to the adoption of any Supplemental Indenture, Bonds which are owned by the District or by any Person directly or indirectly controlling or controlled by or under the direct or indirect common control with the District, shall be disregarded and shall be treated as though they were not Outstanding for the purpose of any such determination.

Upon the adoption of any Supplemental Indenture and the receipt of consent to any such Supplemental Indenture from the Owners of not less than a majority in aggregate principal amount of the Outstanding Bonds in instances where such consent is required pursuant to the provisions of this

section, this Indenture shall be, and shall be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the District and all Owners of Outstanding Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

Section 6.3 Notation of Bonds; Delivery of Amended Bonds. After the effective date of any action taken as hereinabove provided, the District may determine that the Bonds may bear a notation, by endorsement in form approved by the District, as to such action, and in that case upon demand of the Owner of any Outstanding Bond at such effective date and presentation of his Bond for the purpose at the office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, a suitable notation as to such action shall be made on such Bonds. If the District shall so determine, new Bonds so modified as, in the opinion of the District, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Owner of any Outstanding Bond at such effective date such new Bonds shall be exchanged at the Principal Office of the Trustee or at such additional offices as the Trustee may select and designate for that purpose, without cost to each Owner of Outstanding Bonds, upon surrender of such Outstanding Bonds.

## ARTICLE VII

### TRUSTEE

Section 7.1 Trustee. U.S. Bank National Association, having a corporate trust office in San Francisco, California, is hereby appointed Trustee for the District for the purpose of receiving all money which the District is required to deposit with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. In the event that the District fails to deposit with the Trustee any amount due hereunder when due, the Trustee shall provide written notice to the District.

The Trustee is hereby authorized to and shall mail by first class mail, postage prepaid, or pay by wire transfer as provided in Section 2.5 hereof, interest payments to the Bondowners, to select Bonds for redemption, and to maintain the Bond Register. The Trustee is hereby authorized to pay the principal of and premium, if any, on the Bonds when the same are duly presented to it for payment at maturity or on call and redemption, to provide for the registration of transfer and exchange of Bonds presented to it for such purposes, to provide for the cancellation of Bonds all as provided in this Indenture, and to provide for the authentication of Bonds, and shall perform all other duties assigned to or imposed on it as provided in this Indenture. The Trustee shall keep accurate records of all funds administered by it and all Bonds paid, discharged and cancelled by it. The Trustee shall deliver to the District a monthly accounting of the Funds and Accounts it holds under this Indenture; provided, however, that the Trustee shall not be obligated to deliver such accounting for any Fund or Account that has a balance of zero. The Trustee may establish such Funds and Accounts as it deems necessary or appropriate to perform its obligations hereunder.

The Trustee is hereby authorized to redeem the Bonds when duly presented for payment at maturity, or on redemption prior to maturity. The Trustee shall cancel all Bonds upon payment thereof in accordance with the provisions of Section 10.1 hereof.

The District shall from time to time, subject to any agreement between the District and the Trustee then in force, pay to the Trustee compensation for its services, reimburse the Trustee for all its advances and expenditures, including, but not limited to, advances to and fees and expenses of

independent accountants or counsel employed by it in the exercise and performance of its powers and duties hereunder, and indemnify and save the Trustee, its officers, directors, employees and agents, harmless from and against costs, claims, expenses, including legal fees and expenses, and liabilities not arising from its own negligence or willful misconduct which it may incur in the exercise and performance of its powers and duties hereunder. The obligations of the District under this Section shall survive the discharge of the Bonds and the resignation or removal of the Trustee.

Section 7.2 Removal of Trustee. The District may at any time at its sole discretion remove the Trustee initially appointed, and any successor thereto, by delivering to the Trustee a written notice of its decision to remove the Trustee and may appoint a successor or successors thereto; provided that any such successor shall be a bank, national banking association or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least fifty million dollars (\$50,000,000), and subject to supervision or examination by federal or state authority. Any removal shall become effective only upon acceptance of appointment by the successor Trustee. If any bank, national banking association or trust company appointed as a successor publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section the combined capital and surplus of such bank, national banking association or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Section 7.3 Resignation of Trustee. The Trustee may at any time resign by giving written notice to the District and by giving to the Owners notice of such resignation, which notice shall be mailed to the Owners at their addresses appearing in the registration books in the office of the Trustee. Upon receiving such notice of resignation, the District shall promptly appoint by an instrument in writing a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee. If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within thirty (30) days after the Trustee shall have given to the District and the Owners written notice, the Trustee, at the expense of the District, or the District may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee, which successor shall be acceptable to the District.

Section 7.4 Liability of Trustee. The recitals of fact and all promises, covenants and agreements contained herein and in the Bonds shall be taken as statements, promises, covenants and agreements of the District, and the Trustee assumes no responsibility for the correctness of the same and makes no representations as to the validity or sufficiency of this Indenture or the Bonds and shall incur no responsibility in respect thereof, other than in connection with its duties or obligations specifically set forth herein, in the Bonds, or in the certificate of authentication assigned to or imposed upon the Trustee. The Trustee shall be under no responsibility or duty with respect to the issuance of the Bonds for value. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

The Trustee shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, Bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, who may be counsel to the District, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered hereunder in good faith and in accordance therewith.

The Trustee shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by a written certificate of the District, and such certificate shall be full warrant to the Trustee for any action taken or suffered under the provisions of this Indenture upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Trustee shall have no responsibility with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds.

No provision of this Indenture or any other document related hereto shall require the Trustee to risk or advance its own funds or otherwise incur any financial liability in the performance of its duties or the exercise of its rights hereunder.

The immunities extended to the Trustee also extend to its directors, officers, employees and agents. The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means ("Electronic Means" shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the District shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the District whenever a person is to be added or deleted from the listing. If the District elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The District understands and agrees that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The District shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the District and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the District. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The District agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the District; (iii) that the security procedures (if any) to be

followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedure.

The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

The Trustee shall not be responsible for or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived) the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Owners pursuant to the provisions of this Indenture unless such Owners shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which may be incurred therein or thereby.

The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder either directly or by or through attorneys or agents, shall not be liable for the acts or omissions of such attorneys or agents appointed with due care, and shall be entitled to rely on advice of counsel concerning all matters of trust and its duty hereunder.

The Trustee shall not be deemed to have knowledge of any Event of Default unless and until it shall have actual knowledge thereof by receipt of written notice thereof at Corporate Trust Office of the Trustee.

The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its negligence or willful misconduct.

Section 7.5 Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

## ARTICLE VIII

### EVENTS OF DEFAULT; REMEDIES

Section 8.1 Events of Default. Any one or more of the following events shall constitute an "Event of Default":

(a) Default in the due and punctual payment of the principal of or redemption premium, if any, on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) Default in the due and punctual payment of the interest on any Bond when and as the same shall become due and payable; or

(c) Except as described in (a) or (b), default shall be made by the District in the observance of any of the agreements, conditions or covenants on its part contained in this Indenture, the Bonds, and such default shall have continued for a period of thirty (30) days after the District shall have been given notice in writing of such default by the Trustee or the Owners of twenty-five percent (25%) in aggregate principal amount of the Outstanding Bonds.

Section 8.2 Remedies of Owners. Following the occurrence of an Event of Default, any Owner shall have the right for the equal benefit and protection of all Owners similarly situated:

(a) By mandamus or other suit or proceeding at law or in equity to enforce his rights against the District and any of the members, officers and employees of the District, and to compel the District or any such members, officers or employees to perform and carry out their duties under the Act and their agreements with the Owners as provided in this Indenture;

(b) By suit in equity to enjoin any actions or things which are unlawful or violate the rights of the Owners; or

(c) By a suit in equity to require the District and its members, officers and employees to account as the trustee of an express trust.

Nothing in this Article or in any other provision of this Indenture, or in the Bonds shall affect or impair the obligation of the District, which is absolute and unconditional, to pay the interest on and principal of the Bonds to the respective Owners thereof at the respective dates of maturity, as herein provided, out of the Net Special Taxes pledged for such payment, or affect or impair the right of action, which is also absolute and unconditional, of such Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds and in this Indenture. The principal of the Bonds shall not be subject to acceleration hereunder.

A waiver of any default or breach of duty or contract by any Owner shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission by any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by the Act or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners.

If any suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, the District and the Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Act or any other law.

In case the moneys held by the Trustee after an Event of Default pursuant to Section 8.1(a) or (b) shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, after payment of all reasonable fees and expenses, including reasonable legal fees and expenses of the Trustee incurred in the course of the performance of its powers and duties under this Indenture, then all available amounts shall be applied to the payment of such principal and interest without preference or priority of principal over interest, or interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest, and to restore the Reserve Account to the Reserve Requirement.

## ARTICLE IX

### DEFEASANCE

Section 9.1 Defeasance. If the District shall pay or cause to be paid, or there shall otherwise be paid, to the Owner of an Outstanding Bond the interest due thereon and the principal thereof, at the times and in the manner stipulated in this Indenture or any Supplemental Indenture, then the Owner of such Bond shall cease to be entitled to the pledge of Net Special Taxes, and, other than as set forth below, all covenants, agreements and other obligations of the District to the Owner of such Bond under this Indenture shall thereupon cease, terminate and become void and be discharged and satisfied. In the event of a defeasance of all Outstanding Bonds pursuant to this Section, upon payment of all amounts owed by the District to the Trustee hereunder, the Trustee shall execute and deliver to the District all such instruments as may be desirable to evidence such discharge and satisfaction, and the Trustee shall, after payment of amounts payable to the Trustee hereunder, pay over or deliver to the District's general fund all money or securities held by it pursuant to this Indenture which are not required for the payment of the interest due on and the principal of such Bonds.

Any Outstanding Bond shall be deemed to have been paid within the meaning expressed in the first paragraph of this section if such Bond is paid in any one or more of the following ways:

(a) by paying or causing to be paid the principal of, premium, if any, and interest on such Bond, as and when the same become due and payable;

(b) by depositing with the Trustee, in trust, at or before maturity, money which, together with the amounts then on deposit in the Special Tax Fund are available for such purpose, is fully sufficient to pay the principal of, premium, if any, and interest on such Bond, as and when the same shall become due and payable; or

(c) by depositing with the Trustee, or another escrow bank appointed by the District, in trust, direct, noncallable Federal Securities, of the type defined in the definition thereof set forth in Section 1.1 hereof, in which the District may lawfully invest its money, in such amount as an Independent Financial Consultant shall determine will be sufficient, together with the interest to accrue thereon and moneys then on deposit in the Special Tax Fund are available for such purpose, together with the interest to accrue thereon, to pay and discharge the principal of, premium, if any, and interest on such Bond, as and when the same shall become due and payable;

If paid as provided above, then, at the election of the District, and notwithstanding that any Outstanding Bonds shall not have been surrendered for payment, all obligations of the District under this Indenture and any Supplemental Indenture with respect to such Bond shall cease and terminate, except for the obligation of the Trustee to pay or cause to be paid to the Owners of any such Bond not so surrendered and paid, all sums due thereon and except for the covenants of the District contained in Section 5.2(f) relating to compliance with the Code. Notice of such election shall be filed with the Trustee not less than thirty (30) days prior to the proposed defeasance date. In connection with a defeasance under (b) or (c) above, there shall be provided to the Trustee (i) a report of an independent firm of nationally recognized certified public accountants ("Certified Public Accountant") verifying the sufficiency of the escrow established to pay the Bonds in full on the maturity or the redemption date; (ii) an escrow agreement; (iii) an opinion of Bond Counsel (which may rely upon the opinion of the Certified Public Accountant) to the effect that the Bonds being defeased have been legally defeased in accordance with this Indenture and any applicable Supplemental Indenture; and (iv) a certificate of discharge of the Trustee with respect to the Bonds (which may rely upon the defeasance opinion of Bond Counsel). The opinion of Bond Counsel and Certified Public Accountant's report referred to above shall be acceptable in form and substance, and addressed, to the District and the Trustee.

The Bonds shall be deemed Outstanding under this Indenture unless and until they are in fact paid and retired or the above criteria are met.

Upon a defeasance, the Trustee, upon request of the District, shall release the rights of the Owners of such Bonds which have been defeased under this Indenture and any Supplemental Indenture and execute and deliver to the District all such instruments as may be desirable to evidence such release, discharge and satisfaction. In the case of a defeasance hereunder of all Outstanding Bonds, the Trustee shall pay over or deliver to the District any funds held by the Trustee at the time of a defeasance, which are not required for the purpose of paying and discharging the principal of or interest on the Bonds when due and any fees and expenses of the Trustee remaining unpaid. The Trustee shall, at the written direction of the District, mail, first class, postage prepaid, a notice to the Bondowners whose Bonds have been defeased, in the form directed by the District, stating that the defeasance has occurred.

## ARTICLE X

### MISCELLANEOUS

Section 10.1 Cancellation of Bonds. All Bonds surrendered to the Trustee for payment upon maturity or for redemption shall upon payment therefor and any Bond purchased by the District as authorized herein shall be cancelled forthwith and shall not be reissued. The Trustee shall destroy such Bonds, as provided by law, and, upon written request from the District, furnish to the District a certificate of such destruction.

Section 10.2 Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Indenture to be signed or executed by Bondowners may be in any number of concurrent instruments of similar tenor may be signed or executed by such Owners in person or by their attorneys appointed by an instrument in writing for that purpose, or by the bank, trust company or other depository for such Bonds. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, and of the ownership of Bonds shall be sufficient for the purposes of this Indenture (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or his or her attorney of any such instrument and of any instrument appointing any such attorney, may be proved by a signature guarantee of any bank or trust company located within the United States of America. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee shall also constitute sufficient proof of his authority.

(b) As to any Bond, the person in whose name the same shall be registered in the Bond Register shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond, and the interest thereon, shall be made only to or upon the order of the registered Owner thereof or his or her legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond and the interest thereon to the extent of the sum or sums to be paid. Neither the District nor the Trustee shall be affected by any notice to the contrary.

Nothing contained in this Indenture shall be construed as limiting the Trustee or the District to such proof, it being intended that the Trustee or the District may accept any other evidence of the matters herein stated which the Trustee or the District may deem sufficient. Any request or consent of the Owner of any Bond shall bind every future Owner of the same Bond in respect of anything done or suffered to be done by the Trustee in pursuance of such request or consent.

Section 10.3 Unclaimed Moneys. Anything in this Indenture to the contrary notwithstanding and subject to the escheat laws of the State, any money held by the Trustee in trust for the payment and discharge of any of the Outstanding Bonds which remain unclaimed for two (2) years after the date when such Outstanding Bonds have become due and payable, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the said date when such Outstanding Bonds become due and payable, shall be repaid by the Trustee to the District, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the District for the payment of such Outstanding Bonds; provided, however, that, before being required to make any such payment to the District, the Trustee shall, at the expense of the District, cause to be mailed to the registered Owners of such Outstanding Bonds at their addresses as they appear on the registration books of the Trustee a notice that said money remains unclaimed and that, after a date named in said notice, which date shall not be less than thirty (30) days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the District.

Section 10.4 Provisions Constitute Contract. The provisions of this Indenture shall constitute a contract between the District, the Trustee and the Bondowners and the provisions hereof shall be construed in accordance with the laws of the State of California.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and, should said suit, action or proceeding be abandoned, or be determined adversely to the Bondowners or the Trustee, then the District, the Trustee and the Bondowners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

After the issuance and delivery of the Bonds this Indenture shall be irrevocable, but shall be subject to modifications to the extent and in the manner provided in this Indenture, but to no greater extent and in no other manner.

Section 10.5 Future Contracts. Nothing herein contained shall be deemed to restrict or prohibit the District from making contracts or creating bonded or other indebtedness payable from a pledge of the Net Special Taxes which are subordinate to the pledge hereunder, or which is payable from the general fund of the District or from taxes or any source other than the Net Special Taxes as defined herein.

Section 10.6 Further Assurances. The District will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.


Section 10.7 Severability. If any covenant, agreement or provision, or any portion thereof, contained in this Indenture, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this Indenture and the application of any such covenant, agreement or provision, or portion thereof, to other persons or circumstances, shall be deemed severable and shall not be affected thereby, and this Indenture and the Bonds issued pursuant hereto shall remain valid and the Bondowners shall retain all valid rights and benefits accorded to them under the laws of the State of California.

Section 10.8 Notices. Any notices required to be given to the District with respect to the Bonds or this Indenture shall be mailed, first class, postage prepaid or personally delivered to the City Manager of the City of Modesto, 1010 10<sup>th</sup> Street, Modesto, California 95354, and all notices to the Trustee shall be mailed, first class, or personally delivered to the Trustee at One California Street, Suite 1000, San Francisco, California 94111, Attention: Global Corporate Trust Services, Ref: City of Modesto Community Facilities District No. 2003-1.


Section 10.9 Action on Next Business Day. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, is not a Business Day, such payment, with no interest accruing for the period from and after such nominal date, may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided therefore in this Indenture.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

SIGNED AND APPROVED as of the day and year first written above by the Mayor of the City of Modesto, acting on behalf of CITY OF MODESTO FACILITIES COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) and attested to by the City Clerk and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the duties of the Trustee created hereunder, has caused this Indenture to be signed in its corporate name by its officer identified below, all as of the day and year first above written.

By:   
Mayor of the City of Modesto, for and on behalf  
of City of Modesto Community Facilities  
District No. 2003-1 (Fairview Village)

ATTEST:

  
City Clerk of the City of Modesto,  
acting on behalf of City of Modesto  
Community Facilities District No. 2003-1

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Officer

SIGNED AND APPROVED as of the day and year first written above by the Mayor of the City of Modesto, acting on behalf of CITY OF MODESTO FACILITIES COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) and attested to by the City Clerk and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the duties of the Trustee created hereunder, has caused this Indenture to be signed in its corporate name by its officer identified below, all as of the day and year first above written.

By: \_\_\_\_\_  
Mayor of the City of Modesto, for and on behalf  
of City of Modesto Community Facilities  
District No. 2003-1 (Fairview Village)

ATTEST:

\_\_\_\_\_  
City Clerk of the City of Modesto,  
acting on behalf of City of Modesto  
Community Facilities District No. 2003-1

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: *Myra D. Chant*  
Authorized Officer

**EXHIBIT A**

**[FORM OF BOND]**

***THIS BOND MAY ONLY BE TRANSFERRED TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF SECTION 2(A)(15) OF THE SECURITIES ACT OF 1933, AS AMENDED, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE INDENTURE.***

No. \_\_\_\_\_

\$ \_\_\_\_\_

**UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
COUNTY OF STANISLAUS**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP® NUMBER
_____ %	September 1, _____	_____, 2014	_____

REGISTERED OWNER: CITY NATIONAL BANK

PRINCIPAL AMOUNT: \_\_\_\_\_ AND NO/100 DOLLARS

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (the "District"), located in the City of Modesto, County of Stanislaus, State of California, FOR VALUE RECEIVED, hereby promises to pay, solely from certain amounts held under the Indenture (as hereinafter defined), to the Registered Owner named above, or registered assigns, on the Maturity Date set forth above, unless redeemed prior thereto as hereinafter provided, the Principal Amount set forth above, and to pay interest on such Principal Amount from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication hereof to which interest has been paid or duly provided in full, unless (i) the date of authentication is an Interest Payment Date in which event interest shall be payable from such date of authentication, (ii) the date of authentication is after a Record Date (as hereinafter defined) but prior to the immediately succeeding Interest Payment Date, in which event interest shall be payable from the Interest Payment Date immediately succeeding the date of authentication or (iii) the date of authentication is prior to the close of business on the first Record Date in which event interest shall be payable from the Dated Date set forth above. Notwithstanding the foregoing, that if at the time of authentication of this Bond interest is in default, interest on this Bond shall be payable from the last Interest Payment Date to which the interest has been paid or made available for payment or, if no interest has been paid or made available for payment, interest on this Bond shall be payable from the Dated Date set forth above. Interest will be paid semiannually on March 1 and September 1 (each, an "Interest Payment Date"), commencing March 1, 2015, at the Interest Rate set forth above, until the Principal Amount hereof is paid or made available for payment.

The principal of and premium, if any, on this Bond are payable to the Registered Owner hereof in lawful money of the United States of America upon presentation and surrender of this Bond at the Principal Office of the Trustee (as such term is defined in the Indenture), initially U.S. Bank National Association, (the "Trustee"). Interest on this Bond shall be paid by check of the Trustee mailed, by first class mail, postage prepaid, or in certain circumstances described in the Indenture by wire transfer to an account within the United States of America, to the Registered Owner hereof as of the close of business on the fifteenth day of the month preceding the month in which the Interest Payment Date occurs (the "Record Date") at such Registered Owner's address as it appears on the registration books maintained by the Trustee. Notwithstanding any provision herein or in the Indenture to the contrary, so long as this Bond is owned by the Original Purchaser (as defined in the Indenture), (i) the Trustee shall pay principal of and interest and redemption premium, if any, on the Bonds when due by wire transfer in immediately available funds to the Original Purchaser in accordance with such wire transfer instructions as shall be filed by the Original Purchaser with the Trustee from time to time, (ii) payments of principal on the Bonds shall be made without the requirement for presentation and surrender by the Original Purchaser, provided that principal which is payable at maturity shall be made only upon presentation and surrender at the Principal Office of the Trustee, and (iii) the Trustee shall not be required to give notice to the Original Purchaser of the sinking fund payments as described in the Indenture.

This Bond is one of a duly authorized issue of "City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds" (the "Bonds") issued in the aggregate principal amount of \$4,420,000 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Sections 53311, *et seq.*, of the California Government Code (the "Act"), for the purpose of refunding the District's 2005 Special Tax Bonds, paying certain costs related to the issuance of the Bonds and funding a reserve account. The issuance of the Bonds and the terms and conditions thereof are provided for by a resolution adopted by the City Council of the City of Modesto, acting in its capacity as the legislative body of the District (the "Legislative Body") on October 14, 2014, and a Bond Indenture dated as of December 1, 2014, by and between the District and the Trustee, executed in connection therewith (the "Indenture"), and this reference incorporates the Indenture herein, and by acceptance hereof the Registered Owner of this Bond assents to said terms and conditions. The Indenture is executed under and this Bond is issued under, and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act and the Indenture, the principal of, premium, if any, and interest on this Bond are payable solely from the portion of the annual special taxes authorized under the Act to be levied and collected within the District and which are pledged to the repayment of the Bonds (the "Net Special Taxes"). Any amounts for the payment hereof shall be limited to the Net Special Taxes pledged and collected or foreclosure proceeds received following a default in payment of the Net Special Taxes and other amounts on deposit in the Special Tax Fund, except to the extent that other provision for payment has been made by the Legislative Body, as may be permitted by law. The District has covenanted for the benefit of the owners of the Bonds that under certain circumstances it will commence and diligently pursue to completion appropriate foreclosure proceedings in the event of delinquencies of Special Tax installments levied for payment of principal and interest on the Bonds.

The Bonds are subject to call and redemption on any date on and after September 1, 2019, at the option of the District, from any available source of funds prior to their stated maturity, as a whole or in part, and by lot, at a redemption price equal to One Hundred One Percent (101%) of the principal amount to be redeemed, together with accrued interest to the date of redemption.

The Bonds maturing on September 1, 2035 are subject to mandatory sinking fund redemption in part, by lot, on September 1, 2015 and on each September 1 thereafter to maturity, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, as follows:

**Term Bonds Due on September 1, 2035**

<i>Year (September 1)</i>	<i>Principal Amount</i>
2015	\$175,000
2016	90,000
2017	100,000
2018	115,000
2019	120,000
2020	130,000
2021	140,000
2022	155,000
2023	165,000
2024	180,000
2025	195,000
2026	205,000
2027	225,000
2028	240,000
2029	255,000
2030	275,000
2031	290,000
2032	310,000
2033	330,000
2034	350,000
2035 (Maturity)	375,000

The Bonds are subject to Special Mandatory Redemption from Special Tax Prepayments on any Interest Payment Date, in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date of redemption, without premium.

Notice of redemption with respect to the Bonds to be redeemed shall be mailed to the registered owners thereof not less than 30 nor more than 60 days prior to the redemption date by first class mail, postage prepaid, to the addresses set forth in the registration books. Neither a failure of the Registered Owner hereof to receive such notice nor any defect therein will affect the validity of the proceedings for redemption. All Bonds or portions thereof so called for redemption will cease to accrue interest on the specified redemption date; provided that funds for the redemption are on deposit with the Trustee on the redemption date. Thereafter, the registered owners of such Bonds shall have no rights except to receive payment of the redemption price upon the surrender of the Bonds.

This Bond shall be registered in the name of the Registered Owner hereof, as to both principal and interest, and the District and the Trustee may treat the Registered Owner hereof as the absolute owner for all purposes and shall not be affected by any notice to the contrary.

The Bonds are issuable only in fully-registered form in the denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof and may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations of the same issue and maturity, all as more fully set forth in the Indenture. This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond of authorized denomination or denominations for the same aggregate principal amount of the same issue and maturity will be issued to the transferee in exchange therefor.

The Trustee shall not be required to register transfers or make exchanges of (i) any Bonds for a period of 15 days next preceding any selection of the Bonds to be redeemed, or (ii) any Bonds chosen for redemption.

The rights and obligations of the District and of the registered owners of the Bonds may be amended at any time, and in certain cases without notice to or the consent of the registered owners, to the extent and upon the terms provided in the Indenture.

The principal of this Bond is not subject to acceleration.

If the District shall pay or cause to be paid to the Owner of this Bond the interest due hereon and the principal hereof, at the times and in the manner stipulated herein and in the Indenture, or if there has been deposited with the Trustee moneys or investment securities, which together with the interest to accrue thereon without further investment, will be fully sufficient to pay and discharge the principal of, premium, if any, and interest on all Bonds Outstanding as and when the same shall become due and payable, then the Owner of this Bond shall cease to be entitled to the pledge of Net Special Taxes under the Indenture, and all covenants, agreements and other obligations of the District to the Owner of this Bond under the Indenture shall thereupon cease, terminate and become void and be discharged and satisfied.

THE BONDS DO NOT CONSTITUTE OBLIGATIONS OF THE CITY OF MODESTO OR OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 FOR WHICH THE CITY OF MODESTO OR THE DISTRICT IS OBLIGATED TO LEVY OR PLEDGE, OR HAS LEVIED OR PLEDGED, GENERAL OR SPECIAL TAXES, OTHER THAN THE SPECIAL TAXES REFERENCED HEREIN. THE BONDS ARE LIMITED OBLIGATIONS OF THE DISTRICT PAYABLE FROM THE NET SPECIAL TAXES PLEDGED UNDER THE INDENTURE BUT ARE NOT A DEBT OF THE CITY OF MODESTO, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OR RESTRICTION.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Trustee.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this

Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the District, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

IN WITNESS WHEREOF, the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) has caused this Bond to be dated as of the Dated Date, to be executed on behalf of the District by the Mayor of the City of Modesto by facsimile signature and attested by the facsimile signature of the City Clerk.

---

Mayor of the City of Modesto, for and on behalf  
of City of Modesto Community Facilities District  
No. 2003-1 (Fairview Village)

ATTEST:

---

City Clerk of the City of Modesto, acting on  
behalf of City of Modesto Community Facilities  
District No. 2003-1 (Fairview Village)

[FORM OF TRUSTEE'S CERTIFICATE  
OF AUTHENTICATION AND REGISTRATION]

This is one of the Bonds described in the within-defined Indenture.

Dated: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: \_\_\_\_\_  
Authorized Officer

[FORM OF LEGAL OPINION]

The following is a true copy of the opinion rendered by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, in connection with the issuance of, and dated as of the date of the original delivery of, the Bonds. A signed copy is on file in my office.

\_\_\_\_\_  
City Clerk of the City of Modesto, acting on behalf of City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

[FORM OF ASSIGNMENT]

For value received, the undersigned do(es) hereby sell, assign and transfer unto

\_\_\_\_\_  
\_\_\_\_\_

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute(s) and appoint(s)

\_\_\_\_\_  
attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guarantee:

\_\_\_\_\_  
Notice: Signature(s) must be guaranteed by a qualified guarantor.

\_\_\_\_\_  
Notice: The signature on this assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

**EXHIBIT B**

**FORM OF REQUISITION FOR DISBURSEMENT OF  
COSTS OF ISSUANCE**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

The undersigned, a duly authorized representative of City of Modesto Community Facilities District No. 2003-1 (the "District"), hereby certifies to U.S. Bank National Association, as trustee (the "Trustee") for purposes of disbursing funds from the Costs of Issuance Fund to pay Costs of Issuance that:

(1) The Trustee is to pay to the payees set forth on Exhibit A hereto the amount set forth next to each payee's name for the item described on Exhibit A hereto;

(2) The conditions to the release of these amounts from the Costs of Issuance Fund have been satisfied; and

(3) There has not been filed with or served upon the District notice of any lien, right to lien or attachment upon, stop notice or claim affecting the right to receive payment of, any of the moneys payable to any of the payees named on Exhibit A hereto which has not been released or will not be released simultaneously with the payment of such amounts, other than materialmen's or mechanic's liens accruing by mere operation of law.

Dated: \_\_\_\_\_

**CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

*Payee*

*Amount Due*

*Purpose of Expenditure*

## EXHIBIT C

### FORM OF INVESTOR LETTER OF REPRESENTATIONS

[Date]

City of Modesto  
1010 10th Street  
Modesto, CA 95354  
Attention: City Manager

Re: City of Modesto Community Facilities District No. 2003-1 (Fairview Village)  
2014 Special Tax Refunding Bonds

Ladies and Gentlemen:

The undersigned (the "Purchaser") hereby acknowledges receipt of the above-referenced bonds (the "Bonds"), dated December 16, 2014, in fully registered form and in the aggregate principal amount of \$4,420,000, constituting all of the Bonds currently outstanding. The Bonds have been checked, inspected and approved by the Purchaser.

The undersigned acknowledges that the Bonds have been issued for the purpose of refunding the outstanding City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2005 Special Tax Bonds originally issued on July 14, 2005 in the aggregate principal amount of \$4,960,000. The undersigned further acknowledges that the Bonds are secured by a certain Bond Indenture dated as of December 1, 2014 (the "Indenture"), between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"), and U.S. Bank National Association, as trustee (the "Trustee").

In connection with the sale of the Bonds to the Purchaser, the Purchaser hereby makes the following representations upon which you may rely:

1. The Purchaser hereby certifies that it is an "accredited investor" within the meaning of Section 2(a)(15) of the Securities Act of 1933 as amended (the "Act") and applicable state securities laws (a "Qualified Investor").

2. The Bonds are being acquired by the Purchaser for its own account only and not with a present intent for any resale or distribution thereof, in whole or in part, to others; provided, however, that the Purchaser shall not be precluded from transferring or assigning its interest in the Bonds in accordance with the terms and conditions set forth in the Indenture. The Purchaser is not participating, directly or indirectly, in a distribution of the Bonds and will not take, or cause to be taken, any action that would cause the Purchaser to be deemed an "underwriter" of such Bonds as defined in Section 2(a)(11) of the Act. The Purchaser understands that the District has no obligation to register the Bonds for resale under the Act. The Purchaser further understands that the Bonds are being sold in a transaction that is exempt from the registration requirements of the Act. The Purchaser acknowledges that the District will not be entering into a continuing disclosure agreement for the Bonds pursuant to Section 15c2-12 of the Securities Exchange Act of 1934, as amended.

3. The Purchaser has received and carefully read all information and other items of disclosure relating to the District and the Bonds that the Purchaser has deemed material (the "Disclosure Items") for it to make an informed investment decision with respect to its purchase of the Bonds and, in connection therewith, has had access to all other materials, books, records, documents, and information relating to the District and the Bonds, and has been able to verify the accuracy of, and supplement, the information contained therein.

4. The Purchaser has had an opportunity to ask questions of, and receive satisfactory answers from, duly designated representatives of the District concerning the terms and conditions pursuant to which the offer to purchase the Bonds is being made, and is satisfied with the information provided in response to its requests, and is satisfied that its request for such information has been fully complied with by the District. The Purchaser further acknowledges that the District requires that, if the Bonds are disposed of by it, current information which meets the disclosure requirements of any applicable state and federal securities laws then in effect, concerning the Bonds must be furnished to any prospective purchaser, and that any disclosure document must be delivered to the District before the Bonds are offered for sale to any prospective purchaser, and further acknowledges that any current exemption from registration of the Bonds does not affect or diminish such requirements.

5. The Purchaser has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of making a loan of the proceeds of the Bond based upon (i) the information (including the information set forth in the Disclosure Items) furnished to it by the District; (ii) its or such representative's personal knowledge of the business and affairs of the District; (iii) the records, files, and plans of the District, to all of which it or such representative has had full access; (iv) such additional information as it or such representative may have requested and have received from the District; and (v) the independent inquiries and investigations undertaken by it or such representative.

6. The Purchaser represents that it can bear the economic risk of loss of its entire investment; it has adequate means for providing for its current needs and personal contingencies; and it has no need for liquidity with respect to its investment in the Bonds.

7. The purchase of the Bonds is not disproportionate to the Purchaser's net worth, and its purchase of the Bonds will not cause such overall commitment to become excessive.

8. No person has given any information or made any representation not contained in any Disclosure Items referred to above or otherwise provided to the Purchaser in writing by a person employed or authorized in writing by the District. The Purchaser understands and agrees that any information or representation not contained therein must not, and will not, be relied upon and that nothing contained therein should be construed as legal or tax advice to the Purchaser.

9. No person has made any direct or indirect representation or warranty of any kind to the Purchaser with respect to the economic return which may accrue to the Purchaser. The Purchaser has consulted with its own tax counsel and other advisors with respect to an investment in the Bonds.

10. The signatory of this letter is a duly authorized officer of the Purchaser with the authority to sign this letter on behalf of the Purchaser, and this letter has been duly authorized, executed, and delivered by the Purchaser.

11. The Purchaser acknowledges that it has the right to sell and transfer the Bonds to another Qualified Investor in a minimum denomination of \$500,000, subject to the delivery to the Trustee of a letter from the transferee to the same effect as this Letter of Representations, with no revisions except as may be approved in writing by the District. The Purchaser understands that the Trustee will not be required to accept for registration of transfer any Bonds unless such transferee is an Qualified Investor and the letter is delivered to the Trustee, and failure to deliver such letter shall cause the purported transfer to be null and void. The Purchaser agrees to indemnify and hold harmless the District, the City of Modesto (the "City") and the Trustee with respect to any claim asserted against the District, the City or the Trustee that is based upon a sale, transfer or other disposition of the Bonds in violation of the provisions of the Indenture.

12. The Purchaser agrees that it will only offer, sell, pledge, transfer or exchange the Bond (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of Section 5 of the Act, (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the transfer restrictions set forth in the Bonds and the Indenture. The Purchaser further agrees that it will not transfer the Bonds to be held in a pool, trust or similar arrangement.

13. The Purchaser understands that the purchase of the Bonds involves significant investment risks.

14. The Purchaser has been informed that the Bonds (i) have not been and will not be registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any jurisdiction, (ii) will not be listed on any stock or other securities exchange and (iii) will carry no rating from any rating service.

15. The Purchaser acknowledges that no official statement or other offering memorandum or document has been prepared for the Bonds, and, except as set forth in Section 5.2(i) of the Indenture, that the Issuer will not be entering into any continuing disclosure undertaking with respect to the Bonds. The Purchaser acknowledges that the Bonds will not contain a CUSIP or initially be made DTC eligible.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

[PURCHASER]

By: \_\_\_\_\_

**ESCROW AGREEMENT**

**By and Between**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**and**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,  
as Escrow Bank**

**Dated as of December 1, 2014**

**Relating to**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

## ESCROW AGREEMENT

THIS 2014 ESCROW AGREEMENT, dated as of December 1, 2014 (the "Escrow Agreement"), by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District") and The Bank of New York Mellon Trust Company, N.A., as escrow bank (the "Escrow Bank"), is entered into in accordance with Resolution No. 2014-425 of the City Council of the City of Modesto, acting as the legislative body of the District, adopted on October 7, 2014 and a Bond Indenture dated as of December 1, 2014 between the District and U.S. Bank National Association, as Trustee (the "Indenture"), to refund all of the outstanding bonds issued pursuant to the Trust Indenture by and between the District and The Bank of New York Mellon Trust Company, N.A., formerly known as "The Bank of New York Trust Company, N.A.," as trustee (the "Prior Trustee"), dated as of June 1, 2005 (the "Prior Indenture").

### WITNESSETH:

WHEREAS, pursuant to the Prior Indenture, the District has previously issued its Special Tax Bonds (the "Refunded Bonds") in the aggregate principal amount of \$4,960,000, which are currently outstanding in the aggregate principal amount of \$4,660,000; and

WHEREAS, the District has determined to issue its 2014 Special Tax Refunding Bonds in the aggregate principal amount of \$4,420,000 (the "Bonds") for the purpose of providing moneys which will be used to pay the regularly scheduled payment of interest on the Refunded Bonds on March 1, 2015 and to optionally redeem all of the Refunded Bonds on March 1, 2015 (the "Redemption Date") at a redemption price equal to the outstanding aggregate principal amount thereof on the Refunded Bonds, plus 1% premium (the "Redemption Price"), as required under the Prior Indenture; and

WHEREAS, the District has taken action to cause to be issued or delivered to the Escrow Bank for deposit in or credit to the escrow fund established and maintained by it (the "Escrow Fund") moneys to be held Investment Securities (as defined herein) or held uninvested as cash, in an amount necessary to refund all of the Refunded Bonds.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the District and the Escrow Bank agree as follows:

#### SECTION 1. Deposit of Moneys.

(a) As used herein, the term "Investment Securities" means the Investment Securities set forth in Schedule A attached hereto, which constitute direct non-callable non-prepayable obligations issued by the United States Treasury or which are unconditionally guaranteed as to full and timely payment by the United States of America. The District hereby deposits with the Escrow Bank \$4,825,510.85, comprised of the net sale proceeds of the Bonds and other moneys held under the Prior Indenture with respect to the Refunded Bonds, to be held in irrevocable escrow by the Escrow Bank separate and apart from all other securities, investments or moneys on deposit with the Escrow Bank, in a fund hereby created and established and to be known as the "Escrow Fund," and to be applied solely as provided in this Escrow Agreement. Such moneys are at least equal to an amount sufficient to purchase the principal amount of Investment Securities; and the aggregate principal amount of Investment Securities, together with all interest due or to

become due on the Investment Securities, and cash in the amount of \$0.85 will be sufficient to pay the Redemption Price of the Refunded Bonds on the Redemption Date.

(b) The Escrow Bank hereby acknowledges receipt of the written Verification Report of Samuel Klein and Company, certified public accountants, dated December 16, 2014 relating to the redemption of the Refunded Bonds on the Redemption Date (the "Verification Report").

SECTION 2. Use of Moneys. The Escrow Bank acknowledges receipt of the moneys described in Section 1 and agrees:

(a) to invest, on December 16, 2014 \$4,825,510.00 of the moneys described in Section 1(a) hereof in the Investment Securities and to deposit such Investment Securities in the Escrow Fund and to hold in cash in said fund the remaining \$0.85 of said moneys; and

(b) to make the payments required under Section 3 hereof at the times set forth in Section 3 hereof.

SECTION 3. Refunding of the Refunded Bonds. From the amounts on deposit in the Escrow Fund, the Escrow Agent shall pay on March 1, 2015, the regularly scheduled payment of interest on the Refunded Bonds and pay on March 1, 2015, the Redemption Price of the Refunded Bonds. The District hereby directs the Escrow Bank to complete any and all actions necessary to be taken by the Prior Trustee in connection with the redemption of the Refunded Bonds pursuant to the Prior Indenture on the Redemption Date.

SECTION 4. Performance of Duties. The Escrow Bank agrees to perform the duties set forth herein.

SECTION 5. Indemnity. The District hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Escrow Bank and its respective successors, assigns, directors, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Escrow Bank at any time (whether or not also indemnified against the same by the District or any other person under any other agreement or instrument, but without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Escrow Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the funds deposited therein, and any payment, transfer or other application of moneys by the Escrow Bank in accordance with the provisions of this Escrow Agreement; provided, however, that the District shall not be required to indemnify the Escrow Bank against the Escrow Bank's own negligence or willful misconduct or the negligent or willful misconduct of the Escrow Bank's respective agents and employees or the breach by the Escrow Bank of the terms of this Escrow Agreement. In no event shall the District or the Escrow Bank be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section 5. The indemnities contained in this Section 5 shall survive the termination of this Escrow Agreement.

SECTION 6. Responsibilities of the Escrow Bank. The Escrow Bank and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort,

contract or otherwise, in connection with the execution and delivery of this Escrow Agreement, the establishment of the Escrow Fund, the acceptance of the moneys deposited therein, or any payment, transfer or other application of moneys or obligations by the Escrow Bank in accordance with the provisions of this Escrow Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Escrow Bank made in good faith in the conduct of its duties. The recitals of fact contained in the "Whereas" clauses herein shall be taken as the statements of the District, and the Escrow Bank assumes no responsibility for the correctness thereof. The Escrow Bank makes no representation as to the sufficiency of the deposit of moneys in the Escrow Fund to accomplish the refunding of the Refunded Bonds on the Redemption Date or to the validity of this Escrow Agreement as to the District and, except as otherwise provided herein, the Escrow Bank shall incur no liability with respect thereto. The Escrow Bank shall not be liable in connection with the performance of its duties under this Escrow Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Escrow Bank shall be determined by the express provisions of this Escrow Agreement. The Escrow Bank may consult with counsel, who may or may not be counsel to the District, and in reliance upon the written opinion of such counsel shall have full and complete authorization and protection with respect to any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Bank shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Escrow Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the District.

The liability of the Escrow Bank to make the payments required by this Escrow Agreement shall be limited to the moneys in the Escrow Fund.

No provision of this Escrow Agreement shall require the Escrow Bank to expend or risk its own funds or otherwise incur any financial liability in the performance or exercise of any of its duties hereunder, or in the exercise of its rights or powers.

The Escrow Bank shall not be liable for the accuracy of any calculations provided herein.

Any company into which the Escrow Bank may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Bank may sell or transfer all or substantially all of its corporate trust business shall be the successor to the Escrow Bank without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

The District shall pay the Escrow Bank full compensation for its duties under this Escrow Agreement, including out-of-pocket costs such as publication costs, redemption or redemption expenses, legal fees and other costs and expenses relating hereto. Under no circumstances shall amounts deposited in the Escrow Fund be deemed to be available for said purposes.

The Escrow Bank may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed.

The Escrow Bank agrees to accept and act upon instructions or directions pursuant to this Escrow Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Escrow Bank shall have received an incumbency

certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the District elects to give the Escrow Bank e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Bank in its discretion elects to act upon such instructions, the Escrow Bank's understanding of such instructions shall be deemed controlling. The Escrow Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Bank's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The District agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Bank, including without limitation the risk of the Escrow Bank acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The District acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the District the right to receive brokerage confirmations of security transactions as they occur, the District specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Bank will furnish the District periodic cash transaction statements which include detail for all investment transactions made by the Escrow Bank hereunder.

If the Escrow Bank learns that the Department of the Treasury or the Bureau of Public Debt will not, for any reason, accept a subscription of Securities that is to be submitted pursuant to these Instructions, the Escrow Bank shall promptly request alternative written investment instructions from the District with respect to escrowed funds which were to be invested in securities. The Escrow Bank shall follow such instructions and, upon the maturity of any such alternative investment, the Escrow Bank shall hold funds uninvested and without liability for interest until receipt of further written instructions from the District. In the absence of investment instructions from the District, the Escrow Bank shall not be responsible for the investment of such funds or interest thereon. The Escrow Bank may conclusively rely upon the District's selection of an alternative investment as a determination of the alternative investment's legality and suitability and shall not be liable for any losses related to the alternative investments or for compliance with any yield restriction applicable thereto.

The Escrow Bank shall incur no liability for losses arising from any investment made pursuant to this Agreement.

SECTION 7. Irrevocable Instructions as to Notice. The Escrow Bank hereby acknowledges that upon the funding of the Escrow Fund as provided in this Escrow Agreement, the receipt of the Verification Report described in Section I(b) of this Escrow Agreement and the Irrevocable Instructions and Request to Trustee attached hereto as Schedule B it is in receipt of the items constituting all of the conditions precedent to the redemption of the Refunded Bonds under the Prior Indenture.

SECTION 8. Amendments. This Escrow Agreement is made for the benefit of the District and the holders from time to time of the Bonds and it shall not be repealed, revoked, altered or amended without the written consent of all such holders, the Escrow Bank and the District, as defined in the Indenture; provided, however, but only after the receipt by the Escrow Bank of an opinion of nationally recognized bond counsel that the exclusion from gross income of interest evidenced and represented by the Bonds and the Bonds will not be adversely affected for federal income tax purposes, the District and the Escrow Bank may, without the consent of, or notice to,

such holders, amend this Escrow Agreement or enter into such agreements supplemental to this Escrow Agreement as shall not adversely affect the rights of such holders and as shall not be inconsistent with the terms and provisions of this Escrow Agreement for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission in this Escrow Agreement; (ii) to grant to, or confer upon, the Escrow Bank for the benefit of the holders of the Refunded Bonds any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such holders or the Escrow Bank; and (iii) to include under this Escrow Agreement additional funds, securities or properties. The Escrow Bank shall be entitled to rely conclusively upon an unqualified opinion of nationally recognized bond counsel with respect to compliance with this Section 8, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the holders of the Refunded Bonds or that any instrument executed hereunder complies with the conditions and provisions of this Section 8.

SECTION 9. Term. This Escrow Agreement shall commence upon its execution and delivery and shall terminate on the later to occur of either (i) the date upon which the Refunded Bonds have been paid in accordance with this Escrow Agreement, or (ii) the date upon which no unclaimed moneys remain on deposit with the Escrow Bank and all amounts owed to the Escrow Bank shall have been paid in full. Any unclaimed money which remains in the Escrow Fund for 2 years from the date upon which the Refunded Bonds have been paid in accordance with this Escrow Agreement shall be remitted by the Escrow Bank to the District.

SECTION 10. Compensation. The Escrow Bank shall receive its reasonable fees and expenses as previously agreed to; provided, however, that under no circumstances shall the Escrow Bank be entitled to any lien nor will it assert a lien whatsoever on any moneys or obligations in the Escrow Fund for the payment of fees and expenses for services rendered by the Escrow Bank under this Escrow Agreement.

SECTION 11. Severability. If any one or more of the covenants or agreements provided in this Escrow Agreement on the part of the District or the Escrow Bank to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Escrow Agreement.

SECTION 12. Counterparts. This Escrow Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

SECTION 13. Governing Law. This Escrow Agreement shall be construed under the laws of the State of California.

SECTION 14. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Escrow Agreement, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Escrow Bank are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Escrow Agreement, and no interest shall accrue for the period after such nominal date.

SECTION 15. Assignment. This Escrow Agreement shall not be assigned by the Escrow Bank or any successor thereto without the prior written consent of the District.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed by their duly authorized officers and attested as of the date and year first written above.

By: *Gloriette Genereux*  
Director of Finance of the City of Modesto, for  
and on behalf of City of Modesto Community  
Facilities District No. 2003-1 (Fairview Village)

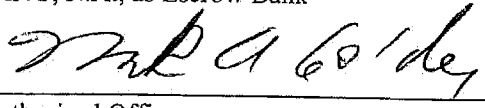
ATTEST:

*Stephanie Goy*  
City Clerk of the City of Modesto, acting on  
behalf of City of Modesto Community  
Facilities District No. 2003-1 (Fairview  
Village)

*[SIGNATURES CONTINUED ON NEXT PAGE.]*

[SIGNATURE PAGE CONTINUED.]

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Escrow Bank

By:   
Authorized Officer

**SCHEDULE A**

**REDEMPTION PRICE OF REFUNDED BONDS**

**Payment For Refunded Bonds**

<i>Payment Date</i>	<i>Principal Redeemed</i>	<i>Interest</i>	<i>Redemption Premium</i>	<i>Required Deposit to the Escrow Fund</i>
March 1, 2015	\$4,660,000.00	\$119,010.00	\$46,600.00	\$4,825,610.00

The total deposit to the Escrow Fund shall be \$4,825,510.85. The Investment Securities defined below shall be purchased for \$4,825,510.00, which shall mature on March 1, 2015 for \$4,825,609.15. The remaining \$0.85 deposited in the Escrow Fund shall be held uninvested, which, together with the Investment Securities, shall provide \$4,825,610.00 available to redeem the Refunded Bonds on the Redemption Date.

“Investment Securities” are defined to be, and shall be, as follows:

<i>Type</i>	<i>Purchase Price</i>	<i>Maturity/Payment Date</i>	<i>Interest Rate</i>	<i>Settlement Amount</i>
SLGS	\$4,825,510.00	March 1, 2015	0.010%	\$4,825,609.15

**SCHEDULE B**

**IRREVOCABLE INSTRUCTIONS AND REQUEST TO TRUSTEE**

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THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

**ESCROW AGREEMENT RELATING TO THE REFUNDING OF  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
SPECIAL TAX BONDS  
(the "Refunded Bonds")**

Ladies and Gentlemen:

As Trustee under that certain Trust Indenture dated as of June 1, 2005, between the District and The Bank of New York Trust Company, N.A., the predecessor Trustee (the "Indenture"), you are hereby notified of the irrevocable election of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) to redeem on March 1, 2015 all of the outstanding Bonds (as such term is defined in the Indenture) issued pursuant to the Indenture (the "Refunded Bonds").

You are hereby instructed to provide, as set forth in the Indenture, notice of redemption of the Refunded Bonds scheduled to be redeemed prior to maturity. Such notice is substantially in the form required by the Indenture, a copy of which is annexed hereto as Exhibit X.

You are hereby further irrevocably instructed to mail, as soon as practicable, a notice to the holders of the Refunded Bonds (in the form annexed hereto as Exhibit Y) that the deposit of moneys has been made with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, and that the projected withdrawals from such escrow have been calculated to be adequate to pay the principal, redemption price and interest due on said Refunded Bonds outstanding as such become due or are subject to redemption.

By: \_\_\_\_\_  
Director of Finance of the City of Modesto, for  
and on behalf of City of Modesto Community  
Facilities District No. 2003-1 (Fairview Village)

Receipt acknowledged and consented to:

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,**  
as Escrow Bank and Trustee

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT X**  
**NOTICE OF FULL REDEMPTION**  
**to the Holders of**  
**City of Modesto**  
**Community Facilities District No. 2003-1 (Fairview Village)**  
**Special Tax Bonds**

**CUSIP #s: 607800AK5, 607800AL3, 607800AM1, 607800AN9, 607800AP4, 607800AQ2, 607800AR0**

NOTICE IS HEREBY GIVEN, pursuant to the terms of the Trust Indenture (the "Indenture") dated as of June 1, 2005, between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), as Issuer, and The Bank of New York Mellon Trust Company, N.A., as successor-in-interest to The Bank of New York Trust Company, N.A., as Trustee, that outstanding Bonds, in the aggregate principal amount of \$4,960,000, have been called for redemption in full on March 1, 2015 (the "Redemption Date") at a price of 101% of the principal amount thereof (the "Redemption Price").

Payment of the Redemption Price on the Bonds called for redemption will become due and payable on the Redemption Date upon presentation and surrender thereof in the following manner:

By First Class/Registered/  
Certified Mail:

Express Delivery Only:

By Hand Only:

The Bank of New York Mellon  
Global Corporate Trust  
P.O. Box 396  
East Syracuse, NY 13057

The Bank of New York Mellon  
Global Corporate Trust  
111 Sanders Creek Parkway  
East Syracuse, NY 13057

The Bank of New York Mellon  
Global Corporate Trust  
Corporate Trust Window  
101 Barclay Street, 1<sup>st</sup> Floor  
New York, NY 10286

Subject to the terms of this Notice of Full Redemption, Bondholders are required to surrender their Bonds to the Trustee at the address above on the Redemption Date and there will become due and payable on each of the Bonds the principal amount thereof and the premium thereon, and from and after such Redemption Date interest thereon shall cease to accrue.

**IMPORTANT NOTICE**

*Under Section 3406(a)(1) of the Internal Revenue Code, the paying agent making payment of interest or principal on securities may be obligated to withhold a percentage of the payment to a holder who has failed to furnish the registrar with a valid taxpayer identification number, certification that the number supplied is correct, and that the holder is not subject to backup withholding. Holders of the Bonds who wish to avoid the application of these provisions should submit either a completed IRS Form W-9 (use only if the holder is a US. person, including a resident alien), or the appropriate Form W-8 (use only if you are neither a U.S. person or a resident alien), when presenting the Bonds for payment. See IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities. Publication 515 and W-8 forms and instructions are available through the IRS website at [www.irs.gov](http://www.irs.gov).*

\* The CUSIP numbers are included solely for the convenience of the Holders of the Bonds. Neither the Issuer nor the Trustee shall be responsible for any error of any nature relating to such numbers.

**Dated:** \_\_\_\_\_, 2015

**By: The Bank of New York Mellon Trust Company, N.A., as Trustee**

**EXHIBIT Y**

**NOTICE OF DEFEASANCE OF  
OUTSTANDING  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
SPECIAL TAX BONDS  
(the "Refunded Bonds")**

**CUSIP #s: 607800AK5, 607800AL3, 607800AM1, 607800AN9, 607800AP4, 607800AQ2,  
607800AR0**

Notice is hereby given to the holders of the above-captioned Bonds (the "Refunded Bonds") that (i) the Refunded Bonds will be redeemed and defeased; (ii) there has been deposited with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, moneys as permitted by that certain Trust Indenture, dated as of June 1, 2005, between the District and The Bank of New York Mellon Trust Company, N.A., as successor-in-interest to The Bank of New York Trust Company, N.A., as Trustee (the "Trustee") (the "Indenture"), relating to the Refunded Bonds, sufficient and available to pay the principal of and interest on the Refunded Bonds on March 1, 2015 and to redeem on March 1, 2015 the Refunded Bonds at the applicable redemption price contained in the Indenture; and (iii) the Escrow Bank has been irrevocably instructed to redeem such outstanding Refunded Bonds on March 1, 2015.

At least 30 days, but not more than 60 days, prior to March 1, 2015, in accordance with the terms of the Indenture, the Trustee shall mail a redemption notice for such Refunded Bonds.

If you have any questions regarding this notice, please contact Bondholder Relations at (800) 254-2826.

Dated this \_\_ day of December, 2014.

**THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.,  
as Trustee**

**REPORT OF PROPOSED DEBT ISSUANCE**

California Debt and Investment Advisory Commission  
915 Capitol Mall, Room 400, Sacramento, CA 95814  
P.O. Box 942809, Sacramento, CA 94209-0001  
Tel: (916) 653-3269 Fax: (916) 654-7440

Submitted: Tuesday, October 21, 2014  
2:53:45PM

Your completion and submittal of this on-line form assures your compliance with existing California State law and will assist in the maintenance of a complete database of public debt in California. Thank you for your cooperation.

ISSUER NAME: City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

ISSUE NAME: 2014 Special Tax Refunding Bonds

Please specify type/ name of project:

PROPOSED SALE DATE: 12/16/2014

PRINCIPAL TO BE SOLD: \$4,420,000.00

WILL A VALIDATION ACTION BE PURSUED:  No  Yes  Unknown

IS ANY PORTION OF THE DEBT FOR REFUNDING?<sup>2</sup>  No  Yes, proposed amount for refunding \$4,420,000.00

Issuer Contact

Name: Gloriette Genereux

E-Mail: ggenereux@modestogov.com

Title: Director of Finance

Address 1010 10th Street

City Modesto, CA 95354

Phone: 209 5775371

ISSUER LOCATED IN Stanislaus COUNTY

Filing Contact

Name of Individual representing Bond Counsel who completed this form and maybe contacted for information:

Name: Bradley R. Neal

E-Mail: bneal@sycr.com

Firm/ Agency: Stradling Yocca Carlson & Rauth

Address: 660 Newport Center Drive, Suite 1600

City Newport Beach, CA 92660

Phone 949 7254000

Send acknowledgement to: Quang Le

E-Mail: ql@syacr.com

FINANCING PARTICIPANTS

BOND COUNSEL: Stradling Yocca Carlson & Rauth

BORROWER COUNSEL (LOAN):

FINANCIAL ADVISOR: Public Financial Management, Inc.

UNDERWRITER\ PURCHASER: City National Bank

IS THE INTEREST ON THE DEBT TAXABLE?

Under State Law:  YES (taxable)  NO (tax-exempt)

Under Federal Law:  YES (taxable)  NO (tax-exempt)

If the issue is federally tax-exempt, is interest a specific preference item for the purpose of alternative minimum tax?

YES, preference item  NO, not a preference item

TYPE OF SALE  Competitive  Negotiated

IS THIS FINANCING A PRIVATE PLACEMENT?  No  Yes

1 Section 8855(i) of the California Government Code requires the issuer of any proposed new public debt issue to give written notice of the proposed sale to the CDIAC no later than 30 days prior to the sale. Under California Government Code Section 8855(j), The issuer of any new public debt issue shall, not later than 45 days after the signing of the bond purchase contract in a negotiated or private financing, or after the acceptance of a bid in a competitive offering, submit a report of final sale and an official statement to CDIAC. The Commission may require information to be submitted in the report

2 Section 53583(c)(2)(B) of the California Government Code requires that any local agency selling refunding bonds at private sale or on a negotiated basis shall send a written statement, within two weeks after the bonds are sold, to CDIAC explaining the reasons why the local agency determined to sell the bonds at private sale or on a negotiated basis instead of at public sale.

**TYPE OF DEBT INSTRUMENT**

**NOTE**

- Bond anticipation (BAN)
- Grant obligation (GAN)
- Loan from bank / other institution (LOAN)
- Other note (Please specify below.) (OTHN)
- Revenue anticipation (RAN)
- Tax allocation (TALN)
- Tax and revenue anticipation (TRAN)
- Tax anticipation (TAN)
  
- Commercial paper (CP)
- Certificates of Participation/ leases (COPL)
- Other (Please specify below.) (OTH)

Please specify if "Other Note/ Other Bond/ Other" was checked.

**Bond**

- Conduit revenue (Private obligor) (CRB)
- General obligation (GOB)
- Limited tax obligation (LTOB)
- Other bond (Please specify below.) (OTHB)
- Pension Obligation (POB)
- Public lease revenue (PLRB)
- Rate Reduction (GC 6588.7) (RRB)
- Revenue (Pool) (RB)
- Revenue (Public enterprise) (PERB)
- Sales tax revenue (STRB)
- Special assessment (SAB)
- Tax allocation (TAB)

**SOURCE(S) OF REPAYMENT**

- Bond proceeds (BDPR)
- General fund of issuing jurisdiction (GNFD)
- Grants (GRNT)
- Intergovernmental transfers other than grants (ITGV)
- Local obligor (LOB)
- Private obligor payments (POP)
- Other (OTHS)

Please specify if "Other" was checked.

- Property tax revenues (PRTX)
- Public enterprise revenues (PER)
- Sales tax revenues (SATR)
- Special assessments (SA)
- Special tax revenues (SPTR)
- Tax-increment (TI)
- Utility Project Charges (UPC)

**PURPOSE(S) OF FINANCING**

- Cash flow, interim financing (CFIF)
- Project, interim financing (PIF)
  
- College/university housing (CUH)
- Multifamily housing (MFH)
- Other Housing (OTHH)
- Single-family housing (SFH)
  
- Health care facilities (HCF)
- Hospital (HOSP)
- Medical Research/Institute (MRES)
- Other/multiple health care purposes (equipment; etc.)(OMHC)
  
- College/university facility (CUF)
- K-12 school facility (KSCH)
- Other/multiple educational uses (equipment, etc.) (OMED)
- Student Loans (SLC)
  
- Redevelopment, multiple uses (RD)
  
- Commercial development (CMDV)
- Industrial development (INDV)
- Pollution control (PC)

- Airport (APRT)
- Bridges and highways (BRHI)
- Convention center (CCTR)
- Equipment (EQUF)
- Flood control/storm drainage (FLDS)
- Multiple capital improvements and public works (MCAP)
- Other capital improvements and public works (OCAP)
- Parking (PRKG)
- Parks/Open space (PRKO)
- Ports and marinas (PRTS)
- Power generations/transmission (PWR)
- Prisons/jails/correctional facilities (PRSN)
- Public building (PB)
- Public transit (PTR)
- Recreation and sports facilities (RCSP)
- Seismic safety improvements/repair (SSI)
- Solid waste recovery facilities (SWST)
- Street construction and improvements (SCI)
- Theatre/Arts Museums (THAM)
- Wastewater collection and treatment (WSTW)
- Water supply/storage/distribution (WTR)
  
- Commercial Energy Conservation/Improvement (CECI)
- Human Resources (HR)
- Insurance/pension funds (IPF)
- Other than listed above (OTH)
- Residential Energy Conservation/Improvement (RECI)

Please specify type/name of project if different from above.

*3 Certain local government issuers of housing bonds are required to obtain a certification from the State Treasurer attesting to their compliance with the State housing reporting requirements prior to issuance of the bonds to finance single or multifamily housing.*



**CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION**

915 CAPITOL MALL ROOM 400  
PO BOX 942809  
SACRAMENTO, CA 94209-0001  
TELEPHONE: (916) 653-3269  
FAX: (916) 654-7440

October 22, 2014

**TO:** Quang Le  
Stradling Yocca Carlson & Rauth  
660 Newport Center Drive Suite 1600  
Newport Beach, CA 92660

**FROM:** Mark Campbell, Executive Director

**RE: ACKNOWLEDGEMENT OF REPORT OF PROPOSED DEBT ISSUANCE**

California Government Code Section 8855 requires written notice to be given to the California Debt and Investment Advisory Commission (CDIAC) no later than 30 days prior to the proposed sale of any public agency debt issue.

CDIAC acknowledges receipt of your notice of the following proposed debt issuance:

**CDIAC Number:** 2014-1736  
**Issuer:** Modesto CFD No 2003-01  
**Project:** Multiple capital improvements, public works  
**Proposed Amount:** \$4,420,000  
**Proposed Sale Date:** December 16, 2014  
**Date Notice Received:** October 21, 2014

Issuers may electronically file the Report of Final Sale through CDIAC's website, using the following information:

**CDIAC Number:** 2014-1736  
**Password:** 25003951

A CDIAC Number and Password will be provided for each electronic filing of the Report of Proposed Debt Issuance. This information is unique to this filing and must be used for any subsequent reporting under this CDIAC Number.

Please submit the Report of Final Sale and the Official Statement/Offering Memorandum or other Bond Documents in accordance with Government Code Section 8855 on this issue within 45 days of the signing of the bond purchase contract or the acceptance of a bid to purchase the debt, to [www.treasurer.ca.gov/cdiac/reporting.asp](http://www.treasurer.ca.gov/cdiac/reporting.asp) under the heading "Reporting Forms". Official Statements/Offering Memorandums or other Bond Documents can be sent by e-mail to [CDIAC\\_issuance@treasurer.ca.gov](mailto:CDIAC_issuance@treasurer.ca.gov).

Any questions regarding reporting requirements may be directed to CDIAC's Data Unit at (916) 653-3269.

Cc: Gloriette Genereux  
Director of Finance

**REPORT OF FINAL SALE**

California Debt and Investment Advisory Commission  
915 Capitol Mall, Room 400, Sacramento, CA 95814  
P.O. Box 942809, Sacramento, CA 94209-0001  
Tel: (916) 653-3269 Fax: (916) 654-7440

Submitted: Monday, December 29, 2014  
3:12:40PM  
CDIAC # 2014-1736

Under California Government Code Section 8855(i), "The issuer of any new public debt issue shall, not later than 45 days after the signing of the bond purchase contract in a negotiated or private financing, or after the acceptance of a bid in a competitive offering, submit a report of final sale and official statement (or alternate bond documents) to the Commission. The Commission may require information to be submitted in the report of final sale that is considered appropriate.

**ISSUER NAME** City of Modesto Community Facilities District No. 2003-1 (Fairview Village)  
(if pool bond, list participants)

**ISSUE NAME** 2014 Special Tax Refunding Bonds

**STATUTE ISSUANCE IS AUTHORIZED UNDER?**

Mello-Roos Community Facilities Act of 1982

**ACTUAL SALE DATE:** 12/16/2014 **PRINCIPAL SOLD:** \$4,420,000.00 **DATED DATE:** 12/16/2014

**IS ANY PORTION OF THE DEBT FOR REFUNDING?**<sup>1</sup>

No  Yes, refunding amount (including costs) \$4,420,000.00

**Issuer Contact :**

Name : Gloriette Genereux

Title : Director of Finance

Address : 1010 10th Street

City/ State/ Zip Modesto, CA 95354

Phone: (209) 577-5371

**ISSUER LOCATED IN Stanislaus COUNTY**

E-Mail : ggenereux@modestogov.com

**Filing Contact:** Name of Individual representing Bond Counsel who completed this form and may be contacted for information.

Name : Bradley R. Neal

Firm/ Agency : Stradling Yocca Carlson & Rauth

Address : 660 Newport Center Drive, Suite 1600

City/ State/ Zip Newport Beach, CA 92660

Phone: (949) 725-4000

E-Mail : bneal@sycr.com

Send acknowledgement/ copies to : Quang Le

E-Mail : ql@syacr.com

**TYPE OF SALE :**  Negotiated  Competitive **IS THIS FINANCING A PRIVATE PLACEMENT?**  No  Yes

**Name of individual to whom an invoice for the CDIAC issue fee should be sent :**<sup>2</sup>

Name : Tina Rocha

Firm/ Agency City of Modesto

Address : 1010 10th Street

City/ State/ Zip Modesto, CA 95354

Phone: (209) 577-5321

E-Mail : trocha@modestogov.com

1 Section 53583(c)(2)(B) of the California Government Code requires that any local agency selling refunding bonds at private sale or on a negotiated basis shall send a written statement, within two weeks after the bonds are sold, to CDIAC explaining the reasons why the local agency determined to sell the bonds at a private sale or on a negotiated basis instead of at a public sale.

2 This fee is authorized by Section 8856 of the California Government Code and is charged to the lead underwriter or purchaser of the issue. The fee is

**FINANCING PARTICIPANTS** (Firm Name)

Financial Advisor : The PFM Group/Public Financial Management Inc  
 Lead Underwriter/ Purchaser : City National Bank  
 Borrower Counsel (Loan):  
 Bond Counsel : Stradling Yocca Carlson & Rauth  
 Co-Bond Counsel :  
 Trustee/ Paying Agent : U.S. Bank National Association  
 Placement Agent : Piper Jaffray & Co.

**Office Location** (City/ State) :

San Francisco, CA  
 Los Angeles, CA  
 Newport Beach, CA  
 San Francisco, CA  
 Sacramento, CA

**MATURITY SCHEDULE**

Attached  Included in Official Statement

**MATURITY STRUCTURE**

Serial (S)  Term (T)  
 Serial and term bonds (B)

FINAL MATURITY DATE: 9/1/2035

FIRST OPTIONAL CALL DATE:

SENIOR STRUCTURE:  Yes  No

SUBORDINATE STRUCTURE:  Yes  No

**OFFICIAL STATEMENT/ OFFERING MEMORANDUM :**

Enclosed  None prepared

**WAS THE ISSUE INSURED OR GUARANTEED?**

No  
 Bond Insurance (I)  
 Letter of Credit (L)  
 State Intercept Program (T)  
 Other

**GUARANTOR :**

ENHANCEMENT EXPIRATION DATE:

INDICATE CREDIT RATING: (For example, "AAA" or "Aaa")

Not Rated  Rated

Standard & Poor's

Fitch

Moody's

Other

**REASON FOR NEGOTIATED REFUNDINGS**

If the issue is a negotiated refunding, indicate the reason(s) why the bonds were issued at a private or negotiated versus a competitive sale.

- (1) Timing of the sale provided more flexibility than a public sale.
- (2) More cost savings were expected to be realized than a public sale
- (3) More flexibility in debt structure was available than a public sale.
- (4) Issuer able to work with participants familiar with issue(r) than a public sale.
- (5) All of the above.
- (6) Other (please specify)

**IS THE INTEREST ON THE DEBT EXEMPT FROM TAXATION?**

Under State Law:  Yes (taxable)  No (tax-exempt)

Under Federal Law:  Yes (taxable)  No (tax-exempt)

If the issue is federally tax-exempt, is interest a specific preference item for the purpose of alternative minimum tax?  Yes  No

**INTEREST TYPE** (Please provide both NIC & TIC if available) :

NIC Int. Cost 4.100%

TIC Int. Cost 4.101%

Variable  Other (Index/Rate)

**CAPITAL APPRECIATION BOND:**  Yes  No

**RATE REDUCTION SAVINGS:** \$0.00  
 (In accordance with Government Code Section 6588.7)

**ISSUANCE COSTS AND FEES :**

A. Management Fee	\$0.00
B. Total Takedown	\$0.00
C. Underwriter Expenses	\$0.00
<b>Underwriter Spread or Discount</b>	\$0.00
D. Bond Counsel	\$50,000.00
E. Borrower Counsel (Loan)	\$0.00
F. Co-Bond Counsel	\$0.00
G. Disclosure Counsel	\$0.00
H. Financial Advisor	\$25,500.00
I. Rating Agency	\$0.00
J. Credit Enhancement	\$0.00
K. Trustee Fee	\$4,375.00
L. Placement Agent	\$20,000.00
M. Other Expenses	\$47,054.62
<b>Total Issuance Costs</b>	<b>\$146,929.62</b>
Original Issue Premium	\$0.00
Original Issue Discount	\$0.00
Net Original Premium/ Discount	\$0.00

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**INCUMBENCY AND SIGNATURE CERTIFICATE OF THE**  
**CITY/COMMUNITY FACILITIES DISTRICT**

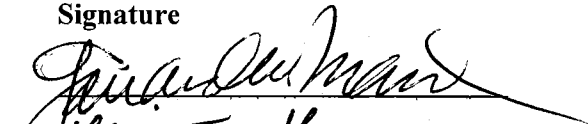


On this 16<sup>th</sup> day of December, 2014, each of the undersigned hereby certifies that he or she is now the duly elected or appointed and qualified officer of the City of Modesto (the "City") holding the office of the City set forth below adjacent to his or her name, and that the signature affixed opposite his or her name is his or her genuine signature.

Garrad Marsh, Mayor, and Stephanie Lopez, City Clerk, further certify that they were duly authorized by the City Council of the City, acting in its capacity as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), to execute, on behalf of the Community Facilities District, the Community Facilities District's 2014 Special Tax Refunding Bonds in the aggregate principal amount of \$4,420,000 (the "Bonds") issued in accordance with Resolution No. 2014-425 adopted on October 14, 2014 (the "Resolution of Issuance"), and that, pursuant to such authority, the Bonds have been executed by the facsimile signatures of the Mayor and the City Clerk, each of whom hereby adopts their respective facsimile signature thereon. The Mayor and the City Clerk hereby further certify that each of them has filed with the Secretary of State of the State of California their manual signatures, certified by each of them under oath as provided by the Uniform Facsimile Signatures of Public Officials Act (Government Code Section 5550 *et seq.*).

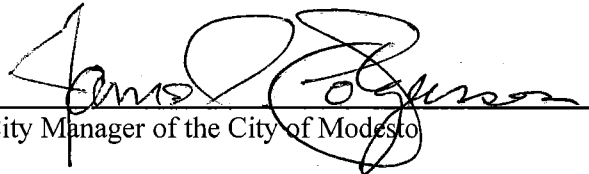
Each of the undersigned further certifies that he or she was duly authorized by the Community Facilities District pursuant to the Resolution of Issuance to execute each of the documents that he or she executed on behalf of the Community Facilities District in connection with the issuance of the Bonds.

All capitalized terms used herein without definition shall have the meanings assigned to such terms in the Bond Indenture, dated December 1, 2014, by and between U.S. Bank National Association, as Trustee, and the City, for itself and on behalf of the Community Facilities District.

IN WITNESS WHEREOF, the undersigned have signed this certificate as of the date first above written.

Name	Office	Signature
Garrad Marsh	Mayor	
Gloriette Genereux	Director of Finance	
Stephanie Lopez	City Clerk	

The undersigned is the City Manager of the City of Modesto and hereby states that the foregoing signatures are the true and correct signatures of the persons named above.

  
\_\_\_\_\_  
City Manager of the City of Modesto

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CERTIFICATE OF THE CITY CLERK**  
**BRINGING FORWARD RESOLUTIONS AND ORDINANCES**

I hereby certify that the resolutions and the ordinance listed on Exhibit A attached hereto previously adopted by the City Council of the City of Modesto, acting in its capacity as the legislative body of City of Modesto Community Facilities District No. 2003-1 (Fairview Village), have not been amended, supplemented, superseded or rescinded since their respective dates of adoption, except to the extent expressly set forth in the resolutions and the ordinances listed on Exhibit A attached hereto.

Dated: December 16, 2014

CITY OF MODESTO

By:   
City Clerk

## **EXHIBIT A**

### **RESOLUTIONS**

Resolution Nos. 2003-558, 2003-559, 2003-560, 2003-660, 2003-661, 2003-662, 2003-663, 2004-173, 2004-260, 2004-261, 2004-328, 2004-329, 2005-306, and 2014-425

### **ORDINANCES**

Ordinance Nos. 2003-3339 and 2004-3348

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CERTIFICATE OF CITY CLERK**  
**REGARDING COMMUNITY FACILITIES DISTRICT DOCUMENTS**

On this 16<sup>th</sup> day of December, 2014, the undersigned, City Clerk of the City of Modesto (the "City"), acting on behalf of itself and in its capacity as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), does hereby certify that:

1. The following documents have been duly executed by the City, or the Community Facilities District, as the case may be: (i) the Bond Indenture, dated as of December 1, 2014 (the "Bond Indenture"), by and between the Community Facilities District and U.S. Bank National Association, as trustee and (ii) the Escrow Agreement, dated as of December 1, 2014, by and between the Community Facilities District and The Bank of New York Mellon Trust Company, N.A., as escrow bank (the "Escrow Agreement" together with the Bond Indenture, the "Community Facilities District Documents").

2. The Community Facilities District Documents are true and correct copies of the ones duly approved by City Council of the City.

All capitalized terms used herein without definition shall have the meanings assigned to such terms in the Bond Indenture.

CITY OF MODESTO

By:

  
City Clerk

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CLOSING CERTIFICATE OF THE CITY**

Solely in my official capacity as Director of Finance of the City of Modesto (the "City"), and not in an individual capacity, I hereby certify, on behalf of the City Council of the City, acting in its capacity as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"), in connection with the issuance of the above captioned bonds (the "Bonds"), that:

(1) The City Council of the City has adopted its Resolution No. 2003-558 (stating its intention to establish the District and to authorize the levy of a special tax within the boundaries of the District), Resolution No. 2003-559 (stating its intention to have the District incur bonded indebtedness), Resolution No. 2003-660 (establishing the District), Resolution No. 2003-661 (determining the necessity to have the District incur bonded indebtedness within the District), its Ordinance No. 2003-3339 (providing for the levy of the Special Taxes within the District), Resolution No. 2004-173 (stating its intention to alter the existing rate and method of apportionment of the special tax (the "Rate and Method") of the District), Resolution No. 2004-260 (declaring the results of the special election on a proposition to alter the existing rate and method of apportionment of the special tax of the District), Resolution No. 2004-261 (certifying the results of the May 11, 2004 election and changing the existing rate and method of apportionment of the special tax of the District) and its Ordinance No. 2004-3348 (repealing Ordinance No. 2003-339 and authorizing the levy of a special tax of the District) (said resolutions and ordinance, collectively, the "Community Facilities District Resolutions"). In addition, the City Council of the City, acting as the legislative body of the District, has caused to be recorded a Notice of Special Tax Lien in the real property records of the County of Stanislaus (the "Notice of Special Tax Lien") and an Amended Notice of Special Tax Lien in the real property records of the County of Stanislaus (the "Amended Notice of Special Tax Lien" together with the Community Facilities District Resolutions and the Notice of Special Tax Lien, the "Formation Documents"). The City Council of the City, acting as the legislative body of the District, has also adopted its Resolution No. 2005-305 (authorizing the issuance of the \$4,960,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds, Series 2005) (the "2005 Resolution of Issuance") and its Resolution No. 2014-425 (authorizing the issuance of the Bonds) (the "Resolution of Issuance"). Each of the Formation Documents, the 2005 Resolution of Issuance and the Resolution of Issuance remains in full force and effect as of the date hereof and has not been amended.

(2) The District has been duly organized and is validly existing pursuant to the Mello Roos Community Facilities Act of 1982, as amended, Sections 53311 et seq. of the California Government Code. The District has, and at the Closing Date will have, as the case may be, full legal right, power and authority (i) to issue, sell and deliver the Bonds to the Purchaser pursuant to the Resolution of Issuance and the Bond Indenture dated as of December 1, 2014 (the "Bond Indenture"), by and between the District and U.S. Bank National Association, as trustee (the "Trustee") as provided herein and (ii) to execute, deliver, carry out, give effect to and consummate

the transactions on its part contemplated by the Formation Documents, the Resolution of Issuance and the Bond Indenture (collectively, the “Community Facilities District Documents”).

(3) The District has complied, and will at the Closing Date be in compliance, in all material respects, with the Community Facilities District Documents, and any immaterial non-compliance by the District will not impair the ability of the District to carry out, give effect to or consummate the transactions on its part contemplated by the foregoing. From and after the date of issuance of the Bonds, the District will continue to comply with the covenants of the District contained in the Community Facilities District Documents.

(4) To the best of the undersigned’s knowledge, the District is not in breach of or default under any applicable law or administrative rule or regulation of the State of California (the “State”) or the United States, or of any department, division, agency or instrumentality thereof, or under any applicable court or administrative decree or order to which the District is subject, or under any loan agreement, note, resolution, indenture, contract, agreement or other instrument to which the District is a party or is otherwise subject or bound, a consequence of which could be to materially and adversely affect the performance by the District of its obligations under the Bonds or the Community Facilities District Documents; and compliance with the provisions of each thereof will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State or the United States, or of any department, division, agency or instrumentality thereof, or under any applicable court or administrative decree or order to which the District is subject, or a material breach of or default under any loan agreement, note, resolution, indenture, trust agreement, contract, agreement or other instrument to which the District is a party or is otherwise subject or bound.

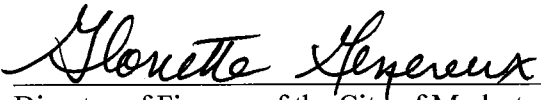
(5) Except for compliance with the blue sky or other states securities law filings, as to which the District makes no representations, all approvals, consents, authorizations, elections and orders of or filings or registrations with any state governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the performance by the District of its obligations under the Community Facilities District Documents, have been obtained and are in full force and effect.

(6) The Special Tax has been duly and lawfully authorized and may be levied under the Act, the State Constitution and the applicable laws of the State; and the Special Tax, when levied, will constitute a valid and legally binding continuing lien on the properties on which it has been levied.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Bond Indenture.

Dated: December 16, 2014

CITY OF MODESTO, CALIFORNIA, for itself and  
on behalf of CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW  
VILLAGE)

By:   
Director of Finance of the City of Modesto

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**INSTRUCTIONS TO TRUSTEE**

The undersigned, Director of Finance of the City of Modesto (the "City"), hereby states and certifies to U.S. Bank National Association, as Trustee (the "Trustee") under Resolution No. 2014-425 adopted October 14, 2014 (the "Resolution of Issuance"), by the City Council of the City, acting in its capacity as the legislative body of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), and a Bond Indenture, dated as of December 1, 2014 (the "Bond Indenture" together with the Resolution of Issuance, the "Issuance Documents"), executed by the Community Facilities District and accepted by the Trustee, pursuant to the terms thereof, that:

1. The undersigned is a duly appointed Authorized Representative of the City with authority to instruct the Trustee regarding the disbursement and investment of the bond proceeds and authentication of the above-captioned bonds (the "Bonds").

2. Pursuant to the terms of the Issuance Documents, the Community Facilities District has executed and delivered to the Trustee its Bonds, in an aggregate principal amount of \$4,420,000. The Trustee is hereby authorized and directed to authenticate the definitive Bonds by signing the certificate of authentication and registration appearing thereon and to deliver said Bonds to City National Bank, as Purchaser (the "Purchaser").

3. The Trustee is instructed to apply the portion of the proceeds from the sale of the Bonds received by the Trustee of \$4,420,000.00, together with \$747,627.97 (consisting of \$528,080.32 held in the reserve account, \$219,533.42 held in the administrative expense account, \$0.20 in the interest account, \$11.18 in the cost of issuance account and \$2.85 held in the project account, which accounts are held by the Prior Trustee) as follows:

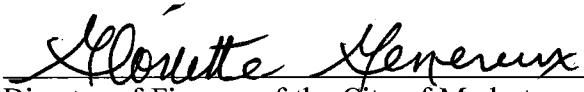
\$ 146,929.62	shall be transferred to the Costs of Issuance Fund
195,187.50	shall be deposited in the Reserve Account of the Special Tax Fund
<u>4,077,882.88</u>	shall be transferred to the Escrow Bank together with \$747,627.97 of moneys held by the Prior Trustee, for deposit into the Escrow Fund to the terms of the Escrow Agreement
<u>\$ 5,167,627.97</u>	TOTAL PROCEEDS RECEIVED

4. It is anticipated that the City will pay out of the Costs of Issuance Fund the not-to-exceed amounts indicated in Exhibit A attached hereto.

All capitalized terms used herein without definition shall have the meanings assigned to such terms in the Bond Indenture.

Dated: December 16, 2014

CITY OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

By:   
Director of Finance of the City of Modesto, acting  
in its capacity as the legislative body of the City of  
Modesto Community Facilities District No. 2003-1  
(Fairview Village)

**EXHIBIT A**

**\$4,420,000  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

**ESTIMATED COSTS OF ISSUANCE**

<b>Payee</b>	<b>Description</b>	<b>Amount</b>
City of Modesto	City Upfront Administrative Fee	\$ 12,500.00
Stradling Yocca Carlson & Rauth	Bond Counsel Fee and Expenses	50,000.00
Public Financial Management, Inc.	Financial Advisor Fee and Expenses	25,500.00
The Bank of New York Mellon Trust Company, N.A.	Escrow Bank Fee and Expenses	500.00
Law Offices of Samuel D. Waldman	Escrow Bank Counsel Fee and Expenses	500.00
Piper Jaffray & Co.	Placement Agent	20,000.00
U.S. Bank National Association	Trustee Fee and Expenses	4,375.00
Samuel Klein and Company	Verification Agent	1,200.00
CDIAC	CDIAC Filing Fee	750.00
Goodwin Consulting Group, Inc.	Special Tax Consultant	20,000.00
California Municipal Statistics, Inc.	Direct and Overlapping Debt Tables	450.00
Contingency		<u>11,154.62</u>
<b>TOTAL</b>		<u><b>\$146,929.62</b></u>

**REQUISITION NO. 1 FOR DISBURSEMENT OF  
COSTS OF ISSUANCE**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

The undersigned, a duly authorized representative of City of Modesto Community Facilities District No. 2003-1 (the "District"), hereby certifies to U.S. Bank National Association, as trustee (the "Trustee") for purposes of disbursing funds from the Costs of Issuance Fund to pay Costs of Issuance that:

(1) The Trustee is to pay to the payees set forth on Exhibit A hereto the amount set forth next to each payee's name for the item described on Exhibit A hereto;

(2) The conditions to the release of these amounts from the Costs of Issuance Fund have been satisfied; and

(3) There has not been filed with or served upon the District notice of any lien, right to lien or attachment upon, stop notice or claim affecting the right to receive payment of, any of the moneys payable to any of the payees named on Exhibit A hereto which has not been released or will not be released simultaneously with the payment of such amounts, other than materialmen's or mechanic's liens accruing by mere operation of law.

Dated: December 16, 2014

CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)

By: *Glennette Genereux*  
Authorized Officer

## EXHIBIT A

<i>Payee</i>	<i>Amount</i>	<i>Purpose of Expenditure</i>
City of Modesto	\$ 12,500.00	City Upfront Administrative Fee
Stradling Yocca Carlson & Rauth	50,000.00	Bond Counsel Fee and Expenses
Public Financial Management, Inc.	25,500.00	Financial Advisor Fee and Expenses
The Bank of New York Mellon Trust Company, N.A.	500.00	Escrow Bank Fee and Expenses
Law Offices of Samuel D. Waldman	500.00	Escrow Bank Counsel Fee and Expenses
Piper Jaffray & Co.	20,000.00	Placement Agent
U.S. Bank National Association	4,375.00	Trustee Fee and Expenses
Samuel Klein and Company	1,200.00	Verification Agent
CDIAC	750.00	CDIAC Filing Fee
Goodwin Consulting Group, Inc.	20,000.00	Special Tax Consultant
California Municipal Statistics, Inc.	450.00	Direct and Overlapping Debt Tables

**IRREVOCABLE INSTRUCTIONS AND REQUEST TO TRUSTEE**

December 16, 2014

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Trustee

**ESCROW AGREEMENT RELATING TO THE REFUNDING OF  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
SPECIAL TAX BONDS  
(the "Refunded Bonds")**

Ladies and Gentlemen:

As Trustee under that certain Trust Indenture dated as of June 1, 2005, between the District and The Bank of New York Trust Company, N.A., the predecessor Trustee (the "Indenture"), you are hereby notified of the irrevocable election of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) to redeem on March 1, 2015 all of the outstanding Bonds (as such term is defined in the Indenture) issued pursuant to the Indenture (the "Refunded Bonds").

You are hereby instructed to provide, as set forth in the Indenture, notice of redemption of the Refunded Bonds scheduled to be redeemed prior to maturity. Such notice is substantially in the form required by the Indenture, a copy of which is annexed hereto as Exhibit X.

You are hereby further irrevocably instructed to mail, as soon as practicable, a notice to the holders of the Refunded Bonds (in the form annexed hereto as Exhibit Y) that the deposit of moneys has been made with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, and that the projected withdrawals from such escrow have been calculated to be adequate to pay the principal, redemption price and interest due on said Refunded Bonds outstanding as such become due or are subject to redemption.

By: *Glorietta Hernandez*  
Director of Finance of the City of Modesto, for  
and on behalf of City of Modesto Community  
Facilities District No. 2003-1 (Fairview Village)

Receipt acknowledged and consented to:

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,**  
as Escrow Bank and Trustee

By: \_\_\_\_\_  
Authorized Officer

You are hereby further irrevocably instructed to mail, as soon as practicable, a notice to the holders of the Refunded Bonds (in the form annexed hereto as Exhibit Y) that the deposit of moneys has been made with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, and that the projected withdrawals from such escrow have been calculated to be adequate to pay the principal, redemption price and interest due on said Refunded Bonds outstanding as such become due or are subject to redemption.

By: \_\_\_\_\_  
Director of Finance of the City of Modesto, for  
and on behalf of City of Modesto Community  
Facilities District No. 2003-1 (Fairview Village)

Receipt acknowledged and consented to:

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,**  
as Escrow Bank and Trustee

By:   
Authorized Officer

**EXHIBIT X**  
**NOTICE OF FULL REDEMPTION**  
**to the Holders of**  
**City of Modesto**  
**Community Facilities District No. 2003-1 (Fairview Village)**  
**Special Tax Bonds**

**CUSIP #s: 607800AK5, 607800AL3, 607800AM1, 607800AN9, 607800AP4, 607800AQ2, 607800AR0**

NOTICE IS HEREBY GIVEN, pursuant to the terms of the Trust Indenture (the "Indenture") dated as of June 1, 2005, between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), as Issuer, and The Bank of New York Mellon Trust Company, N.A., as successor-in-interest to The Bank of New York Trust Company, N.A., as Trustee, that outstanding Bonds, in the aggregate principal amount of \$4,960,000, have been called for redemption in full on March 1, 2015 (the "Redemption Date") at a price of 101% of the principal amount thereof (the "Redemption Price").

Payment of the Redemption Price on the Bonds called for redemption will become due and payable on the Redemption Date upon presentation and surrender thereof in the following manner:

By First Class/Registered/  
Certified Mail:

The Bank of New York Mellon  
Global Corporate Trust  
P.O. Box 396  
East Syracuse, NY 13057

Express Delivery Only:

The Bank of New York Mellon  
Global Corporate Trust  
111 Sanders Creek Parkway  
East Syracuse, NY 13057

By Hand Only:

The Bank of New York Mellon  
Global Corporate Trust  
Corporate Trust Window  
101 Barclay Street, 1<sup>st</sup> Floor  
New York, NY 10286

Subject to the terms of this Notice of Full Redemption, Bondholders are required to surrender their Bonds to the Trustee at the address above on the Redemption Date and there will become due and payable on each of the Bonds the principal amount thereof and the premium thereon, and from and after such Redemption Date interest thereon shall cease to accrue.

**IMPORTANT NOTICE**

*Under Section 3406(a)(1) of the Internal Revenue Code, the paying agent making payment of interest or principal on securities may be obligated to withhold a percentage of the payment to a holder who has failed to furnish the registrar with a valid taxpayer identification number, certification that the number supplied is correct, and that the holder is not subject to backup withholding. Holders of the Bonds who wish to avoid the application of these provisions should submit either a completed IRS Form W-9 (use only if the holder is a U.S. person, including a resident alien), or the appropriate Form W-8 (use only if you are neither a U.S. person or a resident alien), when presenting the Bonds for payment. See IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities. Publication 515 and W-8 forms and instructions are available through the IRS website at [www.irs.gov](http://www.irs.gov).*

\* The CUSIP numbers are included solely for the convenience of the Holders of the Bonds. Neither the Issuer nor the Trustee shall be responsible for any error of any nature relating to such numbers.

**Dated: \_\_\_\_\_, 2015**

**By: The Bank of New York Mellon Trust Company, N.A., as Trustee**

**EXHIBIT Y**

**NOTICE OF DEFEASANCE OF  
OUTSTANDING  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
SPECIAL TAX BONDS  
(the "Refunded Bonds")**

**CUSIP #s: 607800AK5, 607800AL3, 607800AM1, 607800AN9, 607800AP4, 607800AQ2,  
607800AR0**

Notice is hereby given to the holders of the above-captioned Bonds (the "Refunded Bonds") that (i) the Refunded Bonds will be redeemed and defeased; (ii) there has been deposited with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, moneys as permitted by that certain Trust Indenture, dated as of June 1, 2005, between the District and The Bank of New York Mellon Trust Company, N.A., as successor-in-interest to The Bank of New York Trust Company, N.A., as Trustee (the "Trustee") (the "Indenture"), relating to the Refunded Bonds, sufficient and available to pay the principal of and interest on the Refunded Bonds on March 1, 2015 and to redeem on March 1, 2015 the Refunded Bonds at the applicable redemption price contained in the Indenture; and (iii) the Escrow Bank has been irrevocably instructed to redeem such outstanding Refunded Bonds on March 1, 2015.

At least 30 days, but not more than 60 days, prior to March 1, 2015, in accordance with the terms of the Indenture, the Trustee shall mail a redemption notice for such Refunded Bonds.

If you have any questions regarding this notice, please contact Bondholder Relations at (800) 254-2826.

Dated this \_\_\_ day of December, 2014.

**THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.,  
as Trustee**

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**TAX CERTIFICATE**

The City of Modesto (the “City”), on behalf of, and together with the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the “District”), hereby make the following representations of facts and expectations and covenant to comply with the requirements of this Tax Certificate in connection with the \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds (the “Obligations”). These representations and covenants are in furtherance of the covenants contained in Section 5.2 of the Bond Indenture dated as of December 1, 2014, by and between the District and U.S. Bank National Association, as Fiscal Agent (the “Issuance Document”), and in part are made pursuant to Section 1.141-2(d)(2) and Section 1.148-2(b)(2) of the Treasury Regulations. Capitalized terms used herein which are not otherwise defined herein shall have the respective meanings set forth in the Issuance Document.

\* \* \*

**I. General Matters.**

(a) Authority for Issuance. The undersigned and other officers and members of the Issuer are charged with the responsibility of authorizing and requesting the issuance of the Obligations. The Obligations are being issued pursuant to the Mello-Roos Community Facilities Act of 1982, as amended.

(b) Sale of Obligations. The Obligations are being delivered to City National Bank, as purchaser (the “Purchaser”) on the date hereof.

(c) Purpose of Obligations. The Obligations are being sold and delivered for the purpose of (i) currently refunding the outstanding City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds, Series 2005 (the “Current Refunded Obligations”), (ii) paying costs of issuance with respect to the Obligations (the “Issuance Costs”), and (iii) funding a reasonably required reserve fund for the Obligations. The Issuer covenants to use the proceeds of the Obligations solely for the above-described purposes, unless an opinion of Bond Counsel is received permitting uses of proceeds for other than the above-described purposes

The Current Refunded Obligations were issued for new money purposes (the “Project”).

(d) Nature of Issue. All the Obligations are being sold and issued at the same time, have been sold pursuant to the same plan of financing, and are reasonably expected to be paid from substantially the same source of funds. Accordingly, the Obligations are a single issue of obligations for certain federal income tax purposes relating to the exclusion from gross income of interest on the Obligations. No other governmental obligations which are reasonably expected to be paid from

substantially the same source of funds are being sold or issued at substantially the same time and sold pursuant to the same plan of financing as the Obligations.

\* \* \*

## II. Private Activity.

(a) Governmental Use of Proceeds. Absent an opinion of nationally-recognized bond counsel that the exclusion from gross income of interest on the Obligations will not be adversely affected for federal income tax purposes, and except as provided below, the Issuer will not allow any of the proceeds of the Obligations, or any refinanced obligations thereof, or any of the facilities financed or refinanced with such obligations to be used in the trade or business of any nongovernmental persons (other than in their roles as members of the general public) and will not loan any of the proceeds of the Obligations or any refinanced obligations to any nongovernmental persons. In furtherance of the foregoing, the Issuer represents the following with respect to the use of proceeds of the Obligations and the facilities financed and refinanced therewith.

(b) In General. No more than 10% of the proceeds of the Obligations or the Project (based on the cost of the components of the Project or, with respect to a unitary structure, on the relative fair rental value of such components) has been or will be used in the aggregate for any activities that constitute a "Private Use" (as such term is defined in Section (e) below). No more than 10% of the principal of or interest on the Obligations, under the terms thereof or any underlying arrangement, has been or will be secured by any interest in property (whether or not the Project) used for a Private Use or in payments in respect of property used for a Private Use, or will be derived from payments in respect of property used for a Private Use.

(c) No Private Loan Financing. No more than the lesser of 5% of the proceeds of the Obligations or \$5,000,000 will be used to make or finance loans to any person other than to a state or local governmental unit (other than loans to finance any governmental tax or assessment of general application for a specific essential governmental function or loans that are used to acquire or carry Nonpurpose Investments (as such term is defined below)).

(d) No Disproportionate or Unrelated Use. No more than 5% of the proceeds of the Obligations or the Project has been or will be used for a Private Use that is unrelated or disproportionate to the governmental use of the proceeds of the Obligations (an "Unrelated or Disproportionate Use"), and no more than 5% of the principal of or interest on any of the Obligations has been or will be, under the terms of the Obligations or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Use that is an Unrelated or Disproportionate Use or in payments in respect of property used or to be used for a Private Use that is an Unrelated or Disproportionate Use.

(e) Definition of Private Use. For purposes of this Tax Certificate, the term "Private Use" means any activity that constitutes a trade or business that is carried on by persons or entities other than governmental entities. The leasing of property financed or refinanced with proceeds of the Obligations or the use by or the access of a person or entity other than a governmental unit to property or services on a basis other than as a member of the general public shall constitute a Private Use.

(f) Management and Service Contracts. With respect to management and service contracts, the determination of whether a particular use constitutes Private Use under this Tax

Certificate shall be determined on the basis of applying the relevant sections of the Treasury Regulations and Revenue Procedure 97-13, as amended and amplified. No portion of the proceeds derived from the sale of the Obligations is being used to provide property subject to contracts or other arrangements with persons or entities engaged in a trade or business (other than governmental units) that involve the management of property or the provision of services with respect to property financed or refinanced by proceeds of the Obligations that do not comply with the standards of the Treasury Regulations or Revenue Procedure 97-13, as amended and amplified.

\* \* \*

### III. Arbitrage Certifications.

The following states the expectations of the Issuer with respect to the amount and uses of the proceeds of the Obligations and certain other monies or property:

(a) Source and Use of Funds. The total proceeds to be derived by the Issuer from the sale of the Obligations, in the aggregate amount of \$4,420,000.00, are expected to be needed and fully expended as follows:

(i) \$146,929.62 of such proceeds will be deposited in the Costs of Issuance Fund and, together with investment earnings thereon, will be expended to pay Issuance Costs within one year of the date hereof;

(ii) \$195,187.50 of such proceeds will be deposits in the Reserve Account; and

(iii) \$4,077,882.88 of such proceeds Issuer will be deposited in the Escrow Fund (the "Escrow Fund") created pursuant to the Escrow Agreement dated as of December 1, 2014 (the "Escrow Agreement"), by and between the District and The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, and such monies will be used to pay all principal and interest due on the Current Refunded Obligations on March 1, 2015 and redeem the Current Refunded Obligations on March 1, 2015.

(b) Over-Issuance. The total proceeds to be received by the Issuer from the sale of the Obligations, together with anticipated investment earnings thereon, do not exceed the total amount necessary for the purposes described above.

(c) Refunding Plan.

(i) Escrow Fund. \$4,825,510.85 (consisting of \$4,077,882.88 of the sale proceeds of the Obligations, together with \$747,627.97 of amounts held in funds and accounts with respect to the Current Refunded Obligations and funds on hand with the District) will be deposited in the Escrow Fund held and maintained by the Escrow Bank pursuant to the Escrow Agreement and will be utilized to pay all principal and interest due on the Current Refunded Obligations on March 1, 2015 and to redeem the remaining Current Refunded Obligations on March 1, 2015.

(ii) Purpose of Refunding. The Obligations are being issued for present value debt service savings.

(iii) Other Monies. Other than as stated above, there are no unexpended proceeds of the Current Refunded Obligations.

(d) Working Capital. No operational expenditures of the Issuer or any related entity are to be financed directly or indirectly with proceeds derived from the sale of the Obligations.

(e) Reimbursement. No portion of the proceeds of the Obligations are being used to reimburse the Issuer for any expenditures that were incurred and paid thereby with respect to the Project prior to the issuance of the Obligations.

(f) Funds and Accounts. The Issuance Document creates and establishes the following funds with respect to the Obligations:

(i) the Community Facilities District 2003-1 Special Tax Fund, and within such fund;

(A) the Debt Service Account;

(B) the Redemption Account; and

(C) the Reserve Account;

(ii) the Rebate Fund and within such fund;

(A) the Rebate Account; and

(B) the Alternative Penalty Account; and

(iii) the Costs of Issuance Fund.

(g) Sinking Funds.

(i) Bona Fide Debt Service Funds. The Debt Service Account and Redemption Account of the Special Tax Fund (to the extent monies therein will be depleted within one year of receipt) (collectively, the "Bona Fide Debt Service Funds"), will be used primarily to achieve a proper matching of revenues (and certain other monies) and payments of principal and interest with respect to the Obligations within each year. Amounts deposited in the Bona Fide Debt Service Funds will be depleted at least once a year except for a reasonable carryover amount, if any, which, in the aggregate, will not exceed the greater of (i) one year's earnings on such funds for the immediately preceding bond year, or (ii) one-twelfth of the annual debt service with respect to the Obligations for the immediately preceding bond year.

(ii) Reasonably Required Reserve. Amounts deposited in the Reserve Account will not be greater than the least of (i) maximum annual debt service with respect to the Obligations, (ii) 125% of average annual debt service with respect to the Obligations, or (iii) 10% of the face amount of Obligations (less original issue discount if in excess of two percent (2%) of the stated redemption amount at maturity) (the "Tax Reserve Limit"). The creation of the Reserve Account was vital to the marketing of the Obligations, and reasonably required to assure the payment of debt service on the Obligations.

(iii) No Other Proceeds. Other than the Bona Fide Debt Service Funds and the Reserve Account, there are no funds or accounts of the Issuer established pursuant to the Issuance Document, or otherwise, that are reasonably expected to be used for the payment of

principal and interest with respect to the Obligations or that are pledged as collateral for the Obligations and for which there is a reasonable assurance that amounts on deposit therein will be available for the payment of principal and interest with respect to the Obligations if the Issuer encounters financial difficulties. The term of the Obligations is not longer than is reasonably necessary for the governmental purpose of the issue, and the weighted average maturity of the Obligations does not exceed 120 percent of the average reasonably expected economic life of the refinanced Project.

(h) Rebate Liability Account. Amounts deposited in the Rebate Fund are to assist the Issuer with compliance of Section 148(f) of the Code.

(i) Investment. The proceeds derived from the sale of the Obligations and the amounts on deposit in the aforementioned funds and accounts may be invested as follows:

(i) Proceeds derived from the sale of the Obligations and deposited in the Costs of Issuance Fund, and such monies held in the Rebate Fund, may be invested at an unrestricted yield for a term of thirteen months from the date hereof. Amounts described in this Subparagraph (i) that may not be invested at an unrestricted yield pursuant to the previous sentence shall be invested either at a yield not in excess of the yield on the Obligations or in "Tax-Exempt Obligations" (within the meaning of Section IV hereof).

(ii) Amounts deposited in the Bona Fide Debt Service Funds may be invested at an unrestricted yield for a period not in excess of 13 months from the date of deposit of such amounts to such funds. Amounts described in the previous sentence that may not be invested at an unrestricted yield pursuant to such Subparagraph shall be invested either at a yield not in excess of the yield on the Obligations or in Tax-Exempt Obligations.

(iii) Amounts held in the Rebate Fund (not described above) may be invested without regard to yield.

(iv) Amounts held in the Redemption Account (not described above) will be invested at a yield not in excess of the yield on the Obligations.

(v) Amounts held to retire the Current Refunded Obligations have been invested at a yield below the yield on the Obligations.

(vi) Amounts held in the Reserve Account, not in excess of the Tax Reserve Limit, may be invested without regard to yield.

(j) Yield. For purposes of this Section III of this Tax Certificate, yield is calculated as set forth in Section 148 of the Code and Section 1.148-4 of the Treasury Regulations. Thus, yield generally means that discount rate which when used in computing the present value of all unconditionally payable payments representing principal, interest, and the fees of qualified guarantees paid and to be paid with respect to the Obligations produces an amount equal to the issue price of the Obligations. The issue price of the Obligations is \$4,420,000 which is equal to the price paid by the first buyer of the Obligations. Yield with respect to the obligations allocable to proceeds of the Obligations, is that discount rate which when used in computing the present worth of the payments of principal and interest with respect to the obligations produces an amount equal to the purchase price of the obligation.

Absent an opinion of nationally recognized bond counsel that the exclusion from gross income of interest on the Obligations will not be adversely affected for federal income tax purposes, the Issuer will not enter into any hedges (including swaps or caps) with respect to the Obligations.

(k) No Artifice or Device. The Obligations are not and will not be part of a transaction or series of transactions (i) that attempts to circumvent the provisions of Section 148 of the Code, or any successor thereto, and the regulations promulgated thereunder or under any predecessor thereto, enabling the Issuer or any related person to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (ii) that increases the burden on the market for tax-exempt obligations in any manner, including, without limitation, by selling bonds that would not otherwise be sold, or selling more bonds, or issuing bonds sooner, or allowing bonds to remain outstanding longer, than otherwise would be necessary.

\* \* \*

#### **IV. Rebate Compliance.**

(a) Covenants. The Issuer hereby covenants to comply with the rebate requirements of Section 148(f) of the Code.

The Issuer acknowledges that the United States Department of the Treasury has issued certain regulations with respect to certain requirements relating to compliance with Section 148(f) of the Code. The Issuer covenants that it will determine precisely what is required with respect to Section 148(f) of the Code and will comply with any requirements applicable to the Obligations.

The Issuer acknowledges that, to the extent that an exception to the rebate requirements of Section 148(f) of the Code is not available with respect to the Obligations, under Section 148(f) of the Code, the federal government must be paid the sum of (i) the excess of the amount earned on all “nonpurpose investments” with respect to the Obligations over the amount that would have been earned had such investments been invested at a rate equal to the yield with respect to the Obligations, plus (ii) any income attributable to the excess described in (i) (the “Rebate Requirement”).

The Issuer acknowledges that currently, unless an exception to the Rebate Requirement is available, compliance with Section 148(f) of the Code generally involves a multi-step process: (1) ascertaining the funds (the “Gross Proceeds”) and investments (the “Nonpurpose Investments”) subject to the Rebate Requirement of Section 148(f) of the Code after applying, if applicable, a universal cap with respect to the Obligations (the “Universal Cap”), (2) creating an investment history cash flow report with respect to the investment of Gross Proceeds of the Obligations, (3) determining the yield with respect to the Obligations (the “Yield”), (4) future valuing receipts and payments in the cash flow report (including certain deemed receipts and payments) using the Yield as the discount factor, and (5) determining the amount of rebatable arbitrage with respect to the Obligations and paying the appropriate amount to the United States Treasury. See Treas. Reg. §§ 1.148-O through 1.148-11, 1.149(d)-1, and 1.150-1 for rules with respect to rebate compliance methodology. See Subparagraph (b)(i) below for a description of Nonpurpose Investments with respect to the Obligations, Subparagraph (b)(ii) below for a description of Gross Proceeds of the Obligations, Subparagraph (b)(iii) below for the description of a Universal Cap with respect to the Obligations, Subparagraph (b)(iv) below for a description of Yield with

respect to the Obligations for purposes of compliance with Section 148(f) of the Code, and Subparagraph (d) with respect to permitted investment of Gross Proceeds.

The Issuer also acknowledges that additional or different requirements may be applicable to the Obligations if certain exceptions are satisfied. See Paragraph (c) herein.

(b) Operative Terms.

(i) Nonpurpose Investments. Subject to the limitation in Subparagraph (b)(iii) below, Nonpurpose Investments are generally securities, obligations, annuity contracts or any other investment-type property that are not acquired to carry out the governmental purpose of the Obligations that are allocated to Gross Proceeds. However, Nonpurpose Investments do not include:

(A) United States Treasury - State and Local Government Series, Demand Deposit Securities; or

(B) tax-exempt obligations. The term "tax-exempt obligations" for the purposes of this Tax Certificate includes only obligations the interest on which is excludable from gross income for federal income tax purposes that do not constitute "specified private activity bonds" for purposes of Section 57(a)(5)(C) of the Code. The term "tax-exempt obligations" does, however, include stock in a "qualified regulated investment company," which is a corporation that (A) is a regulated investment company within the meaning of Section 851(a) of the Code and meets the requirements of Section 852(a) of the Code for the taxable year; (B) has only one class of stock authorized and outstanding; (C) invests all of its assets in tax-exempt obligations (as defined above) to the extent practicable; and (D) has at least 98% of its gross income derived from interest on, or gain from the sale or other disposition of, tax-exempt obligations or at least 98% of the weighted average value of its assets is represented by investments in tax-exempt obligations.

(ii) Gross Proceeds. Subject to the limitation in Subparagraph (b)(iii) below, "Gross Proceeds" with respect to the Obligations means:

(A) amounts actually or constructively received from the sale (or other disposition) of the Obligations;

(B) amounts actually or constructively received from investing amounts described in (A);

(C) amounts (other than proceeds derived from the sale of the Obligations) that are reasonably expected to be or are in fact used to pay debt service with respect to the Obligations;

(D) amounts pledged as security for the payment of debt service with respect to the Obligations or otherwise serving as a reserve fund with respect to the Obligations;

(E) "transferred proceeds" of the Obligations; and

(F) any other amounts which are replacement proceeds of the Obligations within the meaning of Treasury Regulation § 1.148-1(c).

(iii) Universal Cap. Except as provided below, in no event shall the value of Nonpurpose Investments allocated to Gross Proceeds of the Obligations exceed the Universal Cap of the Obligations computed in accordance with Section 1.148-6 of the Treasury Regulations. The Universal Cap of the Obligations is equal to the value of the outstanding Obligations computed in accordance with Section 1.148-4 of the Treasury Regulations. The value of a Nonpurpose Investment on a date allocated to Gross Proceeds of the Obligations for this purpose is equal to the value of such investment in accordance with Treasury Regulation § 1.148-5(d). The Universal Cap value and the value of Nonpurpose Investments are to be computed as of the first day of each bond year that commences after the second anniversary of the issue date and if the applicable obligations, are a refunding issue, as of each date that, without regard to the Universal Cap, proceeds of any refunded issue become “transferred proceeds” of the Obligations within the meaning of Section 1.148-9 of the Treasury Regulations (a “Cap Computation Date”). Amounts described in Subparagraph (c)(i) are not subject to the Universal Cap. Between Cap Computation Dates, Nonpurpose Investments cease to be allocated to the Obligations to the extent they are expended or otherwise cease to be allocated to the Obligations under Section 1.148-6 of the Treasury Regulations. To the extent Nonpurpose Investments cease to be allocated to the obligations of an Obligations, other investments become so allocated up to the amount of the unused Universal Cap, computed in accordance with Section 1.148-6 of the Treasury Regulations. If on a Cap Computation Date Nonpurpose Investments have a value in excess of the Universal Cap, an amount of such investments necessary to eliminate that excess ceases to be allocated to the Obligations. Nonpurpose Investments cease to be allocated to the Obligations in the following order, within the meaning of Section 1.148-6 of the Treasury Regulations:

(1) first, amounts held in a sinking fund, pledged fund, or reserve or replacement fund for the Obligations (other than proceeds derived from the sale of the Obligations),

(2) second, transferred proceeds, and

(3) third, proceeds derived from the sale of the Obligations and earnings thereon, all within the meaning of Section 1.148-6 of the Treasury Regulations.

(4) A failure to do a Universal Cap calculation on a Cap Computation Date will not result in noncompliance with Section 148(f) of the Code if, in the absence of that failure, the Obligations would have satisfied the Rebate Requirement.

(iv) Yield. See Section III hereof.

(c) Rebate Exception.

(i) Bona Fide Debt Service Funds. The Issuer will be relieved of the obligation to pay the Rebate Requirement with respect to amounts earned on funds in the Bona Fide Debt Service Funds and the Escrow Fund.

(d) Prohibited Investments and Dispositions. The Issuer acknowledges that compliance with Section 148(f) of the Code may involve taking no action to artificially reduce the Rebate Requirement by the manner of investing Gross Proceeds. The Issuer covenants that absent an opinion of nationally recognized bond counsel that the exclusion from gross income of interest with respect to the Obligations will not be adversely affected, it will comply with the rules of this Subsection to assure compliance with Section 148(f) of the Code.

(i) No Nonpurpose Investment may be acquired with Gross Proceeds for an amount in excess of the fair market value of such Nonpurpose Investment. No Nonpurpose Investment may be sold or otherwise disposed of for an amount less than the fair market value of the Nonpurpose Investment.

(ii) The fair market value of any Nonpurpose Investment is the price which a willing buyer would pay to a willing seller to acquire the Nonpurpose Investment in a bona fide, arm's-length transaction, with no amounts to artificially reduce or increase the yield on the Nonpurpose Investment. Fair market value generally is determined on the date on which a contract to purchase or sell the Nonpurpose Investment becomes binding (i.e., the trade date rather than the settlement date). The purchase or sales price of a Nonpurpose Investment is not adjusted (except as provided below) to take into account any administrative costs of the Nonpurpose Investment. For calendar year 2014, a brokerage commission or similar fee for an investment contract is included as a receipt with respect to the investment contract and for investments for a yield restricted defeasance escrow to the extent the commission exceeds the lesser of (A) \$38,000.00 and (B) .2% of the computational base or, if more, \$4,000; provided, a brokers fee or similar fee is included as a receipt to the extent all brokers fees or similar fees of the issue of Bonds exceed \$108,000.00. For purposes of this Tax Certificate "computational base" means (A) for a guaranteed investment contract, the amount of Gross Proceeds to be deposited in the contract, and (B) for investments (other than guaranteed investment contracts) to be deposited in a yield restricted defeasance escrow, the amount of Gross Proceeds initially invested in those investments. For subsequent calendar years, the dollar limits described in this Subsection may be increased for cost-of-living adjustments. See Treas. Reg. § 1.148-5(e)(2)(iii). Certain administrative costs, including reasonable direct administrative costs, other than carrying costs, such as brokerage commissions or selling commissions, but not legal and accounting fees, recordkeeping, custody and similar costs, may be taken into account in computing the Rebate Requirement with respect to investments. See Treas. Reg. § 1.148-5. General overhead costs and similar indirect costs of the District such as employee salaries and office expenses and costs of computing rebatable arbitrage may not be taken into account. The following provisions provide guidelines as to when the Nonpurpose Investment will be deemed to be acquired for its fair market value. Other methods may be used, however, to establish fair market value.

(iii) Nonpurpose Investments that are investment contracts or an investment purchased for a yield restricted defeasance escrow will be considered acquired and disposed

of for an amount equal to the fair market value of such obligations if the following Subsections are satisfied:

(A) The Issuer makes a bona fide solicitation for the purchase of the investment. A bona fide solicitation is a solicitation that satisfies all of the following requirements:

(1) The bid specifications are in writing and are timely forwarded to potential providers.

(2) The bid specifications include all material terms of the bid. A term is material if it may directly or indirectly affect the yield or the cost of the investment.

(3) The bid specifications include a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the Issuer or any other person (whether or not in connection with the bond issue), and that the bid is not being submitted solely as a courtesy to the Issuer or any other person for purposes of satisfying the requirements of paragraph (B)(1) or (2) below.

(4) The terms of the bid specifications are commercially reasonable. A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the yield of the investment. For example, for solicitations of investments for a yield restricted defeasance escrow, the hold firm period must be no longer than the Issuer reasonably requires.

(5) For purchases of guaranteed investment contracts only, the terms of the solicitation take into account the Issuer's reasonably expected deposit and drawdown schedule for the amounts to be invested.

(6) All potential providers have an equal opportunity to bid. For example, no potential provider is given the opportunity to review other bids (i.e., a last look) before providing a bid.

(7) At least three reasonably competitive providers are solicited for bids. A reasonably competitive provider is a provider that has an established industry reputation as a competitive provider of the type of investments being purchased.

(B) The bids received by the Issuer meet all of the following requirements:

(1) The Issuer receives at least three bids from providers that the Issuer solicited under a bona fide solicitation meeting the requirements of paragraph (A) of this section and that do not have a material financial interest

in the issue. A lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the issue date of the issue. In addition, any entity acting as a financial advisor with respect to the purchase of the investment at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue. A provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.

(2) At least one of the three bids described in paragraph (B)(1) of above is from a reasonably competitive provider, within the meaning of paragraph (A)(7) of this section.

(3) If the Issuer uses an agent to conduct the bidding process, the agent did not bid to provide the investment.

(C) The winning bid meets the following requirements:

(1) *Guaranteed investment contracts.* If the investment is a guaranteed investment contract, the winning bid is the highest yielding bona fide bid (determined net of any broker's fees).

(2) *Other investments.* If the investment is not a guaranteed investment contract, the following requirements are met:

a. The winning bid is the lowest cost bona fide bid (including any broker's fees). The lowest cost bid is either the lowest cost bid for the portfolio or, if the Issuer compares the bids on an investment-by-investment basis, the aggregate cost of a portfolio comprised of the lowest cost bid for each investment. Any payment received by the Issuer from a provider at the time a guaranteed investment contract is purchased (e.g., an escrow float contract) for a yield restricted defeasance escrow under a bidding procedure meeting the requirements of paragraph (iii) is taken into account in determining the lowest cost bid.

b. The lowest cost bona fide bid (including any broker's fees) is not greater than the cost of the most efficient portfolio comprised exclusively of State and Local Government Series Securities from the United States Department of the Treasury, Bureau of Public Debt. The cost of the most efficient portfolio of State and Local Government Series Securities is to be determined at the time that bids are required to be submitted pursuant to the terms of the bid specifications.

c. If State and Local Government Series Securities from the United States Department of the Treasury, Bureau of Public Debt are not available for purchase on the day that bids are required to be submitted pursuant to terms of the bid specifications because sales of

those securities have been suspended, the cost comparison of (C)(2)(b) is not required.

(D) The provider of the investments or the obligor on the guaranteed investment contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the investment.

(E) The Issuer retains the following records with the bond documents until three years after the last outstanding bond is redeemed:

(1) For purchases of guaranteed investment contracts, a copy of the contract, and for purchases of investments other than guaranteed investment contracts, the purchase agreement or confirmation.

(2) The receipt or other record of the amount actually paid by the Issuer for the investments, including a record of any administrative costs paid by the Issuer, and the certification under paragraph (D) above.

(3) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid, and the bid results.

(4) The bid solicitation form and, if the terms of the purchase agreement or the guaranteed investment contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation. For example, if the Issuer purchases a portfolio of investments for a yield restricted defeasance escrow and, in order to satisfy the yield restriction requirements of Code Section 148, an investment in the winning bid is replaced with an investment with a lower yield, the Issuer must retain a record of the substitution and how the price of the substitute investment was determined. If the Issuer replaces an investment in the winning bid portfolio with another investment, the purchase price of the new investment is not covered by the safe harbor unless the investment is bid under a bidding procedure meeting the requirements of paragraph (iii).

(5) For purchases of investments other than guaranteed investment contracts, the cost of the most efficient portfolio of State and Local Government Series Securities, determined at the time that the bids were required to be submitted pursuant to the terms of the bid specifications.

(iv) Nonpurpose Investments that are certificates of deposit with a fixed interest rate, a fixed principal payment schedule, a fixed maturity, and a substantial penalty for early withdrawal, will be considered acquired for their fair market value if the following requirements are satisfied:

(A) the yield on the certificate of deposit is not less than the yield on reasonably comparable direct obligations of the United States; and

(B) the yield on the certificate of deposit is not less than the highest yield that is published or posted by the provider to be currently available from the provider on comparable certificates of deposit offered to the public.

(v) Except as otherwise provided in paragraph (d), any Nonpurpose Investment that is not of a type traded on an established securities market, within the meaning of Code §1273, shall be rebuttably presumed to be acquired or disposed of for an amount in excess of the fair market value of the Nonpurpose Investment.

(vi) The fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury is its purchase price.

(e) Bond Year. For purposes of this Certificate, Bond Year ends on each September 1 and begins on each September 2; provided that the first Bond Year begins on the date hereof and the last Bond Year ends on the date no Obligations are outstanding.

\* \* \*

#### V. **Recordkeeping and Allocation.**

(a) Recordkeeping. The Issuer will maintain or cause to be maintained sufficient records to support compliance with the provisions of this Tax Certificate and to support the exclusion from gross income of interest on the Obligations for federal income tax purposes, including, but not limited to, the following:

- (i) basic records relating to the Obligations (e.g., indenture, loan agreement, and opinions);
- (ii) documentation evidencing expenditure of Obligation proceeds;
- (iii) documentation evidencing use of Obligation financed property (e.g., management and service contracts);
- (iv) documentation evidencing sources of payment and security for Obligations ;  
and
- (v) documentation pertaining to the investment of Obligation proceeds (including rebate calculations).

In particular, the Issuer will maintain or cause to be maintained detailed records with respect to each security, obligation, annuity contract, or another investment-type property allocated to Gross Proceeds, including: (i) purchase date, (ii) purchase price, (iii) information establishing fair market value on the date such investment is allocated to Gross Proceeds, (iv) any accrued interest paid, (v) face amount, (vi) coupon rate, (vii) periodicity of interest payments, (viii) disposition price, (ix) any accrued interest received, and (x) disposition date. The Issuer shall establish separate sub-accounts or take other accounting measures in order to account fully for all Gross Proceeds. The Issuer shall maintain books and records with respect to the allocation of Gross Proceeds in accordance with this Tax Certificate. All records required to be maintained pursuant to this Tax Certificate must be kept as long as the Obligations are outstanding plus three years after all

Obligations are retired, and with respect to obligations refunded by the Obligations, for the same period required for the Obligations.

(b) Allocation. The Issuer may use any reasonable, consistently applied accounting method to account for Gross Proceeds of the Obligations in accordance with Treasury Regulation § 1.148-6; for purposes of allocating Gross Proceeds to capital expenditures intended to be financed pursuant to this Tax Certificate after the date of issue of the applicable tax-exempt obligation, and paid to unrelated third parties (“Qualified Capital Expenditures”), the Issuer may use the following accounting methods: “specific tracing,” “gross-proceeds-spent-first,” “first-in, first-out,” or a ratable allocation method. The Issuer covenants to consult with nationally recognized bond counsel with respect to the applicable method of allocation of Gross Proceeds to expenditures that are not Qualified Capital Expenditures. In addition, the accounting method applied must account uniformly for (i) Gross Proceeds commingled with other moneys in excess of \$25,000 and such other commingled moneys and (ii) Gross Proceeds for each fiscal year or interim fiscal period therein during which the issue is outstanding. Another accounting method may, however, be utilized for moneys if it is for a bona fide purpose unrelated to federal income tax restrictions. If Gross Proceeds are commingled with other moneys (other than in an open-end regulated investment company) in an amount in excess of \$25,000 (a “Commingled Fund”), the following additional requirements must be satisfied. First, all payments and receipts with respect to investments in the Commingled Fund must be allocated among the different moneys ratably based upon either (i) average daily balances during a “Computation Period” (as defined below) or (ii) the average of the beginning and ending balances of the amounts in the Commingled Fund for a Computation Period that does not exceed one month. A Commingled Fund may use as its Computation Period any consistent time period within its fiscal year that does not exceed three months. Not less frequently than at the end of each Computation Period, the Commingled Fund must compute and allocate to different types of moneys all payments, receipts, income, gain or losses realized, and expenditures. Second, except as provided below, the Commingled Fund must treat all of its investments as if sold at fair market value on the last day of the fiscal year or as of the last day of each Computation Period, and so allocate net gains or losses from such deemed sales (the “Mark-to-Market Requirement”). A Commingled Fund need not satisfy the Mark-to-Market Requirement if (i) the remaining weighted average maturity of all investments held by the Commingled Fund during a fiscal year does not exceed eighteen months and such investments consist exclusively of debt obligations, (ii) the Commingled Fund serves as a common reserve fund or sinking fund for two or more issues of the same issuer or (iii) the Issuer (and any related party) do not own more than twenty-five percent of beneficial interests in the Commingled Fund. Common reserve funds or sinking funds for two or more issues must be ratably allocated (not less frequently than once every five years and on each date a new issue is added or retired (if relative original principal amounts are used to so allocate)) in accordance with (i) the value of the bonds under Treasury Regulation § 1.148-4(e), (ii) the relative amounts of the remaining maximum annual debt service payable on the issues, or (iii) the relative original stated principal amounts of the outstanding issues. Notwithstanding any other provision of this Tax Certificate, the allocation methodology applied must be consistent for all purposes of this Tax Certificate.

The Issuer must account for the allocation of Gross Proceeds to expenditures not later than eighteen months after the later of the date the expenditure is paid and the date the applicable Project is placed in service and in any event, by the date sixty days after the fifth anniversary of the issue date of the Obligations or the date 60 days after the retirement of the Obligation if earlier.

\* \* \*

**VI. Miscellaneous.**

(a) Federal Guarantee. The Issuer will not invest any of the proceeds of the Obligations in a manner which would result in the Obligations being considered “federally guaranteed” within the meaning of Section 149(b) of the Code, except as permitted therein (i.e., will not cause interest with respect to the Obligations to be included in gross income for federal income tax purposes).

(b) Information Reporting. Attached as Exhibit C is a copy of the Form 8038-G filed with respect to the Obligations.

(c) No Pooling. The Issuer does not expect to use and will not use the proceeds of the Obligations, nor any refinanced obligations, to make or finance loans to two or more ultimate borrowers.

(d) Hedge Bonds. As of the date of issuance of the Current Refunded Obligations, the Issuer reasonably expected to expend at least 85% of the proceeds derived from the sale of those obligations or obligations refinanced thereby (less amounts deposited in the respective reasonably required reserve funds for the obligations) on the costs of the projects financed by those obligations within three years of the date of issuance of those obligations. Not more than 50% of the proceeds of the Current Refunded Obligations will be (or have been) invested at a guaranteed rate of return for a term of four years or more.

\* \* \*

**VII. Concluding Matters.**

(a) Reliance. The expectations of the Issuer concerning certain uses of Obligation proceeds and certain other moneys described herein and other matters are based in whole or in part upon representations of other parties as set forth in this Tax Certificate or the exhibits attached hereto. The Issuer is not aware of any facts or circumstances that would cause it to question the accuracy or reasonableness of any representations made in this Tax Certificate or exhibits attached hereto.

(b) Authority. The undersigned is an authorized representative of the Issuer, and is acting for and on behalf of the Issuer in executing this Tax Certificate. To the best of the knowledge and belief of the undersigned, there are no other facts, estimates or circumstances that would materially change the expectations as set forth herein, and said expectations are reasonable.

(c) Amendment. Notwithstanding any provision of this Tax Certificate, the Issuer may amend this Tax Certificate and thereby alter any actions allowed or required by this Tax Certificate if such amendment is based on an opinion of bond counsel that the exclusion from gross income of interest with respect to the Obligations and any refinanced obligations will not be adversely affected.

Dated: December 16, 2014

CITY OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

By: *Gloriette Genereux*  
Director of Finance of the City of Modesto,  
acting in its capacity as the legislative body of  
the City of Modesto Community Facilities  
District No. 2003-1 (Fairview Village)

CITY OF MODESTO

By: *Gloriette Genereux*  
Its: Director of Finance

**EXHIBIT A**

**[RESERVED]**

**EXHIBIT B**

**\$4,420,000  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

**CERTIFICATE OF THE PLACEMENT AGENT**

This Certificate is furnished by Piper Jaffray & Co., as the placement agent (the “Placement Agent”) of the \$4,420,000 aggregate stated principal amount of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds (the “Bonds”). The Placement Agent hereby certifies and represents the following based upon the information available to it:

1. Issue Price.

1.1 All of the Bonds have been sold at par (the “Sales Price”) to City National Bank (the “Purchaser”), the first buyer of the Bonds.

1.2 In our opinion, and based upon our estimate as of the date hereof, the price of par is within a reasonable range of, and should reflect, the fair market prices for such Bonds as of their date of sale.

1.3 To the best of our knowledge, the Purchaser intends to hold the Bonds for its own account, and has no present plan or intention to sell the Bonds.

2. Arbitrage Yield.

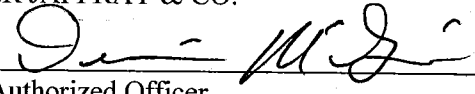
We have provided the attached arbitrage yield calculation to the District.

To the extent we have provided the District and bond counsel with certain computations that show a bond yield, issue price, weighted average maturity and certain other information with respect to the Bonds, these computations are based on our understanding of directions that we have received from bond counsel regarding such bond counsel’s interpretation of applicable law. We express no view regarding the legal sufficiency of such computations or the correctness of any legal interpretation made by bond counsel. Nothing herein represents our interpretation of any laws or regulations under the Internal Revenue Code of 1986, as amended.

All terms not defined herein have the meanings ascribed to those terms in the attached Tax Certificate.

Dated: December 16, 2014

PIPER JAFFRAY & CO.

By:   
Authorized Officer

**EXHIBIT C**  
**INFORMATION REPORTING**  
**FORM 8038-G**

**Information Return for Tax-Exempt Governmental Obligations**

► Under Internal Revenue Code section 149(e)  
 ► See separate instructions.  
**Caution: If the issue price is under \$100,000, use Form 8038-GC.**

OMB No. 1545-0720

**Part I Reporting Authority** If Amended Return, check here

<b>1</b> Issuer's name City of Modesto		<b>2</b> Issuer's employer identification number (EIN) 94-6000374
<b>3a</b> Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions) Carol Lew, Esq.		<b>3b</b> Telephone number of other person shown on 3a 949-725-4237
<b>4</b> Number and street (or P.O. box if mail is not delivered to street address) 1010 10th Street	Room/suite	<b>5</b> Report number (For IRS Use Only) 3
<b>6</b> City, town, or post office, state, and ZIP code Modesto, California		<b>7</b> Date of issue 12/16/2014
<b>8</b> Name of issue City of Modesto CFD No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds		<b>9</b> CUSIP number N/A
<b>10a</b> Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Gloriette Genereux, Director of Finance		<b>10b</b> Telephone number of officer or other employee shown on 10a 209-577-5371

**Part II Type of Issue (enter the issue price).** See the instructions and attach schedule.

<b>11</b> Education	<b>11</b>		
<b>12</b> Health and hospital	<b>12</b>		
<b>13</b> Transportation	<b>13</b>		
<b>14</b> Public safety	<b>14</b>		
<b>15</b> Environment (including sewage bonds)	<b>15</b>		
<b>16</b> Housing	<b>16</b>		
<b>17</b> Utilities	<b>17</b>		
<b>18</b> Other. Describe ► Miscellaneous Capital Improvements	<b>18</b>	4,420,000	00
<b>19</b> If obligations are TANs or RANs, check only box 19a			<input type="checkbox"/>
If obligations are BANs, check only box 19b			<input type="checkbox"/>
<b>20</b> If obligations are in the form of a lease or installment sale, check box			<input type="checkbox"/>

**Part III Description of Obligations.** Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
<b>21</b>	09/01/2035	\$ 4,420,000.00	\$ 4,420,000.00	13.005 years	4.100523 %

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

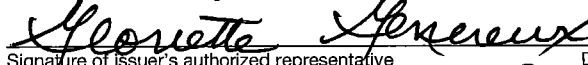
<b>22</b> Proceeds used for accrued interest	<b>22</b>		0	00
<b>23</b> Issue price of entire issue (enter amount from line 21, column (b))	<b>23</b>		4,420,000	00
<b>24</b> Proceeds used for bond issuance costs (including underwriters' discount)	<b>24</b>	146,929	62	
<b>25</b> Proceeds used for credit enhancement	<b>25</b>	0	00	
<b>26</b> Proceeds allocated to reasonably required reserve or replacement fund	<b>26</b>	195,187	50	
<b>27</b> Proceeds used to currently refund prior issues	<b>27</b>	4,077,882	88	
<b>28</b> Proceeds used to advance refund prior issues	<b>28</b>	0	00	
<b>29</b> Total (add lines 24 through 28)	<b>29</b>		4,420,000	00
<b>30</b> Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	<b>30</b>		0	00

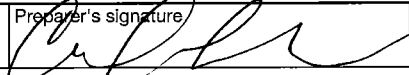
**Part V Description of Refunded Bonds.** Complete this part only for refunding bonds.

<b>31</b> Enter the remaining weighted average maturity of the bonds to be currently refunded	13.708	years
<b>32</b> Enter the remaining weighted average maturity of the bonds to be advance refunded	N/A	years
<b>33</b> Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	3/1/2015	
<b>34</b> Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)	07/14/2005	

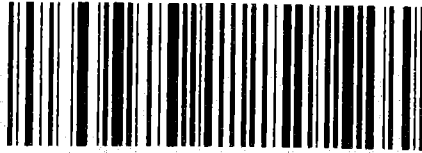
**Part VI Miscellaneous**

<b>35</b>	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	<b>35</b>	0	00
<b>36a</b>	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions) . . . . .	<b>36a</b>	0	00
<b>b</b>	Enter the final maturity date of the GIC ▶ _____			
<b>c</b>	Enter the name of the GIC provider ▶ _____			
<b>37</b>	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	<b>37</b>	0	00
<b>38a</b>	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:			
<b>b</b>	Enter the date of the master pool obligation ▶ _____			
<b>c</b>	Enter the EIN of the issuer of the master pool obligation ▶ _____			
<b>d</b>	Enter the name of the issuer of the master pool obligation ▶ _____			
<b>39</b>	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .			<input type="checkbox"/>
<b>40</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .			<input type="checkbox"/>
<b>41a</b>	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:			
<b>b</b>	Name of hedge provider ▶ _____			
<b>c</b>	Type of hedge ▶ _____			
<b>d</b>	Term of hedge ▶ _____			
<b>42</b>	If the issuer has superintegrated the hedge, check box . . . . .			<input type="checkbox"/>
<b>43</b>	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .			<input checked="" type="checkbox"/>
<b>44</b>	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .			<input checked="" type="checkbox"/>
<b>45a</b>	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____			
<b>b</b>	Enter the date the official intent was adopted ▶ _____			

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	 Signature of issuer's authorized representative	12/16/2014 Date	Gloriette Genereux, Director of Finance Type or print name and title	

<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Carol L. Lew, Esq.		12/16/2014		P01259683
	Firm's name ▶	Firm's EIN ▶			
Firm's address ▶	660 Newport Center Drive, Suite 1600, Newport Beach, CA 92660			Phone no.	949-725-4237

2. Article Number



7196 9008 9115 0120 2889

3. Service Type **CERTIFIED MAIL™**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

INTERNAL REVENUE SERVICE  
OGDEN, UTAH 84201

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)

B. Date of Delivery

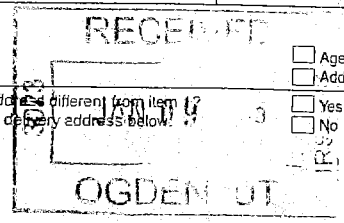
C. Signature

X

D. Is delivery address different from item?  
If YES, enter delivery address below.

Agent  
 Addressee

Yes  
 No



PS Form 3811, February 2003

Domestic Return Receipt

UNITED STATES POSTAL SERVICE®



First-Class Mail®  
Postage & Fees Paid  
USPS®  
Permit No. G-10

• Print your name, address and ZIP Code™ below •

STRADLING YOCCA CARLSON & RAUTH  
660 NEWPORT CTR DR SUITE 1600  
NEWPORT BEACH CA 92660-6422

024586-0016 P.L.

**EXHIBIT D**

**\$4,420,000**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

**POST ISSUANCE COMPLIANCE**

On this 16th day of December, 2014, the City and the District understand that post issuance compliance with the restrictions contained in the attached Tax Certificate is required to ensure that interest on the Obligations remains excluded from gross income for federal income purposes. The City and the District understand that the attached Tax Certificate, together with this exhibit, contains written post issuance procedures of the City and the District to effectuate post issuance compliance. In furtherance thereof, the City and the District hereby agree to:

1. Assign responsible personnel of the City and the District to monitor and ensure compliance with the restrictions contained in the attached Tax Certificate.
2. Provide adequate training to responsible City and District personnel to effectuate the purposes of this exhibit.
3. Have City and District personnel regularly review the restrictions of the Tax Certificate and establish adequate record retention and calendaring mechanisms internally to ensure that the City and the District will be able to establish post issuance compliance with the restrictions of the attached Tax Certificate. In particular, the City and District will maintain records detailing the investment and expenditures of Obligation proceeds, as provided in the Tax Certificate. The City and District will seek expert advice regarding compliance with the arbitrage rebate and yield restriction provisions of the Tax Certificate, and carefully monitor and calendar the dates by which Obligation proceeds should be expended to comply with yield restriction and rebate exceptions and the dates rebate must be paid.
4. Regularly consult with Bond Counsel and other City and District advisors regarding any issues that arise regarding post issuance compliance with the attached Tax Certificate (including any failure or anticipated failure to expend Obligation proceeds during the periods described in the attached Tax Certificate or any changes in use of the Project). The City and District understand that the use of the Project financed by the Obligations must be monitored throughout the term to maturity of the Obligations, and records must be retained regarding any contracts or other arrangements relating to such use as provided in the Tax Certificate.

All terms not defined herein have the meanings ascribed in the attached Tax Certificate.

CITY OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

By: *Gloriette Generaux*  
Director of Finance of the City of Modesto,  
acting in its capacity as the legislative body of  
the City of Modesto Community Facilities  
District No. 2003-1 (Fairview Village)

CITY OF MODESTO

By: *Gloriette Generaux*  
Director of Finance

**DEC 05 2014**

[SECRETARY OF STATE: PLEASE  
AFFIX STAMP BELOW THIS SPACE]

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF STANISLAUS        )

In accordance with the Uniform Facsimile Signatures of Public Officials Act (Government Code Sections 5500, *et seq.*), I hereby file with the Secretary of State my manual signature and hereby certify under oath my manual signature as follows:

Manual Signature



Garrad Marsh

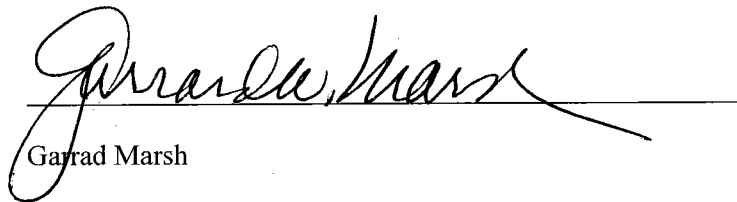
Title of Office

Mayor of the City of Modesto, acting as the legislative body  
of the City of Modesto Community Facilities District No.  
2003-1 (Fairview Village)

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 25<sup>th</sup> day of November, 2014, at Modesto, California.

Signed



Garrad Marsh

**DEC 05 2014**

[SECRETARY OF STATE: PLEASE  
AFFIX STAMP BELOW THIS SPACE]

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF STANISLAUS        )


In accordance with the Uniform Facsimile Signatures of Public Officials Act (Government Code Sections 5500, *et seq.*), I hereby file with the Secretary of State my manual signature and hereby certify under oath my manual signature as follows:

Manual Signature                \_\_\_\_\_   
Stephanie Lopez

Title of Office                    City Clerk of the City of Modesto, acting as the legislative  
body of the City of Modesto Community Facilities District  
No. 2003-1 (Fairview Village)

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 25 day of November, 2014, at Modesto, California.

Signed                                \_\_\_\_\_   
Stephanie Lopez

**THIS BOND MAY ONLY BE TRANSFERRED TO AN "ACCREDITED INVESTOR" WITHIN THE MEANING OF SECTION 2(A)(15) OF THE SECURITIES ACT OF 1933, AS AMENDED, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE INDENTURE.**

No. 1

\$4,420,000

**UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
COUNTY OF STANISLAUS**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)  
2014 SPECIAL TAX REFUNDING BONDS**

INTEREST RATE	MATURITY DATE	DATED DATE
4.10%	September 1, 2035	December 16, 2014

REGISTERED OWNER: CITY NATIONAL BANK

PRINCIPAL AMOUNT: FOUR MILLION FOUR HUNDRED TWENTY THOUSAND DOLLARS

SPECIMEN

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (the "District"), located in the City of Modesto, County of Stanislaus, State of California, FOR VALUE RECEIVED, hereby promises to pay, solely from certain amounts held under the Indenture (as hereinafter defined), to the Registered Owner named above, or registered assigns, on the Maturity Date set forth above, unless redeemed prior thereto as hereinafter provided, the Principal Amount set forth above, and to pay interest on such Principal Amount from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication hereof to which interest has been paid or duly provided in full, unless (i) the date of authentication is an Interest Payment Date in which event interest shall be payable from such date of authentication, (ii) the date of authentication is after a Record Date (as hereinafter defined) but prior to the immediately succeeding Interest Payment Date, in which event interest shall be payable from the Interest Payment Date immediately succeeding the date of authentication or (iii) the date of authentication is prior to the close of business on the first Record Date in which event interest shall be payable from the Dated Date set forth above. Notwithstanding the foregoing, that if at the time of authentication of this Bond interest is in default, interest on this Bond shall be payable from the last Interest Payment Date to which the interest has been paid or made available for payment or, if no interest has been paid or made available for payment, interest on this Bond shall be payable from the Dated Date set forth above. Interest will be paid semiannually on March 1 and September 1 (each, an "Interest Payment Date"), commencing March 1, 2015, at the Interest Rate set forth above, until the Principal Amount hereof is paid or made available for payment.

The principal of and premium, if any, on this Bond are payable to the Registered Owner hereof in lawful money of the United States of America upon presentation and surrender of this Bond at the Principal Office of the Trustee (as such term is defined in the Indenture), initially U.S. Bank

National Association, (the "Trustee"). Interest on this Bond shall be paid by check of the Trustee mailed, by first class mail, postage prepaid, or in certain circumstances described in the Indenture by wire transfer to an account within the United States of America, to the Registered Owner hereof as of the close of business on the fifteenth day of the month preceding the month in which the Interest Payment Date occurs (the "Record Date") at such Registered Owner's address as it appears on the registration books maintained by the Trustee. Notwithstanding any provision herein or in the Indenture to the contrary, so long as this Bond is owned by the Original Purchaser (as defined in the Indenture), (i) the Trustee shall pay principal of and interest and redemption premium, if any, on the Bonds when due by wire transfer in immediately available funds to the Original Purchaser in accordance with such wire transfer instructions as shall be filed by the Original Purchaser with the Trustee from time to time, (ii) payments of principal on the Bonds shall be made without the requirement for presentation and surrender by the Original Purchaser, provided that principal which is payable at maturity shall be made only upon presentation and surrender at the Principal Office of the Trustee, and (iii) the Trustee shall not be required to give notice to the Original Purchaser of the sinking fund payments as described in the Indenture.

This Bond is one of a duly authorized issue of "City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds" (the "Bonds") issued in the aggregate principal amount of \$4,420,000 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Sections 53311, *et seq.*, of the California Government Code (the "Act"), for the purpose of refunding the District's 2005 Special Tax Bonds, paying certain costs related to the issuance of the Bonds and funding a reserve account. The issuance of the Bonds and the terms and conditions thereof are provided for by a resolution adopted by the City Council of the City of Modesto, acting in its capacity as the legislative body of the District (the "Legislative Body") on October 14, 2014, and a Bond Indenture dated as of December 1, 2014, by and between the District and the Trustee, executed in connection therewith (the "Indenture"), and this reference incorporates the Indenture herein, and by acceptance hereof the Registered Owner of this Bond assents to said terms and conditions. The Indenture is executed under and this Bond is issued under, and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act and the Indenture, the principal of, premium, if any, and interest on this Bond are payable solely from the portion of the annual special taxes authorized under the Act to be levied and collected within the District and which are pledged to the repayment of the Bonds (the "Net Special Taxes"). Any amounts for the payment hereof shall be limited to the Net Special Taxes pledged and collected or foreclosure proceeds received following a default in payment of the Net Special Taxes and other amounts on deposit in the Special Tax Fund, except to the extent that other provision for payment has been made by the Legislative Body, as may be permitted by law. The District has covenanted for the benefit of the owners of the Bonds that under certain circumstances it will commence and diligently pursue to completion appropriate foreclosure proceedings in the event of delinquencies of Special Tax installments levied for payment of principal and interest on the Bonds.

The Bonds are subject to call and redemption on any date on and after September 1, 2019, at the option of the District, from any available source of funds prior to their stated maturity, as a whole or in part, and by lot, at a redemption price equal to One Hundred One Percent (101%) of the principal amount to be redeemed, together with accrued interest to the date of redemption.

The Bonds maturing on September 1, 2035 are subject to mandatory sinking fund redemption in part, by lot, on September 1, 2015 and on each September 1 thereafter to maturity, at a redemption

price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, as follows:

**Term Bonds Due on September 1, 2035**

<i>Year (September 1)</i>	<i>Principal Amount</i>
2015	\$175,000
2016	90,000
2017	100,000
2018	115,000
2019	120,000
2020	130,000
2021	140,000
2022	155,000
2023	165,000
2024	180,000
2025	195,000
2026	205,000
2027	225,000
2028	240,000
2029	255,000
2030	275,000
2031	290,000
2032	310,000
2033	330,000
2034	350,000
2035 (Maturity)	375,000

The Bonds are subject to Special Mandatory Redemption from Special Tax Prepayments on any Interest Payment Date, in whole or in part, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest to the date of redemption, without premium.

Notice of redemption with respect to the Bonds to be redeemed shall be mailed to the registered owners thereof not less than 30 nor more than 60 days prior to the redemption date by first class mail, postage prepaid, to the addresses set forth in the registration books. Neither a failure of the Registered Owner hereof to receive such notice nor any defect therein will affect the validity of the proceedings for redemption. All Bonds or portions thereof so called for redemption will cease to accrue interest on the specified redemption date; provided that funds for the redemption are on deposit with the Trustee on the redemption date. Thereafter, the registered owners of such Bonds shall have no rights except to receive payment of the redemption price upon the surrender of the Bonds.

This Bond shall be registered in the name of the Registered Owner hereof, as to both principal and interest, and the District and the Trustee may treat the Registered Owner hereof as the absolute owner for all purposes and shall not be affected by any notice to the contrary.

The Bonds are issuable only in fully-registered form in the denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof and may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations of the same issue and maturity, all as more fully set forth in the Indenture. This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond of authorized denomination or denominations for the same aggregate principal amount of the same issue and maturity will be issued to the transferee in exchange therefor.

The Trustee shall not be required to register transfers or make exchanges of (i) any Bonds for a period of 15 days next preceding any selection of the Bonds to be redeemed, or (ii) any Bonds chosen for redemption.

The rights and obligations of the District and of the registered owners of the Bonds may be amended at any time, and in certain cases without notice to or the consent of the registered owners, to the extent and upon the terms provided in the Indenture.

The principal of this Bond is not subject to acceleration.


If the District shall pay or cause to be paid to the Owner of this Bond the interest due hereon and the principal hereof, at the times and in the manner stipulated herein and in the Indenture, or if there has been deposited with the Trustee moneys or investment securities, which together with the interest to accrue thereon without further investment, will be fully sufficient to pay and discharge the principal of, premium, if any, and interest on all Bonds Outstanding as and when the same shall become due and payable, then the Owner of this Bond shall cease to be entitled to the pledge of Net Special Taxes under the Indenture, and all covenants, agreements and other obligations of the District to the Owner of this Bond under the Indenture shall thereupon cease, terminate and become void and be discharged and satisfied.

THE BONDS DO NOT CONSTITUTE OBLIGATIONS OF THE CITY OF MODESTO OR OF THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 FOR WHICH THE CITY OF MODESTO OR THE DISTRICT IS OBLIGATED TO LEVY OR PLEDGE, OR HAS LEVIED OR PLEDGED, GENERAL OR SPECIAL TAXES, OTHER THAN THE SPECIAL TAXES REFERENCED HEREIN. THE BONDS ARE LIMITED OBLIGATIONS OF THE DISTRICT PAYABLE FROM THE NET SPECIAL TAXES PLEDGED UNDER THE INDENTURE BUT ARE NOT A DEBT OF THE CITY OF MODESTO, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OR RESTRICTION.


This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Trustee.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the District, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

IN WITNESS WHEREOF, the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) has caused this Bond to be dated as of the Dated Date, to be executed on behalf of the District by the Mayor of the City of Modesto by facsimile signature and attested by the facsimile signature of the City Clerk.

  
\_\_\_\_\_  
Mayor of the City of Modesto, for and on behalf  
of City of Modesto Community Facilities District  
No. 2003-1 (Fairview Village)

ATTEST:

  
\_\_\_\_\_  
City Clerk of the City of Modesto, acting on  
behalf of City of Modesto Community Facilities  
District No. 2003-1 (Fairview Village)

TRUSTEE'S CERTIFICATE  
OF AUTHENTICATION AND REGISTRATION

This is one of the Bonds described in the within-defined Indenture.

Dated: December 16, 2014

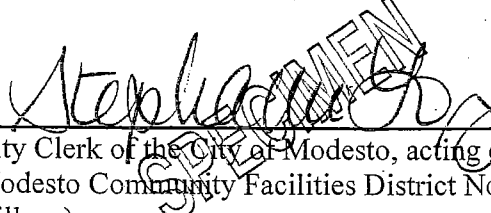
U.S. BANK NATIONAL ASSOCIATION, as Trustee

By: *Michael D. Christ*  
Authorized Officer

SPECIMEN

LEGAL OPINION

The following is a true copy of the opinion rendered by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, in connection with the issuance of, and dated as of the date of the original delivery of, the Bonds. A signed copy is on file in my office.

  
\_\_\_\_\_  
City Clerk of the City of Modesto, acting on behalf of City of  
Modesto Community Facilities District No. 2003-1 (Fairview  
Village)

STRADLING YOCCA CARLSON & RAUTH

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW  
660 NEWPORT CENTER DRIVE, SUITE 1600  
NEWPORT BEACH, CA 92660-6422  
TELEPHONE (949) 725-4000  
FACSIMILE (949) 725-4100

ORANGE COUNTY  
(949) 725-4000  
RENO  
(775) 393-1950  
SAN DIEGO  
(858) 926-3000  
SAN FRANCISCO  
(415) 283-2240  
SANTA BARBARA  
(805) 730-6800  
SANTA MONICA  
(424) 214-7000  
SACRAMENTO  
(916) 449-2350

December 16, 2014

City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
Modesto, California

*Re: \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds*

Ladies and Gentlemen:

We have examined the Constitution and the laws of the State of California, a certified record of the proceedings of the City of Modesto (the "City") taken in connection with the formation of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District") and the authorization and issuance of 2014 Special Tax Refunding Bonds issued by the District in the aggregate principal amount of \$4,420,000 (the "Bonds") and such other information and documents as we consider necessary to render this opinion. In rendering this opinion, we have assumed the genuineness of all documents and signatures presented to us and we have relied upon certain representations of fact and certifications made by the City, the District, the initial purchasers of the Bonds and others. We have not undertaken to verify through independent investigation the accuracy of the representations and certifications relied upon by us.

The Bonds have been issued pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (comprising Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California), and a Bond Indenture dated as of December 1, 2014 (the "Indenture"), by and between the District and U.S. Bank National Association, as trustee (the "Trustee"). All capitalized terms not defined herein shall have the meaning set forth in the Indenture.

Based upon our examination of the foregoing, and in reliance thereon and on all matters of fact as we deem relevant under the circumstances, and upon consideration of applicable laws, we are of the opinion that:

(1) The Bonds have been duly and validly authorized by the District and are legal, valid and binding limited obligations of the District, enforceable in accordance with their terms and the terms of the Indenture, except that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights generally, by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases and by the limitations on legal remedies against public agencies in the

State of California. The Bonds are limited obligations of the District but are not a debt of the City of Modesto, the State of California or any other political subdivision thereof within the meaning of any constitutional or statutory limitation, and, except for the Special Taxes, neither the faith and credit nor the taxing power of the City of Modesto, the State of California, or any of its political subdivisions is pledged for the payment thereof.

(2) The execution and delivery of the Indenture has been duly authorized by the District, and the Indenture is valid and binding upon the District and is enforceable in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights generally, by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases and by the limitations on legal remedies against public agencies in the State of California; provided, however, we express no opinion as to the enforceability of the covenant of the District contained in the Indenture to levy Special Taxes for the payment of Administrative Expenses or as to any indemnification, contribution, choice of law, choice of forum, penalty or waiver provisions contained therein.

(3) The Indenture creates a valid pledge of that which the Indenture purports to pledge, subject to the provisions of the Indenture, except to the extent that enforceability of the Indenture may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights generally, by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases and by the limitations on legal remedies against public agencies in the State of California.

(4) Under existing statutes, regulations, rulings and judicial decisions, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that, with respect to corporations, such interest will be included as an adjustment in the calculation of alternative minimum taxable income, which may affect the alternative minimum tax liability of corporations.

(5) Interest on the Bonds is exempt from State of California personal income tax.

The opinion expressed in paragraph (4) above as to the exclusion from gross income for federal income tax purposes of interest on the Bonds is subject to the condition that the District complies with all requirements of the Code, that must be satisfied subsequent to the issuance of the Bonds to assure that such interest will not become includable in gross income for federal income tax purposes. Failure to comply with such requirements of the Code might cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The District has covenanted to comply with all such requirements. Except as set forth in paragraphs (4) and (5) above, we express no opinion as to any tax consequences related to the Bonds.

Certain requirements and procedures contained or referred to in the Indenture and the Tax Certificate for the Bonds may be changed, and certain actions may be taken or omitted, under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of counsel nationally recognized in the area of tax-exempt obligations. We express no opinion as to the exclusion of interest on the Bonds from gross income for federal income tax purposes of the interest on any Bonds if any such change occurs or action is taken or omitted upon the advice or approval of counsel other than Stradling Yocca Carlson & Rauth, a Professional Corporation.

Our opinion is limited to matters governed by the laws of the State of California and federal law. We assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction.

The opinions expressed herein are based upon our analysis and interpretation of existing statutes, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. We call attention to the fact that the foregoing opinions may be affected by actions taken (or not taken) or events occurring (or not occurring) after the date hereof. We have not undertaken to determine, or to inform any person, whether such actions or events are taken (or not taken) or do occur (or do not occur). Our engagement with respect to the Bonds terminates upon their issuance, and we disclaim any obligation to update the matters set forth herein.

The scope of our engagement in relation to the matters set forth herein has been limited solely to the examination of facts and law incident to rendering the opinions expressed herein. We express no opinion herein as to the accuracy, completeness, fairness or sufficiency of any of the representations made to the District in connection with the matters set forth herein.

Respectfully submitted,

*Stradling Yocca Carlson & Rauth*

ASSIGNMENT

For value received, the undersigned do(es) hereby sell, assign and transfer unto

---

---

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within Bond and do(es) hereby irrevocably constitute(s) and appoint(s)

---

attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guarantee:

---

Notice: Signature(s) must be guaranteed by a qualified guarantor.

---

Notice: The signature on this assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

## INVESTOR LETTER OF REPRESENTATIONS

December 16, 2014

City of Modesto  
1010 10th Street  
Modesto, CA 95354  
Attention: City Manager

Re: City of Modesto Community Facilities District No. 2003-1 (Fairview Village)  
2014 Special Tax Refunding Bonds

Ladies and Gentlemen:

The undersigned (the "Purchaser") hereby acknowledges receipt of the above-referenced bonds (the "Bonds"), dated December 16, 2014, in fully registered form and in the aggregate principal amount of \$4,420,000, constituting all of the Bonds currently outstanding. The Bonds have been checked, inspected and approved by the Purchaser.

The undersigned acknowledges that the Bonds have been issued for the purpose of refunding the outstanding City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2005 Special Tax Bonds originally issued on July 14, 2005 in the aggregate principal amount of \$4,960,000. The undersigned further acknowledges that the Bonds are secured by a certain Bond Indenture dated as of December 1, 2014 (the "Indenture"), between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"), and U.S. Bank National Association, as trustee (the "Trustee").

In connection with the sale of the Bonds to the Purchaser, the Purchaser hereby makes the following representations upon which you may rely:

1. The Purchaser hereby certifies that it is an "accredited investor" within the meaning of Section 2(a)(15) of the Securities Act of 1933 as amended (the "Act") and applicable state securities laws (a "Qualified Investor").

2. The Bonds are being acquired by the Purchaser for its own account only and not with a present intent for any resale or distribution thereof, in whole or in part, to others; provided, however, that the Purchaser shall not be precluded from transferring or assigning its interest in the Bonds in accordance with the terms and conditions set forth in the Indenture. The Purchaser is not participating, directly or indirectly, in a distribution of the Bonds and will not take, or cause to be taken, any action that would cause the Purchaser to be deemed an "underwriter" of such Bonds as defined in Section 2(a)(11) of the Act. The Purchaser understands that the District has no obligation to register the Bonds for resale under the Act. The Purchaser further understands that the Bonds are being sold in a transaction that is exempt from the registration requirements of the Act. The Purchaser acknowledges that the District will not be entering into a continuing disclosure agreement for the Bonds pursuant to Section 15c2-12 of the Securities Exchange Act of 1934, as amended.

3. The Purchaser has received and carefully read all information and other items of disclosure relating to the District and the Bonds that the Purchaser has deemed material (the "Disclosure Items") for it to make an informed investment decision with respect to its purchase of the

Bonds and, in connection therewith, has had access to all other materials, books, records, documents, and information relating to the District and the Bonds, and has been able to verify the accuracy of, and supplement, the information contained therein.

4. The Purchaser has had an opportunity to ask questions of, and receive satisfactory answers from, duly designated representatives of the District concerning the terms and conditions pursuant to which the offer to purchase the Bonds is being made, and is satisfied with the information provided in response to its requests, and is satisfied that its request for such information has been fully complied with by the District. The Purchaser further acknowledges that the District requires that, if the Bonds are disposed of by it, current information which meets the disclosure requirements of any applicable state and federal securities laws then in effect, concerning the Bonds must be furnished to any prospective purchaser, and that any disclosure document must be delivered to the District before the Bonds are offered for sale to any prospective purchaser, and further acknowledges that any current exemption from registration of the Bonds does not affect or diminish such requirements.

5. The Purchaser has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of making a loan of the proceeds of the Bond based upon (i) the information (including the information set forth in the Disclosure Items) furnished to it by the District; (ii) its or such representative's personal knowledge of the business and affairs of the District; (iii) the records, files, and plans of the District, to all of which it or such representative has had full access; (iv) such additional information as it or such representative may have requested and have received from the District; and (v) the independent inquiries and investigations undertaken by it or such representative.

6. The Purchaser represents that it can bear the economic risk of loss of its entire investment; it has adequate means for providing for its current needs and personal contingencies; and it has no need for liquidity with respect to its investment in the Bonds.

7. The purchase of the Bonds is not disproportionate to the Purchaser's net worth, and its purchase of the Bonds will not cause such overall commitment to become excessive.

8. No person has given any information or made any representation not contained in any Disclosure Items referred to above or otherwise provided to the Purchaser in writing by a person employed or authorized in writing by the District. The Purchaser understands and agrees that any information or representation not contained therein must not, and will not, be relied upon and that nothing contained therein should be construed as legal or tax advice to the Purchaser.

9. No person has made any direct or indirect representation or warranty of any kind to the Purchaser with respect to the economic return which may accrue to the Purchaser. The Purchaser has consulted with its own tax counsel and other advisors with respect to an investment in the Bonds.

10. The signatory of this letter is a duly authorized officer of the Purchaser with the authority to sign this letter on behalf of the Purchaser, and this letter has been duly authorized, executed, and delivered by the Purchaser.

11. The Purchaser acknowledges that it has the right to sell and transfer the Bonds to another Qualified Investor in a minimum denomination of \$500,000, subject to the delivery to the Trustee of a letter from the transferee to the same effect as this Letter of Representations, with no

revisions except as may be approved in writing by the District. The Purchaser understands that the Trustee will not be required to accept for registration of transfer any Bonds unless such transferee is an Qualified Investor and the letter is delivered to the Trustee, and failure to deliver such letter shall cause the purported transfer to be null and void. The Purchaser agrees to indemnify and hold harmless the District, the City of Modesto (the "City") and the Trustee with respect to any claim asserted against the District, the City or the Trustee that is based upon a sale, transfer or other disposition of the Bonds in violation of the provisions of the Indenture.

12. The Purchaser agrees that it will only offer, sell, pledge, transfer or exchange the Bond (or any legal or beneficial interest therein) (i) in accordance with an available exemption from the registration requirements of Section 5 of the Act, (ii) in accordance with any applicable state securities laws, and (iii) in accordance with the transfer restrictions set forth in the Bonds and the Indenture. The Purchaser further agrees that it will not transfer the Bonds to be held in a pool, trust or similar arrangement.

13. The Purchaser understands that the purchase of the Bonds involves significant investment risks.

14. The Purchaser has been informed that the Bonds (i) have not been and will not be registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any jurisdiction, (ii) will not be listed on any stock or other securities exchange and (iii) will carry no rating from any rating service.

15. The Purchaser acknowledges that no official statement or other offering memorandum or document has been prepared for the Bonds, and, except as set forth in Section 5.2(i) of the Indenture, that the Issuer will not be entering into any continuing disclosure undertaking with respect to the Bonds. The Purchaser acknowledges that the Bonds will not contain a CUSIP or initially be made DTC eligible.

Capitalized terms used herein and not otherwise defined have the meanings given such terms in the Indenture.

CITY NATIONAL BANK

By: \_\_\_\_\_


**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**  
**PURCHASER'S RECEIPT FOR THE BONDS**

The undersigned, on behalf of City National Bank (the "Purchaser"), hereby certifies that, on the date of this receipt, the Purchaser received from the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") the Community Facilities District's 2014 Special Tax Refunding Bonds in definitive form, in the aggregate principal amount of \$4,420,000.

The Purchaser hereby further acknowledges the receipt of, or waives the requirement for, each opinion, document and certificate required to be delivered prior to the issuance of the Bonds and agrees that each such opinion, document and certificate, to the extent received, is satisfactory to the Purchaser as to form and substance.

Dated: December 16, 2014

CITY NATIONAL BANK

By:  \_\_\_\_\_  
Authorized Representative

**AUTHORIZED SIGNER(S)**

I hereby certify that the following is a true and exact extract of Article VI of the Bylaws presently in effect for U.S. Bank National Association, an association organized and existing under the laws of the United States:

**ARTICLE VI.  
CONVEYANCES, CONTRACTS, ETC.**

All transfers and conveyances of real estate, mortgages, and transfers, endorsements or assignments of stock, bonds, notes, debentures or other negotiable instruments, securities or personal property shall be signed by any elected or appointed officer.

All checks, drafts, certificates of deposit and all funds of the Association held in its own or in a fiduciary capacity may be paid out by an order, draft or check bearing the manual or facsimile signature of any elected or appointed officer of the Association.

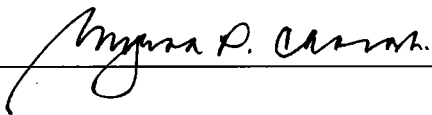
All mortgage satisfactions, releases, all types of loan agreements, all routine transactional documents of the Association, and all other instruments not specifically provided for, whether to be executed in a fiduciary capacity or otherwise, may be signed on behalf of the Association by any elected or appointed officer thereof.

The Secretary or any Assistant Secretary of the Association or other proper officer may execute and certify that required action or authority has been given or has taken place by resolution of the Board under this Bylaw without the necessity of further action by the Board.

I further certify that Myrna Presto-Choroski of U.S. Bank National Association has been duly elected and qualified and now holds the office listed herein, and that the signature of such officer is authentic:

*Myrna Presto-Choroski*  
*Vice President*


WILL SIGN:

  
\_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand to be affixed hereto this 16th day of December 2014.

**U.S. Bank National Association**

By: Andrew Fung

  
\_\_\_\_\_

*Vice President*

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CLOSING CERTIFICATE OF TRUSTEE**

The undersigned officer hereby certifies on behalf of the undersigned, U.S. Bank National Association ("U.S. Bank"):

1. U.S. Bank is a national banking association organized and operating under the laws of the United States of America and has all necessary power and authority to enter into and/or perform its duties, as Fiscal Agent under the Bond Indenture dated as of December 1, 2014 (the "Bond Indenture"), by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District") and U.S. Bank.

2. U.S. Bank is duly authorized to enter into the Indenture, and to authenticate and deliver the above-captioned bonds (the "Bonds") to City National Bank (the "Purchaser") pursuant to the terms of the Indenture; and U.S. Bank has duly executed and delivered the Bond Indenture.

3. To the best knowledge of U.S. Bank, no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the banking or trust powers of U.S. Bank that has not been obtained is or will be required for the authentication and delivery of the Bonds or the consummation by U.S. Bank of its obligations under the Bond Indenture.

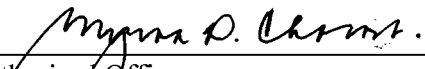
4. To the best knowledge of U.S. Bank, the execution and delivery by U.S. Bank of the Bond Indenture and compliance with the provisions thereof have been duly authorized by all necessary corporate action on the part of U.S. Bank and, to the best knowledge of the undersigned officer, such execution and delivery will not materially conflict with or result in a violation or breach of, or constitute a default under, any loan agreement, indenture, bond, note, resolution or any other agreement or instrument to which U.S. Bank is a party or by which it is bound, or any law or any rule, regulation, order or decree of any court or governmental agency or body having jurisdiction over U.S. Bank or any of its activities or properties.

5. To the best knowledge of U.S. Bank, no litigation has been served on U.S. Bank or threatened against U.S. Bank (either in state or federal courts): (i) to restrain or enjoin the execution or delivery of any of the Bonds or (ii) in any way contesting or affecting any authority for the issuance or delivery of the Bonds or the validity or enforceability of the Bonds or the Bond Indenture.

Capitalized terms used herein and not defined herein shall have the meaning given such terms in the Bond Indenture.

Dated: December 16, 2014

U.S. BANK NATIONAL ASSOCIATION

By   
Authorized Officer

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**TRUSTEE'S RECEIPT FOR PROCEEDS**

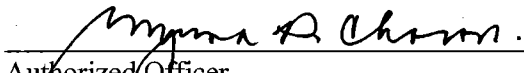
U.S. Bank National Association., as Trustee (the "Trustee") for the above-captioned bonds (the "Bonds"), acknowledges receipt from City National Bank (the "Purchaser") of \$4,420,000 representing the "Purchase Price" of the Bonds, which the Purchaser has represented to be computed as follows:

Principal Amount	\$4,420,000.00
<b>TOTAL PURCHASE PRICE</b>	<b><u>\$4,420,000.00</u></b>

The Trustee has deposited and transferred the aforesaid amounts in accordance with the Instructions to Trustee, executed by the Director of Finance of the City of Modesto, dated the date hereof.

Dated: December 16, 2014

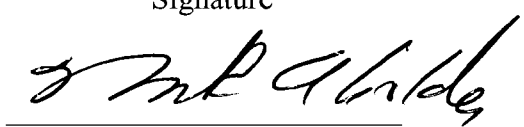
U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:   
Authorized Officer

# Certificate

## The Bank of New York Mellon Trust Company, N.A.

I, the undersigned Gonzalo Urey, Vice President of The Bank of New York Mellon Trust Company, N.A., a national banking association with its office at 400 South Hope Street, Suite 400, Los Angeles, CA 90071, DO HEREBY CERTIFY that Mark A. Golder is a duly appointed and qualified Officer of The Bank of New York Mellon Trust Company, N.A. and I FURTHER CERTIFY that Mark A. Golder has been granted Limited Signing Powers which authorize him/her to sign certain documents on behalf of The Bank of New York Mellon Trust Company, N.A. in discharging or performing his duties within the Trust Division in accordance with Article V, Section 5.3 of the By-Laws of The Bank of New York Mellon Trust Company, N.A., and that his/her genuine signature is set above his/her name below.

Name	Title	Signature
<u>Mark A. Golder</u>	<u>Vice President</u>	

IN WITNESS HEREOF, I have hereunto set my hand and affixed the seal of The Bank of New York Mellon Trust Company, N.A. on this 16<sup>th</sup> day of December 2014.

**The Bank of New York Mellon Trust Company, N.A.**

By   
Name: Gonzalo Urey  
Title: Vice President

## THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.

I, the undersigned, Cristina M. Rice, Assistant Secretary of The Bank of New York Mellon Trust Company, N.A., a national banking association organized under the laws of the United States (the "Association") and located in the State of California, DO HEREBY CERTIFY that the following individuals are duly appointed and qualified Officers of the Association:

<u>Officer</u>	<u>Title</u>	<u>Signing Authority</u>
<b><u>LOS ANGELES, CA (400 South Hope Street)</u></b>		
Maria E. Allison	Vice President & Assistant Secretary	B1, G, H, J, P11
Rosa E. Arana	Vice President	C2, H, I1, I2, N, P11
Scott Boroczi	Vice President	B1, H, J, N
Valere D. Boyd	Vice President	G, H, J
John A. (Alex) Briffett	Vice President	G, H, J
Eladia Burgos	Vice President	C2, I1, I2, N, P11
Maria Rose Bystrom	Vice President & Assistant Secretary	B1, G, H, J, P11
Fanny Chen	Vice President	A, J, N
Gregory Chenail	Vice President	G, H, J
Patricia Cronin	Vice President	G, H, J
Christopher Davy	Vice President	G, H, J
Teresa Fructuoso	Vice President & Assistant Secretary	G, H, J
Cristina D. Garchitorena	Vice President	G, H, J
Mark A. Golder	Vice President & Assistant Secretary	A, J, N
Lisa Infusino	Vice President	A, J, N
Christopher Johnson	Vice President	B1, H, J, N
Daniel Marroquin	Vice President	A, J, N
Aaron Masters	Vice President	C2
Jose M. Matamoros	Vice President	B1, H, J, N
Marina Meza	Vice President	G, H, J
Matthew Moon	Vice President	B1, H, J, N
Melinda Murrell	Vice President	G, H, J
Agnes Obando	Vice President	G, H, J
Teresa Petta	Vice President	A, J, N
Jane Thang	Vice President	G, H, J
Johanna Tokunaga	Vice President & Assistant Secretary	G, H, J
Raymond Torres	Vice President	G, H, J
Fe R. Tuzon	Vice President	G, H, J
Gonzalo Urey	Vice President	A, J, N
Deborah D. Young	Vice President	A, J, N
Melonee Young	Vice President	A, J, N
Kitty Kwong	Senior Associate	G, H, J
Icela Arms	Associate	C2, I1, I2, N
Justin Bui	Associate	A, C3, J, N, P3
Gracie Cuico	Associate	G, H, J
Alexander Dominguez	Associate	C2, H, I1, I2, N
Ty Jamaal Jordan	Associate	C2, H, I1, I2, N
Alfredo Miranda	Associate	C2, H, I1, I2, N
Noma Nkala-Hendon	Associate	B1, H, J, N
Erica Judd-Blair	As Agent	G, H, J

**SAN FRANCISCO, CA (100 Pine Street, Suite 3100)**

<b>Milly P. Canessa</b>	<b>Vice President</b>	<b>G, H, J</b>
<b>Gordon Fung</b>	<b>Vice President</b>	<b>G, H, J</b>
<b>Josephine Libunao</b>	<b>Vice President &amp; Assistant Secretary</b>	<b>B1, H, J, N</b>
<b>Helen Hamilton Vial</b>	<b>Vice President</b>	<b>B1, H, J, N</b>

**TEMPE, AZ**

<b>Deborah M. Scherer</b>	<b>Vice President</b>	<b>B1, H, J, N</b>
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**DENVER, CO (1775 Sherman Street)**

<b>Troy Pitman</b>	<b>Vice President</b>	<b>G, H, J</b>
<b>Ryan M. Pollihan</b>	<b>Vice President</b>	<b>B1, H, J, N</b>

**SEATTLE, WA (601 Union Street)**

<b>Carol J. Nelson</b>	<b>Vice President &amp; Assistant Secretary</b>	<b>A, J, N</b>
<b>Gene H. Romaine</b>	<b>Vice President</b>	<b>G, H, J</b>

I further certify that as of this date they have been authorized to sign on behalf of the Association in discharging or performing their duties in accordance with the senior and limited signing powers provided under Article V, Sections 5.2 and 5.3 of the By-Laws of the Association and the paragraphs indicated above of the signing authority resolution of the Board of Directors of the Association.

Attached hereto are true and correct copies of excerpts of the By-Laws of the Association and the signing authority resolution, which have not been amended or revised since October 15, 2009 and are in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of The Bank of New York Mellon Trust Company, N.A. this 31<sup>st</sup> day of October 2014.

  
Cristina M. Rice, Assistant Secretary

**Extracts from By-Laws**  
**of**  
**The Bank of New York Mellon Trust Company, National Association**  
**As Amended through October 15, 2009**

**ARTICLE V**  
**SIGNING AUTHORITIES**

Section 5.1 Real Property. Real property owned by the Association in its own right shall not be deeded, conveyed, mortgaged, assigned or transferred except when duly authorized by a resolution of the Board. The Board may from time-to-time authorize officers to deed, convey, mortgage, assign or transfer real property owned by the Association in its own right with such maximum values as the Board may fix in its authorizing resolution.

Section 5.2. Senior Signing Powers. Subject to the exception provided in Section 5.1, the President and any Executive Vice President is authorized to accept, endorse, execute or sign any document, instrument or paper in the name of, or on behalf of, the Association in all transactions arising out of, or in connection with, the normal course of the Association's business or in any fiduciary, representative or agency capacity and, when required, to affix the seal of the Association thereto. In such instances as in the judgment of the President, or any Executive Vice President may be proper and desirable, any one of said officers may authorize in writing from time-to-time any other officer to have the powers set forth in this section applicable only to the performance or discharge of the duties of such officer within his or her particular division or function. Any officer of the Association authorized in or pursuant to Section 5.3 to have any of the powers set forth therein, other than the officer signing pursuant to this Section 5.2, is authorized to attest to the seal of the Association on any documents requiring such seal.

Section 5.3. Limited Signing Powers. Subject to the exception provided in Section 5.1, in such instances as in the judgment of the President or any Executive Vice President, may be proper and desirable, any one of said officers may authorize in writing from time-to-time any other officer, employee or individual to have the limited signing powers or limited power to affix the seal of the Association to specified classes of documents set forth in a resolution of the Board applicable only to the performance or discharge of the duties of such officer, employee or individual within his or her division or function.

Section 5.4. Powers of Attorney. All powers of attorney on behalf of the Association shall be executed by any officer of the Association jointly with the President, any Executive Vice President, or any Managing Director, provided that the execution by such Managing Director of said Power of Attorney shall be applicable only to the performance or discharge of the duties of said officer within his or her particular division or function. Any such power of attorney may, however, be executed by any officer or officers or person or persons who may be specifically authorized to execute the same by the Board of Directors.

Section 5.5. Auditor. The Auditor or any officer designated by the Auditor is authorized to certify in the name of, or on behalf of the Association, in its own right or in a fiduciary or representative capacity, as to the accuracy and completeness of any account, schedule of assets, or other document, instrument or paper requiring such certification.

## **SIGNING AUTHORITY RESOLUTION**

### **Pursuant to Article V, Section 5.3 of the By-Laws Adopted October 15, 2009**

**RESOLVED** that, pursuant to Section 5.3 of the By-Laws of the Association, authority be, and hereby is, granted to the President or any Executive Vice President, in such instances as in the judgment of any one of said officers may be proper and desirable, to authorize in writing from time-to-time any other officer, employee or individual to have the limited signing authority set forth in any one or more of the following paragraphs applicable only to the performance or discharge of the duties of such officer, employee or individual within his or her division or function:

**(A)** All signing authority set forth in paragraphs (B) through (I) below except Level C which must be specifically designated.

**(B1)** Individuals authorized to accept, endorse, execute or sign any bill receivable; certification; contract, document or other instrument evidencing, embodying a commitment with respect to, or reflecting the terms or conditions of, a loan or an extension of credit by the Association; note; and document, instrument or paper of any type, including stock and bond powers, required for purchasing, selling, transferring, exchanging or otherwise disposing of or dealing in foreign currency, derivatives or any form of securities, including options and futures thereon; in each case in transactions arising out of, or in connection with, the normal course of the Association's business.

**(B2)** Individuals authorized to endorse, execute or sign any certification; disclosure notice required by law; document, instrument or paper of any type required for judicial, regulatory or administrative proceedings or filings; and legal opinions.

**(C1)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in excess of \$500,000,000 with single authorization for all transactions.

**(C2)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in excess of \$500,000,000\*.

**(C3)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$500,000,000.

**(C4)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount in excess of \$100,000,000 but not to exceed \$500,000,000\*.

**(C5)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$100,000,000.

**(C6)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$10,000,000.

**(C7)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$5,000,000.

**(C8)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$1,000,000.

**(C9)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$250,000.

**(C10)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$50,000.

**(C11)** Authority to accept, endorse, execute or sign or effect the issuance of any cashiers, certified or other official check; draft; order for payment of money; check certification; receipt; certificate of deposit; money transfer wire; and internal transfers resulting in a change of beneficial ownership; in each case, in an amount up to \$5,000.

\*Dual authorization is required by any combination of senior officer and/or Sector Head approved designee for non-exempt transactions. Single authorization required for exempt transactions.

**(D1)** Authority to accept, endorse, execute or sign any contract obligating the Association for the payment of money or the provision of services in an amount up to \$1,000,000.

**(D2)** Authority to accept, endorse, execute or sign any contract obligating the Association for the payment of money or the provision of services in an amount up to \$250,000.

**(D3)** Authority to accept, endorse, execute or sign any contract obligating the Association for the payment of money or the provision of services in an amount up to \$50,000.

**(D4)** Authority to accept, endorse, execute or sign any contract obligating the Association for the payment of money or the provision of services in an amount up to \$5,000.

**(E)** Authority to accept, endorse, execute or sign any guarantee of signature to assignments of stocks, bonds or other instruments; certification required for transfers and deliveries of stocks, bonds or other instruments; and document, instrument or paper of any type required in connection with any Individual Retirement Account or Keogh Plan or similar plan.

**(F)** Authority to accept, endorse, execute or sign any certificate of authentication as bond, unit investment trust or debenture trustee and on behalf of the Association as registrar and transfer agent.

**(G)** Authority to accept, endorse, execute or sign any bankers acceptance; letter of credit; and bill of lading.

**(H)** Authority to accept, endorse, execute or sign any document, instrument or paper of any type required in connection with the ownership, management or transfer of real or personal property held by the Association in trust or in connection with any transaction with respect to which the Association is acting in any fiduciary, representative or agency capacity, including the acceptance of such fiduciary, representative or agency account.

**(I1)** Authority to effect the external movement of free delivery of securities and internal transfers resulting in changes of beneficial ownership.

**(I2)** Authority to effect the movement of securities versus payment at market or contract value.

**(J)** Authority to either sign on behalf of the Association or to affix the seal of the Association to any of the following classes of documents: Trust Indentures, Escrow Agreements, Pooling and Servicing Agreements, Collateral Agency Agreements, Custody Agreements, Trustee's Deeds, Executor's Deeds, Personal Representative's Deeds, Other Real Estate Deeds for property not owned by the Association in its own right, Corporate Resolutions, Mortgage Satisfactions, Mortgage Assignments, Trust Agreements, Loan Agreements, Trust and Estate Accountings, Probate Petitions, responsive pleadings in litigated matters and Petitions in Probate Court with respect to Accountings, Contracts for providing customers with Association products or services.

**(N)** Individuals authorized to accept, endorse, execute or sign internal transactions only, (i.e., general ledger tickets); does not include the authority to authorize external money movements, internal money movements or internal free deliveries that result in changes of beneficial ownership.

**(P1)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in excess of \$10,000,000.

**(P2)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$10,000,000.

**(P3)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$5,000,000.

**(P4)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$1,000,000.

**(P5)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$250,000.

**(P6)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$100,000.

**(P7)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$50,000.

**(P8)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$25,000.

**(P9)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$10,000.

**(P10)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$5,000.

**(P11)** Authority to approve the payment of valid expenses as incurred to meet the obligations of the Association, excluding salary and other employee directed benefit payments; in each case, in an amount up to \$3,000.

**RESOLVED**, that any signing authority granted pursuant to this resolution may be rescinded by the President or any Executive Vice President and such signing authority shall terminate without the necessity of any further action when the person having such authority leaves the employ of the Association.

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CLOSING CERTIFICATE OF THE ESCROW BANK**

The undersigned hereby states and certifies that:

1. The undersigned is an authorized officer of The Bank of New York Mellon Trust Company, N.A., as escrow bank (the "Escrow Bank"), under that certain Escrow Agreement dated as of December 1, 2014, (the "Escrow Agreement") by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and the Escrow Bank, and, as such, is familiar with the facts herein certified and is authorized and qualified to certify the same.

1. The Escrow Bank is duly organized and existing as a national banking association under the laws of the United States of America, having the full power and authority to enter into and perform its duties under the Escrow Agreement.

2. The Escrow Bank is duly authorized to accept the obligations created by the Escrow Agreement.

3. No consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Escrow Bank that has not been obtained is or will be required for the performance of the Escrow Bank of its obligations to be performed under the Escrow Agreement and the acceptance and performance of the obligations created by the Escrow Agreement.

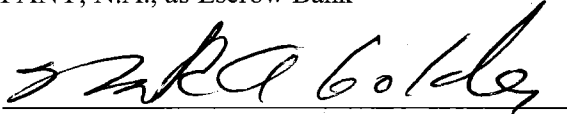
4. To the best knowledge of the Escrow Bank, after due inquiry there is no litigation pending or threatened (either in state or federal courts) against the Escrow Bank to (a) restrain or enjoin the sale or issuance of any of the Bonds, or (b) in any way contesting or affecting any authority of the Escrow Bank for the validity or enforceability of the Indenture.

5. To the best of its knowledge, compliance with the terms of the Escrow Agreement will not conflict with, or result in a violation or breach of, or constitute a default under, any loan agreement, indenture, bond, note, resolution or any other agreement or instrument to which the Escrow Bank is a party or by which it is bound, or any law or any rule, regulation, order or decree of any court or governmental agency or body having jurisdiction over the Escrow Bank or any of its activities or properties.

All capitalized terms used herein without definition shall have the meanings assigned to such terms in the Escrow Agreement.

Dated: December 16, 2014

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Escrow Bank

By:   
Authorized Officer

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**ESCROW BANK'S RECEIPT**

The undersigned, on behalf of The Bank of New York Mellon Trust Company, N.A., as escrow bank (the "Escrow Bank") under that certain Escrow Agreement dated as of December 1, 2014 (the "Escrow Agreement"), by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and the Escrow Bank, acknowledges receipt of the cash deposit to the Escrow Fund referenced in the Escrow Agreement.

Dated: December 16, 2014

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A., as Escrow Bank

By: 

\_\_\_\_\_  
Authorized Officer



Quick Search

Enter CUSIP or Name

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BROWSE ISSUERS

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EMMA HELP

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## Continuing Disclosure Details

### EVENT FILING (CUSIP-9 BASED)

Rule 15c2-12 Disclosure

Bond Call as of 01/30/2015

Total CUSIPs associated with this submission: 7

### VIEW DOCUMENTS

Event Filing as of 01/30/2015

File 1 posted 01/29/2015 [View](#)

CUSIP-6s

[> MODESTO CALIF SPL TAX, CA \(607800\)](#)

MODESTO CALIF SPL TAX, CA (607800)

Displaying 1 issue.

Total CUSIPs selected for this CUSIP-6: 7.

Issue Description *	Dated Date	Maturity Dates	Official Statement
<input checked="" type="checkbox"/> CMNTY FACS DIST NO 03-1	07/14/2005	2007 to 2035	<a href="#">Preview</a>

### SUBMITTER'S CONTACT INFORMATION

Company: BNY Mellon  
 Name: WILLIAM BARSTOW  
 Address: 111 SANDERS CREEK CORPORATE CENTER  
 City, State: EAST SYRACUSE, NY 13057  
 Zip: EAST SYRACUSE, NY 13057  
 Phone Number: 8002542826  
 Email: [ct\\_ops\\_syracuse\\_-\\_calls@bnymellon.com](mailto:ct_ops_syracuse_-_calls@bnymellon.com)

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**NOTICE OF FULL REDEMPTION TO THE HOLDERS OF**  
**MODESTO (CA), CITY OF MODESTO COMMUNITY FACILITIES DISTRICT 2003-1**  
**SPECIAL TAX BONDS SERIES 2005**

**NOTICE IS HEREBY GIVEN** that, there have been called for full redemption on March 1, 2015 all outstanding Bonds of the above captioned bonds, totaling \$4,660,000.00 in principal amount, plus accrued interest thereon to the Redemption Date, as listed below:

<u>Maturity</u>	<u>Amount Called</u>	<u>Rate</u>	<u>Redemption Price</u>	<u>*CUSIP Number</u>
09/01/2015	\$70,000.00	4.55%	101.00%	607800AK5
09/01/2016	\$80,000.00	4.65%	101.00%	607800AL3
09/01/2017	\$90,000.00	4.75%	101.00%	607800AM1
09/01/2018	\$105,000.00	4.85%	101.00%	607800AN9
09/01/2019	\$115,000.00	4.95%	101.00%	607800AP4
09/01/2025	\$980,000.00	5.125%	101.00%	607800AQ2
09/01/2035	\$3,220,000.00	5.15%	101.00%	607800AR0

The Bonds are being called pursuant to the redemption provisions of the governing documents at the referenced Redemption Price plus accrued interest to March 1, 2015 on which date all interest on the Bonds will cease to accrue. Holders of the Bonds are requested to present their Bonds, at the following addresses:

First Class/Registered/Certified

**The Bank of New York Mellon**  
Global Corporate Trust  
P.O. Box 396  
East Syracuse, New York 13057

Express Delivery Only

**The Bank of New York Mellon**  
Global Corporate Trust  
111 Sanders Creek Parkway  
East Syracuse, New York 13057

By Hand Only

**The Bank of New York Mellon**  
Global Corporate Trust  
Corporate Trust Window  
101 Barclay Street 1st Floor East  
New York, New York 10286

MODESTO (CA), CITY OF MODESTO COMMUNITY FACILITIES DISTRICT  
By: **The Bank of New York Mellon Trust Company, N.A.**  
as Trustee Agent

**Bondholder Communications: 800-254-2826**



**BNY MELLON**

Dated: January 30, 2015

**IMPORTANT TAX NOTICE**

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. **Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.**

*\*Note: The Issuer and Trustee/Agent shall not be responsible for the selection or use of the CUSIP numbers selected, nor is any representation made as to their correctness indicated in the notice or as printed on any Bond. They are included solely for the convenience of the holders.*

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Notice #:2015030132279

STRADLING YOCCA CARLSON & RAUTH

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SANTA BARBARA  
(805) 730-6800  
SANTA MONICA  
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SACRAMENTO  
(916) 449-2350

December 16, 2014

City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
Modesto, California

*Re: \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds*

Ladies and Gentlemen:

We have examined the Constitution and the laws of the State of California, a certified record of the proceedings of the City of Modesto (the "City") taken in connection with the formation of City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District") and the authorization and issuance of 2014 Special Tax Refunding Bonds issued by the District in the aggregate principal amount of \$4,420,000 (the "Bonds") and such other information and documents as we consider necessary to render this opinion. In rendering this opinion, we have assumed the genuineness of all documents and signatures presented to us and we have relied upon certain representations of fact and certifications made by the City, the District, the initial purchasers of the Bonds and others. We have not undertaken to verify through independent investigation the accuracy of the representations and certifications relied upon by us.

The Bonds have been issued pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (comprising Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California), and a Bond Indenture dated as of December 1, 2014 (the "Indenture"), by and between the District and U.S. Bank National Association, as trustee (the "Trustee"). All capitalized terms not defined herein shall have the meaning set forth in the Indenture.

Based upon our examination of the foregoing, and in reliance thereon and on all matters of fact as we deem relevant under the circumstances, and upon consideration of applicable laws, we are of the opinion that:

(1) The Bonds have been duly and validly authorized by the District and are legal, valid and binding limited obligations of the District, enforceable in accordance with their terms and the terms of the Indenture, except that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights generally, by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases and by the limitations on legal remedies against public agencies in the

State of California. The Bonds are limited obligations of the District but are not a debt of the City of Modesto, the State of California or any other political subdivision thereof within the meaning of any constitutional or statutory limitation, and, except for the Special Taxes, neither the faith and credit nor the taxing power of the City of Modesto, the State of California, or any of its political subdivisions is pledged for the payment thereof.

(2) The execution and delivery of the Indenture has been duly authorized by the District, and the Indenture is valid and binding upon the District and is enforceable in accordance with its terms, except to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights generally, by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases and by the limitations on legal remedies against public agencies in the State of California; provided, however, we express no opinion as to the enforceability of the covenant of the District contained in the Indenture to levy Special Taxes for the payment of Administrative Expenses or as to any indemnification, contribution, choice of law, choice of forum, penalty or waiver provisions contained therein.

(3) The Indenture creates a valid pledge of that which the Indenture purports to pledge, subject to the provisions of the Indenture, except to the extent that enforceability of the Indenture may be limited by bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other similar laws affecting creditors' rights generally, by the exercise of judicial discretion in accordance with general principles of equity or otherwise in appropriate cases and by the limitations on legal remedies against public agencies in the State of California.

(4) Under existing statutes, regulations, rulings and judicial decisions, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals and corporations; however, it should be noted that, with respect to corporations, such interest will be included as an adjustment in the calculation of alternative minimum taxable income, which may affect the alternative minimum tax liability of corporations.

(5) Interest on the Bonds is exempt from State of California personal income tax.

The opinion expressed in paragraph (4) above as to the exclusion from gross income for federal income tax purposes of interest on the Bonds is subject to the condition that the District complies with all requirements of the Code, that must be satisfied subsequent to the issuance of the Bonds to assure that such interest will not become includable in gross income for federal income tax purposes. Failure to comply with such requirements of the Code might cause interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The District has covenanted to comply with all such requirements. Except as set forth in paragraphs (4) and (5) above, we express no opinion as to any tax consequences related to the Bonds.

Certain requirements and procedures contained or referred to in the Indenture and the Tax Certificate for the Bonds may be changed, and certain actions may be taken or omitted, under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of counsel nationally recognized in the area of tax-exempt obligations. We express no opinion as to the exclusion of interest on the Bonds from gross income for federal income tax purposes of the interest on any Bonds if any such change occurs or action is taken or omitted upon the advice or approval of counsel other than Stradling Yocca Carlson & Rauth, a Professional Corporation.

Our opinion is limited to matters governed by the laws of the State of California and federal law. We assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction.

The opinions expressed herein are based upon our analysis and interpretation of existing statutes, regulations, rulings and judicial decisions and cover certain matters not directly addressed by such authorities. We call attention to the fact that the foregoing opinions may be affected by actions taken (or not taken) or events occurring (or not occurring) after the date hereof. We have not undertaken to determine, or to inform any person, whether such actions or events are taken (or not taken) or do occur (or do not occur). Our engagement with respect to the Bonds terminates upon their issuance, and we disclaim any obligation to update the matters set forth herein.

The scope of our engagement in relation to the matters set forth herein has been limited solely to the examination of facts and law incident to rendering the opinions expressed herein. We express no opinion herein as to the accuracy, completeness, fairness or sufficiency of any of the representations made to the District in connection with the matters set forth herein.

Respectfully submitted,

*Stradling Yocca Carlson & Rauth*

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SANTA BARBARA  
(805) 730-6800  
SANTA MONICA  
(424) 214-7000  
SACRAMENTO  
(916) 449-2350

December 16, 2014

U.S. Bank National Association  
San Francisco, California

City National Bank  
Los Angeles, California

*Re: \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds*

Ladies and Gentlemen:

In our capacity as Bond Counsel relative to the sale and issuance of the above-referenced bonds (the "Bonds"), we have this day rendered to the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) our opinion (the "Approving Opinion"). You are each hereby authorized to rely upon the Approving Opinion as if addressed to each of you. We have not been engaged by you and are not acting as your counsel in connection with the sale and issuance of the Bonds. Our engagement with respect to the Bonds terminates as of the date hereof and we expressly disclaim any obligation to update our Approving Opinion or this letter.

This letter may be relied upon only by you, and is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person to whom it is not specifically addressed without our prior written consent.

Respectfully submitted,

*Stradling Yocca Carlson & Rauth*

STRADLING YOCCA CARLSON & RAUTH

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(916) 449-2350

December 16, 2014

U.S. Bank National Association  
San Francisco, California

City National Bank  
Los Angeles, California

*Re: City of Modesto Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds, Series 2005*

Ladies and Gentlemen:

Acting in our capacity as Bond Counsel for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"), we have examined the proceedings for the issuance by the District of \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds which are being issued on the date hereof pursuant to that certain Trust Indenture dated as of December 1, 2014, (the "Indenture"), between the District and U.S. Bank National Association, as Trustee, for the purpose of refunding the above-referenced bonds (the "Refunded Bonds").

In rendering this opinion, we have reviewed the (i) Indenture, (ii) the Escrow Agreement dated as of December 1, 2014 (the "Escrow Agreement"), by and between the District and The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, (iii) the Verification Report of Samuel Klein and Company dated December 16, 2014, to the effect that amounts on deposit in the Escrow Fund established under the Escrow Agreement will be sufficient to pay the principal, redemption premium, if any, and all accrued interest due on the Refunded Bonds on and before March 1, 2015, and (iv) the District's irrevocable election to cause the Refunded Bonds to be called for redemption in full on March 1, 2015. We have not undertaken to verify through independent investigation the accuracy of the representations and certifications.

Based upon and subject to the foregoing, it is our opinion that, assuming that the Escrow Agent has received the deposit of moneys specified in the Escrow Agreement, the Refunded Bonds have been legally defeased in accordance with the Indenture.

The opinions expressed herein are solely for your benefit in connection with the defeasance of the Refunded Bonds and may not be relied on in any manner or for any purpose by any other person or entity, nor may copies be delivered or furnished to any other party, nor may all or portions

U.S. Bank National Association  
City National Bank  
December 16, 2014  
Page 2

of this opinion be quoted, circulated, or referred to in any other document without our prior written consent.

The rendering of this opinion to you is undertaken in our capacity as Bond Counsel with respect to the defeasance of the Refunded Bonds and does not create an attorney-client relationship between us and any party other than the District with respect to the matters stated herein. We have not undertaken to advise you or any other person as to matters occurring after the date hereof or as to their effect, if any, on the matters stated herein, and we expressly disclaim any responsibility to do so. Our engagement with respect to the matters described herein terminates on the date hereof.

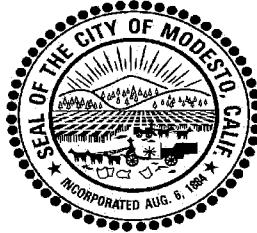
Respectfully submitted,

*Stanley Yocum Wilson & Smith*

**City of Modesto**  
**Office of the City Attorney**

Adam U. Lindgren  
City Attorney

Jose M. Sanchez  
Assistant City Attorney



Tara M. Mazzanti  
Sr. Deputy City Attorney

Roland R. Stevens  
Special Counsel

1010 Tenth Street, Suite 6300, P.O. Box 642, Modesto, California 95353  
(209) 577-5284 (209) 544-8260 Fax  
Hearing & Speech Impaired Only – TDD (209) 526-9211

December 16, 2014

City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
Modesto, California

City National Bank  
Los Angeles, California

Stradling Yocca Carlson & Rauth  
Newport Beach, California

*Re: \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds*

Ladies and Gentlemen:

As City Attorney to the City of Modesto (the "City"), acting on behalf of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"), I have examined certain actions taken by the City Council of the City, the City and the District with respect to certain pertinent aspects of the proceedings for the sale and issuance of the above-referenced bonds (the "Bonds") to City National Bank, as Purchaser (the "Purchaser"). Capitalized terms used herein and not defined shall have the meanings given to such terms under the Bond Indenture dated as of December 1, 2014 (the "Indenture"), by and between the District and U.S. Bank National Association, as trustee.

From such examination, I am of the opinion, as of the date hereof, which is the date of delivery of the Bonds to the Purchaser, that:

(A) the District is duly organized and validly existing under the Constitution and laws of the State as a community facilities district under the Act;

(B) the District has full legal right, power, and authority to execute and deliver the Indenture and the Escrow Agreement dated as of December 1, 2014 by and between the District and The Bank of New York Mellon Trust Company, N.A., as escrow agent (the "Escrow Agreement," and with the Indenture, the "District Documents");

(C) the District Documents have been duly authorized, executed, and delivered by the District and, assuming due authorization and execution by any other applicable parties thereto, the District Documents constitute the valid and binding obligations of the District, enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency, or other laws affecting the enforcement of creditors' rights generally, to the limitations on legal remedies against municipal corporations in the State of California, and to the application of equitable principles if equitable remedies are sought;

(D) the City Council of the City adopted the resolutions and ordinances forming the District, confirming the Special Taxes, approving the District Documents and authorizing the sale and issuance of the Bonds at meetings of the legislative body of the District which were called, held and conducted pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout, and such resolutions and ordinances are now in full force and effect and have not been amended, modified or rescinded;

(E) to the best of my current, actual knowledge, after due inquiry, there are no actions, suits, proceedings, inquiries, or investigations, at law or in equity, before or by any court, governmental agency, public board, or body, pending or threatened against the District or the City, acting on behalf of the District, or for which the District or the City has been served, to restrain or enjoin the issuance of the Bonds, the collection or application of the Special Taxes, or the payment of principal of and interest on the Bonds, or in any way contesting the validity of the Bonds or the District Documents; and

(F) the execution and delivery of the District Documents, and compliance with the provisions thereof, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute on the part of the District a breach of or default under any agreement or other instrument to which the District is a party or by which the District is bound or any existing law, regulation, court order or consent decree to which the District is subject that I have, in the exercise of customary professional diligence, recognized as applicable to the District and the transactions contemplated by the District Documents, and with respect to such conflict, breach or default, would materially adversely affect the ability of the District to pay the principal or interest on the Bonds.

Respectfully submitted,



ADAM U. LINDGREN  
City Attorney

December 16, 2014

City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
Modesto, California

City National Bank  
Los Angeles, California

Re: \$4,420,000 City of Modesto  
Community Facilities District No. 2003-1  
(Fairview Village)  
2014 Special Tax Refunding Bonds

Ladies and Gentlemen:

We have acted as counsel for U.S. Bank National Association, a national banking association (the “Bank”), in connection with the execution by the Bank of the Bond Indenture, dated as of December 1, 2014 (the “Indenture”), by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and the Bank, as Trustee, relating to the above-captioned bonds. We are generally familiar with the Articles of Association and the Bylaws of the Bank and are also familiar with the corporate proceedings of the Bank with regard to its authorization, execution and delivery of the Indenture. Capitalized terms used herein shall have the respective meanings ascribed to them in the Indenture, except as otherwise defined herein.

We have examined such documents and have reviewed such questions of law as we have considered necessary and appropriate for the purposes of this opinion. In such review, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity with originals of all documents submitted to us as copies. Where questions of fact material to our opinions expressed below were not established independently, we have relied upon statements of officers of the Bank as contained in certificates of officers of the Bank.

Based upon the foregoing, we are of the opinion that:

1. The Bank is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America and is authorized to exercise trust powers.
2. The Bank has all requisite corporate power, authority and legal right to execute and deliver the Indenture and has taken all necessary corporate action to authorize the execution and delivery of the Indenture.

3. The Bank has duly authorized, executed and delivered the Indenture. Assuming the due authorization, execution and delivery thereof by the other party thereto, the Indenture is the legal, valid and binding agreement of the Bank, enforceable in accordance with its terms against the Bank.

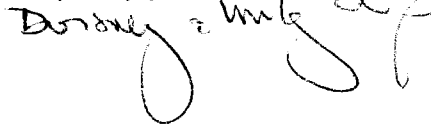
The opinions set forth above are subject to the following qualifications and exceptions:

- (a) the opinions are subject to the effect of any applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or other similar laws of general application affecting creditors' rights; and
- (b) the opinions are subject to the effect of general principles of equity, including (without limitation) concepts of materiality, reasonableness, good faith and fair dealing, and other similar doctrines affecting the enforceability of agreements generally (regardless of whether considered in a proceeding in equity or at law).

Our opinions expressed above are limited to the laws of the State of California and the federal laws of the United States of America.

The foregoing opinions are being furnished to you solely for your benefit and may not be relied upon by, nor may copies be delivered to, any other person without our prior written consent.

Very truly yours,



DW

LAW OFFICES OF  
SAMUEL D. WALDMAN

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SAN ANSELMO, CALIFORNIA 94960  
TELEPHONE: (415) 459-4535  
FACSIMILE: (415) 459-4747

December 16, 2014

City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
Modesto, California

City National Bank  
Los Angeles, California

*Re: \$4,420,000 City of Modesto Community Facilities District No. 2003-1 (Fairview Village) 2014 Special Tax Refunding Bonds*

Ladies and Gentlemen:

I have acted as special counsel to The Bank of New York Mellon Trust Company, N.A. (the "Escrow Bank") in the capacity as escrow bank under that certain Escrow Agreement dated as of December 1, 2014 (the "Escrow Agreement") by and between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District") and the Escrow Bank. Except as set forth herein, capitalized terms used in this opinion letter are defined as set forth in the Escrow Agreement.

In my capacity as counsel to the Escrow Bank, I have examined originals or copies identified to my satisfaction of: (i) the Articles of Association and By-Laws of the Escrow Bank, (ii) the Escrow Agreement, and (iii) such other records, certificates and documents as I have considered necessary or appropriate for the purpose of the opinion hereinafter rendered.

In rendering this opinion, I have relied upon the facts and information obtained from the records of the Escrow Bank, officers of the Escrow Bank and other sources believed by me to be reliable, and have not undertaken to independently verify the accuracy of the factual matters represented, warranted, or certified in such documents. I have assumed the genuineness of all signatures, the authenticity of documents, certificates and records submitted to me as originals, the conformity to the originals of all documents, certificates and records submitted to me as certified or reproduction copies, the legal capacity of all natural persons executing documents and the completeness and accuracy as of the date of this opinion letter of the information contained in such documents, certificates and records, which assumptions I have not independently verified. The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions.

Based upon and subject to the foregoing and subject to the qualifications set forth below, I am of the opinion that:

City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
City National Bank  
December 16, 2014  
Page 2

(1) the Escrow Bank is a national banking association duly organized and validly existing under the laws of the United States having full power and being qualified to enter into, accept and agree to the provisions of the Escrow Agreement; and

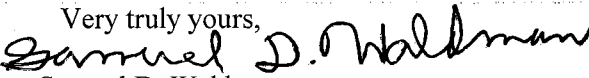
(2) the Escrow Agreement has been duly authorized, executed and delivered by the Escrow Bank and assuming due authorization, execution and delivery by the District of the Escrow Agreement, the Escrow Agreement constitutes the legal, valid and binding obligations of the Escrow Bank, enforceable against the Escrow Bank in accordance with its respective terms, except as such enforcement thereof may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium, fraudulent conveyance, and other similar laws affecting the rights and remedies of creditors generally, and by the effect of general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance or injunctive relief, whether considered in a proceeding at law or in equity.

I express no opinion as to any matter other than as expressly set forth above. This opinion is as of the date hereof, and I have undertaken no, and hereby disclaim any, obligation to advise you of any change in any matter set forth herein even though the changes may affect a legal analysis, conclusion or an information confirmation in this opinion letter.

I express no opinion as to the effect of any law other than the law of California and the federal laws of the United States of America on the matters referred to herein, in each case as they exist on the date hereof. I express no opinion with respect to the laws, regulations, or ordinances of any county, municipal or other local governmental agency.

This opinion is furnished by me solely for your benefit. This opinion letter may be relied upon by you only in connection with the transaction described in the initial paragraph of this opinion letter and may not be used or relied upon by you for any other purpose or by any other person for any purpose whatsoever without, in each instance, my prior written consent; provided, however, a copy may be included in the transcript of the proceedings for the Bonds.

Very truly yours,

  
Samuel D. Waldman

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**2014 SPECIAL TAX REFUNDING BONDS**

**CERTIFICATE OF SPECIAL TAX CONSULTANT**

Goodwin Consulting Group, Inc. (the "Special Tax Consultant") has been retained as Special Tax administrator for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"), and has assisted and reviewed the rate and method of apportionment of special tax for the District (the "Rate and Method") relating to the District in connection with the above-captioned bonds (the "Bonds").

Based upon such review, the Special Tax Consultant hereby certifies that the Special Tax, if collected in the maximum amounts permitted pursuant to the Rate and Method of Apportionment on Residential Property, less the Administrative Expense Requirement, will generate in each Fiscal Year at least 110% of the debt service payable with respect to the Bonds in the Bond Year that begins in such Fiscal Year.

All capitalized terms used herein without definition shall have the meanings assigned to such terms in the Bond Indenture.

Dated: December 16, 2014

GOODWIN CONSULTING GROUP, INC.

By:   
Authorized Officer

**SAMUEL KLEIN AND COMPANY**  
CERTIFIED PUBLIC ACCOUNTANTS

**\$4,420,000**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**  
**SPECIAL TAX REFUNDING BONDS, SERIES 2014**

**Verification Report Dated December 16, 2014**

**SAMUEL KLEIN AND COMPANY**  
CERTIFIED PUBLIC ACCOUNTANTS

City of Modesto  
1010 10<sup>th</sup> Street  
Modesto, California 96353

Stradling Yocca Carlson & Rauth, P.C.  
660 Newport Center Drive  
Newport Beach, California 92660

Public Financial Management, Inc.  
50 California Street  
San Francisco, California 94111

Piper Jaffray & Co.  
1100 South Coast Highway  
Laguna Beach, California 92651

The Bank of New York Mellon Trust Co., N.A.  
400 South Hope Street  
Los Angeles, California 90071

**\$4,420,000**

**CITY OF MODESTO**

**COMMUNITY FACILITIES DISTRICT NO. 2003-1**

**(FAIRVIEW VILLAGE)**

**SPECIAL TAX REFUNDING BONDS, SERIES 2014** (the "2014 Bonds")

We have verified certain information and assertions provided on behalf of the City of Modesto (the "City") by Piper Jaffray & Co. (the "Placement Agent") relating to the refunding of \$4,660,000 of the City's Community Facilities District No. 2003-1 (Fairview Village) Special Tax Bonds, Series 2005, dated July 14, 2005 and maturing September 1, 2015 through September 1, 2035 (the "Refunded Bonds") set forth more fully in Schedule A.

The scope of our engagement consisted of verification of the mathematical accuracy of the computations contained in the provided schedules which represent that the anticipated receipts from the investments and cash deposit, to be held in escrow, will be sufficient to pay, when due, the interest and redemption requirements on the Refunded Bonds.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary under the circumstances. The scope of our engagement included, among other things, a verification of the mathematical accuracy of the computations contained in the schedules provided by the Placement Agent. The schedules produced by us in our verification of the mathematical accuracy of the computations are included in this report. In these schedules, the issue date for the 2014 Bonds is assumed to be December 16, 2014.

The Bank of New York Mellon Trust Co., N.A. provided us with the final subscription forms for the United States Treasury Securities - State and Local Government Series to be issued by the Department of the Treasury, Bureau of the Public Debt (the "SLGS") purchased to refund the Refunded Bonds. The Placement Agent provided us with the Official Statement for the Refunded Bonds.

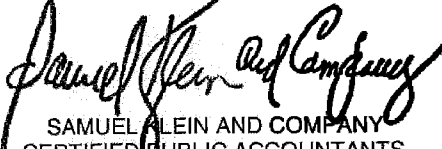
We found (1) that the SLGS interest rate shown in the schedules provided to us by the Placement Agent does not exceed the maximum rate available for October 20, 2014, and (2) that the information contained in the schedules provided to us by the Placement Agent was in agreement with the information set forth in the above-mentioned documents.

**SAMUEL KLEIN AND COMPANY**  
CERTIFIED PUBLIC ACCOUNTANTS

In our opinion, the computations contained in the schedules provided are mathematically correct.

The schedules verifying the mathematical accuracy of the computations reflect that the anticipated receipts from the SLGS purchased to refund the Refunded Bonds, together with the cash deposit of \$0.85, will be sufficient to pay, when due, the interest and redemption requirements on the Refunded Bonds.

We express no opinion as to the appropriateness of the methodologies used in preparing such schedules or the actual existence or the attributes of the Refunded Bonds extracted from historical data. It should be understood that we make no representations as to questions of legal interpretation, and accordingly we express no opinion with regard to any determination that the Refunded Bonds remain in compliance with existing statutes, regulations, administrative interpretations, and court decisions. The terms of our engagement are such that we have no obligation to update this report because of events occurring, or data or information coming to our attention, subsequent to the date of this report.



SAMUEL KLEIN AND COMPANY  
CERTIFIED PUBLIC ACCOUNTANTS

December 16, 2014

**SAMUEL KLEIN AND COMPANY**  
CERTIFIED PUBLIC ACCOUNTANTS

**LIST OF SCHEDULES**

<b>SCHEDULE A</b>	<b>SUMMARY OF REFUNDED BONDS</b>
<b>SCHEDULE B</b>	<b>ESCROW REQUIREMENTS</b>
<b>SCHEDULE C</b>	<b>ESCROW COST</b>
<b>SCHEDULE D</b>	<b>ESCROW CASH FLOW AND SUFFICIENCY</b>

**SCHEDULE A**

**SUMMARY OF REFUNDED BONDS**

<b>Maturity Date</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Call Date</b>	<b>Call Price</b>
09/01/2015	70,000.00	4.550%	03/01/2015	101.000
09/01/2016	80,000.00	4.650%	03/01/2015	101.000
09/01/2017	90,000.00	4.750%	03/01/2015	101.000
09/01/2018	105,000.00	4.850%	03/01/2015	101.000
09/01/2019	115,000.00	4.950%	03/01/2015	101.000
09/01/2025	980,000.00	5.125%	03/01/2015	101.000
09/01/2035	3,220,000.00	5.150%	03/01/2015	101.000
<b>Totals</b>	<b>4,660,000.00</b>			

**SCHEDULE B**

**ESCROW REQUIREMENTS**

<u>Date</u>	<u>Interest</u>	<u>Redeemed Principal</u>	<u>Redemption Premium</u>	<u>Total Requirements</u>
03/01/2015	119,010.00	4,660,000.00	46,600.00	4,825,610.00
Totals	119,010.00	4,660,000.00	46,600.00	4,825,610.00

**SCHEDULE C**

**ESCROW COST**

Maturity Date	SLGS Principal Amount	Interest Rate	Price	Cost
03/01/2015	4,825,510.00	0.010%	100.000	4,825,510.00
Totals	4,825,510.00			4,825,510.00

Calculation of Total Escrow Cost	
Cost of SLGS	4,825,510.00
Cash Deposit	0.85
Total Escrow Cost	4,825,510.85

**SCHEDULE D**

**ESCROW CASH FLOW AND SUFFICIENCY**

<b>Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Escrow Receipts</b>	<b>Total Escrow Requirements</b>	<b>Ending Balance</b>
12/16/2014					0.85
03/01/2015	4,825,510.00	99.15	4,825,609.15	4,825,610.00	0.00
Totals	4,825,510.00	99.15	4,825,609.15	4,825,610.00	



Quick Search

Enter CUSIP or Name

ADVANCED SEARCH

BROWSE ISSUERS

FIND 529 PLANS

MARKET ACTIVITY ▾

EMMA HELP

Home > Continuing Disclosure

## Continuing Disclosure Details

### EVENT FILING (CUSIP-9 BASED)

#### Rule 15c2-12 Disclosure

Defeasance: Notice of Defeasance of Outstanding City of Modesto CFD 2003-1, Special Tax Bonds, dated 12/16/2014

Total CUSIPs associated with this submission: 7

### VIEW DOCUMENTS

#### [-] Event Filing dated 12/16/2014

[+] **(Unconfirmed)** MODESTO.pdf posted 12/16/2014 View

[-] CUSIP-6s

> **MODESTO CALIF SPL TAX, CA (607800)**

MODESTO CALIF SPL TAX, CA (607800)

Displaying 1 issue.

Total CUSIPs selected for this CUSIP-6: 7.

Issue Description *	Dated Date	Maturity Dates	Official Statement
[+] CMNTY FACS DIST NO 03-1	07/14/2005	2007 to 2035	<a href="#">Preview</a>

### SUBMITTER'S CONTACT INFORMATION

Company: The Bank of New York Mellon Trust Company, N.A.  
 Name: GRACIE CUICO  
 Address: THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.  
 City, State: LOS ANGELES, CA 90071  
 Zip:  
 Phone Number: 2135534337  
 Email: gracie.cuico@bnymellon.com

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**EXHIBIT Y**

**NOTICE OF DEFEASANCE OF  
OUTSTANDING  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
SPECIAL TAX BONDS  
(the "Refunded Bonds")**

**CUSIP #s: 607800AK5, 607800AL3, 607800AM1, 607800AN9, 607800AP4, 607800AQ2,  
607800AR0**

Notice is hereby given to the holders of the above-captioned Bonds (the "Refunded Bonds") that (i) the Refunded Bonds will be redeemed and defeased; (ii) there has been deposited with The Bank of New York Mellon Trust Company, N.A., as Escrow Bank, moneys as permitted by that certain Trust Indenture, dated as of June 1, 2005, between the District and The Bank of New York Mellon Trust Company, N.A., as successor-in-interest to The Bank of New York Trust Company, N.A., as Trustee (the "Trustee") (the "Indenture"), relating to the Refunded Bonds, sufficient and available to pay the principal of and interest on the Refunded Bonds on March 1, 2015 and to redeem on March 1, 2015 the Refunded Bonds at the applicable redemption price contained in the Indenture; and (iii) the Escrow Bank has been irrevocably instructed to redeem such outstanding Refunded Bonds on March 1, 2015.

At least 30 days, but not more than 60 days, prior to March 1, 2015, in accordance with the terms of the Indenture, the Trustee shall mail a redemption notice for such Refunded Bonds.

If you have any questions regarding this notice, please contact Bondholder Relations at (800) 254-2826.

Dated this <sup>14</sup>~~12~~ day of December, 2014.

**THE BANK OF NEW YORK MELLON TRUST  
COMPANY, N.A.,  
as Trustee**

**City of Modesto**  
 2014 Special Tax Refunding Bonds  
 CFD No. 2003-1 (Fairview Village)



**Distribution List**  
*(As of October 15, 2014)*

**ISSUER**

**City of Modesto**

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Brad Neal Email: <a href="mailto:bneal@sycr.com">bneal@sycr.com</a>	<b>Tel: (949) 725-4164</b> Fax: (949) 823-5164
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**City of Modesto**  
2014 Special Tax Refunding Bonds  
CFD No. 2003-1 (Fairview Village)



**Distribution List**  
(As of October 15, 2014)

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Scott Johnson, Vice President E-mail: <a href="mailto:scott.johnson@cnb.com">scott.johnson@cnb.com</a>	<b>(213) 673-9013 (Office)</b>
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**PURCHASER'S AGENT**

**Municipal Finance Corporation**

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William A. Morton E-mail: <a href="mailto:BMORTON@MUNIFINANCE.COM">BMORTON@MUNIFINANCE.COM</a>	<b>Tel: (805) 267-7140</b>
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**City of Modesto**  
2014 Special Tax Refunding Bonds  
CFD No. 2003-1 (Fairview Village)



**Distribution List**  
*(As of October 15, 2014)*

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**City of Modesto**  
2014 Special Tax Refunding Bonds  
CFD No. 2003-1 (Fairview Village)



**Distribution List**  
*(As of August 26, 2014)*

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City of Modesto 2014 Special Tax Refunding Bonds CFD No. 2003-1 (Fairview Village)

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-558**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO  
ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES NO. 2003-1  
(FAIRVIEW VILLAGE) AND TO AUTHORIZE THE LEVY OF A SPECIAL  
TAX WITHIN SAID COMMUNITY FACILITIES DISTRICT**

WHEREAS, Del Valle Capital Corporation, Inc., the owner (the "Owner") of not less than 10 percent of the area of land depicted on the map of the proposed community facilities district referred to below on file with the City Clerk (the "Property"), has filed a written petition with the City of Modesto (the "City") to establish the City of Modesto Community Facilities No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code of the State of California (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A hereto, and all appurtenances and appurtenant work associated therewith (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses") and to pay the cost of the services listed in Appendix A hereto (the "Services"); and

WHEREAS, the Owner has heretofore submitted to the City an application to form the Community Facilities District and has advanced to the City the deposit required pursuant to the City's Policies & Procedures for the Formation, Annexation, and Administration of Communities Facilities Districts Created Pursuant to the Provisions of the Mello-Roos Community Facilities Act of 1982 (the "City's CFD Policies and Procedures"); and

WHEREAS, the petition submitted by the Owner complies with the requirements of Section 53319 of the Act and the City's CFD Policies and Procedures; and

WHEREAS, subject to the satisfaction of all applicable requirements of law, it is the intention of this City Council to finance the Facilities and the Incidental Expenses and to pay for the Services through the formation of the Community Facilities District and the levy of a special tax and (in the case of the Facilities and the Incidental Expenses) the issuance of bonds, provided that the levy of the special tax and the issuance of the bonds are approved at an election to be held within the boundaries of the Community Facilities District;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The Community Facilities District is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the Community Facilities District shall be as depicted on the map of the proposed Community Facilities District which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the Community Facilities District and record it with all proper endorsements thereon with the County Recorder of the County of Stanislaus within fifteen days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

SECTION 3. The name of the proposed Community Facilities District shall be "City of Modesto Community Facilities District No. 2003-1 (Fairview Village)."

SECTION 4. The Facilities and Services proposed to be provided within the Community Facilities District are each facilities or services, as the case may be, which the City is authorized by law to construct, acquire, own and operate, or to provide. This City Council hereby finds and determines that the descriptions of the Facilities and the Services contained herein is sufficiently informative to allow taxpayers within the proposed Community Facilities District to understand what the funds of the Community

Facilities District may be used to pay for. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the Community Facilities District and levying and collecting a special tax within the Community Facilities District.

SECTION 5. Except where funds are otherwise available, it is the intention of this City Council to levy annually in accordance with the procedures contained in the Act a special tax, secured by recordation of a continuing lien against all non-exempt real property in the Community Facilities District, sufficient to pay for: (i) the Facilities, the Incidental Expenses and the Services and (ii) the principal of and interest on and other periodic costs with respect to the bonds issued to finance the Facilities and the Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the Community Facilities District and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) in connection with the bonds. The Facilities may be financed on a direct payment basis or through the issuance of the bonds. The rate, method of apportionment and manner of collection of the special tax are described in detail in Appendix B attached hereto and incorporated herein as though set forth at length (the "Rate and Method"). Appendix B allows each landowner and resident, if any, within the Community Facilities District to estimate the maximum amount that may be levied against each parcel.

If special taxes of the Community Facilities District are levied against any parcel used for private residential purposes, (i) such tax shall not be levied or collected to pay for Facilities or Incidental Expenses after the 2044-2045 tax year and (ii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the Community Facilities District by more than ten percent (10%).

This City Council hereby determines the Rate and Method to be reasonable. The special tax is apportioned to each parcel on the basis of its net acreage pursuant to Section 53325.3 of the Act; and such special tax is not on or based upon the value or ownership of real property. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special tax, this City Council shall, on behalf of the Community Facilities District, cause the levy to be increased, subject to the limitation of the maximum special tax for a parcel as set forth in the Rate and Method, to the extent necessary upon the remaining property within the Community Facilities District which is not delinquent or exempt in order to yield the special tax revenues required for the purposes described in this Section 5.

SECTION 6. A public hearing (the "Hearing") on the establishment of the Community Facilities District and the proposed Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on December 2, 2003, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 95353. Should this City Council determine to form the Community Facilities District, a special election will be held to authorize the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election is expected to be a landowner vote with each landowner of record as of the close of the Hearing having one vote for each acre of land or portion thereof owned within the Community Facilities District. Ballots for the special election may be distributed by mail or by personal service.

SECTION 7. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the proposed Community Facilities District, may appear and be heard.

SECTION 8. Each officer of the City who is or will be responsible for providing the Facilities or Services within the proposed Community Facilities District, if it is established, is hereby directed to study the proposed Community Facilities District and, at or before the time of the Hearing, file a report with this City Council containing a brief

description of the Facilities or Services, as the case may be, which will in his or her opinion be required to meet adequately the needs of the proposed Community Facilities District and an estimate of the cost of providing those Facilities or Services and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by this City Council, with or without interest.

SECTION 10. The Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing. The Clerk is further directed to mail a copy of the Notice to each of the landowners and registered voters, if any, within the boundaries of the Community Facilities District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed Community Facilities District and a description of the proposed voting procedure for the election required by the Act.

SECTION 11. Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,  
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM  
By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

**The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.**

**ATTEST:**

Jean Zahr  
**JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California**

## APPENDIX A

### LIST OF FACILITIES

#### Water System:

Two wells, distribution pipelines, well-head treatment systems, surface water supply pipelines, tanks, booster pumps and approximately 1.75 acres of land. The well-head treatment system is proposed to be financed through acquisition, construction, lease, lease-purchase, or installment-purchase arrangement. The proposed lease, lease-purchase, or installment-purchase arrangement would be for commercial terms for a period not to exceed thirty (30) years.

#### Wastewater System:

Two lift stations and two force mains.

#### Storm Drain System:

Approximately nine acres of land, storm drainage facilities including pump station, dual-use basin and landscaping, fencing, lift station, force main and gravity line.

#### Class I Bike Trail:

Includes demolition, grading and drainage, site electrical, construction, site furnishings, irrigation and planting.

### LIST OF SERVICES

Maintenance of parks, parkways and open space (including the bike trail) and maintenance of the storm drainage basin and related facilities.

**APPENDIX B**  
**RATE AND METHOD OF APPORTIONMENT**

**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**

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

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Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

**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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**“Annual Maintenance Special Tax”** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual 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. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a final map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“**Successor Parcel**” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel.

“**Taxable Property**” means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

“**Taxable Public Property**” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

“**Tax Zone**” means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

“**Tax Zone #1**” means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

“**Undeveloped Property**” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

“**Unit**” means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor’s Parcel, and

use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor's Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor's Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

### **C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

#### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

#### **2. Successor Parcels**

##### **a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

##### **b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;

**Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

**3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

## **2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:* The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;
- Step 2:* If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:* If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

## **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:* The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
- Step 2:* If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:* If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

#### **E. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$3.8 million in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<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 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 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"*).
- Step 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"*).
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (*the "Defeasance Requirement"*).
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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*").

**Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "*Prepayment Amount*").

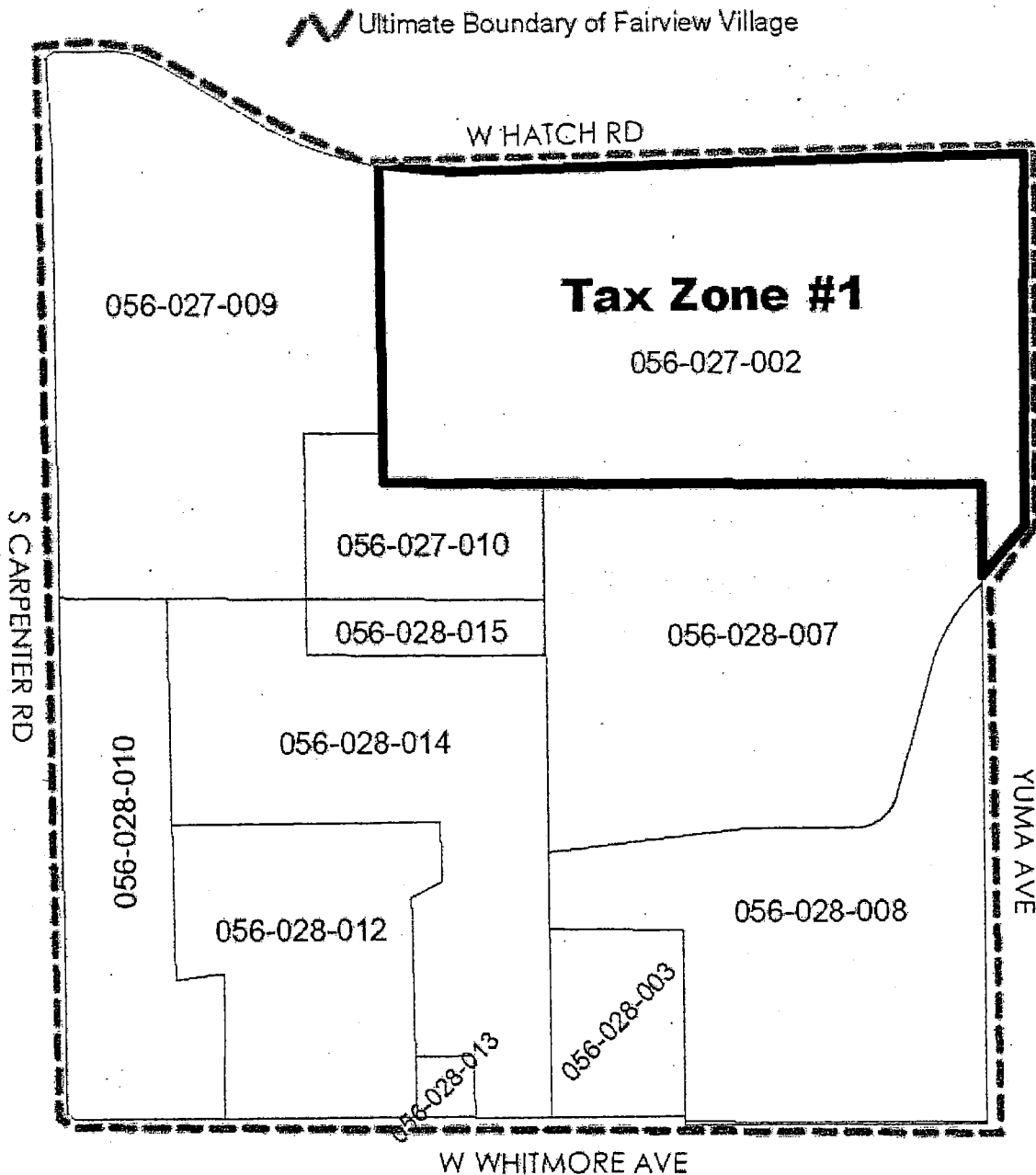
## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2003-1  
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE**

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-559**

**A RESOLUTION DECLARING THE CITY COUNCIL'S INTENTION TO  
INCUR BONDED INDEBTEDNESS IN THE AMOUNT NOT TO EXCEED  
\$25,000,000 WITHIN PROPOSED CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

WHEREAS, pursuant to a resolution adopted on the date hereof (the "Companion Resolution"), this City Council has instituted proceedings for the possible formation of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed in Appendix A to the Companion Resolution, and all appurtenances and appurtenant work associated with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses") and to pay the costs of the services listed in Appendix A to the Companion Resolution (collectively, the "Services"); and

WHEREAS, this City Council estimates that the amount of bond proceeds required to finance the Facilities and Incidental Expenses is approximately \$25,000,000; and

WHEREAS, in order to finance the Facilities and Incidental Expenses, subject to the formation of the Community District and to the satisfaction of all applicable requirements of law, this City Council intends to authorize the issuance of bonds in the maximum aggregate principal amount of \$25,000,000, the repayment of which is to be secured by special taxes levied in accordance with the Act on all property in the Community Facilities District, other than those properties exempted from taxation in the rate and method of apportionment set forth in Appendix B to the Companion Resolution;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. It is necessary to incur bonded indebtedness within the boundaries of the Community Facilities District in an amount not to exceed \$25,000,000 to finance certain of the costs of the Facilities and Incidental Expenses, as permitted by the Act.

SECTION 3. The indebtedness will be incurred for the purpose of financing the costs of the Facilities and the Incidental Expenses, including, but not limited to, the funding of reserve funds for the bonds, the financing of costs associated with the issuance of the bonds and all other costs and expenses necessary to finance the Facilities which are permitted to be financed pursuant to the Act.

SECTION 4. It is the intent of this City Council to authorize the sale of bonds in one or more series, in the maximum aggregate principal amount specified in Section 2, and at a maximum interest rate not in excess of 12 percent per annum, or a higher rate not in excess of the maximum rate permitted by law at the time that the bonds are issued. The term of the bonds of each series shall be determined pursuant to a resolution of this City Council authorizing the issuance of the bonds of such series, but such term shall in no event exceed 40 years from the date of issuance of the bonds of such series, or such longer term as is then permitted by law.

SECTION 5. A public hearing (the "Hearing") on the proposed debt issue shall be held at 5:30 p.m., or as soon thereafter as practicable, on December 2, 2003, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 93535.

SECTION 6. At the time and place set forth in this Resolution for the Hearing, any interested persons, including all persons owning land or registered to vote within the Community Facilities District, may appear and be heard.

SECTION 7. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the Community Facilities District. Such publication shall be completed at least seven days prior to the date of the Hearing.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating, O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:  
By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-560**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR  
CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

WHEREAS, Del Valle Capital Corporation, Inc. (the "Developer") has filed with this City Council a petition requesting the formation of a community facilities district and the issuance of bonds to finance and maintain certain infrastructure; and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Advanced Funding Agreement by and between the City and the Developer relating to advances made and to be made by the Developer to the City (the "Advanced Funding Agreement");

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Advanced Funding Agreement between the City of Modesto and Del Valle Capital Corporation, Inc., be hereby approved and that the City Manager is hereby authorized to execute the Advanced Funding Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of October, 2003, by Councilmember Frohman, who moved its adoption, which motion being duly seconded by Councilmember Fisher was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Conrad, Fisher, Frohman, Jackman, Keating,  
O'Bryant, Mayor Sabatino

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the 2003-560  
of Modesto, County of Stanislaus, State of California

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-660**

**A RESOLUTION ESTABLISHING CITY OF MODESTO COMMUNITY FACILITIES NO. 2003-1 (FAIRVIEW VILLAGE), AUTHORIZING THE LEVY OF SPECIAL TAXES THEREIN AND ESTABLISHING AN ANNUAL APPROPRIATIONS LIMIT**

WHEREAS, on October 28, 2003, pursuant to a petition filed by Del Valle Corporation, Inc. (the "Petitioner") this City Council adopted a resolution (the "Resolution of Intention") stating its intention to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of the Resolution of Intention, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on October 28, 2003, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed \$25,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating the facilities listed on Appendix A to the Resolution of Intention, and all appurtenances and appurtenant work associated with the foregoing (collectively the "Facilities") and (ii) the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and

Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses"); all as more fully described in said resolution; and

WHEREAS, notice was published and mailed as required by law relative to the intention of the City to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed \$25,000,000; and

WHEREAS, there has been filed with the City Clerk a report containing a description of the facilities and services necessary to meet the needs of the Community Facilities District and an estimate of the cost of such facilities as required by Section 53321.5 of the Government Code (the "Report"); and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special taxes to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses 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 proposed special taxes to be levied within the Community

Facilities District was not precluded by a majority protest of the type described in Government Code Section 53324, and the City Council is sufficiently advised as to all matters relating to the formation of the Community Facilities District, the levy of the special taxes and the issuance of bonded indebtedness; and

WHEREAS, there have been fewer than twelve registered voters residing in the proposed boundaries of the Community Facilities District for the statutory period, and the qualified electors in the Community Facilities District are the landowners within the Community Facilities District; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to proceed with the establishment of the Community Facilities District and to call an election therein to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of special tax, as set forth in Attachment A hereto, (ii) the issuance of bonds to pay for the Facilities and the Incidental Expenses, and (iii) the establishment of an appropriations limit for the Community Facilities District;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district designated "City of Modesto Community Facilities District No. 2003-1 (Fairview Village)" is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District

were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. The boundaries of the Community Facilities District are established as shown on the map designated "Boundary Map of Proposed City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," which map is on file in the office of the City Clerk and, pursuant to Sections 3111 and 3113 of the Streets and Highways Code, was recorded in the Book of Maps of Assessment and Community Facilities Districts in the Office of the County Recorder of Stanislaus County in Book No. 3, at Page 83, as Instrument No. 03-0190347-00.

SECTION 4. The facilities authorized to be provided for the Community Facilities District are those identified as the "Facilities" in the recitals of this resolution and the services authorized to be paid for by the Community Facilities District are those set forth in Appendix A to the Resolution of Intention (the "Services").

SECTION 5. It is the intention of the City Council, subject to the approval of the qualified electors of the Community Facilities District, to levy the proposed special taxes at the rates set forth in Attachment A hereto on all non-exempt property within the Community Facilities District sufficient to pay for (i) the Services, (ii) the Facilities, (iii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iv) the other Incidental Expenses, including the costs of forming the Community Facilities District and administering the

levy and collection of the special tax and all other administrative costs of the special tax levy and bond issues. The City expects to incur, and in certain cases has already incurred, incidental expenses in connection with the creation of the Community Facilities District, the issuance of bonds, the levying and collecting of the special taxes, the provision of the Services, the completion and inspection of the Facilities and the annual administration of the bonds and the Community Facilities District. The rate and method of apportionment of special tax is described in detail on **Attachment A** hereto and incorporated herein by this reference, and the City Council hereby finds that Attachment A contains sufficient detail to allow each landowner within the Community Facilities District to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Report, which is incorporated by reference herein, the special taxes are based generally on area of each parcel of real property within the Community Facilities District (except to the extent that certain single family detached lots may be taxed at the same rate regardless of land area) and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor's parcel for a period not to extend beyond fiscal year 2050-51, and the Resolution of Intention is hereby amended to change the reference therein to the "2044-2045 tax year" to "fiscal year 2050-51." The special taxes are apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act, and such special taxes are not on or based upon the ownership of real property. Under no circumstances shall the special taxes against any parcel used for private residential purposes be increased by more than 10% as a consequence of delinquency or default by the owner of any other parcel or parcels within the Communities Facilities District.

The City's District Administrator, 1010 Tenth Street, Modesto, California 95353, telephone number (209) 577-5211, will 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 will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

SECTION 6. In the event that a portion of the property within the Community Facilities District shall become for any reason exempt, wholly or partially, from the levy of the special taxes specified in Attachment A, the City Council shall, on behalf of the Community Facilities District, increase the levy (to the extent necessary and permitted by law and these proceedings) upon the remaining property within the Community Facilities District which is not exempt in order to yield the required debt service payments on any outstanding bonds of the Community Facilities District or to prevent the Community Facilities District from defaulting on any of its other obligations or liabilities. The amount of the special taxes will be set in accordance with the rate and method of apportionment of special tax attached hereto as Attachment A.

SECTION 7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special taxes shall attach to all non-exempt real property in the Community Facilities District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District ceases.

SECTION 8. It is hereby further determined that there will be no ad valorem property tax levied on property within the Community Facilities District for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District as are proposed to be provided by the Facilities to be financed by the Community Facilities District.

SECTION 9. The City may accept advances of funds or work-in-kind from any source, including, but not limited to, the Petitioner and other private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred by it in creating the Community Facilities District. The City may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City, with or without interest.

SECTION 10. Written protests against the establishment of the Community Facilities District have not been filed by one-half or more registered voters within the boundaries of the Community Facilities District or by the property owners of one-half (1/2) or more of the area of land within the Community Facilities District. The City Council hereby finds that the proposed special taxes have not been precluded by a majority protest pursuant to Section 53324 of the Act.

SECTION 11. The annual appropriations limit (as defined in Section 8(h) of Article XIII B of the California Constitution) of the Community Facilities District is hereby established at \$25,000,000.

SECTION 12. An election is hereby called for the Community Facilities District on the propositions of levying the special taxes on the property within the Community Facilities District and establishing the appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to Section 53351 of the Act. The language of the proposition to be placed on the ballot is attached hereto as **Attachment B**.

SECTION 13. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be December 11, 2003. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

The City Council having found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above, pursuant to Section 53326 of the Government Code each landowner who is the owner of record on

the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

SECTION 14. The preparation of the Report is hereby ratified. The Report, as submitted, is hereby approved and is made a part of the record of the public hearing regarding the formation of the Community Facilities District, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11<sup>th</sup> of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino
Noes:	Councilmembers:	None
Absent:	Councilmembers:	O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:  
Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**ATTACHMENT A**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1**  
**(FAIRVIEW VILLAGE)**

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

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

**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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**"Annual Maintenance Special Tax"** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**"Annual Facilities Special Tax"** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual 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. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.

- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a final map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

“**Tax Zone #1**” means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

“**Undeveloped Property**” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

“**Unit**” means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

**B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor’s Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor’s Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor’s Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

**C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

**1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

**2. Successor Parcels**

**a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

**b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;

**Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

#### **D. ESCALATION OF MAXIMUM SPECIAL TAXES**

##### **1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

##### **2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

##### **3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco

region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

**2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

**3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the

Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

#### **E. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**"Outstanding Bonds"** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against,

or already paid by, an Assessor's Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**"Previously Issued Bonds"** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**"Public Facilities Requirements"** means either \$3.8 million in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

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

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<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 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 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*").
- Step 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*").
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "*Defeasance Requirement*").
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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*").

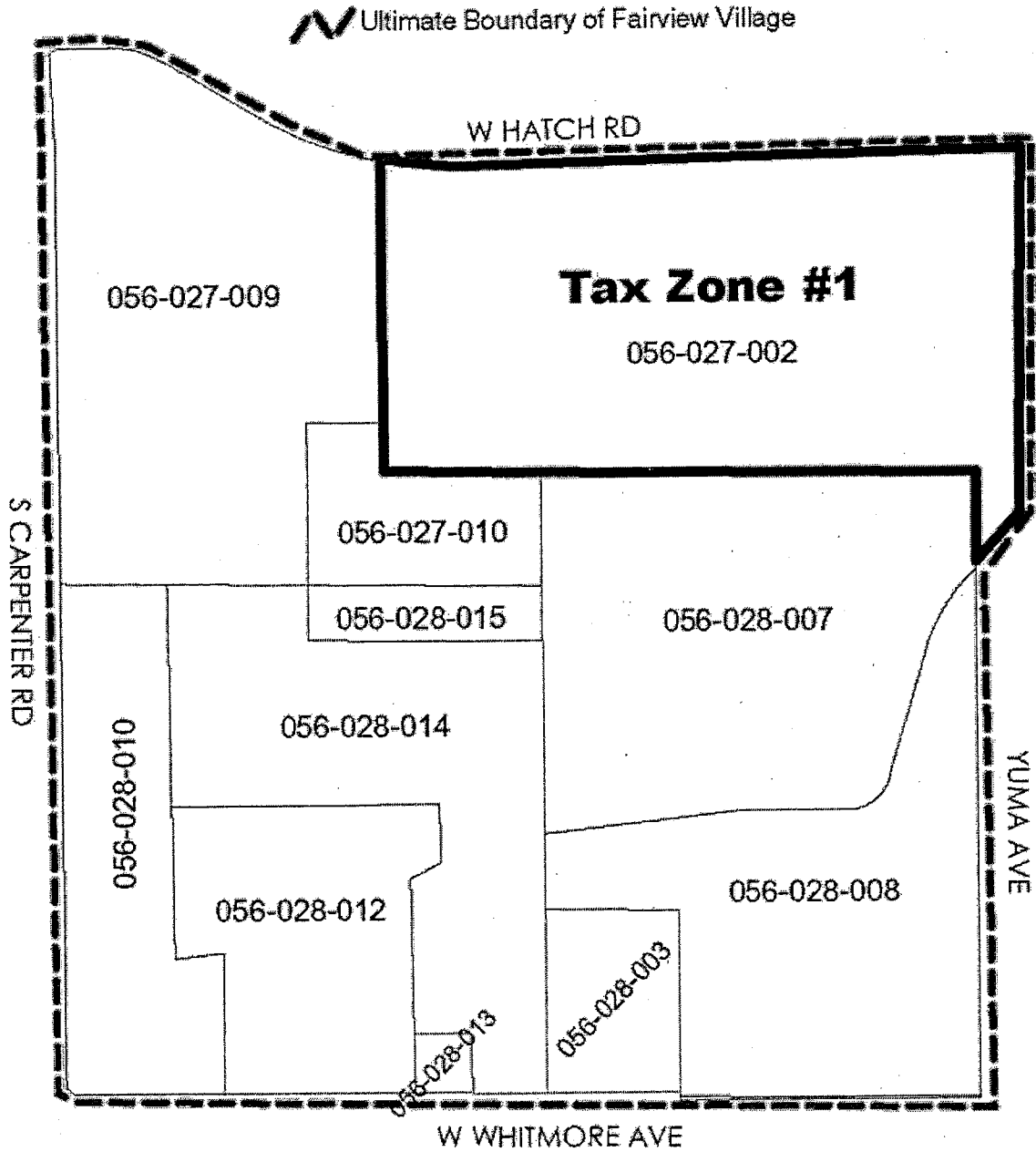
**Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "*Prepayment Amount*").

**I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

ATTACHMENT 1  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



ATTACHMENT 2

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)

MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**ATTACHMENT B**

**BALLOT PROPOSITION**

**CITY OF MODESTO**

**COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**SPECIAL ELECTION**

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of \$25,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-661**

**A RESOLUTION DETERMINING IT NECESSARY TO INCUR BONDED  
INDEBTEDNESS WITHIN THE CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

WHEREAS, on October 28, 2003, pursuant to a petition filed by Del Valle Corporation, Inc., this City Council adopted a resolution stating its intention to form the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

WHEREAS, a copy of said resolution, setting forth a description of the proposed boundaries of the Community Facilities District, the facilities and services to be financed by the Community Facilities District and the rate and method of apportionment of special tax proposed to be levied within the Community Facilities District, is on file with the City Clerk and is incorporated herein by reference; and

WHEREAS, on October 28, 2003, the City Council also adopted a resolution stating its intention to incur bonded indebtedness in an amount not to exceed \$25,000,000 for the purpose of financing (i) the cost of purchasing, constructing, expanding, improving or rehabilitating certain storm drain system, water system, sewer system improvements, and bike trail improvements and all appurtenances and appurtenant work in connection with the foregoing (collectively, the "Facilities") and (ii) the incidental expenses incurred and to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds and the establishment and replenishment of bond reserve and special

reserve funds (the "Incidental Expenses"), all as more fully described in said resolution;  
and

WHEREAS, notice was published as required by law relative to the intention of the City Council to form the Community Facilities District and to incur bonded indebtedness in an amount not to exceed \$25,000,000 within the boundaries of the Community Facilities District; and

WHEREAS, the City Council has held a public hearing as required by law to determine whether it should proceed with the formation of the Community Facilities District, issue bonds to pay for the Facilities and the Incidental Expenses and authorize the rate and method of apportionment of special tax to be levied within the Community Facilities District for the purposes described in the aforesaid resolutions; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the formation of the Community Facilities District, the levy of special taxes and the issuance of bonds to pay for the cost of the proposed Facilities and Incidental Expenses were heard, and a full and fair hearing was held; and

WHEREAS, the City Council desires to make the necessary findings to incur bonded indebtedness within the Community Facilities District, to declare the purpose for such indebtedness, and to authorize the submittal of a combined ballot proposition to the qualified electors of the Community Facilities District, being the land owners within the Community Facilities District, all as authorized and required by law;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. In order to finance the Facilities and Incidental Expenses, it is necessary to incur bonded indebtedness in a maximum aggregate principal amount not to exceed \$25,000,000 within the Community Facilities District.

SECTION 3. The aforesaid bonded indebtedness is to be incurred for the purpose of financing the costs of purchasing, constructing, expanding, improving or rehabilitating the Facilities and financing the Incidental Expenses.

SECTION 4. All of the property within the Community Facilities District, as established pursuant to the Resolution of Formation, with the exception of property exempted from the special tax pursuant to the provisions of the rate and method of apportionment of special tax attached to the Resolution of Formation, shall pay for the bonded indebtedness pursuant to the levy of the special tax authorized by the Resolution of Formation.

SECTION 5. The maximum term of the bonds to be issued shall in no event exceed 40 years; and the bonds shall bear interest at rates (not in excess of the maximum rate permitted by law) determined at the time of sale thereof.

SECTION 6. An election is hereby called for the Community Facilities District on the proposition of incurring bonded indebtedness pursuant to Section 53351 of the Act

and shall be consolidated with the election on the propositions of levying the special taxes on the property within the Community Facilities District and establishing an appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act. The language of the proposition to be placed on the ballot is attached hereto as Attachment A.

SECTION 7. The date of the election for the Community Facilities District on the proposition of incurring the bonded indebtedness, authorizing the levy of the special taxes and establishing the appropriations limit for the Community Facilities District shall be December 11, 2003. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there have been fewer than twelve persons registered to vote within the territory of the Community Facilities District for each of the ninety days preceding the close of the public hearing described above; and, pursuant to Section 53326 of the Government Code, each landowner who is the owner of record on the date hereof or the authorized representative thereof shall have one vote for each acre or portion thereof that he or she owns within the Community Facilities District.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11<sup>th</sup> of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by

Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:  
Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**ATTACHMENT A**  
**BALLOT PROPOSITION**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**  
**SPECIAL ELECTION**

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of \$25,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-662**

**A RESOLUTION CALLING A SPECIAL ELECTION FOR THE CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW  
VILLAGE)**

WHEREAS, on this date, this City Council adopted a resolution entitled "A Resolution Establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit" (the "Resolution of Formation"), which established the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), authorized the levy of special taxes therein, and established an annual appropriations limit; and

WHEREAS, on this date, the City Council, acting as the legislative body of the Community Facilities District, also adopted a resolution entitled "A Resolution Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," which declared the necessity to incur bonded indebtedness in the maximum amount of \$25,000,000; and

WHEREAS, pursuant to the provisions of said resolutions, propositions to authorize the levy of special taxes within the Community Facilities District, to establish an appropriations limit of the Community Facilities District and to authorize the incurring of bonded indebtedness are to be submitted to the qualified electors of the Community Facilities District as required by the Mello-Roos Community Facilities Act of 1982, as amended (the "Act");

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. Pursuant to the Act the propositions to authorize the levy of special taxes within the Community Facilities District, establish an appropriations limit of the Community Facilities District and authorize the incurring of a bonded indebtedness shall be combined into one ballot proposition and submitted to the qualified electors of the Community Facilities District as provided herein.

SECTION 2. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by the land owners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

SECTION 3. The date of the election shall be December 11, 2003, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 9:00 p.m. on December 11, 2003; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.

SECTION 4. The form of the ballot for the election is attached hereto as Exhibit A and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

SECTION 5. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 9:00 p.m. on December 11, 2003 whether said ballots shall be personally delivered or received by mail.

SECTION 6. There is on file with the City Clerk a written instrument executed by the sole qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of formation of the Community Facilities District and waiving any requirement for analysis and arguments in connection therewith.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11<sup>th</sup> of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh,  
Mayor Sabatino

Noes: Councilmembers: None

Absent: Councilmembers: O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**EXHIBIT A**  
**OFFICIAL BALLOT**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**December 11, 2003**

**SPECIAL ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on December 11, 2003, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

**INSTRUCTIONS TO VOTERS:**

To vote on the measure, make a "+", "3", "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS: Shall City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") incur an indebtedness and issue bonds in the maximum aggregate principal amount of \$25,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, the proceeds of which will be used to finance the costs of planning, designing, constructing, acquiring, modifying, expanding, improving, furnishing, equipping or rehabilitating certain real and other tangible property with an estimated useful life of five years or longer, consisting of certain water system, wastewater system, storm drain system and bike trail improvements and appurtenances and appurtenant work and to finance the incidental expenses associated therewith, all as further provided in the resolution of the Council of the City of Modesto establishing the Community Facilities District (the "Resolution of Formation"), and shall special taxes with a rate and method of apportionment as provided in the Resolution of Formation be authorized to be levied, and shall the annual appropriations limit of Community Facilities District No. 2003-1 (Fairview Village) be established in the amount of \$25,000,000?

YES \_\_\_\_\_

NO \_\_\_\_\_

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

[NAME]

By \_\_\_\_\_

Number of Votes: \_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2003-663**

**A RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION  
AND APPROVING CERTAIN RELATED ACTIONS PERTAINING TO CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW  
VILLAGE)**

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on December 11, 2003 for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the "Proposition") for (a) the authorization of bonds in a principal amount not to exceed \$25,000,000, (b) the levy of special taxes in accordance with the rate and method of apportionment of special tax set forth in the resolution forming the Community Facilities District and (c) the establishment of an appropriations limit for the Community Facilities District; and

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is attached hereto as Attachment "A";

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on December 11, 2003 on the Proposition were cast in favor of the Proposition, and the Proposition carried. The City Council, acting as the legislative body of the Community Facilities District, is hereby authorized to issue, from time to time as it determines appropriate, bonds for the benefit of the Community Facilities District for the purposes set forth in the Proposition and to take the necessary steps to levy the special taxes authorized by the Proposition.

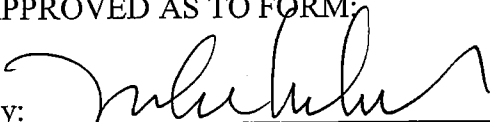
SECTION 3. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County a notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.

The foregoing resolution was introduced at the regular meeting of the City Council of the City of Modesto held on the 11<sup>th</sup> of December, 2003, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

Ayes:	Councilmembers:	Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino
Noes:	Councilmembers:	None
Absent:	Councilmembers:	O'Bryant

ATTEST: Jean Zahr  
JEAN ZAHR, City  
Clerk

APPROVED AS TO FORM:

By:   
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

ATTACHMENT "A"

CERTIFICATE OF CITY CLERK  
AS TO RESULTS OF THE CANVAS OF ELECTION RETURNS

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF STANISLAUS )

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"). With my concurrence, the election was conducted on December 11, 2003. On or prior to said date I had mailed or personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to December 11, 2003 or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: 82

NO: 0

TOTAL NUMBER OF VOTES CAST: 82

Dated this 11th day of December, 2003.

  
\_\_\_\_\_  
Jean Zahr,  
City Clerk of the City of Modesto

**CITY OF MODESTO  
ORDINANCE NO. 2003-3339**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MODESTO AUTHORIZING THE LEVY OF SPECIAL TAXES  
WITHIN THE CITY OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

The Council of the City of Modesto does ordain as follows:

WHEREAS, on October 28, 2003, this City Council adopted a resolution entitled "A Resolution Declaring the City Council's Intention to Establish City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and to Authorize the Levy of a Special Tax Within Said Community Facilities District" stating its intention to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance certain services and facilities and incidental expenses to be incurred in connection with financing the foregoing; and

WHEREAS, the City Council has held a noticed public hearing concerning the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to said hearing, the City Council adopted resolutions entitled "A Resolution Establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit" (the "Resolution of Formation"), "A Resolution Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," and "A Resolution Calling a Special Election for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," which resolutions established the Community Facilities District, authorized the levy of special taxes therein and called an election within the Community Facilities District on the propositions of levying special taxes, authorizing the issuance of bonds and establishing an appropriations limit; and

WHEREAS, an election was held within the Community Facilities District at which the qualified electors approved by more than a two-thirds vote the proposition of levying special taxes, issuing bonds and establishing an appropriations limit;

NOW, THEREFORE, the Council of the City of Modesto, acting as the legislative body of City of Modesto Community Facilities District No. 2003-1 (Fairview Village), DOES ORDAIN as follows:

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

SECTION 2. By the passage of this Ordinance, the City Council authorizes and levies special taxes within the Community Facilities District at the rates and in accordance with the methods of apportionment set forth in Attachment A to the Resolution of Formation and which, for reference purposes, is attached hereto as Attachment A and incorporated by this reference (the "Rate and Method").

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Modesto, California, held on December 11, 2003, by Councilmember Jackman, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Frohman, Hawn, Jackman, Keating, Marsh, Mayor Sabatino


NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 

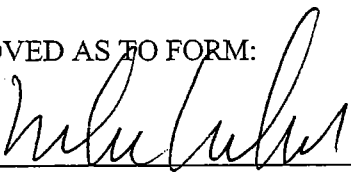
CARMEN SABATINO, Mayor

ATTEST:

By   
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
MICHAEL D. MILICH, City Attorney

any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square

Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor's Parcels of Undeveloped Property, respectively.

**"Public Property"** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**"Single Family Attached Property"** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**"Single Family Detached Lot"** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**"Single Family Detached Property"** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**"Special Taxes"** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**"Subdivision Map"** means a final map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**"Successor Parcel"** means an Assessor's Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**"Taxable Public Property"** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**"Tax Zone"** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

**"Tax Zone #1"** means the geographic area that was identified in Fiscal Year 2003-04 by Assessor's Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

**"Undeveloped Property"** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

**b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;

Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

### **E. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

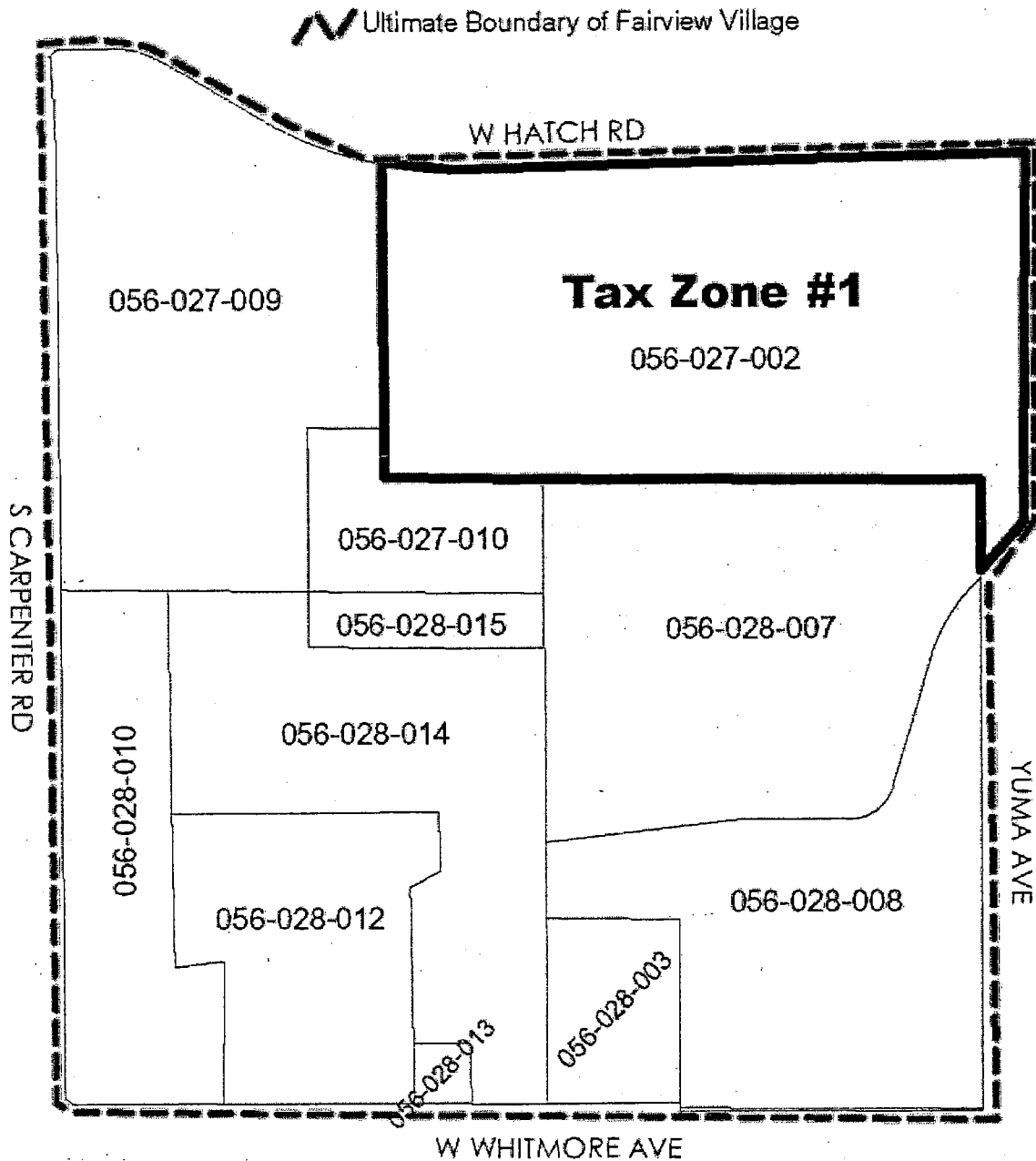
As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "***Bond Redemption Amount***").
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 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***").
- Step 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***").
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



Ord. No. 3339-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of January, 2004, Councilmember Jackman moved its final adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Dunbar

APPROVED: 

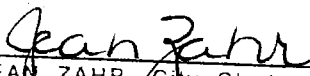
MAYOR JIM RIDENOUR

ATTEST:

  
JEAN ZAHR, City Clerk

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

Effective Date: February 5, 2004

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-173**

**A RESOLUTION OF CONSIDERATION OF THE CITY COUNCIL OF THE CITY OF MODESTO, CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), TO AMEND THE EXISTING RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

WHEREAS, the City Council of the City of Modesto (the "City Council"), acting as the legislative body of the City of Modesto Community Facilities District No. 2003-01 (Fairview Village) (the "District"), has determined that the rate and method of apportionment of the special tax (the "Existing Rate and Method"), currently described in Ordinance No. 2003-3339 adopted by the City Council on December 11, 2003 ("Ordinance No. 3339") and approved by the qualified electors within the District at a special election held on December 11, 2003 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"), should be changed and replaced by a new rate and method of apportionment as set forth in **Appendix A** hereto (the "Amended Rate and Method"); and

WHEREAS, the boundaries of the District are as depicted on the boundary map recorded with the County Recorder in the book of maps of assessment and community facilities districts in Book No. 3AM, at Page 83, as Instrument No. 03-0190347 (the "Map"); and

WHEREAS, the City Council has determined in accordance with the requirements of Section 53331 of the Act that the public convenience and necessity require the District to consider the Amended Rate and Method; and

WHEREAS, the City Council now deems it appropriate, in light of the foregoing, and intends, to take the initial steps necessary to consider the proposed Amended Rate and Method by adopting this resolution as required by Section 53334 of the Act;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The Existing Rate and Method is proposed to be replaced with the Amended Rate and Method attached hereto as Appendix A. If this change is approved, the Amended Rate and Method Amendment will replace the Existing Rate and Method.

SECTION 3. A public hearing (the "Hearing") on the Amended Rate and Method shall be held at 5:30 p.m., or as soon thereafter as practicable, on May 11, 2004, in the Modesto City Council Chamber, 1010 Tenth Street, Modesto, California 95353. Should the City Council determine to submit the Amended Rate and Method to the qualified electors of the District following the Hearing, a special election will be held to authorize the Amended Rate and Method. If the election is held, the proposed voting procedure at the election would be a landowner vote with each landowner who is the owner of record at the close of the Hearing, or authorized representative thereof, having one vote for each acre or portion of an acre of land that he or she owns within the District, or if at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the District for each of the 90 days preceding the close of the Hearing, then the vote shall be by the registered voters of the District, with each voter having one vote. Ballots for the special election may be distributed by mail or by personal service.

SECTION 4. At the time and place set forth above for the Hearing, the City Council, acting in its capacity as the legislative body of the District, shall receive testimony as to whether the Amended Rate and Method should be adopted. The officers of the City responsible for the operation of the District are hereby directed to prepare a report describing the Amended Rate and Method to be submitted to the City Council at the time of the Hearing.

SECTION 5. At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within the District, may appear and be heard.

SECTION 6. The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the District. The Notice shall contain the information required by Section 53335 of the Act, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners to the Amended Rate and Method and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.

SECTION 7. The City Clerk is hereby directed to send a copy of the Notice of the Hearing by first-class mail, postage prepaid, to each landowner within the District as shown on the last equalized assessment roll, or otherwise known to the City Clerk to be a current owner of land within the District. Said mailing shall be completed not less than fifteen (15) days prior to the date of the Hearing.

SECTION 8. This Resolution shall be effective on its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of April, 2004, by Councilmember Jackman, who moved its adoption, which motion being duly seconded by Councilmember O'Byant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**APPENDIX A**

**PROPOSED AMENDED AND RESTATED RATE AND METHOD OF  
APPORTIONMENT FOR THE CITY OF MODESTO COMMUNITY  
FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

## APPENDIX C

### CITY OF MODESTO COMMUNITY FACILITIES DISTRICT No. 2003-1 (FAIRVIEW VILLAGE)

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

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

#### 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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**“Annual Maintenance Special Tax”** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual 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. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

*For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

*For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a building permit for new construction of a Unit was issued prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

**“Final Map”** means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots in that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex,

fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor's Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor's Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor's Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor's Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

## **C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

### **2. Successor Parcels**

#### **a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

**b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

#### **D. ESCALATION OF MAXIMUM SPECIAL TAXES**

##### **1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

## **2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

## **3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

## **E. METHOD OF LEVY OF THE SPECIAL TAX**

### **1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

### **2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

*Step 1:* The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;

*Step 2:* If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

*Step 3:* If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

*Step 1:* The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

*Step 2:* If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

*Step 3:* If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

## **F. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities

Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

#### G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

#### H. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$3,800,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
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 1. Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2. Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3. Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
- Step 4. Compute the current Remaining Facilities Costs (if any).
- Step 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"*).
- Step 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"*).

- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the "*Defeasance Requirement*").
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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*").
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the "*Prepayment Amount*").

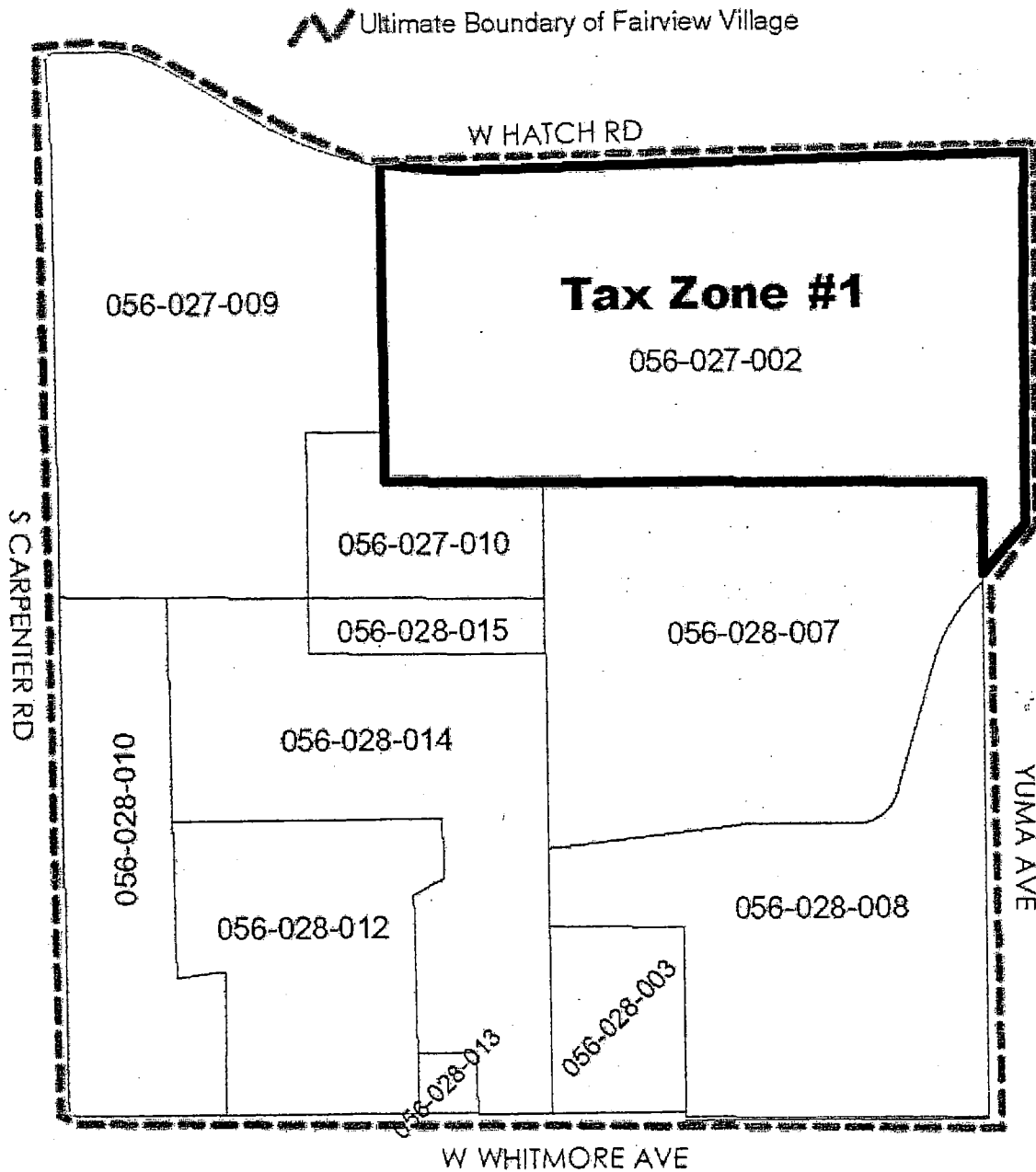
## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2003-1  
(FAIRVIEW VILLAGE)**

**MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE**

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.
  
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
  
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-260**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW  
VILLAGE) CALLING A SPECIAL ELECTION ON A PROPOSITION TO  
AMEND THE EXISTING RATE AND METHOD OF APPORTIONMENT OF  
THE SPECIAL TAX**

WHEREAS, the City Council of the City of Modesto (the "City Council") acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), has determined that the rate and method of apportionment of the special tax (the "Rate and Method"), currently described in Ordinance 3339-C.S. adopted by the City Council on December 11, 2003 ("Ordinance 3339-C.S.") and approved by the qualified electors within the Community Facilities District at a special election held on December 11, 2003 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act"), should be changed as set forth in **Exhibit A** to Resolution No. 2004-173 (the "Rate and Method Amendment"); and

WHEREAS, the boundaries of the Community Facilities District are as depicted on the boundary map recorded with the County Recorder in the book of maps of assessment and community facilities districts in Book 3AM, at Page 83, as Instrument No. 03-0190347 (the "Map"); and

WHEREAS, the City Council has determined in accordance with the requirements of Section 53331 of the Act that the public convenience and necessity require the Community Facilities District to consider the Rate and Method Amendment; and

WHEREAS, the City Council has adopted Resolution No. 2004-173 (the "Resolution of Consideration") expressing its intention to consider the proposed Rate and Method

Amendment and has conducted a public hearing on May 11, 2004 as required by Section 53338 of the Act after mailing a public notice as required by Section 53335 of the Act; and

WHEREAS, the proposed Rate and Method Amendment has not been precluded by a majority protest pursuant to Section 53337 of the Act; and

WHEREAS, the City Council now desires to submit to the qualified electors within the Community Facilities District a proposition regarding the proposed Rate and Method Amendment substantially in the form set forth in Section 3 below;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. The City Council finds and determines that written protests to the proposed Rate and Method Amendment, or any other matters set forth in the Resolution of Consideration, are insufficient in number and in amount under the Act, and the City Council hereby further orders and determines that all protests to the proposed Rate and Method Amendment, or the extent thereof, or any other matters set forth in the Resolution of Consideration, are hereby overruled.

SECTION 3. A special election on the proposed Rate and Method Amendment shall be and is hereby called and ordered to be held in the Community Facilities District on the date established pursuant to Section 6 below, at which election the following proposition shall be submitted to the qualified electors:

PROPOSITION A: Shall the amended and restated rate and method of apportionment of special tax set forth in Resolution No. 2004-173 adopted by the City Council of the City of Modesto as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") replace the existing rate and method of apportionment for the Community Facilities District and be levied for the purposes set forth in Resolution No. 2003-660?

Section 4. If the proposition set forth in Section 3 receives the approval of more than two-thirds (2/3) of the votes cast on such proposition, then such proposition will take effect.

Section 5. The City Council has heretofore found that fewer than twelve persons have been registered to vote within the territory of the Community Facilities District for the ninety days preceding the close of the public hearing heretofore held by the City Council for the purposes of these proceedings. Accordingly, the vote shall be by the landowners of the Community Facilities District, and each owner of record at the close of such public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre that he or she owns within the Community Facilities District.

Section 6. The date of the election shall be May 11, 2004, and the City Clerk shall conduct the election. The election shall be conducted by personally delivered or mailed ballots and in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable. The voted ballots shall be returned to the City Clerk not later than 9:00 p.m. on May 11, 2004; provided that if all of the qualified electors have voted prior to such time, the election may be closed by the City Clerk.

Section 7. The form of the ballot for the election is attached hereto as **Exhibit A** and by this reference incorporated herein. The City Clerk shall cause to be delivered to each of the qualified electors of the Community Facilities District a ballot in said form. Each ballot shall indicate the number of votes to be voted by the respective elector based upon the number of acres of land owned by such elector as set forth above. The identification envelope for return of the ballot shall be enclosed with the ballot, shall have the postage prepaid and shall contain (a) the name and address of the landowner, (b) a declaration, under penalty of perjury, stating that the elector is the owner of record, or the authorized representative thereof, and is the person whose name appears on the identification envelope, (c) the printed name, signature and address of the elector, (d) the date of signing and place of execution of the declaration described above and (e) a notice that the envelope contains an official ballot and is to be opened only by the canvassing board. Analysis and arguments with respect to the ballot proposition are hereby waived.

Section 8. The City Clerk shall accept the ballots of the qualified electors in the office of the City Clerk to and including 9:00 p.m. on May 11, 2004 whether said ballots shall be personally delivered or received by mail.

Section 9. There is on file with the City Clerk a written instrument executed by the sole qualified elector of the Community Facilities District requesting a shortening of the time for the special election in order to expedite the process of approving the Rate and Method Amendment and waiving any requirement for analysis and arguments in connection therewith.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of May, 2004, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**EXHIBIT A**  
**OFFICIAL BALLOT**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**May 11, 2004**

**SPECIAL ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on May 11, 2004, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

**INSTRUCTIONS TO VOTERS:**

To vote on the measure, make a "+", "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

PROPOSITION A: Shall the amended and restated rate and method of apportionment of special tax set forth in Resolution No. 2004-173 adopted by the City Council of the City of Modesto as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") replace the existing rate and method of apportionment for the Community Facilities District and be levied for the purposes set forth in Resolution No. 2003-660?

YES \_\_\_\_\_

NO \_\_\_\_\_

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

DEL VALLE CAPITAL CORPORATION, INC.

By \_\_\_\_\_

Number of Votes: 82

MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-261

**RESOLUTION DECLARING THE RESULTS OF A SPECIAL ELECTION ON A PROPOSITION TO ALTER THE EXISTING RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX PERTAINING TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) AND CHANGING SAID RATE AND METHOD**

WHEREAS, this City Council, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"), called and duly held an election of the Community Facilities District pursuant to resolutions adopted by the City Council on May 11, 2004 for the purpose of presenting to the qualified electors within the Community Facilities District a proposition (the "Proposition") for the replacement of the existing rate and method of apportionment of special tax (the "Existing Rate and Method") with a new rate and method of apportionment of special tax (the "Amended Rate and Method"); and

WHEREAS, there has been presented to the City Council a Certificate of the City Clerk as to the Results of the Canvass of the Election Returns, a copy of which is attached hereto as **Attachment "A"**; and

WHEREAS, the City Council has now determined to adopt this resolution of change in accordance with Section 53338(b) of the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the "Act");

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto, acting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), hereby finds and determines as follows:

SECTION 1. The above recitals are true and correct.

SECTION 2. Two-thirds or more of the votes cast by the qualified electors of the Community Facilities District at the special election held on May 11, 2004 on the Proposition were cast in favor of the Proposition, and the Proposition carried.

SECTION 3. The City Council hereby determines that the Amended Rate and Method Amendment is lawfully authorized and that the Existing Rate and Method has been changed and the Amended Rate and Method Amendment is now in effect. The City Council further finds and determines that the apportionment of the special tax as set forth in the Amended Rate and Method Amendment is apportioned to each parcel in accordance with the requirements of Section 53325.3 of the Act and is not apportioned on or based upon the ownership or value of real property and that all proceedings with respect to the authorization of the Rate and Method were valid and in conformity with the requirements of the Act.

SECTION 4. The City Clerk is hereby authorized and directed to execute and cause to be recorded in the office of the County Recorder of Stanislaus County an amended notice of special tax lien in the form required by law, said recording to occur no later than fifteen days following adoption of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of May, 2004, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Michael D. Milich  
MICHAEL D. MILICH, City Attorney

ATTACHMENT "A"

CERTIFICATE OF CITY CLERK  
AS TO RESULTS OF THE CANVASS OF ELECTION RETURNS

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF STANISLAUS )

As City Clerk of the City of Modesto, I do hereby certify that I have examined the returns of the special election for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"). With my concurrence, the election was conducted on May 11, 2004. On or prior to said date I had mailed or caused to be personally delivered a ballot to the landowner listed on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to May 11, 2004 or otherwise known by me to own the property within the boundaries of the Community Facilities District. The landowner was given one vote for each acre, or portion thereof, that the landowner owns within the Community Facilities District.

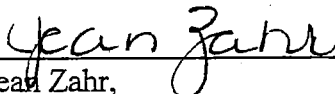
I further certify that the results of said election and the number of votes cast for and against the Proposition are as follows:

YES: 82

NO: 0

TOTAL NUMBER OF VOTES CAST: 82

Dated this 11<sup>th</sup> day of May, 2004.

  
\_\_\_\_\_  
Jean Zahr,  
City Clerk of the City of Modesto

**CITY OF MODESTO  
ORDINANCE NO. 2004-3348**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
MODESTO ACTING IN ITS CAPACITY AS THE LEGISLATIVE  
BODY OF THE CITY OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE) REPEALING  
ORDINANCE 3339-C.S. AND AUTHORIZING THE LEVY OF A  
SPECIAL TAX OF THE DISTRICT

The City Council of the City of Modesto (the "City Council") does ordain as follows:

WHEREAS, on October 28, 2003, the City Council adopted Resolution No. 2003-558 entitled "A Resolution Declaring the City Council's Intention to Establish City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and to Authorize the Levy of a Special Tax Within Said Community Facilities District" stating its intention to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") in order to finance certain services and facilities and incidental expenses to be incurred in connection with financing the foregoing; and

WHEREAS, the City Council has held a noticed public hearing concerning the establishment of the Community Facilities District, as required by the Act; and

WHEREAS, subsequent to said hearing, the City Council adopted Resolution No. 2003-660 entitled "A Resolution Establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), Authorizing the Levy of Special Taxes Therein and Establishing an Annual Appropriations Limit" (the "Resolution of Formation"), Resolution No. 2003-661 entitled "A Resolution Determining it Necessary to Incur Bonded Indebtedness Within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," and Resolution No. 2003-662 entitled "A Resolution Calling a Special Election for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)," which resolutions established the Community Facilities District, authorized the levy of special taxes therein and called an election within the Community Facilities District on the propositions of levying special taxes, authorizing the issuance of bonds and establishing an appropriations limit; and

WHEREAS, an election was held within the Community Facilities District at which the qualified electors approved by more than a two-thirds vote the proposition of levying special taxes, issuing bonds and establishing an appropriations limit; and

WHEREAS, on December 11, 2003, the City Council adopted Ordinance 3339-C.S. authorizing the levy of the special taxes approved at the December 11, 2003 election; and

WHEREAS, subsequent to the adoption of Ordinance 3339-C.S., the City Council acting as the legislative body of the Community Facilities District has determined that the rate and method of apportionment of the special tax (the "Rate and Method"), described in Ordinance 3339-C.S. and approved by the qualified electors within the Community Facilities District at the special election held on December 11, 2003 pursuant to the Mello-Roos Community Facilities Act of 1982, as

amended, commencing with Section 53311 of the Government Code (the "Act"), should be changed as set forth in Exhibit A to Resolution No. 2004-173 (the "Rate and Method Amendment"); and

WHEREAS, the City Council adopted a resolution expressing its intention to consider the proposed Rate and Method Amendment and calling a public hearing on May 11, 2004 as required by Section 53338 of the Act; and

WHEREAS, on May 11, 2004, the City Council held a public hearing regarding the Rate and Method Amendment in accordance with the requirements of Section 53338 of the Act at the conclusion of which the City Council determined to submit the Rate and Method Amendment to a vote of the qualified electors of the Community Facilities District and adopted a resolution calling an election to approve the Rate and Method Amendment; and

WHEREAS, the election on the Rate and Method Amendment was held on May 11, 2004, following which the City Clerk canvassed the election results and certified that more than two-thirds of the votes cast were in favor of the Rate and Method Amendment; and

WHEREAS, on May 11, 2004, the City Council adopted a resolution of change in accordance with Section 53338(b) of the Act, which declared the Rate and Method Amendment to be effective; and

WHEREAS, the City Council desires to repeal Ordinance No. 3339-CS. and adopt this ordinance to authorize the levy of a special tax within the District in accordance with the Rate and Method Amendment for the purposes set forth in the Resolution of Formation;

NOW, THEREFORE, the Council of the City of Modesto, acting as the legislative body of City of Modesto Community Facilities District No. 2003-1 (Fairview Village), DOES ORDAIN as follows:

Section 1. The above recitals are all true and correct.

Section 2. By the passage of this Ordinance, the City Council repeals Ordinance 3339-C.S. and authorizes and levies special taxes within the Community Facilities District at the rates and in accordance with the methods of apportionment set forth in the Rate and Method Amendment and which is attached hereto as Attachment A and incorporated by this reference.

Section 3. The District Administrator shall be responsible for annually preparing, or causing the preparation of, the current roll of special tax levy obligations by assessor's parcel number on non-exempt property within the Community Facilities District. The City Council or, to the maximum extent permitted by law, the District Administrator is authorized to determine the specific special taxes to be levied on each parcel of land in the Community Facilities District, in the manner and as provided in the Rate and Method Amendment. In connection with the foregoing, the District Administrator of the City shall take any and all steps necessary in order to deliver to the Stanislaus County Tax Collector, on or before the date specified in Section 53340, a certified list of all parcels subject to the Annual Maintenance Special Tax and/or the Annual Facilities Special Tax (each as defined in the Rate and Method Amendment) levies, including the amount of each such tax to be levied on each parcel for the applicable tax year. The special taxes to be levied shall not exceed the maximum rates set forth in the Rate and Method Amendment, but the special taxes may be levied at lower rates. The levy and collection of the special taxes within the Community Facilities District is

herewith ordered for the 2004/2005 fiscal year and in each subsequent fiscal year in which the special taxes may validly be levied. A certified copy of this ordinance and any attached documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such taxes on the 2004/2005 Stanislaus County tax roll and in each subsequent fiscal year in which the special taxes may validly be levied.

Section 4. Properties of entities of the state, federal or other local governments shall be exempt from the above-referenced special taxes only to the extent set forth in the Rate and Method Amendment, and except as otherwise provided in Sections 53317.3 and 53317.5 of the Act.

Section 5. All of the collections of the special taxes shall be used only as provided for in the Act and the Resolution of Formation. The special taxes shall be levied only so long as needed to accomplish the purposes described in the Resolution of Formation and the Rate and Method Amendment.

Section 6. The One-Time Special Facilities Tax (as defined in the Rate and Method Amendment) shall be collected prior to the issuance of a building permit for new construction of any structure on Taxable Property within the Community Facilities District. The Annual Maintenance Special Tax and the Annual Facilities Special Tax shall be collected in the same manner as ordinary *ad valorem* taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for *ad valorem* taxes as such collection procedure may be modified by law or this City Council from time to time. Notwithstanding the foregoing, the District Administrator may collect, or cause to be collected, one or more installments of such special taxes by means of direct billing of the property owners within the Community Facilities District if, in the judgment of the District Administrator, such means of collection will reduce the burden of administering the Community Facilities District or is otherwise appropriate in the circumstances. In such event, such special taxes shall become delinquent if not paid when due as set forth in any such respective billing to the property owners.

Section 7. This Ordinance shall be effective after thirty (30) days from its final passage and adoption.

Section 8. At least two (2) days prior to its final adoption, copies of this Ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in The Modesto Bee, the official newspaper of the City of Modesto, setting forth the title of this Ordinance, the date of its introduction and the places where this Ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Modesto, California, held on May 11, 2004, by Councilmember Keating, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers Dunbar, Hawn, Jackman, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: None

ABSENT: None



Jim Ridenour,  
Mayor of the City of Modesto

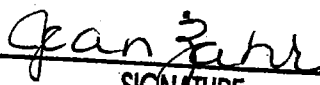
ATTEST:

  
JEAN ZAHR, City Clerk

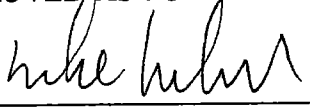
THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.

DATE 7/12/05

(SEAL)

  
SIGNATURE  
CITY CLERK  
CITY OF MODESTO, CA

APPROVED AS TO FORM:

  
MICHAEL D. MILICH, City Attorney

**ATTACHMENT A**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

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

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2003-1  
(FAIRVIEW VILLAGE)**

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

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

**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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**“Administrator”** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**“Annual Maintenance Special Tax”** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual 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. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

***For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:***

- *for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year*
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

***For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:***

- *for Single Family Detached Property, all Parcels for which a building permit for new construction of a Unit was issued prior to June 30 of the preceding Fiscal Year*
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

**“Final Map”** means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots in that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax

Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor's Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor's Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor's Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor's Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

### **C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

#### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

#### **2. Successor Parcels**

##### **a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

##### **b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

**3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

## 2. Annual Facilities Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

## 3. Annual Maintenance Special Tax

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

## F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$3,800,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or

a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<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 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 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”*).

- Step 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"*).
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (*the "Defeasance Requirement"*).
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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"*).
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (*the "Prepayment Amount"*).

## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

**ATTACHMENT 1**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2003-1  
(FAIRVIEW VILLAGE)**

**IDENTIFICATION OF TAX ZONES**

**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE**

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

Ord. No. 3348-C.S.

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 1<sup>st</sup> day of June, 2004, Councilmember Jackman moved its final adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh, Mayor Ridenour

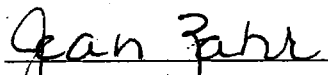
NOES: Councilmembers: None

ABSENT: Councilmembers: O'Bryant

APPROVED: 

MAYOR JIM RIDENOUR

ATTEST:

  
JEAN ZAHR, City Clerk

THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.

DATE 7/12/05

Effective Date: July 1, 2004



SIGNATURE

CITY CLERK

CITY OF MODESTO, CA

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-328**

**A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL  
AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION**

WHEREAS, the City Council has conducted proceedings pursuant to Mello-Roos Community Facilities Act of 1985 to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"); and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Acquisition and Shortfall Agreement (the "Agreement") by and between the District and Del Valle Homes, a California Corporation (the "Developer) for the construction and acquisition of authorized facilities; and

WHEREAS, the maximum reimbursement amount of the Agreement is \$1,055,136.05;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Homes, a California Corporation, be hereby approved, that the District Administrator is hereby authorized to execute the Acquisition and Shortfall Agreement and that the maximum reimbursement amount shall not exceed \$1,055,136.05.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich  
MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect.

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2004-329**

**A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL  
AGREEMENT WITH DEL VALLE HOMES, A CALIFORNIA CORPORATION**

WHEREAS, the City Council has conducted proceedings pursuant to Mello-Roos Community Facilities Act of 1985 to form City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "District"); and

WHEREAS, in connection therewith there has been presented to this City Council the form of an Acquisition and Shortfall Agreement (the "Agreement") by and between the District and Del Valle Homes, a California Corporation (the "Developer) for the construction and acquisition of authorized facilities; and

WHEREAS, the maximum reimbursement amount of the Agreement is \$8,732,972.72;

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Council of the City of Modesto that the Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Homes, a California Corporation, be hereby approved, that the District Administrator is hereby authorized to execute the Acquisition and Shortfall Agreement and that the maximum reimbursement amount shall not exceed \$8,732,972.72.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of June 2004, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Jackman, Keating, Marsh,  
O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Michael D. Milich

MICHAEL D. MILICH, City Attorney

The foregoing is a correct copy of the original on file in this office which has not been revoked and is now in full force and effect  
ATTEST.

Jean Zahr  
JEAN ZAHR, City Clerk of the City of Modesto, County of Stanislaus, State of California



## MODESTO CITY COUNCIL

[www.modestogov.com](http://www.modestogov.com)

### MINUTES

City of Modesto  
**City Council Meeting**  
Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California

Tuesday, October 28, 2003, at 5:30 p.m.

Roll Call – Councilmembers Conrad, Fisher, Frohman, Jackman, Keating, O’Bryant, Mayor Sabatino

Pledge of Allegiance to the Flag

Invocation: Michael Saldivar, LaLoma Grace Church

City Clerk’s Announcements: Items 16 and 19 removed from agenda.

Declaration of Conflicts of Interest: None

### ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Presentation of Award of Accreditation received by the City of Modesto Operations and Maintenance Department from the Society of Municipal Arborists as an Accredited Forestry Department for the period 2004-2009.

**ACTION:** Presentation made by Peter Cowles

### ORAL COMMUNICATIONS

- Diane Rego spoke to the Council about an assault on an elderly woman in her neighborhood on Leonard Avenue and the need to repair a sidewalk in the same area.

- Peter Gartner commented on the most recent resignations of the Community Qualities Forum and encouraged the Council to continue to replace members of the forum.
- Resident commented on a threat he received from a neighbor.
- Councilmember Keating commented on the success of the collection of needed goods for the Coalition on Homelessness and Poverty.
- Mayor Sabatino announced that he would comment under Council Comments and Reports.

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED:** Items 2-15, 17, 18, 20-22  
*Items 16 and 19 removed from agenda*

**ACTION ITEMS 2 - 15, 17, 18, 20- 22:** Frohman/Fisher; unan.

#### **CONSENT ITEMS**

**An item may be removed from consent and discussed at the request of an audience member or Councilmember.**

#### CONSENT

2. Approval of the minutes of the regular City Council meeting of October 14, 2003.
  - Motion approving recommended.  
*Clerk; Rebecca Bartholomew, 577-5397, [rbartholomew@modestogov.com](mailto:rbartholomew@modestogov.com)*

**ACTION:** By Motion (Frohman/Fisher; unan.) approving the minutes of October 14, 2003.

#### CONSENT

3. Final adoption of Ordinance 3325-C.S. – an ordinance amending section 7-3.9 of the zoning map to rezone from low-density residential zone, R-1, to planned development zone, P-D(562), property located on the West side of Carver Road, opposite Montclair Drive (Mary Silveira).
  - Motion approving final adoption of Ordinance 3325-C.S. – an ordinance amending section 7-3.9 of the zoning map to rezone from low-density residential zone, R-1, to planned development zone, P-D(562), property located on the West side of Carver Road, opposite Montclair Drive recommended.

**ACTION:** By Motion (Frohman/Fisher; unan.) approving **final adoption of Ordinance 3325-C.S.** – an ordinance amending section 7-3.9 of the zoning map to rezone from low-density residential zone, R-1, to planned development zone, P-D(562), property located on the West side of Carver Road, opposite Montclair Drive

CONSENT

4. Consider accepting with regret the resignations of the following three members of the Community Qualities Forum: Gene Carhart, Elizabeth Graham, and Susan Johnsen.
- Resolution accepting with regret the resignations of the Gene Carhart, Elizabeth Graham, and Susan Johnsen from the Community Qualities Forum recommended.  
*City Manager; Esther Puckett, 571-5101, [epuckett@modestogov.com](mailto:epuckett@modestogov.com)*

**ACTION: Reso No 2003-557** (Frohman/Fisher; unan.) accepting with regret the resignations of the Gene Carhart, Elizabeth Graham, and Susan Johnsen from the Community Qualities Forum

CONSENT

5. Consider declaring the City of Modesto's intent to establish City of Modesto Community Facilities District No. 2003-1 (Fairview Village) ("CFD") and authorize the levy of a special tax within said CFD; and Consider declaring the City of Modesto's intent to incur bonded indebtedness in the amount not to exceed \$25,000,000 within the proposed CFD; and Consider authorizing the City Manager to execute and Advanced Funding Agreement with Del Valle Capital Corporation, Inc.
- Resolution declaring the City of Modesto's intent to establish City of Modesto Community Facilities District No. 2003-1 (Fairview Village) ("CFD") and authorize the levy of a special tax within said CFD recommended.
  - Resolution declaring the City of Modesto's intent to incur bonded indebtedness in the amount not to exceed \$25,000,000 within the proposed CFD recommended.
  - Resolution authorizing the City Manager to execute and Advanced Funding Agreement with Del Valle Capital Corporation, Inc. recommended.  
*City Manager/CFD; Tina Rocha; 577-5211; [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Reso No 2003-558** (Frohman/Fisher; unan) declaring the City of Modesto's intent to establish City of Modesto Community Facilities District No. 2003-1 (Fairview Village) ("CFD") and authorize the levy of a special tax within said CFD

**ACTION: Reso No 2003-559** (Frohman/Fisher; unan) declaring the City of Modesto's intent to incur bonded indebtedness in the amount not to exceed \$25,000,000 within the proposed CFD

**ACTION: Reso No 2003-560** (Frohman/Fisher; unan) authorizing the City Manager to execute and Advanced Funding Agreement with Del Valle Capital Corporation, Inc.

CONSENT

6. Consider Amendment No. 1 to the agreement with Turnstone Consulting Corporation for preparation of the Draft Environmental Impact Report and Municipal Service Review for the Kaiser Medical Campus Project no to exceed \$635,768.

- Resolution approving Amendment No. 1 to the agreement with Turnstone Consulting Corporation for preparation of the Draft Environmental Impact Report and Municipal Service Review for the Kaiser Medical Campus Project no to exceed \$635,768 recommended.

*Community & Economic Dev; Steve Mitchell, 571-5808, [smitchell@modestogov.com](mailto:smitchell@modestogov.com)*

**ACTION: Reso No 2003-561** (Frohman/Fisher; unan) approving Amendment No. 1 to the agreement with Turnstone Consulting Corporation for preparation of the Draft Environmental Impact Report and Municipal Service Review for the Kaiser Medical Campus Project no to exceed \$635,768

CONSENT

7. Consider approving and adopting the Water Supply Assessment (WSA) prepared for the proposed Village One Precise Plan Areas 2, 15, 16, and 17, located within the Village One Specific Plan, which has determined that an adequate supply of water is available to meet the demands of the proposed project.

- Resolution approving and adopting the Water Supply Assessment (WSA) prepared for the proposed Village One Precise Plan Areas 2, 15, 16, and 17, located within the Village One Specific Plan, which has determined that an adequate supply of water is available to meet the demands of the proposed project.

*Engineering & Transportation; Jack Bond, (209) 577-5424; [jbond@modestogov.com](mailto:jbond@modestogov.com)*

**ACTION: Reso No 2003-562** (Frohman/Fisher; unan) approving and adopting the Water Supply Assessment (WSA) prepared for the proposed Village One Precise Plan Areas 2, 15, 16, and 17, located within the Village One Specific Plan, which has determined that an adequate supply of water is available to meet the demands of the proposed project.

CONSENT

8. Consider a second amendment to the agreement with West Yost & Associates in the amount of \$150,000 for additional work in integrating the Modesto Irrigation District Phase II project with the distribution system, developing a Groundwater Management Program, and on-call engineering support services related to the hydraulic model; and Consider amending the Capital Improvement Budget to fund the additional work.

- Resolution approving a second amendment to the agreement with West Yost & Associates in the amount of \$150,000 for additional work in integrating the Modesto Irrigation District Phase II project with the distribution system, developing a Groundwater Management Program, and on-call engineering support services related to the hydraulic model recommended.
- Resolution amending the Capital Improvement Budget to fund the additional work recommended.

*Engineering & Transportation; Jack Bond, (209) 577-5424; [jbond@modestogov.com](mailto:jbond@modestogov.com)*

**ACTION: Reso No 2003-563** (Frohman/Fisher; unan) approving a second amendment to the agreement with West Yost & Associates in the amount of \$150,000 for additional work in integrating the Modesto Irrigation District Phase II project with the distribution system, developing a Groundwater Management Program, and on-call engineering support services related to the hydraulic model

**ACTION: Reso No 2003-564** (Frohman/Fisher; unan) amending the Capital Improvement Budget to fund the additional work

CONSENT

9. Consider a cost sharing sewer service agreement with Memorial Hospital Association to fund construction of sewer improvements necessary for planned expansion of the hospital's existing site, and authorizing the City Manager to execute necessary documents. Hospital's contribution, \$439,000.

- Resolution approving an agreement with Memorial Hospital Association related to further development of the Hospital's property, generally located at the corner of Briggsmore Avenue and Coffee Road, and authorizing the City Manager to execute necessary documents recommended.

*Engineering & Transportation; Jack Bond, (209) 577-5424; [jbond@modestogov.com](mailto:jbond@modestogov.com)*

**ACTION: Reso No 2003-565** (Frohman/Fisher; unan) approving an agreement with Memorial Hospital Association related to further development of the Hospital's property, generally located at the corner of Briggsmore Avenue and Coffee Road, and authorizing the City Manager to execute necessary documents

CONSENT

10. Consider accepting the Pelandale Avenue Street Improvements from the southeast corner of Pelandale Avenue and Dale Road to 600 feet east of Dale Road, and authorizing the City Clerk to file a Notice of Completion and to release securities upon expiration of statutory periods. Owner: O'Briens Development, a California partnership.

- Resolution accepting the Pelandale Avenue Street Improvements from the southeast corner of Pelandale Avenue and Dale Road to 600 feet east of Dale Road, and authorizing the City Clerk to file a Notice of Completion and to release securities upon expiration of statutory periods recommended.

*Engineering & Transportation; Bob Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION: Reso No 2003-566** (Frohman/Fisher; unan) accepting the Pelandale Avenue Street Improvements from the southeast corner of Pelandale Avenue and Dale Road to 600 feet east of Dale Road, and authorizing the City Clerk to file a Notice of Completion and to release securities upon expiration of statutory periods

CONSENT

11. Consider accepting the work by Industrial Electrical Co., for the "Install Emergency Generators at Well 57, and Tanks 6, 7, & 8" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$332,895 per the contract.

- Resolution accepting the work by Industrial Electrical Co., for the "Install Emergency Generators at Well 57, and Tanks 6, 7, & 8" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$332,895 per the contract recommended.

*Engineering & Transportation; Genichi Kanow, 577-5452, [gkanow@modestogov.com](mailto:gkanow@modestogov.com)*

**ACTION: Reso No 2003-567** (Frohman/Fisher; unan) accepting the work by Industrial Electrical Co., for the "Install Emergency Generators at Well 57, and Tanks 6, 7, & 8" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$332,895 per the contract

CONSENT

12. Consider awarding the bid and approving a \$316,609.00 contract with D.A. Wood Construction, Inc., for the project titled "Various Boring and Jacking For Waterlines Under M&ET Railroad Tracks," and authorizing the City Manager to execute the agreement.

- Resolution awarding the bid and approving a \$316,609.00 contract with D.A. Wood Construction, Inc., for the project titled "Various Boring and Jacking For Waterlines Under M&ET Railroad Tracks," and authorizing the City Manager to execute the agreement recommended.

*Engineering & Transportation; Dean Phillips, (209) 577-5260; [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2003-568** (Frohman/Fisher; unan) awarding the bid and approving a \$316,609.00 contract with D.A. Wood Construction, Inc., for the project titled "Various Boring and Jacking For Waterlines Under M&ET Railroad Tracks," and authorizing the City Manager to execute the agreement.

CONSENT

13. Consider awarding the bid and approving a \$330,785.00 contract with Clyde Wheeler Pipeline, Inc., for the project titled "Hillglen Avenue Storm Drain," and authorizing the District Administrator to execute the agreement. This project will add storm drainage facilities for Village One.

- Resolution awarding the bid and approving a \$330,785.00 contract with Clyde Wheeler Pipeline, Inc., for the project titled "Hillglen Avenue Storm Drain," and authorizing the District Administrator to execute the agreement. This project will add storm drainage facilities for Village One recommended.

*Engineering & Transportation; Dean Phillips, (209) 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2003-569** (Frohman/Fisher; unan) awarding the bid and approving a \$330,785.00 contract with Clyde Wheeler Pipeline, Inc., for the project titled "Hillglen Avenue Storm Drain," and authorizing the District Administrator to execute the agreement. This project will add storm drainage facilities for Village One.

CONSENT

14. Consider setting a Public Hearing on November 13, 2003 to consider Waste Management Performance Deficiencies and alternative options for providing service in Waste Management's present service area.
- Resolution setting a Public Hearing on November 13, 2003 to consider options for penalties for the substandard performance of Waste Management in meeting the requirements of their Service Agreement, and alternative options for providing service in Waste Management's present service area recommended.

*Engineering & Transportation; Jocelyn Reed, 577-5494, [jreed@modestogov.com](mailto:jreed@modestogov.com)*

**ACTION: Reso No 2003-570** (Frohman/Fisher; unan) setting a Public Hearing on November 13, 2003 to consider options for penalties for the substandard performance of Waste Management in meeting the requirements of their Service Agreement, and alternative options for providing service in Waste Management's present service area.

CONSENT

15. Consider setting a Public Hearing on November 13, 2003 to consider the request of Bertolotti Disposal Inc. for an assignment and extension of their Service Agreement.
- Resolution setting a Public Hearing on November 13, 2003 to consider approving the request of Bertolotti Disposal Inc. for an assignment and extension of their Service Agreement for collection of commercial/residential garbage/recyclables, containerized yard waste, and industrial garbage, salvageable waste and recyclable materials within the City of Modesto recommended.

*Engineering & Transportation; Jocelyn Reed, 577-5494, [jreed@modestogov.com](mailto:jreed@modestogov.com)*

**ACTION: Reso No 2003-571** (Frohman/Fisher; unan) setting a Public Hearing on November 13, 2003 to consider approving the request of Bertolotti Disposal Inc. for an assignment and extension of their Service Agreement for collection of commercial/residential garbage/recyclables, containerized yard waste, and industrial garbage, salvageable waste and recyclable materials within the City of Modesto.

Removed from the agenda

16. Consider authorizing the purchase of a Caterpillar 420D backhoe from Holt of California, for an estimated cost of \$68,656.07.
- Resolution authorizing the purchase of a Caterpillar 420D backhoe from Holt of California, for an estimated cost of \$68,656.07 recommended.

*Finance; Tom Reddie, 577-5406, [treddie@modestogov.com](mailto:treddie@modestogov.com)*

CONSENT

17. Consider acknowledging the receipt of the Monthly Investment Report – August 2003.
- Motion acknowledging the receipt of the Monthly Investment Report – August 2003 recommended.

*Finance; Belinda Duerksen, 577-5376, [bduerksen@modestogov.com](mailto:bduerksen@modestogov.com)*

**ACTION:** By Motion (Frohman/Fisher; unan) acknowledging the receipt of the Monthly Investment Report – August 2003.

CONSENT

18. Consider approving grant from the Federal Emergency Management Agency (FEMA) for the continued support of the Community Emergency Response Team (CERT) and authorizing the City Manager to execute the application and necessary documents.

- Resolution approving a grant through FEMA to continue support for CERT program and authorizing the City Manager to execute the application and necessary documents recommended.

*Fire; David Grant, 572-9596, [dgrant@modestofire.com](mailto:dgrant@modestofire.com)*

**ACTION:** Reso No 2003-572 (Frohman/Fisher; unan) approving a grant through FEMA to continue support for CERT program and authorizing the City Manager to execute the application and necessary documents.

REMOVED FROM AGENDA

19. Consider approving a lease agreement with Bethany Lyons to lease City-owned property at 801 N. McClure Road for \$800 per month and authorizing the City Manager to execute the necessary documents.

- Resolution approving a lease agreement with Bethany Lyons to lease City-owned property at 801 N. McClure Road and authorizing the City Manager to execute the agreement recommended.

*Operations & Maintenance; Howard Schaffner; 342-2216; [hschaffner@modestogov.com](mailto:hschaffner@modestogov.com)*

CONSENT

20. Consider an agreement to provide up to \$40,000 in Community Development Block Grant funds to the Salvation Army for implementation of a day facility for homeless individuals in Modesto.

- Resolution approving an agreement to provide up to \$40,000 in Community Development Block Grant funds to the Salvation Army for implementation of a day facility for homeless individuals in Modesto recommended.

*Parks, Recreation & Neighborhoods; Carol Averell, 577-5310, [caverell@modestogov.com](mailto:caverell@modestogov.com)*

**ACTION:** Reso No 2003-573 (Frohman/Fisher; unan) approving an agreement to provide up to \$40,000 in Community Development Block Grant funds to the Salvation Army for implementation of a day facility for homeless individuals in Modesto

CONSENT

21. Consider submitting an application to the California State Department of Housing & Community Development for \$250,000 in funding under the CalHome Program for the Exterior Accessibility Grants for Renters Program, and authorizing the City Manager to execute the necessary documents.
- Resolution submitting an application to the California State Department of Housing & Community Development for \$250,000 in funding under the CalHome Program for the Exterior Accessibility Grants for Renters Program, and authorizing the City Manager to execute the necessary documents recommended.
- Parks, Recreation & Neighborhoods; Julie Hannon, 577-5417, [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Reso No 2003-574** (Frohman/Fisher; unan) submitting an application to the California State Department of Housing & Community Development for \$250,000 in funding under the CalHome Program for the Exterior Accessibility Grants for Renters Program, and authorizing the City Manager to execute the necessary documents

CONSENT

22. Consider declaring a 4.22 acre-parcel adjacent to Freedom Neighborhood Park, located in Village One, South of Floyd Avenue and west of Fine Avenue, as excess land to City's needs, and authorizing staff to take appropriate actions to complete the sale of said parcel.
- Resolution declaring a 4.22 acre-parcel adjacent to Freedom Neighborhood Park as excess land to City's needs, and authorizing staff to take appropriate actions to complete the sale of said parcel recommended.
- Parks; Recreation & Neighborhoods; Jim Niskanen, 577-5351, [jniskanen@modestogov.com](mailto:jniskanen@modestogov.com)*

**ACTION: Reso No 2003-575** (Frohman/Fisher; unan) declaring a 4.22 acre-parcel adjacent to Freedom Neighborhood Park as excess land to City's needs, and authorizing staff to take appropriate actions to complete the sale of said parcel

### COUNCIL COMMENTS & REPORTS

23. At the request of Mayor Sabatino, consider discussion of Ordinance 3269-C.S., which added Chapter 10 entitled "Conflict Disclosure" to Title 2 of the Modesto Municipal Code.

**ACTION:** Referred to the Economic Development Committee meeting.

- Councilmember Jackman acknowledged and recognized Councilmember Fisher and Frohman for their Council contributions.
- Mayor Sabatino commented on the Board of Supervisors meeting and the issues surrounding the former CEO. The Mayor also showed a video of the March 11, 2003 City Council meeting where the former CEO made a presentation on the landfill issue. He also

commented on a statement made by the Modesto Bee regarding the City not having a balanced budget.

## HEARINGS

24. Hearing to consider the application of Stanley & Carol Collins to vacate and abandon the six-foot walkway between Downey High School and Locke Road.

- Resolution approving the requested vacation and abandonment of the subject walkway recommended.
- Resolution finding the requested vacation & abandonment within the scope of the General Plan Master EIR recommended.

*Community & Economic Dev; Brad Wall, 571-5808, [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION: Reso No 2003-576** (Jackman/Conrad; majority; Fisher no) approving the requested vacation and abandonment of the subject walkway

**ACTION: Reso No 2003-577** (Jackman/Conrad; majority; Fisher no) finding the requested vacation & abandonment within the scope of the General Plan Master EIR

25. Hearing to consider the application of Ronald L. La Force, et al, Modesto Venture 168, and Chris and Pauline Gianulias, for a Precise Plan for Area No. 2 of the Village One Specific Plan and for concurrent rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone, property located at the Southeast corner of Sylvan Avenue and Oakdale Road.

- Motion introducing an ordinance approving Precise Plan No. 2 of the Village One Specific Plan relating to property located at the southeast corner of Sylvan Avenue and Oakdale Road recommended.
- Motion introducing an ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone for property located at the southeast corner of Sylvan Avenue and Oakdale Road recommended.
- Resolution finding the Precise Plan for Area No. 2 and concurrent rezoning from SP-H to SP-O property located at the southeast corner of Sylvan Avenue and Oakdale Road in the Village One Specific Plan Area as being within the Scope of the Village One Environmental Impact Report (SCH No. 90020181) recommended.

*Community & Economic Development; Brad Wall; 571-5539; [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION: By Motion** (Fisher/Jackman; unan.) **introduced Ordinance No. 3326-C.S--** an ordinance approving Precise Plan No. 2 of the Village One Specific Plan relating to property located at the southeast corner of Sylvan Avenue and Oakdale Road.

**ACTION: By Motion** (Fisher/Jackman; unan.) **introduced Ordinance No. 3327-C.S--** an ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone for property located at the southeast corner of Sylvan Avenue and Oakdale Road

**ACTION: Reso No 2003-578** (Fisher/Jackman; unan.) finding the Precise Plan for Area No. 2 and concurrent rezoning from SP-H to SP-O property located at the southeast corner of Sylvan Avenue and Oakdale Road in the Village One Specific Plan Area as being within the Scope of the Village One Environmental Impact Report (SCH No. 90020181)

26. Hearing to consider the application of Ronald L. La Force, et al, Modesto Venture 168, and Chris and Pauline Gianulias, for a Precise Plan for Area No. 15 of the Village One Specific Plan and for concurrent rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone, property located at the Northwest corner of Kodiak Drive and Bear Cub Lane.

- Motion introducing an ordinance approving Precise Plan No. 15 of the Village One Specific Plan relating to property located at the northwest corner of Kodiak Drive and Bear Cub Lane recommended.
- Motion introducing an ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone for property located at the northwest corner of Kodiak Drive and Bear Cub Lane recommended.
- Resolution finding the Precise Plan for Area No. 15 and concurring rezoning from SP-H to SP-O, property located at the northwest corner of Kodiak Drive and Bear Cub Lane in Village One Specific Plan Area as being within the Scope of the Village One Environmental Impact Report (SCH No. 90020181) recommended.

*Community & Economic Development; Brad Wall; 571-5539; [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION: By Motion** (Fisher/Jackman; unan) **introduced Ordinance No. 3328-C.S--** an ordinance approving Precise Plan No. 15 of the Village One Specific Plan relating to property located at the northwest corner of Kodiak Drive and Bear Cub Lane

**ACTION: By Motion** (Fisher/Jackman; unan) **introduced Ordinance No. 3329-C.S--** an ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone for property located at the northwest corner of Kodiak Drive and Bear Cub Lane

**ACTION: Reso No 2003-579** (Fisher/Jackman; unan) finding the Precise Plan for Area No. 15 and concurring rezoning from SP-H to SP-O, property located at the northwest corner of Kodiak Drive and Bear Cub Lane in Village One Specific Plan Area as being within the Scope of the Village One Environmental Impact Report (SCH No. 90020181)

27. Hearing to consider the application of Ronald L. La Force, et al, Modesto Venture 168, and Chris and Pauline Gianulias, for a Precise Plan for Area No. 16 of the Village One Specific Plan and for concurrent rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone, property located immediately East of the convergence of Hillglen Avenue and Kodiak Drive.

- Motion introducing an ordinance approving Precise Plan No. 16 of the Village One Specific Plan relating to property located immediately east of the convergence of Hillglen Avenue & Kodiak Drive recommended.
- Motion introducing an ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone for property located east of the convergence of Hillglen Avenue and Kodiak Drive recommended.
- Resolution finding the Precise Plan for Area No. 16 and concurrent rezoning from SP-H to SP-O, property located immediately east of the convergence of Hillglen Avenue and Kodiak Drive in the Village One Specific Plan Area as being within the scope of the Village One Environmental Impact Report (SCH No. 90020181) recommended.

*Community & Economic Development; Brad Wall; 571-5539; [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION:** By Motion (Fisher/Jackman; unan) **introduced Ordinance No. 3330-C.S--** an ordinance approving Precise Plan No. 16 of the Village One Specific Plan relating to property located immediately east of the convergence of Hillglen Avenue & Kodiak Drive

**ACTION:** By Motion (Fisher/Jackman; unan.) **introduced Ordinance No. 3331-C.S--** an ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone for property located east of the convergence of Hillglen Avenue and Kodiak Drive

**ACTION:** **Reso No 2003-580** (Fisher/Jackman; unan) finding the Precise Plan for Area No. 16 and concurrent rezoning from SP-H to SP-O, property located immediately east of the convergence of Hillglen Avenue and Kodiak Drive in the Village One Specific Plan Area as being within the scope of the Village One Environmental Impact Report (SCH No. 90020181)

28. Hearing to consider the application of Ronald L. La Force, et al, Modesto Venture 168, and Chris and Pauline Gianulias, for a Precise Plan for Area No. 17 of the Village One Specific Plan and for concurrent rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone, property located at the Northeast corner of Floyd Avenue and Oakdale Road.

- Motion introducing an Ordinance approving Precise Plan No. 17 located at the northeast corner of Floyd Avenue and Oakdale Road recommended.
- Motion introducing an Ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone located at the northeast corner of Floyd Avenue and Oakdale Road recommended.
- Resolution finding the Precise Plan for Area No. 17 and concurrent rezoning from SP-H to SP-O, located at the northeast corner of Floyd Avenue and Oakdale Road in Village One Specific Plan Area being within the Scope of the Village One Environmental Impact Report (SCH No. 90020181) recommended.

*Community & Economic Development; Brad Wall; 571-5539; [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION:** By Motion (Fisher/Jackman; unan) **introduced Ordinance No. 3332-C.S--** an Ordinance approving Precise Plan No. 17 located at the northeast corner of Floyd Avenue and Oakdale Road

**ACTION:** By Motion (Fisher/Jackman; unan) **introduced Ordinance No. 3333-C.S --** an Ordinance approving rezoning from Specific Plan-Holding Zone to Specific Plan-Overlay Zone located at the northeast corner of Floyd Avenue and Oakdale Road

**ACTION:** **Reso No 2003-581** (Fisher/Jackman; unan) finding the Precise Plan for Area No. 17 and concurrent rezoning from SP-H to SP-O, located at the northeast corner of Floyd Avenue and Oakdale Road in Village One Specific Plan Area being within the Scope of the Village One Environmental Impact Report (SCH No. 90020181)

29. Hearing to consider to awarding the Bus Bench Franchise to United Cerebral Palsy Association of Stanislaus County for a five-year period effective January 1, 2004 to place benches and maintain advertising on the City bus benches. Included with the bench franchise is an exclusive lease agreement to sell advertising in the card rack space inside the City's buses.

- Introduction of an ordinance approving the award of the Bus Bench Franchise to United Cerebral Palsy Association of Stanislaus County for a five-year period effective January 1, 2004 to place benches and maintain advertising on the City bus benches, including an exclusive lease agreement to sell advertising in the card rack space inside the City's buses recommended.

*Engineering & Transportation; Fred Cavanah, 577-5429, [fcavanah@modestogov.com](mailto:fcavanah@modestogov.com)*

**ACTION:** By Motion (Fisher/Keating; unan.) **introduced Ordinance No. 3334-C.S. --**an ordinance approving the award of the Bus Bench Franchise to United Cerebral Palsy Association of Stanislaus County for a five-year period effective January 1, 2004 to place benches and maintain advertising on the City bus benches, including an exclusive lease agreement to sell advertising in the card rack space inside the City's buses

*Mayor Sabatino absent due to conflict of interest*

*Vice Mayor Frohman conducted this item*

30. Hearing to consider approving the removal of two mid-block crosswalks on 10<sup>th</sup> and 12<sup>th</sup> Streets between H and I Streets. The estimated cost for removal of the crosswalks is approximately \$2,000. Funds are budgeted.

- Resolution approving the removal of two mid-block crosswalks on 10<sup>th</sup> and 12<sup>th</sup> between H and I Streets recommended.

*Engineering & Transportation; Firoz Vohra, 577-5468, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION:** **Reso No 2003-582** (Jackman/Fisher; unan. Sabatino absent due to conflict) approving the removal of two mid-block crosswalks on 10<sup>th</sup> and 12<sup>th</sup> between H and I Streets

## NEW BUSINESS

31. Consider submitting an application to the Stanislaus Community Development Bank for a loan in the amount of \$420,000 for the Highway Infill Widening Project. Co-applicants are City of Ceres, City of Waterford, and Stanislaus County.
- Resolution approving an application to the Stanislaus Community Development Bank for a loan in the amount of \$420,000 for the Highway 132 Infill Widening Project, with co-applicants City of Ceres, City of Waterford, and Stanislaus County recommended.

*City Manager; Beverly Hatcher, 577-5220, [bhatcher@modestogov.com](mailto:bhatcher@modestogov.com)*

**ACTION: Reso No 2003-583** (Fisher/Jackman; unan.) approving an application to the Stanislaus Community Development Bank for a loan in the amount of \$420,000 for the Highway 132 Infill Widening Project, with co-applicants City of Ceres, City of Waterford, and Stanislaus County

32. Consider approving the recommendation by the Safety and Communities Committee to suspend enforcement of Municipal Code Section 10-2.2114b- advertising banners and A-frames on commercial and retail business for six months.
- Resolution approving the recommendation by the Safety and Communities Committee to suspend enforcement of Municipal Code Section 10-2.2114b- advertising banners and A-frames on commercial and retail business for six months.

*Parks, Recreation & Neighborhoods; Julie Hannon, 577-5417; [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION:** By order of the Chair the item was returned to the Safety and Communities Committee.

*7:44 Recess*

*Reconvene 7:53*

33. Consider installation of a roundabout at the intersection of Floyd Avenue and Roselle Avenue in Village One. Funds are available via a CMAQ grant in the amount of \$200,000 in the CIP.
- Resolution approving Consider installation of a roundabout at the intersection of Floyd Avenue and Roselle Avenue in Village One recommended.

*Engineering & Transportation; Firoz Vohra, 555-5429, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION: Reso No 2003-584** (Frohman/Jackman; majority; Conrad, Keating, O'Bryant no) approving the installation of a roundabout at the intersection of Floyd Avenue and Roselle Avenue in Village One keeping the fees in accordance with the original Council resolution and Council invited the Community Development staff to pursue commercial development with the existing developer.

**MATTERS TOO LATE FOR THE AGENDA**

None.

**ADJOURNMENT**

This meeting was adjourned at 8:30 p.m.

The closed item was heard prior to the Council meeting.

**CLOSED SESSION**

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 of the Government Code: One case

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

**THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.**

DATE 7/12/05

Jean Zahr  
SIGNATURE  
CITY CLERK  
CITY OF MODESTO, CA

THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.

DATE

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CITY OF MODESTO, CA  
CITY CLERK  
SIGNATURE

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# MODESTO CITY COUNCIL

[www.modestogov.com](http://www.modestogov.com)

## MINUTES

City of Modesto

### Special City Council Meeting

Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California

Thursday, December 11, 2003, at 5:30 p.m.

Roll Call – Present: Councilmembers Frohman, Hawn, Jackman, Keating (left at 6:26 pm)  
Marsh, Mayor Sabatino

Absent: O'Bryant

Pledge of Allegiance to the Flag

Invocation: Pastor Bob Irwin, Mill Creek Church

City Clerk's Announcements Item 23 a moved to Consent

Declaration of Conflicts of Interest Hawn – Item 23b

### ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Introduction of newly promoted Police Department management staff.  
*Police; Chief Wasden, 572-9501, [wasdenr@modestopd.com](mailto:wasdenr@modestopd.com)*

**ACTION:** Police Chief Wasden introduced the newly promoted Police Department management staff.

### ORAL COMMUNICATIONS

- Joan Ruttschow thanked Mayor Sabatino for his service to the City of Modesto.

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED:** Items 2-6, 8-14 and 16 through 20 and 23a

**ACTION Consent Items 2-6, 8-14, 16-20, & 23a:** Frohman/Marsh; unan. O'Bryant absent

**ACTION Item 7** Removed from Consent – Jackman/Frohman; unan. O'Bryant absent

### **CONSENT ITEMS**

**An item may be removed from consent and discussed at the request of an audience member or Councilmember.**

#### **CONSENT**

2. Approval of the minutes of the regular City Council meeting of December 2, 2003.  
(Motion approving recommended.)

*Clerk; Rebecca Bartholomew, 577-5397, [rbartholomew@modestogov.com](mailto:rbartholomew@modestogov.com)*

**ACTION:** By Motion (Frohman/Marsh; unan; O'Bryant absent) approved the minutes of December 2, 2003.

#### **CONSENT**

3. Consider an amendment to the agreement with Vavrinek, Trine, Day & Co., (VTD), for performing audit work on the City's Community Facilities District for an amount of \$20,972.00, and authorizing the City Manager to execute the necessary documents.
- Resolution approving an amendment to the agreement with Vavrinek, Trine, Day & Co., (VTD), for performing audit work on the City's Community Facilities District for an amount of \$20,972.00, and authorizing the City Manager to execute the necessary documents recommended.

*City Manager; Gary Nienhuis, [gnienhuis@modestogov.com](mailto:gnienhuis@modestogov.com)*

**ACTION: Reso No 2003-633** (Frohman/Marsh; unan; O'Bryant absent) approving an amendment to the agreement with Vavrinek, Trine, Day & Co., (VTD), for performing audit work on the City's Community Facilities District for an amount of \$20,972.00, and authorizing the City Manager to execute the necessary documents.

#### **CONSENT**

4. Consider the Water Supply Assessment (WSA) prepared for the Kansas-Woodland Business Park Project, generally located between Woodland Avenue, Kansas Avenue, SR 99 and 9<sup>th</sup> Street, which has determined an adequate supply of water is available for the Project.

- Resolution approving and adopting the Water Supply Assessment (WSA) prepared for the Kansas-Woodland Business Park Project, generally located

between Woodland Avenue, Kansas Avenue, SR 99 and 9<sup>th</sup> Street, which has determined an adequate supply of water is available for the Project recommended.  
*Engineering & Transportation; Jack Bond, 577-5424, [jbond@modestogov.com](mailto:jbond@modestogov.com)*

**ACTION: Reso No 2003-634** (Frohman/Marsh; unan; O'Bryant absent) approving and adopting the Water Supply Assessment (WSA) prepared for the Kansas-Woodland Business Park Project, generally located between Woodland Avenue, Kansas Avenue, SR 99 and 9<sup>th</sup> Street, which has determined an adequate supply of water is available for the Project.

CONSENT

5. Consider the Water Supply Assessment (WSA) prepared for the proposed Kaiser Permanente Modesto Medical Center, located on Dale Road at the corner of Bangs Avenue, which has determined that an adequate supply of water is available to meet the demands of the proposed project.

- Resolution approving & adopting the Water Supply Assessment (WSA) prepared for the proposed Kaiser Permanente Modesto Medical Center, located on Dale Road at the corner of Bangs Avenue, which has determined that an adequate supply of water is available to meet the demands of the proposed project recommended.

*Engineering & Transportation; Jack Bond, 577-5424, [jbond@modestogov.com](mailto:jbond@modestogov.com)*

**ACTION: Reso No 2003-635** (Frohman/Marsh; unan; O'Bryant absent) approving & adopting the Water Supply Assessment (WSA) prepared for the proposed Kaiser Permanente Modesto Medical Center, located on Dale Road at the corner of Bangs Avenue, which has determined that an adequate supply of water is available to meet the demands of the proposed project.

CONSENT

6. Consider an update to the Disadvantaged Business Enterprise (DBE) program for federally funded street and transit projects; and Consider authorizing the City Manager to pay up to \$2,000 for participation in the Unified Certification Program (UCP) for Certifying Disadvantaged Business Enterprises (DBE) Contractors.

- Resolution approving an update to the Disadvantaged Business Enterprise (DBE) program for federally funded street and transit projects recommended.
- Resolution authorizing the City Manager to pay up to \$2,000 for participation in the Unified Certification Program (UCP) for Certifying Disadvantaged Business Enterprises (DBE) Contractors recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2003-636** (Frohman/Marsh; unan; O'Bryant absent) approving an update to the Disadvantaged Business Enterprise (DBE) program for federally funded street and transit projects.

**ACTION: Reso No 2003-636A** (Frohman/Marsh; unan; O'Bryant absent) authorizing the City Manager to pay up to \$2,000 for participation in the Unified Certification Program (UCP) for Certifying Disadvantaged Business Enterprises (DBE) Contractors.

REMOVED FROM CONSENT

7. Consider Amendment No. 17 to the Agreement for Kansas Needham Overhead Construction Support Services with Parsons Transportation Group in the amount of \$62,121.38 and authorizing the City Manager to execute the necessary documents.
- Resolution approving Amendment No. 17 to the Agreement for Kansas Needham Overhead Construction Support Services with Parsons Transportation Group in the amount of \$62,121.38 and authorizing the City Manager to execute the necessary documents recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2003-637** (Jackman/Frohman; unan; O'Bryant, absent) approving Amendment No. 17 to the Agreement for Kansas Needham Overhead Construction Support Services with Parsons Transportation Group in the amount of \$62,121.38 and authorizing the City Manager to execute the necessary documents.

CONSENT

8. Consider a third amendment to an agreement with Dokken Engineering for professional design services for Replacement of the 9<sup>th</sup> Street Bridge over Tuolumne River to provide update of hourly billing rates and authorizing the City Manager to execute necessary documents.
- Resolution approving a third amendment to an agreement with Dokken Engineering for professional design services for Replacement of the 9<sup>th</sup> Street Bridge over Tuolumne River to provide update of hourly billing rates and authorizing the City Manager to execute necessary documents recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2003-638** (Frohman/Marsh; unan; O'Bryant absent) approving a third amendment to an agreement with Dokken Engineering for professional design services for Replacement of the 9<sup>th</sup> Street Bridge over Tuolumne River to provide update of hourly billing rates and authorizing the City Manager to execute necessary documents.

CONSENT

9. Consider authorizing staff to proceed with a Request for Qualifications and Request for Proposals, and approving the proposed evaluation criteria for the design of a Dissolved Air Flotation Clarifier at the Wastewater Treatment Plant Facility.
- Resolution authorizing staff to proceed with a Request for Qualifications and Request for Proposals, and approving the proposed evaluation criteria for the

design of a Dissolved Air Flotation Clarifier at the Wastewater Treatment Plant Facility recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2003-639** (Frohman/Marsh; unan; O'Bryant absent) authorizing staff to proceed with a Request for Qualifications and Request for Proposals, and approving the proposed evaluation criteria for the design of a Dissolved Air Flotation Clarifier at the Wastewater Treatment Plant Facility.

CONSENT

10. Consider a Supplemental Lease Agreement with the General Services Administration for office space at the Modesto City-County Airport and authorize the City Manager to execute the necessary documents. Estimated revenue: \$11,000.

- Resolution approving a Supplemental Lease Agreement with the General Services Administration for office space at the Modesto City-County Airport and authorize the City Manager to execute the necessary documents recommended.

*Engineering & Transportation; Van Switzer, 577-5318, [vswitzer@modestogov.com](mailto:vswitzer@modestogov.com)*

**ACTION: Reso No 2003-640** (Frohman/Marsh; unan; O'Bryant absent) approving a Supplemental Lease Agreement with the General Services Administration for office space at the Modesto City-County Airport and authorize the City Manager to execute the necessary documents.

CONSENT

11. Consider the Monthly Adjustment Report – November 2003.

- Resolution acknowledging the receipt of report and approving the budget adjustments for November 2003 recommended.

*Finance; Greg Baird, 577-5369, [gbaird@modestogov.com](mailto:gbaird@modestogov.com)*

**ACTION: Reso No 2003-641** (Frohman/Marsh; unan; O'Bryant absent) acknowledging the receipt of report and approving the budget adjustments for November 2003.

CONSENT

12. Consider Investment Report - October 2003.

- Motion acknowledging the receipt of the Investment Report for October 2003 recommended.

*Finance; Greg Baird, 577-5369, [gbaird@modestogov.com](mailto:gbaird@modestogov.com)*

**ACTION: By Motion** (Frohman/Marsh; unan; O'Bryant absent) acknowledging the receipt of the Investment Report for October 2003.

CONSENT

13. Consider the City's fiscal year 2003-2004 Non-transit Supplemental and Annual Local Transportation Fund Claim and authorize the City Manager to submit the Claim to the Stanislaus Council of Governments; and Consider amending the fiscal year 2003-2004 Operating Budget for the estimated increase in revenue.
- Resolution approving the City's fiscal year 2003-2004 Non-transit Supplemental and Annual Local Transportation Fund Claim and authorize the City Manager to submit the Claim to the Stanislaus Council of Governments recommended.
  - Resolution amending the fiscal year 2003-2004 Operating Budget for the estimated increase in revenue recommended.

*Finance; Tom Douglas, 571-5574, [tdouglas@modestogov.com](mailto:tdouglas@modestogov.com)*

**ACTION: Reso No 2003-642** (Frohman/Marsh; unan; O'Bryant absent) approving the City's fiscal year 2003-2004 Non-transit Supplemental and Annual Local Transportation Fund Claim and authorize the City Manager to submit the Claim to the Stanislaus Council of Governments

**ACTION: Reso No 2003-643** (Frohman/Marsh; unan; O'Bryant absent) amending the fiscal year 2003-2004 Operating Budget for the estimated increase in revenue.

#### CONSENT

14. Consider awarding the bid for online furnishing of business cards, letterhead and printed envelopes on a citywide basis to Acme Printing Co. (Dittos), for a three-year period with two one-year extension options, for an estimated annual cost of \$9,102.18.
- Resolution awarding the bid for online furnishing of business cards, letterhead and printed envelopes on a citywide basis to Acme Printing Co. (Dittos), for a three-year period with two one-year extension options, for an estimated annual cost of \$9,102.18 recommended.

*Finance; Ken Masasso, 577-5420, [kmasasso@modestogov.com](mailto:kmasasso@modestogov.com)*

**ACTION: Reso No 2003-644** (Frohman/Marsh; unan; O'Bryant absent) awarding the bid for online furnishing of business cards, letterhead and printed envelopes on a citywide basis to Acme Printing Co. (Dittos), for a three-year period with two one-year extension options, for an estimated annual cost of \$9,102.18

#### REMOVED FROM CONSENT

15. Consider introducing an ordinance amending General Regulations Governing Use of Parks, Modesto Municipal Code 12-4.202 (6), to include motorized scooters.
- Motion introducing an ordinance amending General Regulations Governing Use of Parks, Modesto Municipal Code 12-4.202 (6), to include motorized scooters recommended.

*Parks, Recreation & Neighborhoods; Ellis Calija, 571-5863, [ecalija@modestogov.com](mailto:ecalija@modestogov.com)  
Police; Dan Inderbitzen, 342-6142, [inderbitzend@modestopd.com](mailto:inderbitzend@modestopd.com)*

**ACTION:** By Motion (Marsh/Frohman; majority; Jackman and Sabatino no, O'Bryant absent) **introducing Ordinance No. 3338-C.S.** amending General Regulations Governing Use of Parks, Modesto Municipal Code 12-4.202 (6), to include motorized scooters

CONSENT

16. Consider a five-year lease agreement with Pacific Bell Wireless, a Nevada limited liability corporation, dba Cingular Wireless, for a cellular tower site located on a portion of Beyer Community Park with three five-year extension options, and authorize the City Manager to execute the necessary documents.
- Resolution approving a five-year lease agreement with Pacific Bell Wireless, a Nevada limited liability corporation, dba Cingular Wireless, for a cellular tower site located on a portion of Beyer Community Park with three five-year extension options, and authorizing the City Manager to execute the necessary documents recommended.

*Parks, Recreation & Neighborhoods; Carolyn Eubank, 5775349, [ceubank@modestogov.com](mailto:ceubank@modestogov.com)*

**ACTION: Reso No 2003-645** (Frohman/Marsh; unan; O'Bryant absent) approving a five-year lease agreement with Pacific Bell Wireless, a Nevada limited liability corporation, dba Cingular Wireless, for a cellular tower site located on a portion of Beyer Community Park with three five-year extension options, and authorizing the City Manager to execute the necessary documents.

CONSENT

17. Consider waiving the residency requirement for Community Development Block Grant Emergency Home Repair Loans to allow Virginia Brown, daughter of deceased loan recipient Virgie Brown to remain in the home at 1626 Carlton, and directing staff to send written notification to Virginia Brown that the loan will be reviewed in 2009.
- Resolution approving waiving the residency requirement for Community Development Block Grant Emergency Home Repair Loans to allow Virginia Brown, daughter of deceased loan recipient Virgie Brown to remain in the home at 1626 Carlton, and directing staff to send written notification to Virginia Brown that the loan will be reviewed in 2009 recommended.

*Parks, Recreation & Neighborhoods; Julie Hannon, 577-5417, [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Reso No 2003-646** (Frohman/Marsh; unan; O'Bryant absent) approving waiving the residency requirement for Community Development Block Grant Emergency Home Repair Loans to allow Virginia Brown, daughter of deceased loan recipient Virgie Brown to remain in the home at 1626 Carlton, and directing staff to send written notification to Virginia Brown that the loan will be reviewed in 2009.

CONSENT

18. Consider an agreement with ValleyCrest Golf Course Maintenance to provide maintenance and services at the City's three golf courses and authorizing the City Manager to execute the necessary documents.

- Resolution approving an agreement with ValleyCrest Golf Course Maintenance to provide maintenance and services at the City's three golf courses and authorizing the City Manager to execute the necessary documents recommended.

*Parks, Recreation & Neighborhoods; Bob Quintella, 577-6444, [bquintella@modestogov.com](mailto:bquintella@modestogov.com)*

**ACTION: Reso No 2003-647** (Frohman/Marsh; unan; O'Bryant absent) approving an agreement with ValleyCrest Golf Course Maintenance to provide maintenance and services at the City's three golf courses and authorizing the City Manager to execute the necessary documents.

#### CONSENT

19. Consider a two-year license agreement with the Modesto A's Professional Baseball Club; and Consider a two-year field maintenance agreement with the Modesto A's Professional Baseball Club.

- Resolution approving a two-year license agreement with the Modesto A's Professional Baseball Club recommended.
- Resolution approving a two-year field maintenance agreement with the Modesto A's Professional Baseball Club recommended.

*Parks, Recreation & Neighborhoods; Bob Quintella, 577-6444, [bquintella@modestogov.com](mailto:bquintella@modestogov.com)*

**ACTION: Reso No 2003-648** (Frohman/Marsh; unan; O'Bryant absent) approving a two-year license agreement with the Modesto A's Professional Baseball Club.

**ACTION: Reso No 2003-649** (Frohman/Marsh; unan; O'Bryant absent) approving a two-year field maintenance agreement with the Modesto A's Professional Baseball Club.

#### CONSENT

20. Consider a salary adjustment for the City Clerk & Auditor, with an estimated cost of \$1,585 for the remainder of Fiscal Year 2003-2004.

- Resolution authorizing a 3% merit increase for the City Clerk & Auditor, effective December 16, 2003.

*Personnel; Robin Renwick, 577-5400, [rrenwick@modestogov.com](mailto:rrenwick@modestogov.com)*

**ACTION: Reso No 2003-650** (Frohman/Marsh; unan; O'Bryant absent) authorizing a 3% merit increase for the City Clerk & Auditor, effective December 16, 2003.

### COUNCIL COMMENTS & REPORTS

21. At the request of Councilmember Keating, consider a report to Council on the progress-to-date regarding the establishment of a Temporary Homeless Shelter.

**ACTION:** No action taken.

22. At the request of Mayor Sabatino, consider a report from the City Attorney regarding the action necessary to have the County return \$7 million in Enterprise Funds for garbage fees.

**ACTION:** No action taken.

### UNFINISHED BUSINESS

23. Final adoption of:
- a. Ordinance 3336-C.S. – an ordinance repealing Section 4-2.25 of Chapter 2 of Title 4 of the Modesto Municipal Code relating to Misdemeanors – Selling Of Confections Required To Maintain Distance From Schools.
    - Motion approving final adoption of Ordinance 3336-C.S. – an ordinance repealing Section 4-2.25 of Chapter 2 of Title 4 of the Modesto Municipal Code relating to Misdemeanors – Selling Of Confections Required To Maintain Distance From Schools recommended.

**ACTION:** By Motion (Frohman/Marsh; unan; O’Bryant absent) **approved final adoption of Ordinance 3336-C.S.** – an ordinance repealing Section 4-2.25 of Chapter 2 of Title 4 of the Modesto Municipal Code relating to Misdemeanors – Selling Of Confections Required To Maintain Distance From Schools.

Councilmember Hawn absent due to conflict of interest

- b. Ordinance 3337-C.S. – an ordinance amending Section 28-3-9 of the Zoning Map for Rezone from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), property located on the east corner of 16<sup>th</sup> and G Streets, (Pratt).
  - Motion approving final adoption of Ordinance 3337-C.S. – an ordinance amending Section 28-3-9 of the Zoning Map for Rezone from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), property located on the east corner of 16<sup>th</sup> and G Streets, (Pratt) recommended.

*City Attorney; Mike Milich, 577-5284, [mmilich@modestogov.com](mailto:mmilich@modestogov.com)*

**ACTION:** By Motion (Marsh/Frohman/unan; Hawn, Keating, O’Bryant absent) **approved final adoption of Ordinance 3337-C.S.** – an ordinance amending Section 28-3-9 of the Zoning Map for Rezone from Planned Development Zone, P-D(480), to Planned Development Zone, P-D(563), property located on the east corner of 16<sup>th</sup> and G Streets, (Pratt).

24. Consider directing staff to reconfigure traffic flow from 9<sup>th</sup> Street to access the Kansas Needham Overcrossing project and updating the existing truck route map.

- Resolution authorizing staff to reconfigure traffic flow from 9<sup>th</sup> Street to access the Kansas Needham Overcrossing project and updating the existing truck route map recommended.

*Engineering & Transportation; Firoz Vohra, 577-5429, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION: Reso No 2003-651** (Jackman/Frohman; unan; Keating and O'Bryant absent) authorizing staff to reconfigure traffic flow from 9<sup>th</sup> Street to access the Kansas Needham Overcrossing project and updating the existing truck route map.

## HEARINGS

25. Hearing to consider approving the request from Habitat for Humanity for a deferral of the City's Capital Facilities Fees totaling \$44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City's Sphere of Influence, and authorizing the City Manager to execute the necessary documents.

- Resolution approving the request from Habitat for Humanity for a deferral of the City's Capital Facilities Fees totaling \$44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City's Sphere of Influence, and authorizing the City Manager to execute the necessary documents recommended.

*Parks, Recreation & Neighborhoods; Julie Hannon, 577-5417, [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Reso No 2003-652** (Jackman/Frohman; unan; Keating and O'Bryant absent) approving the request from Habitat for Humanity for a deferral of the City's Capital Facilities Fees totaling \$44,955 for five properties in the Riverdale Tract for low-income households, located outside of the Modesto City Limits, but within the City's Sphere of Influence, and authorizing the City Manager to execute the necessary documents.

26. Hearing to consider a refund to Habitat for Humanity for \$3,831 paid for Capital Facilities Fees on two properties (1714 Olympia Street and 530 Butte Avenue), located outside of the City Limits but within the Sphere of Influence, and approving a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street, and a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue, and authorizing the City Manager to execute the necessary documents.

- Resolution approving a refund to Habitat for Humanity for \$3,831 paid for Capital Facilities Fees on two properties (1714 Olympia Street and 530 Butte Avenue), located outside of the City Limits but within the Sphere of Influence, and approving a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street, and a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue, and authorizing the City Manager to execute the necessary documents recommended.

**ACTION: Reso No 2003-653** (Jackman/Frohman;unan; Keating and O'Bryant absent) approving a refund to Habitat for Humanity for \$3,831 paid for Capital Facilities Fees on two properties (1714 Olympia Street and 530 Butte Avenue), located outside of the City Limits but within the Sphere of Influence, and approving a CFF deferral agreement with Anastacio L. and Tina R. Raygoza for 1714 Olympia Street, and a CFF exemption agreement with Fernando and Analucia V. Cortes for 530 Butte Avenue, and authorizing the City Manager to execute the necessary documents.

27. Hearing to consider: (1) an amendment to the City's 2003-2004 HUD Annual Action Plan; (2) amending the Fiscal Year 2003-2004 operating budget to Annual Action Plan; (3) amending the Fiscal Year 2003-2004 funding for the Capital Improvement budget to Annual Action Plan; (4) amending the Fiscal Year 2003-2004 operating budget to the adopted budget, and (5) authorizing staff to solicit RFPs in an amount up to \$69,000 in Community Development Block Grant (CDBG) funds to provide winter shelter for homeless individuals and families.

- Resolution approving an amendment to the City's 2003-2004 HUD Annual Action Plan recommended.
- Resolution amending the Fiscal Year 2003-2004 operating budget to Annual Action Plan recommended.
- Resolution amending the Fiscal Year 2003-2004 funding for the Capital Improvement budget to Annual Action Plan recommended.
- Resolution amending the Fiscal Year 2003-2004 operating budget to the adopted budget recommended.
- Resolution authorizing staff to solicit RFPs in an amount up to \$69,000 in Community Development Block Grant (CDBG) funds to provide winter shelter for homeless individuals and families recommended.

*Parks, Recreation & Neighborhoods; Sherry Velarde, 577-5368, [svelarde@modestogov.com](mailto:svelarde@modestogov.com)*

**ACTION: Reso No 2003-654** (Frohman/Jackman; unan; Keating and O'Bryant absent) approving an amendment to the City's 2003-2004 HUD Annual Action Plan

**ACTION: Reso No 2003-655** (Frohman/Jackman; unan; Keating and O'Bryant absent) amending the Fiscal Year 2003-2004 operating budget to Annual Action Plan

**ACTION: Reso No 2003-656** (Frohman/Jackman; unan; Keating and O'Bryant absent) amending the Fiscal Year 2003-2004 funding for the Capital Improvement budget to Annual Action Plan

**ACTION: Reso No 2003-657** (Frohman/Jackman; unan; Keating and O'Bryant absent) amending the Fiscal Year 2003-2004 operating budget to the adopted budget

**ACTION: Reso No 2003-658** (Frohman/Jackman; unan; Keating and O'Bryant absent) authorizing staff to solicit RFPs in an amount up to \$69,000 in Community

Development Block Grant (CDBG) funds to provide winter shelter for homeless individuals and families.

28. Hearing to consider the appeal filed by Ben Allustiarte, Century 21 M&M Associates, of a Board of Zoning Adjustment denial pertaining to the re-use of an existing free-standing, freeway-oriented sign at 2024 W. Orangeburg Avenue.
- Resolution denying the appeal recommended.
- Community & Economic Development; Bob Cannell, 571-5539, [bcannell@modestogov.com](mailto:bcannell@modestogov.com)*

**ACTION:** By motion (Frohman/Jackman; unan.; Keating & O'Bryant, absent) continued this item to January 13, 2004.

**Items 29, 32 & 33 were heard immediately after Consent**

*The following item was continued from December 2, 2003*

29. Hearing to: Consider approving a Mitigated Negative Declaration (SCH 2003102055) for the Fairview Village Community Facilities District No. 2003-1; Consider establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), authorizing the levy of special taxes therein, and establishing an annual appropriations limit; Consider determining it necessary to incur bonded indebtedness with City of Modesto Community Facilities District No. 2003-1 (Fairview Village); Consider calling a special election for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village); Consider declaring the results of a special election and approving certain related actions pertaining to City of Modesto Community Facilities District No. 2003-1 (Fairview Village); and Consider introduction of an ordinance authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village).
- Resolution approving a Mitigated Negative Declaration (SCH 2003102055) for the Fairview Village Community Facilities District No. 2003-1 recommended.
  - Resolution establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), authorizing the levy of special taxes therein, and establishing an annual appropriations limit recommended.
  - Resolution determining it necessary to incur bonded indebtedness with City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.
  - Resolution calling a special election for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.
  - Resolution declaring the results of a special election and approving certain related actions pertaining to City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.
  - Motion introducing an ordinance authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.

*City Manager; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Reso No 2003-659** (Jackman/Hawn; unan. O'Bryant) approving a Mitigated Negative Declaration (SCH 2003102055) for the Fairview Village Community Facilities District No. 2003-1 recommended.

**ACTION: Reso No 2003-660** (Jackman/Hawn; unan. O'Bryant) establishing City of Modesto Community Facilities District No. 2003-1 (Fairview Village), authorizing the levy of special taxes therein, and establishing an annual appropriations limit

**ACTION: Reso No 2003-661** (Jackman/Hawn; unan. O'Bryant) determining it necessary to incur bonded indebtedness with City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

**ACTION: Reso No 2003-662** (Jackman/Hawn; unan. O'Bryant) calling a special election for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

**ACTION: Reso No 2003-663** (Jackman/Hawn; unan. O'Bryant) declaring the results of a special election and approving certain related actions pertaining to City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

**ACTION: By Motion** (Jackman/Hawn; unan. O'Bryant) **introducing Ordinance No. 3339-C.S.** authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

*It has been requested that the following item not be considered at this time.*

30. Hearing to consider the application of Del Valle Homes for a third amendment to the development agreement for the previously-approved Galas Brothers Vesting Tentative subdivision map, property located on the south side of Hatch Road west of Dezzani Lane and Ironside Drive.

**ACTION:** No action taken. This item was removed from the agenda.

## NEW BUSINESS

31. Consider a water services agreement with Basin Water for services and lease of equipment related to the removal of nitrates at well sites within the Grayson community water system for a ten-year period with an estimated cost of \$397,500 in fiscal year 2003-2004, including one-time start-up costs.
- Resolution approving a water services agreement with Basin Water for services and lease of equipment related to the removal of nitrates at well sites within the Grayson community water system for a ten-year period with an estimated cost of \$397,500 in fiscal year 2003-2004, including one-time start-up costs recommended.

*Operations & Maintenance; Judith Ray, 342-4575, jray@modestogov.com*

**ACTION: Reso No 2003-664** (Frohman/Hawn; unan; Keating and O'Bryant absent) approving a water services agreement with Basin Water for services and lease of equipment related to the removal of nitrates at well sites within the Grayson community water system for a ten-year period with an estimated cost of \$397,500 in fiscal year 2003-2004, including one-time start-up costs

*Continued to the December 23 special Council meeting.*

32. Consider the Final Map of Galas Brothers Subdivision Unit No. 1 in the Fairview Village Specific Plan Area and authorize the City Manager to execute the necessary documents.

Owner: Del Valle Homes, a California Corporation.

- Resolution approving the Final Map of Galas Brothers Subdivision Unit No. 1 in the Fairview Village Specific Plan Area and authorizing the City Manager to sign an agreement with the subdividers as required by Section 4-4.604(c) of the Municipal Code. Owner: Del Valle Homes, a California Corporation recommended.

*Engineering & Transportation; Robert Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan; O'Bryant, absent) continued this item to the December 23<sup>rd</sup> Council meeting

*Continued to the special December 23 Council meeting*

33. Consider Final Map of the Galas Brothers Subdivision Unit No. 2 in the Fairview Village Specific Plan Area and authorize the City Manager to execute the necessary documents.

Owner: Del Valle Homes, a California Corporation.

- Resolution approving the Final Map of Galas Brothers Subdivision Unit No. 2 in the Fairview Village Specific Plan Area and authorizing the City Manager to sign an agreement with the subdividers as required by Section 4-4.604(c) of the Municipal Code. Owner: Del Valle Homes, a California Corporation recommended.

*Engineering & Transportation; Robert Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan; O'Bryant, absent) continued this item to the December 23<sup>rd</sup> Council meeting

## **MATTERS TOO LATE FOR THE AGENDA**

None.

## **ADJOURNMENT**

This meeting was adjourned at 8:12 p.m.

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.

DATE 7/12/05

Jean Zahr  
SIGNATURE  
CITY CLERK  
CITY OF MODESTO, CA

THIS IS TO CERTIFY THAT  
IS A TRUE COPY OF THE ORIGINAL  
FILE WITH THIS OFFICE

DATE

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CITY OF MODESTO, CA  
CITY CLERK  
SIGNATURE



# MODESTO CITY COUNCIL

[www.modestogov.com](http://www.modestogov.com)

## MINUTES

City of Modesto

### City Council Meeting

Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California

Tuesday, March 23, 2004, at 5:30 p.m.

Roll Call – Present: Councilmembers Hawn, Jackman, Keating, Marsh, O’Bryant,  
Mayor Ridenour

Absent: Dunbar

Pledge of Allegiance to the Flag

Invocation: Pastor Cliff Traub, Bethel Church

City Clerk’s Announcements: Item 21 removed from the agenda.

Declaration of Conflicts of Interest - None

### ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Presentation by Beverly McCullough awarding checks to Somerset Middle School and Johansen High School for recycling programs on campus.

**ACTION:** Presentation made by Beverly McCullough.

2. Presentation of a Proclamation proclaiming April 1, 2004 as Modesto’s Arbor Day.

**ACTION:** Presentation made by Bill Dufresne, Operations & Maintenance Department and Mayor Ridenour.

3. Acknowledgement of the Tree City USA Award to the City of Modesto.

**ACTION:** Presentation made by Bill Dufresne, Operations & Maintenance and Darla Mills, Department of Forestry and Fire Protection.

4. Consider accepting the Airport Advisory Committee's 2003 Annual Report for the Modesto City-County Airport.
  - Motion accepting the Airport Advisory Committee's 2003 Annual Report for the Modesto City-County Airport recommended.  
*Engineering & Transportation; Van Switzer, 577-5318, [vswitzer@modestogov.com](mailto:vswitzer@modestogov.com)*

**ACTION:** By Motion (Jackman/Keating; unan.; Dunbar, absent) accepted the Airport Advisory Committee's 2003 Annual Report.

### MISCELLANEOUS Appointments

5. Consider appointing members to the following Boards, Committees or Commissions:
  - a. Airport Advisory Committee – the appointment of James E Leonard, with a term expiration of January 1, 2007 and James Davis, with a term expiration of January 1, 2008.
    - Resolution appointing James E Leonard, with a term expiration of January 1, 2007 and James Davis, with a term expiration of January 1, 2008 to the Airport Advisory Committee recommended.

**ACTION:** Reso No 2004-140 (Hawn/Marsh; unan. Dunbar absent) appointing James E Leonard, with a term expiration of January 1, 2007 and James Davis, with a term expiration of January 1, 2008 to the Airport Advisory Committee.

- b. Board of Zoning Adjustment – the appointment of Ted Brandvold, with a term expiration of January 1, 2006, and Michael Navarro, with a term expiration of January 1, 2008.
      - Resolution appointing Ted Brandvold, with a term expiration of January 1, 2006, and Michael Navarro, with a term expiration of January 1, 2008 to the Board of Zoning Adjustment recommended.

**ACTION:** Reso No 2004-141 (Hawn/Marsh; unan. Dunbar absent) appointing Ted Brandvold, with a term expiration of January 1, 2006, and Michael Navarro, with a term expiration of January 1, 2008 to the Board of Zoning Adjustment.

- c. Citizens Housing & Community Development Committee – the appointment of Charles Chituras with a term expiration of January 1, 2005.
- Resolution appointing Charles Chituras with a term expiration of January 1, 2005 to the Citizens Housing & Community Development Committee recommended.

**ACTION: Reso No 2004-142** (Hawn/Marsh; unan. Dunbar absent) appointing Charles Chituras with a term expiration of January 1, 2005 to the Citizens Housing & Community Development Committee.

- d. Local Cable Programming Committee – the appointment of Ernie Foote and Dave Thomas, with terms expiring January 1, 2005; Floyd Harris, with a term expiration of January 1, 2006; Ellie Temple Baumer, with a term expiration of January 1, 2007; and Mark Looker, with a term expiration of January 1, 2008.
- Resolution appointing Ernie Foote and Dave Thomas, with terms expiring January 1, 2005; Floyd Harris, with a term expiration of January 1, 2006; Ellie Temple Baumer, with a term expiration of January 1, 2007; and Mark Looker, with a term expiration of January 1, 2008 to the Local Cable Programming Committee recommended.

**ACTION: Reso No 2004-143** (Hawn/Marsh; unan. Dunbar absent) appointing Ernie Foote and Dave Thomas, with terms expiring January 1, 2005; Floyd Harris, with a term expiration of January 1, 2006; Ellie Temple Baumer, with a term expiration of January 1, 2007; and Mark Looker, with a term expiration of January 1, 2008 to the Local Cable Programming Committee.

- e. Planning Commission – the appointment of David Cogdill, Jr., with a term expiration of January 1, 2006, and Kristin Olsen, with a term expiration of January 1 2008.
- Resolution appointing David Cogdill, Jr., with a term expiration of January 1, 2006, and Kristin Olsen, with a term expiration of January 1 2008 to the Planning Commission recommended.

**ACTION: Reso No 2004-144** (Hawn/Marsh; unan. Dunbar absent) appointing David Cogdill, Jr., with a term expiration of January 1, 2006, and Kristin Olsen, with a term expiration of January 1 2008 to the Planning Commission.

**ORAL COMMUNICATIONS**  
**Three minute time limit per speaker**

None.

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED:** Items 6 through 20  
Item 21 removed from agenda.

**ACTION Consent Items 6- 20: Jackman/Hawn; unan. Dunbar absent**

**CONSENT ITEMS**

**An item may be removed from consent and discussed at the request of an audience member  
or Councilmember.**

**CONSENT**

6. Consider approval of the minutes of the regular City Council meeting of March 9, 2004.  
(Motion approving recommended.)  
*Clerk; Rebecca Bartholomew, 577-5397, [rbartholomew@modestogov.com](mailto:rbartholomew@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan. Dunbar absent) approved the minutes of March 9, 2004.

**CONSENT**

7. Consider an amendment to the Master Property Tax Sharing agreement to make approximately 1.9 acres belonging to the Modesto City School District (Bret Harte Elementary School) subject to the terms of the Master Property Tax Sharing agreement between the City of Modesto and Stanislaus County.
- Resolution amending the Master Property Tax Sharing agreement to make approximately 1.9 acres belonging to the Modesto City School District (Bret Harte Elementary School) subject to the terms of the Master Property Tax Sharing agreement between the City of Modesto and Stanislaus County recommended.  
*City Attorney; Mike Milich, 577-5284, [mmilich@modestogov.com](mailto:mmilich@modestogov.com)*

**ACTION: Reso No 2004-145** (Jackman/Hawn; unan. Dunbar absent) amending the Master Property Tax Sharing agreement to make approximately 1.9 acres belonging to the Modesto City School District (Bret Harte Elementary School) subject to the terms of the Master Property Tax Sharing agreement between the City of Modesto and Stanislaus County.

**CONSENT**

8. Consider annexation of additional territory to the City of Modesto Community Facility District No. 2004-1 (Village One #2) (Annexation #1).

- Resolution of Intention to annex territory to City of Modesto Community Facility District No. 2004-1 (Village One #2) (Annexation #1) recommended.

*City Manager; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Reso No 2004-146** (Jackman/Hawn; unan. Dunbar absent) a Resolution of Intention to annex territory to City of Modesto Community Facility District No. 2004-1 (Village One #2) (Annexation #1)

#### CONSENT

9. Consider ordering the Engineering & Transportation Director to prepare and file the Annual Report for Landscape Maintenance District No. 1 for Dry Creek Meadows subdivision Nos. 1 through 6.
  - Resolution directing the Engineering & Transportation Director to prepare and file the Annual Report for Landscape Maintenance District No. 1 for Dry Creek Meadows subdivision Nos. 1 through 6 recommended.

*Engineering & Transportation; Robert Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION: Reso No 2004-147** (Jackman/Hawn; unan. Dunbar absent) directing the Engineering & Transportation Director to prepare and file the Annual Report for Landscape Maintenance District No. 1 for Dry Creek Meadows subdivision Nos. 1 through 6.

#### CONSENT

10. Consider directing the Engineering & Transportation Director to prepare and file the Annual Report for Landscape Maintenance District No. 2 for Dry Creek Meadows subdivision Nos. 7 through 10, Creekwood Meadows subdivision and Yosemite Meadows subdivisions Units 1 and 2.
  - Resolution directing the Engineering & Transportation Director to prepare and file the Annual Report for Landscape Maintenance District No. 2 for Dry Creek Meadows subdivision Nos 7 through 10, Creekwood Meadows subdivision and Yosemite Meadows subdivisions Units 1 and 2 recommended.

*Engineering & Transportation; Robert Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION: Reso No 2004-148** (Jackman/Hawn; unan. Dunbar absent) directing the Engineering & Transportation Director to prepare and file the Annual Report for Landscape Maintenance District No. 2 for Dry Creek Meadows subdivision Nos 7 through 10, Creekwood Meadows subdivision and Yosemite Meadows subdivisions Units 1 and 2.

#### CONSENT

11. Consider approval of Final Map of the Loretelli Manor subdivision accepting the public improvements, authorizing the City Manager to sign an agreement with the subdividers, and authorizing the City Clerk to file a Notice of Completion and to release securities upon expiration of statutory periods.

- Resolution approving the Final Map of the Loretelli Manor subdivision accepting the public improvements, authorizing the City Manager to sign an agreement with the subdividers as required by Section 4-4.604(c) of the Municipal Code, and authorizing the City Clerk to file a Notice of Completion and to release securities upon expiration of statutory periods recommended.

*Engineering & Transportation; Robert Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION: Reso No 2004-149** (Jackman/Hawn; unan. Dunbar absent) approving the Final Map of the Loretelli Manor subdivision accepting the public improvements, authorizing the City Manager to sign an agreement with the subdividers as required by Section 4-4.604(c) of the Municipal Code, and authorizing the City Clerk to file a Notice of Completion and to release securities upon expiration of statutory periods.

#### CONSENT

12. Consider accepting the work by James Michael Johnson General Engineering Inc., dba On Grade Contracting, for the "Carpenter Road Waterline" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$509,138.35 per the contract; and Consider increasing the Engineering & Transportation Director's authority to issue change orders on the "Carpenter Road Waterline" project from 10% to 11.2% of the original contract price.

- Resolution accepting the work by James Michael Johnson General Engineering Inc., dba On Grade Contracting, for the "Carpenter Road Waterline" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$509,138.35 per the contract recommended.
- Resolution increasing the Engineering & Transportation Director's authority to issue change orders on the "Carpenter Road Waterline" project from 10% to 11.2% of the original contract price recommended.

*Engineering & Transportation; Kris Ohlson, 577-5423, [kohlson@modestogov.com](mailto:kohlson@modestogov.com)*

**ACTION: Reso No 2004-150** (Jackman/Hawn; unan. Dunbar absent) accepting the work by James Michael Johnson General Engineering Inc., dba On Grade Contracting, for the "Carpenter Road Waterline" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$509,138.35 per the contract

**ACTION: Reso No 2004-151** (Jackman/Hawn; unan. Dunbar absent) increasing the Engineering & Transportation Director's authority to issue change orders on the "Carpenter Road Waterline" project from 10% to 11.2% of the original contract price.

CONSENT

13. Consider a \$63,807 amendment to the DMJM+Harris consultant contract for construction management services associated with the Kansas-Needham Overhead project, and authorizing the City Manager to execute the necessary documents.

- Resolution approving a \$63,807 amendment to the DMJM+Harris consultant contract for construction management services associated with the Kansas-Needham Overhead project, and authorizing the City Manager to execute the necessary documents recommended.

*Engineering & Transportation; Kris Ohlson, 577-5423, [kohlson@modestogov.com](mailto:kohlson@modestogov.com)*

**ACTION: Reso No 2004-152** (Jackman/Hawn; unan. Dunbar absent) approving a \$63,807 amendment to the DMJM+Harris consultant contract for construction management services associated with the Kansas-Needham Overhead project, and authorizing the City Manager to execute the necessary documents.

CONSENT

14. Consider accepting the work by Granite Construction Company for the "Village One West Basin Road Improvements" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$867,207.45 per the contract.

- Resolution accepting the work by Granite Construction Company for the "Village One West Basin Road Improvements" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$867,207.45 per the contract recommended.

*Engineering & Transportation; Kris Ohlson, 577-5423, [kohlson@modestogov.com](mailto:kohlson@modestogov.com)*

**ACTION: Reso No 2004-153** (Jackman/Hawn; unan. Dunbar absent) accepting the work by Granite Construction Company for the "Village One West Basin Road Improvements" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$867,207.45 per the contract.

CONSENT

15. Consider awarding the bid and approving a \$62,481.25 contract with Fence Systems Inc., dba The Yard, for the project titled "Briggsmore Sound Wall – West of Tully", and authorizing the City Manager to execute the necessary documents.

- Resolution awarding the bid and approving a \$62,481.25 contract with Fence Systems Inc., dba The Yard, for the project titled "Briggsmore Sound Wall – West of Tully", and authorizing the City Manager to execute the necessary documents recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2004-154** (Jackman/Hawn; unan. Dunbar absent) awarding the bid and approving a \$62,481.25 contract with Fence Systems Inc., dba The Yard, for the

project titled "Briggsmore Sound Wall – West of Tully", and authorizing the City Manager to execute the necessary documents.

CONSENT

16. Consider accepting the Bowen Traffic Calming project as complete and amending the FY 2003-2004 Capital Improvement Program to fully fund the project.
- Resolution accepting the Bowen Traffic Calming project as complete and amending the FY 2003-2004 Capital Improvement Program to fully fund the project recommended.

*Engineering & Transportation; Firoz Vohra, 577-5429, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION: Reso No 2004-155** (Jackman/Hawn; unan. Dunbar absent) accepting the Bowen Traffic Calming project as complete and amending the FY 2003-2004 Capital Improvement Program to fully fund the project.

CONSENT

17. Consider awarding the bid and approving the contract in the amount of \$270,193 for the "Installation of Two Traffic Signals at the Following Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan Meadows Drive" project with Tim Paxin's Pacific Excavation Inc., and Consider amending the Capital Improvement Program budget to fully fund the project.
- Resolution awarding the bid and approving the contract in the amount of \$270,193 for the "Installation of Two Traffic Signals at the Following Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan Meadows Drive" project with Tim Paxin's Pacific Excavation Inc. recommended.
  - Resolution a finding that the project within the scope of the project covered by a Master Environmental Impact Report (MEIR), SCH No. 1999082041
  - Resolution amending the Capital Improvement Program budget to fully fund the project recommended.

*Engineering & Transportation; Firoz Vohra, 577-5429, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION: Reso No 2004-156** (Jackman/Hawn; unan. Dunbar absent) awarding the bid and approving the contract in the amount of \$270,193 for the "Installation of Two Traffic Signals at the Following Intersections: Oakdale Road at Manor Oak Drive and Coffee Road at Sylvan Meadows Drive" project with Tim Paxin's Pacific Excavation Inc.

**ACTION: Reso No 2004-157** (Jackman/Hawn; unan. Dunbar absent) finding that the project within the scope of the project covered by a Master Environmental Impact Report (MEIR), SCH No. 1999082041

**ACTION: Reso No 2004-158** (Jackman/Hawn; unan. Dunbar absent) amending the Capital Improvement Program budget to fully fund the project.

CONSENT

18. Consider amending Municipal Code Section 3-2.1401.1 (Radar) to include Jefferson, between Paradise Road and Maze Boulevard, Sierra Drive between G Street and 7<sup>th</sup> Street, and to remove Sharon Avenue between Fine Avenue and Claus Road from the radar-enforceable speed limit list. Funds are budgeted.

- Introduction of an ordinance amending Municipal Code Section 3-2.1401.1 (Radar) to include Jefferson, between Paradise Road and Maze Boulevard, Sierra Drive between G Street and 7<sup>th</sup> Street, and to remove Sharon Avenue between Fine Avenue and Claus Road recommended.

*Engineering & Transportation; Firoz Vohra, 577-5429, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan. Dunbar absent) **introduced Ordinance No. 3344-C.S.** amending Municipal Code Section 3-2.1401.1 (Radar) to include Jefferson, between Paradise Road and Maze Boulevard, Sierra Drive between G Street and 7<sup>th</sup> Street, and to remove Sharon Avenue between Fine Avenue and Claus Road.

CONSENT

19. Consider approving the March 12, 2004 installation of an all-way stop on Jefferson Street and Vine Street. Funds are budgeted.

- Resolution approving the March 12, 2004 installation of an all-way stop on Jefferson Street and Vine Street recommended.

*Engineering & Transportation; Firoz Vohra, 577-5429, [fvohra@modestogov.com](mailto:fvohra@modestogov.com)*

**ACTION:** **Reso No 2004-159** (Jackman/Hawn; unan. Dunbar absent) approving the March 12, 2004 installation of an all-way stop on Jefferson Street and Vine Street.

CONSENT

20. Consider the Monthly Investment Report.

- Motion acknowledging receipt of Monthly Investment Report – February 2004 recommended.

*Finance; Peggy Hetzler, 577-5369, [phetzler@modestogov.com](mailto:phetzler@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan. Dunbar absent) acknowledging receipt of Monthly Investment Report – February 2004.

REMOVED FROM THE AGENDA

21. Consider awarding the bid and approving a \$1,692,495 contract with Magnum Enterprises Inc. for the construction of Fire Station No. 11, and authorizing the City Manager to execute the necessary documents.

- Resolution awarding the bid and approving a \$1,692,495 contract with Magnum Enterprises Inc. for the project titled "Fire Station No. 11", and authorizing the City Manager to execute the necessary documents recommended.

- Resolution adjusting the budget to appropriate \$238,495 from the General Fund recommended.
  - Resolution transferring \$49,865 to fully fund the project recommended.
- Fire; David Grant, 572-9596, [dgrant@modestofire.com](mailto:dgrant@modestofire.com)*

**ACTION:** Item 21 was removed from the agenda.

#### CONSENT

22. Consider approving installation of angle parking on the north side of Sierra Drive between F and 4<sup>th</sup> Streets, and shifting of the existing centerline of Sierra Drive ten feet to the south to accommodate the angle parking.
- Resolution approving installation of angle parking on the north side of Sierra Drive between F and 4<sup>th</sup> Streets, and shifting of the existing centerline of Sierra Drive ten feet to the south to accommodate the angle parking recommended.
- Parks, Recreation & Neighborhoods; Bob Ford, 577-5437, [bford@modestogov.com](mailto:bford@modestogov.com)*

**ACTION:** Reso No 2004-160 (Jackman/Hawn; unan. Dunbar absent) approving installation of angle parking on the north side of Sierra Drive between F and 4<sup>th</sup> Streets, and shifting of the existing centerline of Sierra Drive ten feet to the south to accommodate the angle parking.

#### COUNCIL COMMENTS & REPORTS

- Mayor Ridenour announced that Councilmember Keating was awarded Women of the Year in the 25<sup>th</sup> Assembly District and presented her with a certificate.
- City Manager Crist reported on the League of California Cities quarterly dinner meeting in Merced.

#### WRITTEN COMMUNICATIONS

23. Consider a letter from Horizon Consulting Services, Dennis Wilson, regarding Carpenter Road Self-Storage Project.

**ACTION:** Motion failed (Jackman/O'Bryant; Hawn, Keating, Marsh, Ridenour no) to approve the self-storage project.

#### HEARINGS

24. Hearing to consider a Mitigated Negative Declaration regarding the Neighborhood Center at Marshall Park Master Plan and Design Development Report.
- Resolution adopting the Mitigated Negative Declaration recommended.

- Resolution approving the Master Plan and Design Development Report for the Neighborhood Center at Marshall Park recommended.
- Resolution approving an amendment to the agreement with WLC Architects to increase the amount of the agreement from \$197,500 to \$243,840 to provide for additional construction management and engineering, and authorizing the City Manager to execute the necessary documents recommended.

*Parks, Recreation & Neighborhoods; Bob Ford, 577-5437, [bford@modestogov.com](mailto:bford@modestogov.com)*

**ACTION: Reso No 2004-161** (Hawn/Jackman; unan. Dunbar absent) adopting the Mitigated Negative Declaration

**ACTION: Reso No 2004-162** (Hawn/Jackman; unan. Dunbar absent) approving the Master Plan and Design Development Report for the Neighborhood Center at Marshall Park

**ACTION: Reso No 2004-163** (Hawn/Jackman; unan. Dunbar absent) approving an amendment to the agreement with WLC Architects to increase the amount of the agreement from \$197,500 to \$243,840 to provide for additional construction management and engineering, and authorizing the City Manager to execute the necessary documents

Recess 7:25

Reconvene 7:30

25. Hearing to consider approving a request from the Housing Authority of the County of Stanislaus for HOME funds in the amount of \$400,000 for the development of the Miller Pointe project and to consider approving a request from Stanislaus County Affordable Housing Corporation (STANCO) for HOME funds in the amount of \$624,831 for the development of the 3333 Carver Road project, and authorizing the City Manager to execute the necessary documents; and Consider an agreement with STANCO for Community Housing Development Organization set aside funds in the amount of \$260,270; and Consider amending the FY 2003-2004 budget to re-allocate \$260,270 in un-obligated FY 2002-2003 CHDO set-aside funds.

- Resolution approving a request from the Housing Authority of the County of Stanislaus for HOME funds in the amount of \$400,000 for the development of the Miller Pointe project and to consider approving a request from Stanislaus County Affordable Housing Corporation (STANCO) for HOME funds in the amount of \$624,831 for the development of the 3333 Carver Road project, and authorizing the City Manager to execute the necessary documents recommended.
- Resolution approving an agreement with STANCO for Community Housing Development Organization set aside funds in the amount of \$260,270 recommended.
- Resolution amending the FY 2003-2004 budget to re-allocate \$260,270 in un-obligated FY 2002-2003 CHDO set-aside funds recommended.

*Parks, Recreation & Neighborhoods; Carol Averell, 577-5310, [caverell@modestogov.com](mailto:caverell@modestogov.com)*

**ACTION: Reso No 2004-164** (Marsh/Jackman; unan. Dunbar absent) approving a request from the Housing Authority of the County of Stanislaus for HOME funds in the amount of

\$400,000 for the development of the Miller Pointe project and to consider approving a request from Stanislaus County Affordable Housing Corporation (STANCO) for HOME funds in the amount of \$624,831 for the development of the 3333 Carver Road project, and authorizing the City Manager to execute the necessary documents.

**ACTION: Reso No 2004-165** (Marsh/Jackman; unan. Dunbar absent) approving an agreement with STANCO for Community Housing Development Organization set aside funds in the amount of \$260,270.

**ACTION: Reso No 2004-166** (Marsh/Jackman; unan. Dunbar absent) amending the FY 2003-2004 budget to re-allocate \$260,270 in un-obligated FY 2002-2003 CHDO set-aside funds.

26. Hearing to consider approving the policies and procedures and 5-year fee schedule for the Parks, Recreation and Neighborhoods department's facilities and services, and rescinding Resolution No. 98-237.

- Resolution approving the policies and procedures and 5-year fee schedule for the Parks, Recreation and Neighborhoods department's facilities and services, and rescinding Resolution No. 98-237 recommended.

*Parks, Recreation & Neighborhoods; Carolyn Eubank, 577-5349, [ceubank@modestogov.com](mailto:ceubank@modestogov.com)*

**ACTION: Reso No 2004-167** (Jackman/Keating; unan. Dunbar absent) approving the policies and procedures and 5-year fee schedule for the Parks, Recreation and Neighborhoods department's facilities and services, and rescinding Resolution No. 98-237.

## NEW BUSINESS

27. Consider the Downtown Improvement District Board's proposal for a Pilot Parking Validation Program for the 11<sup>th</sup> Street and 10<sup>th</sup> Street Place parking garages.

- Resolution approving Downtown Improvement District Board's proposal for a Pilot Parking Validation Program for the 11<sup>th</sup> Street and 10<sup>th</sup> Street Place parking garages recommended.

*Operation & Maintenance; Peter Cowles, 577-5213, [pcowles@modestogov.com](mailto:pcowles@modestogov.com)*

**ACTION: Reso No 2004-168** (Marsh/Hawn; unan. Dunbar absent) approving Downtown Improvement District Board's proposal for a Pilot Parking Validation Program for the 11<sup>th</sup> Street and 10<sup>th</sup> Street Place parking garages.

28. Consider the State Theatre Board request for City endorsement of the State Theatre's loan request to the Stanislaus County Economic Development Bank.

- Resolution supporting the State Theatre Board request for City endorsement of the State Theatre's loan request to the Stanislaus County Economic Development Bank recommended.

*City Manager; Jack Crist, 577-5224, [jcrist@modestogov.com](mailto:jcrist@modestogov.com)*

**ACTION: Reso No 2004-169** (Jackman/O'Bryant; unan. Dunbar absent) supporting the State Theatre Board request for City endorsement of the State Theatre's loan request to the Stanislaus County Economic Development Bank.

29. Consider directing staff to proceed with preparation of documents necessary to initiate a process to increase water rates by 35% for fiscal year 04-05; 30% for fiscal year 05-06; 30% for fiscal year 06-07.

- Motion acknowledging staff report recommended.

*Finance; Gregory Baird, 577-5458, [gbaird@modestogov.com](mailto:gbaird@modestogov.com)*

**ACTION:** By Motion (Hawn/Jackman; unan. Dunbar absent) acknowledged receipt of report.

### MATTERS TOO LATE FOR THE AGENDA

None.

### ADJOURNMENT

This meeting was adjourned at 9:20 p.m.

Closed session heard prior to the meeting.

### CLOSED SESSION

#### CONFERENCE WITH REAL PROPERTY NEGOTIATOR

(Pursuant to Section 54956.8 of the Government Code)

Property: Disposition of City surplus property located on the south side of Sharon Avenue, west of Fine Avenue as part of the Freedom Park Project.

APN: 085-0721 (portion) – 4.22 Acres ±

Negotiating parties: Steve Long, Acquisition Consultant for the City of Modesto

Ron Liebs – negotiating for Sylvan Union School District

Under negotiation: Price and terms of the property rights to be disposed

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**DATE**

7/12/05

**ATTEST:**

Jean Zahr  
JEAN ZAHR, City Clerk

Jean Zahr  
SIGNATURE

CITY CLERK

CITY OF MODESTO, CA

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IS A TRUE COPY OF THE DOCUMENT ON  
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# MODESTO CITY COUNCIL

[www.modestogov.com](http://www.modestogov.com)

## MINUTES

City of Modesto

### City Council Meeting

Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California

Tuesday, May 11, 2004, at 5:30 p.m.

Roll Call – Present: Councilmembers Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant,  
Mayor Ridenour

Absent: None

Pledge of Allegiance to the Flag

Invocation: Michael Saldivar, LaLoma Grace Church

City Clerk’s Announcements - None

Declaration of Conflicts of Interest - None

## ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Presentation of Proclamation proclaiming May 16-22, 2004 as National Public Works Week

**ACTION:** Presentation made by Peter Cowles, Acting Engineering & Transportation Director and Judith Ray, Acting Operations & Maintenance Director

2. Presentation of Proclamation proclaiming May 16-22, 2004 as Emergency Medical Services Week

**ACTION:** Presentation made by Mayor Ridenour to American Medical Response, Mountain Valley Medical and Jim Miguel, Fire Chief.

3. Presentation recognizing the 30th anniversary of the Community Development Block Grant (CDBG) program

**ACTION:** Presentation made by Julie Hannon, Deputy Director of Parks Recreation and Neighborhoods

4. Presentation of proclamation to the Stanislaus Chapter of Mental Health Consumers proclaiming May 2004 as Mental Health Month

**ACTION:** Proclamation presented by Mayor Ridenour.

### MISCELLANEOUS Legislation

5. Consider supporting AB 2318, proposed legislation to extend confidentiality protections to city auditors equal to those of state auditors.

- Resolution supporting AB 2318, proposed legislation to extend confidentiality protections to city auditors equal to those of state auditors recommended.

*City Clerk & Auditor; Gary Nienhuis, 571-5544, [gnienhuis@modestogov.com](mailto:gnienhuis@modestogov.com)*

**ACTION:** Reso No 2004-248 (Jackman/Keating; unan.) supporting AB 2318, proposed legislation to extend confidentiality protections to city auditors equal to those of state auditors.

### ORAL COMMUNICATIONS Three minute time limit per speaker

None

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED:** Items 6 through 16

**ACTION Consent Items 6-16:** Jackman/O'Bryant; unan.

### CONSENT ITEMS

**An item may be removed from consent and discussed at the request of an audience member or Councilmember.**

### CONSENT

6. Consider approval of the minutes of the regular City Council meeting of May 4, 2004. (Motion approving recommended.)

*Clerk; Rebecca Bartholomew, 577-5397, [rbartholomew@modestogov.com](mailto:rbartholomew@modestogov.com)*

**ACTION:** By Motion (Jackman/O'Bryant; unan.) approved the minutes of May 4, 2004.

CONSENT

7. Consider annexation of additional territory to City of Modesto Community Facilities District No. 2004-1 (Village One #2) (Annexation #2).
- Resolution of intention to annex territory to City of Modesto Community Facilities District No. 2004-1 (Village One #2) (Annexation #2) recommended.  
*City Manager; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Reso No 2004-249** (Jackman/O'Bryant; unan.), a resolution of intention to annex territory to City of Modesto Community Facilities District No. 2004-1 (Village One #2) (Annexation #2).

CONSENT

8. Consider Amendment #2 to the agreement with Turnstone Consulting Corporation for additional work performed on the preparation of the Draft Environmental Impact Report for the Kaiser Medical Campus Project in the amount of \$160,450. Total budget: \$200,562
- Resolution approving Amendment #2 to the agreement with Turnstone Consulting Corporation for additional work performed on the preparation of the Draft Environmental Impact Report for the Kaiser Medical Campus Project in the amount of \$160,450 recommended.  
*Community & Economic Development, Steve Mitchell, 577-5287, [smitchell@modestogov.com](mailto:smitchell@modestogov.com)*

**ACTION: Reso No 2004-250** (Jackman/O'Bryant; unan) approving Amendment #2 to the agreement with Turnstone Consulting Corporation for additional work performed on the preparation of the Draft Environmental Impact Report for the Kaiser Medical Campus Project in the amount of \$160,450.

CONSENT

9. Consider the final map of the Udona Grove subdivision and authorizing the City Manager to sign an agreement with the subdividers. Owners: William Eugene Buchta and Charisse Renee Buchta, husband and wife as joint tenants and Inderjit S. Toor and Harinder S. Toor, individuals.
- Resolution approving the final map of the Udona Grove subdivision and authorizing the City Manager to sign an agreement with the subdividers as required by Section 4-4.604(c) of the Municipal Code recommended.  
*Engineering & Transportation; Robert Granberg, 577-5259, [rgranberg@modestogov.com](mailto:rgranberg@modestogov.com)*

**ACTION: Reso No 2004-251** (Jackman/O'Bryant; unan) approving the final map of the Udona Grove subdivision and authorizing the City Manager to sign an agreement with the subdividers as required by Section 4-4.604(c) of the Municipal Code.

CONSENT

10. Consider increasing the Engineering & Transportation Director's authority to issue change orders on the "Interior Improvements – Wastewater Collection Maintenance Building" project from 10% (\$66,044.50) to 19% (\$125,484.55) of the original contract price with the McDonald Glenn Company; and Consider amending the FY 2003-2004 Capital Improvement budget to fund the project.

- Resolution increasing the Engineering & Transportation Director's authority to issue change order on the "Interior Improvements – Wastewater Collection Maintenance Building" project from 10% (\$66,044.50) to 23% (\$151,902.35) of the original contract price with the McDonald Glenn Company recommended.
- Resolution amending the FY 2003-2004 Capital Improvement budget to fund the "Interior Improvements – Wastewater Collection Maintenance Building" project recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2004-252** (Jackman/O'Bryant; unan) increasing the Engineering & Transportation Director's authority to issue change order on the "Interior Improvements – Wastewater Collection Maintenance Building" project from 10% (\$66,044.50) to 23% (\$151,902.35) of the original contract price with the McDonald Glenn Company

**ACTION: Reso No 2004-253** (Jackman/O'Bryant; unan) amending the FY 2003-2004 Capital Improvement budget to fund the "Interior Improvements – Wastewater Collection Maintenance Building" project.

CONSENT

11. Consider awarding the bid and approving a \$59,989.85 contract to Industrial Fence for the project titled "Thousand Oaks Lift Station Fence," and authorizing the City Manager to execute the necessary documents. Estimated total cost, including design, contract administration and contingencies, is \$84,000. Funds are budgeted.

- Resolution awarding the bid and approving a \$59,989.85 contract to Industrial Fence for the project titled "Thousand Oaks Lift Station Fence," and authorizing the City Manager to execute the necessary documents recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2004-254** (Jackman/O'Bryant; unan) awarding the bid and approving a \$59,989.85 contract to Industrial Fence for the project titled "Thousand Oaks Lift Station Fence," and authorizing the City Manager to execute the necessary documents.

CONSENT

12. Consider awarding the bid and approving a \$599,555 contract with Industrial Electrical for the project titled "Emergency Power Addition at Water Wells, 25, 43, 225, 282, 298, 299, 302 and 313", and authorizing the City Manager to execute the necessary documents. Total estimated cost of project is \$725,000.

- Resolution awarding the bid and approving a \$599,555 contract with Industrial Electrical for the project titled “Emergency Power Addition at Water Wells, 25, 43, 225, 282, 298, 299, 302 and 313”, and authorizing the City Manager to execute the necessary documents recommended.

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Reso No 2004-255** (Jackman/O’Bryant; unan) awarding the bid and approving a \$599,555 contract with Industrial Electrical for the project titled “Emergency Power Addition at Water Wells, 25, 43, 225, 282, 298, 299, 302 and 313”, and authorizing the City Manager to execute the necessary documents.

CONSENT

13. Consider authorizing the Purchasing Supervisor to formally solicit Request for Bids for the furnishing of elevator preventative maintenance service and repair, citywide, for a three-year agreement, with two one-year extension options, for an estimated annual cost of \$56,985.

- Resolution authorizing the Purchasing Supervisor to formally solicit Request for Bids for the furnishing of elevator preventative maintenance service and repair, citywide, for a three-year agreement, with two one-year extension options, for an estimated annual cost of \$56,985 recommended.

*Finance; Ken Masasso, 577-5420, [kmasasso@modestogov.com](mailto:kmasasso@modestogov.com)*

**ACTION: Reso No 2004-256** (Jackman/O’Bryant; unan) authorizing the Purchasing Supervisor to formally solicit Request for Bids for the furnishing of elevator preventative maintenance service and repair, citywide, for a three-year agreement, with two one-year extension options, for an estimated annual cost of \$56,985.

CONSENT

14. Consider authorizing the Purchasing Supervisor to issue a Request for Proposals (RFP) for uniforms and laundry services for an initial one-year contract period, with four one-year contract extension options for an approximate annual cost of \$116,782.

- Resolution authorizing the Purchasing Supervisor to issue a Request for Proposals (RFP) for uniforms and laundry services for an initial one-year contract period, with four one-year contract extension options for an approximate annual cost of \$116,782 recommended.

*Finance; Tom Reddie, 577-5406, [treddie@modestogov.com](mailto:treddie@modestogov.com)*

**ACTION: Reso No 2004-257** (Jackman/O’Bryant; unan) authorizing the Purchasing Supervisor to issue a Request for Proposals (RFP) for uniforms and laundry services for an initial one-year contract period, with four one-year contract extension options for an approximate annual cost of \$116,782.

CONSENT

15. Consider authorizing the award of bid and contracts for concrete boxes and covers, cast iron covers and frames, and related accessories for a one-year period to the following

vendors: Kenko Utility – estimated annual cost of \$122,445; Groeniger – estimated annual cost of \$548; General Plumbing – estimated cost of \$320. The combined total approximate annual cost is \$123,312, and funds are budgeted.

- Resolution authorizing the award of bid and contracts for concrete boxes and covers, cast iron covers and frames, and related accessories for a one-year period to the following vendors: Kenko Utility – estimated annual cost of \$122,445; Groeniger – estimated annual cost of \$548; General Plumbing – estimated cost of \$320 recommended.

*Finance; Tom Reddie, 577-5406, [treddie@modestogov.com](mailto:treddie@modestogov.com)*

**ACTION: Reso No 2004-258** (Jackman/O’Bryant; unan) authorizing the award of bid and contracts for concrete boxes and covers, cast iron covers and frames, and related accessories for a one-year period to the following vendors: Kenko Utility – estimated annual cost of \$122,445; Groeniger – estimated annual cost of \$548; General Plumbing – estimated cost of \$320.

#### CONSENT

16. Consider Fire Apparatus Maintenance Contract with Stanislaus Consolidated Fire Protection District.

- Resolution approving Fire Apparatus Maintenance Contract with Stanislaus Consolidated Fire Protection District recommended.

*Fire; James Miguel, 572-9670, [jmiguel@modestogov.com](mailto:jmiguel@modestogov.com)*

**ACTION: Reso No 2004-259** (Jackman/O’Bryant; unan) approving Fire Apparatus Maintenance Contract with Stanislaus Consolidated Fire Protection District.

#### COUNCIL COMMENTS & REPORTS

None

#### WRITTEN COMMUNICATIONS

17. Consider a letter received from Kenneth Diehl and Jeffrey Diehl regarding waiver of the capital facilities fees for a tentative 14-unit low-income senior housing complex at 421 Lincoln Avenue.

**ACTION:** By motion Jackman/Keating; unan. referred to the Capital Facilities Fees staff for review and to return to the City Council when the review is complete.

#### UNFINISHED BUSINESS

18. Consider providing direction to staff on water rate issues.

- Motion providing direction to staff on water rate issues recommended.

**ACTION:** By Motion (Hawn/Jackman; unan.) directed staff to move toward metering water for all residential customers, to develop a plan for metering of the city-owned systems with implementation over a 10-15 year period and return to Council with the plan, to include a CPI increase in the current 218 process for Water for years six and beyond, and to begin the process to charge churches and schools at a metered rate with implementation by January 1, 2005.

## HEARINGS

19. Hearing to consider calling a special election to amend the existing Rate and Method of Apportionment for City of Modesto Community Facilities District No. 2003-1 (Fairview Village); Consider declaring the results of a special election to amend the existing Rate and Method of Apportionment for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and changing said Rate and Method; and Consider introduction of an ordinance repealing Ordinance 3339-C.S. and authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village).
- Resolution of Consideration to alter the existing rate and method of apportionment of special tax for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.
  - Resolution declaring the results of a special election to amend the existing Rate and Method of Apportionment for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and changing said Rate and Method recommended.
  - Motion introducing an ordinance repealing Ordinance 3339-C.S. and authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.

*City Manager; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Reso No 2004-260** (Keating/Hawn; unan.), a Resolution of Consideration to alter the existing rate and method of apportionment of special tax for City of Modesto Community Facilities District No. 2003-1 (Fairview Village).

**ACTION: Reso No 2004-261** (Keating/Hawn; unan.) declaring the results of a special election to amend the existing Rate and Method of Apportionment for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and changing said Rate and Method

**ACTION:** By Motion (Keating/Hawn; unan.) **introduced Ordinance No. 3348-C.S.**, an ordinance repealing Ordinance 3339-C.S. and authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

20. Hearing to consider approving an increase of 2.1% for the Airport's general aviation rates and fees for aircraft storage hangars, large aircraft hangars, offices and aircraft tie-down spaces, effective July 1, 2004, and rescinding Resolution 2003-267.

- Resolution approving an increase of 2.1% for the Airport's general aviation rates and fees for aircraft storage hangars, large aircraft hangars, offices and aircraft tie-down spaces, effective July 1, 2004, and rescinding Resolution 2003-267 recommended.

*Engineering & Transportation; Van Switzer, 577-5318, [vswitzer@modestogov.com](mailto:vswitzer@modestogov.com)*

**ACTION: Reso No 2004-262** (Jackman/Keating; unan.) approving an increase of 2.1% for the Airport's general aviation rates and fees for aircraft storage hangars, large aircraft hangars, offices and aircraft tie-down spaces, effective July 1, 2004, and rescinding Resolution 2003-267.

21. Hearing to consider approving the draft 2004-2005 HUD Annual Action Plan for the use of Community Development Block Grant (CDBG), HOME Partnership Grant (HOME), and Emergency Shelter Grant (ESG) funds, and authorizing the City Manager or his designee to sign the required documents for submittal to the Department of Housing & Urban Department (HUD).

- Resolution approving the draft 2004-2005 HUD Annual Action Plan for the use of Community Development Block Grant (CDBG), HOME Partnership Grant (HOME), and Emergency Shelter Grant (ESG) funds, and authorizing the City Manager or his designee to sign the required documents for submittal to the Department of Housing & Urban Department (HUD) recommended.

*Parks, Recreation & Neighborhoods; Julie Hannon, 577-5417, [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Reso No 2004-263** (Jackman/Keating; unan.) approving the draft 2004-2005 HUD Annual Action Plan for the use of Community Development Block Grant (CDBG), HOME Partnership Grant (HOME), and Emergency Shelter Grant (ESG) funds, and authorizing the City Manager or his designee to sign the required documents for submittal to the Department of Housing & Urban Department (HUD).

22. Hearing to consider approving the proposed second amendment to the Department of Housing & Urban Development (HUD) Annual Action Plan for 2003-2004, and authorizing the City Manager to execute related documents; and Consider amending the 2003-2004 operating budget to reflect approved changes to the HUD Annual Action Plan, to include adjustments to prior year's carryover revenues and appropriations.

- Resolution approving the proposed second amendment to the Department of Housing & Urban Development (HUD) Annual Action Plan for 2003-2004, and authorizing the City Manager to execute related documents recommended.
- Resolution amending the 2003-2004 operating budget to reflect approved changes to the HUD Annual Action Plan, to include adjustments to prior year's carryover revenues and appropriations recommended.

*Parks, Recreation & Neighborhoods; Julie Hannon, 577-5417, [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Reso No 2004-264** (O'Bryant/Keating; unan.) approving the proposed second amendment to the Department of Housing & Urban Development (HUD) Annual Action Plan for 2003-2004, and authorizing the City Manager to execute related documents

**ACTION: Reso No 2004-265** (O'Bryant/Keating; unan.) amending the 2003-2004 operating budget to reflect approved changes to the HUD Annual Action Plan, to include adjustments to prior year's carryover revenues and appropriations.

**MATTERS TOO LATE FOR THE AGENDA**

None.

**ADJOURNMENT**

This meeting was adjourned at 7:10 p.m.

**CLOSED SESSION**

*Removed from the agenda.*

**CONFERENCE WITH LABOR NEGOTIATOR:**

(Pursuant to Section 54957.6 of the Government Code)

Agency Negotiators: Jack R. Crist, City Manager  
Robin Renwick, Personnel Director

Employee Organization: Modesto Confidential and Management Association  
(M.C.M.A.)

*Removed from the agenda*

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

One Case: (Pursuant to Section 54956.9(a) of the Government Code)

Name of case: *Preston Brandon v. City of Modesto, et al.*  
Superior Court Case No. 339797

*This closed session item heard prior to the meeting.*

**CONFERENCE WITH PROPERTY NEGOTIATOR:**

(Pursuant to Section 54956.8 of the Government Code)

Property: Purchase, sale or lease of property located within the blocks bounded by "B", "D", Ninth and Eleventh Streets in the City of Modesto

Owner: Union Pacific Railroad Company – APN: 106-46-03

Negotiating parties: For City of Modesto: Rich Ulm Deputy Director Engineering & Transportation

Union Pacific Railroad, Owner

Under negotiation: Price and terms of payment for property to be acquired

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

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# MODESTO CITY COUNCIL

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## MINUTES

City of Modesto

### City Council Meeting

Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California

Tuesday, June 1, 2004, at 5:30 p.m.

Roll Call – Present: Councilmembers Dunbar, Hawn, Jackman, Keating, Marsh,  
Mayor Ridenour

Absent: O'Bryant

Pledge of Allegiance to the Flag

Invocation: Joel Richards from La Loma Grace Brethren.

City Clerk's Announcements:

**Public Hearing Item 10 requested to be continued to June 8, 2004**  
**Public Hearing Item 11 moved to follow the Consent Items**

Declaration of Conflicts of Interest - Marsh – Item 8

## ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Presentation of proclamation to Soroptimist proclaiming June as Drive Safe Modesto Month. Peggy O'Donnell will receive the Proclamation.

**ACTION:** Mayor Ridenour presented the proclamation.

## MISCELLANEOUS

### Appointments

2. Consider appointment of Tammy L. Maisetti to the Downtown Improvement District Advisory Board, with a term expiration of January 1, 2008.

- Resolution approving the appointment of Tammy L. Maisetti to the Downtown Improvement District Advisory Board, with a term expiration of January 1, 2008 recommended.

*City Manager; George Britton, 577-5404, [gbritton@modestogov.com](mailto:gbritton@modestogov.com)*

**ACTION: Reso No 2004-288** (Keating/Dunbar; unan.; O'Bryant, absent) approving the appointment of Tammy L. Maisetti to the Downtown Improvement District Advisory Board, with a term expiration of January 1, 2008.

### ORAL COMMUNICATIONS

None

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED:** Items 3 through 7

**ACTION Consent Items 3, 4, 5, 6, 7: Jackman/Hawn; unan.; O'Bryant, absent**

### CONSENT ITEMS

**An item may be removed from consent and discussed at the request of an audience member or Councilmember.**

#### CONSENT

3. Consider approval of the minutes of the regular City Council meeting of May 25, 2004. (Motion approving recommended.)  
*Clerk; Rebecca Bartholomew, 577-5397, [rbartholomew@modestogov.com](mailto:rbartholomew@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan.; O'Bryant, absent) approved the minutes of May 25, 2004.

#### CONSENT

4. Consider final adoption of Ordinance 3348-C.S. - an ordinance repealing Ordinance 3339-C.S. and authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village).
  - Motion approving final adoption of Ordinance 3348-C.S. - an ordinance repealing Ordinance 3339-C.S. and authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) recommended.  
*City Attorney; Mike Milich, 577-5284, [mmilich@modestogov.com](mailto:mmilich@modestogov.com)*

**ACTION:** By Motion (Jackman/Hawn; unan.; O'Bryant, absent) approved **final adoption of Ordinance 3348-C.S.** –an ordinance repealing Ordinance 3339-C.S. and authorizing the levy of special taxes within the City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

CONSENT

5. Consider the Fiscal Year 2004/2005 claim for Local Transportation Funds (LTF) for \$4,857,817 for transit purposes to the Stanislaus Council of Governments.
- Resolution approving and authorizing the submittal of the Fiscal Year 2004-2005 Annual Transportation Claim for \$4,857,817, for transit purposes only, to the Stanislaus Council of Governments recommended.
- Finance; Tom Douglas, 571-5574, [tdouglas@modestogov.com](mailto:tdouglas@modestogov.com)*

**ACTION: Reso No 2004-289** (Jackman/Hawn; unan.; O'Bryant, absent) approving and authorizing the submittal of the Fiscal Year 2004-2005 Annual Transportation Claim for \$4,857,817, for transit purposes only, to the Stanislaus Council of Governments.

CONSENT

6. Consider the Monthly Budget Adjustment Report.
- Resolution approving FY04 budget adjustments for May 2004 recommended.
- Finance; Peggy Hetzler; 577-5369; [phetzler@modestogov.com](mailto:phetzler@modestogov.com)*

**ACTION: Reso No 2004-290** (Jackman/Hawn; unan.; O'Bryant, absent) approving FY04 budget adjustments for May 2004

CONSENT

7. Consider two subordination agreements, as follows: 1) for the HOME loan provided to Stanislaus County Affordable Housing Corporation (STANCO) in Fiscal Year 2001-2002, for the development and construction of the 3333 Carver Road project, approving an extension for completion of the construction by June 30, 2005, and authorizing the City Manager to execute the necessary documents; 2) for the HOME loan provided to the Housing Authority of the County of Stanislaus in Fiscal Year 2001-2002 for the development and construction of Miller Pointe, approving an extension for completion of the construction by June 30, 2005, and authorizing the City Manager to execute the necessary documents.
- Resolution approving a subordination agreement for the HOME loan provided to Stanislaus County Affordable Housing Corporation (STANCO) in Fiscal Year 2001-2002, for the development and construction of the 3333 Carver Road project, approving an extension for completion of the construction by June 30, 2005, and authorizing the City Manager to execute the necessary documents recommended.
  - Resolution approving a subordination agreement for the HOME loan provided to the Housing Authority of the County of Stanislaus in Fiscal Year 2001-2002 for the development and construction of Miller Pointe, approving an extension for completion of the construction by June 30, 2005, and authorizing the City Manager to execute the necessary documents recommended.
- Parks, Recreation & Neighborhoods; Carol Averell, 577-5310, [caverell@modestogov.com](mailto:caverell@modestogov.com)*

**ACTION: Reso No 2004-291** (Jackman/Hawn; unan.; O'Bryant, absent) approving a subordination agreement for the HOME loan provided to Stanislaus County

Affordable Housing Corporation (STANCO) in Fiscal Year 2001-2002, for the development and construction of the 3333 Carver Road project, approving an extension for completion of the construction by June 30, 2005, and authorizing the City Manager to execute the necessary documents

**ACTION: Reso No 2004-292** (Jackman/Hawn; unan.; O'Bryant, absent) approving a subordination agreement for the HOME loan provided to the Housing Authority of the County of Stanislaus in Fiscal Year 2001-2002 for the development and construction of Miller Pointe, approving an extension for completion of the construction by June 30, 2005, and authorizing the City Manager to execute the necessary documents

### COUNCIL COMMENTS & REPORTS

None.

### UNFINISHED BUSINESS

*Councilmember Marsh was excused due to conflict of interest during the introduction of the following item.*

8. Consider final adoption of Ordinance 3349-C.S. – an ordinance amending the Precise Plan for Area No. 13 of the Village One Specific Plan, to allow for the creation of 16 additional lots for property located east of Roselle Avenue between Hillglen Avenue and Kodiak Drive (Lagos).
  - Motion approving final adoption of Ordinance 3349-C.S. – an ordinance amending the Precise Plan for Area No. 13 of the Village One Specific Plan, to allow for the creation of 16 additional lots for property located east of Roselle Avenue between Hillglen Avenue and Kodiak Drive (Lagos).

*City Attorney; Mike Milich, 577-5284, [mmilich@modestogov.com](mailto:mmilich@modestogov.com)*

**ACTION:** By Motion (Dunbar/Keating; unan., O'Bryant & Marsh, absent) approved **final adoption of Ordinance 3349-C.S.** – an ordinance amending the Precise Plan for Area No. 13 of the Village One Specific Plan, to allow for the creation of 16 additional lots for property located east of Roselle Avenue between Hillglen Avenue and Kodiak Drive (Lagos).

9. Consider Cable franchise agreement and settlement.
  - Ordinance extending the Cable Franchise Agreement for an additional five years recommended.
  - Resolution authorizing the City Manager to execute the following agreements recommended:
    - An amendment to the Cable Television Franchise Renewal Agreement extending the terms of the agreement until July 4, 2016;

- A revised Institutional Network (I-Net) Agreement providing for the construction and use of the I-Net, and providing for the completion of construction of the Institutional Network in approximately 10 months;
- A Settlement Agreement relating to the action taken by Council June 24, 2003 and the litigation entitled Comcast v. City of Modesto.

*City Manager; Donna Hansen, 571-5809, [dhansen@modestogov.com](mailto:dhansen@modestogov.com)*

**ACTION:** By Motion (Dunbar/Hawn; unan.; O'Bryant, absent ) **introduced Ordinance 3350-C.S.--** extending the Cable Franchise Agreement for an additional five years.

**ACTION: Reso No 2004-293** (Dunbar/Hawn; unan.; O'Bryant, absent) authorizing the City Manager to execute the following agreements recommended:

- An amendment to the Cable Television Franchise Renewal Agreement extending the terms of the agreement until July 4, 2016;
- A revised Institutional Network (I-Net) Agreement providing for the construction and use of the I-Net, and providing for the completion of construction of the Institutional Network in approximately 10 months;
- A Settlement Agreement relating to the action taken by Council June 24, 2003 and the litigation entitled Comcast v. City of Modesto.

### HEARINGS

10. Hearing to consider application for \$3,382,935 in Federal Transit Administration (FTA) Funds to help offset the capital and operating costs of the City's public transit program.
- Resolution approving an application for \$3,382,935 in Federal Transit Administration (FTA) Funds to help offset the capital and operating costs of the City's public transit program recommended.

*Engineering & Transportation; Fred Cavanah, 577-5295, [fcavanah@modestogov.com](mailto:fcavanah@modestogov.com)*

**ACTION:** By motion (Jackman/Hawn; unan.; O'Bryant, absent) continued to June 8, 2004

Heard immediately following Item 7 of the Consent Agenda.

11. Hearing to consider Modesto Area Express (MAX) route and schedule changes.
- Resolution approving two new Modesto Area Express (MAX) routes, and approving route and schedule changes for 11 of the 17 existing MAX routes to become effective January 2005 at a cost of approximately \$184,000 in Local Transportation Fund (LTF) monies for Fiscal Year 2004/2005 recommended.

*Engineering & Transportation; Fred Cavanah, 577-5295, [fcavanah@modestogov.com](mailto:fcavanah@modestogov.com)*

**ACTION: Reso No 2004-294** (Jackman/Keating; unan.; O'Bryant, absent) approving two new Modesto Area Express (MAX) routes, and approving route and schedule changes for 11 of the 17 existing MAX routes to become effective January 2005 at a cost of approximately \$184,000 in Local Transportation Fund (LTF) monies for Fiscal Year 2004/2005

RECEIVED  
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 CITY CLERK  
 AD, JUNE 1, 2004

**NEW BUSINESS**

- 12. Consider the option for a restructured CalPERS pension contribution rate for FY 04-05 for the City Safety Plan.
  - Motion authorizing the City Manager to implement Council's direction regarding a reduced CalPERS Safety contribution rate.

*Personnel; Robin Renwick, 577-5400, [rrenwick@modestogov.com](mailto:rrenwick@modestogov.com)*

**ACTION:** By Motion (Jackman/Dunbar; unan.; O'Bryant, absent) approved staff's recommendation to not apply for the reduced contribution option.

**MATTERS TOO LATE FOR THE AGENDA**

None.

**ADJOURNMENT**

This meeting was adjourned at 6:12 p.m. to the following closed sessions.

**CLOSED SESSION**

**CONFERENCE WITH LABOR NEGOTIATOR:**  
(Pursuant to Section 54957.6 of the Government Code)

Agency negotiators: Jack Crist, City Manager  
Robin Renwick, Personnel Director

Employee Organization: Modesto Police Officers Association

.....  
**CONFERENCE WITH LABOR NEGOTIATOR:**  
(Pursuant to Section 54957.6 of the Government Code)

Agency Negotiators: Jack Crist, City Manager  
Robin Renwick, Personnel Director

Employee Organization: Modesto City Fire Fighters Association  
.....

*There was no reportable action taken at the above closed Session Items.*

**THIS IS TO CERTIFY THAT THIS IS A TRUE COPY OF THE DOCUMENT ON FILE WITH THIS OFFICE**

DATE 7/12/05

This meeting was adjourned at 8:00 p.m.

Jean Zahr  
SIGNATURE

CITY CLERK

CITY OF MODESTO, CA

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk



# MODESTO CITY COUNCIL

[www.modestogov.com](http://www.modestogov.com)

## MINUTES

City of Modesto

### City Council Meeting

Chambers, Basement Level  
Tenth Street Place, 1010 10th Street  
Modesto, California

Tuesday, June 22, 2004, at 5:30 p.m.

Roll Call – Present: Councilmembers Dunbar, Hawn, Jackman, Keating, Marsh, O’Bryant,  
Mayor Ridenour

Pledge of Allegiance to the Flag

Invocation: Ross Briles—Sherwood Bible Church

City Clerk’s Announcements Item 7 removed from Consent  
Item 29 removed from the agenda

Declaration of Conflicts of Interest – Item 10 – Hawn  
Item 13 and 23 Claus Neighborhood Park – Marsh

## ACKNOWLEDGEMENTS AND PRESENTATIONS

1. Introduction of Pam Marquez, Senior Civil Engineer in Capital Improvement Services -  
Construction Administration.

**ACTION:** Introduction made by Peter Cowles.

## MISCELLANEOUS

### Appointments

2. Consider appointing Sam Pierstorff as the Poet Laureate of the City of Modesto for a two-year term from July 1, 2004 to June 30, 2006.
  - Resolution appointing Sam Pierstorff as the Poet Laureate of the City of Modesto for a two-year term from July 1, 2004 to June 30, 2006 recommended.  
*Parks, Recreation & Neighborhoods; Bob Quintella; 577-6444, [bquintella@modestogov.com](mailto:bquintella@modestogov.com)*

**ACTION: Resolution 2004-304** (Keating/Jackman; unan.) appointing Sam Pierstorff as the Poet Laureate of the City of Modesto for a two-year term from July 1, 2004 to June 30, 2006

3. Consider accepting with regret the resignation of Ed Lopes from the Equal Opportunity/Disability Commission.
  - Resolution accepting with regret the resignation of Ed Lopes from the Equal Opportunity/Disability Commission recommended.  
*City Manager's Office; Esther Puckett; 571-5101, [epuckett@modestogov.com](mailto:epuckett@modestogov.com)*

**ACTION: Resolution 2004-305** (Jackmna/Hawn; unan.) accepting with regret the resignation of Ed Lopes from the Equal Opportunity/Disability Commission.

## ORAL COMMUNICATIONS

### Three minute time limit per speaker

- Robert Ferrace spoke regarding Desarallo Latino Americano.
- Jeremiah Williams invited the Council to a Celebration of Dads on June 26 at Marshall Park sponsored by the Weed and Seed Coalition.

**CONSENT ITEMS – ROLL CALL VOTE REQUIRED:** Items 4 through 20

**ACTION Consent 4- 6, 8, 9, 11, 12, 14- 20: Jackman/O'Bryant; unan.**

**ACTION Item 7: Jackman/Keating; unan.**

**ACTION Item 10: Keating/Jackman; unan. Hawn, absent due to Conflict of Interest**

**ACTION Item 13: Keating/Jackman; unan. Marsh, absent due to Conflict of Interest**

## CONSENT ITEMS

**An item may be removed from consent and discussed at the request of an audience member or Councilmember.**

### CONSENT

4. Consider approval of the minutes of the regular City Council meeting of June 8, 2004. (Motion approving recommended.)  
*Clerk; Rebecca Bartholomew, 577-5397, [rbartholomew@modestogov.com](mailto:rbartholomew@modestogov.com)*

**ACTION:** By Motion (Jackman/O'Bryant; unan.) approved the minutes of June 8, 2004.

### CONSENT

5. Consider amending the contract with Maze & Associates for performance of the City's annual financial audits. The amendment allows the firm to be paid for an unanticipated additional federal program audit in the 2003 Single Audit; for audits of two additional Community Facilities Districts, and two additional federal programs as part of the Single Audit, for 2004 and 2005. Additional cost for 2003 is \$5,155, for 2004 is \$17,126, and for 2005 is \$17,656. Contract provisions call for compensation adjustments for additional work. Approval authorizes the City Manager to execute the amendment.
  - Adopt a resolution approving an amendment to the contract for audit services with Maze and Associates at additional cost not to exceed \$5,155 for 2003, \$17,126 for 2004, and \$17,656 for 2005, for additional services, and authorizing the City Manager to execute the amendment.  
*City Clerk & Auditor; Gary Nienhuis; 571-5544; [gnienhuis@modestogov.com](mailto:gnienhuis@modestogov.com)*

**ACTION: Resolution 2004-306** (Jackman/O'Bryant; unan.) approving an amendment to the contract for audit services with Maze and Associates at additional cost not to exceed \$5,155 for 2003, \$17,126 for 2004, and \$17,656 for 2005, for additional services, and authorizing the City Manager to execute the amendment.

### CONSENT

6. Consider adopting a resolution amending the City's Policies and Procedures for Formation, Annexation, and Administration of Community Facilities Districts Created Pursuant to the Provisions of the Mello Roos Community Facilities Act of 1982.
  - Resolution amending the City's Policies and Procedures for Formation, Annexation, and Administration of Community Facilities Districts Created Pursuant to the Provisions of the Mello Roos Community Facilities Act of 1982 recommended.  
*City Manager—CFD; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Resolution 2004-307** (Jackman/O'Bryant; unan) amending the City's Policies and Procedures for Formation, Annexation, and Administration of Community Facilities Districts Created Pursuant to the Provisions of the Mello Roos Community Facilities Act of 1982

Removed from Consent

7. Consider adopting a resolution approving the contract amendment for Micahlynn Rivera, Web Consultant for Community & Economic Development, in an amount not to exceed \$50,000, and authorizing the City Manager to execute said amendment.
- Resolution approving the contract amendment for Micahlynn Rivera, Web Consultant for Community & Economic Development, in an amount not to exceed \$50,000, and authorizing the City Manager to execute said amendment recommended.

*Community & Economic Development; Laurie Smith, 577-5347, [lsmith@modestogov.com](mailto:lsmith@modestogov.com)*

**ACTION: Resolution 2004-308** (Jackman/Keating; unan) approving the contract amendment for Micahlynn Rivera, Web Consultant for Community & Economic Development, in an amount not to exceed \$50,000, and authorizing the City Manager to execute said amendment

#### CONSENT

8. Consider rejecting the sole bid of \$944,176 from George Reed, Inc., for the project titled "Extend Corporate and Reconstruct Transient Aircraft Aprons," and authorizing staff to re-advertise the project at a future date.
- Resolution rejecting the sole bid of \$944,176 from George Reed, Inc., for the project titled "Extend Corporate and Reconstruct Transient Aircraft Aprons," and authorizing staff to re-advertise the project at a future date.

*Engineering & Transportation; Dean Phillips, 577-5215, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Resolution 2004-309** (Jackman/O'Bryant; unan.) rejecting the sole bid of \$944,176 from George Reed, Inc., for the project titled "Extend Corporate and Reconstruct Transient Aircraft Aprons," and authorizing staff to re-advertise the project at a future date.

#### CONSENT

9. Consider accepting the work by George Reed, Inc., for the "Runway 10L-28R Pavement Improvements and Runway Light Fixture Replacement" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$1,009,102.05 per the contract. Total project cost is \$1,217,681.02.
- Resolution accepting the work by George Reed, Inc., for the "Runway 10L-28R Pavement Improvements and Runway Light Fixture Replacement" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$1,009,102.05 per the contract recommended.

*Engineering & Transportation; Michael Musca, 577-5318, [mmusca@modestogov.com](mailto:mmusca@modestogov.com)*

**ACTION: Resolution 2004-310** (Jackman/O'Bryant; unan.) accepting the work by George Reed, Inc., for the "Runway 10L-28R Pavement Improvements and Runway Light Fixture Replacement" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$1,009,102.05 per the contract

*Councilmember Hawn absent due to Conflict of Interest*

10. Consider a resolution awarding the bid and approving a \$246,900 contract with Collins Electrical Company, Inc., for the project titled "Centre Plaza Lighting Controls," and authorizing the City Manager to execute the contract. Total estimated cost of this project is \$294,342.

- A resolution awarding the bid and approving a \$246,900 contract with Collins Electrical Company, Inc., for the project titled "Centre Plaza Lighting Controls," and authorizing the City Manager to execute the contract recommended.

*Engineering & Transportation; Dean Phillips, 577-5215, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Resolution 2004-311** (Jackman/Keating; unan. Hawn absent) awarding the bid and approving a \$246,900 contract with Collins Electrical Company, Inc., for the project titled "Centre Plaza Lighting Controls," and authorizing the City Manager to execute the contract

CONSENT

11. Consider awarding the bid and approving a \$107,651.00 contract with Kroeker, Inc., for the project titled "Demolition of Buildings on 8<sup>th</sup> Street" for the new bus maintenance facility, waiving a minor bid irregularity and authorizing the City Manager to execute the contract. Total estimated cost of this demolition project is \$131,334.22.

- A resolution awarding the bid and approving a \$107,651.00 contract with Kroeker, Inc., for the project titled "Demolition of Buildings on 8<sup>th</sup> Street" for the new bus maintenance facility, waiving a minor bid irregularity and authorizing the City Manager to execute the contract recommended.

*Engineering & Transportation; Dean Phillips, 577-5215, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Resolution 2004-312** (Jackman/O'Bryant; unan) awarding the bid and approving a \$107,651.00 contract with Kroeker, Inc., for the project titled "Demolition of Buildings on 8<sup>th</sup> Street" for the new bus maintenance facility, waiving a minor bid irregularity and authorizing the City Manager to execute the contract

CONSENT

12. Consider awarding the bid and approving a \$249,130.00 contract with Clayborn Contracting Group, Inc., for the project titled, "Relocation of GAC Filters to Well 50," and authorizing the City Manager to execute the contract. Total estimated project cost is \$298,956.00.

- Resolution awarding the bid and approving a \$249,130.00 contract with Clayborn Contracting Group, Inc., for the project titled, "Relocation of GAC Filters to Well 50," and authorizing the City Manager to execute the contract. Total estimated project cost is \$298,956.00.
- Resolution amending the FY 2003-2004 Capital Improvement budget to:
  - 1) Reduce project account number 6100-430-A03, Wellhead Treatment Zone 1, by \$14,812 and return \$14,812.00 to the Water Fund Reserves; and
  - 2) Reappropriate \$14,812 moved to the Water Fund Reserves to project account number 6100-480-Q211, Acquire Property/Install GAC at Well 50, thereby fully funding the project titled "Relocation of GAC Filters to Well 50."

*Engineering & Transportation; Dean Phillips, 577-5260, [dphillips@modestogov.com](mailto:dphillips@modestogov.com)*

**ACTION: Resolution 2004-313** (Jackman/O'Bryant; unan) awarding the bid and approving a \$249,130.00 contract with Clayborn Contracting Group, Inc., for the project titled, "Relocation of GAC Filters to Well 50," and authorizing the City Manager to execute the contract

**ACTION: Resolution 2004-314** (Jackman/O'Bryant; unan) amending the FY 2003-2004 Capital Improvement budget to:

- 1) Reduce project account number 6100-430-A03, Wellhead Treatment Zone 1, by \$14,812 and return \$14,812.00 to the Water Fund Reserves; and
- 2) Reappropriate \$14,812 moved to the Water Fund Reserves to project account number 6100-480-Q211, Acquire Property/Install GAC at Well 50, thereby fully funding the project titled "Relocation of GAC Filters to Well 50."

*Councilmember Marsh absent due to Conflict of Interest*

13. Consider accepting the work by Clyde Wheeler Pipeline, Inc., for the "Hillglen Avenue Storm Drain" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$339,277.50 per the contract. Total project cost is \$496,871.71.

- Resolution accepting the work by Clyde Wheeler Pipeline, Inc., for the "Hillglen Avenue Storm Drain" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$339,277.50 per the contract.

*Engineering & Transportation; Kris Ohlson, 577-5423, [kohlson@modestogov.com](mailto:kohlson@modestogov.com)*

**ACTION: Resolution 2004-315** (Jackman/Keating; unan. Marsh absent) accepting the work by Clyde Wheeler Pipeline, Inc., for the "Hillglen Avenue Storm Drain" project as complete, authorizing the City Clerk to file a Notice of Completion, and authorizing payment of amounts due totaling \$339,277.50 per the contract.

CONSENT

14. Consider (1) approving a one-year agreement, effective July 1, 2004, with the United Pentecostal Church of Modesto Revival Center to provide 75 general-public carpool parking spaces at a cost of \$1,125 per quarter year, and (2) authorizing staff to negotiate lease agreements for park and ride lots to be used exclusively by patrons of the Modesto Area Express (MAX) commuter express routes to the Pleasanton BART station and the Manteca ACE train station, to be paid for out of the countywide apportionment of Local Transportation Fund (LTF) funds

- Resolution approving a one-year agreement, effective July 1, 2004, with the United Pentecostal Church of Modesto Revival Center, 825 7<sup>th</sup> Street, to provide 75 general-public carpool parking spaces at a cost of \$1,125 per quarter year to be paid for out of the countywide apportionment of Local Transportation Fund (LTF) funds.
- Resolution authorizing staff to negotiate lease agreements for park and ride lots to be used exclusively by patrons of the Modesto Area Express (MAX) commuter express routes to the Pleasanton BART station and the Manteca ACE train station, to be paid for out of the countywide apportionment of Local Transportation Fund (LTF) funds.

*Engineering & Transportation; Fred Cavanah, 577-5295, fcavanah@modestogov.com*

**ACTION: Resolution 2004-315A** (Jackman/O'Bryant; unan.) approving a one-year agreement, effective July 1, 2004, with the United Pentecostal Church of Modesto Revival Center, 825 7<sup>th</sup> Street, to provide 75 general-public carpool parking spaces at a cost of \$1,125 per quarter year to be paid for out of the countywide apportionment of Local Transportation Fund (LTF) funds.

**ACTION: Resolution 2004-315B** (Jackman/O'Bryant; unan) authorizing staff to negotiate lease agreements for park and ride lots to be used exclusively by patrons of the Modesto Area Express (MAX) commuter express routes to the Pleasanton BART station and the Manteca ACE train station, to be paid for out of the countywide apportionment of Local Transportation Fund (LTF) funds

CONSENT

15. Consider the Monthly Budget Adjustment Report.
- Resolution approving FY04 budget adjustments for June 2004 recommended.
- Finance; Jack Crist, 577-5224, jcrist@modestogov.com*

**ACTION: Resolution 2004-316** (Jackman/O'Bryant; unan) approving FY04 budget adjustments for June 2004

CONSENT

16. Authorize the Risk Manager to bind excess workers' compensation insurance coverage in the amount of \$244,127 as presented by the City's Broker of Record and authorizing the City Manager to execute the renewal agreement.

- Resolution authorizing the Risk Manager to bind excess workers' compensation insurance coverage in the amount of \$244,127 as presented by the City's Broker of Record and authorizing the City Manager to execute the renewal agreement.

*Personnel-Risk Management; Mary Akin, 577-5251, [makin@modestogov.com](mailto:makin@modestogov.com)*

**ACTION: Resolution 2004-317** (Jackman/O'Bryant; unan.) authorizing the Risk Manager to bind excess workers' compensation insurance coverage in the amount of \$244,127 as presented by the City's Broker of Record and authorizing the City Manager to execute the renewal agreement

CONSENT

17. Consider authorizing the Risk Manager to bind Property and Boiler & Machinery insurance in the amount of \$216,754 for City of Modesto owned and operated properties and authorizing the City Manager to execute the renewal agreement for the insurance.

- A resolution authorizing the Risk Manager to bind Property and Boiler & Machinery insurance in the amount of \$216,754 for City of Modesto owned and operated properties and authorizing the City Manager to execute the renewal agreement for the insurance recommended.

*Personnel-Risk Management; Mary Akin, 577-5251, [makin@modestogov.com](mailto:makin@modestogov.com)*

**ACTION: Resolution 2004-318** (Jackman/O'Bryant; unan.) authorizing the Risk Manager to bind Property and Boiler & Machinery insurance in the amount of \$216,754 for City of Modesto owned and operated properties and authorizing the City Manager to execute the renewal agreement for the insurance.

CONSENT

18. Consider approving the request from the West Modesto King Kennedy Neighborhood Collaborative for a total of \$175,000 in CDBG funds for a new "Collaborative Neighborhood Center Headquarters" at Mellis Park, and authorizing staff to negotiate a lease agreement.

- Resolution approving the request from the West Modesto King Kennedy Neighborhood Collaborative for a total of \$175,000 in CDBG funds for a new "Collaborative Neighborhood Center Headquarters" at Mellis Park, and authorizing staff to negotiate a lease agreement recommended.

*Parks, Recreation & Neighborhoods; Julie Hannon; 577-5417; [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Resolution 2004-319** (Jackman/O'Bryant; unan.) approving the request from the West Modesto King Kennedy Neighborhood Collaborative for a total of \$175,000 in CDBG funds for a new "Collaborative Neighborhood Center Headquarters" at Mellis Park, and authorizing staff to negotiate a lease agreement.

CONSENT

19. Consider approving a third amendment to agreement with Modesto Sister Cities International to decrease funding by 10% and authorize the City Manager to execute the agreement.

- Resolution approving a third amendment to agreement with Modesto Sister Cities International to decrease funding by 10% and authorize the City Manager to execute the agreement.

*Parks, Recreation & Neighborhoods; Debbie Conder; 577-5391; [dconder@modestogov.com](mailto:dconder@modestogov.com)*

**ACTION: Resolution 2004-320** (Jackman/O'Bryant; unan) approving a third amendment to agreement with Modesto Sister Cities International to decrease funding by 10% and authorize the City Manager to execute the agreement.

CONSENT

20. Consider approving a three-year renewal agreement with Community Reinvestment Fund, Inc. for loan servicing of existing and future loans and authorizing the City Manager to execute the agreement.

- Resolution approving a three-year renewal agreement with Community Reinvestment Fund, Inc. for loan servicing of existing and future loans and authorizing the City Manager to execute the agreement.

*Parks, Recreation & Neighborhoods; Julie Hannon; 577-5417; [jhannon@modestogov.com](mailto:jhannon@modestogov.com)*

**ACTION: Resolution 2004-321** (Jackman/O'Bryant; unan) approving a three-year renewal agreement with Community Reinvestment Fund, Inc. for loan servicing of existing and future loans and authorizing the City Manager to execute the agreement

## COUNCIL COMMENTS & REPORTS

None

## WRITTEN COMMUNICATIONS

21. Letter from George Petrulakis regarding a request to process Claribel/Oakdale Neighborhood for placement on November 2, 2004 Election.

**ACTION:** By motion (O'Bryant/Hawn; majority Jackman and Dunbar no) directed staff to proceed with preparing necessary documents for a ballot measure and referred the matter to the Economic Development Committee meeting scheduled for July 12, 2004.

22. Letter from Dennis Wilson regarding a request for support for a County General Plan and Re-Zone request on Carpenter Road near Paradise.

**ACTION:** By motion (Dunbar/Keating; majority O'Bryant no.) this item was referred to the August Economic Development Committee.

### UNFINISHED BUSINESS

23. Consider adopting the City's Fiscal Year 2004-2005 Operating Budget and Interim Capital Improvement Program budgets.
- Adoption of an ordinance adopting the City's Fiscal Year 2004-2005 Operating Budget and Interim Capital Improvement Program Budgets.

*Finance; Jack Crist, 577-5224, [jcrist@modestogov.com](mailto:jcrist@modestogov.com)*

**ACTION:** By Motion (Hawn/Keating; unan.) **adopted Ordinance No. 3351-C.S.**—adopting the City's Fiscal Year 2004-2005 Operating Budget and Interim Capital Improvement Program Budgets.

**Resolution 2004-322** Hawn/Keating; unan. establishing the calculation for the appropriation limit for the fiscal year 2004-2005 annual budget.

By motion Hawn/Jackman; unan. Marsh absent due to conflict of interest approved the funding for Claus Neighborhood Park.

### HEARINGS

*The following item was continued from the May 25, 2004 Council meeting*

24. Hearing to consider the application of Signature Theatres, to rezone from Highway Commercial, C-3, to Planned Development Zone, P-D(566), to allow expansion of an existing movie theater, property located at 3969 McHenry Avenue.

- Introduction of an ordinance rezoning from C-3 to P-D(566) recommended.
- Resolution approving a development plan for P-D(566) recommended.
- Resolution finding the requested rezoning within the scope of the General Plan Master Environmental Impact Report recommended.

*Community & Economic Development; Brad Wall, 577-5282, [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION:** By Motion (Jackman/Dunbar; unan.) **introduced Ordinance No. 3352-C.S.** rezoning from C-3 to P-D(566)

**ACTION:** **Resolution 2004-323** (Jackman/Dunbar; unan.) approving a development plan for P-D(566) with the condition that at the time McHenry Avenue is widened, the developer shall physically modify the project site to provide a minimum eight-foot-net landscaped setback for all parking areas along McHenry Avenue

**ACTION: Resolution 2004-324** (Jackman/Dunbar; unan.) finding the requested rezoning within the scope of the General Plan Master Environmental Impact Report

Recess 7:00

Reconvene 7:12

25. Hearing to consider the appeal of Anthony Langford to a decision by the Planning Commission approving the Vesting Tentative Subdivision Map of Papillon Park, property located along the west side of Ramsgate Drive at Harvest Road.

- Resolution denying the appeal of Anthony Langford to a decision by the Planning Commission approving the Vesting Tentative Subdivision Map of Papillon Park, property located along the west side of Ramsgate Drive at Harvest Road recommended.

*Community & Economic Development; Brad Wall, 577-5282, [bwall@modestogov.com](mailto:bwall@modestogov.com)*

**ACTION: Resolution 2004-325** (Jackman/Marsh; unan.) denying the appeal of Anthony Langford to a decision by the Planning Commission approving the Vesting Tentative Subdivision Map of Papillon Park, property located along the west side of Ramsgate Drive at Harvest Road.

26. Hearing to consider the adoption of resolutions (1) calling a special election within the additional territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) (Annexation No. 2) and (2) canvassing the results of the special election and ordering annexation of the additional territory to Community Facilities District No. 2004-1.

- Resolution calling a special election within the additional territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) (Annexation No. 2)
- Resolution canvassing the results of the special election and ordering annexation of the additional territory to Community Facilities District No. 2004-1.

*City Manager; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Resolution 2004-326** (Jackman/Hawn; unan.) calling a special election within the additional territory proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2) (Annexation No. 2)

**ACTION: Resolution 2004-327** (Jackman/Hawn; unan.) canvassing the results of the special election and ordering annexation of the additional territory to Community Facilities District No. 2004-1.

27. Hearing to Consider the Application of Del Valle Capital Corporation for a Third Amendment to the Development Agreement for the Galas Brothers Vesting Tentative Subdivision Map to Allow Assignment of Rights, Entitlements, Duties, and Obligations to Third Party Developers.

- Motion introducing an ordinance approving the Third Amendment to the Development Agreement with Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas, and Del Valle Capital Corporation Inc., relating to allowing the assignment of rights, entitlements, duties, and obligations to third party developers recommended.

*Community & Economic Development; George Osner, 577-5273, [gosner@modestogov.com](mailto:gosner@modestogov.com)*

**ACTION:** By Motion (Jackman/Keating; unan.) **introduced Ordinance No. 3353-C.S.** approving the Third Amendment to the Development Agreement with Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas, and Del Valle Capital Corporation Inc., relating to allowing the assignment of rights, entitlements, duties, and obligations to third party developers

### NEW BUSINESS

28. Consider authorizing the District Administrator to execute an Acquisition and Shortfall Agreement with Del Valle Homes with a maximum reimbursement amount of \$1,055,136.05; authorizing the District Administrator to execute an Acquisition and Shortfall Agreement with Del Valle Homes with a maximum reimbursement amount of \$8,732,972.72; authorizing the sale and issuance of special tax bonds on behalf of City of Modesto CFD No. 2003-1 (Fairview Village), approving documents relating thereto and authorizing and directing certain related actions.

- Resolution authorizing the District Administrator to execute an Acquisition and Shortfall Agreement with Del Valle Homes with a maximum reimbursement amount of \$1,055,136.05;
- Resolution authorizing the District Administrator to execute an Acquisition and Shortfall Agreement with Del Valle Homes with a maximum reimbursement amount of \$8,732,972.72;
- Resolution authorizing the sale and issuance of special tax bonds to a maximum amount of \$25,000,000 on behalf of City of Modesto CFD No. 2003-1 (Fairview Village), approving documents relating thereto and authorizing and directing certain related actions.

*City Manager; Tina Rocha, 577-5211, [trocha@modestogov.com](mailto:trocha@modestogov.com)*

**ACTION: Resolution 2004-328** (Hawn/Keating; unan.) authorizing the District Administrator to execute an Acquisition and Shortfall Agreement with Del Valle Homes with a maximum reimbursement amount of \$1,055,136.05;

**ACTION: Resolution 2004-329** (Hawn/Keating; unan.) authorizing the District Administrator to execute an Acquisition and Shortfall Agreement with Del Valle Homes with a maximum reimbursement amount of \$8,732,972.72;

**ACTION: Resolution 2004-330** (Hawn/Keating; unan.) authorizing the sale and issuance of special tax bonds to a maximum amount of \$25,000,000 on behalf of City of Modesto CFD No. 2003-1 (Fairview Village), approving documents relating thereto and authorizing and directing certain related actions.

Removed from the agenda.

29. Consider severance benefits for laid off employees.

- Resolution authorizing severance pay, health contributions and interview leave for employees subject to an authorized reduction in force, and providing for salary Y-rating for employees demoting in lieu of layoff.

*Personnel; Robin Renwick, 577-5402, [rrenwick@modestogo.vom](mailto:rrenwick@modestogo.vom)*

### MATTERS TOO LATE FOR THE AGENDA

None.

NO DOCUMENT IS A TRUE COPY OF THE DOCUMENT ON FILE WITH THE OFFICE

### ADJOURNMENT

This meeting adjourned at 7:52 p.m. to the following Closed Sessions:

CONFERENCE WITH LABOR NEGOTIATOR

### CLOSED SESSION

*This item heard prior to the Council*

### CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Section 54957.6 of the Government Code)

Agency Negotiators:

Jack R. Crist, City Manager  
Robin Renwick, Personnel Director

Employee Organization:

Modesto Confidential and Management Associations  
(MCMA)

*The following two items were heard after the Council meeting.*

### CONFERENCE WITH LABOR NEGOTIATOR

(Pursuant to Section 54957.6 of the Government Code)

Agency Negotiators:

Jack R. Crist, City Manager  
Robin Renwick, Personnel Director

Employee Organization:

Modesto Police Officers Associations  
(MPOA)

*No reportable action was taken.*

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**CONFERENCE WITH LABOR NEGOTIATOR**

(Pursuant to Section 54957.6 of the Government Code)

Agency Negotiators:

Jack R. Crist, City Manager  
Robin Renwick, Personnel Director

Employee Organization:

Modesto City Fire Fighters Associations  
(MCFFA)

*No reportable action was taken.*

Attest: Jean Zahr  
Jean Zahr, City Clerk

**THIS IS TO CERTIFY THAT THIS  
IS A TRUE COPY OF THE DOCUMENT ON  
FILE WITH THIS OFFICE.  
DATE 7/12/05**

Jean Zahr  
**SIGNATURE  
CITY CLERK  
CITY OF MODESTO, CA**

## CITY OF MODESTO

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### **POLICIES & PROCEDURES FOR THE FORMATION, ANNEXATION, AND ADMINISTRATION OF COMMUNITY FACILITIES DISTRICTS CREATED PURSUANT TO THE PROVISIONS OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

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*Adopted - September 3, 1996 (Resolution No. 96-501)*

*Amended - October 8, 1996 (Resolution No. 96-545)*

*Amended - March 24, 1998 (Resolution No. 98-164)*

*Amended - April 7, 1998 (Resolution No. 98-186)*

*Amended - June 2, 1998 (Resolution No. 98-301)*

*Amended - September 8, 1998 (Resolution No. 98-483)*

*Amended - August 10, 1999 (Resolution No. 99-405)*

*Amended - October 12, 1999 (Resolution No. 99-500)*

*Amended - January 22, 2002 (Resolution No. 2002-39)*

## CITY OF MODESTO

### POLICIES & PROCEDURES FOR THE FORMATION, ANNEXATION AND ADMINISTRATION OF COMMUNITY FACILITIES DISTRICTS CREATED PURSUANT TO THE PROVISIONS OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

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#### 1. Introduction.

The following policies and procedures (“Policies and Procedures”) for the use of the Mello-Roos Community Facilities Act of 1982 (the “Act”) are established pursuant to Government Code Section 53312.7. These Policies and Procedures describe the application, formation, annexation, appropriate uses for and administration of any Community Facilities District (“CFD”) used to finance facilities or for the provision of allowable services.

The City of Modesto (the “City”) will consider developer or property-owner initiated applications requesting the formation of a CFD, and the possible issuance of bonds or the generation of revenues to finance eligible public facilities necessary to serve residential, commercial and/or industrial projects. The City may also establish CFDs which are initiated by the City. Priority in using CFD funding will be given to capital projects that are regional in nature and have the broadest possible benefit to the land uses included in the CFD. While it is the City’s intent to use the Act to provide for the financing of City-owned and operated infrastructure and services, projects of a regional nature may include facilities to be owned and operated by other public agencies. In any event, only regional or community serving public facilities which directly benefit the CFD, and the provision of services (if applicable) may be eligible for CFD funding.

The City shall make the final determination as to whether or not a proposed CFD shall proceed under the provisions of the Act. The City may confer with the applicant and its consultants to learn of any unique district requirements, such as regional-serving facilities or long term development phasing prior to making any such final determination.

The Act may be used for the purchase, construction, expansion, rehabilitation, or acquisition of public improvements, or the provision of public services subject to the provisions of these Policies and Procedures and any subsequent amendments thereto, to the fullest extent permitted by the Act. The City shall use the Act to provide for the financing of City-owned and operated infrastructure and services, except as noted above.

The City will make the final determination whether or not the CFD will be a construction or acquisition district. All City and consultant costs incurred in the evaluation of CFD applications and the creation of CFDs must be paid in advance by the applicants in those instances where a CFD is initiated by a party or parties other than the City. However, the City may incur expenses for analyzing proposed districts where the City is the principal proponent of the CFD formation for financing of the CFD.

Expenses not legally reimbursable by the district shall be borne by the applicant. Both City

costs and district consultant costs may be funded from bond proceeds.

For the purposes of reviewing activities undertaken pursuant to these Policies and Procedures, and to review proposed Mello-Roos financing, all relevant matters shall be referred to the Financial Policy Committee of the City Council.

2. Definitions.

- a. Acquisition District. A CFD formed to finance the acquisition of infrastructure or public facilities where the applicant will be reimbursed for eligible construction related costs by means of tax credits or otherwise.
- b. Amendment. A change, in any manner, to an adopted Public Report.
- c. Annexation. The addition of real property into a CFD which has already been formed, and for which a Public Report has already been prepared and adopted. "Annexation" in this context does not mean a change in organization as described in the Cortese-Knox Act of 1985 (Sections 56000 et seq., Division 3 of the Government Code).
- d. Applicant. Developer or landowner who initiates formation/annexation of a CFD.
- e. Bonds. Bonds authorized and issued under the Mello-Roos Community Facilities Act of 1982.
- f. Bond Counsel. Outside counsel retained by the City to assure compliance with applicable federal and State tax and other laws and regulations relating to public financing.
- g. Bond Underwriter. The investment banker(s) retained by the City to design, develop and execute the sale of bonds in the market place.
- h. Certificate of Completion: A written document provided to a facility provider by the District Engineer stating that the facility is complete and in good working order, and that the requirements of the facility acquisition agreement have been met.
- i. City. The City of Modesto.
- j. City Attorney. City Attorney of the City of Modesto.
- k. Community Facilities District (CFD). A special district formed pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 as amended, to finance specific public improvements or public services, and where properties within the CFD are levied a special tax in accordance with the rate and method of

apportionment adopted as part of the district proceedings.

- l. Conclusion of Formation. The date a tax lien, for a specific CFD, is successfully recorded by the Stanislaus County Clerk Recorder.
- m. Credit. An offset against tax owed, or cash reimbursement for tax paid, as appropriate, calculated by subtracting from the Facility Cost Estimate any non-prepaid costs or incidental costs as defined in the Mello Roos Act, Section 53317(c) and (e), by means of a cash administrative cost offset. The administrative offset may be specified in the public report.
- n. CFD. A Community Facilities District created for the purpose of financing the costs of certain public facilities and services pursuant to the provisions of Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code.
- o. CFD Team. An interdepartmental City working group consisting of a representative of the City Attorney's Office, the District Administrator and such other staff as the District Administrator may designate. Its function shall be to process CFD applications and the formation of CFDs, including elections as appropriate.
- p. District Administrator. A subgroup of the CFD Formation Group composed of a Deputy City Manager, selected by the City Manager. The District Administrator shall have the power to retain and consult with an outside consultant experienced in administering established CFDs in order to assure such administration is in accordance with City ordinances, resolutions, these Policies and Procedures as amended, and applicable law. The District Administrator shall also have the power to appoint an Acting District Administrator to serve in his or her absence.
- q. District Engineer. A California registered professional engineer employed by the City of Modesto, or a City of Modesto CFD, who is responsible for making final engineering determinations on behalf of that CFD.
- r. Facility. Any public works-type infrastructure for which tax is to be collected pursuant to the public report, which could be eligible for tax credit and is located within a CFD.
- s. Facility Cost Estimate. The facility (or facility segment) cost estimate, including contingency cost estimates relating to that facility (or segment) which are included in the tax stated directly, or by reference, in the public report, as that report may be amended or adjusted for inflation from time to time.
- t. Facility Provider: Any person or entity constructing a facility.

- u. Fair Market Value, or Value. The amount of cash or its equivalent which property would bring if exposed for sale on the open market under conditions in which neither buyer nor seller could take advantage of the exigencies of the other and both have knowledge of all of the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions upon uses and purposes.
- v. Financial Advisor. Financial consultant retained by the City to review, comment and advise on financial matters relating to CFDs.
- w. Fiscal Feasibility Report. A study performed under the direction of the City to determine the financial viability of a proposed CFD.
- x. Infrastructure and Public Facilities. Those public improvements including but not limited to major streets and arterials, highway improvements and freeways, freeway interchanges, right of way acquisitions, bridges, street lights, water, flood, sewer and drainage improvements, fire and police stations, parks, wetlands, telephone ducts, electrical conduits, libraries, transit improvements (including public parking facilities), and the provision of certain services (if applicable), that may be eligible for financing pursuant to these Policies and Procedures, and which are authorized improvements pursuant to provisions of the Mello-Roos Community Facilities Act of 1982 ("Act").
- y. In-tract Facilities. Infrastructure and public facilities which serve an individual CFD, such as local subdivision streets, local utilities and local drainage systems. Not all such infrastructure and public facilities may actually be located within the boundaries of the CFD. (Possible example: drainage system).
- z. Oversubscription. Oversubscription is the furnishing of land or facilities whose total value as set forth in the public report exceeds the total taxes attributable to a facility provider's entire development within a CFD.
- aa. Public Report. A report generally containing the following:
  - (1) A description of the public capital facilities and services proposed for the CFD.
  - (2) A general description of the area to be served by said facilities; said areas being the boundaries of the CFD.
  - (3) A cost estimate, setting forth the costs and expenses for providing the public facilities and services to the properties within the boundaries of the CFD and the costs of any incidental expenses to be

paid by the CFD.

- (4) The rate and method of apportionment of the special tax in sufficient detail to allow each landowner or resident within the proposed CFD to estimate the annual amount of payment;
  - (5) General Terms and conditions relating to the proceedings.
  - (6) All exhibits and attachments to the resolution of formation of a CFD, and documents included therein by reference.
- bb. Special Tax Consultant. A consultant retained by the City to develop the rate and method of apportionment and other special tax formulas and criteria for a Mello-Roos CFD.
- cc. Tax: Any facilities special tax specified in the public report for the CFD.
- dd. Value-to-Lien Ratio. The value of a parcel of land as determined by an MAI appraisal relative to the amount for which land secured bonds may be sold for the parcel.

### 3. Application Process.

a. Application. The applicant shall submit an application in the form attached hereto as Example "A" to the City together with a nonrefundable fee as set forth herein and amended from time to time. The fee is for the purpose of application processing, other preliminary costs, retention of appropriate consultants, and the compensation of staff time devoted to the formation of the CFD.

b. Project Review. Applicant and the CFD Formation Group may discuss the application including but not limited to further information that might be required and other issues as necessary. If necessary, the applicant may be required to submit a revised application. Once the application is accepted by the CFD Formation Group, it may be reviewed by City Finance personnel or City consultants to determine the adequacy of the proposed financing. CFD Formation Group may also forward the application to the City's engineering staff for determination that the application package is in fact both complete and practicable. Applicant and the CFD Formation Group may also conduct a face to face meeting between the applicant and the CFD Formation Group to "scope" the consultant work necessary to the formation of the CFD. However, the final authority to approve the scope of the consultant work to be performed in connection with the formation of any CFD and for the compensation of such services shall be solely within the authority of the CFD Formation Group.

c. Project Initiation. The application is accepted by the CFD Formation Group and the CFD Formation Group receives contracts, reimbursement agreements, bond documents and other pertinent items for consideration by the City Council, as required.

d. Costs Incurred By The City Prior To Formation. All costs incurred by the City prior to formation of the CFD, including but not limited to consultant costs (e.g. legal counsel, engineer firms, appraisers, special tax consultants, financial advisors), City staff and administrative costs and related expenses, cost of providing notices, printing and publication costs, and all expenses directly or indirectly relating to these items, shall be reimbursed to the City by the applicant prior to the completion of formation. The CFD Formation Group shall utilize timekeeping computer software, as such may be updated from time to time, to track billable hours in 1/10 hour increments attributable to CFD formation, amendment, annexation or other modification, and CFD administration. The timekeeping process will be used both to audit time spent as appropriate, and to generate bills to applicants for formation costs. Such bills shall also contain, in so far as practicable, costs or estimates of costs incurred by CFD group members in connection with CFD formation and/or CFD administration.

From time to time the CFD Formation Group will review and re-evaluate the City's fee/deposit requirements in light of the cost results of recent CFD formations for the purpose of recommending modifications of excessively high or low fee/deposit charges as required. The initial such review shall occur in September, 1998.

e. Costs Incurred Prior To Bond Closing. If a CFD is formed, and if bonds are issued, the City may direct that all of its costs of formation be reimbursed from bond proceeds.

f. Costs Incurred By The City Subsequent To Formation. All City administrative and consultant costs, including those of the District Administrator, related to administration of a CFD and incurred after formation shall be included within the special tax formula in accordance with applicable provisions of law.

g. Formation Reimbursement To Applicant.

(1) Where CFD is Not Formed, or where CFD is Formed and Bonds are Not Issued. In the event that the CFD is not formed due to City disapproval or abandonment, or due to applicant abandonment, or due to nonpayment of any reimbursable fee, or the CFD is formed and bonds are not issued for any reason, the City will refund to the applicant any remaining unexpended and unobligated portion of advance deposits posted with the City, subject to the City's prior and full reimbursement of all of its direct and indirect costs. In the event that the applicant's advance deposit to the City is not sufficient to reimburse the City for all of its direct and indirect costs, the City will require an additional deposit by the applicant for the difference. The City shall be entitled to pay any refund to the applicant listed on the application form without interest, irrespective of any changes in the ownership or compensation of the applicant.

(2) Where CFD is Formed and Bonds are Issued. If the CFD is formed and bonds are issued, bond proceeds shall be used to defray all approved costs and expenses incident to the proceedings in construction of the public facilities, subject to approval of the CFD Formation Group in conjunction with Bond Counsel, and subject to any applicable restrictions contained in the Act as amended. With respect to applicant paid consultant costs, reimbursement shall be limited to

those CFD-related consultant's hired by the City or those hired by the applicant and expressly approved by the City in writing. Eligibility for reimbursement of any otherwise-eligible expense is conditioned upon the applicant providing paid invoices therefor to the City, and the CFD Formation Group's approval thereof. The applicant shall not be entitled to reimbursement from bond proceeds for any of the following reasons: interest expense incurred by the applicant during the planning or design of construction (subject to exception for construction-related interest expense, set forth below) of the public improvements and any other costs and expenses incurred by the applicant which are not legally authorized for reimbursement, or as to which Bond Counsel has declined approval for reimbursement.

(3) Pursuant to Government Code Section 53314.9, the City Council may enter into an agreement, by resolution, with a person or entity advancing funds or work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating a CFD, without interest, under all of the following conditions:

a. The reimbursement proposal is included in the resolution of intention to establish the CFD and in the resolution of formation to establish the CFD, or in the resolution of consideration adopted pursuant to Government Code Section 53334.

b. The proposed special tax or change in a special tax is approved by the qualified electors of the CFD, or in the event that the electors do not approve the proposed special tax or change in a special tax, the City shall return any funds which have not been committed for any authorized purpose at the time of the election.

c. Any work-in-kind accepted pursuant to this paragraph shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority of, the City.

d. Any reimbursement agreement entered into pursuant to this paragraph and Government Code Section 53314.9, shall not constitute a debt or liability of the City or of the District.

The reimbursement procedure specified in Government Code Section 53314.9 and incorporated in this paragraph may be utilized both in the case where the requesting person or entity owns all of the land within a proposed CFD, and in the case in which the requesting person or entity owns less than all of the land within the proposed CFD. In the later event, consideration will be given to setting forth two (2) or more tax districts within the CFD in order to facilitate reimbursement of the person or entity which paid more than its pro-rata share of the formation costs from the proceeds of one time special facilities taxes paid by landowners in the tax district or districts that does/do not include the land owned by the person or entity that paid more than its prorata share of the CFD formation costs.

(4) Where CFD is Formed and Bonds are Not Issued. With respect to advance formation fees pursuant to Paragraph 3.u. of these Policies and Procedures, any portion of such fee/deposit not paid out or obligated for the direct or indirect costs of CFD formation by the CFD

Formation Group, may be further obligated by the CFD Formation Group based on its good faith estimate of the cost, including consultant costs, and other reasonable incidental costs as defined in the Act that may be incurred in the administration of the CFD during the period of time following its formation but prior to the City's receipt of sufficient annual maintenance special taxes to provide for appropriate administration of the CFD. The remaining fee/deposit not paid out or obligated for the direct or indirect costs of the CFD formation or administration by the CFD Formation Group shall be returned to the applicant within five (5) business days after the CFD Formation Group presents its written accounting and good faith estimate. The accounting and good faith estimate shall be prepared within thirty (30) days after the CFD is formed.

(5) "Dollar for Dollar" Credit Against One-Time Facility Tax. Where the applicant makes a timely request that CFD formation costs be included in the cost of infrastructure for the purpose of computing taxes due under the Rate and Method of Apportionment and the final tax formulas, such CFD formation costs, including the initial fee/deposit, may be recovered by crediting such formation costs against facilities special taxes which would otherwise be due from the applicant from the time when such taxes would initially be due until the subject formation costs to be credited are exhausted by facilities special taxes incurred.

g. Agreements Required. Applicant will be required to enter into all necessary agreements incident to CFD proceedings in a form provided by the City and consistent with these Policies and Procedures. These agreements may include, but not be limited to:

- (1) Funding and Reimbursement Agreement
- (2) Advance Deposit Agreement
- (3) Land Dedication Agreement (where required)
- (4) Acquisition and Disclosure Agreement
- (5) Disposition and Development Agreement (where required)
- (6) Development Agreement
- (7) Other agreements (as required)

As a condition of the issuance and sale of bonds, all of the agreements required by the City shall be duly approved and executed by the parties thereto. Prior to execution of any such agreements, the agreements shall be reviewed and approved by the City Attorney. They may also be reviewed by Bond Counsel and such other consultants as the City believes are appropriate.

h. Land Use Approvals. All projects within the proposed CFD, together with the infrastructure and public facilities, must be consistent with the City's adopted General Plan and zoning classifications. All property within the proposed CFD must possess land use determinations or zoning classifications of sufficient certainty, and facility requirements of sufficient specificity that each parcel can be adequately assessed.

i. Use of Consultants. The City shall employ any consultants necessary for the formation of a CFD, review of financing, the issuance and administration of bonds, including but not limited to underwriters and underwriter's counsel, Bond Counsel, Financial Advisor, special tax consultant, engineers, appraisers, market absorption study consultant, or any other consultant

deemed necessary by the CFD Formation Group in its judgment to complete the CFD proceedings and/or for issuance of bonds. The cost reimbursement provisions of these Policies and Procedures shall apply to all costs and expenses incurred by the CFD Formation Group in employing such consultants. An applicant may retain its own consultants for its own benefit, but must work only through those consultants hired by the City. In the event the applicant retains its own consultants, all costs associated therewith shall be borne by the applicant, without reimbursement from bond proceeds unless expressly agreed in writing by the CFD Formation Group.

j. Eligible Infrastructure and Public Facilities. Infrastructure and public facilities eligible for CFD financing are those public improvements which benefit properties within a proposed CFD and/or will mitigate impacts of that development upon areas of the City outside the proposed CFD, and which will be owned, operated and maintained by the City or another public agency expressly approved in writing by the City. Improvements which are or will be owned, operated or maintained by a private company or utility are not eligible, except for improvements to be owned by shareholder owned utility companies regulated by the California Public Utilities Commission and which comprise less than five (5%) percent of the project. In-tract facilities, exactions, or other public right of way easements and/or lands which are dedicated by applicant as a condition of a development entitlement will not be eligible for bond financing, except if they are expressly allowed in a development agreement or other agreement between the City and the applicant.

k. Designation of Spokesperson. The applicant(s) owners requesting preparation of a petition for formation of a CFD, if more than one, shall designate a spokesperson for all of them. The applicants' spokesperson shall be responsible for the following.

- (1) Advising joint applicants to contact him or her for answers to their questions concerning CFD matters.
- (2) Contacting appropriate City representatives to obtain answers to such questions as he or she is unable to answer. The appropriate City representatives are the members of the CFD Formation Group.
- (3) Informing joint applicants that any estimated cost figures supplied to them prior to the estimate contained in the public report, as preliminarily approved by the CFD Formation Group, must not be relied upon as necessarily precise.

l. Additional Advances. It is the policy of the City that applicants with properties improved through CFD proceedings pay all City and associated costs of such proceedings and other costs incurred in advance of CFD formation, or, in the case of the sale of bonds, before any bonds are sold. Therefore, with respect to all developer-initiated applications, if actual City costs exceed the amounts estimated below, the applicant will be required to advance additional monies to pay all costs incurred or to be incurred. Any failure to do so within ten (10) days of provision of written demand by the CFD Formation Group will be grounds for immediate termination of all activities by the CFD Formation Group, and by the consultants, if any, retained by the CFD Formation Group

for the purpose of bond financing.

m. Boundary Map. A boundary map for each proposed CFD must be provided with the application. The boundary map should be provided in the following formats:

18" x 26" Mylar and three blue lined copies  
8 ½ x 11" paper

Assessor's parcels maps may be compiled on which the project boundary and other required information are shown. The map must identify all Assessor's parcels within the project boundary and the boundary of the area being annexed must follow existing parcel lines. The map must be certified by a licensed civil engineer. The CFD number to be included in the map title and page numbers may be obtained from the CFD Formation Group.

n. Registered Voter/Property Owner Certification. Any CFD election will be voted upon by property owners (one vote per acre) so long as there are fewer than twelve (12) registered voters residing within the proposed CFD area. The CFD Formation Group will not process registered voter elections absent special arrangements with the CFD proponent. Each of the property owners must designate a single proxy to cast their ballot. The civil engineer for the CFD applicant must verify the number of registered voters within the project and list all property owners showing APN and number of acres. The civil engineer must then file a certification suitable to the CFD Formation Group as part of the application package. This certification must be made within ninety (90) days prior to the hearing on the resolution of formation for the CFD.

o. Waiver and Consent. The qualified electors (property owners) must file a waiver and consent document suitable to the CFD Formation Group waiving some of the statutory election requirements, particularly the time lines. With this waiver, the election may take place sooner than otherwise.

p. Fiscal Feasibility Report. Prior to the formation of a CFD, a fiscal feasibility report may be required if a portion of the land within a CFD is substantially undeveloped. The report shall be prepared by or at the direction of the CFD Formation Group. All costs for preparing this report shall be borne by the applicant.

q. Special Taxes and Assessments. The projected special tax, when added to the ad valorem property tax and other direct and overlapping debt for the proposed CFD (including other benefit assessments, special taxes levied for authorized but unissued debt, and any other anticipated special assessments, taxes or charges which may be included on a property owner's annual property tax bill), shall not exceed two (2%) percent of the projected assessed value of each improved parcel within the CFD. A backup special tax may be required to protect against changes in land use that may result in insufficient annual special tax revenues.

r. Special Tax Formula. The maximum special tax submitted to the qualified voters of the CFD shall not exceed one (1%) percent of the projected assessed value of the developed properties at the time of full build out of CFD formation. Furthermore, the total of the following

shall not exceed two (2%) percent of the projected assessed value of the subject properties:

- (1) Ad valorem property taxes levied by the City.
- (2) Voter approved ad valorem taxes levied by the City in excess of one (1%) percent of the assessed value.
- (3) Special taxes levied by any existing CFD for the payment of bonded indebtedness or ongoing services.
- (4) Assessments levied for any assessment district or maintenance district for the payment of bonded indebtedness or services.
- (5) The maximum special tax for the proposed CFD.

The maximum special tax formula shall adhere to the following requirements:

- (1) The maximum special tax shall be established when a developed parcel is first subject to the tax and shall include the annual administrative costs to the City to administer the CFD.
- (2) Concerning that portion of the tax restricted to generating funds for maintenance of facilities, the special tax formula shall not include escalator rates allowing annual tax increases above four (4%) percent per year for developed parcels.
- (3) The City shall have discretion to allow a special tax in excess of the two (2%) percent maximum tax burden limits for any commercial or industrial lands within the CFD.
- (4) Concerning that proportion of the tax restricted to generate funds for the payment of debt service, the special tax formula shall not include escalator rates allowing annual tax increases above two (2%) percent.

s. CEQA Compliance. The CFD Formation Group shall be responsible for compliance with the California Environmental Quality Act with respect to each CFD formation analyzed or completed by it.

t. Based on substantial evidence presented to the City Council, it is determined that advance deposits in the following sums must be received in all cases, whether reimbursable or not, prior to an applicant's application for a CFD being deemed complete by the CFD Formation Group.

- (1) A CFD is to be created at applicant's request and where bonds are issued -

\$64,500.00.

- (2) A CFD is to be created at applicant's request and where bonds are not to be issued - \$64,500.00.
- (3) In the case of the creation of a "simple" annexation to an existing CFD, which does not require the preparation of a new public report, or the alteration of an existing Public Report or modification of any other CFD-related document for the existing CFD, and the annexation does not involve the sale of bonds - \$9,500.00.
- (4) In the case of the creation of a "complex" annexation to an existing CFD, which requires an amendment to or modification of a Public Report or other CFD-related document, and the annexation does not require the sale of bond - \$20,500.00.
- (5) In the event that a "registered" voter election is required, an additional amount over and above the previously mentioned fees may be incurred. The City Clerk will estimate the minimum time and material costs pertaining to such an election based on the facts known at the time the election becomes necessary, and payment of the estimated sum shall be required prior to initiation of such an election.
- (6) In the event that a "registered voter" election is both required and results in the nonformation/nonannexation of the subject CFD, the above-referenced fees and costs will not be refundable to the applicant save and except those amounts advanced by the applicant which are in excess of those obligated for the CFD Formation Group formation/annexation costs, consulting fees and other related expenses.

u. Resolution of Intention. When a CFD application and all related documents have been completed, the appropriate fee has been paid, and the CFD Formation Group has agreed to place the matter of the formation/annexation of the pertinent CFD before the City Council, the vehicle for such placement shall be the "Resolution of Intention" as required by the Act. The City Council vote on the Resolution of Intention shall also be the City's final determination on the application. If the Resolution of Intention is approved, the CFD Formation Group will undertake the necessary steps to complete formation/annexation of the CFD, including, but not limited to, completion of appropriate contracts, legal documentation, bond documents, project schedule, and other pertinent items.

v. Fiscal Year Planning. In the event that the fiscal year in which a CFD is commenced ends during the formation of the CFD, the Finance Department of the City shall carry forward any unused CFD funds to the next fiscal year in order to facilitate a smoothly continuous CFD formation/annexation process, and to permit prompt payment of ongoing expenditures.

w. Fiscal Authority. The CFD Formation Group has the inherent authority to receive and to appropriate CFD revenue and to direct the Finance Department of the City of Modesto to establish a new fund for each new CFD formation/annexation.

4. Terms and Conditions of Bonds.

a. All terms and conditions of bonds shall be established by the City. The City will control, manage and invest all CFD issued bond proceeds. Unless otherwise authorized by the City, the following shall serve as bond requirements:

- (1) A debt service reserve fund equal to an amount not less than ten (10%) percent of the bond issue's par value, subject to federal tax regulations will be established.
- (2) The special taxes shall be levied for the first fiscal year following sale of the bonds for which they may be levied. Unless otherwise agreed to by the City, interest shall not be funded (capitalized) beyond the earliest interest payment date for which sufficient special tax revenues will be available for payment of interest.
- (3) Beginning with the commencement of the repayment of principal, annual debt service may be level or may escalate up to a maximum of two (2%) percent per year.
- (4) The maximum special tax shall be established to assure that the annual revenue produced by levy of the maximum special tax shall be equal to at least one hundred ten (110%) percent of the average annual debt service.
- (5) Prior to the issuance of bonds, the City shall authorize its Bond Counsel to commence and process to final judgment an action establishing the validity of the proceedings, special tax and issuance of bonds, unless advised to the contrary by such Bond Counsel.
- (6) In instances where multiple series of bonds are to be issued, the City shall make a final determination as to which public facilities are of the highest priority and those public facilities which will be financed first, pursuant to funding availability and the proposed timing of facilities development, and will be subject to the earliest or most senior lien except, when concerning land-secured financings if the City and applicant agree separately.
- (7) The City may require that each new CFD bond issue refund any prior issues, if they exist on properties included in the CFD, in order to avoid subordinated liens. Instances where prior issues may not require refunding are:

- (a) Where refunding of prior issues will result in higher interest costs;
- (b) Where there can be assurance that prior liens may pose no marketing problems for the new CFD bonds; or
- (c) Where refunding of prior issues may present future administrative difficulties to the City or other affected public entities.

b. Security and Credit Enhancement.

- (1) Financial Plan. Prior to City Council approval of the CFD, the applicant must submit a financial plan which demonstrates to the City's satisfaction the applicant's ability to pay all assessments and/or special taxes through build out of the project.
- (2) Credit Enhancement. In general, where credit enhancement is required for the bond issue as a whole, in the opinion of the City, the applicant shall provide such enhancement in such form as is approved by the City and the underwriters. Such enhancement may, for example, be required in cases where the value-to-lien ratio for property within the CFD is sufficient, and may take the form of letter of credit, policies of insurance, or other vehicles.
- (3) Letter of Credit Requirements. In general, the following requirements apply to letters of credit.
  - (a) The term shall be at least one (1) year, with automatic renewal unless canceled in writing by City.
  - (b) The amount the applicant is required to post shall be determined by the City.
  - (c) The letter of credit must be posted with the City in final form, properly authorized and executed, prior to Council authorization to issue bonds for the CFD. Irrevocable credit commitments, commitment letters, in-lieu letter of credit guarantee forms, or other similar instruments, will not be accepted.
  - (d) The letter of credit shall be irrevocable, and issued for the benefit of the City.
  - (e) The issuer of any Letter of Credit or other credit enhancement shall be a bank legally operating within the State of California, and which has a Thompson Bank Watch rating of "C" or higher, or an equivalent rating by any other nationally recognized financial institution rating agency, and whose letters of credit are deemed

marketable by the City for public financing purposes.

- (f) The City reserves the right to consider other forms of credit enhancement or bond guarantee which are determined by the City, in its sole discretion, to be a lawful and adequate substitute for a letter of credit.

c. Value-to-Lien Ratios.

- (1) If the value-to-lien ratio is 3:1 or greater for the entire CFD and if there is a value-to-lien ratio of 3:1 on at least ninety (90%) percent of vacant land in the CFD, the City may not require letters of credit or other security to secure payment of the special taxes to be levied annually on properties within the CFD.
- (2) If the value-to-lien ratio is less than 3:1 for the CFD as a whole or on at least ninety (90%) percent of vacant land in the CFD, the City may require either letters of credit or other security (assigned deposits, deposits to escrow) to secure payment of the special taxes/special assessments on properties within the CFD or may elect to abandon the CFD.

d. Market Absorption Study. The City in its discretion may require and may employ a consultant for the purpose of conducting a market absorption study. The study, if required, shall include and estimate the total number of units, land uses and rate of absorption, and will be used as a basis for verification that sufficient revenues can be generated, and to determine if the financing of the infrastructure and public facilities is appropriate given the projected level and pace of development.

e. Disclosure Requirements. The applicant shall be responsible for compliance with all applicable federal and state statutory disclosure requirements, as well as any additional City requirements, in transactions with purchasers of properties with the CFD.

f. Continuing Disclosure. The developer will comply with federal and State securities laws and SEC Rule 15c 2-12 requirements concerning secondary market disclosure as those requirements are interpreted by the City and its counsel.

g. Refunding. The City will analyze outstanding bond issues for refunding opportunities. In addition, the City will accept refunding proposals from underwriting firms and financial advisors which the City will then analyze and verify. The City will refund outstanding bond issues if:

- (1) The refunding will generate at least five (5%) percent net present value savings; or
- (2) There is another reason the City determines is compelling enough to

complete a refunding (e.g. for the purpose of changing onerous legal requirements in a previous bond indenture or resolution).

h. Credit Quality to be Required of Bond Issues.

- (1) Debt Service. Except for commercial or industrial property financings with no residential components, debt service shall be substantially level throughout the life of the bond issue. Phased bond issuance shall not result in increased debt service to existing residential homeowners. Unless determined to be specifically required, debt service shall not exceed twenty-five (25 years) from the date of bond issuance.
- (2) Bond Redemptions. Maximum redemption premiums shall not exceed three percent (3%). Call protection provisions shall not exceed ten (10) years and no provision shall be made to restrict the ability of the City to refund any bond issue. Consideration shall be given to allowing redemption of bonds at par (without premium) with surplus construction funds, or from the prepayment of the special tax. Provision shall be made to allow the City to purchase bonds on the open market at par plus accrued interest, in lieu of redemption of bonds.
- (3) Reserve Funds. A reserve fund shall be required (unless specifically exempted for cause) for every land-secured financing. The City will consider the substitution of other security, such as a letter of credit, for monies in the reserve fund. The reserve fund will be sized by the City with the advice of the financing team, and, for tax-exempt financings, will not exceed the maximum prescribed by applicable federal tax law. Reserve fund earnings beyond maximum reserve fund size should be used to credit debt service and may be used to pay applicable rebate obligations under federal tax law. (The City may also determine to permit such reserve fund earnings to be transferred to the construction fund until the project is completed.)
- (4) Capitalized Interest. The City, with the advice of the financing team, will determine, on a case by case basis, the amount of capitalized interest for a particular financing. The amount of such interest will be determined based on factors such as the length of the construction period, the earliest date upon which tax roll collection may commence and the amount such interest will add to the total amount of the financing, taking into account the restrictions on value to lien expressed herein, the ability of the owner(s) to defray the debt service, and applicable provisions of the Act.
- (5) Foreclosure Covenants. Every land-secured financing bond issuance document shall provide for the judicial foreclosure of delinquent payments of assessments or special taxes. Such covenants may vary with the particular financings, but shall at the minimum generally provide for the institution of

foreclosure not more than 150 days from April 10 of a calendar year and shall authorize the City Attorney or delegate thereof to commence foreclosure without further Council action upon notification of a delinquency. Provision may be made to allow deferral of foreclosure in the event the City advances funds to the reserve fund to maintain any specific reserve requirement.

- (6) Discounts. In competitive bond sales, the amount of discount shall be determined by the City with the advice of its financial advisor. In negotiated sales, it shall be the burden on the underwriter to justify its discount as competitive and such justification must take into account any other compensation being paid to the underwriter. Original issue discount will be allowed if it results in a lower true interest cost and will not adversely affect the ability to construct the public improvements.

i. Information to Property Owners.

- (1) Prospective Purchasers. The Director of Finance shall be responsible for providing notice of special tax to prospective property owners pursuant to Section 53340.2 of the Act and, upon request of an applicant, or its agent or representative, information in order for such applicant, agent or representative to comply with Section 53341.5 of the Act.
- (2) Existing Lenders. The City may require the consent of the existing deed of trust holders in any CFD to be formed by landowner (rather than registered voter) approval.

j. Criteria for Evaluating the Equity of the Special Tax Formula.

The proposed rate and method of apportionment shall comply with the following criteria:

- (1) The rate and method of apportionment generally shall not provide for an annual increase in the maximum special tax for any classification. However, under limited circumstances an increase in the maximum special tax will be permitted, not to exceed two percent (2%) annually. As a general rule, escalation of the maximum annual special tax will be allowed when bonds are to be sold in several series over an extended period of time.
- (2) The total projected annual special tax revenues, less estimated annual administrative expenses, must exceed the projected annual gross debt service on the bonds by ten percent (10%). In structuring the special tax, projected annual interest earnings at current passbook savings rates on bond reserve funds may also be included as revenue for the purpose of this calculation. Reserve fund interest earnings credit in excess of the foregoing will only be

permitted if an investment agreement, satisfactory to the City, is secured at the time any bonds are sold and delivered.

- (3) The projected annual tax revenues shall include reasonable annual administrative expenses and other direct costs to the CFD.
- (4) All property not otherwise statutorily exempted or owned (or to be owned) by a public entity shall bear its appropriate share of the special tax liability.
- (5) The special tax shall be allocated and apportioned on the basis of reasonableness to all categories and classes of property receiving general or specific benefit within the CFD.
- (6) A formula to prepay the special tax shall be considered.
- (7) The projected ad valorem property tax and other direct and overlapping debt for the proposed CFD (including estimated CFD charges, projected benefit assessments, levies for authorized but unissued debt and any other anticipated municipal charges which may be included on a property owner's annual tax bill), including the proposed maximum special tax, should not exceed two percent (2%) of the anticipated assessed value of each improved parcel upon completion of the public and private improvements. Any deviations from the foregoing will not be permitted unless specifically recommended by the CFD Formation Group and approved by the City Council.
- (8) The special tax formula shall be structured to produce sufficient annual special tax revenue to pay annual debt service, administrative expenses, and "pay as you go" programs funded by the CFD special tax. To the extent a special tax is to be levied to pay for services, it should be separate from the special tax to pay for facilities.
- (9) The special tax formula shall be such that once the total special tax need is known, and the status of all properties within the CFD relative to that formula are known, the special tax on each parcel is determined purely by the application of the formula without the exercise of discretion on the part of any person.

k. Criteria for the Sale of Bonds.

In order to ensure the long-term security of any bonds sold as the result of the formation of a CFD, the following policies shall be followed:

- (1) The ratio of the appraised value of the land to the value of the proposed bond issue, and any other overlapping debt, shall not be lower than 3-to-1

unless authorized by the City Council with specific findings in accordance with the Act.

- (2) Market absorption studies may be required at the City's discretion to determine if the financing of the infrastructure and public facilities is appropriate given the projected level and pace of development. The study may also be required by the appraiser for use in the appraisal process. The City will employ any market-absorption consultant.
- (3) All terms and conditions for the sale of bonds shall be established by the City.

l. Continuing Disclosure.

By being allowed to participate for a Mello-Roos proceeding, each owner of land therein must be willing to provide information deemed by the City and its financing team to be needed in order for the City and the underwriter to comply with applicable Federal and State securities laws, including continuing disclosure requirements imposed by S.E.C. Rule 15c 2-12.

m. The Appraisal Process.

Appraisals undertaken to establish value-to-lien ratios for land-secured financings can be complex, requiring the appraiser to interpret the significance of various financial and demographic data. Because an appraisal essentially is an appraiser's *opinion* of value, the City requires that the appraiser be qualified to render this opinion.

- (1) Credentials. The appraiser will be credentialed by the State of California Office of Real Estate Appraisers and be a member of the Appraisal Institute (MAI) or have similar training, experience and qualifications.
- (2) Independence. The appraiser will be an independent contractor retained by the public agency, rather than a land owner/developer.

n. The Appraisal Problem.

The appraiser will begin each assignment by defining the *appraisal problem* - that is, succinctly stating the objective of the appraisal. The statement of the appraisal problem will identify (1) the property rights to be valued, (2) the operative definition of value, and (3) the date of the value estimate.

- (1) Property Rights to be Valued. Appraisals undertaken to establish value-to-lien ratios in CFDs and assessment districts will value the fee simple estate within the established district and subject to the special tax or assessment lien.

- (2) Definition of Value. Appraisal undertaken to establish value-to-lien ratios in CFDs and assessment districts will estimate the market value of the subject property. The market value estimate will be the bulk sale value for all vacant properties - both unimproved properties and improved or partially improved but unoccupied properties. The bulk land value will include the property within the district as it is currently entitled with all appropriate zoning and in its current state of development, the value of the improvements to be financed with the proposed bond issue, if any, and the value of other improvements to be financed with any other cash escrow or security whose cash value is entirely controlled by the City. Paragraph O, which follows, provides those valuation methods the City will allow an appraiser to use to estimate the bulk sale value.
- (3) Date of the Value Estimate. The date of the value estimate should clearly be identified in the appraisal report. The period between the date of the appraisal and the financing should be no more than four months, to accurately represent land values to prospective investors.

o. Valuation Methods. The first three valuation methods discussed below - the Sales Comparison Approach to Value, the Cost Approach to Value, and the Income Capitalization Approach to Value - form the core of modern real estate appraisal practices. These valuation methods are appropriate for conventional appraisal assignments involving improved real property, but are less well-suited to the valuation of unimproved land. Appraisals of unimproved CFDs and assessment districts will additionally employ a Discounted Cash Flow (DCF) analysis based upon the bulk land value of the property appraised, the fourth valuation method discussed in this section. This section concludes with a brief discussion of Mass Appraisal techniques and an assessed value approach alternative. An appraisal may include more than one appraisal method, depending on the status of the project.

- (1) Sales Comparison Approach to Value. The Sales Comparison Approach to Value offers the best indication of the market value of the subject property, because it is based on actual sales data. This methodology is appropriate for most improved properties, but the absence of comparable sales data usually constrains its application to appraisals of unimproved CFDs and assessment districts. The Sales Comparison approach, however, provides the analytical basis for estimating a future retail value of presently unimproved properties which may be incorporated into a Discounted Cash Flow analysis.
- (2) Cost Approach to Value. The Cost Approach to Value is not appropriate for appraisals undertaken to establish value-to-lien ratios in CFDs and assessment districts. Cost does not create value. The Cost Approach may be useful, however, for adjusting for physical differences between properties under the Sales Comparison Approach. Sales Comparison appraisals can be adjusted to reflect infrastructure differences between different projects.

- (3) Income Capitalization Approach to Value. The Income Capitalization Approach to Value is appropriate for retail value calculations of income-producing properties. It also may be appropriate for estimating the future retail values of income-producing properties for use in a Discounted Cash Flow analysis.
- (4) Discounted Cash Flow Analysis. Discounted Cash Flow Analysis is appropriate for bulk sale valuations of unimproved properties and improved or partially improved but unoccupied properties. Discounted Cash Flow valuations should rely on an absorption study to estimate how quickly properties can be developed and sold or leased to end users. The expense of converting raw land to finished product or improved lots must be deducted from gross cash flow to derive net cash flow prior to discounting. The value of the public facilities to be financed with the contemplated bond financing will be included in the appraisal. The discount rate should reflect the rates of return needed to attract debt and equity participation in the project.
- (5) Mass Appraisal Techniques. When an entire tract or project has been built and fully absorbed, the appraiser may employ mass appraisal techniques, utilizing conservative per dwelling unit estimates.
- (6) Assessed Value. If, based upon assessed value, the value-to-lien ratio of the project and ninety (90%) percent of the undeveloped parcels is greater than 3:1, then a separate appraisal may not be required. If the assessed value of ninety (90%) percent of the undeveloped parcels is not greater than three times the amount of the lien then the City can require an appraisal to be completed on the undeveloped portion of the project while it uses the assessed value for the developed portion.

p. Contents of Appraisal. The appropriate format and level of appraisal documentation can vary according to its complexity. A detailed appraisal will reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards of Professional Appraisal Practice. Appraisal methodology and presentation of the results of the appraisal shall be presented in writing in either form report or narrative report, as required, by the CFD Formation Group.

Appraisals should conform to the following specific criteria:

- (1) Appraisals must be selected from a “pre-qualified” list of appraisers determined by the City.
- (2) Appraisals must be in writing, using either a “form report” (Uniform Commercial and Industrial Appraisal Report - Existing Property) or a “narrative report.”

- (3) Each appraisal shall clearly state the purpose of the report; a definition of the estate being appraised (i.e. fee, leasehold, etc.); and a description of the limiting conditions and assumptions underlying the appraisal.
- (4) Valuation dates shall be as determined by the City, but in no event earlier than 120 days prior to the sale of the bonds. To the extent practical, valuation dates on all properties shall be synchronized to a specific date, such as "October 1, 1999."
- (5) A physical description of the property being appraised, along with a discussion of its "highest and best use," land use regulations, present use and location.
- (6) An opinion of value which specifically considers the value of the property (including individual parcels) with the completed public facilities (bond proceeds and other financial guarantees).
- (7) A certificate of the appraiser stating the absence of any direct or indirect interests in the property, along with a brief description of the appraiser's qualifications.
- (8) Improvement description (to the extent information is practically available).
  - (a) Land parcels which have been developed and subsequently sold should at a minimum indicate land parcel size, number of lots, density, number of plans, square footage, year construction was initiated, year of completion, and when sales were initiated.
  - (b) Land parcels with product under construction or with standing inventory, should be described as in (5) above and include a summary of the stage of development including: number of residential units or buildings completed, number of buildings, status of buildings under construction, finished lots and mass-graded or raw lots. In addition, a comment on the marketability of the building (architecture, size, etc.) is appropriate.
  - (c) Land parcels which have been developed with income-producing (or owner-occupied) commercial, industrial, offices, etc., should be described as follows:
    - (i) Commercial Retail. Land parcel size; basic construction type; typical tenant improvements (and who is responsible for their construction); leasable area, when construction was initiated; and date of completion.

- (ii) Industrial. Land parcel size; basic construction type, whether single or multi-tenant typical office build-out as percentage of total area, when construction was initiated; and date of completion.
- (iii) Office. Land parcel size; basic construction type; typical tenant improvements/allowance; net rentable area, when construction was initiated; and date of completion.
- (iv) Residential. Land parcel size; basic construction type; whether single or multi-family; when construction was initiated; and date of completion.

5. District Administrator.

Upon completion of the formation of or annexation to a CFD, the District Administrator shall oversee all post-formation/post-annexation administrative duties. Examples of said duties include but are not limited to the following:

- a. Establish through the Finance Department of the City of Modesto the financing mechanism to receive, dispense and administer all monies received post-formation/post-annexation.
- b. Establish and administer a reserve fund.
- c. File all appropriate notices.
- d. Take any and all actions necessary for prudent administration of all post-formation/post-annexation CFDs, including but not limited to the expenditure or allocation of District funds, in strict accordance with Section 53343 of the Mello-Roos Act of 1982 as it may be amended, so that any such funds shall only be allocated or expended for facilities and services authorized by the Act.

6. District Administration.

- a. District Administration Requirement of Infrastructure/Credit Specification in Subdivision Agreements.

On or after December 1, 1998, it shall be City policy with respect to those subdivisions located within the boundaries of a proposed Community Facilities District, an existing Community Facilities District, or a proposed or existing annexation to a Community Facilities District that the subdivision agreement required by the City for each such subdivision specify the creditable infrastructure or infrastructure segment percentages to be provided by the Developer of that subdivision in detail, as well as proposed credit amounts associated with the subject

infrastructure or infrastructure segment percentages. The infrastructure or infrastructure percentages shall be among those required to be completed by the Facility Master Plan or another similar infrastructure specification pertaining to the subdivision for which an agreement is sought.

- b. District Administrator To Consult With Director Of Community Development Re Inclusion of Community Facilities Districts In Specific (Or Other) Plan Finance Plans.

When Specific or analogous Plans required by law for development are being prepared by the City, the City's Director of Community Development, after consultation with the City's Director of Engineering and Transportation and its District Administrator, shall determine whether or not a Community Facilities District shall be at least one means of financing infrastructure within any proposed Specific Plan on and after December 1, 1998, once the Director of Community Development has determined that a Community Facilities District shall be one means of financing such infrastructure, each subdivision within such a Plan shall have approval of its tentative subdivision map conditioned on the creation of or annexation to a Community Facilities District prior to final approval of its subdivision map, and the District Administrator shall assist the Director of Community Development in ensuring enforcement of this policy.

- c. Uncreditable Portion Of Contingency Estimates In Village One.

The District Administrator, in coordination with the City's Community Development Department, shall ensure that the contingency portion of each facility segment credit against the one-time facilities taxes otherwise due shall be uncreditable, and received in cash, in an amount equivalent to 10.5% of the 25% contingency portion of each such facility segment credit, so that Village One developers will receive a net credit of 14.5% with respect to the contingency portion of each such facility segment credit against the appropriate one-time facilities tax.

- d. Uncreditable Portion Of Contingency Costs To Be Included In Future Community Facilities Districts.

The District Administrator, in coordination with the City's Community Development Department, shall insure that an uncreditable percentage of each future one-time facilities tax is incorporated into each of the City's future Community Facilities Districts by means of inclusion in the Public Report and in the Rate and Method of Apportionment of Taxes. In order to ensure that the City's sunk costs of planning and engineering, ongoing administration, indirect costs and consultant costs can be paid from cash on hand generated by this requirement, some portion of the estimated cost of each facility, facility segment, or unit cost of a facility shall be disallowed from presentation for credit against the special one-time facilities tax which would otherwise be due with respect to the provision of that

facility.

e. Tax Credit Procedure

- i. Facility providers may be permitted credits against taxes owed, or cash credits, as appropriate, and as set forth herein.
- ii. In the case of oversubscription, cash up to the amount of the oversubscription may be paid to a facility provider as cash becomes available to the CFD through tax collection.
- iii. Taxes shall be payable at the time specified in the public report. Until January 1, 2000, the tax payable shall at least equal the administrative offset specified in the public report or otherwise.
- iv. The district shall also be compensated from available tax monies for money and services advanced by it for the acquisition, construction, improvement or control of any or all of the facilities set forth in the public report, all in accordance with and subject to the Mello Roos Act (including, without limitation, Section 53314.9 of the Act), the resolution of formation of the CFD, the policies and procedures for administration of the CFD, the public report and other applicable law.
- v. In no event shall cash advances, dedications, or construction of facilities become either a debt of the City, or a debt in excess of actual tax receipts, of the CFD.
- vi. All tax credits shall be made by the District Administrator pursuant to a valid, executed facility acquisition agreement in a form approved by the District Administrator.
- vii. Prior to January 1, 2000, with the approval of the District Administrator, credits may be furnished to a facility provider to offset taxes otherwise due if the facility provider has furnished or is furnishing facilities which have not yet received a notice of completion. Notwithstanding the foregoing, such discretionary credit shall be fully reimbursable to the CFD in cash by the facility provider in the event that a facility acquisition agreement is not executed by the facility provider, or if that facility provider does not receive a notice of completion from the District Engineer.
- viii. On and after January 1, 2000:
  - 1) The District Administrator shall ensure that the full tax is collected as it becomes due from each provider of facilities or facility segments to the CFD until (a) a valid facility acquisition agreement exists between

the CFD and the facility provider and, (b) the facility has been completed, and (c) a certificate of completion has been issued to the facility provider. The District Administrator shall then provide facility special tax credits or cash reimbursement, as appropriate, to that facility provider.

- 2) All facility providers shall be denied tax credit for any portion of an otherwise credit-eligible facility constructed prior to execution by that provider of a facility acquisition agreement suitable to the District Administrator. Credit shall not be denied for planning or engineering costs included in a Facility Cost Estimate incurred prior to execution of that agreement.
- 3) Credits shall be expended by the District Administrator in date order of the certificate of completion of the facility for which credits are requested, and each such facility shall be completely credited before the district administrator shall grant credits to a facility receiving a certificate of completion later in time.

- ix. Where apportionment is required, as with respect to a total facilities cost stated in the public report including two or more sub-facilities, or where more than one person or entity participates in the construction or furnishing of a facility, the determination of such apportionment and credit by the District Administrator or their designee shall be conclusive evidence of the amount of the credit derived thereby.

7388.45 CFD

**NOTICE OF PUBLIC HEARING  
ON INTENTION TO ESTABLISH THE  
COMMUNITY FACILITIES DISTRICT  
NO. 2003-1 (FAIRVIEW VILLAGE),  
TO LEVY SPECIAL TAXES THEREIN  
AND TO ISSUE BONDED INDEBTEDNESS AND  
NOTICE OF INTENT TO ADOPT A MITIGATED  
NEGATIVE DECLARATION**

**SUMMARY OF RESOLUTION  
OF INTENTION TO ESTABLISH THE  
COMMUNITY FACILITIES DISTRICT**  
The following is a summary of the Resolution of Intention to Establish the Community Facilities District, adopted by the City Council on October 2003. Copies of this Resolution and other resolutions relating to the Community Facilities District available on request from the City Clerk at the address specified below. The Resolution of Intention to Establish the Community Facilities District recites that the owner of not less than ten percent (10%) of the area of land within the proposed Community Facilities District filed a written petition with the City of Modesto to establish the Community Facilities District pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, to finance the cost of purchasing, constructing, expanding, improving, rehabilitating certain facilities, and all appurtenances and appurtenant work associated therewith and (ii) the incidental expenses to be incurred in connection with financing the facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, establishment and replenishment of bond reserve funds and special reserve funds the cost of certain improvements and certain incidental expenses associated therewith and to pay for certain Services. The resolution goes on to state that the boundaries of the Community Facilities District, if it is formed, will be as shown on a map thereof on file in the office of the City Clerk.  
The resolution declares the intention of the City Council to form the Community Facilities District and to levy a special tax on the property located within the Community Facilities District sufficient to pay for some or all of the facilities and incidental expenses referred to above and the debt service on bonds issued to finance the same and to pay for certain Services. The rate, method of apportionment and manner of collection of such special tax described in detail in Appendix B attached to it resolution.  
The resolution then goes on to provide for the public hearing of which this document gives notice and states that, if the City Council determines to form the Community Facilities District, a special election will be held to authorize the levy of the special tax in accordance with the procedures contained in California Government Code Section 5332. The resolution provides that, if such a special election is held, the voting procedure will be a landowner vote, with each landowner of record having one vote for each acre of land or portion thereof within the Community Facilities District.  
**SUMMARY OF RESOLUTION OF INTENTION  
TO INCUR BONDED INDEBTEDNESS**  
The following is a summary of the Resolution of Intention to Incur Bonded Indebtedness, adopted by the City Council on October 28, 2003. Copies of this Resolution and other resolutions relating to the Community Facilities District are available on request from the City Clerk at the address specified below.  
The Resolution of Intention to Incur Bonded Indebtedness recites the City Council's adoption of the Resolution of Intention to Establish the Community Facilities District and goes on to state that, in order to finance the facilities and incidental expenses referred to therein, the City Council intends to authorize the issuance of bonds in the maximum principal amount of \$25,000,000.00, the repayment of which is to be secured by special taxes levied on the property within Community Facilities District. The resolution then orders a public hearing to be held with respect to the proposed bond issue.  
**INQUIRIES**  
For any questions relating to the formation of the proposed Community Facilities District, the special tax, the proposed bond issue, or any particulars, please contact the following designated person:  
Tina Rocha  
Community Facilities District  
Administrative Officer  
City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, CA 95353  
Phone: (209) 577-5211  
Email: trocha@modestogov.com  
For copies of any of the Resolutions relating to the proposed Community Facilities District, please contact the following designated person:  
Jean Zahr, City Clerk  
City of Modesto  
1010 Tenth Street, Suite 6600  
Modesto, CA 95353  
Phone: (209) 577-5396  
Email: izahr@modestogov.com  
A copy of the proposed Mitigated Negative Declaration and all documents referenced in the proposed Mitigated Negative Declaration are available for review through Patrick Kelly at the City of Modesto Community and Economic Development Department offices, 1010 10th Street, Suite 3300, Modesto, CA 95353.  
DATED: November 5, 2003  
/s/ JEAN ZAHR  
CITY CLERK

**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**


**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am the printer And Principal clerk of the publisher of **THE MODESTO BEE**, printed and Published in the City of **MODESTO**, County Of **STANISLAUS**, State of California, daily, For which said newspaper has been adjudged a Newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue thereof on the following dates, to wit:

**NOVEMBER 8, 2003**

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at **MODESTO**, California on

**NOVEMBER 8, 2003**

  
(Signature)

**NOTICE IS HEREBY GIVEN** that on October 28, 2003 the City Council of City of Modesto (hereinafter referred to as the "City Council") adopted (i) its Resolution No. 2003-58 (the "Resolution of Intention to Establish the Community Facilities District"), a summary of which is set forth below, declaring its intention to establish the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") and to authorize the levy of a special tax therein, and (ii) its Resolution No. 2003-59 (the "Resolution of Intention to Incur Bonded Indebtedness"), a summary of which is also set forth below, declaring its intention to authorize bonded indebtedness for the Community Facilities District, and to consider adoption of a Mitigated Negative Declaration for the proposed project. The proposed Community Facilities District will encompass APN 056-27-02.

**PUBLIC HEARING**  
**NOTICE IS HEREBY GIVEN** that a public hearing will be held on December 2, 2003, at the hour of 5:30 p.m., or as soon thereafter as such matter can be heard, in the Modesto City Council Chambers at 1010 Tenth Street, Modesto, California 95353, at which time the City Council will hear evidence and testimony by all interested persons, property owners, voters and taxpayers for or against (1) the establishment of the Community Facilities District, (2) the extent of the Community Facilities District, (3) the furnishing of the Facilities and Services described in the Resolution of Intention to Establish the Community Facilities District, (4) the levy of a special tax within the Community Facilities District, (5) the issuance of the proposed debt and (6) any other matters as set forth in the Resolution of Intention to Establish the Community Facilities District and the Resolution of Intention to Incur Bonded Indebtedness. At or prior to this hearing, the City Council will also consider adoption of a Mitigated Negative Declaration for the proposed Community Facilities District.  
All persons interested, including property owners, taxpayers and registered voters, may appear at the hearing and present evidence and testimony for or against items (1) through (6) above. Any protest pertaining to the regularity or sufficiency of the proceedings relating to the proposed issues described in items (1) through (6) above must be in writing and shall clearly state the irregularities or defects to which objection is made, and shall be filed with the City Clerk on or before the time set for the hearing. If fifty percent (50%) or more of the registered voters, or six (6) registered voters, whichever is more, residing within the Community Facilities District or the owners of more than one-half (1/2) of the area of land within the Community Facilities District and not exempt from the special tax file written protests against any of items (1) through (6) above, and protests are not withdrawn so as to reduce the protests to less than a majority, the City Council shall abandon that portion of the proceedings pertaining to such item(s) and no further proceedings with respect to such item(s) shall be taken for a period of one year from the date of the determination by the City Council. The City Council may modify the proceedings if such majority protests are only against a specified issue.  
If the City Council determines to submit to an election the questions of levying a special tax within the Community Facilities District and authorizing bonded indebtedness for it, an election will be held within the Community Facilities District for such purposes. At such an election, each landowner (as defined in Section 53317 of the California Government Code) within the Community Facilities District shall be entitled to cast one vote for each acre or portion thereof owned by such landowner within the Community Facilities District. For a proposition to be adopted, two-thirds of the votes cast at the election must favor passage.  
Environmental Determination: An Initial Study was prepared under the City's General Plan Master EIR (SCH # 19990820), and Fairview Village Focused EIR (SCH#95032006), which lead to the determination that a Mitigated Negative Declaration should be prepared pursuant to CEQA section 21157.5. Potential significant effects from the proposed project include: Water Supply, Water Quality, Hazardous Materials, Air Quality, Noise, Loss of Sensitive Wildlife and Habitat and Archaeological and Historic Resources. However, it was determined that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made which would avoid or mitigate the effects to the point where clearly no significant effect on the environment will occur. The public review period during which the City of Modesto will receive comments on the proposed Mitigated Negative Declaration began on October 10, 2003, and ends on November 19, 2003.

Environmental Determination: An Initial Study was prepared under the City's General Plan Master EIR (SCH # 19990820), and Fairview Village Focused EIR (SCH#95032006), which lead to the determination that a Mitigated Negative Declaration should be prepared pursuant to CEQA section 21157.5. Potential significant effects from the proposed project include: Water Supply, Water Quality, Hazardous Materials, Air Quality, Noise, Loss of Sensitive Wildlife and Habitat and Archaeological and Historic Resources. However, it was determined that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made which would avoid or mitigate the effects to the point where clearly no significant effect on the environment will occur. The public review period during which the City of Modesto will receive comments on the proposed Mitigated Negative Declaration began on October 10, 2003, and ends on November 19, 2003.

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**CFD REPORT**

**November 19, 2003**

Prepared By:

**GOODWIN CONSULTING GROUP, INC.**  
701 University Avenue, Suite 225  
Sacramento, California 95825  
(916) 561-0890

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### APPENDICES

**Appendix A: Rate and Method of Apportionment of Special Tax**

## ***I. INTRODUCTION AND BACKGROUND INFORMATION***

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### **A. THE FAIRVIEW VILLAGE SPECIFIC PLAN**

In 1989, the City of Modesto adopted the Urban Growth Management Strategy, which requires that any future development within the "Urban Reserve" be planned and annexed as "villages" under the auspices of Specific Plans. This action was seen as necessary to prevent new development from occurring in undeveloped areas prior to there being adequate consideration for public facilities such as roadways, parks, schools, and utility improvements.

The purpose of the Fairview Village Specific Plan is to implement the goals, objectives, and policies of the City of Modesto General Plan, as authorized by Section 65450 et. seq. of the State Government Code. The Fairview Village Specific Plan provides a comprehensive, orderly approach to growth within the sphere of influence of the City of Modesto. It adheres to the fundamental purposes of the Specific Plan process to prevent urban sprawl by providing coordinated development of public resources and facilities concurrent with private development.

Fairview Village is a proposed planned community with an expected population of 5,000 people living in approximately 2,250 homes. The project is to be developed on a 364-acre site located just outside the southwest edge of the City of Modesto in Stanislaus County. The Fairview Village Plan Area is essentially square with each edge approximately three-quarters of a mile in length. It is contiguous to the Bret Harte neighborhood on the east, and is bounded by the expanded Hatch Road to the north, Carpenter Road to the west, and Whitmore Avenue to the south. The area is located within easy access of both Highway 99 and State Route 132, and is close to the nearby Tuolumne River. The Village is designed around a large central neighborhood park and new elementary school that forms the center of the new community. Fairview Village will also include a second elementary school and a commercial center with shops, offices and apartments.

### **B. THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

As described in the Rate and Method of Apportionment (the "RMA") provided in Appendix A, public services and facilities required to serve the Fairview Village Specific Plan area will be funded using the Mello-Roos Community Facilities Act of 1982 (the "Act"). The Act provides flexibility as to the facilities and services that can be funded and the manner in which annual funding burdens are allocated to various types of land use. There is no benefit finding required; the Act states that special taxes can be allocated in any "reasonable manner". The Act permits a city, county or special district to form a Community Facilities District ("CFD") within its jurisdiction and, with a two-thirds vote within the CFD, impose special taxes to pay for public improvements and services needed to serve the area.

A CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property with an estimated useful life of five years or longer, which is needed to meet increased demands placed upon local agencies as a result of development occurring within the CFD.

A CFD may also finance the costs of planning, design, engineering, legal assistance and other consultants involved in the construction of improvements or formation of the CFD. The facilities financed by the CFD do not have to be physically located within the CFD. A CFD may also fund maintenance of parks, parkways, open space, police and fire services, recreation program services, library services, maintenance of school sites and structures, and maintenance of storm drainage and flood control facilities.

**C. PURPOSE OF CFD REPORT**

This CFD Report is submitted pursuant to Section 53321.5 of the Mello-Roos Community Facilities Act of 1982, as well as the direction set forth in the first resolution adopted by the Modesto City Council in the process of forming CFD No. 2003-1. The law requires only a brief description of the public facilities and services to be funded by the CFD, as well as an estimate of the cost of providing the facilities and services. However, this report will also provide information regarding the special taxes to be levied and collected in the CFD, the boundaries of the CFD, and anticipated bond sales.

## ***II. COMMUNITY FACILITIES DISTRICT NO. 2003-1***

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### **A. BOUNDARIES OF THE CFD**

On October 28, 2003, the Modesto City Council adopted Resolution No. 2003-558, a Resolution Declaring its Intention to Establish the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and to Authorize the Levy of a Special Tax Within Said Community Facilities District. A map identifying the boundaries of the CFD was recorded on November 4, 2003 on Page 83 of Book 3 of Maps and Assessments in the Stanislaus County Recorder's Office.

On December 2, 2003, the City Council will hold a public hearing and allow the qualified electors to vote on the matter. If at least two-thirds of the votes submitted by the landowners are in favor of the CFD, the CFD will be formed and the levy of a special tax will be authorized. The CFD will also be authorized to issue up to \$25,000,000 million in bonds to fund the construction or acquisition of public facilities identified in Section III of this report.

The Fairview Village Specific Plan contains 313.5 *taxable acres* and is divided among ten parcels owned by three different landowners. However, at the time of CFD formation, parcel 56-27-02 will be the only parcel within the CFD. This parcel is comprised of 4.31 taxable acres and accounts for approximately 23.72% of the total taxable acreage expected in the CFD after all property in Fairview Village has annexed into the CFD. Table 1 below summarizes the acreages of the ten parcels that will ultimately annex into the CFD.

**Table 1**

<b>Land Owner</b>	<b>APN</b>	<b>Net Taxable Acreage</b>	<b>Percent of Total Acreage</b>
DeValle	56-27-02	74.31	23.72%
Terra Pacific	56-28-07 56-28-08	85.58	27.31%
Bava	56-27-09 56-27-10 56-28-15 56-28-14 56-28-12 56-28-10 56-28-13	153.46	48.97%
<b>Total</b>		<b>313.35</b>	<b>100.00%</b>

### **B. CFD BOND ISSUES**

Some or all of the public facilities described in Section III will be funded by the issuance of one or more series of bonds. The proceeds of the bonds will be used to acquire facilities which have been constructed by developers owning property within the CFD. The bonds are anticipated to have a 25

or 30-year term and an annual debt service that escalates two percent per year. The bonds are land-secured, which means the ultimate security for repayment of the bonds is the land within the CFD. As such, the City will covenant in the indenture associated with issuance of the bonds that, in the event of special tax delinquencies within the CFD, the City will institute an accelerated foreclosure process against the delinquent parcel or parcels.

There is no guarantee that CFD No. 2003-1 will be able to sell bonds in an amount sufficient to fully fund all of the improvements authorized to be funded by the CFD. The ability of the CFD to sell bonds is limited by the maximum special tax rate and value-to-lien ratio. Also, the bond authorization and maximum special tax rates are based, in part, on cost estimates for specific projects. If the cost estimates prove to be too low, the CFD will be able to fund even less improvements than originally anticipated.

### C. SPECIAL TAX STRUCTURE

Capitalized terms used in this section and the remainder of this report are defined in the Rate and Method of Apportionment of Special Tax (RMA) provided in Appendix A. The RMA outlines the maximum rates and method of apportionment for the three Special Taxes that will be levied in the CFD; the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax. The RMA identifies the Maximum Special Tax assigned to each Original Parcel within the CFD. Upon subdivision of an Original Parcel, the Special Tax will be allocated based on the number of units created by a Subdivision Map if Single Family Detached Lots are created, or by net acreage of Taxable Property for all other subdivisions that do not create Single Family Detached Lots. After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

The One-Time Facilities Special Tax for CFD No. 2003-1 will be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not paid by the time the permit is issued.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 is expected to be collected at the same time and in the same manner as ad valorem property taxes. The Annual Facilities Special Tax will be levied until all bonds have been repaid and all authorized facilities have been funded, and shall cease to be levied after fiscal year 2050-51. The Annual Facilities Special Tax obligation assigned to a particular parcel within the CFD can be prepaid, which will release the parcel making the prepayment from the Mello-Roos special tax lien for facilities. The Annual Maintenance Special Tax obligation may not be prepaid. Section H of the RMA sets forth a detailed formula by which the prepayment for a parcel can be calculated.

### **III. FACILITIES AND SERVICES TO BE FUNDED BY CFD No. 2003-1**

The facilities and services described below are authorized to be funded by CFD No. 2003-1 and are required to adequately meet the needs of the Fairview Village Specific Plan. Depending on the net construction proceeds ultimately generated from bonds issued on behalf of CFD No. 2003-1, some of the facilities may be funded from One-Time Facilities Special Taxes.

#### **A. AUTHORIZED FACILITIES**

##### **Water System:**

The water system includes two wells, distribution pipelines, well-head treatment systems, surface water supply pipelines, tanks, booster pumps and approximately 1.75 acres of land. The well-head treatment system is proposed to be financed through acquisition, construction, lease, lease-purchase, or installment-purchase arrangement. The proposed lease, lease-purchase, or installment-purchase arrangement would be for commercial terms for a period not to exceed thirty (30) years.

##### **Wastewater System:**

Includes two lift stations and two force mains

##### **Storm Drain System:**

Includes approximately nine acres of land, storm drainage facilities including pump station, dual-use basin and landscaping, fencing, lift station, force main and gravity line.

##### **Class I Bike Trail:**

Includes demolition, grading and drainage, site electrical, construction, site furnishings, irrigation and planting

#### **B. AUTHORIZED SERVICES**

Maintenance of parks, parkways, and open space (including the bike trail) and maintenance of the storm drainage basin and related facilities

#### **C. FACILITY COSTS**

Table 2 below identifies the total facility costs that will be required once all future annexations in Fairview Village have taken place. Upon formation, however, parcel 56-27-

02 will be the only parcel within the CFD. This parcel is classified as Tax Zone 1 and is apportioned a share of the facility costs based on the parcel's percentage of net developable acreage relative to the CFD at buildout once all annexations have occurred.

**Table 2**

	Total Cost at Buildout	Tax Zone 1 Share
Water System	\$11,246,875.00	\$2,667,758.75
Wastewater System	\$945,000.00	\$112,077.00
Storm Drain System	\$3,484,350.00	\$823,285.62
Class I Bike Trail	\$1,072,000.00	\$254,278.40
<b>Total Infrastructure Cost</b>	<b>\$16,748,225.00</b>	<b>\$3,857,399.77</b>

**D. SERVICE COSTS**

Similar to the facility costs described above, Table 3 shows the maintenance costs expected within the CFD once all annexations have occurred, as well as the costs allocated to parcel 56-27-02 in Tax Zone 1 upon formation of the CFD. The maintenance requirement for Tax Zone 1 is also based on the percentage of net developable acreage in Tax Zone 1 relative to the CFD at buildout.

**Table 3**

	Total Cost at Buildout	Tax Zone 1 Share
Landscaping	\$300,697.34	\$71,325.41
Park	\$75,250.00	\$17,849.30
Bike Trail	\$21,134.78	\$5,013.17
Dual Use Facility (Park/Basin)		
Landscaping	\$32,400.00	\$7,685.28
Storm Drainage	\$28,796.81	\$6,830.60
<b>Total</b>	<b>\$458,278.94</b>	<b>\$108,703.76</b>

**E. INCIDENTAL EXPENSES**

In addition to the facility and service costs listed above, bond proceeds and special taxes will be used to pay incidental expenses related to the sale of bonds, such as the cost of bond counsel, underwriter, financial advisor, appraiser, special tax consultant, City staff time, and CFD administrative costs. Because the City has not yet started preparing for issuance of the first series of bonds, there is not currently a cost estimate for these incidental expenses. However, such expenses generally make up approximately five percent (5%) of the total amount of bonds issued.

**APPENDIX A**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

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

## APPENDIX C

### CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

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

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

#### 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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**"Annual Maintenance Special Tax"** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual 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. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a final map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor’s Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor’s Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor’s Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor’s Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

## **C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

### **2. Successor Parcels**

#### ***a. All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

#### ***b. No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;

- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

**3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

**2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

## **E. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$3,800,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are

authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<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 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).

- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 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"*).
- Step 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"*).
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (*the "Defeasance Requirement"*).
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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"*).
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (*the "Prepayment Amount"*).

## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the

interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

**ATTACHMENT 1**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2003-1  
(FAIRVIEW VILLAGE)**

**IDENTIFICATION OF TAX ZONES**

**(TO COME)**

**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**MAIXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE**

<b>Tax Zone</b>	<b>APN</b>	<b>Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]</b>	<b>Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]</b>	<b>Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]</b>
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

Del Valle Capital Corporation, Inc.  
c/o Scott Myers  
1012 10th Street,  
Modesto, CA 95354

City of Modesto Community Facilities District No. 2003-1 (Fairview Village)

POSTMASTER DELIVER TO: Jean Zahr, City Clerk  
City of Modesto  
1010 Tenth Street  
Modesto, California 95353

PLEASE TYPE OR PRINT ALL INFORMATION

I declare under penalty of perjury that I am the owner of record or the authorized representative of the landowner entitled to vote the within contained mail ballot, and that I am the person whose name appears below.

Executed on 5/7/04, at Modesto (city) OF THE CITY OF MODESTO  
Ca. (state). THIS ENVELOPE CONTAINS AN OFFICIAL BALLOT TO BE OPENED ONLY BY THE CITY CLERK  
Name: Scott Myers  
Address: 1012 10th St Modesto 95354  
Signature: [Signature]

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**Special Tax Election for City of Modesto  
Community Facilities District No. 2003-1 (Fairview Village)  
(Mello-Roos Community Facilities Act)**

**May 11, 2004**

**Ballot Pamphlet  
and  
Instructions to Voter  
Together with Official Ballot**

Dear Landowner Voter:

The City Council of the City of Modesto, California has called a special election for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"). This is a landowner election with the landowners of record within the Community Facilities District as of the close of the May 11, 2004, protest hearing being entitled to cast one vote for each acre or portion thereof owned within the Community Facilities District. The ballots are being personally hand delivered or mailed to the landowners who are listed as such on the latest equalized assessment roll prepared by the Stanislaus County Assessor prior to May 11, 2004 or who are otherwise known by the City Clerk to own property within the boundaries of the Community Facilities District.

ENCLOSED IS ONE BALLOT FOR EACH GROUP OF PARCELS SHOWN ON THE ASSESSOR'S ROLL UNDER AN IDENTICAL NAME AND ADDRESS OR KNOWN BY THE CITY CLERK TO BE OWNED BY A SINGLE LANDOWNER. Any parcels with a common name and address have been combined for voting purposes. Each qualified landowner voter has been issued one ballot which entitles that voter to vote his or her total acreage of land within the Community Facilities District. Each ballot is allotted a specified number of votes depending on acreage. Each acre or portion thereof is worth one vote.

The election will be conducted by personally hand delivered or mailed ballots. ***Please note that your ballot must be marked and returned in the enclosed envelope to the City Clerk at 1010 Tenth Street, Modesto, California 95353, for receipt by the City Clerk not later than 9:00 p.m., May 11, 2004.*** You may either mail your ballot to the City Clerk at such address or personally deliver it to the City Clerk.

If you have any questions, please contact us at (209) 577-5200.

Very truly yours,

Jean Zahr,  
City Clerk

## INSTRUCTIONS TO LANDOWNER VOTER

### HOW TO VOTE YOUR BALLOT

To vote on the measure, make a "+", "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Modesto and obtain another.

### SPOILING YOUR BALLOT

If you tear your ballot or make an error in voting, you may secure another by surrendering the ballot you spoiled, in person, to the City Clerk at 1010 Tenth Street, Modesto, California 95353, or by executing an affidavit to the effect that you lost your ballot, and you will be given another ballot. If you spoil your ballot, please call the City Clerk at (209) 525-5200.

### LAST DAY TO RETURN BALLOT TO THE CITY CLERK

Your ballot must be returned to the Office of the City Clerk at 1010 Tenth Street, Modesto, California 95353, not later than 9:00 p.m. on May 11, 2004, for it to be counted. YOUR BALLOT CANNOT BE ACCEPTED BEYOND THIS DEADLINE.

**OFFICIAL BALLOT**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**May 11, 2004**

**SPECIAL ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on May 11, 2004, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

**INSTRUCTIONS TO VOTERS:**

To vote on the measure, make a "+", "x" or other distinguishing mark on the line after the word "Yes" or on the line after the word "No." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

PROPOSITION A: Shall the amended and restated rate and method of apportionment of special tax set forth in Resolution No. 2004-173 adopted by the City Council of the City of Modesto as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") replace the existing rate and method of apportionment for the Community Facilities District and be levied for the purposes set forth in Resolution No. 2003-660?

YES   X  

NO

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

DEL VALLE CAPITAL CORPORATION, INC.

By

A handwritten signature in black ink, appearing to be "S. H. M.", written over a horizontal line.

Number of Votes: 82

CERTIFICATE AND WAIVER OF CERTAIN ELECTION PROCEDURES  
WITH RESPECT TO LANDOWNER ELECTION FOR  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

The undersigned, hereby certifies to the City of Modesto, California (the "City") and to City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") on behalf of Del Valle Capital Corporation, Inc. (the "Owner") as follows:

1. The undersigned has been duly authorized by the Owner, and possesses all authority necessary, to execute this Certificate and Waiver on behalf of the Owner in connection with an election to be held by the City Council of the City with respect to certain proposed changes to the rate and method of apportionment of special taxes within the Community Facilities District (the "Proposed Changes"). The Owner hereby appoints the person named below as its authorized representative to vote in the election referred to herein and certifies that his or her true and exact signature is set forth below his or her name.

2. As of May 11, 2004, the Owner owned 81.66 acres of land located within the Community Facilities District (such acreage being calculated on the basis of the area of the assessor's parcels within the Community Facilities District as shown in the records of the Stanislaus County Assessor). There are no registered voters residing on such land owned by the Owner, and there were none during the 90-day period preceding the May 11, 2004 public hearing conducted by the City Council pursuant to Government Code Section 53338.


3. Not less than 15 days prior to May 11, 2004, the Owner received notice of the aforesaid May 11, 2004 public hearing held by the City Council regarding the Proposed Changes. The Owner agrees that it has received adequate notice of said hearing.

4. The Owner has received from the City and the City has made available to the Owner necessary and relevant information regarding the Proposed Changes as set forth in Resolution No. 2004-173 adopted on April 6, 2004 by the City Council of the City acting in its capacity as the legislative body of the Community Facilities District.

5. The Owner understands that the election being held by the Community Facilities District on the proposition set forth in the sample ballot attached hereto as Exhibit "A" (the "Ballot") is being conducted (a) less than 90 days after the close of the public hearing as otherwise required by Section 53326 of the Government Code, (b) without the preparation of an impartial analysis, arguments or rebuttals concerning the election as otherwise provided for by Elections Code Sections 9160 to 9167, inclusive, and 9195 and (c) without further notice of such election or limitation on number of words in the proposition as otherwise required pursuant to the Elections Code. Having been fully advised with respect to the election, in accordance with the authority contained in Government Code Sections 53326 and 53327, the Owner (i) waives compliance with the foregoing provisions of the Elections Code and Government Code and with any time limits or other procedural requirements pertaining to the conduct of the election which are not being complied with (including, but not limited to, the form of the Ballot), (ii) consents to having the election on any date on or after the close of the public hearing regarding the Proposed Changes, and (iii) consents to the closing of the election as soon as all ballots are received by the City Clerk of the City.

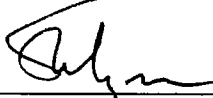
6. The undersigned hereby represents that compliance with the procedural requirements for conducting the election, including the receipt of any ballot arguments and impartial analysis and the time limitations which apply in connection with scheduling, mailing and publishing notices for such an election, are unnecessary in light of the fact that the Owner has received sufficient information regarding the Proposed Changes as set forth in Resolution No. 2004-173 to allow it to properly complete the attached ballot. The Owner waives its right to make any protest or complaint or undertake any legal action challenging the validity of the election, the validity of the Proposed Changes or the levy of the special tax to finance facilities for the benefit of the Community Facilities District.

Name of Authorized Voter: Scott Myers

Signature of Authorized Voter: 

Dated: May 11, 2004

DEL VALLE CAPITAL CORPORATION, INC.

By: 

Its: President

**EXHIBIT A**  
**OFFICIAL BALLOT**  
**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**May 11, 2004**

**SPECIAL ELECTION**

This ballot is for a special, landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Modesto no later than 9:00 p.m. on May 11, 2004, either by mail or in person. The City Clerk's offices are located at 1010 Tenth Street, Modesto, California 95353.

**INSTRUCTIONS TO VOTERS:**

To vote on the measure, make a "+", "x" or other distinguishing mark on the line after the word "YES" or on the line after the word "NO." If you wrongly mark, tear or deface this ballot, return it to the City Clerk and obtain another.

**PROPOSITION A:** Shall the amended and restated rate and method of apportionment of special tax set forth in Resolution No. 2004-173 adopted by the City Council of the City of Modesto as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District") replace the existing rate and method of apportionment for the District and be levied for the purposes set forth in Resolution No. 2003-660

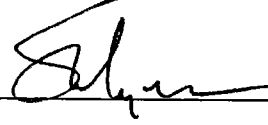
YES   X  

NO

By execution in the space provided below, you also indicate your waiver of the time limit pertaining to the conduct of the election and any requirement for analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Sections 53326(a) and 53327(b) of the Mello-Roos Community Facilities Act of 1982.

DEL VALLE CAPITAL CORPORATION, INC.

By

A handwritten signature in black ink, appearing to be "Edgar", written over a horizontal line.

Number of Votes: 82

REC'T # 0001370094  
December 16, 2003 14:10:37

Stanislaus County Recorder  
Lee Lundrigan Co Recorder Office

Document # 03-0212228-00

RECD BY  
Free Issue

Total fee ..... \$0.00  
Amount Tendered... \$0.00

Change ..... \$0.00  
BJE/R2/17  
40

Filing Requested By  
And Return To:

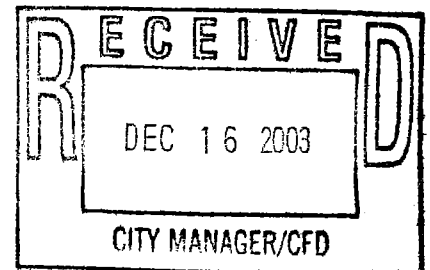
City of Modesto  
City Clerk Office  
PO Box 642  
Modesto CA 95354

**Notice of Special Tax Lien**

FOR: CFD 2003-1 (Fairview Village)

DATE OF RECORDING: December 16, 2003

RECORDATION NUMBER: 03-0212228-00



**Recording Requested By and  
When Recorded Mail To:**

Stradling Yocca Carlson & Rauth,  
a Professional Corporation  
660 Newport Center Drive, Suite 1600  
Newport Beach, California 92660  
Attn: John J. Murphy, Esq.

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

**NOTICE OF SPECIAL TAX LIEN  
FOR CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

Pursuant to the requirements of Section 3114.5 of the California Streets and Highways Code and Section 53328.3 of the California Government Code, the undersigned City Clerk of the City of Modesto, California (the "City"), hereby gives notice that a lien to secure payment of special taxes is hereby imposed by the City Council of the City of Modesto, sitting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"). The special taxes secured by this lien are authorized to be levied for the purpose of: (i) paying the cost of maintaining parks, parkways and open space (including a bike trail) and the cost of maintaining a storm drainage basin and related facilities, (ii) financing the cost of purchasing, constructing, expanding, improving or rehabilitating certain storm drain system, water system, sewer system and bike trail and all appurtenances and appurtenant work in connection with the foregoing (collectively, the "Facilities"), and paying the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses"); (iii) paying for the cost of purchasing, constructing, expanding, improving or rehabilitating the Facilities; (iv) paying for the costs of forming the Community Facilities District and administering the levy and collection of the special taxes; and (v) paying for all other costs incidental to the levy of the special taxes, the issuance of bonds and certificates of participation for the Facilities or the planning, construction, completion and inspection of the Facilities, including, but not limited to the payment of incidental expenses of the Community Facilities District.

The special taxes are authorized to be levied within the Community Facilities District, which has now been officially formed; and the lien is a continuing lien which shall secure each annual levy of the special taxes and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the California Government Code.

The rate, method of apportionment and manner of collection of the authorized special taxes is as set forth in Appendix A attached hereto and incorporated herein by this reference (the "Rate and Method").

Pursuant to Section 53321 of the Government Code, the special tax obligation may be prepaid and permanently satisfied upon satisfaction of the conditions set forth in the Rate and Method.

Notice is further given that upon the recording of this notice in the office of the County Recorder of the County of Stanislaus, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the Community Facilities District in accordance with Section 3115.5 of the Streets and Highway Code.

The names of the owners and the assessor's tax parcel numbers of the real property included within the Community Facilities District and not exempt from the special tax are as set forth in Appendix B attached hereto and incorporated herein by this reference.

Reference is made to the amended boundary map of the Community Facilities District recorded at Book No. \_\_\_ of Maps of Assessment and Community Facilities Districts, at Page \_\_\_, in the office of the County Recorder for the County of Stanislaus, which map is now the final boundary map of the Community Facilities District.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the office of the Community Facilities District Administrative Officer of the City of Modesto, 1010 Tenth Street, Modesto, California 95353, (209) 577-5211.

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City Clerk of the City of Modesto

## APPENDIX A

### RATE AND METHOD OF APPORTIONMENT FOR CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

#### 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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**"Annual Maintenance Special Tax"** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**"Annual Facilities Special Tax"** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**"Annual 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. 2003-1 which

have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a final map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor's Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor's Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor's Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor's Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

## **C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

### **2. Successor Parcels**

#### **a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

**b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;

**Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be increased by four percent (4%) of the amount in effect in the prior year.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

**3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

**2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal

Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

### **E. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided

further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$3.8 million in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor's Parcel in the CFD may be prepaid and the obligation of the Assessor's Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor's Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<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 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor's Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "***Bond Redemption Amount***").
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 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***").
- Step 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***").
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding

Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.

- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (the “*Defeasance Requirement*”).
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the “*Administrative Fees and Expenses*”).
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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*”).
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the “*Prepayment Amount*”).

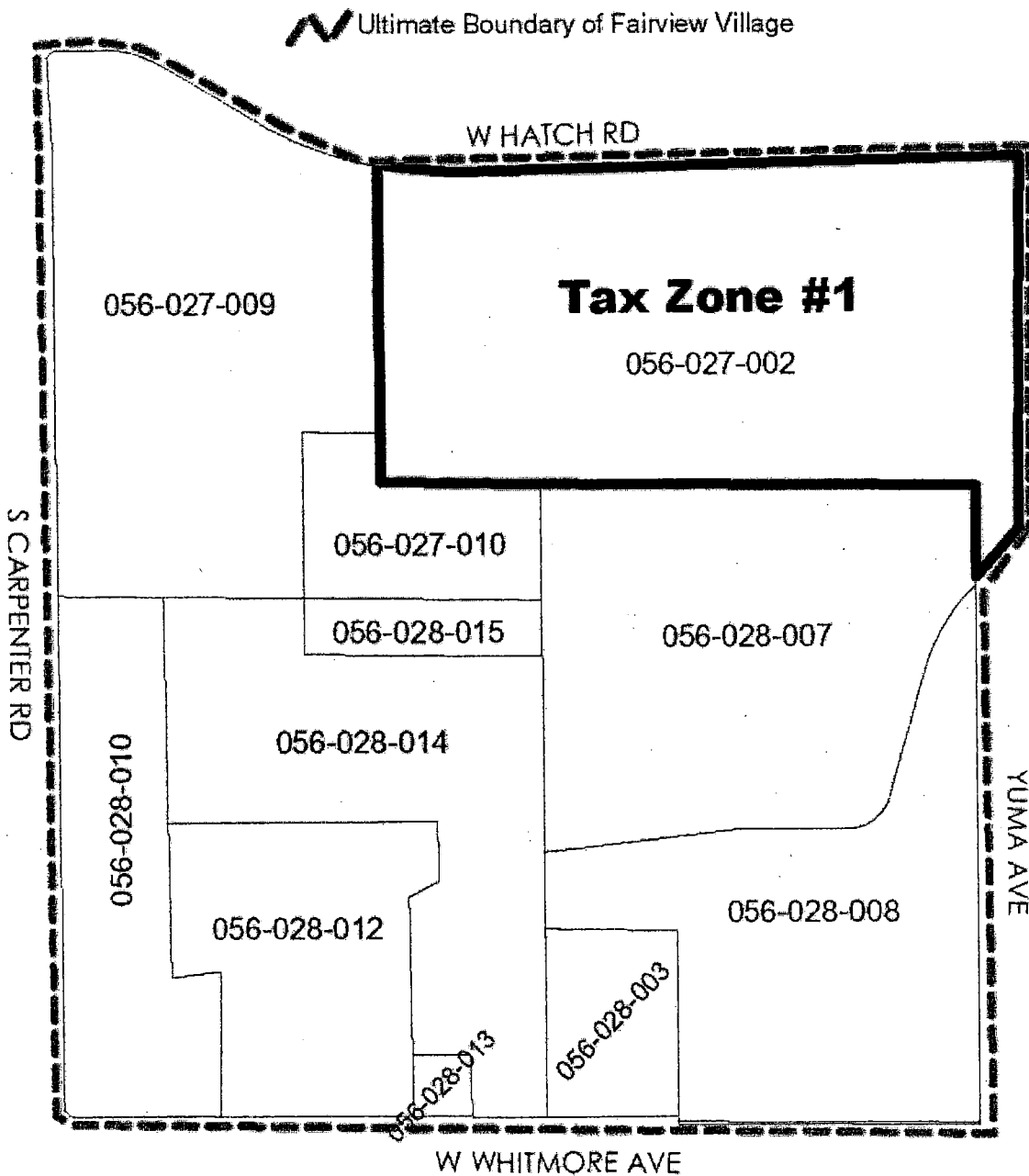
**I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE**

<b>Tax Zone</b>	<b>APN</b>	<b>Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]</b>	<b>Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]</b>	<b>Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]</b>
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall escalate by 4.0% of the amount in effect in the prior Fiscal Year.
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**APPENDIX B**

<i>Name of Owner</i>	<i>Assessor's Parcel No.</i>
Del Valle Capital Corporation, Inc.	056-27-02

**PETITION**

**Requesting the Institution of Proceedings for the  
Establishment of a Community Facilities District  
Community Facilities District No. 2003-1 (Fairview Village)**

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Del Valle Capital Corp., Inc. hereby petitions the City Council (the "Council") of the City of Modesto, State of California (the "City"), requesting the institution of proceedings for the establishment of a community facilities district within the City pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act").

I am the owner of not less than ten (10%) percent of the area of land proposed to be included within the proposed community facilities district or am the agent of owner(s) owning more than ten (10%) percent of the subject area and I am authorized by said owner(s) to execute this Petition on their behalf.

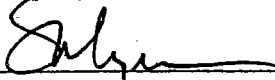
The boundaries of the territory which is proposed for inclusion in the community facilities district are shown on the map attached hereto.

The types of facilities proposed to be financed by the community facilities district shall be in accordance with the Specific Plan, the Facilities Master Plan, the Facilities Finance Plan and/or any other City approved planning document pertaining to this capital facilities district.

Dated: 9-29-03

Del Valle Capital Corp., Inc.

*(name of applicant, please print)*

  
*(signature of applicant)* Scott Myers, President

205.93  
CFD

16,20(5)

NOTICE OF PUBLIC HEARING  
ON RESOLUTION OF CONSIDERATION TO  
ALTER THE EXISTING RATE AND METHOD OF  
APPORTIONMENT OF SPECIAL TAX FOR CITY  
OF MODESTO COMMUNITY FACILITIES  
DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)

**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident  
Of the County aforesaid; I am over the age of  
Eighteen years, and not a party to or interested  
In the above entitle matter. I am the printer  
And Principal clerk of the publisher  
of **THE MODESTO BEE**, printed and  
Published in the City of **MODESTO**, County  
Of **STANISLAUS**, State of California, daily,  
For which said newspaper has been adjudged a  
Newspaper of general circulation by the Superior  
Court of the County of **STANISLAUS**, State of  
California, under the date of **February 25, 1951**,  
**Action No. 46453**; that the notice of which the  
annexed is a printed copy, has been published in  
each issue thereof on the following dates, to wit:

**MAY 3, 2004**

I certify (or declare) under penalty of perjury  
That the foregoing is true and correct and that  
This declaration was executed at  
**MODESTO**, California on

**MAY 3, 2004**

  
(Signature)

**NOTICE IS HEREBY GIVEN** that the City  
Council of the City of Modesto, acting in its capacity  
as the legislative body of the City of Modesto Community  
Facilities District No. 20031 (Fairview Village)  
(the "City Council"), adopted Resolution  
No.2004173 (the "Resolution of Consideration") on  
April6, 2004 declaring its intention to consider altering  
the existing rate and method of apportionment  
of the special tax (the "Existing Rate and Method")  
for the City of Modesto Community Facilities District  
No. 2003-1 (Fairview Village) (the "Community  
Facilities District") pursuant to the provisions of  
the Mello-Roos Community Facilities Act of 1982  
(California Government Code Sections 53311 etseq.).

The Resolution of Consideration states the intent  
of the City Council to amend the Existing Rate  
and Method by replacing it with a new rate and  
method of apportionment (the "Amended Rate and  
Method") which, among other changes, would re-  
vise the definition of "Developed Property" to give  
said term different meanings depending on whether  
it is being used for purposes of levying the "Annual  
Maintenance Special Tax" or the "Annual Facilities  
Special Tax" (each as defined in the Existing Rate  
and Method). The Resolution of Consideration est-  
ablishes May11, 2004 as the date for a public hear-  
ing on the Amended Rate and Method and describes  
the protest and voting rights available to voters and  
landowners which are described in greater detail  
below. Copies of the Resolution of Consideration and  
other resolutions relating to the Community Facili-  
ties District are available on request from the City  
Clerk at the address specified below.

**PUBLIC HEARING**  
**NOTICE IS HEREBY GIVEN THAT A PUBLIC HEARING HAS BEEN SCHEDULED FOR MAY11, 2004, AT THE HOUR OF 5:30 P.M., OR AS SOON THEREAFTER AS SUCH MATTER CAN BE HEARD, AT A MEETING OF THE CITY COUNCIL TO BE HELD IN THE MODESTO CITY COUNCIL CHAMBER, LOCATED AT 1010 TENTH STREET, MODESTO, CALIFORNIA, AT WHICH TIME THE CITY COUNCIL WILL HEAR ALL EVIDENCE AND TESTIMONY BY ALL INTERESTED PERSONS, PROPERTY OWNERS, VOTERS AND TAXPAYERS FOR OR AGAINST THE AMENDED RATE AND METHOD. ALL PERSONS INTERESTED, INCLUDING PROPERTY OWNERS, TAXPAYERS AND REGISTERED VOTERS, MAY APPEAR AT THE HEARING AND PRESENT EVIDENCE AND TESTIMONY FOR OR AGAINST THE AMENDED RATE AND METHOD. ANY PROTEST PERTAINING TO THE REGULARITY OR SUFFICIENCY OF THE PROCEEDINGS RELATING TO THE AMENDED RATE AND METHOD MUST BE IN WRITING, SHALL CLEARLY STATE THE IRREGULARITIES OR DEFECTS TO WHICH OBJECTION IS MADE, AND SHALL BE FILED WITH THE CITY CLERK ON OR BEFORE THE TIME SET FOR THE HEARING. IF FIFTY PERCENT (50%) OR MORE OF THE REGISTERED VOTERS, OR SIX (6) REGISTERED VOTERS, WHICHEVER IS MORE, RESIDING WITHIN THE COMMUNITY FACILITIES DISTRICT, OR IF THE OWNERS OF ONE-HALF (1/2) OR MORE OF THE AREA OF LAND WITHIN THE COMMUNITY FACILITIES DISTRICT FILE WRITTEN PROTESTS AGAINST THE AMENDED RATE AND METHOD, AND PROTESTS ARE NOT WITHDRAWN SO AS TO REDUCE THE VALUE OF THE PROTESTS TO LESS THAN A MAJORITY, THE CITY COUNCIL SHALL ABANDON THE PROCEEDINGS AND NO FURTHER PROCEEDINGS AS TO THE AMENDED RATE AND METHOD SHALL BE TAKEN FOR A PERIOD OF ONE YEAR FROM THE DATE OF THE DETERMINATION BY THE CITY COUNCIL. IF AFTER THE PUBLIC HEARING THE CITY COUNCIL DETERMINES TO SUBMIT THE QUESTION OF THE AMENDED RATE AND METHOD TO A VOTE, AN ELECTION WILL BE HELD WITHIN THE COMMUNITY FACILITIES DISTRICT TO APPROVE OR REJECT THE AMENDED RATE AND METHOD. AT SUCH AN ELECTION, EACH LANDOWNER WITHIN THE COMMUNITY FACILITIES DISTRICT SHALL BE ENTITLED TO CAST ONE VOTE FOR EACH ACRE, OR PORTION THEREOF, OWNED. FOR A PROPOSITION TO BE ADOPTED, TWO-THIRDS OF THE VOTES CAST AT THE ELECTION MUST FAVOR PASSAGE.**

The annual special tax rates are proposed to be reduced to the following amounts:

**INQUIRIES**  
For any questions relating to the proposed amendments, or any particulars, please contact the following designated person:

Tina Rocha  
Community Facilities District Administrative Officer  
City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, CA 95353  
(209) 577-5211  
Email: Trocha@modestogov.com  
DATED: April7, 2004  
BY: JEAN ZAHB



Filing Requested By  
And Return To:

City of Modesto  
City Clerk Office  
PO Box 642  
Modesto CA 95354

Stanislaus, County Recorder  
Lee Lundrigan Co Recorder Office  
**DOC- 2004-0084800-00**

Tuesday, JUN 01, 2004 15:46:42  
Ttl Pd \$0.00 Nbr-0001500840  
BJE/R2/1-18

*Amended* **Notice of Special Tax Lien**

FOR: CFD No. 2003-1 (Fairview Village)

DATE OF RECORDING: June 1, 2004

RECORDATION NUMBER:

*RL*

**Recording Requested By and  
When Recorded Mail To:**

Stradling Yocca Carlson & Rauth,  
a Professional Corporation  
660 Newport Center Drive, Suite 1600  
Newport Beach, California 92660  
Attn: John J. Murphy, Esq.

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

**AMENDED NOTICE OF SPECIAL TAX LIEN  
FOR CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

This Amended Notice of Special Tax Lien for City of Modesto Community Facilities District No. 2003-1 (Fairview Village) amends and supersedes the original Notice of Special Tax Lien that was recorded on December 16, 2003 as Document No. 021222800 in the office of the County Recorder of the County of Stanislaus.

Pursuant to the requirements of Section 3114.5 of the California Streets and Highways Code and Section 53328.3 of the California Government Code, the undersigned City Clerk of the City of Modesto, California (the "City"), hereby gives notice that a lien to secure payment of special taxes is hereby imposed by the City Council of the City of Modesto, sitting as the legislative body of the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) (the "Community Facilities District"). The special taxes secured by this lien are authorized to be levied for the purpose of: (i) paying the cost of maintaining parks, parkways and open space (including a bike trail) and the cost of maintaining a storm drainage basin and related facilities, (ii) financing the cost of purchasing, constructing, expanding, improving or rehabilitating certain storm drain system, water system, sewer system and bike trail and all appurtenances and appurtenant work in connection with the foregoing (collectively, the "Facilities"), and paying the incidental expenses to be incurred in connection with financing the Facilities, including costs associated with the creation of the Community Facilities District and the issuance of bonds, the establishment and replenishment of bond reserve and special reserve funds (the "Incidental Expenses"); (iii) paying for the cost of purchasing, constructing, expanding, improving or rehabilitating the Facilities; (iv) paying for the costs of forming the Community Facilities District and administering the levy and collection of the special taxes; and (v) paying for all other costs incidental to the levy of the special taxes, the issuance of bonds and certificates of participation for the Facilities or the planning, construction, completion and inspection of the Facilities, including, but not limited to the payment of incidental expenses of the Community Facilities District.

The special taxes are authorized to be levied within the Community Facilities District, which has now been officially formed; and the lien is a continuing lien which shall secure each annual levy of the special taxes and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the California Government Code.

The amended and restated rate and method of apportionment and manner of collection of the authorized special taxes is as set forth in Appendix A attached hereto and incorporated herein by this reference (the "Rate and Method"). This amended and restated rate and method of apportionment supercedes and replaces the rate and method of apportionment previously in effect for the Community Facilities District as referenced in Document No. 01222800.

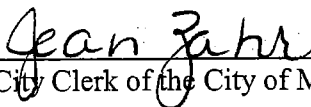
Pursuant to Section 53321 of the Government Code, the special tax obligation may be prepaid and permanently satisfied upon satisfaction of the conditions set forth in the Rate and Method.

Notice is further given that upon the recording of this notice in the office of the County Recorder of the County of Stanislaus, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the Community Facilities District in accordance with Section 3115.5 of the Streets and Highway Code.

The names of the owners and the assessor's tax parcel numbers of the real property included within the Community Facilities District and not exempt from the special tax are as set forth in Appendix B attached hereto and incorporated herein by this reference.

Reference is made to the amended boundary map of the Community Facilities District recorded at Book No. 3AM of Maps of Assessment and Community Facilities Districts, at Page 83, in the office of the County Recorder for the County of Stanislaus, which map is now the final boundary map of the Community Facilities District.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact the office of the Community Facilities District Administrative Officer of the City of Modesto, 1010 Tenth Street, Modesto, California 95353, (209) 577-5211.

  
\_\_\_\_\_  
City Clerk of the City of Modesto

**APPENDIX A**

**AMENDED AND RESTATED  
RATE AND METHOD OF APPORTIONMENT FOR  
CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE)**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

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

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Fairview Village) [herein "CFD No. 2003-1" or "the CFD"] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2003-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

**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 or other Development Plan.

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

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2003-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**“Annual Maintenance Special Tax”** means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual 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. 2003-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (iv) to pay construction expenses to be funded directly from Annual Facility Special Tax proceeds. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2003-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“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 designating parcels by Assessor’s Parcel number.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2003-1 related to public infrastructure and/or improvements that are authorized to be funded by CFD No. 2003-1.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2003-1 was adopted by the City Council.

**“City”** means the City of Modesto.

**“City Council”** means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2003-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

***For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:***

- *for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year*
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

***For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:***

- *for Single Family Detached Property, all Parcels for which a building permit for new construction of a Unit was issued prior to June 30 of the preceding Fiscal Year*
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.
- for Other Property, all parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

**“Final Map”** means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots in that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

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

**“Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 2003-1, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a special tax, levied on Taxable Property to pay the One-Time Facilities Special Tax Requirement and collected by the City prior to a structural building permit being issued for new construction on Taxable Property.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2003-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means an Assessor’s Parcel in CFD No. 2003-1 at the time of CFD Formation, as identified in Attachment 2. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2003-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls and are offered as for-sale Units, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2003-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2003-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2003-04 by Assessor’s Parcel number 56-27-02 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2003-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax

Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. If, in any Fiscal Year, an Assessor's Parcel includes both Developed Property and Undeveloped Property, the Administrator shall determine the acreage associated with the Developed Property, subtract this acreage from the total Acreage of the Assessor's Parcel, and use the remaining acreage to calculate the Special Tax that will apply to Undeveloped Property within the Assessor's Parcel. The Special Tax shall then be calculated for the Developed Property on the Parcel, and the total Special Tax levied on the Assessor's Parcel shall be the sum of the Special Taxes determined separately for the Undeveloped Property and Developed Property on the Parcel.

### **C. CALCULATING THE MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2003-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Annual Facilities Special Tax, and Annual Maintenance Special Tax.

#### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2003-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

#### **2. Successor Parcels**

##### **a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

##### **b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;
- Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

- Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;
- Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;
- Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;
- Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;
- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

**D. ESCALATION OF MAXIMUM SPECIAL TAXES**

**1. One-Time Facilities Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

**2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2005-06, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

**3. Annual Maintenance Special Tax**

Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**E. METHOD OF LEVY OF THE SPECIAL TAX**

**1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2003-1 and shall be collected as set forth in Section F below.

## **2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

## **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

## **F. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2003-1, and shall be immediately delinquent if not so paid.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2003-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2050-2051. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the City determines that Annual Maintenance Special Tax revenues are no longer needed to pay authorized services of the CFD.

## **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Public Property, except Taxable Public Property, as defined herein.

## **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$3,800,000 in 2004 dollars, which shall increase on January 1, 2005, and on each January 1 thereafter by the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or such lower number as shall be determined by the City as sufficient to fund improvements that are authorized to

be funded by the CFD. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2003-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus public facility costs funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities 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 Annual Facilities 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 Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<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 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).
- Step 4.** Compute the current Remaining Facilities Costs (if any).

- Step 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"*).
- Step 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"*).
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (*the "Defeasance Requirement"*).
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, 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"*).
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (*the "Prepayment Amount"*).

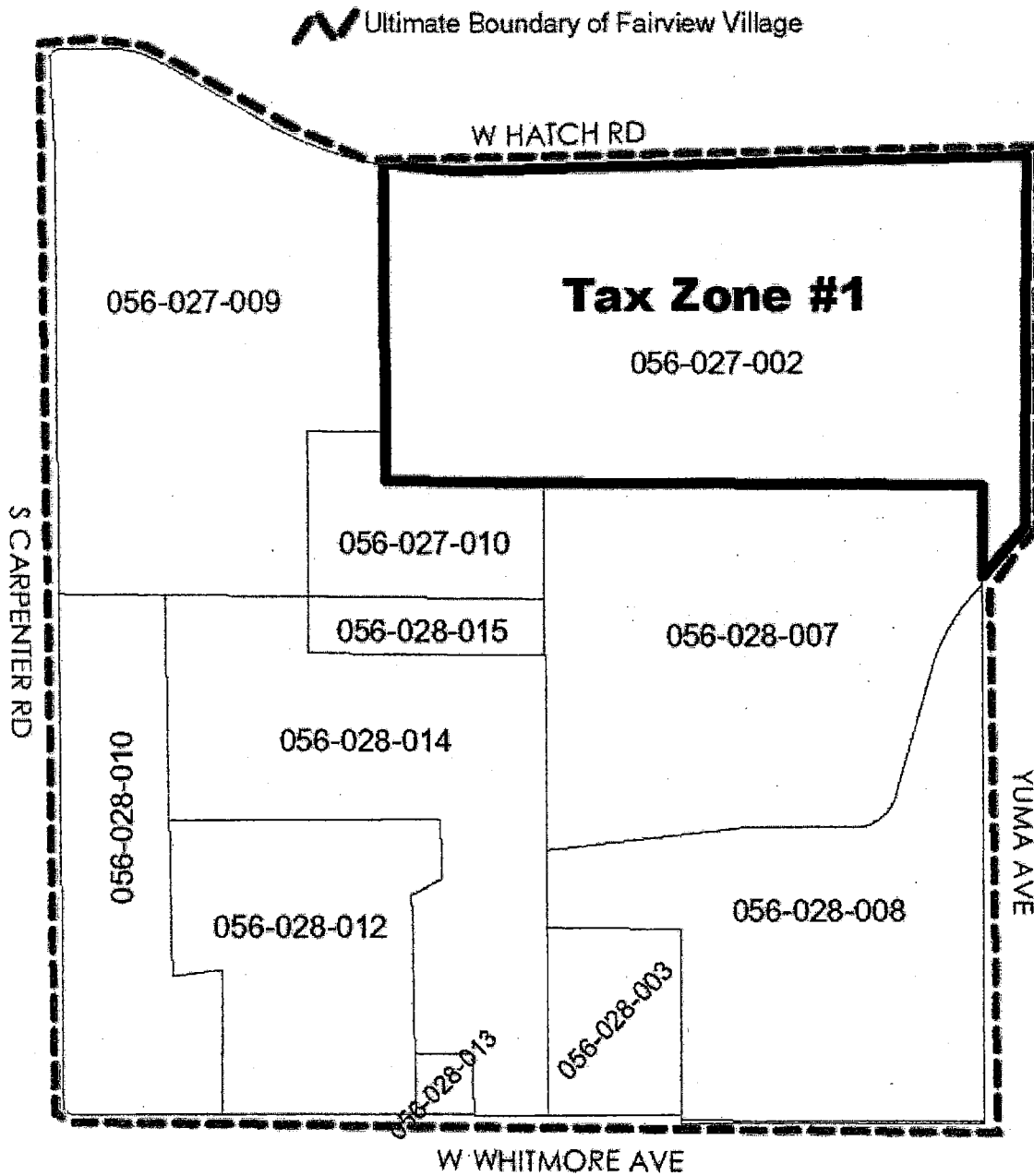
## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that does not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2003-1  
(FAIRVIEW VILLAGE)

IDENTIFICATION OF TAX ZONES



**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(FAIRVIEW VILLAGE)**

**MAXIMUM SPECIAL TAXES ASSIGNED TO EACH ORIGINAL PARCEL WITHIN  
EACH TAX ZONE**

Tax Zone	APN	Fiscal Year 2004-05 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2004-05 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2004-05 Maximum Annual Maintenance Special Tax [3]
1	56-27-02	\$0	\$326,517	\$108,585

1. Beginning in January 2005 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.
  
2. Beginning in Fiscal Year 2005-06 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
  
3. Beginning in January 2005 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

**APPENDIX B**

<i>Name of Owner</i>	<i>Assessor's Parcel No.</i>
Del Valle Capital Corporation, Inc.	056-27-02

Filing Requested By  
And Return To:

City of Modesto  
City Clerk Office  
PO Box 642  
Modesto CA 95354

REC'T # 0001348384  
November 04, 2003 15:41:39

Stanislaus, County Recorder  
Lee Lundrigan Co Recorder Office

Document #03-0190347-00

**MAP**

**BOOK 3A PAGE 83**

REC'D BY  
Free Issue

Total fee ..... \$0.00  
Amount Tendered... \$0.00

Charge ..... \$0.00  
CHK:R2/1  
49

FOR: CFD No. 2003-1

DATE OF RECORDING: November 4, 2003

RECORDATION NUMBER: 03-0190347-00

ENGINEER: Thompson-Hysell Engineers

DESCRIPTION:

Proposed boundaries of CFD District No. 2003-1, City of Modesto, County of Stanislaus, State of California.

11-13-03 Provided to John Hysell via phone