

**CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 1997-1
(NORTH BEYER PARK SPECIFIC PLAN)**

CFD REPORT

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Prepared For:

CITY OF MODESTO

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I. INTRODUCTION

On November 26, 1996, the City Council of the City of Modesto approved the North Beyer Specific Plan, allowing up to 1,200 dwelling units to be developed on 160 acres. At the same time, a residential subdivision was approved which proposed 263 dwelling units to be built on 55 acres within the Specific Plan. One condition on the tentative map of the subdivision required the development to form, or annex into a Mello-Roos Community Facilities District (CFD) to fund the maintenance of various parkways and open space within the development.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 1997-1

A. Introduction

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

The Resolution of Intention to Establish CFD No. 1997-1 (Resolution No. 97-252) was adopted by the City Council on May 13, 1997. After a public hearing and a successful election by the landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of North Beyer CFD

The initial boundaries of the CFD include the “Florsheim Development”, which will ultimately be developed into approximately 436 single family residential units, 22 acres of commercial property and 4.6 acres of office uses. Additional property is expected to annex into the CFD in future years as development in the area expands.

It is anticipated that property subsequently annexed into the CFD will be subject to the same special tax levy as property in the CFD from the start.

The boundaries of the CFD are shown on a boundary map that was approved by the City Council and recorded in Book 2, page 80 of the Book of Assessment District Maps in the Stanislaus County Recorder’s Office.

C. CFD Special Tax Structure

Each year a special tax will be levied and collected from parcels within the CFD to pay costs associated with the landscape and hardscape of streets, parkways and open space within the North Beyer Park Specific Plan, as well as maintenance of

these improvements (authorized facilities and maintenance costs are identified in detail below). The Rate and Method of Apportionment of Special Tax ("RMA"), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix A of this report.

As explained in Sections C and D of the RMA, two different special taxes will be levied within the CFD. First, a "Facilities Special Tax" will be levied to pay for capital improvements and appurtenant expenses, such as design, planning, engineering and inspection. The Facilities Special Tax will be paid only once and will be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction on a parcel within the CFD. The maximum Facilities Special Tax that can be levied in fiscal year 1997-98 is \$84 for each single family unit, \$54 for each multi-family unit, and \$4,263 for each non-residential acre. These maximum taxes are subject to increase each year based on the increase, if any, in the construction cost index published in the Engineering News Record.

The second special tax that can be levied in the CFD is the "Maintenance Special Tax", which will be collected to pay costs associated with maintaining parkways and open space in the North Beyer Park Specific Plan. The Maintenance Special Tax will be collected each fiscal year on the property tax bills of all parcels in the CFD that have had a final building permit inspection conducted or a certificate of occupancy issued prior to June 1 of the preceding fiscal year. The maximum Maintenance Special Tax that can be levied in fiscal year 1997-98 is \$80 per single family residential unit, \$52 per multi-family unit and \$396 per non-residential acre. Once again, these maximum tax rates are subject to increase each year based on the increase, if any, in the construction cost index published in the Engineering News Record.

III. DESCRIPTION OF FACILITIES TO BE FUNDED BY CFD No. 1997-1

The facilities and services described below are all facilities which the City of Modesto is authorized to finance and which are required to adequately meet the needs of CFD No. 1997-1. The special taxes required to pay for these facilities and services will be apportioned according to the "Rate and Method of Apportionment of Special Tax", a copy of which is provided in Appendix A.

A. Authorized Capital Improvements

1. Oakdale Road (Principle Arterial)

According to the Land Use Diagram, the plan is for 505 lineal feet of residential frontage, and 740 lineal feet of mixed-use/neighborhood shopping. This street parkway includes a 16-foot-wide landscape median.

510 lineal feet x 10 ft wide planter x 3.50/sq. ft.	=	\$17,850
16 ft wide median x 720 lineal feet	=	\$42,499
500-foot 4-foot transition planter @ \$4.50/sq. ft	=	<u>\$9,000</u>
Subtotal for Oakdale Road	=	\$69,349
Eng., Inspection, Admin., Contingency (25%)	=	<u>\$17,350</u>
Total for Oakdale Road	=	\$86,686

2. Coffee Road (Minor Arterial)

The Land Use Diagram calls for 1,250 lineal feet of mixed use/neighborhood shopping/professional office frontage. The street parkway includes the landscaped median only as in Oakdale Road.

16 ft wide median x 720 lineal feet	=	\$42,499
500-foot 4-foot transition planter @ \$4.50/sq. ft	=	<u>\$9,000</u>
Subtotal for Coffee Road	=	\$51,499
Eng., Inspection, Admin., Contingency (25%)	=	<u>\$12,900</u>
Total for Coffee Road	=	\$64,399

Total capital costs for street parkways and open space = **\$151,100**

B. Authorized Maintenance Costs

1. Pelandale Expressway (Class B Expressway Standards)

Landsaped Median: 35,165 sq. ft. @ \$.42/sq. ft.	=	\$14,769
Landscape Planter: 44,200 sq. ft. @ \$.42/sq. ft.	=	<u>\$18,564</u>
Total for Pelandale Expressway	=	\$33,333

2. Oakdale Road (Principal Arterial)

Landsaped Median: 11,500 sq. ft. @ \$.42/sq. ft.	=	\$4,830
Landscape Planter: 5,100 sq. ft. @ \$.42/sq. ft.	=	<u>\$2,142</u>

3. **Total for Oakdale Road** = **\$6,972**
Coffee Road (Minor Arterial)

Landscaped Median:
11,500 sq. ft. @ \$.42/sq. ft. =
\$4,830

Total for operation and maintenance of street parkways and open space =
\$45,135

APPENDIX B

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT No. 1997-1 (North Beyer Park Specific Plan)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1997-1 (herein "CFD No. 1997-1") 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. 1997-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 1997-1 unless a separate Rate and Method of Apportionment of Special Tax 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 Subdivision Map, parcel map, or other recorded County parcel map.

"Annual Maintenance Special Tax" means a Special Tax levied in any Fiscal Year to pay for the maintenance and landscaping of parks, parkways and/or open space.

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

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

"City" means the City of Modesto.

"City Manager" means the City Manager of the City of Modesto.

"Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 1997-1.

"Developed Property" means, in any Fiscal Year, all Taxable Property for which a final building permit inspection was conducted or a certificate of occupancy issued prior to June 1 of the preceding Fiscal Year.

“Facilities Special Tax” means a Special Tax levied in any Fiscal Year to pay for public facilities authorized to be funded by CFD No. 1997-1, including appurtenant expenses such as planning, design, engineering and inspection.

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

“Initial Church Property” means all Parcels that, at the time of formation of CFD No. 1997-1, had existing structures that were used as places of worship and which were exempt from ad valorem property taxes because they were owned by a religious organization. If Initial Church Property is developed for other land uses that make it Taxable Property in future Fiscal Years, the exemption for such property set forth in Section E below shall no longer apply, and the property shall be treated as Taxable Property after such changes in land use takes place.

“Future Church Property” means any Parcel within the CFD that meets all of the following criteria: (1) a structure has been built that is used as a place of worship, rectory, convent or private school, (2) the Parcel is exempt from ad valorem proeprty taxes because it is owned by a religions organization, and (3) the Parcel is not Initial Church Property.

“Land Use Class” means any of the three classes listed in Table 1 and Table 2 below.

“Maintenance Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay for authorized maintenance expenses, (ii) pay administrative expenses of CFD No. 1997-1, 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 Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property.

“Multi-Family Residential Property” means, in any Fiscal Year, all Parcels for which a building permit has been issued for a residential structure consisting of two or more Residential Units that share common walls including, but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes and apartment units.

“Non-Residential Property” means, in any Fiscal Year, all Parcels for which a building permit has been issued for a commercial, office or industrial establishment or any other use which is not Single Family Residential or Multi-Family Residential Property and which is not exempt from Special Taxes pursuant to Section E below.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Residential Unit” means a single residential dwelling unit and shall include single family homes and individual condominium, townhome, duplex, triplex and fourplex units, as well as individual apartment units in a multi-family building.

“**Single Family Detached Residential Property**” means, in any Fiscal Year, all Parcels for which a building permit has been issued for a residential structure consisting of only one Residential Unit.

“**Taxable Property**” means, in any Fiscal Year, all Parcels of Single Family Detached Residential Property, Multi-Family Residential Property and Non-Residential Property within CFD No. 1997-1.

B. ASSIGNMENT TO LAND USE CLASS

After issuance of a building permit and prior to final building permit inspection or issuance of a certificate of occupancy for a Parcel, the Parcel shall be assigned to the appropriate Land Use Class based upon the land use proposed for the Parcel. For Multi-Family Residential Property, the number of Residential Units shall be determined by referencing the condominium plan, apartment plan, site plan or other development plan. Determination of the appropriate Land Use Class shall be at the sole discretion of the City.

C. MAXIMUM SPECIAL TAX

1. *Facilities Special Tax*

The following maximum rates apply to all Parcels of Taxable Property within CFD No. 1997-1 for each Fiscal Year in which the Facilities Special Tax is collected:

TABLE 1 MAXIMUM FACILITIES SPECIAL TAX (Fiscal Year 1997-98)		
Land Use Class	Description	Maximum Facilities Special Tax
1	Single Family Detached Residential Property	\$84 per Residential Unit
2	Multi-Family Residential Property	\$54 per Residential Unit
3	Non-Residential Property	\$4,263 per Acre

Beginning in January 1998, the Facilities Special Tax shall be adjusted annually by applying the 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. Each annual adjustment of the Facilities Special Tax shall become effective on the subsequent July 1, and shall apply to all Parcels which have not paid the Facilities Special Tax prior to July 1.

2. *Annual Maintenance Special Tax*

All Taxable Property within the CFD shall be subject to an Annual Maintenance Special Tax that shall be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. The Annual Maintenance Special Tax shall be reflected as an annual lien on each Parcel in CFD No. 1997-1 and is anticipated to stay with the property and be paid each year by the current homeowner or property owner.

The following maximum rates apply to all Parcels of Taxable Property within CFD No. 1997-1 for each Fiscal Year in which the Maintenance Special Tax will be levied:

TABLE 2 MAXIMUM ANNUAL MAINTENANCE SPECIAL TAX (Fiscal Year 1997-98)		
Land Use Class	Description	Maximum Annual Maintenance Special Tax
1	Single Family Detached Residential Property	\$80 per Residential Unit
2	Multi-Family Residential Property	\$52 per Residential Unit
3	Non-Residential Property	\$396 per Acre

Beginning in January 1998, the maximum Annual Maintenance Special Tax shall be adjusted annually by applying the 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. Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. Facilities Special Tax

The Facilities Special Tax shall be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction for any residential or non-residential structure within CFD No. 1997-1 and shall be immediately delinquent if not so paid.

2. Maintenance Special Tax

Commencing with Fiscal Year 1997-98 and for each following Fiscal Year, the City or its designee shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Maintenance Special Tax shall then be levied on all Parcels of Developed Property as follows:

Step 1: Calculate the total Maintenance Special Tax revenues that could be collected from Developed Property within the CFD based on application of the maximum Annual Maintenance Special Tax rates determined pursuant to Section C above.

Step 2: Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1.

Step 3: If the ratio determined in Step 2 is greater than or equal to 1, levy the Maximum Maintenance Special Tax determined pursuant to Section C on all Developed Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

Step 4: Levy the maximum Annual Maintenance Special Tax against all Parcels of Developed Property in equal percentages up to 100% of the maximum Annual Maintenance Special Tax determined pursuant to Section C.2 above.

The Annual Maintenance Special Tax for CFD No. 1997-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1997-1 may (under the authority of Government Code Section 53340), in any particular case, bill the taxes directly to the property owner, off the County tax roll, and the Special Taxes will be equally subject to foreclosure if delinquent as annual Special Taxes.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on structures built on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982. In addition, no Special Tax shall be levied in any Fiscal Year on Initial Church Property. The City may choose to levy a Special Tax on Future Church Property in any Fiscal Year if revenues from such levy are needed to meet the Maintenance Special Tax Requirement. If the City determines that Special Tax revenues generated from levying a Special Tax on Future Church Property are not needed to meet the Maintenance Special Tax Requirement in any Fiscal Year, the City may choose not to levy a Special Tax on Future Church Property in that Fiscal Year.

F. ENFORCEMENT

All delinquent Facility Special Taxes, or delinquent Annual Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1 1/2% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following December 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract or guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

