

RESOLUTION NO. 2088

**A RESOLUTION OF
THE BOARD OF DIRECTORS
OF THE OLIVEHURST PUBLIC UTILITY DISTRICT
DECLARING ITS INTENTION TO ESTABLISH
THE OLIVEHURST PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2005-2 (PARK MAINTENANCE) AND
TO LEVY A SPECIAL TAX THEREIN**

WHEREAS, the Board of Directors (the "Board") of the Olivehurst Public Utility District (the "District") has adopted local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, Part 1, Division 2, Title 5 (commencing with Section 53311) of the California Government Code) (the "Act");

WHEREAS, the Board intends to institute proceedings to establish a community facilities district pursuant to the Act and to levy a special tax within the district pursuant to the terms of the Act to fund the cost of providing park maintenance services to the district;

WHEREAS, the Board has determined that the establishment of the proposed community facilities district is consistent with and follows the District's goals and policies for use of the Act;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Olivehurst Public Utility District that:

1. **Recitals**. The above recitals are true and correct.
2. **Intent to Establish Community Facilities District**. The Board proposes and intends to establish a community facilities district pursuant to the provisions of the Act.
3. **Description of Boundaries**. The proposed boundaries of the community facilities district are shown on a map on file in the office of the Deputy District Clerk. The Board hereby directs the Deputy District Clerk to endorse the certificates set forth on the map indicating its filing in the office of the Deputy District Clerk and evidencing the date and adoption of this resolution. The Board further directs the Deputy District Clerk to record a copy of the map with the Yuba County Recorder within 15 days after the adoption of this resolution, in accordance with the provisions of Sections 3111 of the California Streets and Highways Code.
4. **Name of the Community Facilities District**. The community facilities district proposed to be formed shall be known as the "Community Facilities District No. 2005-2" (Park Maintenance) (the "Park Maintenance CFD No. 2005-2").
5. **Description of Services**. The services proposed to be financed by the District (the "Services") are described in Exhibit A attached hereto. The cost of providing the Services includes "incidental expenses," which include costs associated with the creation of the Park Maintenance CFD No. 2005-2, determination of the amount of special taxes, collection or

payment of special taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Park Maintenance CFD No. 2005-2. The Services authorized to be financed by the District are in addition to those currently provided in the territory of the District and do not supplant services already available within that territory.

6. **Levy of Special Tax.** Except where funds are otherwise available, a special tax specific to the Park Maintenance CFD No. 2005-2 and sufficient to pay the costs of the Services (including incidental expenses), secured by recordation of a continuing lien against all nonexempt real property in the Park Maintenance CFD No. 2005-2, will be levied annually within the Park Maintenance CFD No. 2005-2. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B.

7. **Public Hearing.** The Board hereby fixes 7:00 p.m., or as soon thereafter as practicable, on Thursday, July 21, 2005, at the regular meeting place of the Board, 1979 9th Avenue, Olivehurst, California, as the time and place for a public hearing on the establishment of the Park Maintenance CFD No. 2005-2.

8. **Publication of Notice.** The Board directs the General Manager to publish a notice of the hearing, in substantially the form attached hereto as Exhibit C, once not later than seven days prior to the date fixed for the hearing, in a newspaper of general circulation published in the area of the Park Maintenance CFD No. 2005-2.

9. **Hearing Report.** The Board directs the General Manager to study the proposed Park Maintenance CFD No. 2005-2 and, at or before the time of the hearing, to cause to be prepared and filed with the Board a report containing a brief description of services that will in his opinion be required to adequately meet the needs of the Park Maintenance CFD No. 2005-2, his estimate of the cost of providing those services; and the fair and reasonable cost of incidental expenses to be incurred in connection therewith.

10. **Description of Proposed Voting Procedures.** If, at the conclusion of the public hearing, the Board adopts a resolution establishing the Park Maintenance CFD No. 2005-2, the Board proposes to order an election by mailed ballot and submit the question of the levy of the special tax to the qualified electors. The Board hereby determines that the Services are necessary to meet increased demands placed upon the District as a result of development occurring within the boundaries of the Park Maintenance CFD No. 2005-2. Because fewer than twelve registered voters currently reside within the Park Maintenance CFD No. 2005-2, the qualified electors shall be the landowners within the Park Maintenance CFD No. 2005-2, and each landowner who is the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the proposed Park Maintenance CFD No. 2005-2.

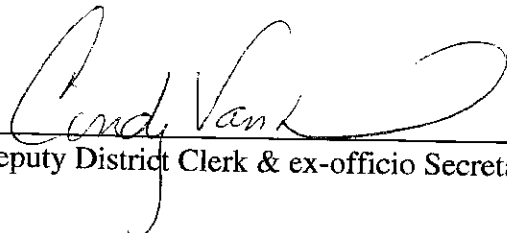
PASSED AND ADOPTED this 16th day of June 2005.

OLIVEHURST PUBLIC UTILITY DISTRICT



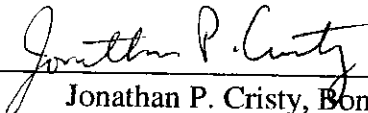
President, Board of Directors

ATTEST:



Deputy District Clerk & ex-officio Secretary

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY



Jonathan P. Cristy, Bond Counsel

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I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 16th day of June 2005, by the following vote:

AYES, AND IN FAVOR THEREOF : Director Morrison, Patty, Hollis,
Carpenter, and Miller.

NOES : None.

ABSTAIN : None.

ABSENT : None.

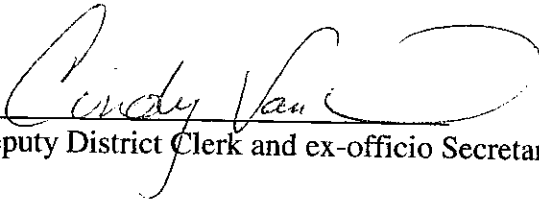

Deputy District Clerk and ex-officio Secretary

EXHIBIT A

DESCRIPTION OF SERVICES

Authorized services are park maintenance services. Eligible costs include, but are not limited to, salaries and benefits of District staff; District overhead costs; costs of contracting services; costs of acquisition, maintenance and replacement of necessary maintenance equipment and supplies, and utility costs associated with providing park maintenance services within the Park Maintenance CFD No. 2005-2.

EXHIBIT B

Olivehurst Public Utility District
Yuba County, California
Community Facilities District No. 2005-2
(Park Maintenance)

RATE, METHOD OF APPORTIONMENT, AND MANNER OF COLLECTION OF SPECIAL TAX

1. Basis of Special Tax Levy

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 (the "Act") applicable to the land in the Community Facilities District No. 2005-2 (Park Maintenance) (the "CFD") of the Olivehurst Public Utility District (the "District") shall be levied and collected according to the tax liability determined by the District through the application of the appropriate amount or rate, as described below.

2. Definitions

"**Act**" means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

"**Administrative Expenses**" means the actual or estimated costs incurred by the District to form the CFD and to determine, levy and collect the Special Taxes, including compensation of District employees for administrative work performed in relation to the CFD, the fees of consultants and legal counsel; the costs of collecting installments of the Special Taxes upon the general tax rolls; preparation of required reports; and any other costs required to administer the CFD as determined by the District.

"**Administrator**" means the General Manager of the District, or his or her designee.

"**Annexation Parcel**" means any Parcel that is annexed to the CFD after it is formed. An Annexation Parcel will be assigned to an existing or new Benefit Zone.

"**Annual Costs**" means for each Fiscal Year, the total of 1) Authorized Services 2) Administrative Expenses; and 3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

"**Authorized Services**" mean those services, as listed in the resolution forming the CFD.

"**Base Year**" means the Fiscal Year beginning July 1, 2005 and ending June 30, 2006.

"Benefit Zone" means an area within the CFD that has similar service provision requirements under the CFD. Each Benefit Zone will have a separate cost analysis and cost allocation plan which is used to establish the Maximum Annual Special Tax for Taxable Parcels in each land use classification for a Benefit Zone. The CFD is formed with just one Benefit Zone. As property is annexed to the CFD, new Benefit Zones will be created as needed.

"Board" means the Board of Directors of the Olivehurst Public Utility District acting for the CFD under the Act.

"CFD" means the Community Facilities District No. 2005-2 (Park Maintenance) of the Olivehurst Public Utility District, Yuba County, California.

"County" means the County of Yuba, California.

"County Assessor's Parcel" means a lot or Parcel with an assigned Assessor's Parcel Number in the maps used by the County Assessor in the preparation of the tax roll.

"County Service Area" means any county service area pursuant to Section 25210.1 and following of the California Government Code established by the County or other government agency authorized to fund and provide park maintenance services within the CFD boundaries.

"Developed Parcel" means a Parcel that has one of the following land uses defined as follows:

<u>Tax Category</u>	<u>Land Use Approval</u>
Single Family Residential	Final Subdivision Map
Multifamily Residential	Building Permit

Once classified as a Developed Parcel, no Parcel shall be removed from the developed classification unless the special use permit/building permit expires, is revoked, or is otherwise terminated.

"District" means the Olivehurst Public Utility District in Yuba County, California.

"Final Subdivision Map" means a recorded map designating individual single family residential Parcels.

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

“Large Lot Parcel” means any Parcel designated for residential uses delineated on a Large Lot Subdivision Map.

“Large Lot Subdivision Map” means a recorded subdivision map delineating Parcels by land use. However, the Large Lot Subdivision Map does not delineate individual single family residential parcels. A Final Subdivision Map will delineate individual single family parcels.

“Maximum Annual Special Tax” means the greatest amount of Special Tax that can be levied against a Parcel calculated by multiplying the Maximum Annual Special Tax Rate times the assigned Net Acres or Units to a Taxable Parcel.

“Maximum Annual Special Tax Rate” means the amount shown in **Attachment 1** for a Fiscal Year for a Benefit Zone that is used in calculating the Maximum Annual Special Tax for a Parcel based on its land use classification.

“Maximum Annual Special Tax Revenue” means the greatest amount of revenue that can be collected in total from a group of Parcels by levying the Maximum Annual Special Tax on all Taxable Parcels.

“Multifamily Residential Parcel” means a Parcel with a building permit for multi-family residential use.

“Net Acre” is the area of a Parcel associated with developable uses after dedication of all public uses and rights-of-way.

“Parcel” means any County Assessor's Parcel in the CFD based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“Parcel Number” means the Assessor's Parcel Number for any Parcel based on the equalized tax rolls of the County as of January 1 of each Fiscal Year.

“Public Parcel” means any Parcel, in its entirety, that is or is intended to be publicly owned that is normally exempt from the levy of general *ad valorem* property taxes under California law, including public streets, schools, parks, and public drainageways; public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel shall be a Tax-Exempt Parcel.

“Single Family Residential Parcel” means a single family residential lot created by the recordation of a Final Subdivision Map.

“Special Tax(es)” mean(s) any tax levy under the Act in the CFD.

"Tax Collection Schedule" means the document prepared by the District for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

"Tax Escalation Factor" means an annual percentage increase in the Maximum Annual Special Tax Rate based upon the Consumer Price Index (CPI) (prior calendar year annual average, San Francisco, All Urban Consumers (CPI-U) Index), or the CPI (prior calendar year annual average, Pacific West Cities, All Urban Wage Earners and Clerical Workers), whichever is greater.

"Taxable Parcel" means any Parcel that is not a Tax-Exempt Parcel.

"Tax-Exempt Parcel" means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are Public Parcels (subject to the limitations set forth in **Section 4**, below) and nonresidential use parcels, such as commercial, office, retail, industrial, etc. Privately owned Parcels that are non-developable, such as common areas, wetlands, and open space, are exempt from the levy of Special Taxes as determined by the District.

"Undeveloped Parcel" means a Parcel which is not a Developed Parcel or a Large Lot Final Map Parcel.

"Unit(s)" means the number of taxable developed residential unit(s) assigned to a Parcel, or a portion thereof, by the Administrator.

3. Duration of the Special Tax

Parcels in the CFD will remain subject to the Special Tax in perpetuity.

If the Special Tax ceases to be levied, the District shall direct the County Recorder to record a Notice of Cessation of Special Tax. Such notice will state that the obligation to pay the Special Tax has ceased and that the lien imposed by the Notice of Special Tax Lien is extinguished. The Notice of Cessation of Special Tax shall additionally identify the book and page of the Book of Maps of Assessment and Community Facilities Districts where the map of the boundaries of the CFD is recorded.

4. Assignment of Maximum Annual Special Tax

A. **Classification of Parcels**. By June 30 of each Fiscal Year, using the Definitions in **Section 2** above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other County development approval records, the District shall cause:

1. Each Parcel to be classified as a Tax-Exempt Parcel or a Taxable Parcel;
2. Each Taxable Parcel is to be further classified as a Developed Parcel, Large Lot Final Map Parcel or Undeveloped Parcel.

B. Assignment of Maximum Annual Special Tax.

Attachment 1 shows the Base Year Maximum Annual Special Tax Rates. Each Fiscal Year following the Base Year, the Maximum Annual Special Tax Rates may be increased in accordance with the Tax Escalation Factor.

In the event the District, County, County Service Area, or other public agency levies and collects and assessment or special tax (other than the Special Tax) in a Fiscal Year to fund Authorized Services of the CFD, the Maximum Annual Special Tax shall be reduced by an equal amount in the same Fiscal Year.

The Maximum Annual Special Tax is then assigned to Taxable Parcels using the steps below.

1. **Developed Parcels.** The Maximum Annual Special Tax is assigned to each Developed Parcel by multiplying the Units (for Single Family Residential Parcels and Multifamily Residential Parcels) times the Maximum Annual Special Tax Rate for the tax category shown in **Attachment 1**, as increased by the Tax Escalation Factor each Fiscal Year after the Base Year.
2. **Large Lot Final Map Parcels.** The Maximum Annual Special Tax is assigned to each Large Lot Parcel by multiplying the Net Acres times the Maximum Annual Special Tax Rate for Large Lot Final Map Parcels shown in **Attachment 1**, as increased by the Tax Escalation Factor each Fiscal Year after the Base Year.
3. **Undeveloped Parcels.** The Maximum Annual Special Tax is assigned to each Undeveloped Parcel by multiplying Net Acres times the Maximum Annual Special Tax Rate for Undeveloped Parcels shown in **Attachment 1**, as increased by the Tax Escalation Factor each Fiscal Year after the Base Year.

C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel shall be assigned according to the **Sections 4.A** and **4.B** above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. Calculating Annual Special Taxes

The District shall compute the Annual Costs and determine the Maximum Annual Special Tax for each Taxable Parcel based on the assignment of the Special Tax in **Section 4**. The District will then determine the tax levy for each Taxable Parcel using the following process:

- A. Compute the Annual Costs using the definition of Annual Costs in **Section 2**.
- B. Calculate the Special Tax levy for each Taxable Parcel by the following steps:
 - Step 1: Compute 100 percent of the Maximum Annual Special Tax Revenue for all Developed Parcels.
 - Step 2: Compare the Annual Costs with the Maximum Annual Special Tax revenue calculated in the previous step.
 - Step 3: If the Annual Costs are less than the Maximum Annual Special Tax Revenue, decrease proportionately the Special Tax levy for each Developed Parcel until the revenue from the Special Tax levy equals the Annual Costs.
 - Step 4: If the Annual Costs are greater than the Maximum Annual Special Tax Revenue from Developed Parcels, levy a Special Tax proportionately on each Large Lot Parcel to an amount equal to the amount of Annual Costs or until 100 percent of the Maximum Annual Special Tax is reached for such Large Lot Parcels.
 - Step 5: If the Annual Costs are greater than the Maximum Annual Special Tax Revenue from Developed Parcels and Large Lot Parcels, levy a Special Tax proportionately on each Undeveloped Parcel to an amount equal to the amount of Annual Costs or until 100 percent of the Maximum Annual Special Tax is reached for such Undeveloped Parcels.
- C. Levy on each Taxable Parcel the amount calculated above.
- D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule shall not be sent later than the date required by the Auditor for such inclusion.

The District shall make every effort to correctly calculate the Special Tax for each Parcel. It shall be the burden of the taxpayer to correct any errors in the determination of the parcels subject to the tax and their Special Tax assignments.

6. Records Maintained for the CFD

As development and subdivision occurs within the CFD, the District will maintain a file containing records of the following information for each Parcel:

- The current County Assessor's Number; and
- Number of Units assigned by the Administrator to each Single Family Residential Parcels and Multi-family Residential Parcel.

The file containing the information listed above will be available for public inspection.

7. Appeals

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the District appealing the levy of the Special Tax. The District will then promptly review the appeal, and if necessary, meet with the applicant. If the District verifies that the tax should be modified or changed, a recommendation at that time will be made to the Board and, as appropriate, the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

Interpretations may be made by Resolution of the Board for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rate, the method of apportionment, the classification of properties or any definition applicable to the CFD.

8. Prepayment of the Special Tax Obligation

The Maximum Annual Special Tax for a Taxable Parcel may not be prepaid. The Special Tax is collected to fund Authorized Services in perpetuity, or until the Board determines that the Special Tax should no longer be collected.

9. Manner of Collection

The Special Tax will be collected in the same manner and at the same time as *ad valorem* property taxes, provided, however, that the Administrator or its designee may directly bill the Special Tax and may collect the Special Tax at a different time, such as on a monthly or other periodic basis, or in a different manner, if necessary, to meet the District's financial obligations.

Attachment 1
Olivehurst Public Utility District
Community Facilities District No. 2005-2
(Park Maintenance)
Maximum Annual Special Tax Rates - Base Year 2005-2006

Tax Category	Maximum Annual Special Tax Rate Per Unit	Unit
	[1] [2]	
Developed Parcels		
Single Family Residential	\$220	Per Unit
Multifamily Residential	\$165	Per Unit
Large Lot Parcels	\$220	Per Acre
Undeveloped Parcels	\$220	Per Acre

"att_1"

[1] Maximum Annual Special Tax Rate increased by the Tax Escalation Factor in each Fiscal Year after the Base Year of 2005-2006.

[2] In the event an assessment or special tax is collected in a Fiscal Year by the District, County, County Service Area, or other public agency to fund Authorized Services within the boundaries of the CFD, other than the Special Tax, the Maximum Annual Special Tax will be reduced by an amount equal to the assessment or special tax in the same Fiscal Year.

EXHIBIT C

**NOTICE OF PUBLIC HEARING ON PROPOSED ESTABLISHMENT OF
OLIVEHURST PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2005-2 (PARK MAINTENANCE)**

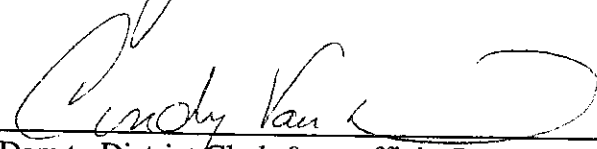
NOTICE IS HEREBY GIVEN that the Board of Directors (the "Board") of the Olivehurst Public Utility District (the "District") on June 16, 2005, adopted its Resolution No. ~~2088~~ in which it declared its intention to establish a community facilities district and to levy a special tax to pay for park maintenance services, all pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5, Part 1, Division 2, Title 5 of the California Government Code. The resolution describes the boundaries of the proposed district, the services proposed to be financed, and the rate, method of apportionment, and manner of collection of the proposed special tax. The District proposes to tax all interests in property that may be taxed under the Act. For further details, the resolution is available in the District office at 1970 9th Avenue, Olivehurst, California.

NOTICE IS HEREBY FURTHER GIVEN that the Board has fixed Thursday, July 21, 2005, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, at the regular meeting place of the Board, 1979 9th Avenue, Olivehurst, California, as the time and place when and where the Board will hold a public hearing to consider the establishment of the district. At the hearing, the testimony of all interested persons, including all persons owning property in the area, or taxpayers for or against the establishment of the district, the extent of the district, the furnishing of the specified services, and the levy of the special tax will be heard.

If six registered voters residing within the proposed district or the owners of one-half or more of the area of land in the territory included in the district and not exempt from the special tax file written protests against the establishment of the district, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, the creation of the district and the tax levy shall not be considered for a period of one year from the date of the decision of the Board after the hearing.

NOTICE IS HEREBY FURTHER GIVEN that if, at the conclusion of the public hearing, the Board determines to establish the district, the Board will order an election to be held by the landowners of the district by mailed ballot, with each landowner having one vote for each acre or portion of an acre of land that such landowner owns within the proposed district, on the question of levying the special tax.

DATED: June 16, 2005



Deputy District Clerk & ex-officio Secretary
Olivehurst Public Utility District