

**OLIVEHURST PUBLIC UTILITY DISTRICT**

**RESOLUTION NO. 2063**

**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. 2004-1 (WASTEWATER TREATMENT FACILITY) AND TO LEVY  
A SPECIAL TAX TO PAY FOR CERTAIN PUBLIC FACILITIES**

**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 has duly considered the advisability and necessity of establishing a community facilities district pursuant to the Act encompassing certain areas within the District and levying a special tax therein to finance the acquisition and construction costs of improvements to its wastewater treatment facility;

**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 Clerk of the Board. The Board hereby directs the Deputy Clerk of the Board to endorse the certificates set forth on the map indicating its filing in the office of the Deputy Clerk of the Board and evidencing the date and adoption of this resolution. The Board further directs the Deputy Clerk of the Board 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 “Olivehurst Public Utility District Community Facilities District No. 2004-1 (Wastewater Treatment Facility)” (the “CFD”).

5. **Description of Public Facilities.** The facilities proposed to be financed by the District (the “Facilities”) are described in Exhibit A hereto. The Facilities have a useful life of five years or longer. The cost of financing the acquisition and construction of the Facilities includes “incidental expenses,” which include the cost of planning and designing the Facilities and environmental evaluations thereof; costs associated with the creation of the CFD, issuance of bonds, 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 CFD; and any other expenses incidental to the design, construction, completion, and inspection of the Facilities.

6. **Levy of Special Tax.** Except where funds are otherwise available, a special tax sufficient to pay the costs of the Facilities (including incidental expenses and debt service on bonds issued to finance the Facilities), secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually within the CFD. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B. Exhibit B specifies the conditions under which the special tax may be prepaid and permanently satisfied. Because the special tax will be levied on parcels only prior to issuance of an occupancy permit, the second paragraph of Government Code section 53321(d) does not apply, because the special tax will not be levied on any parcel “used for private residential purposes” as defined in that section.

7. **Public Hearing.** The Board hereby fixes 5:00 p.m., or as soon thereafter as practicable, on Thursday, March 25, 2004, at the regular meeting place of the Board, 1970 9<sup>th</sup> Avenue, Olivehurst, California, as the time and place for a public hearing on the establishment of the CFD. The hearing on the establishment of the CFD shall be consolidated with the hearing on the bonded indebtedness proposed to be incurred and shall be conducted as a single hearing.

8. **Publication of Notice.** The Board directs the Deputy Clerk to publish a notice of the consolidated 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 CFD.


9. **Facilities Report.** The Board directs the General Manager to study the proposed CFD 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 the facilities by type that will in his opinion be required to adequately meet the needs of the CFD, an estimate of the cost of providing those public facilities; the fair and reasonable cost of any of the facilities to be purchased; 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 CFD, 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 proposed special tax will not be apportioned in any tax year on any portion of property in residential use in that tax year (because the special tax is only levied prior to issuance of occupancy permits). In accordance with Government Code section 53326(c), the qualified electors shall be the landowners within the CFD. 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 the CFD.

11. **Tender of Bonds for Payment of Taxes.** The Board reserves to itself the right and authority to allow any interested owner of property within the CFD, subject to the provisions of Government Code section 53344.1 and to those conditions it may impose, and any applicable prepayment penalties as described in a fiscal agent agreement or comparable document providing for the issuance of bonds, to tender to the District in full payment or part payment of any installment of the special taxes or the interest or penalties thereon that may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

**PASSED AND ADOPTED** this 19<sup>th</sup> day of February 2004.

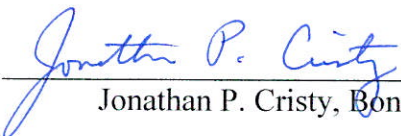
OLIVEHURST PUBLIC UTILITY DISTRICT

  
\_\_\_\_\_  
President, Board of Directors

ATTEST:

  
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Deputy Clerk & ex-officio Secretary

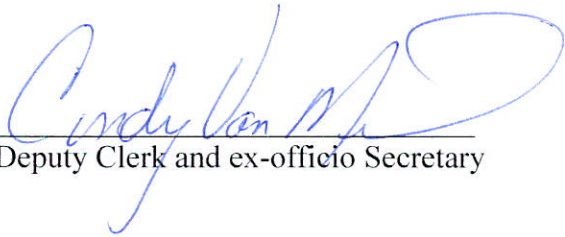
APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

  
\_\_\_\_\_  
Jonathan P. Cristy, Bond Counsel

\* \* \* \* \*

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 19<sup>th</sup> day of February 2004, by the following vote:

AYES, AND IN FAVOR THEREOF:	:	Director Patty, Donahue, Brown, and Miller.
NOES	:	None.
ABSTAIN	:	None.
ABSENT	:	Director Carpenter.

  
Deputy Clerk and ex-officio Secretary

**Public Capital Facilities  
EXHIBIT A**

Community Facilities District No. 2004-1  
(Wastewater Treatment Facility)  
Olivehurst Public Utility District  
Olivehurst, California

LIST OF AUTHORIZED FACILITIES

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A. PUBLIC IMPROVEMENTS

The following improvements represent the primary facilities that are authorized to be constructed with Mello-Roos CFD Special Tax proceeds. These facilities are representative of the authorized infrastructure required for development of land within the boundaries of the Olivehurst Public Utility District.

Wastewater Treatment Facility Improvements

Authorized facilities include any and all wastewater treatment facility improvements designed to serve the development needs of Olivehurst Public Utility District. These facilities may include, but are not limited to, wastewater treatment plant construction, land acquisition, capital improvements, related facilities, equipment, and all other appurtenances related to wastewater treatment facility improvements.

B. OTHER EXPENSE

The above listed types of facilities are proposed to include incidental expenses as authorized by the Mello-Roos Community Facilities Act of 1982, including, but not limited to, the cost of planning, engineering, legal costs, and designing of the wastewater treatment facilities (including the cost of environmental evaluation thereof); cost associated with the creation of the District; issuance of bonds thereof; determination of the amount of taxes; collection of taxes; payment of taxes; or costs otherwise incurred in order to carry out the authorized purposes of the District; and any other expenses incidental to the construction, completion, and inspection of the facilities, including the cost of planning and designing the facilities (including the cost of environmental evaluation and environmental remediation or mitigation)

# EXHIBIT B

Community Facilities District No. 2004-1  
(Wastewater Treatment Facility)  
Olivehurst Public Utility District  
Olivehurst, California

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

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### 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 Community Facilities District No. 2004-1 (Wastewater Treatment Facility) (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

“**Acre(age)**” means the totals acres of a Parcel as shown in the records of the County Assessor, Tentative Maps, or other records of the County or District.

“**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 following actual or reasonably estimated costs directly related to the administration of the CFD: the costs of computing Special Taxes and preparing the annual Special Tax collection schedules (whether by the District or designee thereof or both); the costs of collecting the Special Taxes (whether by the County, the District, or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the District, CFD or any designee thereof of complying with arbitrage rebate requirements; the costs to the District, CFD or any designee thereof of complying with District, CFD or obliged persons disclosure requirements associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the District, CFD or designee thereof related to the appeal of the Special Tax; and the costs associated with the release of funds from an escrow account, if any. Administrative Expenses shall also include amounts estimated or advanced by the District or CFD for any other administrative purposes, including attorney’s fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

“**Administrator**” means the General Manager or designee.

“**Annexation Parcels**” means any Parcel that is annexed to the CFD after the CFD is formed.

“**Annual Costs**” means, for any Fiscal Year, the total of the following:

- i) Debt Service to be paid from Special Taxes collected during such Fiscal Year;
- ii) Administrative Expenses for such Fiscal Year;
- iii) The amount needed to replenish the reserve fund for the Bonds to the level required under the Bond Indenture;
- iv) The amount needed to replenish the Special Tax Stabilization Fund (actual amounts or anticipated shortfalls) to the level required in the Bond Indenture;
- v) An amount equal to the amount of delinquencies in payments of Backup Special Taxes, if any, levied in the previous Fiscal Year and/or anticipated for the current Fiscal Year;
- vi) Pay-As-You-Go Expenditures for Authorized Facilities to be constructed or acquired by the CFD;
- vii) Less any earnings on the reserve fund, special tax stabilization fund, and special tax fund that are transferred to the bond redemption fund pursuant to the Bond Indenture; and
- viii) Early debt retirement through the prepayment of Outstanding Bonds.

“**Assessor’s Parcel Number**” means the Assessor’s Parcel and Assessor’s Parcel number as recorded by the County Assessor on the equalized tax roll.

“**Authorized Facilities**” means those facilities to be financed as identified in the resolution forming the CFD.

“**Backup Special Tax**” means the greatest amount of Special Tax that may be levied against Final Map Parcels, Tentative Map Parcels and/or Undeveloped Parcels, as shown on **Attachment 1**, when the Special Tax revenue from collecting the Maximum One-time Special Tax on Developed Parcels is not adequate to cover Annual Costs in a Fiscal Year. *As the Backup Special Tax is levied against a Taxable Parcel, such Parcel’s Special Tax obligation is for the payment of the Maximum One-time Special Tax is reduced by an equal amount. In the event in any Fiscal Year the levy of the Backup Special Tax at the maximum for a Taxable Parcel causes that Parcel to have paid a Cumulative Backup Special Tax that exceeds the Maximum One-time Special Tax that would be charged against the Parcel in the Fiscal Year, the Backup Special Tax for the Parcel is reduced for the Fiscal Year so that the Cumulative Backup Special Tax is just equal the Maximum One-time Special Tax for the Parcel in the Fiscal Year.*

“**Backup Special Tax Start Date**” means a date selected by the owner of a Parcel in the CFD on which date the Parcel will become subject to the Backup Special Tax. The Backup Special Tax Start Date will be June 1 of a selected Fiscal Year. If a Parcel becomes a Developed Parcel prior to the selected Backup Special Tax Start Date, the Developed Parcel will be subject to any Backup Special Taxes that would have been levied against the Developed Parcel as if the Backup

Special Tax Start Date were June 1 of the Fiscal Year prior to the date at which the Parcel became a Developed Parcel.

“**Base Year**” means Fiscal Year 2003-2004.

“**Board**” means the Board Members of the District.

“**Bond(s)**” means bond(s) issued by the District under the Act for the CFD.

“**Bond Indenture**” means the indenture, resolution, fiscal agent agreement, or other financing document pursuant to which the bonds are issued.

“**Cash Discount Payment Period**” means that period of time up until the adoption of the Resolution of Formation to form the CFD that a Parcel or Fee Prepayment Parcel may pay the Connection Fee. Once a Parcel or Fee Prepayment Parcel has paid the Connection Fee, it has completely fulfilled that Parcel’s Special Tax obligation.

“**CFD**” means Olivehurst Public Utility District Community Facilities District No. 2004-1 (Wastewater Treatment Facility).

“**Commercial/Other Use Parcel**” means a Taxable Parcel that is not designated for residential use, such as commercial, business park, office, retail, light industrial, industrial, or commercial mixed use.

“**Connection Fee**” means the sewer treatment plant connection fee established by the District.

“**County**” means the County of Yuba, California.

“**Cumulative Backup Special Tax**” means the total amount of Special Tax levied against a Parcel over a period of several Fiscal Years. The Cumulative Backup Special Tax shall not exceed the Maximum One-time Special Tax for the Parcel. If levying the required Backup Special Tax for a Fiscal Year causes the Cumulative Backup Special Tax for a Parcel to exceed the Maximum One-time Special Tax for the Parcel, the Backup Special Tax is reduced for the Parcel until the Cumulative Backup Special Tax is just equal the Maximum One-time Special Tax.

“**Debt Service**” means the total amount of bond principal, interest, and the scheduled sinking fund payments of the Bonds for the CFD.

“**Developed Parcel**” means a Parcel in one of the following Parcel categories that has received from the County the applicable development approval for that Parcel category as follows:

<b><u>Parcel Category</u></b>	<b><u>Development Approval</u></b>
Single Family Residential	=> - Building Permit
Duplexes/Tri-plexes	=> - Building Permit
Multi-family	=> - Building Permit



Mobile Home	=> - Building Permit
Agricultural Residential	=> - Building Permit
Residential Mixed Use	=> - Building Permit
Commercial/Other Use	=> - Building Permit

Prior to the issuance of a building permit, a Taxable Parcel must pay the Maximum One-time Special Tax. Following payment of the Maximum One-time Special Tax, the Administrator will direct the County Recorder to record a Notice of Cessation of Special Tax. Once a Taxable Parcel has paid the Maximum One-time Special Tax, it has completely fulfilled that Parcel's Special Tax obligation.

“**District**” means the Olivehurst Public Utility District.

“**Duplex/Tri-plex Parcel**” means a Parcel with an issued building permit for a duplex or a tri-plex residential use. The number of EDUs assigned to a Duplex/Tri-plex Parcel is determined at building permit issuance.

“**EDU**” means a sewer treatment service factor that is applied to Commercial/Other Use Parcels to determine the Maximum One-time Special Tax for such Parcel. The factor is derived as a multiple of the typical single family dwelling unit sewer treatment service factor. The method of calculating this factor is discussed in the District's ordinance establishing the Connection Fee. If the calculation is not available in the District's ordinance, the Administrator will determine the appropriate factor to apply to Commercial/Other Use Parcels based on the sewer treatment capacity usage for the Taxable Parcel as determined by the proposed usage as shown in the building permit application.

“**Exempt Parcel**” means a Parcel within the CFD that has a Backup Special Tax Start Date that is later than June 1 of the current Fiscal Year.

“**Fee Prepayment Parcel**” means a Parcel for which Connections Fees were paid prior to formation of the CFD. These fees may be paid prior to the issuance of a building permit for construction of a structure. Prepayment of the fee does not guarantee sewer treatment capacity for the Fee Prepayment Parcel. Only the issuance of the building permit guarantees sewer treatment capacity for such Parcel. A property owner must designate the Parcels that are to be considered by the Administrator as Fee Prepayment Parcels each year prior to July 1. A Fee Prepayment Parcel is a Tax-Exempt Parcel. Once a building permit is issued for the Parcel, the Administrator shall direct the County Recorder to record a Notice of Cessation of Special Tax

“**Final Map Parcel**” means a Parcel created by the recordation of a Final Subdivision Map. Once a Parcel is classified as a Final Map Parcel, it shall not be reassigned to a Parcel category with a lower Special Tax obligation, such as Tentative Map Parcel or Undeveloped Parcel.

“**Final Subdivision Map**” means a recorded final subdivision map pursuant to the Subdivision Map Act designating individual Single Family Residential Parcels.

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

**“Maximum One-time Special Tax”** means the greatest amount of Special Tax that can be charged to a Taxable Parcel as shown in **Attachment 1**. Once a Taxable Parcel has paid the One-time Special Tax, it has completely fulfilled that Parcel’s Special Tax obligation. The Administrator shall direct the County Recorder to record a Notice of Cessation of Special Tax when a Developed Parcel has paid the One-time Special Tax. Any Taxable Parcel that has previously paid the Backup Special Tax shall receive a credit against the Maximum One-time Special Tax equal to the amount of Backup Special Tax levied against the Parcel in previous Fiscal Years. *In the event a Parcel is issued a building permit without paying the Maximum One-time Special Tax, such Parcel shall be obligated to pay the Backup Special Tax in each Fiscal Year after discovery of the nonpayment of the Maximum One-time Special Tax until the cumulative amount of Backup Special Tax levied is equal to the Maximum One-time Special Tax that would have been due when the building permit was issued.*

**“Maximum One-time Special Tax Revenue”** is the greatest amount of revenue from collecting the Maximum One-time Special Tax in a Fiscal Year on a group of Developed Parcels.

**“Mixed Use Parcel”** means a Parcel with a building permit for a mix of uses, which includes residential uses. The number of EDUs assigned to a Mixed Use Parcel is determined at building permit issuance for the original structure, or by subsequent building permits issued for further tenant improvements.

**“Mobile Home Parcel”** means a Parcel with a permit for a mobile home. The number of EDUs assigned to the Mobile Home Parcel is determined at issuance of the permit allowing the land use.

**“Multi-Family Parcel”** means a Parcel with a building permit for multi-family residential use. The number of EDUs assigned to a Multi-Family Parcel is determined at building permit issuance.

**“Outstanding Bonds”** means the total principal amount of Bonds that have been issued and not retired or defeased.

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

**“Pay-As-You-Go Expenditure”** means the use of annual Special Tax revenues that are not needed for Annual Costs (excluding Pay-As-You-Go Expenditures) to pay for Authorized Facilities to be constructed or acquired by the CFD.

**“Prepayment”** means the complete fulfillment of a Parcel’s Special Tax obligation, as determined by following the procedures in **Section 7**.

**“Public Parcel”** means any Parcel that is or is intended to be publicly owned, as designated in any final map, that is normally exempt from the levy of general *ad valorem* property taxes under

California law, including public streets, schools, parks, public drainage ways, public landscaping, wetlands, greenbelts, and public open space. All Public Parcels pay a connection fee when a building is connected to the sewer treatment plant.

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

**“Special Tax(es)”** mean(s) the Maximum “One-time “ Special Tax collected or the Backup Special Tax levied under the Act in the CFD.

**“Special Tax Stabilization Fund”** means a fund that will be established for the purpose of providing additional Special Tax coverage for Debt Service costs. In the event that Maximum One-time Special Tax Revenues in a given Fiscal Year are not adequate to cover Annual Costs, the funds from the Special Tax Stabilization Fund may be used to pay Annual Costs.

**“Tax Collection Schedule”** means the document prepared by the District for the County Auditor to use in levying and collecting the Backup Special Tax, if required, each Fiscal Year.

**“Tax Escalation Factor”** means a maximum factor of 3% that may be applied annually in each Fiscal Year after the Base Year to the Maximum One-time Special Tax Rate and the Backup Special Tax Rate for a Taxable Parcel beginning the Fiscal Year following the Base Year.

**“Taxable Parcel”** means any Parcel that is not a Tax-Exempt Parcel.

**“Tax-Exempt Parcel”** means a Parcel not subject to the Special Tax or the Backup Special Tax. Tax-Exempt Parcels are:

- (i) Public Parcels,
- (ii) Parcels used solely for recreation and/or open spaces uses, including but not limited to, golf courses and common open space Parcels,
- (iii) Parcels that have paid the Connection Fee during the Cash Discount Payment Period,
- (iv) Parcels identified by property owners as a Fee Prepayment Parcel prior to July 1 of each year,
- (v) Parcels classified as Exempt Parcels for a given Fiscal Year,
- (vi) Parcels that have paid the Maximum One-time Special Tax as a Developed Parcel, and
- (vii) Parcels for which the Special Tax has been fully prepaid under **Section 7** hereof.

**“Tentative Map”** means a tentative subdivision map as defined by the Subdivision Map Act.

**“Tentative Map Parcel”** means a Parcel with an approved Tentative Map and no higher level of development entitlement as defined in this Tax Formula. Once a Parcel is designated as a Tentative Map Parcel, it shall not be reassigned to a Parcel category with a lower Special Tax obligation, such as an Undeveloped Parcel.

**“Undeveloped Commercial/Other Use Parcel”** means a Taxable Parcel that is not designated for residential use, such as commercial, business park, office, retail, light industrial, industrial, or commercial mixed use, for which a building permit has not been issued.

**“Undeveloped Residential Parcel”** means a Taxable Parcel designated for single family residential uses that is not a Developed Parcel, Final Map Parcel, or Tentative Map Parcel.

**“Unit(s)”** means a Single Family Residential Parcel, or the number of individual residential dwelling units created by a building permit for a multi-family, duplex, half-plex, or triplex use. A Parcel may be assigned Units for each Single Family Residential Parcel created by a Final Subdivision Map for which individual Assessor Parcel Numbers have not yet been assigned by the County Assessor. Units are also the number of single family residential lots approved in a Tentative Map.

### **3. Determination of Parcels Subject to Special Tax**

The District shall prepare a list of the Parcels subject to the Special Tax. The District shall identify the Taxable Parcels from a list of all Parcels within the CFD boundary by excluding all Tax-Exempt Parcels and Exempt Parcels as of June 1 of the current Fiscal Year.

### **4. Termination of the Special Tax and/or the Backup Special Tax**

The Maximum One-time Special Tax and/or the Backup Special Tax will be levied and collected for as long as needed to pay the principal and interest on debt and other costs incurred in order to construct the Authorized Facilities and to pay the Annual Costs. However, in no event shall the Special Tax and/or the Backup Special Tax be levied on any Parcel in the CFD after Fiscal Year 2052-2053.

A Parcel may be subject to the Backup Special Tax until that time the Cumulative Backup Special Tax is equal to the Maximum One-time Special Tax for such Parcel. If a Parcel pays a Cumulative Backup Special Tax that is equal to the Maximum One-time Special Tax for a Parcel (that would be payable at building permit), then such Parcel has fulfilled the Special Tax obligation for the CFD, and the Administrator shall direct the County Recorder to record a Notice of Cessation of Special Tax.

When all Annual Costs incurred by the CFD have been paid, the Special Tax and/or the Backup Special Tax shall cease to be collected or levied. The Administrator shall direct the County Recorder to record a Notice of Cessation of Special Tax when a Developed Parcel has paid the One-time 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.

## **5. Calculation, Levy, and Collection of Maximum One-time Special Tax**

In each Fiscal Year the Maximum One-time Special Tax for the CFD will be calculated using the procedures outlined below. The Tax Escalation Factor will be applied annually to the Maximum One-time Special Tax Rate for a Taxable Parcel beginning the Fiscal Year following the Base Year.

A. Calculation of the Maximum One-time Special Tax. The Maximum One-time Special Tax is charged to a Parcel prior to the issuance of a building permit that would reclassify the Parcel as a Developed Parcel. The Maximum One-time Special Tax for each land use category is calculated by multiplying the Maximum One-time Special Tax in effect that Fiscal Year by the Units or EDUs assigned to the Parcel, using **Attachment 1**. The Maximum One-time Special Tax is reduced the Cumulative Backup Special Tax levied against the Parcel in previous years.

B. Collection of the Maximum One-time Special Tax. The Maximum One-time Special Tax is to be collected by the District prior to issuance of a building permit. Building permits should not be issued without prior collection of the Maximum One-time Special Tax by the District, or its designee. In the event a building permit is issued without the District collecting the Maximum One-time Special Tax, the District will collect the Maximum One-time Special Tax owed the District through the levy and collection of the Special Tax on the secured property tax roll of the County using the procedures in **Section 5.C**.

C. Levy and Collection of the Maximum One-time Special Tax. If the Maximum One-time Special Tax was not collected by the District at the time of building permit issuance, and it is unable to collect the Maximum One-time Special Tax from the responsible party, or through other collection efforts, the Administrator will place an amount of Special Tax, up to an amount of the Backup Special Tax that would be required of the Parcel if no building permit had been issued, in each Fiscal Year until the total amount of Special Tax levied is equal to the amount of Maximum One-time Special Tax that should have been paid at building permit issuance for the Parcel.

## **6. Calculation and Levy of Backup Special Tax**

In each Fiscal Year the Backup Special Tax for the CFD will be calculated using the procedures outlined below. The Tax Escalation Factor will be applied annually to the Backup Special Tax Rate for a Taxable Parcel beginning the Fiscal Year following the Base Year.

A. Calculation of the Backup Special Tax. Final Map Parcels, Tentative Map Parcels, Undeveloped Residential Parcels, and Undeveloped Commercial/Other Use Parcels may be subject to a Backup Special Tax. If the revenue from collecting the Maximum One-time Special Tax on Developed Parcels is not adequate to cover the Annual Costs, the following Backup Special Tax may be levied on Final Map Parcels, Tentative Map Parcels, Undeveloped Residential Parcels, and Undeveloped Commercial/Other Uses Parcels.

1. Final Map Parcels are assigned a Backup Special Tax based on the number of Units created by the Final Map for the Final Map Parcel multiplied by the Backup Special Tax per Unit for a Final Map Parcel, as shown in **Attachment 1**.
2. Tentative Map Parcels are assigned a Backup Special Tax based on the number of Units created by the Tentative Map for the Tentative Map Parcel multiplied by the Backup Special Tax per Unit for a Tentative Map Parcel, as shown in **Attachment 1**.
3. Undeveloped Residential Parcels are assigned a Backup Special Tax based on the Acres multiplied by the Backup Special Tax per Acre for an Undeveloped Residential Parcel, as shown in **Attachment 1**.
4. Undeveloped Commercial/Other Use Parcels are assigned a Backup Special Tax based on the Acres multiplied by the Backup Special Tax per Acre for a Undeveloped Commercial/Other Use Parcel, as shown in **Attachment 1**.

B. Setting the Annual Levy of the Backup Special Tax. The annual Backup Special Tax, if required, shall be established using the following:

1. Determine the Maximum One-time Special Tax Revenue for Developed Parcels from the collection of Maximum One-time Special Tax Revenue as of June 1<sup>st</sup> of the current Fiscal Year.
2. Determine the amount of Maximum One-time Special Tax that will be levied on Taxable Parcels pursuant to **Section 5.C**. Add this amount to the amount determined in the previous step to determine the total Maximum One-time Special Tax Revenue for the Fiscal Year.
3. Determine the amount of Annuals Costs in the following Annual Cost categories, using the following priority of Annual Costs:
  - a. The amount needed to pay Debt Service during the Fiscal Year,
  - b. The amount of Administrative Expenses,
  - c. The amount needed to fund or replenish Special Tax Stabilization Fund to the amounts determined in the Bond Indenture,
  - d. The amount needed to replenish the Reserve Fund for the Bonds to the level required under the Bond Indenture,
  - e. An amount equal to the amount of delinquencies in payments of Backup Special Taxes, if any, levied in the previous Fiscal Year and/or anticipated for the current Fiscal Year, and
  - f. Less any earnings on the Reserve Fund, Special Tax Stabilization Fund, and Special Tax Fund that are transferred to the bond redemption fund pursuant to the Bond Indenture.

4. If the amount of Maximum One-time Special Tax Revenue is greater than the total amount of Annual Costs summed in the previous step, use the remaining Maximum One-time Special Tax Revenue to reduce the amount of Outstanding Bonds through the early redemption of Bonds. **No Backup Special Tax is levied.**
5. If the amounts summed in **Section 6.B.3** are greater than the Maximum One-time Special Tax Revenue calculated in **Section 6.B.1** and **Section 6.B.2**, a Backup Special Tax will be levied using the steps below. In years that the Backup Special Tax is levied there will be no early redemption of Bonds.

Calculate the Backup Special Tax levy for each Taxable Parcel by the following steps:

Step 1: Levy the Backup Special Tax proportionally to 100% for each of the tax categories shown below, in the order shown, until the Maximum One-time Special Tax Revenue, plus the amount of Backup Special Tax levied is just equal to the amount of Annual Costs Calculated in **Section 6.B**. The Backup Special Tax for some Parcels may be reduced so that the Cumulative Backup Special Tax for the Parcel does not exceed the Maximum One-time Special Tax requirement.

1. Final Map Parcels,
2. Tentative Map Parcels,
3. Undeveloped Residential Parcels, then
4. Undeveloped Commercial/Other Use Parcels.

Step 2: Levy on each Taxable Parcel the amount calculated above.

6. Prepare the Tax Collection Schedule, unless an alternative method of collection has been selected pursuant to **Section 9**, and 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 Backup 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 the assignment of the Backup Special Tax to the Parcels.

As development and subdivision of the CFD land uses take place, the District will maintain a file, available for public inspection, of each current Assessor's Parcel Number within the CFD, any Backup Special Tax levied in all Fiscal Years, if any, and the Maximum One-time Special Tax and Backup Special Tax Revenues for all Parcels within the CFD. This record shall show the calculation of the assigned Maximum One-time Special Tax and Backup Special Tax, if any, to each Taxable Parcel.

## 7. Prepayment of Special Tax Obligation

A property owner may permanently satisfy the Special Tax on a Parcel by Prepayment as permitted under Government Code Section 53344. Prepayment for most Parcels is payment of the Maximum One-time Special Tax prior to issuance of the building permit. A property owner may choose to prepay the Maximum One-time Special Tax obligation for a series of Parcels prior to the issuance of building permits. Prepaying the Maximum One-time Special Tax prior to issuance of building permit does not guarantee sewer treatment capacity for the prepaying Parcel. Only the issuance of a building permit guarantees sewer treatment capacity for a Parcel.

A property owner prepaying the Maximum One-time Special Tax for a Parcel may choose any Taxable Parcel designated in an agreement with the District to apply the prepayment to for the purpose of exempting such Parcel from the levy of the Backup Special Tax in a given Fiscal Year. Once the property owner applies the Prepayment to a Parcel for the purposes of pulling a building permit, that Parcel will have satisfied the Maximum One-time Special Tax obligation, and the Administrator shall direct the County Recorder to record a Notice of Cessation of Special Tax when a Developed Parcel has paid the One-time Special Tax.

Prepayment is permitted only under the following conditions:

- The District determines that the Prepayment of the Special Tax does not jeopardize its ability to make timely payments of Debt Service on Outstanding Bonds.
- The landowner prepaying the Special Tax obligation on a Parcel has paid any delinquent Backup Special Tax and penalties on that Parcel prior to Prepayment.

The Prepayment amount shall be established by following the steps below.

### PREPAYMENT

The Prepayment of the Special Tax obligation is determined by adding the Maximum One-time Special Tax to the expenses incurred by the District in connection with the Prepayment calculation or the application of the proceeds of the Prepayment. The Maximum One-time Special Tax is increased by the Tax Escalation Factor in each Fiscal Year after the Base Year.

### The Calculation of the Prepayment Amount:

1. Using the Definitions in **Section 2**, and the steps in **Section 5**, assign the Maximum One-time Special Tax for the Fiscal Year following the current Fiscal Year to the prepaying Parcel.
2. Reduce the amount calculated above by the total amount of Backup Special Tax levied against the Parcel in all Fiscal Years, up to the amount calculated above. This amount is the Prepayment amount.



## **8. Appeals**

The Administrator or designee has the authority to make necessary administrative adjustments to the Rate and Method of Apportionment in order to remedy any portions of the Special Tax formula that require clarification.

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

## **9. Manner of Collection**

The Maximum One-time Special Tax will be collected by the County at the same time as the building permit is issued to a Taxable Parcel. The County shall remit the Maximum One-time Special Taxes to the District once a month.

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

Attachment 1  
 Olivehurst Public Utilities District  
 Community Facilities District No. 2004-1 (Wastewater Treatment Facility)  
 Maximum One-Time Special Tax and Backup Special Tax - Base Year 2003-2004

Land Use	Base Year Maximum Special Tax [1]
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**Maximum One-time Special Tax Paid Prior to Building Permit**

**1. Developed Parcels [2]**

Single Family Residential Parcels	\$8,000	Per Unit
Duplex/Tri-plex Parcels	\$8,000	Per EDU [3]
Multi-family Parcels	\$8,000	Per EDU [3]
Mobile Home Parcels	\$8,000	Per EDU [3]
Mixed Use Parcels	\$8,000	Per EDU [3]
Commercial / Other Use	\$8,000	Per EDU [3]

**Backup Special Tax**

**2. Final Map Parcels [4]**

Single Family Residential Parcels	\$1,700	Per Unit
Duplex/Tri-plex Parcels	\$1,700	Per EDU [3]
Multi-family Parcels	\$1,700	Per EDU [3]

**3. Tentative Map Parcels [4]**

Single Family Residential	\$1,700	Per Unit
Multi-family Residential	\$1,700	Per EDU [3]

**4. Undeveloped Residential Parcels [4]**

\$5,200 Per Acre

**5. Undeveloped Commercial / Other Use Parcels [4]**

\$5,200 Per Acre

"attachment\_1"

- [1] The Maximum One-time Special Tax and the Maximum Annual Backup Special Tax amounts shown may be increased by the Tax Escalation Factor in the Fiscal Year following Base Year 2003-2004.
- [2] Parcels are classified as Developed Parcels when building permits are obtained. A Developed Parcel will pay the Maximum One-time Special Tax prior to the issuance of a building permit, at which time the Parcel will have satisfied its CFD obligation and will be classified as Tax-exempt and will have the Special Tax lien released.
- [3] An EDU is a factor that is shown in the ordinance adopting the Connection Fee, or as determined by the Administrator.
- [4] Final Map, Tentative Map, and Undeveloped Parcels may be assigned a Backup Special Tax only if the Maximum One-time Special Tax collections from Developed Parcels are inadequate to finance the CFD Annual Costs.

## **EXHIBIT C**

### **Form of Notice of Public Hearing**

#### **NOTICE OF PUBLIC HEARING**

#### **ON PROPOSED ESTABLISHMENT OF A COMMUNITY FACILITIES DISTRICT AND ISSUANCE OF DEBT**

#### **OLIVEHURST PUBLIC UTILITY DISTRICT COMMUNITY FACILITIES DISTRICT NO. 2004-1 (WASTEWATER TREATMENT FACILITY)**

NOTICE IS HEREBY GIVEN that the Board of Directors (the "Board") of the Olivehurst Public Utility District (the "District") on February 19, 2004, adopted its Resolution No. 2063, in which it declared its intention to establish a community facilities district (the "CFD") and to levy a special tax to pay for improvements to its wastewater treatment facility, 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 CFD, the facilities proposed to be financed, and the rate, method of apportionment, and manner of collection of the proposed special tax. The Board also adopted its Resolution No. 2064, in which it declared the necessity to incur a bonded indebtedness in the amount not to exceed \$120,000,000 to finance all or a portion of the proposed facilities. Any bonds issued would be secured by the special taxes to be levied in the proposed CFD. For further details, the two resolutions are available in the District office at 1970 9<sup>th</sup> Avenue, Olivehurst, California.

NOTICE IS HEREBY FURTHER GIVEN that the Board has fixed Thursday, March 25, 2004, at the hour of 5:00 p.m., or as soon thereafter as the matter may be heard, at the District's Boardroom, 1970 9<sup>th</sup> Avenue, Olivehurst, California, as the time and place when and where the Board will hold a public hearing to consider the establishment of the CFD and the issuance of debt. 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 CFD, the extent of the CFD, the furnishing of the specified public facilities, the levy of the special tax, and the debt issue will be heard.

If six registered voters residing within the proposed CFD or the owners of one-half or more of the area of land in the territory included in the CFD and not exempt from the special tax file written protests against the establishment of the CFD, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, the creation of the CFD 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. If the majority protests of the registered voters or landowners are only against a specific type of facility or a specified tax, then that type of facility or tax shall be precluded.

NOTICE IS HEREBY FURTHER GIVEN that if, at the conclusion of the public hearing, the Board determines to establish the CFD, the Board will order an election to be held by the landowners of the CFD 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 CFD, on the questions of levying the special tax and incurring debt.

DATED: 2/19, 2004

  
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Deputy Clerk & ex-officio Secretary  
Olivehurst Public Utility District