

RESOLUTION NO. 2100

**A RESOLUTION OF
THE BOARD OF DIRECTORS OF THE OLIVEHURST PUBLIC UTILITY DISTRICT
ESTABLISHING THE
OLIVEHURST PUBLIC UTILITY DISTRICT NORTH PLUMAS LAKE
COMMUNITY FACILITIES DISTRICT NO. 2005-1 (WHEELER RANCH),
DETERMINING THE NECESSITY TO INCUR A BONDED INDEBTEDNESS, AND
CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY OF
THE SPECIAL TAX, THE INCURRENCE OF BONDED INDEBTEDNESS, AND THE
ESTABLISHMENT OF AN APPROPRIATIONS LIMIT
TO THE QUALIFIED ELECTORS OF THE DISTRICT**

WHEREAS, the Board of Directors (the "Board") of the Olivehurst Public Utility District (the "District"), on June 16, 2005, adopted its Resolution No. 2087 (the "Resolution of Intention") (i) declaring its intention to establish Olivehurst Public Utility District North Plumas Lake Community Facilities District No. 2005-1 (Wheeler Ranch) (the "North Plumas Lake CFD No. 2005-1") pursuant to 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"), (ii) proposing to levy a special tax therein for the purpose of providing for the financing of the construction and acquisition of certain public facilities (the "Facilities") described in Exhibit A hereto, (iii) declaring the necessity of incurring a bonded indebtedness to finance the acquisition and construction costs of the Facilities and the incidental expenses thereof, and (iv) calling a public hearing on the establishment of the North Plumas Lake CFD No. 2005-1 and the incurrence of bonded indebtedness;

WHEREAS, at the conclusion of the public hearing, on July 21, 2005, the Board adopted its Resolution No. 2093 (i) finding that the public hearing was duly held in accordance with the Act, (ii) declaring that no written protests were filed against the establishment of the North Plumas Lake CFD No. 2005-1, the furnishing of specified type or types of facilities within the North Plumas Lake CFD No. 2005-1 as listed in the Hearing Report filed with the Board before the hearing, or the levying of the special tax, and (iii) determining to proceed with establishing the North Plumas Lake CFD No. 2005-1;

WHEREAS, on the basis of all of the foregoing, the Board has determined at this time to establish the North Plumas Lake CFD No. 2005-1 and to submit to the qualified electors of the North Plumas Lake CFD No. 2005-1 the levy of the special tax therein (as such tax is more particularly described in Exhibit B hereto), the incurrence of a bonded indebtedness, and the establishment of an appropriations limit for the North Plumas Lake CFD No. 2005-1;

WHEREAS, the Board has received a written instrument from each landowner in the North Plumas Lake CFD No. 2005-1 consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election;

WHEREAS, the Deputy District Clerk has concurred in the election date set forth herein;

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

1. **Recitals.** The foregoing recitals are true and correct.
2. **No Majority Protest.** Neither the establishment of the North Plumas Lake CFD No. 2005-1, the furnishing of any of the specified types of facilities within the North Plumas Lake CFD No. 2005-1 listed on Exhibit A, nor the special tax proposed to be levied in the North Plumas Lake CFD No. 2005-1 has been precluded by majority protest pursuant to Section 53324 of the Act.
3. **Establishment of North Plumas Lake CFD No. 2005-1.** As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated "Olivehurst Public Utility District North Plumas Lake Community Facilities District No. 2005-1 (Wheeler Ranch)."
4. **Finding of Procedural Regularity.** The Board finds and determines that all prior proceedings had and taken by the Board with respect to the formation of the North Plumas Lake CFD No. 2005-1 are valid and in conformity with requirements of the Act.
5. **Boundaries of North Plumas Lake CFD No. 2005-1.** The boundaries of the North Plumas Lake CFD No. 2005-1 shall be as set forth in the map of the proposed boundaries of the North Plumas Lake CFD No. 2005-1 that was filed with the Yuba County Recorder on June 20, 2005, in Book 2 of Maps of Assessment and Community Facilities Districts, at Page 1 less the property shown by assessor's parcel numbers 014-260-019 & 014-260-113. The Board hereby directs District staff to prepare and file an amended map of the boundaries of the CFD to reflect the exclusion of such property.
6. **Description of Facilities.** The Facilities to be financed by the North Plumas Lake CFD No. 2005-1 are set forth in Exhibit A hereto, which include completed facilities. 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 North Plumas Lake CFD No. 2005-1, 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 North Plumas Lake CFD No. 2005-1; and any other expenses incidental to the construction, completion, and inspection of the Facilities.
7. **Repayment of Advances.** The District and the owners of property within the North Plumas Lake CFD No. 2005-1 have entered into an "Agreement for Advance Funding" pursuant to which the property owners have deposited funds with the District for the payment of certain costs related to the establishment of the North Plumas Lake CFD No. 2005-1. To the extent proceeds of any bonds issued are sufficient therefor (as determined by the District), the District proposes to repay a portion of the funds advanced.

8. **Special Tax.** As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of the North Plumas Lake CFD No. 2005-1, 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 North Plumas Lake CFD No. 2005-1, will be levied annually in the North Plumas Lake CFD No. 2005-1. 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 repaid and permanently satisfied. Exhibit B also specifies the date after which no further special tax shall be levied against any parcel of land used for private residential purposes. Under no circumstances will the special tax levied against any parcel of land used for private residential purposes be increased by more than ten percent as a consequence of delinquency or default by the owner of any other parcel or parcels of land within the North Plumas Lake CFD No. 2005-1.

9. **Apportionment of Tax.** The special tax as apportioned to each parcel is based on the cost of making the Facilities available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

10. **Tax Roll Preparation.** The office of the General Manager, 1970 9th Avenue, Olivehurst, California 95961, telephone 530-743-0317, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The General Manager may cause these functions to be performed by his deputies, assistants, or other designated agents.

11. **Necessity of Bonded Indebtedness.** The Board deems it necessary to incur the bonded indebtedness.

12. **Purpose of Debt.** The indebtedness will be incurred for the purpose of financing the construction and acquisition of the Facilities described in Exhibit A.

13. **Territory to be Taxed.** The whole of the North Plumas Lake CFD No. 2005-1 shall pay for the bonded indebtedness.

14. **Amount of Debt.** The amount of bonded indebtedness to be incurred is \$25,000,000.

15. **Maximum Term of the Debt.** The maximum term of the bonds of any series shall not exceed forty years from their date.

16. **Maximum Interest Rate on the Bonds.** The bonds shall bear interest at rate or rates not to exceed the maximum rate permitted by law at the time the bonds are issued, payable annually or semiannually or in such other manner as the Board shall determine, the actual rate or rates and times of payment of such interest to be determined by the Board at the time or times the bonds are issued.

17. **Appropriations Limit.** The Board proposes that the appropriations limit, as defined by Article XIII B, Section 8(h), of the Constitution of the State of California, for the North Plumas Lake CFD No. 2005-1 be established in the amount of special taxes collected.

18. **Accountability Measures.** Pursuant to Sections 50075.1 and 53411 of the California Government Code, the District shall create separate accounts into which tax and bond proceeds will be deposited; and the General Manager annually shall file a report with the Board that will state (a) the amount of funds collected and expended and (b) the status of the Facilities financed in the North Plumas Lake CFD No. 2005-1.

19. **Special Election; Voting Procedures.** The Board hereby submits the questions of levying the special tax, incurring the bonded indebtedness, and establishing the annual appropriations limit for the North Plumas Lake CFD No. 2005-1 to the qualified electors within the North Plumas Lake CFD No. 2005-1, in accordance with and subject to the Act. The special election shall be held on September 15, 2005, and shall be conducted as follows:

(a) **Qualified Electors.** The Board hereby determines that the Facilities are necessary to meet increased demands placed upon the District as a result of development occurring within the boundaries of the North Plumas Lake CFD No. 2005-1. Because fewer than twelve registered voters resided within the North Plumas Lake CFD No. 2005-1 on July 20, 2005 (a date within the 90 days preceding the close of the public hearing on the establishment of the North Plumas Lake CFD No. 2005-1), the qualified electors shall be the landowners within the North Plumas Lake CFD No. 2005-1, and each landowner who was 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 North Plumas Lake CFD No. 2005-1.

(b) **Consolidation of Elections; Combination of Propositions on Ballot.** As authorized by Government Code section 53351(h), the elections on the questions of levying the special tax, establishing an appropriations limit, and incurring a bonded indebtedness for the North Plumas Lake CFD No. 2005-1 shall be consolidated; and, as authorized by Government Code Section 53353.5, the three propositions shall be combined into a single ballot proposition for submission to the voters. The combined ballot proposition shall read as shown in the form of the ballot attached hereto as Exhibit C.

(c) **Mail Ballot Election.** Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The Board hereby ratifies the Deputy District Clerk's delivery to each landowner in the North Plumas Lake CFD No. 2005-1 of a ballot in the form set forth in Exhibit C.

(d) **Return of Ballots.** The Deputy District Clerk shall accept the ballots of the landowners up to ten minutes following the adoption of this resolution. The Deputy District Clerk shall have available ballots that may be marked at the Deputy District Clerk's office on the election day by voters. Once all qualified electors have voted, the Deputy District Clerk may close the election.

(e) **Canvass of Election.** The Deputy District Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (i.e., the earlier of

when all qualified electors have voted and five minutes following the adoption of this resolution by the Board) at the Deputy District Clerk's office. At the conclusion of the canvass, the Deputy District Clerk shall declare the results of the election.

(f) Declaration of Results. The Board shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

20. Filing of Resolution and Map with Deputy District Clerk. The Board hereby directs the Deputy District Clerk of the Board to file a copy of this resolution and the amended map of the boundaries of the North Plumas Lake CFD No. 2005-1 in her office.

21. Lien to Secure Special Tax. Upon a determination by the Board that two-thirds of the votes cast upon the question of levying the special tax were in favor thereof, the Deputy District Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the North Plumas Lake CFD No. 2005-1, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien cancelled in accordance with law or until collection of the tax by the Board ceases.


PASSED AND ADOPTED this 15th day of September 2005.

OLIVEHURST PUBLIC UTILITY DISTRICT



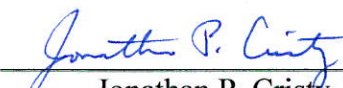
Philip R. Miller
President, Board of Directors

ATTEST:



Cindy Kane
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 15th day of September 2005, by the following vote:

AYES, AND IN FAVOR THEREOF:	Directors Patty, Hollis, Carpenter, and Miller.
NOES	: None.
ABSTAIN	: None.
ABSENT	: Director Morrison.

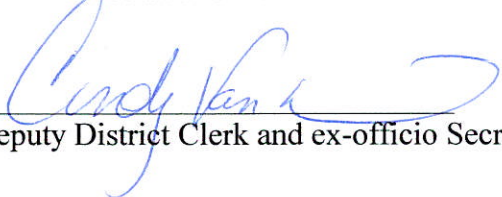

Deputy District Clerk and ex-officio Secretary

EXHIBIT A

Public Capital Facilities

A. PUBLIC IMPROVEMENTS

The following types of improvements are authorized to be constructed with proceeds of bonds issued or special taxes collected with respect to the North Plumas Lake CFD No. 2005-1.

(1) Sewer System Improvements

Authorized facilities include any and all sewer system improvements designed to serve the development needs of the Plumas Lake Specific Plan area. These facilities may include major collection system sewer lines (gravity lines and force mains), lift stations, water wells (for the flushing of sewer lines), maintenance roads, and all other appurtenances related to sewer system improvements.

(2) Water System Improvements

Authorized facilities include any and all water transmission main improvements designed to serve the development needs of the Plumas Lake Specific Plan area. These facilities may include water wells, pumping systems, water treatment facilities, storage tanks, transmission mains, and any other appurtenances related to water system improvements.

(3) Park Improvements

Authorized facilities include any and all park improvements designed to serve the needs of the Plumas Lake Specific Plan area. These facilities may include neighborhood and community parks, including the development of parks, parkways, bike trails, paths, open space, community centers, sports facilities, and any other appurtenances related to park improvements.

B. DEVELOPMENT IMPACT FEES

Eligible expenditures include prepayment of development impact fees applicable to new development within the North Plumas Lake CFD No. 2005-1 that are used to fund park improvements.

C. OTHER EXPENSES

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, and designing the facilities (including the cost of environmental evaluation thereof); cost associated with the creation of the North Plumas Lake CFD No. 2005-1; 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 North Plumas Lake CFD No. 2005-1; 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

**Olivehurst Public Utility District
North Plumas Lake
Community Facilities District No. 2005-1 (Wheeler Ranch)
Yuba County, California**

RATE, METHOD OF APPORTIONMENT, and MANNER OF COLLECTION
OF THE SPECIAL TAX

1. Basis of Special Tax Levy

A Special Tax, authorized under the Mello-Roos Community Facilities Act of 1982 (Act) applicable to the land in the Olivehurst Public Utility District (District) North Plumas Lake Community Facilities District No. 2005-1 (Wheeler Ranch) (CFD) of Yuba County (County), 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

“**Acreage**” 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 related to the administration of the CFD, including:

- Costs of computing Special Taxes and preparing annual Special Tax collection schedules (whether by the District or designee thereof or both);
- Costs of collecting the Special Taxes (whether by the District, County, or otherwise);
- Costs of remitting the Special Taxes to the Trustee;
- Costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Bond Indenture;
- Costs to the District, CFD or any designee thereof of complying with arbitrage rebate requirements;
- Costs to the District, CFD or any designee thereof of complying with District, CFD or obligated persons disclosure requirements;

- Costs associated with preparing Special Tax disclosure statements;
- Costs incurred in responding to public inquiries regarding the Special Taxes;
- Costs to the District, CFD or designee thereof related to any appeal of the Special Tax;
- Costs associated with the release of funds from an escrow account, if any; and
- Amounts estimated to be advanced or advanced by the District 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 of the District, or his or her designee.

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

- i) Debt Service to be paid from Special Taxes collected during the Bond Year;
- ii) Administrative Expenses for such Fiscal Year;
- iii) The amount needed to replenish any Reserve Fund requirement for CFD Bonds to the level required under the documents pursuant to which such Bonds were issued;
- iv) An amount equal to the amount of delinquencies in payments of Special Taxes levied in the previous Fiscal Year or anticipated for the current Fiscal Year less any credit from earnings on the Bond reserve fund, less credit for applicable development fees, less any reimbursements, or less any funds available from prepaid Special Taxes as prescribed in **Section 7**; and
- v) Pay-As-You-Go Expenditures for Authorized Facilities to be constructed or acquired by the CFD.

“**Anticipated Construction Proceeds**” means that amount that is anticipated to be available from Bonds for the acquisition or construction of Authorized Facilities.

“**Assessor's Parcel**” means a parcel of land in the County identified by Assessor's Parcel Number.

“**Assessor's Parcel Number**” means the number as assigned to a Parcel by the Assessor as recorded by the Assessor on the last equalized tax roll.

“**Auditor-Controller**” means the Auditor-Controller of the County.

“**Authorized Facilities**” means those facilities authorized to be funded by the CFD, as identified in the resolution forming the CFD.

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

“**Benefit Share**” means the Maximum Annual Special Tax for a Parcel divided by the Maximum CFD Revenue.

“**Board**” means the Board of Directors of the Olivehurst Public Utility District acting for the CFD under the Act.

“**Bond(s)**” means any bonds issued by the District under the Act that are payable from the Special Taxes.

“**Bond Authorization**” means the maximum amount of Bonds that the CFD is authorized to issue pursuant to the Bond Indenture.

“**Bond Indenture**” means the indenture or other financing document pursuant to which the Bonds are issued.

“**Bond Share**” means the share of Bonds assigned to a Parcel as specified in **Section 7** of this Rate and Method of Apportionment.

“**Bond Year**” means the twelve (12) month period ending on the second Bond payment date of each calendar year as defined in the Bond Indenture.

“**CFD**” means the North Plumas Lake Community Facilities District No. 2005-1 (Wheeler Ranch) of the District.

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

“**Debt Service**” means for each Bond Year, the total amount of principal and interest for any Bonds, notes, or certificates of participation of the CFD during that Bond Year, less any applicable credits that may be available from any other sources available to the District to pay principal and interest for the previous or current Bond Year.

“**Developed Parcel**” means a Parcel receiving one of the following development approvals from the County:

<u>Land Use</u>	<u>Development Approval</u>
Single-Family Residential	Building Permit
Other Taxable Uses	Building Permit

“**Final Subdivision Map**” means a recorded map designating individual Single Family Residential Parcels or condominium units.

“**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.

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

“**Large Lot Parcel**” means any Parcel 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 Residential Parcels.

“**Maximum CFD Revenue**” means the greatest amount of revenue that can be collected in a Fiscal Year by levying the Special Tax against all Taxable Parcels in the CFD.

“**Maximum Annual Special Tax**” means the greatest amount of Special Tax that can be levied against a Taxable Parcel in any Fiscal Year as shown in **Attachment 1**.

“**Maximum Annual Special Tax Revenue**” means the greatest amount of revenue that can be collected by levying the Maximum Annual Special Tax against a group of Parcels within a specific classification, such as Developed Parcels.

“**North Plumas Lake**” means the development area in the unincorporated area of the County included in the Plumas Lake Specific Plan Area.

“**Original Parcel**” means a Parcel as identified by Assessor’s Parcel Number on **Attachment 1**. Original Parcels are assigned Units in **Attachment 1** based on Tentative Maps approved by the County at the time of the formation of the CFD, or upon Tentative Maps that have been proposed for approval by the County. Approved Tentative Maps used to derive Unit assignments are:

“**Other Taxable Uses**” means a Taxable Parcel that is not designated for single family residential use, such as commercial, business park, office, retail, light industrial, industrial, multi-family residential, or mixed use.

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

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

“**Partial Prepayment**” means a prepayment of a portion of a Parcel’s Special Tax obligation, as set forth in **Section 7**.

“**Partial Prepayment Factor**” means a factor by which the Maximum Annual Special Tax for a Partial Prepayment Parcel is multiplied to calculate an adjusted Maximum Annual Special Tax for such Parcel. Each Partial Prepayment Factor shall be calculated according to the steps described under **Section 7** hereof.

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