

**RESOLUTION NO. 2101**

**A RESOLUTION OF  
THE BOARD OF DIRECTORS OF THE OLIVEHURST PUBLIC UTILITY DISTRICT  
ESTABLISHING THE  
OLIVEHURST PUBLIC UTILITY DISTRICT  
COMMUNITY FACILITIES DISTRICT NO. 2005-2 (PARK MAINTENANCE),  
AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING THE LEVY  
OF THE SPECIAL TAX 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. 2088 (the "Resolution of Intention") (i) declaring its intention to establish Olivehurst Public Utility District Community Facilities District No. 2005-2 (Park Maintenance) (the "Park Maintenance CFD No. 2005-2") 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 certain services (the "Services") described in Exhibit A hereto, and (iii) calling a public hearing on the establishment of the Park Maintenance CFD No. 2005-2;

**WHEREAS**, at the conclusion of the public hearing, on July 21, 2005, the Board adopted its Resolution No. 2094 (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 Park Maintenance CFD No. 2005-2, the furnishing of specified type or types of facilities within the Park Maintenance CFD No. 2005-2 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 Park Maintenance CFD No. 2005-2;

**WHEREAS**, on the basis of all of the foregoing, the Board has determined at this time to establish the Park Maintenance CFD No. 2005-2 and to submit to the qualified electors of the Park Maintenance CFD No. 2005-2 the levy of the special tax therein (as such tax is more particularly described in Exhibit B hereto) and the establishment of an appropriations limit for the Park Maintenance CFD No. 2005-2;

**WHEREAS**, the Board has received a written instrument from each landowner in the Park Maintenance CFD No. 2005-2 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 Park Maintenance CFD No. 2005-2, the furnishing of any of the specified types of services within the Park Maintenance CFD No. 2005-2 listed on Exhibit A, nor the special tax proposed to be levied in the Park Maintenance CFD No. 2005-2 has been precluded by majority protest pursuant to Section 53324 of the Act.

3. **Establishment of Park Maintenance CFD No. 2005-2.** As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated "Olivehurst Public Utility District Community Facilities District No. 2005-2 (Park Maintenance)."

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 Park Maintenance CFD No. 2005-2 are valid and in conformity with requirements of the Act.

5. **Boundaries of Park Maintenance CFD No. 2005-2.** The boundaries of the Park Maintenance CFD No. 2005-2 shall be as set forth in the map of the proposed boundaries of the Park Maintenance CFD No. 2005-2 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 2 less the property shown by assessor's parcel number 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 Services.** The Services to be financed by the Park Maintenance CFD No. 2005-2 are set forth in Exhibit A hereto. The Services authorized to be financed by the Park Maintenance CFD No. 2005-2 are in addition to those provided in the territory of the Park Maintenance CFD No. 2005-2 and do not supplant Services already available within that territory.

7. **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 Park Maintenance CFD No. 2005-2, a special tax 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 in 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.

8. **Apportionment of Tax.** The special tax as apportioned to each parcel is based on the cost of providing the Services for the benefit of each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

9. **Tax Roll Preparation.** The office of the General Manager, 1970 9<sup>th</sup> 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.



10. **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 Park Maintenance CFD No. 2005-2 be established in the amount of special taxes collected.

11. **Accountability Measures.** Pursuant to Section 50075.1 of the California Government Code, the District shall create a separate account into which tax 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 Services financed in the Park Maintenance CFD No. 2005-2.

12. **Special Election; Voting Procedures.** The Board hereby submits the questions of levying the special tax and establishing the annual appropriations limit for the Park Maintenance CFD No. 2005-2 to the qualified electors within the Park Maintenance CFD No. 2005-2, 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 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 resided within the Park Maintenance CFD No. 2005-2 on July 20, 2005 (a date within the 90 days preceding the close of the public hearing on the establishment of 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 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 Park Maintenance CFD No. 2005-2.

(b) **Consolidation of Elections; Combination of Propositions on Ballot.** The elections on the questions of levying the special tax and establishing an appropriations limit for the Park Maintenance CFD No. 2005-2 shall be consolidated, and the two propositions shall be combined into a single ballot proposition for submission to the voters, as authorized by Government Code Section 53353.5. 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 Park Maintenance CFD No. 2005-2 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 five 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.

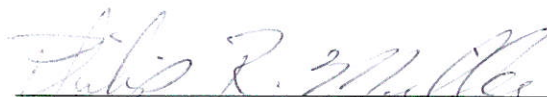
(f) Declaration of Results. The Board shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

13. 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 Park Maintenance CFD No. 2005-2 in her office.


14. 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 Park Maintenance CFD No. 2005-2, and this lien shall continue in force and effect until collection of the tax by the Board ceases.

**PASSED AND ADOPTED** this 15<sup>th</sup> day of September 2005.

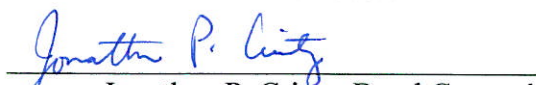
OLIVEHURST PUBLIC UTILITY DISTRICT

  
\_\_\_\_\_  
Philip R. Miller  
President, Board of Directors

ATTEST:

  
\_\_\_\_\_  
Cindy Vance  
Deputy District Clerk & ex-officio Secretary

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY

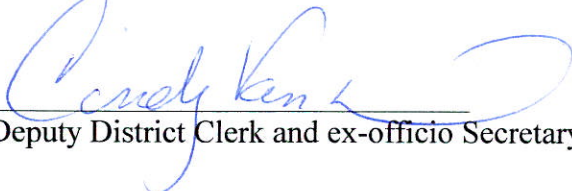
  
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Jonathan P. Cristy, Bond Counsel



\* \* \* \* \*

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 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**

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  
Community Facilities District No. 2005-2 (Park Maintenance)  
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 Community Facilities District No. 2005-2 (Park Maintenance) (CFD) of the Olivehurst Public Utility District (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; and
2. Each Taxable Parcel is to be further classified as a Developed Parcel, Large Lot 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 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 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.