

**RESOLUTION NO. 2169**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE OLIVEHURST PUBLIC UTILITY DISTRICT  
DECLARING ITS INTENTION TO ANNEX TERRITORY TO  
COMMUNITY FACILITIES DISTRICT NO. 2005-2 (PARK MAINTENANCE)  
AND TO LEVY A SPECIAL TAX TO PAY FOR  
CERTAIN MAINTENANCE SERVICES  
(Annexation No. 4)**

**WHEREAS**, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), the Board of Directors (the "Board") of Olivehurst Public Utility District (the "District"), on September 15, 2005 approved Resolution No. 2101 establishing the Olivehurst Public Utility District Community Facilities District No. 2005-2 (Park Maintenance) (the "CFD");

**WHEREAS**, the Board called a special election for September 15, 2005 at which the questions of levying a special tax and establishing an appropriations limit with respect to the CFD were submitted to the qualified electors within the CFD;

**WHEREAS**, on September 15, 2005 the Board adopted Resolution No. 2103 determining the results of the special election and finding that more than two-thirds (2/3) of all votes cast at the special election were cast in favor of the proposition presented, and such proposition passed;

**WHEREAS**, the Board has determined, because of the proposed development of certain property within the District, to initiate proceedings for the annexation of such property to the CFD in accordance with the Act.

**NOW, THEREFORE BE IT RESOLVED** by the District that:

**Section 1. Description of Territory to be Annexed.** Public convenience and necessity require, and this Board proposes and intends, that the District annex certain territory to the CFD. The territory to be annexed is described in a map entitled "Annexation Map No. 4 of Community Facilities District No. 2005-2 (Park Maintenance), Olivehurst Public Utility District, County of Yuba" which is on file with the District Clerk. The District Clerk is hereby authorized and directed to endorse the certificates set forth on the map and to record the map in accordance with the provisions of Section 3111 of the Streets and Highways Code of the State of California.

**Section 2. Description of Territory Included in Existing CFD.** The boundaries of the territory currently included in the CFD are described in a map entitled "Map of District Boundaries, Community Facilities District No. 2005-2 (Park Maintenance), Olivehurst Public Utility District, Yuba County, State of California," recorded on October 20, 2005 in Book 2 of Maps of Assessment and Community Facilities Districts at Page 5 in the Office of the Yuba County Recorder, "Annexation Map No. 1 of Community Facilities District No. 2005-2 (Park Maintenance), Olivehurst Public Utility District, Yuba County, State of California," recorded on

November 30, 2006, in Book 5 of Maps of Community Facilities Districts at Pages 7 and 8 in the office of the Yuba County Recorder; Annexation Map No. 2 to Community Facilities District 2005-2 (Park Maintenance), Olivehurst Public Utility District, Yuba County, State of California," recorded on January 31, 2007, in Book 2 of Maps of Community Facilities Districts at Page 11 in the office of the Yuba County Recorder; and Annexation Map No. 3 to Community Facilities District 2005-2 (Park Maintenance), Olivehurst Public Utility District, Yuba County, State of California," recorded on April 25, 2007, in Book 2 of Maps of Community Facilities Districts at Page 20 in the office of the Yuba County Recorder

**Section 3. Specification of the Type of Services Provided.** The type of services to be provided in the territory proposed to be annexed to the CFD is the same as that provided in the existing CFD and are more particularly described in Exhibit A attached hereto. The services authorized to be financed by the CFD are in addition to those currently provided in the territory of the CFD and do not supplant services already available within that territory.

**Section 4. Plan for Providing Services.** The public services that are financed by taxes collected in the CFD will be provided to residents of the current CFD and residents of the territory proposed to be annexed on the same basis.

**Section 5. Specification of Special Taxes to be Levied.** Except where funds are otherwise available, a special tax sufficient to pay for all services (including incidental expenses) to be provided in or for the territory to be annexed and secured by a continuing lien against all nonexempt real property in the CFD will be annually levied within the territory proposed to be annexed to the CFD. The rate, method of apportionment, and manner of collection of such special tax is set forth in Exhibit B hereto (the "Special Tax Formula").

**Section 6. No Alteration of the Special Tax Levied in the Existing Community Facilities District.** The Board does not propose to alter the special tax rate levied within the existing CFD as a result of the proposed annexation.

**Section 7. Public Hearing.** The Board hereby fixes 7:00 p.m., or as soon thereafter as practicable, on Thursday, February 21, 2008, 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 annexation of territory to the CFD.

**Section 8. Notice of Hearing.** The Board directs the Clerk of the Board to publish a notice of the hearing, in substantially the form attached hereto as Exhibit C, once not later than seven days prior to the date fixed for the hearing, in a newspaper of general circulation published in the area of the CFD.

**Section 9. Effective Date.** This Resolution shall take effect immediately upon its passage.

**PASSED AND ADOPTED** by the Board of Directors of the Olivehurst Public Utility District on this 20<sup>th</sup> day of December, 2007.

OLIVEHURST PUBLIC UTILITY DISTRICT

*Philip R. Mills*  
\_\_\_\_\_  
President, Board of Directors  
Olivehurst Public Utility District

ATTEST:

*Cindy Van*  
\_\_\_\_\_  
District Clerk & ex-officio Secretary

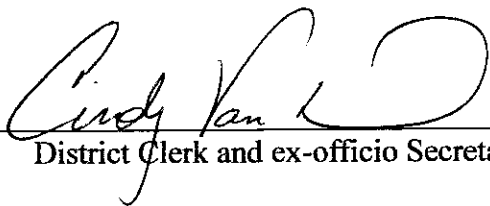
APPROVE AS TO FORM AND LEGAL  
SUFFICIENCY

*Jonathan P. Cristy*  
\_\_\_\_\_  
Jonathan P. Cristy, Board 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 20th day of December, 2007, by the following vote:

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

  
\_\_\_\_\_  
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) RATE AND METHOD OF APPORTIONMENT

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#### 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 Benefit Zone in 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:

<b><u>Tax Category</u></b>	<b><u>Land Use Approval</u></b>
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 an 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 for each Benefit Zone 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 for each Benefit Zone.
  - Step 2: Compare the Annual Costs for each Benefit Zone with the Maximum Annual Special Tax Revenue for the Benefit Zone calculated in the previous step.
  - Step 3: If the Annual Costs for a Benefit Zone are less than the Maximum Annual Special Tax Revenue for the Benefit Zone, decrease proportionately the Special Tax levy for each Developed Parcel in the Benefit Zone until the revenue from the Special Tax levy equals the Annual Costs for the Benefit Zone.
  - Step 4: If the Annual Costs for a Benefit Zone are greater than the Maximum Annual Special Tax Revenue from Developed Parcels for the Benefit Zone, levy a Special Tax proportionately on each Large Lot Parcel in the Benefit Zone to an amount equal to the amount of Annual Costs for the Benefit

Zone, or until 100 percent of the Maximum Annual Special Tax is reached for such Large Lot Parcels.

Step 5: If the Annual Costs for a Benefit Zone are greater than the Maximum Annual Special Tax Revenue from Developed Parcels and Large Lot Parcels for the Benefit Zone, levy a Special Tax proportionately on each Undeveloped Parcel in the Benefit Zone to an amount equal to the amount of Annual Costs for the Benefit Zone, or until 100 percent of the Maximum Annual Special Tax is reached for such Undeveloped Parcels.

C. Levy on each Taxable Parcel the amount calculated above.

D. Prepare the Tax Collection Schedule and, unless an alternative method of collection has been selected pursuant to **Section 9**, send it to the County Auditor requesting that it be placed on the general, secured property tax roll for the Fiscal Year. The Tax Collection Schedule shall not be sent later than the date required by the Auditor for such inclusion.

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

## **6. Records Maintained for the CFD**

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

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

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

## **7. Appeals**

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

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