

COMMUNITY FACILITIES DISTRICT
NO. 1996-1 (VILLAGE ONE)

CITY OF MODESTO
STANISLAUS COUNTY, CALIFORNIA

PUBLIC REPORT
MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

AMENDED APRIL 1997
FOR
ANNEXATION NO. 1

Prepared by:

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PUBLIC REPORT - MELLO-RODS COMMUNITY FACILITIES ACT OF 1982

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PUBLIC REPORT
MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

INTRODUCTION

WHEREAS, City Council of the City of Modesto did, pursuant to the provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, and specifically Section 53321.5 thereof, expressly order the filing of a written "Report" with the City for a proposed Community Facilities District. This Community Facilities District shall hereinafter be referred to as:

Community Facilities District No. 1996-1 (Village One).

(hereinafter referred to as the "District") and

WHEREAS, the Resolution ordering said "Report" did direct that said "Report" generally contain the following:

- (1) A description of the public capital facilities and services proposed for the District;
- (2) A general description of the area to be served by said facilities; said areas being the boundaries of the District;
- (3) A cost estimate, setting forth the costs and expenses for providing the public facilities and services to the properties within the boundaries of the District and the costs of any incidental expenses to be paid by the District;
- (4) The rate and method of apportionment of the special tax in sufficient detail to allow each landowner or resident within the proposed District to estimate the annual amount of payment;
- (5) General Terms and conditions relating to the proceedings.

For particulars, references is made to the Resolution of Intention ordering the report, as previously approved and adopted.

NOW, THEREFORE, I, Jerry L. Slinkard, P.E., authorized representative for Vail Engineering Corporation, the appointed responsible officer or person directed to prepare the Report, pursuant to the provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, do hereby submit the following data:

COMMUNITY FACILITIES DISTRICT NO. 1996-1 (VILLAGE ONE)
CITY OF MODESTO, STANISLAUS COUNTY, CALIFORNIA

PUBLIC REPORT
MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

I. DESCRIPTION OF FACILITIES

All facilities described herein are as presented in the *Village One Facilities Master Plan* adopted June 1996. Said master plan is incorporated herein by reference. The following descriptions summarize the facilities to be funded within the CFD 1996-1.

A. ARTERIAL ROADS

The circulation plan for Village One consists of six major streets (four arterials and two expressways). For the purpose of this document, all six roadways are referred to as arterial roads. Urban interchanges are not included in the *Village One Finance Plan*. It is anticipated that subsequent updates to the Capital Facilities Fee Program will include urban interchanges. Refer to the Facilities Master Plan for right-of-way widths along arterial roads. The arterial roads are:

- Claus Road (Expressway): Briggsmore to AT and SF railroad, widen to six-lane expressway.
- Briggsmore (Expressway): Oakdale Road to Claus Road, widen to six-lane expressway.
- Sylvan Avenue: Oakdale Road to Roselle Avenue, widen to six lanes; Roselle Avenue to Clause Road, widen to four lanes plus bike lanes.
- Floyd Avenue: Oakdale Road to Claus Road, widen to four lanes plus bike lanes and parking.
- Oakdale Road: Briggsmore to Sylvan, widen to six lanes.
- Roselle Avenue: Briggsmore to Sylvan, widen to four lanes plus bike lanes.

B. STORM DRAINAGE SYSTEM

The storm drainage system for Village One consists of three basins for detention and retention:

1. West Basin (9.56 acres): Retention with pump out facilities to Central Basin.
2. Central Basin (15.59): Percolation with pump out facilities to Claus Road Storm Drain with ultimate discharge to Dry Creek.
3. Industrial Basin (8 acres): Percolation with pump out facilities to Claus Road Storm Drain with ultimate discharge to Dry Creek.

The facilities to be funded in CFD 1996-1 include: basins, land for basins, trunk gravity, drainage pipes in sizes ranging from 24 inches in diameter to 72 inches in diameter, and force mains. A detailed description and location of facilities is contained in "Village One Facilities Master Plan" adopted June 1996 and incorporated herein by reference.

C. UTILITY RELOCATION

The cost of a PG&E high pressure gas main within Claus Road between Briggsmore Avenue and Sylvan Avenue is identified for relocation.

D. PARKS

Three neighborhood parks and one community park will be developed within CFD 1996-1. The development of the parks will include the acquisition of land, park improvements, and street frontage improvements for:

Community Park	39 acres
Roselle Neighborhood Park	7 acres
Claus Neighborhood Park	7 acres
Merle Neighborhood Park	8 acres

In addition, 21.3 acres of buffer land for the community park is to be acquired, a bike trail is to be developed along M.I.D. Lateral No. 3, and a trail is to be developed along Claus Road.

E. PUBLIC FACILITIES

An area office for police is proposed within Village One. Funds are provided within CFD 1996-1 for tenant improvements necessary to set up an area office.

F. OTHER

Other costs associated with Village One include reimbursement to the City of Modesto for engineering of the Facilities Master Plan and planning related to the *Village One Specific Plan*, future annual administration costs for the CFD, and community signage for Village One.

G. OPERATIONS AND MAINTENANCE OF PARKS, TRAILS, AND STREET PARKWAYS*

The City will maintain the community park, Roselle Park, Claus Park, Merle Park, and arterial road parkways landscaping in a "good standard of maintenance" as defined by the Parks Department. M.I.D. Trail and Claus Trail will be maintained as Class I trails.

**Street parkways includes median and roadside landscape and hardscape.*

II. BOUNDARIES OF COMMUNITY FACILITIES DISTRICT ANNEXATION NO. 1

The maps located at the end of the report includes land within Village One that will be annexed to and contained within Community Facilities District 1996-1 (Village One) Annexation No. 1.

III. COST ESTIMATES

A. CAPITAL COSTS FOR FACILITIES SPECIAL TAX

The capital costs for CFD 1996-1 (Village One) Annexation No. 1 amended April, 1997, as estimated in the *Village One Facilities Master Plan* adopted June 1996, and as shown on page 28 of the *Village One Finance Plan*, is \$48,457,856. This figure is based upon 1996 costs as set forth in the adopted Facilities Master Plan for Village One. These costs are subject to an annual inflation adjustment based upon the Engineering News Record Cost Index for the San Francisco region. A breakdown of these costs are as follows:

Arterial Roads	\$20,509,278
Storm Drainage	\$13,240,470
Utility Relocation	\$1,120,458
Parks	\$10,863,967
Public Facilities	\$25,000
Other	<u>\$2,698,683</u>
Subtotal:	\$48,457,856
Annual CFD Administration (1%)	\$484,579

In addition to the capital costs, an annual cost to administer the CFD is estimated at 1% of the capital costs, or \$484,579 over the life of the district.

Total district with administration is: \$48,942,435

B. OPERATIONS AND MAINTENANCE COSTS FOR MAINTENANCE SPECIAL TAX

Estimated annual cost to the CFD at full buildout of Village One in 1996 dollars to provide operations and maintenance (O&M) of parks, street/parkway, and pathways (including landscaping) is \$850,000. A breakdown of these annual O&M costs are:

- Annual maintenance cost at buildout in 1996 dollars:

Community Park and three (3) neighborhood parks	\$149,073
Street/Parkways: 1,500,000 sq. ft. x \$0.417 / sq. ft.	\$625,500
Pathway Landscaping: Subtotal Paths	\$44,965
Class I: 17,889 / 5,280 x \$4,020 =	\$13,560
Class II: 82,388 / 5,280 x \$1,500 =	\$23,405
Class III: 84,480 / 5,280 x \$500 =	<u>\$8,000</u>
	\$44,965
Weed and Litter Abatement	\$4,251
Misc. Annual Admin/Cont. (3%)	<u>\$26,211</u>
	Total Annual Cost: \$850,000

- Total annual costs at "good" standard for all neighborhood and community parks in 1996 dollars is \$708,676. The amount attributed to the Village One CFD is \$149,073.

IV. RATE AND METHOD *(By David Taussig and Associates)*

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1996-1 (herein "CFD No. 1996-1") shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 1996-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 1996-1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Subdivision Map, parcel map, or other recorded County parcel map.

"Annual Maintenance Special Tax" means a Special Tax levied in any Fiscal Year to pay for the operations and maintenance of parks, street landscaping pathways, weed and litter abatement, and miscellaneous annual administrative and contractual costs.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Stanislaus designating parcels by Assessor's Parcel Number.

"City" means the City of Modesto.

"City Manager" means the City Manager of the City of Modesto.

"Commercial Property" means all Parcels of Developed Property for which a building permit has been issued for a commercial establishment which sells general merchandise, hard goods, personal and professional services, and other items directly to consumers, including but not limited to travel agencies, hardware stores, food stores, automotive dealers, service stations, home furnishing stores,

restaurants, banks, repair shops, movie theaters, day care centers, and art galleries. In addition, all professional office space, including company headquarters, medical office buildings, and other such buildings, will be defined as Commercial Property.

"Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 1996-1.

"Developed Property" means, in any Fiscal Year, all Taxable Property for which a building permit for new construction was issued prior to March 1 of the preceding Fiscal Year or for which a Final Subdivision Map was recorded prior to March 1 of the preceding Fiscal Year creating individual lots for which a building permit may be issued without further subdivision.

"Facilities Special Tax" means a Special Tax levied in any Fiscal Year to pay for public facilities authorized to be funded by CFD No. 1996-1, including appurtenant expenses such as planning, design, engineering, inspection and financing costs.

"Final Subdivision Map" means a final subdivision map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates individual lots for which building permits may be issued. The term "Final Subdivision Map" shall not include any Assessor's Parcel Map or subdivision map or portion thereof, that does not create individual lots for which a building permit may be issued, including Assessor's Parcels that are designated as a remainder parcel.

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

"Gross Acreage" means, for Developed Property, the total acreage within the Final Subdivision Map or Parcel map less arterial road right-of-ways (as defined and identified in the *Village One Specific Plan #8*, the *Village One Financing Plan* and *CFD Public Report*) and property that is identified in the Final Subdivision Map for use as a park site, school site, or storm drainage basin. For Undeveloped Property, Gross Acreage means the acreage identified on the Assessor's Map.

"Industrial Property" means all Parcels of Developed Property for which a building permit has been issued for a non-residential structure that is not Commercial Property.

"Land Use Class" means any of the five classes listed in Table 1 and Table 2 below.

"Maintenance Special Tax Requirement" means the amount necessary in any Fiscal Year (i) to pay for authorized maintenance expenses, (ii) to pay administrative expenses of CFD No. 1996-1, and (iii) to cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied by the City in any Fiscal Year on Taxable Property.

"Multi-Family Residential" means any residential structure consisting of two or more residential units that share common walls including, but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, apartment units, including senior housing that fits within the aforementioned description.

"Other Property" means any Parcel of Developed Property for which a building permit has been issued for a use other than Very Low Density Residential, Village Residential, Multi-Family Residential, Commercial or Industrial Property.

"Other Undeveloped Property" means all Taxable Property that is not classified as Developed Property, Undeveloped Commercial Property, Undeveloped Industrial Property or Undeveloped Residential Property.

"Public Agency" means the federal government, State of California or other local governments or public agencies.

"Subdivided Property" means all Parcels which, after recordation of a Final Subdivision Map, are in their final configuration and for which building permits may be issued. Subdivided Property shall not include any Assessor's Parcels that are not individual lots for which a building permit may be issued, including Assessor's Parcels that are designated as a remainder parcel.

"Undeveloped Commercial Property" means any Parcel that is not Developed Property that is anticipated to be developed as Commercial Property, as determined first by reference to the *Village One Specific Plan* and, second, by reference to the Parcel's zoning designation.

"Undeveloped Industrial Property" means any Parcel that is not Developed Property that is anticipated to be developed as Industrial Property, as determined first by

reference to the *Village One Specific Plan* and, second, by reference to the Parcel's zoning designation.

"Undeveloped Residential Property" means any Parcel that is not Developed Property that is anticipated to be further subdivided and developed as Very Low Density Residential, Village Residential or Multi-Family Residential Property, as determined first by reference to the *Village One Specific Plan* and, second, by reference to the Parcel's zoning designation.

"Very Low Density Residential" means a residential structure consisting of only one residential unit on a Parcel with a maximum density of two or less dwelling units per gross acre.

"Village One Facilities Master Plan" means the facilities master plan for development Village One adopted in June 1996, and as may be amended in the future.

"Village One Specific Plan" means the Specific Plan for development in Village One of the City of Modesto, as adopted by the City Council and as amended in future years.

"Village Residential" means a residential structure consisting of only one residential unit on a Parcel with a maximum density greater than two dwelling units per gross acre.

B. ASSIGNMENT TO LAND USE CLASS

After issuance of a building permit and prior to final building permit inspection or issuance of a certificate of occupancy for a Parcel in CFD No. 1996-1, the Parcel shall be assigned to the appropriate Land Use Class based upon the land use and density proposed for the Parcel. For Multi-Family Residential Property, the number of residential units shall be determined by referencing the condominium plan, apartment plan, site plan or other development plan. If the Parcel is designated as Other Property, the City or its designee shall identify the appropriate Land Use Class for purposes of calculating the Maximum Special Tax by determining the land use that was anticipated for the Parcel based on reference to the current *Village One Specific Plan*. Determination of the appropriate Land Use Class shall be at the sole discretion of the City.

C. MAXIMUM SPECIAL TAX

1. Facilities Special Tax

a) Very Low Density Residential Property and Village Residential Property

Prior to recordation of each Final Map for property in CFD No. 1996-1, the City or its designee shall determine the Gross Acreage included within the Final Map and, for Very Low Density Residential Property and Village Residential Property, shall apply the following steps to determine the actual Maximum Special Tax that will apply to each unit within the Final Map:

Step 1: Determine if there is a portion of the Final Subdivision Map acreage that is not Subdivided Property, as defined in Section A above. Calculate the Gross Acreage associated with such unsubdivided Parcels by identifying the acreage of the Parcel and (i) adding all or a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way to either: 1) the centerline, if acreage within the final map fronts on both sides of the non-arterial road or, 2) the opposite right-of-way line if there is no fronting acreage within the final map or on the opposite side of the non-arterial road, and (ii) subtracting of the acreage of any arterial right-of-way included in the final map.

Step 2: Identify the Land Use Class that applies to all Parcels of Subdivided Property within the Final Subdivision Map.

Step 3: Determine the Gross Acreage of all Subdivided Property included within the Final Subdivision Map. If more than one Land Use Class is represented within the Final Subdivision Map, distribute the Gross Acreage of all Subdivided Property to each Land Use Class.

Step 4: Multiply the Gross Acreage for each Land Use Class determined in Step 3 by the Facilities Special Tax identified for each Land Use Class in Table 1 below.

Step 5: Separately for each Land Use Class identified in the Final Subdivision Map, divide the product determined in Step 4 by the number of residential units within that Land Use Class as reflected in the Final Subdivision Map.

Step 6: Multiply the quotient(s) determined in Step 5 by 1.01 to calculate the Facilities Special Tax per residential unit that shall be collected prior to final building permit inspection or issuance of a certificate of occupancy, whichever occurs first.

b) Multi-Family Residential Property, Commercial Property, and Industrial Property

The Maximum Facilities Special Tax for Multi-Family Residential, Commercial and Industrial Property shall be determined as follows:

Step 1: Determine the Gross Acreage of the Multi-Family Residential, Commercial, or Industrial Property within the Final Subdivision Map. Such determination shall include netting out any property within the Final Subdivision Map that is not Subdivided Property, as set forth in Step 1 of Section C.1.a. above.

Step 2: Multiply the Gross Acreage determined in Step 1 by the Maximum Facilities Special Tax applicable to each Land Use Class as shown in Table 1 below.

Step 3: Multiply the product determined in Step 2 above by 1.01 to calculate the total Facilities Special Tax that shall be collected from Multi-Family Residential, Commercial or Industrial Property prior to final building permit inspection or issuance of a certificate of occupancy, whichever occurs first.

*CFD NO. 1996-1 (VILLAGE ONE)
Public Report - Mello Roos Community Facilities Act of 1982*

Table 1
Per-Acre Special Tax to be Used in
Calculation of Maximum Facilities Special Tax
For Annexation Area No. 1
(Fiscal Year 1996-97)

Land Use Class	Description	Per-Acre Special Tax
1	Very Low Density Residential	\$19,715 per Gross Acre
2	Village Residential	\$29,479 per Gross Acre
3	Multi-Family Residential	\$76,394 per Gross Acre
4	Commercial	\$86,610 per Gross Acre
5	Industrial	\$40,564 per Gross Acre

Beginning in January 1997, the Facilities Special Tax shall be adjusted annually by applying the greater of (i) the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Facilities Special Tax shall become effective on the subsequent July 1, and shall apply to all Parcels which have not paid the Facilities Special Tax prior to July 1.

The Facilities Special Tax represents a lien on each Parcel which is anticipated to be released upon payment of the Facilities Special Tax, which is expected to occur no later than final building permit inspection or issuance of a certificate of occupancy, whichever occurs first.

2. Maintenance Special Tax

All Taxable Property within this CFD Annexation No. 1 shall be subject to a Maintenance Special Tax that shall be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. The Annual Maintenance Special Tax shall be reflected as an annual lien on each Parcel in CFD No. 1996-1 and is anticipated to stay with the property and be paid each year by the current homeowner or property owner.

a) Developed Property

The following maximum rates apply to all Parcels of Developed Property within CFD No. 1996-1 for each Fiscal Year in which the Maintenance Special Tax will be levied:

Table 2
Maximum Annual Maintenance Special Tax
(Fiscal Year 1996-97)

Land Use Class	Description	Maximum Annual Maintenance Special Tax
1	Very Low Density Residential	\$112.43 per lot
2	Village Residential	\$112.43 per lot
3	Multi-Family Residential	\$ 72.99 per unit
4	Commercial	\$394.30 per Gross Acre
5	Industrial	\$394.30 per Gross Acre

Beginning in January 1997, the maximum Annual Maintenance Special Tax shall be adjusted annually by applying the greater of (i) the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

b) Undeveloped Property

Undeveloped Residential Property:

The maximum Annual Maintenance Special Tax for each Parcel of Residential Undeveloped Property shall be determined as follows:

Step 1: Determine whether the Parcel will be developed as Very Low Density Residential, Village Residential or Multi-Family Residential Property determined by reference to the *Village One Specific Plan*.

- Step 2: Multiply the average density for the Parcel's Land Use Class as determined in Step 1 by the Gross Acreage of the Parcel to determine the average number of units that could be built on the Parcel. The average density for each Land Use Class shall be determined based on reference to the *Village One Specific Plan*.
- Step 3: Multiply the average number of units for the Parcel as determined in Step 2 by the maximum Annual Maintenance Special Tax for the appropriate Land Use Class, as determined by reference to Table 2.
- Step 4: Multiply the figure calculated in Step 3 by 0.50 to determine the total Maintenance Special Tax to be levied on the Parcel.

Undeveloped Commercial and Undeveloped Industrial Property:

The maximum annual Maintenance Special Tax that can be levied on Undeveloped Commercial and Undeveloped Industrial Property is the same as those rates identified in Table 2 above for Developed Commercial or Industrial Property.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. Facilities Special Tax

The Facilities Special Tax shall be collected prior to a final building permit inspection being completed or a certificate of occupancy being issued for new construction for any residential or non-residential structure within CFD No. 1996-1 and shall be immediately delinquent if not so paid.

2. **Maintenance Special Tax**

Commencing with Fiscal Year 1997-98 and for each following Fiscal Year, the City or its designee shall determine the Maintenance Special Tax Requirement to be collected from Taxable Property in CFD No. 1996-1 in the Fiscal Year. The Maintenance Special Tax shall then be levied as follows:

- Step 1:* Calculate the total Maintenance Special Tax revenues that could be collected from Developed and Undeveloped Property within the CFD based on application of the maximum Annual Maintenance Special Tax rates determined pursuant to Section C above.
- Step 2:* Divide the Maintenance Special Tax Requirement by the maximum revenues that could be collected as determined in Step 1.
- Step 3:* If the ratio determined in Step 2 is greater than or equal to 1, levy the Maximum Maintenance Special Tax determined pursuant to Section C on all Developed and Undeveloped Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.
- Step 4:* Levy the maximum Annual Maintenance Special Tax against all Parcels of Developed Property. Subtract the amount generated from Developed Property from the Maintenance Special Tax Requirement, and levy a Maintenance Special Tax on all Parcels of Undeveloped Residential, Undeveloped Commercial and Undeveloped Industrial Property in equal percentages up to 100% of the maximum Annual Maintenance Special Tax for Undeveloped Property determined pursuant to Section C.2.b. above.

The Annual Maintenance Special Tax for CFD No. 1996-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 1996-1 may (under the authority of Government Code Section 53340), in any particular case, bill the taxes directly to the property owner, off the County tax roll, and the Special Taxes will be equally subject to foreclosure if delinquent as annual Special Taxes.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on structures built on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Act of 1982.

F. ENFORCEMENT

All delinquent Facility Special Taxes, or delinquent Maintenance Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1 1/2% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City's discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following December 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract or guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.

V. GENERAL TERMS AND CONDITIONS

A. SUBSTITUTION FACILITIES

The description of the general capital facilities, as set forth herein and as shown in the Facilities Master Plan, are conceptual in their nature. The final nature and location of improvements and facilities will be determined upon the preparation of final plans and specifications. The final plans may show substitutes, in lieu or modifications to the proposed work in order to accomplish the work of improvement, and any such substitution shall not be a change or modification in the proceedings as long as the facilities provide a service substantially similar to that as set forth in this report.

B. APPEALS AND INTERPRETATION PROCEDURE

Any landowner or resident who feels that the amount of formula of the special tax is in error may file a notice with the legislative body appealing the levy of the special tax. An appeals panel of three members, as appointed by the legislative body, will then meet and promptly review the appeal, and if necessary, meet with the applicant. If the findings of the Appeals Board verify that the tax should be modified or changed, a recommendation at that time will be made to the legislative body, 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 the legislative body by Resolution for purposes of clarifying any vagueness or ambiguity as it relates to any category, zone, rate or definition applicable to these proceedings.

C. ADMINISTRATION OF FUNDS

1. Facilities Fund

All funds received from the payment of the one-time facilities special tax shall be maintained in a single facilities fund account. This account shall apportion the funds into the facilities categories as shown on page 43 of the "City of Modesto Village One Finance Plan" as adopted by the City Council in Resolution No. 96-463 dated August 13, 1996, or as said ordinance may be amended. The City has full discretion in the use of the funds for all authorized facilities within this pooled account. Accounting of the fund shall

track the use of funds to insure the ultimate distribution of funds at buildout are as proportioned in said Ordinance 96-463.

2. **Maintenance Fund**

All annual maintenance special taxes shall be maintained in a single account. Funds shall be utilized at the discretion of the City to fund authorized maintenance and administration services.

VI. CERTIFICATION

It is my opinion that the special tax rate and method of apportionment, as set forth, is fair and equitable, uniformly applied, and not discriminatory or arbitrary.

Jerry L. Slinkard
Vail Engineering Corporation

Date