

**CITY OF MODESTO
NORTHPOINTE
COMMUNITY FACILITIES DISTRICT NO. 2002-1

CFD REPORT**

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I. INTRODUCTION

On April 1, 1997, the City Council of the City of Modesto approved the Kiernan Business Park Specific Plan which sets forth a plan of development for approximately 614 acres that were, at that time, located adjacent to the City's northern border, east of Highway 99 and south of Kiernan Avenue in a portion of unincorporated Stanislaus County. To date, approximately 250 acres within the Specific Plan area have been annexed into the City, of which almost 55 of these acres are included within the NorthPointe project.

The intent of the Kiernan Business Park Specific Plan is to provide for the development of new business park and industrial uses, which will assist in implementing the City's long-range objectives to enhance its local economy, generate jobs for residents, and create a better jobs/housing balance. The NorthPointe project has already furthered these objectives by securing Costco and Lowe's as tenants.

II. STRUCTURE OF COMMUNITY FACILITIES DISTRICT NO. 2002-1

A. Introduction

A Mello-Roos CFD may provide for the purchase, construction, expansion or rehabilitation of any real or tangible property, including public facilities and infrastructure improvements, with an estimated useful life of five (5) years or longer, which is necessary to meet increased demands placed upon local agencies as a result of development or rehabilitation occurring within the CFD. In addition, a CFD may pay for various public services and maintenance of public improvements, including parkways and open space.

A resolution was adopted by the Modesto City Council stating its intention to form CFD No. 2002-1. After a public hearing and a successful election by the landowners within the CFD, the CFD will be formed and the levy of a special tax will be authorized.

B. Boundaries of NorthPointe CFD

The boundaries of the CFD include the two assessor's parcels on which Costco and Lowe's are located, as well as six additional assessor's parcels which are anticipated for future commercial and industrial development. Assessor's parcel number 078-14-43 is included within the boundaries of CFD No. 2002-1 but will not be subject to the levy of special taxes until a building permit for new construction on the parcel has been issued by the City. This Parcel is identified as "Zone 2" for purposes of the special tax levy, as discussed further below. The other parcels within the CFD make up Zone 1 for purposes of the Rate and Method of Apportionment of Special Tax. A copy of the boundary map

for CFD No. 2002-1 is included as Appendix A of this Report.

C. CFD Special Tax Structure

Each year a special tax will be levied and collected from parcels within the CFD to pay costs associated with the installation and maintenance of landscaping of a storm drain basin, maintenance of the basin and access road, and replacement of a storm drain pump station. The Rate and Method of Apportionment of Special Tax (“RMA”), which describes in detail how the tax will be allocated among properties in the CFD, is included as Appendix B of this report.

As explained in the RMA, two different special taxes will be levied within the CFD. First, a “One-Time Special Tax” will be levied to pay for the initial installation of landscaping around the storm drain basin, installation of water service and meter, CFD formation costs, and administration and contingency associated with these costs. The One-Time Special Tax will be levied on all property in the CFD except property within Zone 2, which is currently identified by Assessor’s Parcel number 078-14-43. The maximum One-Time Special Tax that can be levied within Zone 1 of the CFD is \$3,859 per acre. In addition, an “Annual Special Tax” will be levied on all property in the CFD, including property in Zone 2 once a building permit for new construction has been issued for property within Zone 2. Each Fiscal Year, the Annual Special Tax will be levied up to the amount needed to pay authorized expenses of the CFD; such amount will be identified in a budget set forth by the District Administrator. The maximum Annual Special Tax for fiscal year 2001-02 is \$2,005 per acre prior to a building permit being issued within Zone 2 and \$1,273 per acre after a permit is issued in Zone 2.

A portion of the Annual Special Tax is being collected to create a sinking fund for replacement of the storm drain pump station. The sinking fund portion of the Annual Special Tax will not escalate in future years; the remainder of the Annual Special Tax will increase each year beginning January 2002 by applying the greater of (i) the percentage increase, if any, in the Engineering News Record construction cost index for the San Francisco region for the prior twelve month period, or (ii) four percent (4%).

III. DESCRIPTION OF SERVICES AND EXPENSES TO BE FUNDED BY CFD NO. 2002-1

The individual line-item service and improvement costs to be funded by CFD No. 2002-1 are identified in Appendix C of this report.

APPENDIX A

**NORTHPOINTE COMMUNITY FACILITIES DISTRICT NO. 2002-1
OF THE CITY OF MODESTO**

CFD BOUNDARY MAP

APPENDIX B

**NORTHPOINTE COMMUNITY FACILITIES DISTRICT NO. 2002-1
OF THE CITY OF MODESTO**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

APPENDIX B

CITY OF MODESTO NORTHPOINTE COMMUNITY FACILITIES DISTRICT NO. 2002-1

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each Assessor's Parcel in NorthPointe Community Facilities District No. 2002-1 (herein "CFD No. 2002-1") 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. 2002-1, 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. 2002-1 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 or other parcel map recorded at the Stanislaus County Recorder's Office.

"Annual Special Tax" means a special tax levied in any Fiscal Year to pay the Maintenance Special Tax Requirement.

"Assessor's Parcel" means a lot or parcel shown on 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 Council" means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2002-1.

"Developed Property" means, in any Fiscal Year, that a building permit for new construction was issued on or prior to June 30 of the preceding Fiscal Year.

“District Administrator” means the individual(s) designated by the City Council to administer the CFD in accordance with the authority and powers granted by the City Council to said individual(s).

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

“Maintenance Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of CFD No. 2002-1, (iv) cure any delinquencies in the payment of Annual Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) maintain a reasonable reserve, as determined by the District Administrator, for unforeseen expenses, cost overruns, etc.

“Maximum Special Tax” means the maximum Annual Special Tax and the maximum One-Time Special Tax, determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

“One-Time Special Tax” means the special tax set forth in Section C below that will be levied once on all Parcels in the CFD, with the exception of Parcels within Zone 2.

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

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2002-1 which are not exempt from the One-Time Special Tax and Annual Special Tax pursuant to law or Section E below.

“Zone 1” means all Parcels within CFD No. 2002-1 that are not included within Zone 2, as defined below.

“Zone 2” means all property included within the geographic area identified by Assessor’s Parcel number 078-14-43 in Fiscal Year 2001-02.

B. STATUS OF DEVELOPMENT IN ZONE 2

On or about July 1 of each Fiscal Year, the District Administrator shall determine whether any property within Zone 2 has become Developed Property. To the extent the original Assessor’s Parcel included within Zone 2 has been subdivided, all of the subsequent Parcels shall be considered Developed Property if a building permit has been issued for any Parcel within Zone 2.

C. MAXIMUM SPECIAL TAX

1. One-Time Special Tax

The maximum One-Time Special Tax that can be levied on Parcels of Taxable Property within Zone 1 is \$3,859 per Acre. After the One-Time Special Tax has been levied on and collected from all Parcels within Zone 1, no additional One-Time Special Tax shall be levied within the CFD unless a separate One-Time Special Tax is approved for property that subsequently annexes into the CFD. No One-Time Special Tax shall be levied on property within Zone 2.

2. Annual Special Tax

Ultimately, all Taxable Property within the CFD shall be subject to an Annual Special Tax that will be levied each Fiscal Year to meet the Maintenance Special Tax Requirement. Until Zone 2 becomes Developed Property, no Annual Special Tax shall be levied on any property within Zone 2. Once Zone 2 becomes Developed Property, all Parcels of Taxable Property within Zone 2 shall be subject to the Annual Special Tax levy in the then current and all future Fiscal Years.

The following maximum rates apply to all Parcels of Taxable Property within CFD No. 2002-1 for each Fiscal Year in which the Annual Special Tax will be levied. The appropriate Maximum Special Tax will be applied depending on whether property within Zone 2 has become Developed Property:

TABLE 1 Maximum Annual Special Tax Fiscal Year 2001-02			
Status of Development in Zone 2	Maximum Maintenance Portion of Annual Special Tax (fy 2001-02)	Maximum Sinking Fund Portion of Annual Special Tax	Total Maximum Annual Special Tax (fy 2001-02)
Zone 2 is <u>not</u> Developed Property	\$1,879 per Acre	\$126 per Acre	\$2,005 per Acre
Zone 2 is Developed Property	\$1,193 per Acre	\$80 per Acre	\$1,273 per Acre

Beginning in January 2002, the maintenance portion of the maximum Annual Special Tax shall be adjusted annually by applying the greater of (i) the percentage increase, if any, in 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 maintenance portion of the maximum Annual Special Tax shall become effective on the subsequent July 1. The sinking fund portion of the maximum Annual Special Tax shall not escalate.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

1. One-Time Special Tax

The One-Time Special Tax shall be levied by the District Administrator through a direct billing or on the County tax roll. If levied through a direct billing, the District Administrator shall identify a date by which the One-Time Special Tax is due, and the One-Time Special Tax shall be immediately delinquent if not paid by such date.

2. Annual Special Tax

Each Fiscal Year, the District Administrator shall determine the Maintenance Special Tax Requirement for that Fiscal Year. The Annual Special Tax shall then be levied on all Parcels of Taxable Property as follows:

Step 1: Calculate the total Annual Special Tax revenues that could be collected from Taxable Property within the CFD based on application of the maximum Annual 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 Annual Special Tax determined pursuant to Section C on all Taxable Property in the CFD. If the ratio determined in Step 2 is less than 1, continue to Step 4.

Step 4: Levy the Annual Special Tax against all Parcels of Taxable Property in equal percentages up to 100% of the maximum Annual Special Tax determined pursuant to Section C above.

The Annual Special Tax for CFD No. 2002-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes provided, however, that CFD No. 2002-1 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 Annual Special Tax will be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no One-Time Special Tax or Annual Special Tax shall be levied 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. In addition, no One-Time Special Tax shall be levied in any Fiscal Year on Parcels in Zone 2, and no Annual Special Tax shall be levied on Parcels in Zone 2 until at least one Parcel within Zone 2 becomes Developed Property.

F. ENFORCEMENT

All delinquent One-Time Special Taxes, or delinquent Annual Special Taxes billed off the County tax roll, shall be subject to an immediate 10% penalty plus interest charges of 1½% 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.

APPENDIX C

**NORTHPOINTE COMMUNITY FACILITIES DISTRICT No. 2001-1
OF THE CITY OF MODESTO**

DETAIL OF EXPENSES TO BE FUNDED BY CFD

NorthPointe CFD No. 2002-1
 Overview - Storm Drain Basin Expenses
 (Combination - Rebuild & Replace Pumps)

Description	One-Time Expense	Annual Expense
Weed Control & Litter Pick-Up (excludes repair for fence)		\$2,000.00
Landscape Perimeter - area between MID lateral and basin (7,380 sf x \$2.50)	\$18,450.00	
Landscape Perimeter - Remainder of Basin Area (appx 10000 sf x \$2.50)	\$25,000.00	
Maintain Median (includes maint, replacement, repair) 11,000 sq ft x \$.61		\$6,710.00
Maintain Perimeter - area between MID lateral and basin (7,380 sf x \$.61)		\$4,501.80
Maintain Perimeter - Remainder of Basin Area (appx 10000 sf x \$.61)		\$6,100.00
<i>Subtotal - Submitted by Recreation & Neighborhoods</i>	\$43,450.00	\$19,311.80
Maintenance Mechanic		\$3,867.18
Crew Leader		\$328.36
Supervisor		\$137.39
Electrician		\$273.24
Equipment		
GRW Service Vehicle		\$492.96
1/2 ton full size pick-up truck		\$28.44
1/2 4x4 full size pick-up truck		\$10.00
1 ton van w/ aerial lift		\$44.37
Materials - turbine oil		\$25.00
Erosion repair & silt excavation		\$2,400.00
Fence Repair		\$800.00
County Property Tax for 5.5 acres (Based on \$315,000 paid for 2.5 acres)		\$6,930.00
Annual lab tests		\$1,747.00
MID Power Costs		\$4,400.00
Removal of contaminated dirt		\$1,140.00
Repair Berm/Irrigation Line		\$1,500.00
Maintenance of Access Road		\$1,200.00
<i>Subtotal - Submitted by Operations & Maintenance</i>	\$0.00	\$25,323.94
Replacement - Storm Drain Pump Station (20 year life span) [includes pumps & controls]		\$4,125.00
Installation of water service and meter	\$4,000.00	
Maintenance of water service and meter		\$10.00
Annual cost for water		\$1,000.00
<i>Subtotal - Submitted by Engineering & Transportation</i>	\$4,000.00	\$5,135.00
Administration (7% of total cost)	\$3,321.50	\$3,483.95
Contingency (25%)	\$11,862.50	\$12,442.68
TOTAL	\$62,634.00	\$65,697.37
	One-Time Expense	Annual Expense