

**CITY OF MODESTO**

**COMMUNITY FACILITIES DISTRICT NO. 2005-1**  
**(HETCH HETCHY)**

**CFD REPORT**

*September 23, 2005*

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## ***I. INTRODUCTION AND BACKGROUND INFORMATION***

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### **A. THE HETCH HETCHY COMPREHENSIVE PLANNING DISTRICT**

The Hetch Hetchy Comprehensive Planning District (CPD) encompasses approximately 960 gross acres of land within the City of Modesto. The CPD is bounded by Claribel Road to the north, Claratina Avenue to the south, McHenry Avenue to the west, and Oakdale Road to the east. A specific plan for the area has not been prepared, so a breakdown of the types and amounts of anticipated development is not available. Since the Specific Plan process has not begun, an Infrastructure Financing Plan (IFP), which would set forth a strategy to fund infrastructure, community facilities, and ongoing maintenance needed to serve new development within the planning area, also has not been prepared.

### **B. SHELTER COVE COMMUNITY CHURCH**

At this time, only the Shelter Cove Community Church project is ready to develop on a single parcel (APN 082-005-003) at the northeast corner of Coffee Road and Claratina Avenue. The Claratina Avenue boundary of the Church site is adjacent to the original northern boundary of the North Beyer Park Specific Plan. Because a specific plan has not been produced for the Hetch Hetchy CPD, the Modesto City Council adopted Resolution No. 2003-102 to approve Specific Plan Amendment #2, which expanded the North Beyer Park Specific Plan area to include the Church site. This process simultaneously removed the Church from the Hetch Hetchy CPD. Nonetheless, the North Beyer Park Specific Plan makes the following points about the Church project and its obligation to the Hetch Hetchy CPD:

“While the . . . property has been added to the North Beyer Specific Plan to permit its immediate development as a church, it is more connected to the Hetch Hetchy CPD relative to the provision of future Master Storm Drainage, Sewer and other infrastructure. As such, while the . . . site may redevelop, paying for the cost of providing the services needed for the project today, consistent with City standards and policies, the . . . [property] will be required to form a Mello-Roos Community Facilities District for the Hetch Hetchy CPD (the “CFD”) prior to issuance of a building permit for a church use on the . . . property.

Prior to approval of a Final Development Plan for the redevelopment of the . . . property to a church, a Development Agreement, prepared consistent with the provisions of Government Code Section 65864 et. seq. shall be adopted. The Development Agreement shall, among other things, clarify the . . . property’s obligation to participate in the formation of the CFD for the Hetch Hetchy CPD, and the financing of CFD improvements, before a building permit will be issued for a church on the . . . property.”

A Development Agreement (the “DA”) between the City of Modesto and Shelter Cove Community Church related to the development of the Church project was approved by Ordinance No. 3380-C.S. and became effective April 21, 2005. The DA reiterates the North Beyer Park Specific Plan stipulation that, prior to issuance of a building permit, the City and Shelter Cove form a shell CFD to provide for future facilities to serve the Hetch Hetchy CPD area and to assure adequate permanent maintenance of all such facilities. A “shell” CFD is being created since land uses, facility and maintenance costs, and other aspects of the CPD are not known at this time. The Church project will constitute the initial CFD boundary. As other projects in the planning area start to develop, they will annex into the CFD and create an ultimate CFD boundary that includes the entire Hetch Hetchy CPD.

### **C. THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

As described in the Rate and Method of Apportionment (the “RMA”) provided in Appendix B, public services and facilities required to serve the Hetch Hetchy CPD area will be funded using the Mello-Roos Community Facilities Act of 1982 (the “Act”). The Act provides flexibility as to the facilities and services that can be funded and the manner in which annual funding burdens are allocated to various types of land use. There is no benefit finding required; the Act states that special taxes can be allocated in any “reasonable manner.” The Act permits a city, county, or special district to form a Community Facilities District (“CFD”) within its jurisdiction and, with a two-thirds vote within the CFD, impose special taxes to pay for public improvements and services needed to serve the area.

A CFD may provide for the purchase, construction, expansion, or rehabilitation of any real or tangible property with an estimated useful life of five years or longer that is needed to meet increased demands placed upon local agencies as a result of development occurring within the CFD. A CFD may also finance the costs of planning, design, engineering, legal assistance, and other consultants involved in the construction of improvements or formation of the CFD. The facilities financed by the CFD do not have to be physically located within the CFD. A CFD may also fund maintenance of parks, parkways, open space, police and fire services, recreation program services, library services, maintenance of school sites and structures, and maintenance of storm drainage and flood control facilities.

### **D. PURPOSE OF THE CFD REPORT**

This CFD Report is submitted pursuant to Section 53321.5 of the Mello-Roos Community Facilities Act of 1982, as well as the direction set forth in the first resolution adopted by the Modesto City Council in the process of forming CFD No. 2005-1. The law requires only a brief description of the public facilities and services to be funded by the CFD, as well as an estimate of the cost to provide the facilities and services. However, this report will also provide information regarding the boundaries of the CFD, anticipated bond sales, and special taxes to be levied and collected in the CFD.

## ***II. COMMUNITY FACILITIES DISTRICT NO. 2005-1***

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### **A. BOUNDARIES OF THE CFD**

On September 6, 2005, the Modesto City Council adopted a Resolution declaring its intention to establish the City of Modesto Community Facilities District No. 2005-1 (Hetch Hetchy) and to authorize the levy of a special tax within the CFD. A map identifying the boundaries of the CFD was recorded on Page 28 of Book 4, as Instrument 05-0171573-00, of Maps and Assessments in the Stanislaus County Recorder's Office. An unrecorded copy of the boundary map is attached as Appendix A to this report.

On October 11, 2005, the City Council will hold a public hearing and allow the qualified electors to vote on the matter. If at least two-thirds of the votes submitted by the landowners are in favor of the CFD, the CFD will be formed and the levy of a special tax will be authorized. The CFD will also be authorized to issue up to \$150.0 million in bonds to fund the construction or acquisition of public facilities identified below.

The initial boundaries of CFD No. 2005-1 will include one existing Assessor's parcel (parcel number 082-005-003). This parcel includes approximately 17.4 acres of property. Additional parcels will be annexed into the CFD once a Specific Plan, Infrastructure Financing Plan, and other entitlements are granted for the entire CPD and as property within the planning area begins to develop. The description of facilities and services provided below includes all public improvements that may be funded by the CFD if property annexes into the CFD and if the ultimate bonding and special tax capacity is sufficient to do so.

### **B. CFD BOND ISSUES**

Some or all of the public facilities described below will be funded by the issuance of one or more series of bonds. The proceeds of the bonds will be used to either acquire facilities that have been constructed by developers owning property within the CFD or to pay directly for the construction of authorized facilities. The bonds are anticipated to have a 25- or 30-year term and an annual debt service that escalates at a rate of two percent per year. The bonds are land-secured, which means the ultimate security for repayment of the bonds is the land within the CFD. As such, the City will covenant in the indenture associated with issuance of the bonds that, in the event of special tax delinquencies within the CFD, the City will institute an accelerated foreclosure process against the delinquent parcel or parcels.

There is no guarantee that CFD No. 2005-1 will be able to sell bonds in an amount sufficient to fully fund all of the improvements authorized to be funded by the CFD. The ability of the CFD to sell bonds is limited by the amount of property that ultimately annexes into the CFD, the maximum special tax rate on properties in the CFD, and the value-to-lien ratio. The bond authorization and maximum special tax rates are based, in part, on preliminary cost estimates for specific projects. If the cost estimates prove to be too low, the CFD will be able to fund even less improvements than originally anticipated.

### **C. SPECIAL TAX STRUCTURE**

Capitalized terms used in this section and the remainder of this report are defined in the Rate and Method of Apportionment of Special Tax (RMA) provided in Appendix B. The RMA outlines the maximum rates and method of apportionment for the three Special Taxes that will be levied in the CFD: 1) the One-Time Facilities Special Tax; 2) the Annual Facilities Special Tax; and 3) the Annual Maintenance Special Tax. The RMA identifies the Maximum Special Tax assigned to each Original Parcel within the CFD. Upon subdivision of an Original Parcel, the Special Tax will be allocated based on the number of units created by a Subdivision Map if Single Family Detached Lots are created, or by net acreage of Taxable Property for all other subdivisions that do not create Single Family Detached Lots. After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

The One-Time Facilities Special Tax for CFD No. 2005-1 will be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2005-1, and shall be immediately delinquent if not paid by the time the permit is issued.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2005-1 are expected to be collected at the same time and in the same manner as ad valorem property taxes. The Annual Facilities Special Tax will be levied until all bonds have been repaid and all authorized facilities have been funded, and shall cease to be levied after fiscal year 2060-61. The Annual Facilities Special Tax obligation assigned to a particular parcel within the CFD can be prepaid, which will release the parcel making the prepayment from the Mello-Roos special tax lien for facilities. The Annual Maintenance Special Tax obligation may not be prepaid. Section H of the RMA sets forth a detailed formula by which the prepayment for a parcel can be calculated.

Since the CFD is initially a “shell” that allows for more detailed analysis in the future, the proposed special tax rates simply reflect the potential per-acre amounts for infrastructure and ongoing maintenance that could be required based on the City’s cursory estimate of costs. Pursuant to the Development Agreement between the City of Modesto and Shelter Cove, language is included in the RMA that prohibits a levy of the special tax on Shelter Cove Community Church Property until future development in the CPD is annexed into the CFD.

### **III. FACILITIES AND SERVICES TO BE FUNDED BY CFD No. 2005-1**

The facilities and services described below are authorized to be funded by CFD No. 2005-1 and are required to adequately meet the needs of the Hetch Hetchy CPD. Depending on the net construction proceeds ultimately generated from bonds issued on behalf of CFD No. 2005-1, some of the facilities may be funded from One-Time Facilities Special Taxes.

#### **A. AUTHORIZED FACILITIES**

The list of facilities that are authorized to be funded by CFD No. 2005-1 is provided below. This list includes all public improvements that are eligible to be funded by the CFD, which fall into five categories as follows:

**Water System:** Water system improvements may include, but are not limited to, wells, distribution pipelines, wellhead treatment systems, surface water supply pipelines, tanks, booster pumps, and land acquisition. The wellhead treatment system may be financed through acquisition, construction, lease, lease-purchase, or an installment-purchase arrangement. A proposed lease, lease-purchase, or installment-purchase arrangement would be for commercial terms for a period not to exceed thirty (30) years.

**Wastewater System:** Wastewater system improvements may include, but are not limited to, distribution pipelines, land acquisition, lift stations(s), and force main(s).

**Transportation System:** Transportation system improvements may include, but are not limited to, land acquisition, arterials and collector streets, and roundabouts.

**Storm Drain System:** Storm drain system improvements may include, but are not limited to, land acquisition, storm drainage facilities including pump stations, dual-use basins and landscaping, fencing, lift stations, force mains, and gravity lines.

**Parks:** Park improvements may include, but are not limited to, land acquisition and the construction of a community park, neighborhood parks, and landscaped medians and/or parkways.

#### **B. AUTHORIZED SERVICES**

Authorized services include maintenance of parks, parkways and open space (including bike trails), storm drainage basins, and related facilities, as well as police and fire services.

#### **C. ADMINISTRATION**

The authorized facilities and services also include the fees and expenses of the City in any way related to the establishment or administration of the CFD and any bonds associated therewith,

including, but not limited to, administrative costs, contract management, accounting, supervision duties, design, engineering, construction management, inspection, and other costs associated with construction or operation of the facilities and provision of the services.

**D. FACILITY AND SERVICE COSTS**

Infrastructure components, and their attendant costs, required to serve both the entire planning area and Shelter Cove in particular are not known. Annual costs for storm drainage, street parkways and medians, and parks maintenance to serve both the entire planning area and Shelter Cove in particular also are not known. However, very preliminary cost estimates indicate that approximately \$86.7 million in capital facilities to serve the CPD will be spent, while \$2.5 million in annual maintenance services to support the CPD will be incurred.

**E. INCIDENTAL EXPENSES**

In addition to the facility and service costs listed above, bond proceeds and special taxes will be used to pay incidental expenses related to the sale of bonds, such as the cost of bond counsel, underwriter, financial advisor, appraiser, special tax consultant, City staff time, and CFD administrative costs. Because the City has not yet started preparing for issuance of the first series of bonds, there is not currently a cost estimate for these incidental expenses. However, such expenses generally make up approximately five percent (5%) of the total amount of bonds issued.

**APPENDIX A**

***CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH HETCHY)***

***PROPOSED BOUNDARIES OF THE CFD***

GRID COORDINATE  
 N = 2,081,677.725'  
 E = 6,423,818.124'  
 FD. 2" BRASS DISC  
 IN MON. WELL  
 CITY OF MODESTO No. 2825



CURVE	RADIUS	LENGTH	DELTA	CHORD	CH. BEARING
1	4950.00'	140.34'	1°37'28"	140.34'	S 89°38'17" E

**CITY OF MODESTO**  
**COMMUNITY FACILITIES DISTRICT**  
**NO. 2005-1 (HETCH HETCHY)**

**PROPOSED BOUNDARIES OF COMMUNITY FACILITIES**  
**DISTRICT NO 2005-1**  
**(HETCH HETCHY)**  
**CITY OF MODESTO, STANISLAUS COUNTY,**  
**STATE OF CALIFORNIA**  
**NORTHSTAR ENGINEERING GROUP, INC.**  
 909 14th Street, Modesto, CA 95354  
 (209) 524-3525

**BASIS OF BEARINGS**

THE GRID BEARING OF NORTH 00°27'48" WEST FOR LINE BETWEEN GPS CONTROL MONUMENT NO. 2725 AND GPS CONTROL MONUMENT NO. 2825 AS SHOWN ON THE RECORD OF SURVEY FOR "GPS CONTROL NETWORK" FILED FOR RECORD IN BOOK 22 OF SURVEYS AT PAGE 51, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN ON THIS MAP.  
 THIS SURVEY IS BASED ON THE 1992 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983 AS SHOWN IN BOOK 22 OF SURVEYS AT PAGE 51. THE DISTANCES SHOWN HEREON ARE GROUND DISTANCES. MULTIPLE GROUND DISTANCES BY THE COMBINATION FACTOR OF 0.9999294813 (AVERAGE BETWEEN GPS 2725 AND GPS 2825) TO OBTAIN GRID DISTANCES.

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO  
 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.  
 JEAN ZAHR, CITY CLERK

BY: \_\_\_\_\_  
 PRINT NAME \_\_\_\_\_

BY ITS RESOLUTION NO. \_\_\_\_\_, 2005,  
 JEAN ZAHR, CITY CLERK  
 BY: \_\_\_\_\_  
 PRINT NAME \_\_\_\_\_

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.  
 BY ITS RESOLUTION NO. \_\_\_\_\_, 2005,  
 JEAN ZAHR, CITY CLERK  
 BY: \_\_\_\_\_  
 PRINT NAME \_\_\_\_\_

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005, AT \_\_\_\_\_, M. IN  
 BOOK \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT,  
 AT PAGE(S) \_\_\_\_\_, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS,  
 STATE OF CALIFORNIA  
 LEE LUNDRIKIAN, COUNTY RECORDER OF THE  
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA  
 BY: \_\_\_\_\_ ASSISTANT/DEPUTY RECORDER \_\_\_\_\_ PRINT NAME \_\_\_\_\_

**APPENDIX B**

***CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT No. 2005-1  
(HETCH HETCHY)***

***RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX***

## APPENDIX B

### CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2005-1 (HETCH HETCHY)

#### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2005-1 (Hetch Hetchy) [herein "CFD No. 2005-1" or "the CFD"] 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. 2005-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2005-1 unless a separate Rate and Method of Apportionment 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 Map or other Development Plan.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

**"Administrative Expenses"** means any or all of the following: the fees and expenses of any fiscal agent or trustee (including any fees or expenses of its counsel) employed in connection with any Bonds, and the expenses of the City carrying out its duties with respect to CFD No. 2005-1 and the Bonds, including, but not limited to, levying and collecting the Special Taxes, the fees and expenses of legal counsel, charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office, costs related to annexing property into the CFD, costs related to property owner inquiries regarding the Special Taxes, costs associated with complying with any continuing disclosure requirements for the Bonds and the Special Taxes, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

**"Administrator"** means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Tax.

**“Annual Facilities Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Facilities Special Tax Requirement, as defined below.

**“Annual Facilities Special Tax Requirement”** means the amount necessary in any Fiscal Year to (i) pay principal and interest on Bonds, (ii) pay Administrative Expenses that have not been included in the Annual Maintenance Special Tax Requirement for the Fiscal Year, (iii) create or replenish reserve funds, (iv) cure any delinquencies in the payment of principal or interest on indebtedness of CFD No. 2005-1 which have occurred in the prior Fiscal Year or (based on delinquencies in the payment of the Annual Facilities Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected, and (v) construct or acquire Authorized Facilities. The amounts referred to in clauses (i) and (ii) of the preceding sentence may be reduced in any Fiscal Year by: (i) interest earnings on or surplus balances in funds and accounts for the Bonds to the extent that such earnings or balances are available to apply against debt service pursuant to a Bond indenture, Bond resolution, or other legal document that sets forth these terms; (ii) proceeds received by CFD No. 2005-1 from the collection of penalties associated with delinquent Annual Facilities Special Taxes; and (iii) any other revenues available to pay debt service on the Bonds as determined by the Administrator.

**“Annual Maintenance Special Tax”** means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

**“Annual Maintenance Special Tax Requirement”** means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses that have not been included in the Annual Facilities Special Tax Requirement for the Fiscal Year, (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year, and (iv) pay debt service on Bonds to the extent permitted in the Bond documents.

**“Assessor’s Parcel”** or **“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 designating parcels by Assessor’s Parcel number.

**“Association Property”** means any property within CFD No. 2005-1 that is owned by a homeowner association or property owner association, including any master or sub-association. Notwithstanding the foregoing, if a homeowner association owns the land area under the pad of a residential structure, the Administrator shall determine the Acreage under the pad of the building and such Acreage shall be categorized as Single Family Attached Property or Single Family Detached Property, as appropriate, and shall not be designated as Association Property.

**“Authorized Facilities”** means those facilities that are authorized to be funded by CFD No. 2005-1.

**“Authorized Services”** means those services that are authorized to be funded by CFD No. 2005-1.

**“Bonds”** means bonds or other debt (as defined in the Act), whether in one or more series, issued, insured or assumed by CFD No. 2005-1 related to Authorized Facilities.

**“Capitalized Interest”** means funds in any capitalized interest account available to pay debt service on Bonds.

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2005-1 was adopted by the City Council.

**“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. 2005-1.

**“County”** means the County of Stanislaus.

**“Developed Property”** means, in any Fiscal Year, the following:

*For purposes of levying the Annual Maintenance Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year,
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
- for Other Property, all Parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year. However, if a building permit is not required for the proposed use on a Parcel of Other Property, then such Parcel shall be considered Developed Property if a grading permit was issued prior to June 30 of the preceding Fiscal Year.

*For purposes of levying the Annual Facilities Special Tax, “Developed Property” means:*

- for Single Family Detached Property, all Parcels for which a building permit for new construction of a Unit was issued prior to June 30 of the preceding Fiscal Year,
- for Single Family Attached Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year, and
- for Other Property, all Parcels for which a building permit for new construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

However, if a building permit is not required for the proposed use on a Parcel of Other Property, then such Parcel shall be considered Developed Property if a grading permit was issued prior to June 30 of the preceding Fiscal Year.

**“Development Plan”** means a condominium plan, apartment plan, site plan or other development plan that identifies such information as the type of structure, the acreage, the square footage, and/or the number of Units that will be developed on Single Family Attached Property or Other Property.

**“Final Map”** means a final map, parcel map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure.

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

**“Improvement Area”** means a geographic area that, upon annexation into CFD No. 2005-1, is identified as an improvement area as defined in the Act instead of a Tax Zone, as defined below. Special Taxes collected within an Improvement Area will be the sole security for Bonds issued for that Improvement Area.

**“Maximum Annual Facilities Special Tax”** means the greatest amount of Annual Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Annual Maintenance Special Tax”** means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum One-Time Facilities Special Tax”** means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

**“Maximum Special Taxes”** means, collectively, the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax.

**“One-Time Facilities Special Tax”** means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property or, for Other Property for which a building permit is not required, prior to a grading permit being issued.

**“One-Time Facilities Special Tax Requirement”** means the amount determined by the City and identified in Attachment 2 of this Rate and Method of Apportionment that is needed to pay facility costs authorized to be funded by CFD No. 2005-1, which will not be paid by the Bonds or Annual Facilities Special Tax.

**“Original Parcel”** means (i) an Assessor’s Parcel in CFD No. 2005-1 at the time of CFD Formation or added to the CFD upon annexation, as identified in Attachment 2 (which shall be updated after each annexation), (ii) a Successor Parcel that is being further subdivided for purposes of determining the Maximum Special Taxes pursuant to Section C below, or (iii) more than one Assessor’s Parcel proposed to be annexed into the CFD as part of a single annexation, the Maximum Special Taxes assigned to which will be aggregated and redistributed to land uses within such Assessor’s Parcels if such aggregation is requested by the developer processing the annexation and/or preferred at the sole discretion of the City.

**“Other Property”** means all Taxable Property that is Developed Property but is not Single Family Attached Property or Single Family Detached Property.

**“Proportionately”** means, for Developed Property, that the ratio of the actual Annual Facilities Special Tax and Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, “Proportionately” means that the ratio of the actual Annual Facilities Special Tax and actual Annual Maintenance Facilities Special Tax to the Maximum Annual Facilities Special Tax and Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

**“Public Property”** means any property within the boundaries of CFD No. 2005-1 that is owned by the federal government, State of California, County, City, or other public agency.

**“Shelter Cove Community Church Property”** means that Parcel identified in Fiscal Year 2004-05 by Assessor’s Parcel number 082-005-003, owned by Shelter Cove Community Church, a California non-profit corporation, and designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Shelter Cove Community Church Property.

**“Single Family Attached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued for construction of a residential structure consisting of two or more Units that share common walls, including such residential structures that meet the statutory definition of a condominium contained in Civil Code Section 1351.

**“Single Family Detached Lot”** means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached Unit.

**“Single Family Detached Property”** means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a Unit that does not share a common wall with another Unit.

**“Special Taxes”** means, collectively, the One-Time Facilities Special Tax, the Annual Facilities Special Tax, and the Annual Maintenance Special Tax.

**“Subdivision Map”** means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

**“Successor Parcel”** means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD No. 2005-1 which are not exempt from the Special Tax pursuant to law or Section G below.

**“Taxable Public Property”** means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2005-1 that, (i) based on a tentative map or other Development Plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year. However, if Parcels designated as Public Property based on a tentative map or other Development Plan are relocated, the new Public Property will again become exempt. If such relocation occurs, the Acreage previously designated as Public Property will become Taxable Property and the Acreage that becomes Public Property will not be taxed. This trading of Acres of Public Property will be permitted to the extent that there is no net loss in Maximum Special Tax revenues. When such a trade occurs, the Administrator will recalculate the Maximum Special Taxes and revise Attachment 2.

**“Tax Zone”** means a mutually exclusive geographic area, within which particular Special Tax rates may be levied pursuant to this Rate and Method of Apportionment of Special Tax. Attachment 1 identifies the Tax Zone in CFD No. 2005-1 at CFD Formation; additional Tax Zones may be created when property is annexed into the CFD. Alternatively, additional Original Parcels may be added to a Tax Zone with assigned Maximum Special Taxes for each Original Parcel.

**“Tax Zone #1”** means the geographic area that was identified in Fiscal Year 2004-05 by Assessor’s Parcel number 082-005-003 and is designated in Attachment 1 of this Rate and Method of Apportionment of Special Tax as Tax Zone #1. Tax Zone #1 may be expanded to include additional Original Parcels that annex to CFD No. 2005-1; Attachments 1 and 2 will be updated each time such an annexation takes place.

**“Undeveloped Property”** means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2005-1 that are not Developed Property.

**“Unit”** means (i) for Single Family Detached Property, an individual single-family detached unit, and (ii) for Single Family Attached Property, an individual residential unit within a duplex, triplex, fourplex, townhome, or condominium structure.

## **B. DATA FOR ANNUAL ADMINISTRATION**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property. The Administrator shall also determine: (i) the Tax

Zone within which each Parcel of Taxable Property is located, (ii) whether each Assessor's Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) for Developed Property, which Parcels are Single Family Detached Property, Single Family Attached Property, and Other Property, (iv) for Parcels of Single Family Attached Property, the number of Units on each Parcel, (v) for Other Property, the Acreage of each Parcel, and (vi) the One-Time Facilities Special Tax Requirement, the Annual Facilities Special Tax Requirement, and the Maintenance Special Tax Requirement.

For Single Family Attached Property, the number of Units shall be determined by referencing the relevant Development Plan. In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2005-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Final Map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Final Map.

### **C. CALCULATING MAXIMUM SPECIAL TAXES**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Taxes for each Parcel in CFD No. 2005-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax, Maximum Annual Facilities Special Tax, and Maximum Annual Maintenance Special Tax. A separate method of calculating the Maximum Special Taxes may be identified for Tax Zones or Improvement Areas added to CFD No. 2005-1 as a result of future annexations.

#### **1. Original Parcels**

The Maximum Special Taxes for each Original Parcel in CFD No. 2005-1 as of CFD Formation are identified in Attachment 2. Attachment 2 will be updated by the Administrator as needed to reflect Original Parcels added to the CFD due to annexations.

#### **2. Successor Parcels**

##### **a. *All Successor Parcels are Single Family Detached Lots***

If the Parcels created by a recorded Subdivision Map are all Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels created by the subdivision:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Divide the Maximum Special Taxes from Step 1 by the number of Single Family Detached Lots created by the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

**b. *No Successor Parcels are Single Family Detached Lots***

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Divide the Maximum Special Taxes from Step 1 by the Acreage from Step 2 to calculate Maximum Special Taxes per acre;

**Step 4:** Multiply the per-acre Maximum Special Taxes from Step 3 by the Acreage in each Successor Parcel to calculate the Maximum Special Taxes for each Successor Parcel.

**c. *Some, But Not All, Successor Parcels are Single Family Detached Lots***

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:

**Step 1:** Identify the Maximum Special Taxes assigned to the Original Parcel;

**Step 2:** Determine the total Acreage of Taxable Property created by subdivision of the Original Parcel;

**Step 3:** Determine the total Acreage of Single Family Detached Property created by the subdivision by taking the sum of the Acreage in the individual Single Family Detached Lots;

**Step 4:** Divide the Maximum Special Taxes from Step 1 by the Acreage calculated in Step 2 to calculate Maximum Special Taxes per acre;

- Step 5:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of Single Family Detached Property calculated in Step 3 to determine the total Maximum Special Taxes to be assigned to the Single Family Detached Property created by the subdivision;
- Step 6:** Divide the amount calculated in Step 5 by the number of Single Family Detached Lots created by the subdivision to determine the Maximum Special Taxes for each Single Family Detached Lot;
- Step 7:** Multiply the per-acre Maximum Special Taxes calculated in Step 4 by the Acreage of each Successor Parcel that is not Single Family Detached Property to calculate the Maximum Special Taxes for such Parcels.

*If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.*

**After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less, but may be more, than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.**

#### **D. ESCALATION OF MAXIMUM SPECIAL TAXES**

##### **1. One-Time Facilities Special Tax**

Beginning in January 2007 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted annually by 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 Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.

##### **2. Annual Facilities Special Tax**

Beginning with Fiscal Year 2007-08, and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax assigned to each Parcel shall be increased by two percent (2%) of the amount in effect in the prior Fiscal Year.

### **3. Annual Maintenance Special Tax**

Beginning in January 2007 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by 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 Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

## **E. METHOD OF LEVY OF THE SPECIAL TAX**

### **1. One-Time Facilities Special Tax**

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2005-1 and shall be collected as set forth in Section F below.

### **2. Annual Facilities Special Tax**

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Administrator shall determine the Annual Facilities Special Tax Requirement for that Fiscal Year. The Annual Facilities Special Tax shall then be levied on all Parcels of Taxable Property in CFD No. 2005-1 as follows:

**Step 1:** The Annual Facilities Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Facilities Special Tax for each Parcel for such Fiscal Year until the amount levied on Developed Property is equal to the Special Tax Requirement prior to applying any Capitalized Interest that is available in the CFD accounts;

**Step 2:** If additional revenue is needed after Step 1, and after applying Capitalized Interest to the Annual Facilities Special Tax Requirement, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Facilities Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Facilities Special Tax assigned to each Parcel of Taxable Public Property.

### **3. Annual Maintenance Special Tax**

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

- Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year;
- Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year;
- Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

### **F. COLLECTION OF SPECIAL TAX**

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2005-1 (or, for Other Property for which a building permit is not required, prior to a grading permit being issued), and shall be immediately delinquent if not so paid. In the case of Shelter Cove Community Church Property, the One-Time Facilities Special Tax shall be paid at the time additional property is annexed into the CFD or when a building permit is issued for new construction of a structure on Shelter Cove Community Church Property, whichever occurs later.

The Annual Facilities Special Tax and Annual Maintenance Special Tax for CFD No. 2005-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Facilities Special Taxes and Annual Maintenance Special Taxes through foreclosure or other available methods.

The Annual Facilities Special Tax shall be levied and collected until principal and interest on Bonds have been repaid, costs of constructing or acquiring authorized facilities from Annual Facilities Special Tax proceeds have been paid, and all administrative expenses have been reimbursed. However, in no event shall an Annual Facilities Special Tax be levied after Fiscal Year 2060-2061. The Annual Maintenance Special Tax will continue to be levied and collected unless and until the

City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services of the CFD and all Administrative Expenses have been reimbursed. Under no circumstances may the Annual Facilities Special Tax on one Parcel in the CFD be increased by more than ten percent (10%) as a consequence of delinquency or default in payment of the Annual Facilities Special Tax levied on another Parcel or Parcels in the CFD.

#### **G. EXEMPTIONS**

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on Association Property or Public Property, except Taxable Public Property, as defined herein. Special Taxes shall not be levied on Parcels that are owned by a public utility for an unmanned facility or on Parcels that are subject to an easement that precludes any other use on the Parcels. In addition, no Special Tax may be levied on Shelter Cove Community Church Property unless and until additional property is annexed into the CFD.

#### **H. PREPAYMENT OF SPECIAL TAX**

The following definitions apply to this Section H:

**“Outstanding Bonds”** means all Previously Issued Bonds which remain outstanding, with the following exception: if an Annual Facilities Special Tax has been levied against, or already paid by, an Assessor’s Parcel making a prepayment, and a portion of the Annual Facilities Special Tax will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the Administrator), that next principal payment shall be subtracted from the total Bond principal that remains outstanding, and the difference shall be used as the amount of Outstanding Bonds for purposes of this prepayment formula.

**“Previously Issued Bonds”** means all Bonds that have been issued on behalf of the CFD prior to the date of prepayment.

**“Public Facilities Requirements”** means either \$1,740,000 in 2005 dollars, which shall increase on January 1, 2006, and on each January 1 thereafter by 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 such lower number as shall be determined by the City as sufficient to fund Authorized Facilities. The Public Facilities Requirements shown above may be adjusted or a separate Public Facilities Requirements identified each time property annexes into CFD No. 2005-1; at no time shall the added Public Facilities Requirement for that annexation area exceed the amount of public improvement costs that are expected to be supportable by the Maximum Annual Facilities Special Tax revenues generated within that annexation area.

**“Remaining Facilities Costs”** means the Public Facilities Requirements (as defined above), minus costs of Authorized Facilities funded by Outstanding Bonds (as defined above), developer equity, and/or any other source of funding.

The Annual Facilities Special Tax obligation applicable to an Assessor’s Parcel in the CFD may be prepaid and the obligation of the Assessor’s Parcel to pay the Annual Facilities Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Annual Facilities Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. The Annual Maintenance Special Tax may not be prepaid. An owner of an Assessor’s Parcel intending to prepay the Annual Facilities Special Tax obligation shall provide the City with written notice of intent to prepay. Within 30 days of receipt of such written notice, the City or its designee shall notify such owner of the prepayment amount for such Assessor’s Parcel. Prepayment must be made not less than 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Annual Facilities Special Taxes. The Prepayment Amount shall be calculated as follows: (capitalized terms as defined below):

	Bond Redemption Amount
plus	Remaining Facilities Amount
plus	Redemption Premium
plus	Defeasance Requirement
plus	Administrative Fees and Expenses
<u>less</u>	<u>Reserve Fund Credit</u>
equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount shall be determined by application of the following steps:

- Step 1.** Compute the total Maximum Annual Facilities Special Tax that could be collected from the Assessor’s Parcel prepaying the Annual Facilities Special Tax in the Fiscal Year in which prepayment would be received by the City.
- Step 2.** Divide the Maximum Annual Facilities Special Tax from Step 1 by the total amount that could be collected if the Maximum Annual Facilities Special Tax was levied on all Parcels of Taxable Property in the CFD.
- Step 3.** Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the “Bond Redemption Amount”*).
- Step 4.** Compute the current Remaining Facilities Costs (if any).
- Step 5.** Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to compute the amount of Remaining Facilities Costs to be prepaid (*the “Remaining Facilities Amount”*).

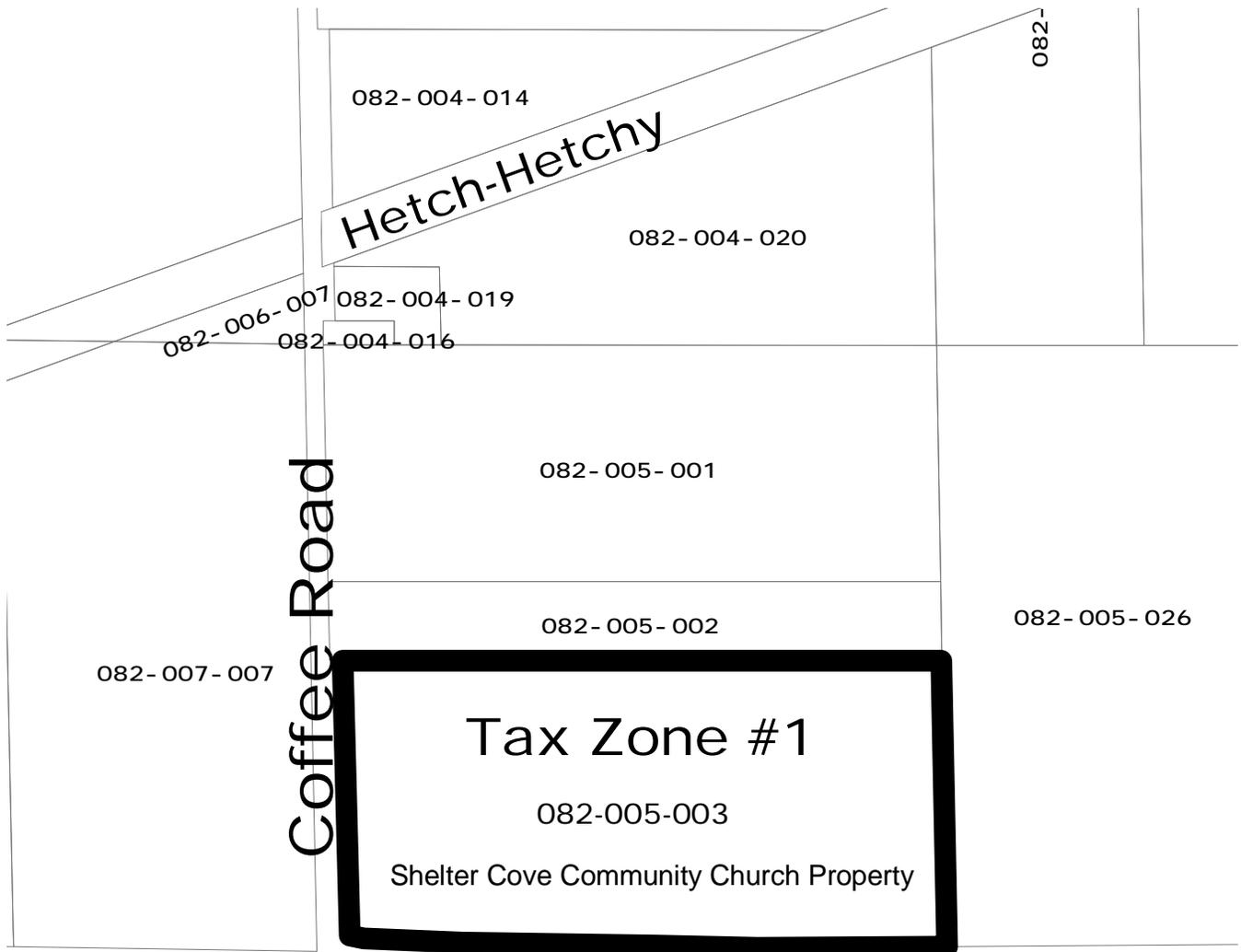
- Step 6.** Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (*the “Redemption Premium”*).
- Step 7.** Compute the amount needed to pay interest on the Bond Redemption Amount starting with the first Bond interest payment date after which the prepayment has been received until the earliest redemption date for the Outstanding Bonds, which, depending on the Bond offering document, may be as early as the next interest payment date.
- Step 8:** Compute the amount of interest the City reasonably expects to derive from reinvestment of the Bond Redemption Amount plus the Redemption Premium from the first Bond interest payment date after which the prepayment has been received until the redemption date for the Outstanding Bonds.
- Step 9:** Take the amount computed pursuant to Step 7 and subtract the amount computed pursuant to Step 8 (*the “Defeasance Requirement”*).
- Step 10.** Determine the costs of computing the prepayment amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the “Administrative Fees and Expenses”*).
- Step 11.** If and to the extent so provided in the indenture pursuant to which the Outstanding Bonds to be redeemed were issued, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (*the “Reserve Fund Credit”*).
- Step 12.** The Annual Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (*the “Prepayment Amount”*).

## **I. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning the Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Tax.

ATTACHMENT 1

CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH-HETCHY)  
IDENTIFICATION OF TAX ZONES



200 0 200 400 Feet



Claratina Avenue

**ATTACHMENT 2**

**CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2005-1  
(HETCH HETCHY)**

**MAXIMUM SPECIAL TAXES ASSIGNED TO EACH  
ORIGINAL PARCEL WITHIN EACH TAX ZONE**

Tax Zone	APN	Fiscal Year 2006-07 Maximum One- Time Facilities Special Tax [1]	Fiscal Year 2006-07 Maximum Annual Facilities Special Tax [2]	Fiscal Year 2006-07 Maximum Annual Maintenance Special Tax [3]
1	082-005-003	\$1,739,130	\$179,046	\$100,572

1. Beginning in January 2007 and each January thereafter, the Maximum One-Time Facilities Special Tax shall be adjusted by 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 Maximum One-Time Facilities Special Tax shall become effective on the subsequent July 1.
2. Beginning in Fiscal Year 2007-08 and each Fiscal Year thereafter, the Maximum Annual Facilities Special Tax shall escalate by 2.0% of the amount in effect in the prior Fiscal Year.
3. Beginning in January 2007 and each January thereafter, the Maximum Annual Maintenance Special Tax shall be adjusted annually by 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 Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.