

RESOLUTION NO. 2007-33

A RESOLUTION OF THE LODI CITY COUNCIL
ADOPTING LOCAL GOALS AND POLICIES AND DECLARING
ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES
DISTRICT NO. 2007-1 (PUBLIC SERVICES) AND TO LEVY
A SPECIAL TAX THEREIN

WHEREAS, the City Council intends to institute proceedings to establish a Community Facilities District (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5, Part I, Division 2, Title 5 of the Government Code of the State of California, and to levy a special tax within the District pursuant to the terms of the Act to fund the cost of providing services to the District.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi that:

I. Adoption of Local Goals and Policies. Pursuant to Government Code Section 53312.7, the City Council has considered and hereby adopts the goals and policies concerning the use of the Act that are attached hereto as Exhibit A.

2. Intent to Establish Community Facilities District. The City Council hereby declares that it proposes and intends to establish a community facilities district pursuant to the provisions of the Act, in the manner described below.

3. Description of Boundaries. The proposed boundaries of the District are shown on a map on file in the office of the City Clerk. The City Council hereby directs the City Clerk to endorse the certificates set forth on the map indicating its filing in the office of the City Clerk and evidencing the date and adoption of this resolution. The City Council further directs the City Clerk to record a copy of the map with the San Joaquin County Recorder within 15 days after the adoption of this resolution, in accordance with the provisions of Section 3111 of the California Streets and Highways Code.

4. Name of the Community Facilities District. The community facilities district proposed to be formed shall be known as "City of Lodi Community Facilities District No. 2007-1 (Public Services)."

5. Description of Services. The services proposed to be financed by the District (the "Services") are described in Exhibit B attached hereto. The cost of providing the Services includes "incidental expenses," which include costs associated with the creation of the District, determination of the amount of special taxes, collection or payment of special taxes, or costs otherwise incurred in order to carry out the authorized purposes of the District. The Services authorized to be financed by the District are in addition to those currently provided in the territory of the District and do not supplant services already available within that territory.

6. Levy of Special Tax. Except where funds are otherwise available, a special tax sufficient to pay the costs of the Services (including incidental expenses), secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the District. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit C.

7. Public Hearing. The City Council hereby fixes 7:00 p.m., or as soon thereafter as practicable, on Wednesday, April 4, 2007, at the regular meeting place of the City Council, Carnegie Forum, 305 West Pine Street, Lodi, California, as the time and place for a public hearing on the establishment of the District.

a. Notice of Hearing. The City Council directs the City Clerk to publish a notice of the hearing, in substantially the form attached hereto as Exhibit D, once not later than seven days prior to the date fixed for the hearing, in the **Lodi** News-Sentinel, a newspaper of general circulation published in the area of the District.

9. Hearina Report. The City Council directs the City Engineer to study the proposed District and, at or before the time of the hearing, to cause to be prepared and filed with the City Council a report containing a brief description of the services that will in his opinion be required to adequately meet the needs of the District, his estimate of the cost of providing those services; and the fair and reasonable cost of incidental expenses to be incurred in connection therewith.

10. Description of Proposed Votina Procedures. If, at the conclusion of the public hearing, the City Council adopts a resolution establishing the District, the City Council proposes to order an election by mailed ballot and submit the question of the levy of the special tax to the qualified electors. The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the District. Because fewer than 12 registered voters currently reside within the District, the qualified electors shall be the landowners within the District, and each landowner who is the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the proposed District.

Dated: February 21,2007

I hereby certify that Resolution No. 2007-33 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 21, 2007, by the following vote:

AYES: **COUNCIL MEMBERS** – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

NOES: **COUNCIL MEMBERS** – None

ABSENT: **COUNCIL MEMBERS** – None

ABSTAIN: **COUNCIL MEMBERS** – None



RANDI JOHL
City Clerk

EXHIBIT A

LOCAL GOALS AND POLICIES

CITY OF LODI

**LOCAL GOALS AND POLICIES FOR
COMMUNITY FACILITIES DISTRICTS**

(Adopted February 21,2007)

I. INTRODUCTION. Section 53312.7(a) of the California Government Code requires that the City Council of the City of Lodi (the “City”) consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the “Act”), prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district (“CFD”) under the Act. The following goals and policies are intended to meet the minimum requirements of the Act, and may be amended or supplemented by resolution of the City Council of the City at any time.

II. GOALS. The City Council will consider the use of the Act for financing public services by new development. All proposed residential development that requires the approval by the City of a subdivision map containing five or more residential lots, or that requires the approval by the City of a subdivision map containing five or more residential dwelling units shall be required to fund certain costs to the City related to the provision of public services. To achieve this, the City shall require this type of residential development to participate in the City’s public services CFDs.

Use of the Act to finance public facilities has not been evaluated or authorized at this time. Any request for a CFD related to the financing of public facilities will require amendment of these goals and policies, and will be considered on a case by case basis.

III. ELIGIBLE PUBLIC SERVICES. The specific services to be funded shall include all services authorized under the Act including, but not limited to, police protection, fire protection, parks/parkway maintenance, and flood and storm drainage protection services.

IV. DISCLOSURE REQUIREMENTS FOR PROSPECTIVE PROPERTY PURCHASERS.

A. Disclosure Requirements for Develoners. Developers who are selling lots or parcels that are within a CFD shall provide disclosure notice to prospective purchasers that complies with all of the requirements of Section 53341.5 of the Government Code. The disclosure notice must be provided to prospective purchasers of property at or prior to the time the contract or deposit receipt for the purchase of property is executed. Developers shall keep an executed copy of each disclosure document as evidence that disclosure has been provided to all purchasers of property within a CFD, and shall provide the City with a copy of each such disclosure document.

B. Disclosure Reuirements for the Resale of Lots. The City’s Finance Director shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Civil Code. This notice shall be provided by the Finance Director within five working days of receiving a written request for the notice, unless otherwise permitted under the Act. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

V. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES. Special tax formulas for CFDs shall provide for minimum special tax levels which satisfy the following expenses of a CFD: (a) the projected administrative expenses of the CFD, and (b) the cost of providing the authorized services.

The special tax formula shall be reasonable and equitable in allocating public services' costs to parcels within the CFD, unless otherwise agreed to by at least the owners of two-thirds of the property to be subject to the special tax. Exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements.

The total projected property tax levels for any CFD shall not exceed any maximum specified in the Act. The annual increase, if any, in the maximum special tax for any parcel shall not exceed any maximum specified in the Act. The increase in the special tax levied on any parcel as a consequence of delinquency or default by the owner of any other parcel shall not exceed any maximum specified in the Act.

The City shall retain a special tax consultant to prepare a report which: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to fund City administrative costs, services, and other related expenditures.

VI. APPRAISALS. The definitions, standards and assumptions to be used for appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants and CFD proponents, and by reference to relevant materials and information promulgated by the State of California. In any event, the value-to-lien ratio shall be determined based upon an appraisal by an independent MAI appraiser of the proposed CFD. The appraisal shall be coordinated by and under the direction of the City. All costs associated with the preparation of the appraisal report shall be paid by the proponents of the CFD through an advance deposit mechanism. The City shall have discretion to retain a consultant to prepare a report to verify market absorption assumptions and projected sales prices of the properties which may be subject to the maximum special tax in the CFD.

VII. CFD COSTS. All City and consultant costs incurred in the evaluation of CFD applications and the establishment of and annexation into CFDs will be paid by the proponents of the CFD by advance deposit increments. The City shall use reasonable efforts not to incur any non-reimbursable expenses for processing and administering CFDs. In general, expenses not chargeable to the CFD shall be directly borne by the proponents of the CFD.

VIII. USE OF CONSULTANTS. The City shall select all consultants necessary for the formation/annexation and administration of the CFD, including bond counsel, financial advisors, appraiser, any market absorption consultant and the special tax consultant. Prior consent of any proponent of a CFD shall not be required in the determination by the City of the consulting and financing team.

IX. PRIORITIES FOR CFD FINANCING. At this time there is no plan to finance facilities under the Act. The City will review and revise this particular policy on a case by case basis.

X. CREDIT QUALITY REQUIREMENTS FOR CFD BOND ISSUES. CFD Bond issues may only be used to pay for capital facilities. At this time there is no plan to finance facilities under the Act. The City will review and revise this particular policy on a case by case basis.

XI. EXCEPTIONS TO THESE POLICIES. The City may find that a waiver of any of the above stated policies is reasonable given identified City benefits to be derived from such waiver. Such waivers only will be granted by action of the City Council.

EXHIBIT B

DESCRIPTION OF SERVICES

The community facilities district is established to finance any one or more of the following types of services within the District:

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance of parks, parkways, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protection systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT C

CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. **2007-1** (Public Services)
RATE AND METHOD OF APPORTIONMENT

EXHIBIT C

**CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)**

RATE AND METHOD OF APPORTIONMENT (RMA) OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District (CFD) No. 2007-1 (Public Services) shall be levied and collected according to the tax liability determined by the City Council acting in its capacity as the legislative body of CFD No. 2007-1, through the application of the appropriate Special Tax rate, as described below. All of the property in the CFD, 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 the CFD unless a separate RMA is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Accessory Dwelling Unit” means a second residential unit of limited size (i.e., granny cottage, second unit) that shares a Parcel with a Single Family Unit.

“Administrative Expenses” means any or all of the following: the expenses of the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County, 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(s) or **firm** designated by the City to administer the Special Taxes according to this RMA.

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

“Authorized Services” means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

“CFD No. 2007-1” or **“CFD”** means the City of Lodi Community Facilities District No. 2007-1 (Public Services).

“City” means the City of Lodi.

“**City Council**” means the City Council of the City of Lodi.

“**County**” means the County of San Joaquin

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

“**Maximum Special Tax**” means the maximum Special Taxes determined in accordance with Section C below that can be levied on Single Family Property and Multi-Family Property in any Fiscal Year.

“**Multi-Family Property**” means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Multi-Family Units.

“**Multi-Family Unit**” means an individual residential unit within a structure with three or more residential units that share a single Assessor’s Parcel number, all of which are offered for rent to the general public and cannot be purchased by individual homebuyers. Residential units located above commercial establishments that are available exclusively for rent and cannot be purchased by individual owners shall also be characterized as Multi-Family Units for purposes of this RMA.

“**RMA**” means this Rate and Method of Apportionment.

“**Single Family Property**” means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Single Family Units.

“**Single Family Unit**” means an individual single family detached residential unit or an individual residential unit within a half-plex, duplex, triplex, fourplex, townhome, condominium, or other structure with attached residential units that **are** available for sale to individual buyers, **whether or not such a unit is ultimately offered for rent by an individual buyer. For-sale residential units located above commercial establishments shall also be categorized as Single Family Units for purposes of this RMA.**

“**Special Tax**” means any tax levied within the CFD to pay the Special Tax Requirement.

“**Special Tax Requirement**” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the tax will be collected.

“**Taxable Property**” means both Single Family Property and Multi-Family Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel number for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the number of Single Family and Multi-Family Units built or *to* be built on each Parcel of Taxable Property by referencing the building permit, condominium plan, apartment plan, site plan, **or** other development plan for the property.

In any Fiscal Year, if it is determined that (i) a parcel or subdivision map for a portion of property in the CFD was recorded after January 1 of the preceding 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 parcel or subdivision map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel or subdivision map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel or subdivision map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes *to* the original Parcel that was subdivided by recordation of the parcel or subdivision map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels **of** Taxable Property within the CFD shall be \$600 per Single Family Unit and **\$175** per Multi Family Unit for Fiscal Year **2007-08**. Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax in effect in the prior Fiscal Year shall be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (**5%**).

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied proportionately on each Parcel of Taxable Property in the CFD up to 100% of the Maximum Special Tax determined pursuant to Section C **above until the total amount levied is equal to the Special Tax Requirement for the Fiscal Year.**

The Special Tax for the CFD shall be collected at the same time and in the same manner **as** ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. **2007-1** financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels within the CFD that are not Single Family Property or Multi-Family Property. Furthermore, Accessory Dwelling Units shall not be counted in determining the Special Tax to be levied on the Parcels on which such units are located.

F. 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 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 RMA.

EXHIBIT D

NOTICE OF PUBLIC HEARING ON PROPOSED ESTABLISHMENT OF
CITY OF LODI COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC SERVICES)

NOTICE IS HEREBY GIVEN that the City Council of the City of Lodi on **February 21, 2007**, adopted its Resolution No. _____, in which it declared its intention to establish a community facilities district and to levy a special tax to pay for certain **services**, all pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5, **Part 1**, Division 2, Title 5 of the California Government Code. The resolution describes the boundaries of the proposed district, the services proposed to be financed, and the rate, method of apportionment, and manner of collection of the proposed special tax. The City proposes to tax all interests in property that may be taxed under the Act. For further details, the resolution is available in the office of the City Clerk at City Hall, 221 W. Pine Street, 2nd Floor, Lodi, California.

NOTICE IS HEREBY FURTHER GIVEN that the City Council has fixed Wednesday, April 4, 2007, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, at Carnegie Forum, 305 W. Pine Street, Lodi, California, as the time and place when and where the City Council will hold a public hearing to consider the establishment of the district. At the hearing, the testimony of all interested persons, including all persons owning property in the area, or taxpayers for or against the establishment of the district, the extent of the district, the furnishing of the specified services, and the levy of the special tax will be heard.

If six registered voters residing within the proposed district or the owners of one-half or more of the area of land in the territory included in the district and not exempt from the special tax file written protests against the establishment of the district, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, the creation of the district and the tax levy shall not be considered for a period of one year from the date of the decision of the City Council after the hearing.

NOTICE IS HEREBY FURTHER GIVEN that if, at the conclusion of the public hearing, the City Council determines to establish the district, the City Council will order an election to be held by the landowners of the district by mailed ballot, with each landowner having one vote for each acre or portion of an acre of land that such landowner owns within the proposed district, on the question of levying the special tax.

DATED: _____, 2007

City Clerk, City of Lodi