

CITY OF MODESTO
Community Facilities District No. 2012-1
(Kiernan Business Park South)

COMMUNITY FACILITIES DISTRICT REPORT

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**City of Modesto
Community Facilities District No. 2012-1
(Kiernan Business Park South)**

INTRODUCTION

On March 27, 2012, the Modesto City Council adopted a "Resolution Declaring the City Council's Intention to Establish City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) and to Authorize the Levy of a Special Tax Within Said Community Facilities District" (the "Resolution of Intention"), stating its intention to form the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, Sections 53311 et. seq., California Government Code (the "Act") to finance certain public facilities (the "Facilities") and services (the "Services") by levying special taxes (the "Special Taxes") in the area of the CFD.

In the Resolution of Intention, the Council expressly ordered the preparation of a written report (the "Report"), for the CFD containing the following:

1. A description of the Facilities and Services by type which will be required to adequately meet the needs of the CFD; and
2. An estimate of the fair and reasonable cost of the Facilities and Services included therewith.

For particulars, reference is made to the Resolution of Intention for the CFD, as previously approved and adopted by the Council.

NOW, THEREFORE, the undersigned does hereby submit the following data:

A. DESCRIPTION OF FACILITIES AND SERVICES. A general description of the proposed Facilities and Services is set forth in Exhibit "A" attached hereto and hereby made a part hereof.

B. PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. The proposed boundaries of the CFD are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Facilities and Services. The proposed boundaries of the CFD are described on the map of the CFD recorded in Book 5AM on Page 13 of Maps of Assessment and Community Facilities Districts in the office of the County Recorder for the County of Stanislaus, a copy of which map is on file with the City Clerk.

The City Council also declared in the Resolution of Intention its intent to form a future annexation area (the "Future Annexation Area") for the CFD. Parcels within the Future Annexation Area shall be annexed to the CFD only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed. The proposed boundaries of the Future Annexation Area are also described on the map of the CFD on file with the City Clerk, to which reference is hereby made.

C. COST ESTIMATE. The cost estimate for the Facilities and Services for the CFD is set forth in Exhibit "C" attached hereto and hereby made a part hereof.

D. DESCRIPTION OF THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX. A one-time facilities special tax will be levied on all parcels of taxable property at the issuance of a structural building permit. In addition, an annual maintenance special tax will be levied on all parcels of taxable property pursuant to the Rate and Method of Apportionment of Special Tax (the "RMA"). The RMA, in its entirety, is set forth in Exhibit "D" attached hereto and hereby made a part hereof. The maximum one-time facilities special taxes at CFD formation are identified in Attachment 1 of the RMA.

Dated as of May 1, 2012

For and on behalf of the City Manager of the
City of Modesto

By: _____

EXHIBIT A

CITY OF MODESTO Community Facilities District No. 2012-1 (Kiernan Business Park South)

DESCRIPTION OF FACILITIES

The captioned Community Facilities District will finance, in whole or in part, the following facilities ("facilities" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982), including all related administrative costs, expenses and related reserves:

Transportation, Landscaping and Lighting System:

Transportation, lighting and landscaping system improvements include, but are not limited to, land acquisition, arterials and collector streets, roundabouts, traffic control devices, gateways, and other traffic related accessories. Landscaping and lighting improvements may include, but are not limited to, land acquisition and the construction of pavement, curb, gutter, sidewalk, irrigation improvements, separated bike paths and landscaping and lighting. Landscaping is included within the street right-of-way, landscape lots and gateways. Transportation, landscaping and lighting system improvements may be on-site or off-site.

Storm Drain System:

Storm drain system improvements include, but are not limited to, land acquisition, storm drainage facilities including pump station, dual-use detention basin and landscaping, fencing, lift stations, discharge mains and outfall structures, force mains, gravity collection storm water lines and other storm drain accessories. Storm drain system improvements may be on-site or off-site. The Storm Drain System Facilities and the Transportation, Landscaping and Lighting System Facilities are collectively referred to as the "Facilities").

Incidental Expenses:

Facilities include incidental expenses to be incurred, including (a) the cost of engineering, planning and designing the Facilities; (b) all costs incurred in connection with financing the Facilities, and (c) all costs associated with the creation of the Community Facilities District, the issuance of bonds by the Community Facilities District, the establishment and replenishment of bond reserve and special reserve funds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District and administering the Community Facilities District (collectively, the "Incidental Expenses").

DESCRIPTION OF SERVICES

The captioned Community Facilities District will finance, in whole or in part, the following services ("services" shall have the meaning given that term in the Mello-Roos Community Facilities Act of 1982), including all related administrative costs, expenses and related reserves for replacement of vehicles, equipment and facilities:

Authorized services include, but are not limited to, maintenance, repair and replacement of parkways, landscape medians, the bike path, well site, storm drainage pump and basin, and related facilities, including by not limited to, concrete curbs and walks, trees, shrubs, vines, ground cover, turf, lights and irrigation systems. The services to be provided included, but are not limited to, litter and debris removal, graffiti abatement, painting repairs to landscape structures, pruning, staking, fertilizing, plant replacement and restoration, fire and weed control, erosion control, moving of lawns, trimming of vegetation, and maintenance, repair and replacement of lighting systems. Services also include the following: (i) related reserves for capital replacement of vehicles, equipment, plants and materials, asphalt/concrete overlays, structures, and other facilities, or (ii) a sinking fund for services that could not otherwise be funded in a given fiscal year, or (iii) administrative fees of the city related to the Community Facilities District, including costs associated with preparing the annual special tax levy, or (iv) costs associated with legal services, advertising, legal notices, and mailings related to formation or administration of the Community Facilities District (collectively, the "Services").

EXHIBIT B

**City of Modesto
Community Facilities District No. 2012-1
(Kiernan Business Park South)**

BOUNDARY MAP

Reference is hereby made to the map on file in the office of the City Clerk for a description of the boundaries of the CFD.

EXHIBIT C

City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park East)

Facilities Cost Estimate

Pursuant to the Kiernan Business Park East Infrastructure Financing Plan ("IFP"), it is estimated that the cost of providing the necessary facilities to the Community Facilities District will be approximately \$12.3 million, including administration and development costs. This \$12.3 million cost is made up of the following items:

Item	Cost
Project Specific Infrastructure	\$8,570,321
Project Specific ROW	\$2,561,600
Storm Drainage Basin Land Acq.	\$762,605
Reimbursement to Kaiser	\$160,000
KBPE Facilities Costs	(\$220,469)
Administration	\$118,341
Development Costs	\$321,193
Total Cost	\$12,273,591

As described in the IFP, this total infrastructure cost will be funded through a variety of financing mechanisms, one of which is the CFD.

Services Cost Estimate

It is estimated that the cost of providing services to the Community Facilities District, as outlined in Exhibit A hereto, will be \$80,053 for the first year, assuming completion of all necessary facilities. The annual services cost shall escalate annually. Accordingly, the Rate and Method of Apportionment of Special Tax for the Community Facilities District provides that on July 1, 2013, and each July 1 thereafter, the maximum special tax will increase by a percentage equal to the greater of: (i) the increase, if any, in the prior calendar year's change in the construction cost index for the San Francisco region as published in the Engineering News Record; or (ii) 4.0%.

EXHIBIT D

**City of Modesto
Community Facilities District No. 2012-1
(Kiernan Business Park South)**

Rate and Method of Apportionment of Special Tax

EXHIBIT D

CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2012-1 (KIERNAN BUSINESS PARK SOUTH)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Special Taxes applicable to each Assessor's Parcel in Community Facilities District No. 2012-1 (Kiernan Business Park South) 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. 2012-1, 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. 2012-1 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 Map or other Subdivision Map.

“Administration Component” means the portion of the Maximum One-Time Facilities Special Tax that is for administrative costs incurred by the City throughout the term of the One-Time Facilities Special Tax including, but not limited to, costs associated with the preparation and oversight of reimbursement agreements, accounting, and tracking of credits. For Original Parcels, the Administration Component is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Administration Component 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 Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2012-1, 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; 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 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 for Administrative Expenses, and (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.

“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.

“Authorized Facilities” or **“Authorized Facility”** means those facilities that are authorized to be funded by CFD No. 2012-1, including land purchases for right-of-way and a storm drainage basin, and any other land that is acquired to construct an Authorized Facility.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2012-1.

“Base 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 not including the Administration Component. For Original Parcels, the Base Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities 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 Base Maximum One-Time Facilities Special Tax shall become effective on January 1 of the calendar year for which the annual adjustment was made.

“Base Year” means the year in which Authorized Facilities dedicated by a Builder/Developer were accepted by the City. The Administrator shall keep track of the Base Year for each Authorized Facility the City accepts.

“Building Permit” means a permit issued by the City’s Building Department for construction, reconstruction, or expansion of a vertical building structure, or for construction of the foundation of such structure.

“Builder/Developer” means a person or entity that is a property owner, builder, or developer of any Parcel or Parcels within CFD No. 2012-1.

“**CFD**” or “**CFD No. 2012-1**” means the City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South).

“**CFD Formation**” means the date on which the Resolution of Formation to form CFD No. 2012-1 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. 2012-1.

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

“**Credit/Reimbursement Amount**” means the Authorized Facilities costs that have been paid in advance by a Builder/Developer (including land dedications for which the Builder/Developer will receive credits and/or reimbursements) and have not yet been reimbursed to that Builder/Developer through one of the following: (i) the application of Special Tax Credits (as defined below) or (ii) payments to the Builder/Developer from One-Time Facilities Special Taxes collected from other Builders/Developers in the CFD. The Credit/Reimbursement Amount outstanding at any point in time will be determined pursuant to Section D below.

“**Developed Property**” means, in any Fiscal Year, all Parcels for which one or more of the following events have occurred: (i) a Building Permit was issued prior to June 30 of the preceding Fiscal Year; or (ii) the City has accepted improvements, infrastructure, or public facilities that were constructed as a condition of development of the Parcel (not including the acceptance of land by the City for public right-of-ways that will be a site for future improvements, infrastructure, or public facilities) and were constructed, or paid to be constructed, by the owner of such Parcel. Notwithstanding the foregoing, the Parcel identified at CFD Formation as APN 078-018-036 shall not be classified as Developed Property until such time as a connection to the City’s storm drainage system occurs, and it shall be at the discretion of the City to determine whether or not such a connection has occurred. In addition, a Parcel that had an existing building, or had a Building Permit issued, prior to CFD Formation shall not be classified as Developed Property until such time as a new Building Permit is issued for the Parcel that creates a new vertical structure or structures if such new structures do not simply support or represent an addition to the building that occupied the Parcel or had a Building Permit issued prior to CFD Formation.

“**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.

“**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 Section C below.

“Maximum CFD Maintenance Cost” means \$80,053 in Fiscal Year 2012-13 dollars, and includes the estimated annual cost of Administrative Expenses. Beginning in January 2013 and each January thereafter, the Maximum CFD Maintenance Cost 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 CFD Maintenance Cost shall become effective on July 1 of the calendar year for which the annual adjustment was made.

“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, which is equal to the sum of the Base Maximum One-Time Facilities Special Tax and the Administration Component for the Parcel. For Original Parcels, the Maximum One-Time Facilities Special Tax is shown in Attachment 1 to this RMA. Notwithstanding the foregoing, the City may allow adjustments to the Maximum One-Time Facilities Special Tax assigned in Attachment 1 if all of the following occur: (i) there are changes in the Net Taxable Acreage estimates for Original Parcels, (ii) based on those changes, the City concludes that a redistribution of the Maximum One-Time Facilities Special Tax is appropriate, and (iii) written confirmation is received from the owner of each Parcel that will be affected by the redistribution. Once all these items have occurred, the Administrator shall prepare a new Attachment 1 which shall henceforth be the operative RMA for purposes of calculating the Maximum One-Time Facilities Special Tax. For all other Parcels, the Maximum One-Time Facilities Special Tax is determined in accordance with Section C below.

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

“Net Taxable Acre” or **“Net Taxable Acreage”** means the total gross Acreage within a Final Map or Parcel less road right-of-ways and property that is identified in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by a subdivision, the Administrator shall calculate the Net Taxable Acreage of such Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined at the sole discretion of the City.

“One-Time Facilities Special Tax” means a special tax levied and collected in full by the City prior to a Building Permit being issued for new construction on Taxable Property.

“Original Parcel” means any of the Assessor’s Parcels that were included in the CFD at the time of CFD Formation, as identified in Attachment 1 to this RMA. A Parcel that was created from the subdivision of an Original Parcel and is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

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

“Public Property” means any property within the boundaries of CFD No. 2012-1 that is owned by the federal government, State of California, County, City, or other public agency.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“Special Tax Credit” means a waiver of the creditable portion of the Base One-Time Facilities Special Tax that would otherwise be due from a Parcel in the CFD if the Builder/Developer of that Parcel did not have an outstanding Credit/Reimbursement Amount.

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

“Subdivision Map” means a Final Map, large lot subdivision map, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2012-1 which are not exempt from the Special Taxes pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2012-1 that: (i) based on a tentative map or other Subdivision Map, 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 Subdivision Map 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.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2012-1 that are not Developed Property.

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) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property; (ii) the Net Taxable Acreage for each Parcel; and (iii) the Annual Maintenance Special Tax Requirement. In addition, the Administrator shall update Attachment 1 to this RMA pursuant to Section C as Original Parcels are subdivided.

In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in the CFD 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 Taxes for the property affected by recordation of the Final Map by determining the Special Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the 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. 2012-1 in each Fiscal Year, including the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

1. Maximum One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax for each Original Parcel in CFD No. 2012-1 at the time of CFD Formation is shown in Attachment 1 to this RMA. Each time a Subdivision Map is approved within the CFD or when Parcels are otherwise subdivided or reconfigured, the Administrator shall reallocate the Maximum One-Time Facilities Special Tax assigned to each Original Parcel to the newly-created Parcel(s) within the Subdivision Map as follows:

- Step 1.* For any given point in time, calculate the Base Maximum One-Time Facilities Tax and the Administration Component applicable to the Original Parcel being subdivided.
- Step 2.* Determine the Net Taxable Acreage of each Parcel created by the approval of the Subdivision Map.
- Step 3.* Sum the Net Taxable Acreage from Step 2 for all newly-created Parcels to determine the total Net Taxable Acreage resulting from the subdivision of the Original Parcel.
- Step 4.* For each newly-created Parcel, divide the Net Taxable Acreage determined in Step 2 by the total Net Taxable Acreage of the Original Parcel determined in Step 3 to calculate a percentage.
- Step 5.* For each newly-created Parcel, multiply the percentage calculated in Step 4 by the amounts calculated in Step 1 to determine the Base Maximum One-Time Facilities Special Tax and Administration Component to be allocated to each newly-created Parcel.

Step 6. For each newly-created Parcel, add the Base Maximum One-Time Facilities Special Tax and the Administration Component calculated in Step 5 to determine the Maximum One-Time Facilities Special Tax. Attachment 1 of this RMA will be updated by the Administrator each time an Original Parcel is subdivided to show the Base Maximum One-Time Facilities Special Tax, the Administration Component, and the Maximum One-Time Facilities Special Tax for each newly-created Parcel.

Under no circumstances shall the sum of the Maximum One-Time Facilities Special Tax for all Parcels created by the subdivision or reconfiguration of an Original Parcel ever be less than the Maximum One-Time Facilities Special Tax of the Original Parcel.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Maximum Annual Maintenance Special Tax shall be determined for each Parcel of Developed Property using the following methodology:

- Step 1.** For any Fiscal Year, calculate the total Maximum CFD Maintenance Cost.
- Step 2.** Determine the Net Taxable Acreage of all Parcels of Developed Property.
- Step 3.** Divide the Net Taxable Acreage of each Parcel of Developed Property by the total Net Taxable Acreage of all Parcels of Developed Property calculated in Step 2 to obtain a percentage for each Parcel.
- Step 4.** Multiply the percentage calculated in Step 3 by the Maximum CFD Maintenance Cost in Step 1 to determine the Maximum Annual Maintenance Special Tax for each Parcel of Developed Property for the then-current Fiscal Year.

D. IMPLEMENTATION OF CREDIT/REIMBURSEMENT PROGRAM

Certain Builders/Developers may be required to construct, pay for, or provide Authorized Facilities that are ultimately intended to be funded from One-Time Facilities Special Tax revenues. The City shall implement a Special Tax Credit and reimbursement program, so that Builders/Developers that construct, pay for, or provide Authorized Facilities will receive a credit against their Base Maximum One-Time Facilities Special Tax and/or be reimbursed for Authorized Facilities costs, if revenues are available.

At the request of the landowners at the time this RMA was prepared and CFD No. 2012-1 was formed, all credits and reimbursements to Builders/Developers who construct, pay for, or provide Authorized Facilities shall be based on the actual cost of those Authorized Facilities, with the exception of right-of-way and storm drainage basin land costs, which shall be reimbursed at fair market value at the time of dedication, as determined by the City. Pursuant to this request, if the cost of the Authorized Facility constructed, paid for, or provided is less than the Builder/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer shall receive a Special Tax Credit against their Base Maximum One-Time Facilities Special Tax equal to the actual cost of the Authorized Facility constructed, paid for, or provided, and the remaining Base Maximum One-Time Facilities Special Tax shall be paid by the Builder/Developer in addition to the full Administration Component.

Alternatively, if the cost of the Authorized Facility constructed, paid for, or provided exceeds the Builder's/Developer's Base Maximum One-Time Facilities Special Tax, the Builder/Developer will qualify for a Special Tax Credit and/or a reimbursement from the collection of future One-Time Facilities Special Taxes, as set forth below; the Builder/Developer must still pay the full Administration Component. Notwithstanding the foregoing, there is no guarantee that future One-Time Facilities Special Taxes will be available to reimburse the Builder/Developer. All Credit/Reimbursement Amounts shall be determined by the City based on evidence of costs provided to the City by the Builder/Developer.

The landowners at the time this RMA was prepared and CFD No. 2012-1 was formed also requested that a Builder/Developer not receive any Special Tax Credits if other Builders/Developers have unpaid Credit/Reimbursement Amounts outstanding that have a higher priority for reimbursement. In other words, any outstanding Credit/Reimbursement Amounts for Builders/Developers that have a higher reimbursement priority shall be fully paid prior to Special Tax Credits being applied to a Builder/Developer with a lower reimbursement priority.

The following steps shall be applied to implement the credit/reimbursement program summarized above:

1. On an Ongoing Basis

- a.** In January 2013 and each January thereafter, the Administrator shall escalate the Maximum One-Time Facilities Special Tax assigned to each Parcel and the Credit/Reimbursement Amount outstanding for any Builder/Developer 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 shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- b.** The City shall determine whether One-Time Facilities Special Tax revenues are available to reimburse Builders/Developers that have an outstanding Credit/Reimbursement Amount. If such revenues are available, the City shall pay

reimbursements on a “first-incurred/first-paid” basis, as determined by the Base Year for each Authorized Facility accepted by the City. Once the Builder/Developer with first priority is fully reimbursed, the Builder/Developer with second priority will be able to take Special Tax Credits against their One-Time Facilities Special Tax and, if a Credit/Reimbursement Amount is still outstanding, be paid such outstanding Credit/Reimbursement amount if and when One-Time Facilities Special Tax revenues are available. Such reimbursement shall continue until the earlier of (i) the date on which all outstanding Credit/Reimbursement Amounts are paid, or (ii) the date on which no One-Time Facilities Special Tax revenues are available to pay outstanding Credit/Reimbursement Amounts and no additional One-Time Facilities Special Tax revenues are anticipated to be received by the City. There is no guarantee that all Credit/Reimbursement Amounts will be paid to Builders/Developers.

2. At any time that Authorized Facilities are accepted by the City

The Administrator shall apply the following steps each time Authorized Facilities are dedicated to the City and the City accepts such dedication(s):

- Step 1.* Determine the total cost of Authorized Facilities accepted by the City. This total cost shall be the Credit/Reimbursement Amount applicable to the Builder/Developer that dedicated the Authorized Facilities.
- Step 2.* Identify and record the Base Year for the Authorized Facilities and determine priority for the Builder’s/Developer’s Credit/Reimbursement Amount relative to outstanding Credit/Reimbursement Amounts owed to other Builders/Developers.
- Step 3.* Beginning in the calendar year that commences after the Base Year, the Administrator shall escalate the Credit/Reimbursement Amount determined in Step 1 each year as outlined in Section D.1 above. If a Builder/Developer constructed, paid for, or provided Authorized Facilities with different Base Years, the Credit/Reimbursement Amount shall be escalated taking the different Base Years into account.

3. Prior to issuance of a Building Permit

When a Builder/Developer requests issuance of a Building Permit, the Administrator shall determine if the Builder/Developer has an outstanding Credit/Reimbursement Amount and apply the appropriate subsection below to determine the Credit/Reimbursement Amount and remaining One-Time Facilities Special Taxes (if any) for the Builder/Developer:

- a. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer has first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

Step 1. Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.

Step 2. *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is **less** than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administration Component shall be collected and the Builder/Developer shall be given a Special Tax Credit against the Base Maximum One-Time Facilities Special Tax for that Parcel(s). After the Special Tax Credit has been calculated, the Administrator shall subtract the aggregate amount of such Special Tax Credits from the outstanding Credit/Reimbursement Amount for the Builder/Developer, and the Builder/Developer shall qualify for reimbursement of the remaining Credit/Reimbursement Amount to the extent One-Time Facilities Special Tax revenues are available.*

*If the Base Maximum One-Time Facilities Special Tax is **greater** than the outstanding Credit/Reimbursement Amount for the Builder/Developer, the Administrator shall subtract the outstanding Credit/Reimbursement Amount from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. In addition, the Builder/Developer must pay the full Administration Component assigned to the Parcel(s) for which the Building Permit is being issued. The Administrator shall update the CFD records to reflect a zero Credit/Reimbursement Amount for that Builder/Developer.*

- b. **A Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, and the Builder/Developer does not have first priority with respect to their Credit/Reimbursement Amount.**

For any Fiscal Year, the Administrator shall apply the following steps to determine the Maximum One-Time Facilities Special Tax, if any, that is due from the subject Parcel(s):

Step 1. Identify the Base Maximum One-Time Facilities Special Tax that would have been paid by the Parcel(s) if no Credit/Reimbursement Amount were outstanding.

Step 2. Identify the aggregate outstanding Credit/Reimbursement Amounts that have a higher priority than the amount due the Builder/Developer requesting issuance of a Building Permit.

Step 3. *If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is less than the Credit/Reimbursement Amounts that are due other Builders/Developers as determined in Step 2, the Base Maximum One-Time Facilities Special Tax and the Administration Component shall be collected from the Builder/Developer requesting issuance of a Building Permit. The Base One-Time Facilities Special Tax collected shall be used to reimburse Builders/Developers with higher reimbursement priority, and the Administration Component collected shall be retained by the City. The Builder/Developer requesting issuance of a Building Permit shall then qualify for a reimbursement of their entire Credit/Reimbursement Amount and be placed in order of priority behind any remaining Builders/Developers that still have outstanding Credit/Reimbursement Amounts.*

If the Base Maximum One-Time Facilities Special Tax determined in Step 1 is greater than the Credit/Reimbursement Amounts that are due all other Builders/Developers as determined in Step 2, the Administration Component and the amount of the aggregate Credit/Reimbursement Amounts that are due other Builder/Developers shall be collected from the Builder/Developer requesting issuance of a Building Permit. The outstanding Credit/Reimbursement Amounts due all other Builder/Developers shall be subtracted from the Base Maximum One-Time Facilities Special Tax to determine the net amount of the Base Maximum One-Time Facilities Special Tax that must be paid by the Builder/Developer. Using this net amount of the Base Maximum One-Time Facilities Special Tax as the starting point, the steps in Section D.3.a shall be applied to determine the remaining One-Time Facilities Special Tax and/or outstanding Credit/Reimbursement amount, if any, applicable to the Builder/Developer requesting issuance of a Building Permit.

c. No Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit

If no Credit/Reimbursement Amount is outstanding for the Builder/Developer requesting issuance of a Building Permit, then the Maximum One-Time Facilities Special Tax as calculated pursuant to Section C.1 above shall be due and payable to the City.

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. 2012-1 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for that Fiscal Year. 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;

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 on Taxable Property within CFD No. 2012-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2012-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual Maintenance Special Taxes through foreclosure or other available methods.

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 for Authorized Services and Administrative Expenses.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on 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 Annual Maintenance Special Tax shall be levied on any Parcel of Undeveloped Property.

H. 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.

I. ENFORCEMENT

All delinquent Annual Maintenance Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5% 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 January 1. This shall not prevent the City from simultaneously pursuing the delinquency by an action on a contract of 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.

ATTACHMENT 1

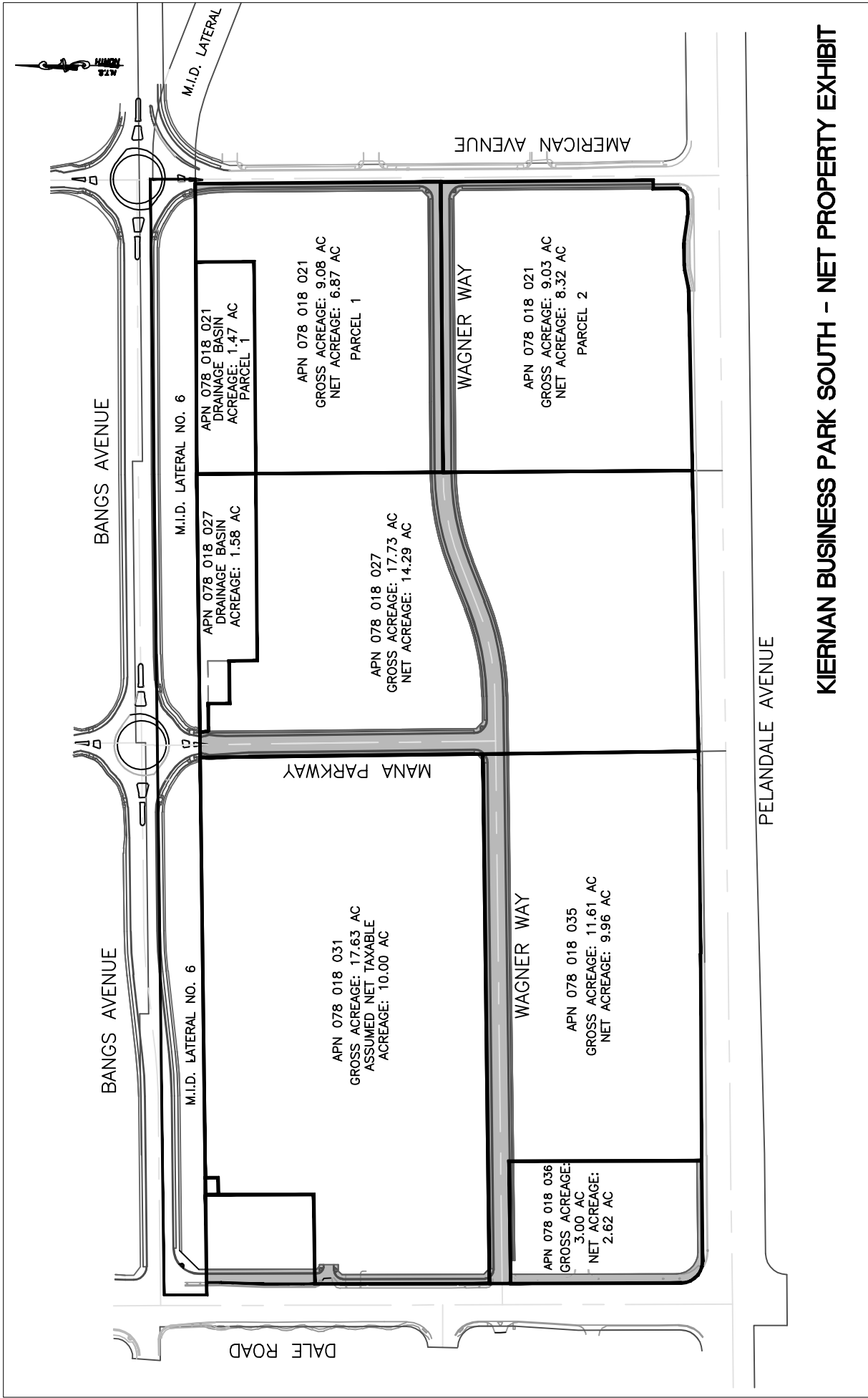
City of Modesto Community Facilities District No. 2012-1 (Kiernan Business Park South) Maximum One-Time Facilities Special Tax at CFD Formation

Assessor's Parcel Number (Original Parcels) /1	Net Taxable Acreage	Base Maximum One- Time Facilities Special Tax /2	Administration Component /2	Maximum One-Time Facilities Special Tax
078-018-021 (1)	6.87	\$1,351,942	\$14,502	\$1,366,444
078-018-021 (2)	8.32	\$1,803,001	\$17,563	\$1,820,564
078-018-027	14.29	\$2,948,137	\$30,166	\$2,978,303
078-018-031 /3	14.00	\$3,035,561	\$29,553	\$3,065,114
078-018-035 /3	9.96	\$2,233,405	\$26,556	\$2,259,961
078-018-036	2.62	\$0	\$0	\$0
Total		\$11,372,045	\$118,341	\$11,490,386

- /1 At the time of CFD Formation, APN 078-018-021 was anticipated to be subdivided into two separate parcels based on a preliminary parcel map submitted to the City. Attachment 2 to this RMA shows the geographic locations of APN 078-018-021 (1) and APN 078-018-021 (2) based on this preliminary parcel map. The Maximum One-Time Facilities Special Taxes shown above for these two Parcels were calculated based on this preliminary parcel map.
- /2 Represents the Base Maximum One-Time Facilities Special Tax and the Administration Component at the time of CFD Formation. Beginning in January 2013 and each January thereafter, the Base Maximum One-Time Facilities Special Tax and the Administration Component 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 Base Maximum One-Time Facilities Special Tax and the Administration Component shall become effective on January 1 of the calendar year for which the annual adjustment was made.
- /3 At the time of CFD Formation, APNs 078-018-031 and 078-018-035 were not included in the CFD. These Parcels may or may not annex to the CFD at a future date, and the Parcels will not pay the Maximum One-Time Facilities Special Tax until such time as the Parcels annex to the CFD and a Building Permit is issued for construction on the Parcels.

ATTACHMENT 2

**City of Modesto Community Facilities District No. 2012-1
(Kiernan Business Park South)
Identification of Original Parcels
at CFD Formation**



BANGS AVENUE

BANGS AVENUE

AMERICAN AVENUE

PELANDALE AVENUE

DALE ROAD

M.I.D. LATERAL NO. 6

M.I.D. LATERAL NO. 6

MANA PARKWAY

WAGNER WAY

WAGNER WAY

APN 078 018 021
DRAINAGE BASIN
ACREAGE: 1.47 AC
PARCEL 1

APN 078 018 027
DRAINAGE BASIN
ACREAGE: 1.58 AC

APN 078 018 031
GROSS ACREAGE: 17.63 AC
ASSUMED NET TAXABLE
ACREAGE: 10.00 AC

APN 078 018 021
GROSS ACREAGE: 9.08 AC
NET ACREAGE: 6.87 AC
PARCEL 1

APN 078 018 027
GROSS ACREAGE: 17.73 AC
NET ACREAGE: 14.29 AC

APN 078 018 036
GROSS ACREAGE:
3.00 AC
NET ACREAGE:
2.62 AC

APN 078 018 035
GROSS ACREAGE: 11.61 AC
NET ACREAGE: 9.96 AC

APN 078 018 021
GROSS ACREAGE: 9.03 AC
NET ACREAGE: 8.32 AC
PARCEL 2

KIERNAN BUSINESS PARK SOUTH - NET PROPERTY EXHIBIT