

TO: JAMES L. APP, CITY MANAGER

FROM: BOB LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: RESOLUTION OF INTENT TO ESTABLISH A COMMUNITY FACILITIES DISTRICT FOR SERVICES

DATE: FEBRUARY 15, 2005

Needs: For the City Council to consider adopting a Resolution of Intention establishing April 5, 2005, as the date on which a public hearing would be held to consider establishment of a Community Facilities District (CFD). The CFD would be intended to cover the incremental cost of providing City services to new residential development.

Facts:

1. "Fiscal Neutrality" is one of the corner-stone policies of the December 2003 General Plan up-date.
2. The "Fiscal Neutrality" policy is designed to provide assurances to current Paso Robles residents that they will not (a) pay for infrastructure or services demanded by new residential development and/or (b) suffer reduced levels of service resulting from new residential development.
3. New residential development impacts the community in three basic ways:
 - a. The cost of providing services (Police, Fire protection, Parks, Library, etc.); this is an annual, recurring cost that is not covered by any development impact fees;
 - b. School facilities are impacted by new students. Current State legislative limitations on fees that can be charged to new development only provide a fraction of the cost of providing new schools;
 - c. There are also regional infrastructure (physical facility costs) that may not be adequately covered by development impact fees, as well as local public improvements necessary to directly serve a development project.

4. In November 2003, the City received a report that documented the annual fiscal deficit created by new residential development. Based on that 2003 fiscal impact modeling, on average it would cost the City \$862 per dwelling unit, per year, to provide necessary services (above and beyond what the new residents will pay in terms of taxes and other City revenues).
5. At their meeting of October 19, 2004, the City Council adopted Goals and Policies for public finance, designed to implement the General Plan policies regarding "Fiscal Neutrality" and avoid the adverse fiscal impacts of new residential development. The adopting Resolution also called for formation of a Community Facilities District as soon as feasible. Copies are attached.
6. At their meeting of November 16, 2004, the City Council directed that a condition of approval be established for all new discretionary approvals for residential development. Since that point in time, two new residential tracts have been approved with a requirement that the developer enter into a Community Facilities District to cover the incremental increase in the cost of providing City services to their developments.
7. Attached for reference are a series of questions posed by the Home Builders Association (HBA) and point-by-point responses.
8. A summary description of the Proposed Scope of the City's Community Facilities District is also attached.
9. In response to the HBA's request and utilizing recent new home sales data provided by the HBA, the City's consultant, David Taussig and Associates, Inc., has prepared an updated projection of the deficit created by new residential development. The November 2003 figure for an average, annual cost of providing services to a new residential dwelling unit was \$862. The updated figure, incorporating the HBA statistics for recent new home sales and the current Fiscal Year 2004-05 City budget, is \$657.

Analysis
and

Conclusion:

Adoption of a Community Facilities District (CFD) has been identified as the most viable means to implement the General Plan policy regarding "Fiscal Neutrality" and avoid new residential development having an adverse impact on existing residents. Although the Home Builders Association would prefer to see the City pursue a City-wide tax that would have existing residents supporting / subsidizing the cost of providing services to new residents, that is not seen as a feasible approach.

The City's Fiscal Impact Analysis Model was utilized to provide an updated projection of the extent to which new residential development would require City services that are not paid for by the new residents. As noted above, the new figure of \$657 per dwelling unit per year is intended to be recovered by the City through establishment of a CFD for City services.

The \$_____ figure reflects an average annual cost of providing services to all new residential dwelling units. The City Council has the option of differentiating between types of dwelling units. For example, one could attribute the costs of providing services to detached single family homes versus attached and mobile home units. The result would likely be higher costs per unit for detached single family homes as compared to attached dwelling units and mobile homes. Attached dwelling units and mobile homes typically have less impacts in terms of traffic but there may be off-setting impacts in terms of other calls for service (e.g. police and/or emergency services). If the Council wishes to create a differentiation between the types of dwelling units, it would be appropriate to establish that pattern at the time the first CFD is formed (i.e.: at this point in the process).

Another consideration is whether or not the City wishes to make special provisions to mitigate the impacts of CFD special taxes on truly affordable housing (i.e.: housing that is created by a non-profit corporation or other entity with income limitations for occupants and/or other provisions to insure long-term affordability). It is the City Council's prerogative to provide exemptions from participating in the CFD requirement for affordable housing projects and such exemptions can be established on a case-by-case basis when the circumstances warrant; it is not necessary to establish any particular provisions for such exemptions at this time.

In conclusion, adopting the attached Resolution of Intention to establish a Community Facilities District to cover the incremental costs of City Services to new residential development would be:

- consistent with the General Plan policies that call for "Fiscal Neutrality"
- consistent with prior City Council actions to implement the adopted General Plan, including but not limited to the adopted Goals and Policies for Public Finance, and Council direction to establish conditions of approval to require CFD participation

- responsive to the Home Builders Association input that provided updated new home sales price information that assisted the City in identifying a new proposed average annual amount that needs to be mitigated for new residential developments.

In addition to the above, it is necessary for the City Council to take timely action on formation of the Community Facilities District formation so as not to delay the processing of two approved residential developments and any future residential developments as may be filed for City consideration.

Policy

Reference: General Plan policies calling for “Fiscal Neutrality”

Fiscal

Impact: The purpose of establishing a Community Facilities District is to implement the General Plan provisions calling for “fiscal neutrality.”

Options:

- Adopt Resolution of Intention No. 05-xx establishing April 5, 2005, as the date for consideration of adoption of a Community Facilities District for City Services, based on an average annual mitigation amount of \$657 for each new dwelling unit established through the discretionary entitlement process.
- Amend, modify or reject the foregoing option.

RESOLUTION NO. 05-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT

COMMUNITY FACILITIES DISTRICT NO. 2005-01

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code, this Council is authorized to establish a community facilities district and to act as the legislative body for such community facilities district; and

WHEREAS, the City Council of the City of El Paso Robles ("City"), having received a petition of ONE HUNDRED PERCENT (100%) of the property owners in the proposed community facilities district requesting that the City Council institute proceedings for the establishment of a community facilities district pursuant to the Act, for the purposes of paying the costs of services to be provided by the City for the additional services authorized to be financed pursuant to Sections 53313 and 53313.5 of the California Government Code that are necessary to meet increased demands placed upon the City as a result of the development of said real property (the "Property"), and agreeing to the services to be provided by the City and the costs incidental thereto; and

WHEREAS, the petition was accompanied by, and the City is in receipt of, a fee in the amount which the City determined is sufficient to compensate the City for all costs incurred in conducting proceedings to create the CFD pursuant to the Act; and

WHEREAS, the City Clerk of the City of El Paso De Robles has certified that the petition presented to the City Council complies with the requirements of Sections 53318 and 53319 of the California Government Code; and

WHEREAS, the City desires to proceed with the establishment of a community facilities district in order to finance the costs of public infrastructure necessary or incidental to development of the Property;

NOW, THEREFORE, BE IT RESOLVED, As follows:

SECTION 1. Authority. This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act.

SECTION 2. Name of CFD. The name proposed for the community facilities district is the City of El Paso De Robles Community Facilities District No. 2005-01 (Public Services District) (the "CFD").

SECTION 3. Boundaries Described. The proposed boundaries of the CFD are as shown on the map on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to record, or cause to be recorded, said map of the boundaries of the CFD in the office of the County Recorder of San Luis Obispo County within fifteen days of the date of adoption of this Resolution, but in any event at least fifteen days prior to the public hearing specified in paragraph 9 below.

SECTION 4. Services. The type of services proposed to be financed by the CFD and pursuant to the Act shall consist of those items listed as Services (the "Services") on Exhibit A hereto and hereby incorporated herein. The Council hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.5(a) of the Act.

SECTION 5. Special Tax. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes, or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and hereby incorporated herein.

This Council hereby finds that the provisions of Sections 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD.

SECTION 6. Exempt Property. Except as may otherwise be provided by law or by the rate and method of apportionment of the Special Tax for the CFD, all lands owned by any public entity, including the United States, the State of California and the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax. In the event that a portion of the property within the CFD shall become for any reason exempt, wholly or in part, from the levy of the Special Tax, this Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD which is not exempt in order to yield the required debt service payments and other annual expenses of the CFD, if any, subject to the provisions of the rate and method of apportionment of the Special Tax.

SECTION 7. Election. The levy of the Special Tax shall be subject to the approval of the qualified electors of the CFD at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD. The Council hereby determines that the Facilities and Services are necessary to meet increased demands placed upon local agencies as the result of development occurring within the CFD.

SECTION 8. CFD Report. The City's Public Works Director/City Engineer, as the officer having charge and control of the Services in and for the CFD, or the designee of such official, is hereby directed to study said proposed Services and to make, or cause to be made, and file with the City Clerk a report in writing (the "CFD Report") presenting the following:

- (a) A description of the Services by type which will be required to adequately meet the needs of the CFD.
- (b) An estimate of the fair and reasonable cost of the Services including the cost of incidental expenses in connection therewith.

The CFD Report shall be made a part of the record of the public hearing specified below.

SECTION 9. Public Hearing. On April 5, 2005, at 7:30 PM or as soon as possible thereafter, in the City Council Chambers, located at 1000 Spring Street, this Council, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD and the levy of the Special Tax.

SECTION 10. Notice of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication shall be completed at least seven days before the date of the public hearing referenced in Section 10. The notice shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 15th day of February 2005 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

Exhibit A

DESCRIPTION OF SERVICES TO BE FINANCED BY THE CFD

City of Paso Robles Community Facilities District No. 2005-01

The Services described below are proposed to be financed by Community Facilities District No. 2005-01 (the "CFD") of the City of El Paso de Robles (the "City"):

The services to be financed by the CFD comprise services ("Services") authorized to be financed pursuant to Section 53313 and 53313.5 of the Government Code. CFD 2005-01 shall finance Services only to the extent they are in addition to those provided in the territory of CFD 2005-01 before the CFD was created and such Services may not supplant services already available within CFD 2005-01 when the CFD was created.

**RATE AND METHOD OF APPORTIONMENT FOR
CITY OF PASO ROBLES
COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in City of Paso Robles Community Facilities District No. 2005-1 (Public Services) ("CFD No. 2005-1") and collected each Fiscal Year commencing in Fiscal Year 2005-06, in an amount determined by the Council through the application of the appropriate Special Tax for "Developed Property," as described below. All of the real property in CFD No. 2005-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2005-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2005-1 or any designee thereof of complying with City, CFD No. 2005-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2005-1 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2005-1 for any other administrative purposes of CFD No. 2005-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

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

"Blended Consumer Price Index" means the sum of the Los Angeles Urban Consumer Price Index and the San Francisco Urban Consumer Price Index, divided by two.

"CFD Administrator" means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2005-1" means City of Paso Robles Community Facilities District No. 2005-1 (Public Services).

"City" means the City of Paso Robles.

"Council" means the City Council of the City, acting as the legislative body of CFD No. 2005-1.

"County" means the County of San Luis Obispo.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Residential Property, except Exempt Residential Property, for which a building permit has been issued on or after April 1, 2005. .

"Dwelling Unit" means a building or portion thereof designed for and occupied in whole or part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

"Exempt Residential Property" means up to four (4) dwelling units on multi-family zoned parcel.

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

"Land Use Class" means any of the classes listed in Table 1.

"Los Angeles Urban Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the Los Angeles - Anaheim - Riverside Area, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the City of Los Angeles.

"Maximum Special Tax" means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor's Parcel.

"Non-Residential Propety" means, for each Fiscal Year, all Assessor's Parcels of Developed Property for which a building permit was issued on or after April 1, 2005, for a non-residential use.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association.

"Proportionately" means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property.

"Public Property" means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2005-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Property" means, for each Fiscal Year, all Assessor's Parcels of Developed Property, except Exempt Residential Property, for which a building permit was issued on or after March 1, 2005, for purposes of constructing one or more residential Dwelling Units.

"San Francisco Urban Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco – Oakland - San Jose Area, measured as of the month of December in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco – Oakland - San Jose Area.

"Secondary Dwelling Unit" means a secondary dwelling unit on a single-family residential zoned parcel, or a caretaker unit on a commercial or industrial zoned parcel.

"Services" means those services authorized to be financed by CFD No. 2005-1 pursuant to Section 53313 and Section 53313.5 of the Act. CFD No. 2005-1 shall finance Services only to the extent that they are in addition to those provided in the territory of CFD No. 2005-1 before the CFD was created and such Services may not supplant services already available within CFD No. 2005-1 when the CFD was created.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount to be collected in any Fiscal Year for CFD No. 2005-1 to pay for certain costs as required to meet the needs of the CFD in that Fiscal Year. The costs to be covered shall be the direct costs for (i) Services, and (ii) Administrative Expenses; less (iii) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator. Under no circumstances shall the Special Tax Requirement include debt service payments for debt financings by CFD No. 2005-1.

"State" means the State of California.

"Undeveloped Property" means, for each Fiscal Year, all property not classified as Developed Property, Exempt Residential Property, Non-Residential Property, Property Owner Association Property, or Public Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor's Parcels, as applicable within CFD No. 2005-1, shall be classified as Developed Property, Exempt Residential Property, Non-Residential Property, Undeveloped Property, Property Owner Association Property, or Public Property. However, only Developed Property shall be subject to annual Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. All Developed Property shall be assigned to Land Use Class 1.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

a. Maximum Special Tax

The Maximum Special Tax for Fiscal Year 2005-06 for Developed Property is shown below in Table 1. Such Special Taxes shall only be levied for new structures on Residential Property. However, under no circumstances shall a Special Tax be levied on additions to existing Dwelling Units or on Secondary Dwelling Units.

TABLE 1

**Maximum Special Taxes for Developed Property
For Fiscal Year 2005-06
Community Facilities District No. 2005-1**

Land Use Class	Land Use	Maximum Special Tax Per Dwelling Unit
1	Residential Property	\$657.00 per Dwelling Unit

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Tax for Developed Property shall be increased annually by the greater of the change in the Blended Consumer Price Index during the twelve months prior to December of the previous Fiscal Year, or two percent (2%).

2. Undeveloped Property

No Special Taxes shall be levied on Undeveloped Property.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2005-06 and for each following Fiscal Year, the Council shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Developed Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. EXEMPTIONS

In addition to Undeveloped Property being exempt from annual Special Taxes, no Special Tax shall be levied on Exempt Residential Property, Non-Residential Property, Public Property or Property Owner Association Property. Furthermore, Secondary Dwelling Units, even if located on Developed Property, shall be exempt from annual Special Taxes. However, should an Assessor's Parcel no longer be classified as Non-Residential Property, Public Property or Property Owner Association Property, such Assessor's Parcel shall, upon each reclassification, no longer be exempt from Special Taxes.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant's disagreement with the CFD Administrator's determination. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

G. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2005-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations.

H. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement.

NOTICE OF PUBLIC HEARING
Regarding Establishment of
City of El Paso de Robles
Community Facilities District No. 2005-01

Notice is hereby given that on February 15, 2005, the City Council (the "Council") of the City of El Paso de Robles (the "City") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), adopted Resolution No. 05-____, entitled "A Resolution of the City Council of the City of El Paso de Robles of Intention to Establish a Community Facilities District" relating to City of El Paso de Robles Community Facilities District No. 2005-01. Under the Act and that Resolution the City hereby gives notice as follows:

A. The text of the body of the Resolution is as follows:

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code, this Council is authorized to establish a community facilities district and to act as the legislative body for such community facilities district; and

WHEREAS, the City Council of the City of El Paso Robles ("City"), having received a petition of ONE HUNDRED PERCENT (100%) of the property owners in the proposed community facilities district requesting that the City Council institute proceedings for the establishment of a community facilities district pursuant to the Act, for the purposes of paying the costs of services to be provided by the City for the additional services authorized to be financed pursuant to Sections 53313 and 53313.5 of the California Government Code that are necessary to meet increased demands placed upon the City as a result of the development of said real property (the "Property"), and agreeing to the services to be provided by the City and the costs incidental thereto; and

WHEREAS, the petition was accompanied by, and the City is in receipt of, a fee in the amount which the City determined is sufficient to compensate the City for all costs incurred in conducting proceedings to create the CFD pursuant to the Act; and

WHEREAS, the City Clerk of the City of El Paso De Robles has certified that the petition presented to the City Council complies with the requirements of Sections 53318 and 53319 of the California Government Code; and

WHEREAS, the City desires to proceed with the establishment of a community facilities district in order to finance the costs of public infrastructure necessary or incidental to development of the Property;

NOW, THEREFORE, BE IT RESOLVED, As follows:

Section 1. Authority. This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act.

Section 2. Name of CFD. The name proposed for the community facilities district is the City of El Paso De Robles Community Facilities District No. 2005-01 (Public Services District) (the "CFD").

Section 3. Boundaries Described. The proposed boundaries of the CFD are as shown on the map on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to record, or cause to be recorded, said map of the boundaries of the CFD in the office of the County Recorder of San Luis Obispo County within fifteen days of the date of adoption of this Resolution, but in any event at least fifteen days prior to the public hearing specified in paragraph 9 below.

Section 4. Services. The type of services proposed to be financed by the CFD and pursuant to the Act shall consist of those items listed as Services (the "Services") on Exhibit A hereto and hereby incorporated herein. The Council hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.5(a) of the Act.

Section 5. Special Tax. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes, or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and hereby incorporated herein.

This Council hereby finds that the provisions of Sections 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD.

Section 6. Exempt Property. Except as may otherwise be provided by law or by the rate and method of apportionment of the Special Tax for the CFD, all lands owned by any public entity, including the United States, the State of California and the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the Special Tax. In the event that a portion of the property within the CFD shall become for any reason exempt, wholly or in part, from the levy of the Special Tax, this Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD which is not exempt in order to yield the required debt service payments and other annual expenses of the CFD, if any, subject to the provisions of the rate and method of apportionment of the Special Tax.

Section 7. Election. The levy of the Special Tax shall be subject to the approval of the qualified electors of the CFD at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD. The Council hereby determines that the Facilities and Services are necessary to meet increased demands placed upon local agencies as the result of development occurring within the CFD.

Section 8. CFD Report. The City's Public Works Director/City Engineer, as the officer having charge and control of the Services in and for the CFD, or the designee of such official, is hereby directed to study said proposed Services and to make, or cause to be made, and file with the City Clerk a report in writing (the "CFD Report") presenting the following:

- (a) A description of the Services by type which will be required to adequately meet the needs of the CFD.
- (b) An estimate of the fair and reasonable cost of the Services including the cost of incidental expenses in connection therewith.

The CFD Report shall be made a part of the record of the public hearing specified below.

Section 9. Public Hearing. On April 5, 2005, at 7:30 PM or as soon as possible thereafter, in the City Council Chambers, located at 1000 Spring Street, this Council, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD and the levy of the Special Tax.

Section 10. Notice of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication shall be completed at least seven days before the date of the public hearing referenced in Section 10. The notice shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

For a complete copy of the Resolution, including the Exhibits thereto, contact the City Clerk of the City of El Paso de Robles at City Hall, 1000 Spring Street, Paso Robles, CA 93446.

B. The time and place established under the above Resolution for the public hearing required under the Act is April 5, 2005, at 7:30 p.m., or as soon as possible thereafter, in the City Council Chambers, 1000 Spring Street, Paso Robles, CA 93446.

C. At said hearing, the testimony of all interested persons or taxpayers for or against the establishment of the CFD, the extent of the CFD or the furnishing of the specific types of facilities and services will be heard. Any person interested may file a protest in writing as provided in Section 53323 of the Act. If the owners of one-half or more of the

area of land in the territory proposed to be included in the CFD file written protests against the establishment of the CFD and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council shall take no further action to establish the CFD for a period of one year from the date of said hearing, and if the majority protests of the landowners are only against the furnishing of a type or types of facilities or services or the specified special tax will be eliminated from the proceedings to form the CFD.

D. The proposed voting procedure shall be by special mail or hand-delivered ballot to the property owners within the territory proposed to be included in the CFD.

Dated as of _____, 2005

Sharilyn M. Ryan
Deputy City Clerk of the City of El Paso de Robles

Published: _____

RESOLUTION NO. 04-233

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
APPROVING GOALS AND POLICIES FOR PUBLIC FINANCE AND
DIRECTING CITY STAFF TO PURSUE FORMATION OF A COMMUNITY FACILITIES
DISTRICT OR DISTRICTS AS NECESSARY TO IMPLEMENT THE
GENERAL PLAN GOAL OF FISCAL NEUTRALITY

WHEREAS, on December 16, 2003, the City Council approved an update to the City's General Plan, including a policy that calls for Fiscal Neutrality; and

WHEREAS, the City's Fiscal Impact Analysis Model, summarized in a report dated November 2003, has concluded that there is a need to off-set a deficit of approximately \$862 per dwelling unit per year in terms of the cost of providing services versus revenues generated by new residential development; and

WHEREAS, on September 21, 2004 the City Council received and filed for public review and comment a copy of a Draft "Public Finance Local Goals and Policies" and setting October 19, 2004 as the date to consider adoption of said goals and policies; and

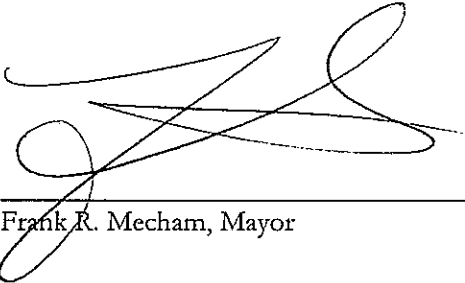
WHEREAS, without adequate financial resources the City of Paso Robles and the Paso Robles School District would face a significant adverse impact as a result of approving new residential entitlements; and

WHEREAS, the attached Public Finance Local Goals and Policies are intended to avoid that adverse fiscal impact and help achieve "fiscal neutrality".

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Paso de Robles that the City Council hereby approves and adopts the attached Public Finance Local Goals and Policies (labeled Exhibit A) and directs City staff to pursue formation of a Community Facility District or Districts as necessary to insure the fiscal neutrality called for in the City's General Plan.

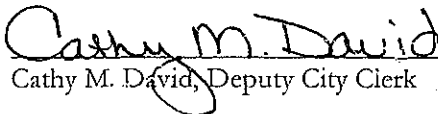
PASSED AND ADOPTED by the City Council of the City of Paso Robles this 19th day of October 2004 by the following vote:

AYES: Nemeth, Picanco and Mecham
NOES: None
ABSTAIN: None
ABSENT: Finigan and Heggarty



Frank R. Mecham, Mayor

ATTEST:



Cathy M. David, Deputy City Clerk

CITY OF PASO ROBLES
PUBLIC FINANCE
LOCAL GOALS AND POLICIES

I. INTRODUCTION

The City of Paso Robles (the "City"), in its General Plan Update, has recognized the need for new development located within the City to be fiscally neutral, and to pay for all public facilities and services necessary to serve its needs. These City policies have been formally recognized by the City Council in the adoption of Resolution 03-032, which states, in part, the following:

"WHEREAS, in terms of insuring adequate resources to accommodate potential growth and development, the 2003 General Plan update program included preparation of a Fiscal Impact Analysis Model to evaluate the potential impacts (costs) of providing services to new development within the current City boundaries, within areas of potential expansion, and the combination of growth in City and expansion areas; and

WHEREAS, the proposed 2003 General Plan update includes policies that would call for potential annexation areas and Specific Plans to be "fiscally neutral" in terms of their impact on the City's ability to provide services and impacts on City and School District facilities/infrastructure, and the City Council would have the ability to extend this policy to include "fiscal neutrality" for all new development, including infill; and

WHEREAS, a demonstration of "fiscal neutrality" would involve (but not be limited to) using various techniques to off-set adverse financial impacts on the City through the creation of Community Facilities Districts, Home Owners' Associations, and payment of Endowment Fees (or combinations of techniques); and

WHEREAS, providing adequate facilities to support areas of potential growth and development is an essential part of the land use planning process; and

WHEREAS, for areas of growth beyond current City boundaries, Specific Plans would be used to identify detailed land use patterns/distributions of density, development standards, infrastructure requirements, and financing mechanisms for improvements and on-going operations and maintenance (consistent with the policy parameters provided by the General Plan); and

WHEREAS, within current City boundaries, project-level reviews would determine infrastructure improvement needs and Specific Plan fees and/or conditions of approval would supplement standard City impact mitigation requirements related to infrastructure needs; and

Exhibit A Attachment ☐
To Resolution No. 04-233 N.S
To Ordinance No. _____
Page 1 of 9

EXHIBIT "A"

WHEREAS, through the Specific Plan and development project review process more detailed mitigation measures addressing facilities phasing, parks and trails, project amenities, coordinated architecture, and the location and mix of land uses would be identified and implemented through project design and Conditions of Approval...

NOW, THEREFORE, BE IT FOUND, DETERMINED AND RESOLVED by the City Council of the City of Paso Robles as follows:

5. 2003 General Plan Implementation. As part of its action in approving the 2003 General Plan Update, the City Council directed that implementation include, but not be limited to, the following:

To deal with these issues, the City Council has directed staff to do the following:

- Updating the City's Development Impact Fee schedule to reflect the full potential growth and infrastructure needs outlined in the General Plan.
- Utilizing the City's Fiscal Impact Analysis Model to evaluate all Specific Plans, including those that are to be prepared for proposed Annexation Areas, to insure fiscal neutrality in terms of impacts on the City's ability to provide services.
- Pursuing formation of one or more Community Facility Districts ("CFDs") to supplement Development Impact Fees and Specific Plan Fees to mitigate both infrastructure and service impacts of new development, including but not limited to Specific Plan and annexation areas, for both the City and the School District. Policy options will be presented to the City Council and Planning Commission addressing financial impacts on affordable housing projects as defined in the City's Housing Element."

The Public Finance Local Goals and Policies delineated below have been prepared to serve two functions. First, they are intended to provide guidelines for the implementation of the City Council's requirement that all new development be fiscally neutral, which would include the use of Community Facilities Districts ("CFDs") and other financing mechanisms. Second, if the City decides to establish one or more CFDs to help fund public facilities and services, Section 53312.7(a) of the California Government Code provides that a local agency must first have considered and adopted local goals and policies concerning the use of CFDs. The goals and policies delineated below are therefore also intended to meet the requirements of Section 53312.7(a).

II. PUBLIC FINANCE PROGRAM PRIORITIES AND LIMITATIONS

The City shall consider the use of land-secured public financing districts ("Financing Districts") to fund public facilities and public services required by new and existing development, but under no circumstances shall the City General Fund be used to guarantee payments if the special taxes or assessments utilized by such districts are inadequate to cover the obligations of such districts. Both CFDs and Assessment Districts ("ADs") may be utilized to fund public facilities through the sale of

bonds, or in the case of a CFD, through the levy of special taxes to fund public facilities on a pay-as-you-go basis. CFDs shall be the preferred mechanism to finance public facilities due to the larger variety of facilities that are eligible for CFD financing, but ADs may also be utilized when the City determines that they are appropriate for a specific situation. CFDs, ADs, and Landscaping and Lighting Districts ("LLDs") may each be utilized when the City decides to fund public services.

A. PRIORITIES FOR FINANCING PUBLIC FACILITIES

The use of Financing Districts to fund public facilities is an option that may be made available by the City to proponents of new development and existing property owners to assist in the timely provision of such facilities. The Financing Districts are intended to complement development impact fees ("DIFs"), which are the revenue source that is currently being utilized by the City to finance a portion of the City's future backbone facilities. The public facilities that will be eligible for funding through the City's use of Financing Districts shall be as follows:

- (a) backbone infrastructure and facilities required to serve proposed and existing development, as specified in the General Plan Update and eligible for financing under the Mello-Roos Community Facilities Act of 1982 (the "CFD Act") and the Municipal Improvement Acts of 1913 and 1915 (the "1913/1915 Acts");
- (b) school facilities owned and operated by Paso Robles Unified School District (the "School District");
- (c) development impact fees to fund regional facilities necessary to provide water for proposed and existing development

Generally, in-tract infrastructure, facilities that are being required as a condition for annexation of a property to the City, and development impact fees (other than those for regional water, sewer and school facilities) will not be publicly financed by the City, except as approved by the City Council on a case-by-case basis. Public facilities to be owned and/or operated by a public agency other than the City or the School District, including such public facilities financed *in lieu* of the payment of development fees imposed by such public agency, will also be considered on a case-by-case basis.

B. PRIORITIES FOR FINANCING PUBLIC SERVICES

All proposed residential development requesting new entitlements from the City shall be required to fully fund all recurring costs to the City related to the provision of public services. To achieve this goal, the City shall require new residential development to form or annex to a Financing District that will provide revenues on an annual basis to fund such services, thereby supplementing those revenue sources traditionally provided by residential development. As commercial development frequently has a positive fiscal impact on the City General Fund, it will not be required to form or annex to a Financing District for services unless specifically conditioned to do so by the City. Parcels owned by public agencies, property owner associations, religious groups or certified non-profit corporations

(e.g., Section 501 (c)(3)) shall also not be required to form or annex to a Financing District for services.

The specific services to be funded shall be dependent upon the type of Financing District appropriate for a proposed development project. It is anticipated that the City will utilize one or more of the following three types of Financing Districts to assure that its annual costs to provide services to a proposed development are fully covered:

- (a) Community Facilities District
- (b) Assessment District under the Benefit Assessment Act of 1982
- (c) Landscaping and Lighting District under the Landscaping and Lighting Act of 1972

While both CFD and AD financing under the 1913/1915 Acts may both be used to fund public facilities, it is the City's expectation that CFDs will be used more frequently due to their ability to finance a greater variety of facilities and their flexibility in the apportionment of special taxes. Therefore, the policies listed below refer specifically to CFDs. To the extent legally permissible, these same policies shall also apply to all future Assessment Districts utilized to fund infrastructure. In cases where State law contradicts these policies in terms of their application to Assessment Districts, State law shall prevail.

III. COMMUNITY FACILITIES DISTRICT POLICIES

Proceedings to establish a CFD to fund public facilities shall generally be initiated by a petition submitted to the City Council by property owners, as provided in Section 53318 of the Government Code. Proceedings to establish a CFD to fund public services may be initiated by a petition of property owners or by the City through a resolution adopted by the City Council. It is anticipated that the City may establish one CFD to fund public services, and then require new development to annex to that CFD at some point in the development process.

A. BOND ISSUE CREDIT QUALITY REQUIREMENTS

Statutory Requirements. The City will require that the credit quality of any CFD bond issue be such that the requirements of Section 53345.8 of the Government Code will be met.

Reserve Fund. In order to enhance the credit quality of CFD bond issues, the City generally will require that each such bond issue be secured by a reserve fund. Generally, each such reserve fund will be required to be funded (with cash or an acceptable reserve surety or other credit facility) in an amount no less than the least of (a) 10% of the initial principal amount of the bonds of such issue, (b) maximum annual debt service on the bonds of such issue, and (c) 125% of the average annual debt service on the bonds of such issue. Any reserve surety or other credit facility funding such a reserve fund will generally be required to be issued or guaranteed by an entity, the long term unsecured obligations of which are rated at least "A" by Moody's Investors Service or Standard & Poor's Ratings Service.

Credit Enhancement. The City may require credit enhancement to increase the credit quality of a CFD Act or 1913/1915 Act bond issue, particularly where the value-to-lien ratio of a significant portion of the property in such CFD is less than three-to-one or, in the case of commercial property, where a substantial amount of such property is undeveloped or has a value-to-lien ratio of less than four-to-one. Such credit enhancement will usually be in the form of an irrevocable letter of credit, will be required to be in an amount not less than two times the amount of annual special taxes levied on such undeveloped property and will be required to remain in effect until such property is developed or the value thereof has otherwise been sufficiently increased. Such letter of credit will generally be required to be issued or guaranteed by an entity, the long term unsecured obligations of which are rated at least "A" by Moody's Investors Service or Standard & Poor's Ratings Service.

Capitalized Interest. The amount of capitalized interest funded for an issue of CFD bonds may not exceed any maximum specified in the CFD Act.

Bond Structure. The term to maturity of any CFD Act bonds shall not exceed the maximum term specified in the Act. In determining appropriate debt service schedules, bonds must be structured such that debt service thereon escalates by no more than 2% per bond year.

B. DISCLOSURE TO PROSPECTIVE PROPERTY PURCHASERS

In order to ensure that prospective property purchasers are fully informed about their taxpaying or assessment paying obligations imposed under the Act, the City will require that the requirements of disclosure to prospective property purchasers contained in the Government and Streets and Highways Codes, including, but not limited to, Sections 53328.3, 53328.5 (including the referenced sections of the California Streets and Highways Code), 53340.2, 53341.5 and 53754 of the Government Code, be met.

C. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Reasonable Basis of Apportionment. Special taxes must be allocated and apportioned on a reasonable basis to all categories and classes of property (other than exempt property) within a CFD. Exemptions from the special tax may be given to parcels that are publicly-owned, are held by property owners associations, religious groups or non-profit entities, are used for a public purpose such as open space or wetlands, or are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easement.

Total Tax Burden. The total tax burden (consisting of the anticipated maximum annual CFD special tax, together with *ad valorem* property taxes, special assessments, special taxes for any overlapping CFD, and any other taxes, fees and charges payable from and secured by the property) on any parcel in a CFD on which a for-sale residential unit has been, is being or is to be constructed shall not exceed 2% of the estimated base sales price of such parcel upon completion of the public and private improvements relating thereto.

Rate and Method of Apportionment. The rate and method of apportionment for CFD special taxes must be structured so as to produce special tax revenues sufficient to pay (a) debt service on all CFD bonds, and (b) reasonable and necessary annual administrative expenses of the CFD. Additionally, the rate and method of apportionment may be structured so as to produce amounts sufficient to fund (a) any amounts required to establish or replenish any reserve fund established for a CFD bond issue, (b) amounts to pay directly the costs of public facilities authorized to be financed by the CFD, (c) amounts to pay the costs of services authorized to be financed by the CFD, (d) the accumulation of funds reasonably required for future debt service on CFD bonds, (e) amounts equal to projected delinquencies in special tax payments, (f) remarketing, credit enhancement or liquidity fees, and (g) any other costs or payments permitted by law.

In any case, the CFD special tax rate and method of apportionment must be structured such that the projected maximum special tax that could be levied in any fiscal year would produce special tax revenues at least equal to (a) 110% of projected annual debt service on all CFD bonds for the calendar year commencing in such fiscal year, plus (b) projected administrative expenses of the CFD for the calendar year commencing in such fiscal year. Generally, the rate and method of apportionment for CFD special taxes will be required to include a back-up tax so that changes in development within the CFD would not result in the inability to levy special taxes that would produce special tax revenues in such amounts.

Increases in Special Tax. The maximum special tax levied to finance the construction of public facilities for any parcel within a CFD for which a building permit for the construction of a for-sale residential unit has been issued shall not escalate by more than two percent annually. The annual increase, if any, in the maximum special tax levied to finance public facilities for any other residential or non-residential parcel within a CFD, and the annual increase, if any, in the maximum special tax levied to finance services for any parcel within a CFD, may not exceed any maximum specified in the Act. The increase in the special tax levied on any parcel within a CFD as a consequence of delinquency or default by the owner on any other parcel may not exceed any maximum specified in the Act.

Prepayment of Special Tax. Generally, the special tax rate and method of apportionment for a CFD that finances public facilities will be structured so as to allow the prepayment of special taxes by property owners. No prepayment shall be allowed for any special tax that finances public services.

Administrative Expenses The special tax levied in a CFD shall include an amount for administrative expenses relating to the CFD, including expense necessary for the enrollment and collection of the annual special taxes and any necessary bond administration.

D. APPRAISALS

Except as provided below, the definitions, standards and assumptions to be used in appraisals required in connection with the City's use of the Act for CFDs are as set forth in the Appraisal Standards for Land Secured Financings published by the California Debt and Investment Advisory Commission and dated May 1994 (the "CDIAC Guidelines"), with the following modifications:

- (a) the independent review appraiser is an option, and not a requirement;
- (b) the comparable sales method may be used whenever there is sufficient data available;
- (c) the appraiser should assume the presence of the public facilities to be financed with the bonds in connection with which the appraisal is being prepared; and
- (d) the special tax lien need not be computed as the present value of the future tax payments if there is a prepayment mechanism or other appropriate measure.

Notwithstanding the foregoing, if there is a conflict between the definitions, standards or assumptions in the CDIA Guidelines and the corresponding definitions, standards or assumptions in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation ("USPAP"), USPAP shall govern.

E. DISCLOSURE FOR BOND ISSUES

Initial Disclosure. Each owner of property within a CFD that has not reached its planned development stage and that will be responsible for a substantial portion (as determined by the City) of annual debt service on an issue of CFD bonds will be required to provide for inclusion in the official statement or other offering materials distributed in connection with the offering and sale of such bonds such information as may be required for the City to comply with, satisfy any requirements of, or avoid any liability under, any applicable federal or state securities laws.

Continuing Disclosure. Each owner of property within a CFD, and each subsequent owner of property therein, that has not reached its planned development stage and that will be responsible for a substantial portion (as determined by the City) of annual debt service on an issue of CFD bonds will be required to provide such information, on an ongoing basis, as may be required for the underwriter of such bonds to satisfy the requirements imposed on it pursuant to Rule 15c2-12 promulgated under the Securities Exchange Act of 1934.

F. DEPOSITS

The costs of the proceedings for a CFD financing initiated by petition of landowners will be borne by the petitioners. No action will be taken on any petition unless and until a deposit of funds is made by the petitioners with the City. The deposit must be sufficient to cover the expense of City member staff time, the costs of non-contingent outside consultants retained for the financing and the costs of recordings, filings, duplication, mailings and deliveries. The deposit must be increased upon demand of the City if at any time the City determines that the remaining amount is not sufficient to cover anticipated remaining expenses and costs. If the additional amount is not paid within ten business days of the mailing of a written demand by the City to the petitioners, the City will cease all activities with respect to the CFD financing until the additional amount is paid. The initial deposit and any additional amounts will be held by the City and used only for the expenses and costs incurred in connection with the CFD proceedings. Any balance of

such deposit remaining upon completion of the CFD proceedings, or the abandonment thereof, and not needed to pay expenses and costs relating thereto will be returned to the petitioner. The use of the deposit shall in no way be construed as requiring the City to issue CFD bonds or to provide reimbursement from the proceeds thereof for portions of the deposit that are expended.

If bonds are issued by a CFD, the petitioners will be reimbursed from bond proceeds for the portion of such deposit that has been expended or encumbered.

G. CONSULTANTS

The City will select all consultants to be retained by the City for a CFD financing, including, but not limited to, the financial advisor, special tax consultant, bond counsel, disclosure counsel, underwriter, market absorption analyst, appraiser and trustee. Providers of letters of credit, bond insurance policies, surety bonds or other credit enhancements are also subject to City approval. Consultants, including legal counsel, to the applicant or any financing team member other than the City will be selected, retained and paid by the applicant or such member; such consultants will not be paid from the proceeds of the financing.

IV. OTHER FINANCING DISTRICTS TO FUND PUBLIC SERVICES

For purposes of financing public services, CFDs will also be the type of Financing District utilized most frequently by the City, due to the wide variety of public services that are eligible for funding through this type of district. However, in cases where it is necessary to fund public services that are not eligible for CFD funding (e.g., road maintenance and lighting services), the City may choose to utilize other types of Financing Districts. The two most likely other types of Financing Districts to be utilized are an Assessment District established under the 1982 Benefit Assessment Act and a Landscaping and Lighting District ("LLD") established under the Landscaping and Lighting Act of 1972. Proceedings to establish an AD or LLD to fund public services may be initiated by a petition of landowners or by the City through a resolution adopted by the City Council. The following guidelines are to be utilized when establishing ADs and LLDs to fund public services.

A. DISCLOSURE TO PROSPECTIVE PROPERTY PURCHASERS

In order to ensure that prospective property purchasers are fully informed about their taxpaying or assessment paying obligations imposed under the Act, the City will require that the requirements of disclosure to prospective property purchasers contained in the Government and Streets and Highways Codes, including, but not limited to, Sections 53328.3, 53328.5 (including the referenced sections of the California Streets and Highways Code), 53340.2, 53341.5 and 53754 of the Government Code, be met.

B. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES

Direct and Special Benefit The apportionment of the assessments among the parcels included within an AD or LLD shall be based upon the direct and special benefit each parcel receives from the public services to be financed.

Total Tax Burden. The total tax burden (consisting of the anticipated maximum annual AD or LLD Assessment, together with *ad valorem* property taxes, special assessments for any overlapping AD, special taxes for any CFD, and any other taxes, fees and charges payable from and secured by the property) on any parcel in an AD or LLD on which a for-sale residential unit has been, is being or is to be constructed shall not exceed 2% of the estimated base sales price of such parcel upon completion of the public and private improvements relating thereto.

Increases in Assessment. The annual increase, if any, in the assessment levied to finance services for any parcel within an AD or LLD may not exceed any maximum specified in the Act.

V. MINIMUM STANDARDS, WAIVERS AND AMENDMENTS

The policies set forth herein reflect the minimum standards under which the City will make use of Financing Districts to fund public facilities. The City may, in its discretion, require additional measures and procedures, enhanced security and higher standards in particular cases.

The City may, in its discretion and to the extent permitted by law, waive any of the policies set forth herein in particular cases.

The goals and policies set forth herein may be amended at any time and from time to time by the City.

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RESOLUTION OF THE COUNCIL
OF THE CITY OF PASO ROBLES, STATE OF CALIFORNIA

IN THE MATTER OF:

No. 04-233

Approving goals and policies for Public
Finance and directing city staff to pursue
information of a Community Facilities
District or Districts

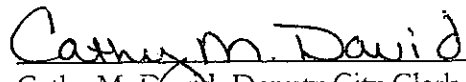
I, Cathy M. David, Deputy City Clerk of the City of Paso Robles, certify that the foregoing is a full, true and correct copy of Resolution No. 04-233 proposed by Councilmember Nemeth, seconded by Councilmember Picanco, was duly passed and adopted by the Council of the City of El Paso de Robles at its regular meeting on October 19, 2004, by the following vote:

AYES: Councilmembers: Nemeth, Picanco, and Mecham

NOES: Councilmembers: None

ABSTAIN: Councilmembers: None

ABSENT: Councilmembers: Finigan and Heggarty



Cathy M. David, Deputy City Clerk and
Ex-Officio Clerk of the City Council

Responses to Home Builders Association Questions of January 31, 2005

David Taussig responses:

1. Does the above property tax information show that existing property owners aren't paying enough property tax to offset the cost of providing them public services?

Response - It is true that existing residential development does not fully cover all of the cost of services currently provided to it by the City. However, there is sufficient commercial development, particularly retail and hotel/motel development, that produces significantly greater revenues than costs, which allows the City to balance its General Fund each year. It is not known at this time whether sufficient future commercial development (creating net, new, incremental income) will occur on a timely basis to cover the negative fiscal impacts of new residential development. Therefore, to make certain that existing property owners will not be forced to subsidize the cost of services necessitated by new residential development or face a decline in the level of services, the City is requiring all residential development requiring new entitlements to agree to the implementation of a financing mechanism that assures that this new development has a fiscally neutral impact on the City's General Fund.

2. What happens if citizens vote a community facility district out of existence?

Response - If a community facilities district is voted out of existence (and there are no substitute measures in place), the City would be forced to cut-back on the level of services it provides to the City's property owners. As CFDs and other financing districts have been utilized successfully throughout the State in dozens of jurisdictions to cover revenue shortfalls, it is hoped that future taxpayers in the City will appreciate the levels of services that they are receiving and not vote out the CFD. A requirement for a Homeowners Association to be formed to provide the same set of services could provide a form of insurance against a CFD being dissolved.

3. What happens if a developer votes against joining the community facility district?

Response - If a residential developer votes against joining the Public Services CFD, his property will not be included in the CFD, unless he represents less than 1/3 of the acreage being voted upon at that point in time. As any residential developer who is not included in the Public Services CFD will be in violation of the City's policy of Fiscal Neutrality, that developer will not be issued the building permits necessary to move ahead with construction of his or her project. Commercial development is not required to join the Public Services CFD, as it generates more revenues than costs for the City, so the CFD policy will not have any direct impact on commercial development.

4. Does the city have a written policy on how often and on what basis Paso Robles will review and adjust the special tax as property tax and sales tax revenues grow?

Response - The City intends to review the fiscal impacts of new development every other year, at the same time that it updates the AB 1600 Development Impact Fee Justification Study. This policy has not been officially adopted by the City Council, but is clearly stated in writing in this response to HBA's question.

5. Is the proposed fee based on 2004-05 budget revenues and expenses?

Response - Yes, the proposed fee is based on the City's 2004-05 budget revenues and expenses, as well as level of service requirements determined by the City's departments.

6. Has Paso studied how commercial growth will be impacted if the Community Facility District drives home builders and home buyers away from the city?

Response - Any conclusions regarding a loss in residential development within the City as a result of a \$700 - \$800 annual tax on a home with an average price of \$500,000 would be purely speculative. In fact, it appears that a number of local developers have already expressed strong interest in more than tripling these special tax levels in order to fund infrastructure through the CFD financing mechanism. If tax levels are a major concern to the building community, the City Council could modify its policy and prohibit the use of CFDs to fund infrastructure improvements, thereby insuring no further increases in special tax levels.

7. If a proposed subdivision involves removing an existing residence, will the City give a "CFD" credit for the existing house? Will the City give the credit for removing a residential unit that has been vacant?

Response - If an existing residence is replaced by one or more new residences, only the incremental increase in new residences will be subject to being included in a CFD and only if there is a discretionary action by the Planning Commission or, on appeal, the City Council (e.g.; a parcel map, subdivision, or Planned Development). Similarly, if a commercially designated property is re-designated for residential land uses, and if the resulting residential development triggers a requirement for a discretionary action / entitlement by the Planning Commission or City Council, the new residential units will be subject to a requirement to Participate in the CFD.

8. If a proposed mixed-use project provides retail commercial space, will there be a reduction to the residential CFD fee because of potential new revenues being generated, particularly if the commercial space wasn't included in the original calculation?

Response - No, as noted above, all new residential development requesting entitlements would be required to annex into the Public Services CFD to insure "a level playing field" for all new residential development, although all of the new retail commercial space would be exempted from the special tax. However, when the City conducts its bi-annual fiscal impact review (see response to question #4, above), the City's budget for that year will reflect the revenues generated by this retail development, and this could ultimately have a beneficial impact on the magnitude of the CFD special tax required of all new residential development.

City Responses:

1. A written description of how the proceeds from the special tax will be segregated and accounted for in the city budget.

Response from Mike Compton: A special fund will be established to account for all collections generated from CFDs.

2. A list of all "entitlement" applications that will force applicants to join the community facility district.

Response from Bob Lata: the intent is that requirements for a Services CFD would be recommended as conditions of approval and apply to all discretionary approvals that create a net new number of residential dwelling units. The list would consist of:

- Parcel Maps creating new residential entitlements
- Subdivisions creating new residential entitlements
- Planned Developments / Development Plans creating new residential entitlements

3. The annexation agreement between the county and the cities.

Response from Bob Lata: Attached is a copy of County Board of Supervisors Resolution No. 96-158, establishing a Countywide Policy for Property Tax Exchange upon Annexation.

4. The 2004-2005 city budget.

Response from Mike Compton: HBA may access city budget on city's web page. If they want hard copy, \$25

5. The environmental determination the City Council made when it adopted the “fiscal neutrality” amendment to the General Plan.

Response from Bob Lata: The policy of Fiscal Neutrality is a part of the General Plan update of 2003. An Environmental Impact Report (State Clearing House # 2003011123) was prepared in conjunction with the General Plan Update and was certified by the City Council on December 16, 2003.

Community Facilities District Topics, December 2004

Listed below are the eleven discussion points provided by the Home Builders Association, as well as responses to each of these points:

In the view of the Home Builders Association, Community Facility Districts are:

1. Not a stable funding source since they can be voted out of existence;

Response - Since Proposition 218 was adopted, any source of financing based on taxes or assessments can be voted out of existence at any time unless they are part of the basic 1% property tax levy or are secured by some type of contractual arrangement. This is a reality for cities and counties throughout the State. The only identified options to mitigate this problem are to require all homebuyers within a CFD to contractually agree to a "Contingent Assessment" or to make provisions for formation of a Homeowners Association with a requirement to pay for or provide the same set of services; one of these two options would come into play should their CFD tax be repealed by the voters within the district.

2. Makes housing even less affordable by doubling the basic property tax;

Response - The basic property tax rate for all existing property owners in Paso Robles is 1.18%, including all previously approved bonded indebtedness. Assuming an average detached home sales price of \$418,707 (November, 2003), and assuming a Landscaping and Lighting District annual assessment of \$400 per unit, a homeowner would be paying annual property taxes (after the standard homeowner's exemption) of \$5,258 during the first year after purchase of the home. Based on these assumptions, the proposed public services special tax would be an additional \$862, which would represent a 16.4 % increase in the property tax bill.

3. Represent double taxation on new homeowners;

Response - New homeowners would only be charged the cost to the City of providing services to them, not one cent more. If the City did not levy this special tax, it would mean that existing taxpayers would be subsidizing new development. The City would have a choice of proposing higher taxes on existing development, or reducing the current levels of service provided by the City for both existing and new taxpayers.

4. Taxation without representation on new homeowners;

Response - No homebuyer can be forced to purchase a home within a CFD. The choice to purchase a home with CFD taxes is one that is made solely by the homebuyer. In the interest of protecting homebuyers, the CFD Act contains stringent disclosure requirements. Under Section 53341.5 of the Government Code, all subdividers selling homes with CFD liens must provide complete disclosure of the CFD taxes through an official "Notice of Special Tax" that must be executed by the homebuyer prior to signing a contract of purchase or deposit receipt for the home. The homebuyer then has three days to rescind the purchase of property so that he or she can fully consider the impacts of the additional taxes. If at this point the new homebuyer decides to proceed with the purchase, he or she is essentially agreeing to pay the CFD tax.

5. Pit city residents against each other since they pay different amounts for the same level of service;

Response – Under Proposition 13, City residents are already paying different amounts of taxes for the same levels of service, depending upon the original sales prices of their homes and the number of years since purchasing their homes. Since Proposition 13 was adopted, this has become a fact of life throughout California, as is the establishment of special tax and assessment districts that charge certain homeowners more than others for identical levels of service.

6. Will severely limit the school district (sic) ability to raise funds for new schools;

Response – The City's Public Services CFD was specifically designed to allow, and with the support of, the school district to sell bonds to fund schools, if agreed upon by the landowner (landowners can not be forced by a school district or City to participate in a CFD for school facilities). In its recently-adopted public financing guidelines, the City has made the funding of school facilities a priority. After four straight losses in District-wide bond elections, Paso Robles Unified School District is looking forward to cooperating with the City in the sale of such bonds through one or more City CFDs.

7. Won't raise as much money for Paso Robles as a citywide revenue source;

Response – Under Proposition 13, a two-thirds vote of the registered voters is required to approve the levy of additional special taxes on a citywide basis. This is not a realistic alternative in many communities, particularly those like Paso Robles which have already approved additional taxes for previous bond issues but have also turned down four school district bond issues. Requiring that new development pays its own way is consistent with adopted General Plan policy calling for fiscal neutrality and a more realistic alternative than asking voters to approve additional taxes primarily to pay for services to new development.

8. Can't legally be forced on homebuilders as a condition of approval;

Response – Many California communities have required the formation of public services districts similar to the proposed Paso Robles CFD as a condition of approval for new development. The Landscaping and Lighting District that already exists for new development in Paso Robles, while not a general public services district, involves a very similar concept, and has been required of new development within the City for many years. While AB 1600 closely regulates the application of development impact fees in California, the City is not aware of any legislation that explicitly limits the implementation of financing districts to pay for public services, particularly when they are called for in a City-wide General Plan as part of the environmental mitigation process.

9. Aren't defensible since housing does pay for itself;

a) The HBA will present a study on this early in 2005

Response – The City has prepared a fiscal impact report that indicates that average-price new residential development does not pay its own way in Paso Robles. This is particularly true in those areas recently annexed by the City, as these areas are subject to

a taxation agreement between the City and the County that severely limits the property tax revenues available to the City from these areas. There is no contrary professionally prepared and documented analysis applicable specifically to the City of Paso Robles that demonstrates how residential development “pays for itself” in terms of direct, measurable recurring revenues that the City can utilize to pay for the services demanded on an annual basis by new residential development.

10. Taussig study didn't fully examine economic benefits of residential construction;

a) Didn't include revenue from initial construction

Response - The Taussig study deals with recurring revenues and costs to the City for services, not one-time revenues and costs. The concept is that the City will be impacted year after year by a fiscal shortfall for new development, and that the quantity and quality of services to both existing and new property owners will suffer as a result. While some revenues from construction goods and services may be generated for the City at the time of development, they will not recur on a yearly basis to neutralize the annual General Fund shortfall resulting from new development. Furthermore, the services provided by the City to the construction site (police security, fire services, wear and tear on the roads from construction vehicles, etc.) would reduce the fiscal benefits to the City from these one-time revenues.

b) Didn't account for ripple effect as new homeowner salaries work their way through the economy;

Response - The study does credit sales tax revenues from new development homeowners by assuming that 20% of their incomes will be spent on taxable goods that will generate sales taxes annually. Estimating additional indirect revenues (e.g., transient occupancy tax from out-of-the area visitors) would be too speculative, and would require additional speculative assumptions regarding the costs of services to be provided by the City to these visitors.

11. Inaccurately assesses property taxes new and existing homes pay

a) New homeowners pay more than people who own older homes

Response - While it is true that new homeowners tend to pay higher property taxes than do existing homeowners (one of the many inequities inherent in Proposition 13), the City's fiscal impact report specifically addresses the recurring revenues associated with new development by relying on new home price data to project property tax revenues, as well as the incomes of households purchasing these homes for projecting off-site sales tax revenues. The fact remains that the revenues generated for the City by new residential development do not support the levels of service that need to be provided to this new development by the City to be in compliance with General Plan adopted standards for services.

CFD Related Questions from Home Builders Association, October 2004

1. Restating the first question / point of discussion in the October 8, 2004 letter:

“New home owners pay more property tax to local government than existing home owners because of Proposition 13 and increased home equity. That tax money pays for such public services as police, fire protection, parks, libraries, etc. that are not covered by the development impact fees that builders pay. It isn’t equitable to make new home owners pay even more by doubling their tax rate through creating community facilities districts.”

Response: We used the median sales price for a new home when we prepared our November 2003 Fiscal Impact Model analysis indicating a residential annual shortfall of \$862 per unit (\$418,707 for detached and \$258,987 for attached in mid-2003), versus City costs in 2003-04 Fiscal Year. So higher prices of new homes are definitely reflected in our analysis (of course, if home prices have skyrocketed versus costs since then, the analysis might change for 2004-05).

2. Restating the second question / point of discussion in the October 8, 2004 letter:

“State Senate Bill 50 established a process that school districts must follow in order to increase the fees that builders pay for new school construction. According to the California Building Industry Association, SB 50 supercedes Paso Robles’ ability to raise property taxes for schools through a community facilities district until the Paso Robles school district completes the state process” They specifically cite Government Code Section 65995.

Response: This is a non-issue. No developer can be forced to pay for schools through the CFD. Many want to use CFD financing to avoid paying fees, in which case the School District could set a higher funding level per unit, but all developers always have the option of just paying school fees under SB 50 and ignoring the CFD option. These guidelines wouldn't change that, as it would be illegal to change that.

3. Restating the third question / point of discussion in the October 8, 2004 letter:

“Assembly bill 1600 lets government charge builders impact fees to pay for the infrastructure needed to serve new construction. In order to use a community facilities district to charge for infrastructure that isn’t covered by AB 1600, the city needs to establish a clear nexus that shows a direct benefit to the home owners who would pay extra taxes. If the infrastructure benefits all city residents equally, then they should equitably share the cost.”

Response: We agree that the AB 1600 Fee Study being prepared will only assign costs to new development to the extent they benefit from the improvements, based on the level of service and apportionment methodology utilized in the AB 1600 Study. However, the City has no intention of using CFD financing to help a developer pay for this infrastructure unless a developer requests the use of this financing mechanism, in which case the City will consider such use (but not necessarily approve it). Contrary to the statement above, the nexus requirement in the CFD statutes only applies to services, not to infrastructure.

4. Concerns code Section 65913.8: "A fee, charge, or other form of payment imposed by a governing body of a local agency for a public capital facility improvement related to a development project may not include an amount for the maintenance or operation of an improvement when the fee, charge, or other form of payment is required as a condition of approval of a development project, or required to fulfill a condition of the approval." The code section does go on to describe exceptions: "However...

Response: The City's AB 1600 Development Impact Fees do not include any services or maintenance component. They are purely for the construction of specific facilities. The services CFD is to balance the City General Fund by paying for up to 9 or 10 types of services that directly benefit the specific project paying the CFD special taxes, most of which will have nothing more than a coincidental connection to the regional improvements being funded through an AB 1600 program.

5. Concerns that the amount of the special tax to be established under a CFD needs to be defined. They are understanding that the amount for Maintenance and Operations is known (\$862/d.u./year), and the amount to be allocated to Schools may be known (\$1.000 /du/year), but they are asking the City to define in advance what infrastructure would be covered.

Response: It is important to understand that the CFD is designed primarily to insure fiscal neutrality in terms of the City's annual operational costs of serving new residential development. The City is not requiring developers to use a CFD for infrastructure, and the City cannot require the use of a CFD to pay for school fees. The City will be conditioning developers to build improvements, and if they want to pay cash out of their pockets for all the infrastructure, that is their option. The Mello-Roos is merely a convenience for them to pay for infrastructure, subject to the approval of the City.

6. Government code section 53321(c) 1 & 2 required that the City establish the tax year and time as certain.

Response: Agreed, but you do that when you actually form the specific CFD (at the Resolution of Intention), not when you are setting general policies for future CFDs that may or may not happen for infrastructure purposes.

7. What infrastructure is the City proposing to cover in the CFD that is not already covered in the AB 1600 Development Impact Fee?

Response: If a developer wishes to form an infrastructure CFD, the City could agree to let him finance backbone infrastructure, which would consist mostly of the items on the AB 1600 Needs List. But, again, nobody would be forced to form an infrastructure CFD.

8. Wants a copy of the November 2003 Summary of the Fiscal Impact Analysis Model run. Response: City has provided a copy to the HBA.

9. Would request a list of sample jurisdictions where CFDs are being used elsewhere in California (for the purpose of calling their local Home Builders Association offices to get feedback on how they are working).

Response: For infrastructure : Counties of Orange, Riverside, Los Angeles, Imperial, San Bernardino. Cities of Los Angeles, San Diego, San Francisco, San Jose, Anaheim, Fontana, Chino, Placentia, Orange, Sacramento, etc., etc. (the list is extensive)

Please note that, in most jurisdictions, nobody is forced to utilize a CFD for infrastructure. Usually the developers lobby for it because (i) CFD bonds are non-recourse to the developer (and the City), (ii) CFD bonds provide 100% of infrastructure financing as long as the value to lien and the tax levels are sufficient (iii) builders can pass infrastructure costs on to the buyer without impacting the sales price of the home significantly.

For services: Counties of Santa Barbara and San Bernardino, Cities of San Jacinto, Anaheim, Oxnard, San Marcos, Perris, Lake Elsinore, Calexico, Mammoth, etc., etc. These are required in all or portions of these jurisdictions, and are the cost of doing business in those jurisdictions.

10. What provisions are there for covering escalating costs (notes that CPI is not adequate to cover certain things like the cost of water); would like to see how the CFD will avoid the problems experienced by Landscaping & Lighting Districts.

Response: For infrastructure, a public agency can't escalate CFD taxes on occupied residential development by more than 2% per year. For services, we usually use the CPI, or occasionally, the Engineering News Record construction costs index. One could use a more aggressive

escalator for services if you could find one, but it may not be prudent.

11. Notes that Home Owners Associations and Endowments are mentioned on page one of the Goals and Policies but are not later addressed in terms of being viable options.

Response: As long as the City is comfortable that the HOA will take its responsibilities seriously (enforcement through CC&Rs), the City can accept an HOA. Endowment payments are fine if a developer agrees to pay sufficient monies up-front.

12. Cites Code Section 55321 (D): if one property owner does not pay his/her assessment, is there a liability for another property owner? That section seems to indicate that up to 10 percent increase in cost could be passed on.

Response: CFD can be set up to avoid cross-collateralization, although you get a better interest rate if you do have cross-collateralization, so we normally include it. But when we set up a CFD, we have all homebuyers paying the maximum tax in year one, so the tax can only go down, not up.

13. Is there a vote provision similar to Landscaping & Lighting Districts called for under Prop 218?

Response: The CFD Act itself requires a 2/3rds vote of property owners if there are fewer than 12 registered voters, with each getting one vote per acre of land. If there are 12 or more registered voters, the election is a registered voter election.

14. Atascadero has reportedly moved further ahead with formation of a CFD and they have actually identified the cost of each subdivision - - this seems a preferable approach rather than not defining costs up-front. Contact there: Rochelle Rickard at 470-3428.

Response: Based on a discussion with Atascadero staff, they are pursuing a CFD that would focus entirely on addressing their projected costs of providing services.

Proposed Scope of Paso Robles Community Facilities District (CFD)

Goal:

To establish a CFD (or CFDs) that will accomplish the following, in this priority order:

- a. cover the incremental cost of City services to new residential development
- b. provide an opportunity for developers to pay school fees through the CFD(s) and thereby allow the schools to substantially increase the amount of mitigation that they can receive
- c. to the extent feasible / practical, allow developers to propose to fund backbone infrastructure through the remaining taxing capacity of the CFD.

Intent:

1. To apply the CFD requirement to pay for the increased services cost to all new residential units created through a discretionary review process (e.g. parcel maps, subdivisions, Planned Developments). Note: The City's discretionary review process does not apply to building permits for a primary or secondary dwelling unit on existing single family zoned parcels, or to permits for up to four (4) dwelling units on multi-family dwelling zoned properties, or to a caretaker unit on a commercial or industrial property.
2. CFD participation requirements would also not apply to conversion of existing multi-family dwellings to condominium dwelling units. Where a property with an existing dwelling unit is involved in a lot split or subdivision, the CFD participation would apply to only the incremental increase in dwelling units. Properties that are changed in zoning from commercial to residential or in Mixed-Uses overlay areas would be required to participate in CFDs.
3. To establish the structure of a CFD or CFDs as soon as feasible so as to include any pending discretionary project approvals.
4. To allow developers to voluntarily utilize the CFD to pay school fees, thereby meeting the above described goal.
5. When feasible / practical, to pursue developer financing of infrastructure, based on priorities established by the City Council.

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