

## REPORT TO CITY COUNCIL

Approved by:

*Danial Church*

Department Director

*Arnoldo Rodriguez*

Arnoldo Rodriguez, City Manager

Council Meeting of: May 20, 2020

Agenda Number: C-1

### SUBJECT:

Public Hearing regarding the proposal of Annexation No. 9 to City of Madera Community Facilities District No. 2005-01 (Sherwood Apartments) and Related Actions

### RECOMMENDATIONS:

First, it is recommended that the Council hold the public hearing and, after its close, adopt the following resolutions:

1. A Resolution of the City Council (Council) of the City of Madera, California, Authorizing the Annexation of Territory to Community Facilities District No. (CFD) 2005-01 (Annexation No. 9) and Authorizing the Levy of a Special Tax and Submitting the Levy of Tax to the Qualified Electors.
2. A Resolution of the Council of the City, Calling a Special Election and Submitting to the Voters of Annexation No. 9 of the City's CFD 2005-01 Propositions Regarding the Annual Levy of Special Taxes within Annexation No. 9 to Finance Police Protection Services, Fire Protection and Suppression Services, Park Maintenance, and Storm Drainage System Operation and Maintenance Within the District.

Second, it is recommended Council conduct A Special Election of the Qualified Electors of Annexation No. 9 of the City's CFD 2005-01 and Declaration and Certification of the Results Thereof.

Third, it is recommended that Council adopt A Resolution of the Council of the City, Making Certain Findings, Certifying the Results of an Election and Adding the Territory Identified as Annexation No. 9 to CFD 2005-01.

**SUMMARY:**

At the Council's April 15, 2020 meeting, the Council approved a resolution adopting a boundary map depicting the territory proposed for annexation, and approved a resolution declaring the City's intention to annex the proposed territory into CFD 2005-01.

At tonight's meeting, after the close of the public hearing and adoption of the above-referenced resolutions, if the landowner elects to annex at the special election, the City can proceed with the annexation by adopting a resolution of annexation.

**DISCUSSION:**

On November 16, 2005, by Resolution No. 05-334, the City Council established CFD 2005-01, a Mello Roos Community Facilities District with the intention that future development within the City of Madera (the "City") would annex into this district. The special taxes collected from the property owners within the district are used for the funding of police and fire protection services, storm drain infrastructure maintenance and operations, and park maintenance. Property owner assessments are paid as a component of the property tax collection process. As was originally envisioned with the establishment of the CFD, future residential projects not included in the initial formation process are required to go through an annexation process in order to be included in CFD 2005-01. Projects may be annexed one at a time, or in a group if they are ready at the same time.

The project, Sherwood Apartments, is prepared to proceed with the annexation process into CFD 2005-01. The project includes the development of 16 multi-family residential units located on 1.43 acres of land. As with all residential subdivisions, conditions of approval for the subdivision require annexation into CFD 2005-01 prior to recordation of the final subdivision map. This will comprise the ninth annexation. See Attachment 4 for a history of annexations into CFD 2005-01.

**FINANCIAL IMPACT:**

The 2019/20 Fiscal Year CFD 2005-01 assessment for multi-family residential development is approximately \$428.12 per unit. Based on this figure, the estimated annual revenue that will be received by the City (Fund 76650) for all 16 units will be \$6,849.92 per year. Because CFD 2005-01 includes an annual CPI adjustment, this amount will grow over time. The process for annexation is funded by the developer and no General Fund monies are used for this effort.

**CONSISTENCY WITH THE VISION MADERA 2025 PLAN:**

The proposed action is not specifically addressed as part of the plan, is not in conflict with the plan, but rather is sympathetic of the underlying principles of the Vision 2025 Plan.

**ALTERNATIVES:**

The City Council adopted Ordinance C.S. 792 on December 7, 2005, authorizing the levy of a Special Tax within CFD 2005-01 commencing in fiscal year 2006-07 and each year thereafter. The Council could, at its discretion, consider alternative methods for funding the necessary services

that are demanded by residential development and supported by CFD 2005-01. Amendment of the ordinance would be required.

**ATTACHMENTS:**

1. Resolution of Annexation
  - Exhibit A – Rate and Method of Apportionment
  - Exhibit B – Ballot
2. Resolution Calling for Election
  - Exhibit A – Ballot
3. Resolution of Results of Election
  - Exhibit A – Statement of Votes Cast
  - Exhibit B – Annexation Map
  - Exhibit C – List of Properties
4. CFD 2005-01 Map

**Attachment 1 – Resolution of Annexation**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA,  
AUTHORIZING THE ANNEXATION OF TERRITORY (ANNEXATION NO. 9) TO  
COMMUNITY FACILITIES DISTRICT NO. 2005-01 AND AUTHORIZING THE LEVY  
OF A SPECIAL TAX AND SUBMITTING THE LEVY OF TAX TO THE QUALIFIED  
ELECTORS**

**WHEREAS**, this City Council (Council), on April 15, 2020, adopted Resolution No. 20-56, (hereafter referred to as the “Resolution of Intention”) stating its intention to annex territory to City of Madera Community Facilities District No. 2005-01 (hereafter referred to as “CFD No. 2005-01”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (hereafter referred to as the “Act”); and

**WHEREAS**, a copy of the Resolution of Intention, which states the authorized services to be provided and financed by CFD No. 2005-01, and a description and map of the proposed boundaries of the territory to be annexed known as Sherwood Apartments (“Annexation No. 9”) to CFD No. 2005-01, is on file with the City Clerk and the provisions thereof are fully incorporated herein by this reference as if fully set forth herein. Annexation No. 9 will consist of 16 multi-family residential units located north of Sherwood Way, between Owens Street and Sonora Street; and

**WHEREAS**, on the 20th of May 2020, the Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed annexation of territory to CFD No. 2005-01; and

**WHEREAS**, at said hearing all interested persons desiring to be heard on all matters pertaining to the annexation of territory to CFD No. 2005-01 and the levy of said special taxes within the area proposed to be annexed were heard and a full and fair hearing was held; and

**WHEREAS**, prior to the time fixed for said hearing, written protests had not been filed against the proposed annexation of territory to CFD No. 2005-01 by (i) 50% or more of the registered voters, or six registered voters, whichever is more, residing in CFD No. 2005-01, or (ii) 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed to CFD No. 2005-01, or (iii) owners of one-half or more of the area of land in the territory proposed to be annexed to CFD No. 2005-01; and

**WHEREAS**, a boundary map for Annexation No. 9 to CFD No. 2005-01 has been filed with the County Recorder of the County of Madera, which map shows the territory to be annexed in these proceedings, and a copy thereof is on file with the City Clerk.

**NOW, THEREFORE, BE IT RESOLVED**, determined and ordered by the City Council for the City of Madera as follows:

1. The above recitals are all true and correct.
2. All prior proceedings taken by this Council with respect to CFD No. 2005-01 and the proposed annexation of territory thereto have been duly considered and are hereby determined to be valid and in conformity with the Act.
3. The description and map of the boundaries of the territory to be annexed to CFD No. 2005-01, on file with the City Clerk are hereby finally approved, are incorporated herein by reference, and shall be included within the boundaries of CFD No. 2005-01, and said territory is hereby annexed to CFD No. 2005-01, subject to voter approval of the levy of the special taxes therein as hereinafter provided.
4. The services which CFD No. 2005-01 is authorized to finance are in addition to those provided in or required for the territory within CFD No. 2005-01 and the territory to be annexed to CFD No. 2005-01 and will not be replacing services already available. A general description of the services to be financed is as follows:

Police protection services and fire protection and suppression services, including but not limited to (i) the costs of contracting services, (ii) equipment, vehicles, ambulances and paramedics, fire apparatus, supplies, (iii) the salaries and benefits of City staff that directly provide police protection services and fire protection and suppression services and other services as defined herein, respectively, and (iv) City overhead costs associated with providing such services within the District. On each July 1 following the Base Year the increases attributed to salaries and benefits shall be calculated and limited to the increase based on the Annual Escalation Factor as provided in the Rate and Method of Apportionment of the Special Taxes. The Special Tax will finance Services that are in addition to those provided in or required for the territory within the District and will not be replacing services already available. The Special Tax provides only partial funding for police and fire services.

Park Maintenance of the City of Madera, including but not limited to, labor, material, administration, personnel, equipment, and utilities necessary to maintain park improvements within the District, including recreational facilities, trees, plant material, sod, irrigation systems, sidewalks, drainage facilities, weed control and other abatements, public restrooms, signs, monuments, and associated appurtenant facilities located within the District.

Storm drainage system maintenance and operations of the City of Madera, including but not limited to, labor, material, administration, personnel,

equipment, and utilities necessary to maintain and operate the storm drainage system within the District.

5. It is the intention of this legislative body that, except where funds are otherwise available, a special tax sufficient to pay for said services to be provided in CFD No. 2005-01 and the territory proposed to be annexed as part of Annexation No. 9, secured by recordation of a continuing lien against all non-exempt real property in Annexation No. 9, will be levied annually within the boundaries of Annexation No. 9 from and after the annexation of such property to CFD No. 2005-01. The special taxes shall be those as originally authorized through the formation of CFD No. 2005-01 and adopted by Ordinance of this legislative body, and no changes or modifications are proposed in the special taxes from those as originally set forth and made applicable to CFD No. 2005-01.

For particulars as to the rate and method of apportionment of the proposed special tax (the "RMA"), reference is made to the attached and incorporated Exhibit "A," which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within the Annexation No. 9 to clearly estimate the maximum annual amount that said person will have to pay on said special tax.

6. The provisions of the Resolution of Intention of the City each as heretofore adopted by this Council are by this reference incorporated herein, as if fully set forth herein.

(a) Pursuant to the provisions of the Act, the proposition of the levy of the special tax within Annexation No. 9 shall be submitted to the voters within Annexation No. 9 at a special election called therefor as hereinafter provided. This Council hereby finds that fewer than 12 persons have been registered to vote within Annexation No. 9 for each of the 90 days preceding the close of the hearing heretofore conducted and concluded by this Council for the purposes of these annexation proceedings. Accordingly, and pursuant to Section 53326 of the Act, this Council finds that for purposes of these proceedings the qualified electors are the landowners within Annexation No. 9 and that the vote shall be by said landowners, each having one vote for each acre or portion thereof such landowner owns in Annexation No. 9.

(b) Pursuant to Section 53326 of the Act, the election shall be conducted by mail ballot under section 1340 of the California Elections Code. The Council called a special election to consider the measures described and incorporated as Exhibit "A," which election will be conducted on May 20, 2020 (hereafter referred to as "Election Day"). The City Clerk is the election official to conduct the election and provided each landowner in the territory to be annexed to CFD No. 2005-01, a ballot in the form of Exhibit "B", which form is hereby approved. The City Clerk has accepted the ballots of the qualified electors received prior to 6:00 p.m. on Election Day, whether received by mail or by personal delivery.

(c) This Council hereby further finds that the provision of Section 53326 of the Act requiring a minimum of 90 days to elapse before said election is for the protection of voters, that the voters have waived such requirement and the date for the election hereinabove specified is established accordingly.

7. This resolution is effective immediately.

\* \* \* \* \*

## EXHIBIT A

### CITY OF MADERA COMMUNITY FACILITIES DISTRICT 2005-01 RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax of Community Facilities District No. 2005-01 of the City of Madera (the "District") shall be levied on all Assessor's Parcels in the District and collected each Fiscal Year commencing Fiscal Year 2006-07 in an amount determined by the City through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property in the District, 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:

**"Acre or Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final subdivision map, other final map, other parcel map, other condominium plan, or functionally equivalent map or instrument recorded in the Office of the County Recorder. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Part 1, Division 2 of Titles of the Government Code of the State of California, as amended, which authorizes the establishment of the District to finance: a) police protection services, and b) fire protection and suppression services, c) park maintenance, d) storm drainage system operation and maintenance and other services as defined herein including but not limited to ambulance and paramedic services.

**"Administrative Expenses"** means the actual or estimated costs incurred by the City as administrator of the District to determine, levy and collect the Special Taxes, including the proportionate amount of the salaries and benefits of City employees whose duties are directly related to administration of the District and the fees of consultants, legal counsel, the costs of collecting installments of the Special Taxes upon the general tax rolls, preparation of required reports; and any other costs required to administer the District as determined by the City.

**"Annual Escalation Factor"** means the greater of the increase in the annual percentage change of the All Urban Consumers Consumer Price Index (CPI) or three percent (3%). The annual CPI used shall be for the area of San Francisco-Oakland-San Jose, CA as reflected in the then-current April update. The annual CPI used shall be as determined by the United States Department of Labor, Bureau of Labor Statistics, and may be obtained through the California Division of Labor Statistics and Research ([www.dir.ca.gov/dlsr](http://www.dir.ca.gov/dlsr)). If the foregoing index is not available, the District Administrator shall select a reasonably comparable index.



**“Assessor’s Parcel”** means a lot or parcel shown in an Assessor’s Parcel Map with an assigned assessor’s parcel number.

**“Assessor’s Parcel Map”** means an official map of the Assessor of the County designating parcels by assessor’s parcel number.

**“Base Year”** means Fiscal Year ending June 30, 2007.

**“City”** means the City of Madera.

**“Council”** means the City Council of the City of Madera, acting as the legislative body of the District.

**“County”** means the County of Madera, California.

**“Developed Multi-Family Residence”** means all Assessor’s Parcels of Developed Property for which a building permit has been issued for purposes of constructing a residential structure consisting of two or more residential units that share common walls, including but not limited to, duplexes, triplexes, town homes, condominiums, and apartment units.

**“Developed Property”** means all Taxable Property, exclusive of Property Owner Association Property, Non-Residential Property, or Public Property, for which a building permit was issued after January 1, 2005, and prior to May 1st preceding the Fiscal Year in which the Special Tax is being levied.

**“Developed Single-Family Residence”** means all Assessor’s Parcels of Developed Property for which a building permit(s) has been issued for purposes of constructing one single-family residential dwelling unit.

**“District Administrator”** means an official of the City, or designee thereof responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

**“District”** means Community Facilities District No. 2005-01 of the City of Madera.

**“Entitled Property”** means an Assessor’s Parcel and/or Lot in the District, which has a Final Map recorded prior to January 1st preceding the Fiscal Year in which the Special Tax is being levied, but for which no building permit has been issued prior to the May 1st preceding the Fiscal Year in which the Special Tax is being levied. The term “Entitled Property” shall apply only to Assessors’ Parcels and/or Lots, which have been subdivided for the purpose of residential development, excluding any Assessor’s Parcel that is designated as a remainder parcel determined by final documents and/or maps available to the District Administrator.

**“Final Map”** means an Assessor’s Parcel Map, a final subdivision map, other parcel map, other final map, other condominium plan, or functionally equivalent map that has been recorded in the Office of the County Recorder.

**“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.

**“Lot”** means property within a recorded Final Map identified by a lot number for which a building permit has been issued or may be issued.

**“Maximum Special Tax”** means the maximum Special Tax, determined in accordance with Section C below that can be levied in the District in any Fiscal Year on any Assessor’s Parcel.

**“Non-Residential Property”** means all Assessors’ Parcels for which a building permit(s) has been issued for a non-residential use and does not contain any residential units as defined under Developed Single Family Residence or Developed Multi-Family Residence.

**“Property Owner Association Property”** means any property within the boundaries of the District that is owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to a property owner association, including any master or sub- association.

**“Proportionately”** means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels within each Land Use Class.

**“Public Property”** means any property within the boundaries of the District that is, at the time of the District formation or at the time of an annexation, expected to be used for rights-of-way, parks, schools or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State, the County, the City or any other public agency.

**“Service Costs”** means the estimated and reasonable costs of providing police protection services and fire protection and suppression services, including but not limited to (i) the costs of contracting services, (ii) equipment, vehicles, ambulances and paramedics, fire apparatus, supplies, (iii) the salaries and benefits of City staff that directly provide police protection services and fire protection and suppression services and other services as defined herein, respectively, (iv) City overhead costs associated with providing such services within the District, (v) park maintenance, and (vi) storm drainage system operation and maintenance. On each July 1 following the Base Year, the increases attributed to salaries and benefits shall be calculated and limited to the increase based on the Annual Escalation Factor. The Special Tax will finance Services that are in addition to those provided in or required for the territory within the District and will not be replacing Services already available. The Special Tax provides only partial funding for police services, fire suppression and protection services, park maintenance, and storm drainage system operation and maintenance.

**“Special Tax”** means the Special Tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to find the Special Tax Requirement, and shall include Special Taxes levied or to be levied under Sections C and D, below.

**“Special Tax Requirement”** means that amount required in any Fiscal Year for the District to: (i) pay for Service Costs; (ii) pay reasonable Administrative Expenses; (iii) pay any amounts required to establish or replenish any reserve funds; and (iv) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less any surplus of funds available from the previous Fiscal Year’s Special Tax levy.

**“State”** means the State of California.

**“Property”** means all of the Assessor’s Parcels within the boundaries of the District and any future annexation to the District that are not exempt from the Special Tax pursuant to law or as defined herein.

**“Tax Exempt Property”** means an Assessor’s Parcel not subject to the Special Tax. Tax- Exempt Property includes: (i) Public Property, (ii) Property Owner Association Property, (iii) Non-Residential Property, and (iv) property designated by the City or District Administrator as Tax-Exempt Property.

**“Undeveloped Property”** means for each Fiscal Year, all Assessor’s Parcels of Taxable Property not classified as Developed Property or Entitled Property, including an Assessor’s Parcel that is designated as a remainder parcel and is not identified as potential Public Property by any final documents and/or maps available to the District Administrator.

**“Unit”** means any separate residential dwelling unit in which a person or persons may live, which comprises an independent facility capable of conveyance separate from adjacent residential dwelling units and is not considered to be for commercial or industrial use.

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year using the definitions above, all Taxable Property within the District shall be classified as Developed Property, Entitled Property, or Undeveloped Property. Developed Property shall be further classified as Developed Single-Family Residence or Developed Multi-Family Residence. Commencing with the Base Year and for each subsequent Fiscal Year, all Taxable Property shall be subject to Special Taxes pursuant to Sections C and D below.

**C. MAXIMUM SPECIAL TAX RATE**

**1. DEVELOPED PROPERTY**

**TABLE 1  
MAXIMUM SPECIAL TAX FOR DEVELOPED PROPERTY  
COMMUNITY FACILITIES DISTRICT No. 2005-01**

Land Use Class	Description	Maximum Special Tax Per Unit <sup>1</sup>
1	Developed Single-Family Residence	\$311 per unit
2	Developed Multi-Family Residence	\$285 per unit
<sup>1</sup> Maximum Special Tax includes Administrative Expenses		

**2. ENTITLED PROPERTY**

**TABLE 2  
MAXIMUM SPECIAL TAX FOR ENTITLED PROPERTY  
COMMUNITY FACILITIES DISTRICT No. 2005-01**

Land Use Class	Description	Maximum Special Tax Per Unit <sup>1</sup>
3	Entitled Property	\$166 per lot
<sup>1</sup> Maximum Special Tax includes Administrative Expenses		

On each July 1 following the Base Year (i.e., July 1, 2007), the Maximum Special Tax Rates in Table 1 and Table 2 shall be increased in accordance with the Annual Escalation Factor.

**3. UNDEVELOPED PROPERTY**

No Special Tax shall be levied on Undeveloped Property.

**4. TAX-EXEMPT PROPERTY**

No Special Tax shall be levied on Tax-Exempt Property.

## **5. MULTIPLE LAND USE CLASSES**

In some instances an Assessor's Parcel may contain more than one Land Use Class. The Maximum Special Tax levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax levies that can be imposed on all Land Use Classes located on that Assessor's Parcel.

### **D. METHOD OF APPORTIONMENT OF SPECIAL TAXES**

Commencing with Fiscal Year 2006-07, and for each subsequent Fiscal Year, the District Administrator shall calculate the Special Tax Requirement based on the definitions in Section A and levy the Special Tax as follows until the amount of the Special Tax levied equals the Special Tax Requirement. First, the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Developed Property Proportionately between Developed Single-Family Residence and Developed Multi-Family Residence up to 100% of the applicable Maximum Special Tax. Second, if the Special Tax Requirement has not been satisfied by the first step, then the Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Entitled Property up to 100% of the applicable Maximum Special Tax for Entitled Property.

### **E. APPEALS**

Any taxpayer that believes that the amount of the Special Tax assigned to an Assessor's Parcel is in error may file a written notice with the District Administrator appealing the levy of the Special Tax. This notice is required to be filed with the District Administrator during the Fiscal Year the error is believed to have occurred. The District Administrator or designee will then promptly review the appeal and, if necessary, meet with the taxpayer. If the District Administrator verifies that the tax should be changed, the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

### **F. EXEMPTIONS**

No Special Tax shall be levied on Non-Residential Property, Undeveloped Property, Property Owner Association Property or Public Property.

### **G. MANNER OF COLLECTION**

Special Tax as levied pursuant to Section D above shall be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that the District Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the District or as otherwise determined appropriate by the District Administrator.

## **H. TERM OF SPECIAL TAX**

After the establishment of the District, the City Council may reexamine, if deemed necessary by City Council, the necessity of the continuance of the Special Tax through the preparation of a Fiscal Impact Analysis, otherwise the Special Tax shall be levied in perpetuity.

**EXHIBIT B**

**City of Madera**

**Community Facilities District No. 2005-01, (Public Services), Annexation No. 9**

**OFFICIAL BALLOT**

**SPECIAL TAX ANNEXATION ELECTION**

This ballot is for the special landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Madera no later than 6:00 o'clock p.m. on Wednesday, May 20, 2020 either by mail or in person. The City Clerk's office is located at City Hall, 205 W Fourth Street, Madera, California, 93637.

To vote, mark in the voting square after the word "YES" or after the word "NO". For a list of acceptable marks, please refer to the back of this ballot.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Madera and obtain another.

**BALLOT MEASURE:** Shall the City of Madera, by and for its Community Facilities District No. 2005-01 (Public Services) (the "CFD"), be authorized to levy special taxes within the territory annexed to the CFD pursuant to and as described in the Resolution of Intention of the City of Madera adopted by its Council on April 15, 2020?

**YES:**

**NO:**

By execution in the space provided below, you also confirm your waiver of the time limit pertaining to the conduct of the election and any requirement for notice of election and analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Section 53326 (a) and 53327 (b) of the California Government Code.

Acres Owned Within Territory Annexed:

Number of Votes:

Property Owner:

Property Owner/ Authorized Representative Signature: \_\_\_\_\_

**Attachment 2 – Resolution Calling for Election**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA,  
CALLING A SPECIAL ELECTION AND SUBMITTING TO THE VOTERS OF  
ANNEXATION NO. 9 OF CITY OF MADERA COMMUNITY FACILITIES DISTRICT  
NO. 2005-01 THE PROPOSITION REGARDING THE ANNUAL LEVY OF SPECIAL  
TAXES WITHIN ANNEXATION NO. 9 TO FINANCE POLICE PROTECTION SERVICES,  
FIRE PROTECTION AND SUPPRESSION SERVICES, PARK MAINTENANCE, AND  
STORM DRAINAGE SYSTEM OPERATION AND MAINTENANCE WITHIN THE  
DISTRICT**

**WHEREAS**, pursuant to Section 53325.1 of the California Government Code the City Council (the “City Council”) of the City of Madera (hereafter referred to as the “City”) has adopted the resolution authorizing the annexation of territory known as Sherwood Apartments (hereafter referred to as “Annexation No. 9”) to City of Madera Community Facilities District No. 2005-01, County of Madera, State of California (hereafter referred to as “CFD No. 2005-01”). Annexation No. will consist of 16 multi-family residential units located north of Sherwood Way, between Owens Street and Sonora Street; and

**WHEREAS**, by that resolution, the City Council called a special election on the propositions to be submitted to the voters of the territory proposed to be annexed to CFD No. 2005-01 with respect to the levy of special taxes therein for the financing of police protection services, fire protection and suppression services, park maintenance, and storm drainage system operation and maintenance within CFD No. 2005-01; and

**WHEREAS**, pursuant to Section 53326 of the California Government Code, it is necessary that the City Council submit to the voters of Annexation No. 9 the annual levy of special taxes on taxable property within Annexation No. 9; and

**WHEREAS**, the Community Development Director has advised the City Council that the property owners of the subject parcels have reported to the City staff that all of the subject parcels are uninhabited with no voters registered at the subject parcel. City Staff has personally visited the sites and found that there are no occupied dwellings on the subject parcels. Staff has advised the City Council that the annexation area qualifies as uninhabited as there are less than 12 persons registered to vote within Annexation No. 9;

**NOW, THEREFORE, BE IT RESOLVED**, determined and ordered by the City Council for the City of Madera Community Facilities District No. 2005-01, Annexation No. 9 as follows:

1. The City Council finds that: (i) the foregoing recitals are true and correct; (ii) 12 persons have not been registered to vote within the territory to be annexed to CFD No. 2005-01 for each of the 90 days preceding the close of the public hearing on May 20, 2020; (iii) pursuant



to Section 53326 of the California Government Code, as a result of the findings set forth in clause (ii) above, the vote in the special election called by this resolution shall be by the landowners of the territory to be annexed to CFD No. 2005-01, whose property would be subject to the special taxes if they were levied at the time of the election, and each landowner shall have one vote for each acre, or portion thereof, which he or she owns within Annexation No. 9 which would be subject to the proposed special taxes if they were levied at the time of the election; (iv) the owners of all of the land in Annexation No. 9 by written consent (a) waived the time limits set forth in Section 53326 of the California Government Code for holding the election called by this resolution and the election on the propositions, (b) consented to the holding of the election on May 20, 2020, (c) waived notice and mailed notice of the time and date of the election, (d) waived an impartial analysis by the City Attorney of the ballot propositions pursuant to Section 9280 of the California Elections Code and arguments and rebuttals pursuant to Sections 9281 to 9287, inclusive, and 9295 of that Code, and mailing of a statement pursuant to Section 9401 of that Code, and (e) waived a synopsis of the measures to be included in the official ballot for said elections pursuant to Section 12111 of that Code; and (v) the City Clerk (hereafter referred to as the "City Clerk") has consented to the holding of the election on May 20, 2020.

2. The City Council hereby calls and schedules a special election for May 20, 2020, on the proposition of the annual levy of special taxes on taxable property within Annexation No. 9 to CFD No. 2005-01 to finance police protection services, fire protection and suppression services, park maintenance, and storm drainage system operation and maintenance within Annexation No. 9 to CFD No. 2005-01.

3. The proposition to be submitted to the voters of Annexation No. 9 at such special election shall be as follows:

Shall the City of Madera, by and for its Community Facilities District No. 2005-01 (Public Services) (the "CFD"), be authorized to levy special taxes within the territory annexed to the CFD pursuant to and as described in the Resolution of Intention of the City of Madera adopted by its Council on April 15, 2020.

4. Except as otherwise provided in Section 6 hereof, the special election shall be conducted by the City Clerk in accordance with the provisions of the California Elections Code governing mail ballot elections of cities, and in particular the provisions of Division 4 (commencing with Section 4000), of that Code, insofar as they may be applicable.

5. The procedures to be followed in conducting the special election on the proposition with respect to the levy of special taxes on taxable property within Annexation No. 9 to CFD No. 2005-01 to pay for police protection services, fire protection and suppression services, park maintenance, and storm drainage system operation and maintenance within the District:

(a) Pursuant to Section 53326 of the California Government Code, ballots for the Special Election shall be distributed to the qualified electors by the City Clerk by mail or by personal service.

(b) Pursuant to applicable sections of the California Elections Code governing the conduct of mail ballot elections of cities, and in particular Division 4 (commencing with Section 4000) of that Code with respect to election conducted by mail, the City Clerk, or designated official shall mail or deliver to each qualified elector an official ballot in the appropriate form attached hereto as Exhibit "A," and shall also mail or deliver to all such qualified electors a ballot pamphlet and instructions to voter, a return identification envelope addressed to the City Clerk for the return of voted official ballots.

(c) The official ballot to be mailed or delivered by the City Clerk to each landowner-voter shall have printed or typed thereon the name of the landowner-voter and the number of votes to be voted by the landowner-voter and shall have appended to it a certification to be signed by the person voting the official ballot which shall certify that the person signing the certification is the person who voted the official ballot, and if the landowner-voter is other than a natural person, that he or she is an officer of or other person affiliated with the landowner-voter entitled to vote such official ballot, that he or she has been authorized to vote such official ballot on behalf of the landowner-voter, that in voting such official ballot it was his or her intent, as well as the intent of the landowner-voter, to vote all votes to which the landowner-voter is entitled based on its land ownership on the propositions set forth in the official ballot as marked thereon in the voting square opposite each such proposition, and further certifying as to the acreage of the landowner-voter's land ownership within Annexation No. 9 to CFD No. 2005-01.

(d) The return identification envelope mailed or delivered by the City Clerk to each landowner-voter shall have printed or typed thereon the following: (i) the name of the landowner, (ii) the address of the landowner, (iii) a declaration under penalty of perjury stating that the voter is the landowner or the authorized representative of the landowner entitled to vote the enclosed ballot and is the person whose name appears on the identification envelope, (iv) the printed name and signature of the voter, (v) the address of the voter, (vi) the date of signing and place of execution of the declaration, and (vii) a notice that the envelope contains an official ballot and is to be opened only by the City Clerk.

(e) The information to voter form to be delivered by the City Clerk to the landowner-voters shall inform them that the official ballots shall be returned to the City Clerk properly voted as provided thereon and with the certification appended thereto properly completed and signed in the sealed return identification envelope with the certification thereon completed and signed and all other information to be inserted thereon properly inserted by 6:00 p.m. on the

20th day of May 2020; provided that if all qualified electors have voted, the elections shall be closed with the concurrence of the City Clerk.

(f) Upon receipt of the return identification envelopes, which are returned prior to the voting deadline on the date of the elections, the City Clerk shall canvass the votes cast in the election, and shall file a statement with the City Council as to the results of such canvass and the election on each proposition set forth in the official ballot.

6. This resolution is effective immediately.

\* \* \* \* \*

**EXHIBIT A**

**City of Madera**

**Community Facilities District No. 2005-01, (Public Services), Annexation No. 9**

**OFFICIAL BALLOT**

**SPECIAL TAX ANNEXATION ELECTION**

This ballot is for the special landowner election. You must return this ballot in the enclosed envelope to the office of the City Clerk of the City of Madera no later than 6:00 o'clock p.m. on Wednesday, May 20, 2020 either by mail or in person. The City Clerk's office is located at City Hall, 205 W Fourth Street, Madera, California, 93637.

To vote, mark in the voting square after the word "YES" or after the word "NO". For a list of acceptable marks, please refer to the back of this ballot.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk of the City of Madera and obtain another.

**BALLOT MEASURE:** Shall the City of Madera, by and for its Community Facilities District No. 2005-01 (Public Services) (the "CFD"), be authorized to levy special taxes within the territory annexed to the CFD pursuant to and as described in the Resolution of Intention of the City of Madera adopted by its Council on April 15, 2020?

**YES:**

**NO:**

By execution in the space provided below, you also confirm your waiver of the time limit pertaining to the conduct of the election and any requirement for notice of election and analysis and arguments with respect to the ballot measure, as such waivers are described and permitted by Section 53326 (a) and 53327 (b) of the California Government Code.

Acres Owned Within Territory Annexed:

Number of Votes:

Property Owner:

Property Owner/ Authorized Representative Signature: \_\_\_\_\_

**Attachment 3 – Resolution of Results of Election**

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA, CALIFORNIA,  
MAKING CERTAIN FINDINGS, CERTIFYING THE RESULTS OF A SPECIAL  
ELECTION AND ADDING THE TERRITORY IDENTIFIED AS ANNEXATION NO. 9  
TO COMMUNITY FACILITIES DISTRICT NO. 2005-01**

**WHEREAS**, the City Council of the City of Madera (the "City Council"), has previously formed a Community Facilities District pursuant to the provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, said Article 3.5 thereof. The existing Community Facilities District being designated as Community Facilities District No. 2005-01 (hereafter referred to as CFD No. 2005-01); and

**WHEREAS**, the City Council initiated proceedings to annex certain territory known as Sherwood Apartments (hereafter referred to as "Annexation No. 9") to Community Facilities District No. 2005-01. Annexation No. 9 consists of 16 multi-family residential units located north of Sherwood Way, between Owens Street and Sonora Street; and

**WHEREAS**, at this time the unanimous consent to the annexation of Annexation No. 9 has been received from the property owner or owners of such territory; and

**WHEREAS**, less than twelve (12) registered voters have resided within the territory of Annexation No. 9 for each of the ninety (90) days preceding May 20, 2020, therefore, pursuant to the Act the qualified electors of Annexation No. 9 shall be the "landowners" of Annexation No. 9 as such term is defined in Government Code Section 53317(f) and each such landowner who is the owner of record, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that she or he owns within Annexation No. 9; and

**WHEREAS**, the time limit specified by the Act for conducting an election to submit the levy of the special taxes on the property within Annexation No. 9 to the qualified electors of Annexation No. 9 and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of Annexation No. 9; and

**WHEREAS**, the City Clerk of the City of Madera has caused ballots to be distributed to the qualified electors of Annexation No. 9, has received and canvassed such ballots and made a report to the City Council regarding the results of such canvas, a copy of which is attached as Exhibit A hereto and incorporated herein by this reference; and

**WHEREAS**, at this time the measures voted upon did receive the favorable 2/3's vote of the qualified electors, and the City Council desires to declare the results of the election; and

**WHEREAS**, a map showing the territory to be annexed and designated as Annexation No. 9 (hereafter referred to as the "Annexation Map"), a copy of which is attached as Exhibit B hereto and incorporated herein by this reference, and a list of Assessor Parcel Numbers and landowners, a copy of which is attached as Exhibit C hereto and incorporated herein by this reference, has been submitted to the City Council.

**NOW, THEREFORE, BE IT RESOLVED**, determined and ordered by the City Council for the City of Madera Community Facilities District No. 2005-01, Annexation No. 9 as follows:

1. The above recitals are all true and correct.
2. This City Council does hereby determine as follows:
  - (a) The unanimous consent to the annexation of Annexation No. 9 to CFD No. 2005-01 has been given by all of the owners within Annexation No. 9 and such consent shall be kept on file in the Office of the City Clerk.
  - (b) Less than twelve (12) registered voters have resided within the territory of Annexation No. 9 for each of the ninety (90) days preceding May 20, 2020, therefore, pursuant to the Act the qualified electors of Annexation No. 9 shall be the "landowners" of such Annexation No. 9 as such term is defined in Government Code Section 53317(f).
  - (c) The qualified electors of Annexation No. 9 have unanimously voted in favor of the levy of special taxes within Annexation No. 9 upon its annexation to CFD No. 2005-01.
3. The boundaries and parcels of territory within Annexation No. 9 and on which special taxes will be levied in order to pay for the costs and expenses of authorized public services are shown on the Annexation Map as submitted to and hereby approved by this City Council.
4. The City Council does hereby determine and declare that Annexation No. 9 is now added to and becomes a part of CFD No. 2005-01. The City Council, acting as the legislative body of CFD No. 2005-01, is hereby empowered to levy the authorized special tax within Annexation No. 9.
5. Immediately upon adoption of this Resolution, notice shall be given as follows:

An Amendment No. 9 to the Amended Notice of Special Tax Lien shall be recorded in the Office of the County Recorder no later than fifteen (15) days after the date of adoption of this Resolution.

6. This resolution is effective immediately.

\* \* \* \* \*



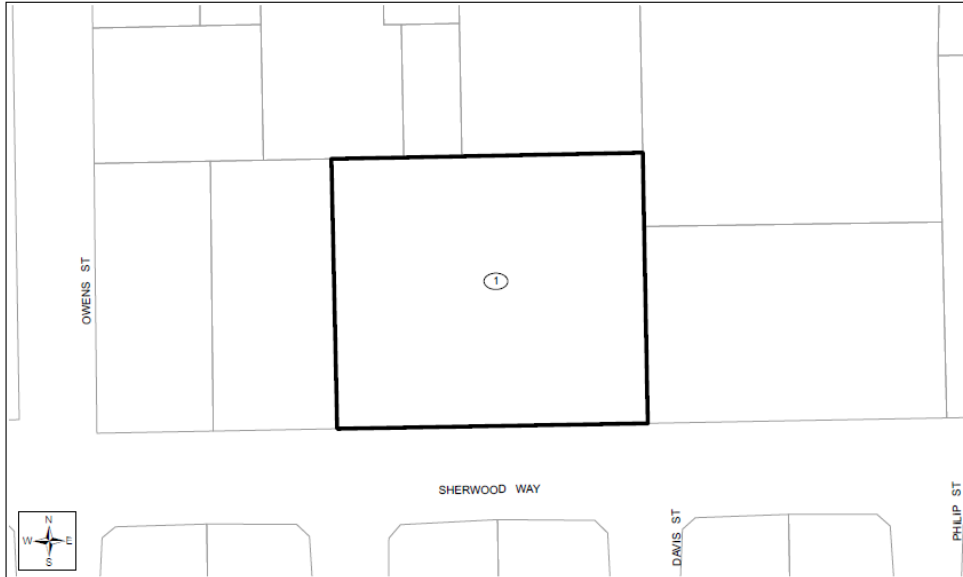


## Exhibit B Annexation Map

SHEET 1 OF 1

### ANNEXATION MAP NO. 9 COMMUNITY FACILITIES DISTRICT NO. 2005-01

CITY OF MADERA  
COUNTY OF MADERA  
STATE OF CALIFORNIA



FILED IN THE OFFICE OF THE CITY CLERK THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF ANNEXATION MAP NO. 9 OF COMMUNITY FACILITIES DISTRICT NO. 2005-01, CITY OF MADERA, COUNTY OF MADERA, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MADERA AT A REGULAR MEETING, THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY ITS RESOLUTION NO. \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK  
CITY OF MADERA

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN BOOK \_\_\_\_\_ PAGE(S) \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT AND INSTRUMENT NO. \_\_\_\_\_ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF MADERA, STATE OF CALIFORNIA.

\_\_\_\_\_  
COUNTY RECORDER  
COUNTY OF MADERA  
STATE OF CALIFORNIA

REFERENCE IS MADE TO THAT BOUNDARY OF COMMUNITY FACILITIES DISTRICT NO. 2005-01 OF THE CITY OF MADERA RECORDED WITH THE MADERA COUNTY RECORDER'S OFFICE ON OCTOBER 7, 2005, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICT ON PAGES 42 THROUGH 45.

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL SHOWN ON THIS DIAGRAM SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE MADERA COUNTY ASSESSOR'S MAPS FOR THOSE PARCELS LISTED.

THE MADERA COUNTY ASSESSOR'S MAP SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

**Legend**

- Annexation Parcels
- 1 Map Reference Number

1 in = 50 feet

MAP REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER
1	003-240-015



**Exhibit C**

**List of Assessor Parcel Numbers and Landowners**

<u>APN</u>	<u>Landowner</u>
003-240-015-000	Vanik Etal Pogosyan

# Attachment 4 – CFD 2005-01 Map

