

CITY OF YUBA CITY
STAFF REPORT

Date: July 20, 2021
To: Honorable Mayor & Members of the City Council
From: Public Works Department
Presentation by: Diana Langley, Public Works Director

Summary

Subject: Community Facilities District (CFD No. 2021-1) – Ordinance Authorizing the Levy of a Special Tax within the District

Recommendation: Waive the first reading and introduce an Ordinance of the City Council of the City of Yuba City Acting in its Capacity as the Legislative Body of the City of Yuba City Community Facilities District No. 2021-01 (Municipal Services) authorizing the Levey of a Special Tax within said District by title only.

Fiscal Impact: This CFD will provide \$485.80 per single family unit and \$354.35 per multi-family residential unit annually, with provisions for inflation factor increases.

Purpose:

To ensure new residential development pays for its impact on City services through a Community Facilities District (CFD).

Background:

On July 6, 2021, Council adopted Resolution Nos 21-094, 21-095, and 21-096, which collectively established CFD 2021-1 and a future annexation area, declared and certified the result of an election, and authorized the levy of a special tax within the district to finance certain services.

Analysis:

Per the Mello-Roos Community Facilities Act of 1982 (Act), now that CFD 2021-1 has been formed the Council must adopt an Ordinance authorizing the levy of a special tax with the District. While Council considered adopting this Ordinance at the July 6, 2021 City Council meeting, the Ordinance was not formally introduced at that time. Staff recommends waiving the reading of the Ordinance and holding a Public Hearing introducing the Ordinance at this time. The Ordinance can then be adopted at a subsequent meeting.

Fiscal Impact:

This CFD will provide \$485.80 per single family unit and \$354.35 per multi-family residential unit annually, with provisions for inflation factor increases.

Alternatives:

There are no practical alternatives to introducing the Ordinance if Council wishes to levy the special taxes.

Recommendation:

Waive reading and introduce an Ordinance authorizing the levy of a special tax within CFD 2021-1.

Attachments:

1. Ordinance Levying Tax.
 - a) Exhibit A – Rate and Method of Apportionment

Prepared by:

Submitted by:

[/s/ Kevin Bradford](#)

Kevin Bradford
Deputy Public Works Director – Engineering

[/s/ Dave Vaughn](#)

Dave Vaughn
City Manager

Reviewed by:

Department Head
Finance
City Attorney

[DL](#)

[SM](#)

[SLC by email](#)

ATTACHMENT 1

ORDINANCE NO. _____

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY ACTING IN ITS
CAPACITY AS THE LEGISLATIVE BODY OF CITY OF YUBA CITY COMMUNITY
FACILITIES DISTRICT NO. 2021-1 (MUNICIPAL SERVICES) AUTHORIZING THE
LEVY OF A SPECIAL TAX WITHIN SAID DISTRICT**

WHEREAS, the City Council of the City of Yuba City (the "City Council"), pursuant to Resolution No. 21-094, adopted on July 6, 2021 (the "Resolution of Formation"), has formed a City of Yuba City Community Facilities District No. 2021-1 (Municipal Services) ("CFD No. 2021-1") 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 "Act"); and

WHEREAS, pursuant to Resolution No. 21-095, the City Council, called an election within CFD NO. 2021-1 on July 6, 2021 for the purpose of presenting to the qualified electors within the initial territory within CFD No. 2021-1 (the Property"), a measure for the levy of a special tax and the establishment of an appropriations limit in accordance with the rate and method of apportionment method set forth in Exhibit "B" to the Resolution of Formation and the Resolution of Intention adopted on May 28, 2021; and

WHEREAS, pursuant to Resolution No. 21-096, adopted on July 6, 2021 following the election, the City Council declared the results of the election authorizing the levy of a special tax within CFD No. 2021-1; and

WHEREAS, the City Council now desires to levy the special tax within the CFD No. 2021-1.

THE CITY COUNCIL OF THE CITY OF YUBA CITY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. By the passage of this Ordinance, the City Council authorizes the levy of a special tax for CFD No. 2021-1 at the rate and formula set forth in Exhibit "B" to (the Resolution of Formation, and which for reference purposes is attached hereto as Exhibit "A", and incorporated herein by this reference. The CFD No. 2021-1 shall include all properties in the original CFD No. 2021-1 subject to the special taxes and all future annexations once such properties are annexed to the CFD No. 2021-1 by unanimous written approval or otherwise.

Section 2. The City Council or its designee is hereby further authorized to determine, by Ordinance, Resolution, or by other action if permitted by then applicable law, on or before August 1 of each year, the specific special tax to be levied on each parcel of land in the CFD No. 2021-1. The special tax to be levied shall not exceed the maximum rates set forth in Exhibit "A", but the special tax may be levied at a lower rate. The City Manager is authorized and directed to file with the County Auditor on or before the 10th day of August of each tax year a certified copy of such Ordinance or Resolution accompanied by a list of all parcels subject to the special tax levy with the tax to be levied on each parcel. The City Council shall levy at the maximum rate each year

pursuant to this Ordinance should no alternate Ordinance or Resolution for any fiscal year be adopted.

Section 3. Properties or entities of the State, federal or other local governments shall be exempt from the above-referenced and approved special taxes only to the extent set forth in Exhibit A, hereto and otherwise shall be subject to the tax consistent with the provisions of Section 53317.3 of the Act in effect as of the date of adoption of this Ordinance.

Section 4. All of the collections of the special taxes shall be used only as provided for in the Act and Resolution of Formation. The special taxes shall be levied perpetually or until the City Council determines to permanently cease to levy the special taxes.

Section 5. The special taxes shall be collected from time to time as necessary to meet the financial obligations of the CFD No. 2021-1 on the secured real property tax roll in the same manner as ordinary *ad valorem* taxes are collected, or other procedures as may be adopted by the City Council. The City Manager or his/her designee is hereby authorized and directed to provide or to cause to be provided all necessary information to the Auditor/Tax Collector of Sutter County and to otherwise take all actions necessary in order to effect proper billing and collection of the special taxes, so that the special taxes shall be levied and collected in sufficient amounts and at times necessary to satisfy the financial obligations of the CFD No. 2021-1 in each fiscal year. The special taxes may be subject to the same penalties and the same procedure, sale and lien priority in cases of delinquency as provided for *ad valorem* taxes as such procedure may be modified by law or this City Council from time to time.

Notwithstanding the foregoing, the City Manager or his/her designee may collect, or cause to be collected, one or more installments of the special taxes by means of direct billing by the CFD No. 2021-1 of the property owners within the CFD No. 2021-1, if, in the judgment of the City Manager, such means of collection will reduce the administrative burden of the CFD No. 2021-1 in administering the CFD No. 2021-1 or where it is otherwise appropriate in the circumstances. In such event, the special taxes shall become delinquent if not paid when due as set forth in any such respective billing to the property owners.

Whether the special taxes are levied in the manner provided in the first or the second preceding paragraph, the special taxes shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for *ad valorem* taxes.

Section 6. This Ordinance relating to the levy of the special taxes shall take effect immediately upon its final passage in accordance with the provisions of Section 36937(a) of the Government Code, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Government Code.

Section 7. The Mayor shall sign this Ordinance and the City Clerk shall attest to the Mayor's signature and then cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in the City.

Section 8. The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published as required by law.

Introduced at a regular meeting of the City Council of the City of Yuba City on the 20th day of July, 2021, and passed and adopted at a regular meeting held on the ____th day of _____, 2021.

AYES:

NOES:

ABSENT:

Marc Boomgaarden, Mayor

ATTEST

Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

Shannon L. Chaffin, City Attorney
Aleshire & Wynder, LLP

Attachment(s):
Exhibit A – Rate and Method of Apportionment

EXHIBIT "A"

**CITY OF YUBA CITY
COMMUNITY FACILITIES DISTRICT NO. 2021-1
(MUNICIPAL SERVICES)
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 2021-1 (Municipal Services) [herein "CFD No. 2021-1"] shall be levied and collected according to the tax liability determined by the City Council, acting in its capacity as the legislative body of CFD No. 2021-1, through the application of the appropriate Special Tax rate, as described below. All of the property in CFD No. 2021-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acreage" or **"Acre"** means the land area making up 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 or other parcel map recorded at the County Recorder's Office.

"Administrative Expenses" means the costs incurred by the City to determine, levy and collect the Special Tax, including salaries of City employees and fees of consultants and 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 CFD No. 2021-1 as determined by the Finance Director.

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

"Annual Tax Escalation Factor" means an annual increase in the Maximum Special Tax following the Base Year in an amount not to exceed four percent (4%). The Annual Tax Escalation Factor shall be based on the budgeted escalation of the City of Yuba City's combined Police and Fire Departments from the previous fiscal year.

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

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

"Authorized Services" means the public services authorized to be funded by CFD No. 2021-1 as set forth in the documents adopted by the City Council when the CFD No. 2021-1 was formed.

"Base Year" means Fiscal Year 2020-2021.

"City" means the City of Yuba City.

"City Council" means the City Council of the City of Yuba City, acting as the legislative body of CFD No. 2021-1.

"County" means Sutter County, California.

"Developed Residential Property" means, in any Fiscal Year, all Parcels of Taxable Property for which a use permit or building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year.

"Finance Director" means the Finance Director for the City or his or her designee or successor.

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

"Maximum Special Tax" means the maximum Special Tax determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

"Multi-Family Property" means, in any Fiscal Year, all units in CFD No. 2021-1 for which a building permit was issued or may be issued for construction of a residential structure with multiple units that share common walls, all of which are offered for rent to the general public.

"Public Property" means any property within the boundaries of CFD No. 2021-1 that is owned by the federal government, State of California, County, City, or other public agency.

"Residential Unit(s)" means an individual lot of land for which a building permit could be issued to construct one or more residential dwelling units.

"Residential Property" means all Assessor's Parcels of Taxable Property for which a map has been recorded designating individual Residential Units.

"Non-Residential Property" means all Assessor's Parcels of Taxable Property within the boundaries of CFD No. 2021-1 for which a map has been recorded designating the Assessor's Parcel as a lot for which a building permit could be issued and the Assessor's Parcel cannot be classified as a Residential Property.

"Special Tax" means any tax levied to pay for Authorized Services and Administrative Expenses.

"Single Family Property" means buildings containing one dwelling unit located on a single lot that are individually owned, including attached or detached residences (i.e., townhome unit and/or condominium units).

"Taxable Property" means all Assessor's Parcels within the boundaries of CFD No. 2021-1 designated as Developed Residential Property.

"Undeveloped Residential Property" means all Parcels of Residential Property within the boundaries of CFD No. 2021-1 that are not Developed Residential Property, as determined by the Administrator.

"Unit" means an individual single family detached unit or an individual residential unit within a duplex, triplex, fourplex, townhome, condominium, or apartment structure.

CATEGORIZING PARCELS FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Parcels within CFD No. 2021-1, and each parcel shall be classified as Developed Residential Property, Non-Residential Property, Public Property, or Undeveloped Residential Property, and shall be subject to the levy of annual Special Taxes determined pursuant to Sections C and D below.

B. MAXIMUM SPECIAL TAX RATE

All Taxable Property within the CFD No. 2021-1 shall be subject to a Maximum Special Tax that will be levied each Fiscal Year to pay for Authorized Services. As discussed above, the Administrator shall rely first on the Land Use Designation for a Parcel to determine the appropriate Maximum Special Tax in **Table 1**, below, but, in the absence of an assigned Land Use Designation, the Administrator shall refer to the Zoning Designation and land use to be built on the Parcel. The following Maximum Special Tax rates apply to all Parcels of Developed Property within CFD No. 2021-1:

Each Residential Unit is subject to the Maximum Special Tax shown in **Table 1**, below.

Non- Residential Property, Undeveloped Property, and Public Property is not subject to the Maximum Special Tax.

Table 1

Property Land Use	Fiscal Year 2021/22 Maximum Special Tax Amount *
Single Family Property	\$485.80 per Single Family Residential Unit
Multi-Family Property	\$354.35 per Multi-Family Residential Unit
Undeveloped Residential Property	\$0 per Assessor's Parcel

* Beginning July 1, 2022 and each July 1 thereafter, all of the Maximum Special Taxes shown in **Table 1** above shall be adjusted by applying the Annual Tax Escalation Factor.

C. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Administrator shall levy the Maximum Special Tax on each Parcel of Developed Property in CFD No. 2021-1. The Special Tax for CFD No. 2021-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes provided, however, that CFD No. 2021-1 may (under the authority of Government Code Section 53340) in any particular case bill the taxes directly to the property owner off the County tax roll, and the Special Tax will be equally subject to foreclosure if delinquent.

D. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on Public Property, Non-Residential Property, or Undeveloped Residential Property.

E. FUTURE ANNEXATIONS

It is anticipated that additional properties will be annexed to CFD No. 2021-1 from time to time. The property to be annexed will be assigned to the appropriate Maximum Special Tax rate for the Tract or Tracts when annexed, as pursuant to California Government Code section 53339 et seq.

In certain cases, it may be determined that a potential property to be annexed may require a higher cost to provide City services than other areas of the City (e.g., if it possesses a large quantity of City- owned infrastructure that requires maintenance). As each annexation is proposed, the City may elect to prepare an analysis to determine the annual cost for providing Services, and may incorporate unique zones with varying Maximum Special Tax rates. Such zones may be referred to by reference to a letter or number on the boundary map, and adjust the rates in Table 1 of such annexation to reflect the applicable rates.

The City may adopt a future annexation area in the future and allow for annexation by unanimous written consent.

F. INTERPRETATION OF SPECIAL TAX FORMULA

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

G. TERM

The Special Tax shall be collected in perpetuity.

H. APPEALS

Any property owner claiming that the amount or application of the Special Tax is not correct may file a written notice of appeal with the Administrator not later than twelve months after having paid the first installment of the Special Tax that is disputed. The Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and rule on the appeal. If the decision of the Administrator requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund shall not be made but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s) to compensate for the overpayment of the Special Tax.