

*In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described herein, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings, and the Bonds are "qualified tax-exempt obligations" within the meaning of section 265(b)(3) of the Internal Revenue Code of 1986. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See "TAX MATTERS" herein.*

**\$5,060,000  
CLAYTON FINANCING AUTHORITY  
2007 SPECIAL TAX REVENUE REFUNDING BONDS  
(Bank Qualified)**

**Dated: Date of Delivery**

**Due: September 2, as shown on inside cover**

The Bonds captioned above are being issued by the Clayton Financing Authority (the "Authority") to assist the City of Clayton, California (the "City"), pursuant to Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, to (i) refund the Authority's 1997 Special Tax Revenue Refunding Bonds (the "1997 Bonds"), (ii) finance the acquisition and construction of certain public capital improvements (the "Project"), (iii) establish a reserve fund for the Bonds (funded part in cash and part from a reserve fund surety bond), and (iv) to pay the costs of issuance of the Bonds.

The Bonds are payable solely from "Revenues" pledged by the Authority pursuant to that certain Indenture of Trust, dated as of May 1, 2007 (the "Indenture"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee"). Revenues consist primarily of payments of debt service received by the Authority as owner of the City of Clayton Community Facilities District No. 1990-1 Special Tax Bonds, Refunding Series 1997 (the "Local Obligations"). Payments of debt service on the Local Obligations are secured primarily by special taxes levied in the City's Community Facilities District 1990-1.

The Bonds will be issued in denominations of \$5,000 or any integral multiple thereof. Interest is payable on March 2, 2008 and semiannually thereafter on March 2 and September 2 each year. The Bonds will be initially issued only in book-entry form and registered to Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository of the Bonds. Principal and interest (and premium, if any) on the Bonds is payable by the Trustee to DTC, which remits such payments to its Participants for subsequent distribution to the registered owners as shown on the Trustee's books as of the fifteenth day of the calendar month immediately preceding each interest payment date. See "THE BONDS - Book-Entry Only System" and "- General Provisions" herein.

*The Bonds are subject to redemption prior to maturity as described herein.*

The payment of the principal of and interest on the Bonds when due will be insured by a financial guaranty insurance policy to be issued by Ambac Assurance Corporation simultaneously with the delivery of the Bonds.

**Ambac**

THE BONDS ARE SPECIAL OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED SOLELY BY THE REVENUES, AS APPLICABLE, AND FUNDS PLEDGED THEREFOR IN THE INDENTURE. THE BONDS ARE NOT A DEBT OR LIABILITY OF THE CITY, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISIONS THEREOF OTHER THAN THE AUTHORITY TO THE LIMITED EXTENT DESCRIBED HEREIN, AND NEITHER THE FAITH AND CREDIT OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS ARE PLEDGED TO THE PAYMENT OF PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS AND NEITHER THE AUTHORITY (EXCEPT TO THE LIMITED EXTENT DESCRIBED HEREIN), THE CITY, THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS IS LIABLE THEREFOR, NOR IN ANY EVENT SHALL THE BONDS OR ANY INTEREST OR REDEMPTION PREMIUM THEREUNDER BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE AUTHORITY AS SET FORTH IN THE INDENTURE. NEITHER THE BONDS NOR THE OBLIGATION TO MAKE PAYMENTS UNDER THE BONDS CONSTITUTE AN INDEBTEDNESS OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. THE AUTHORITY HAS NO TAXING POWER.

**Maturity Schedule  
(see inside cover)**

*The Bonds will be offered when, as and if issued and received by the Underwriter, subject to the approval as to their legality by Jones Hall, A Professional Corporation, San Francisco, California, as Bond Counsel. Certain legal matters will be passed upon for the Authority by the City Attorney. Jones Hall, A Professional Law Corporation, San Francisco, California, is also serving as Disclosure Counsel. It is anticipated that the Bonds in book-entry form will be available for delivery through DTC in New York, New York on or about June 7, 2007.*

**PiperJaffray**

Dated: May 17, 2007.

## MATURITY SCHEDULE

(Base CUSIP: †184065)

Maturity (Sept. 2)	Principal Amount	Interest Rate	Yield	CUSIP †	Maturity (Sept. 2)	Principal Amount	Interest Rate	Yield	CUSIP †
2008	\$295,000	3.500%	3.550%	AU 4	2014	\$320,000	3.625%	3.780%	BA 7
2009	265,000	3.500	3.570	AV 2	2015	330,000	3.700	3.830	BB 5
2010	275,000	3.500	3.600	AW 0	2016	340,000	3.750	3.900	BC 3
2011	285,000	3.500	3.630	AX 8	2020	395,000	4.000	4.100	BG 4
2012	295,000	3.500	3.680	AY 6	2021	415,000	4.000	4.150	BH 2
2013	300,000	3.600	3.730	AZ 3	2022	440,000	4.125	4.200	BJ 8

\$1,105,000 4.000% Term Bonds due September 2, 2019; Yield: 4.050%; Price: 99.516%; CUSIP† No. 184065 BF 6

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## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

**No Offering May Be Made Except by this Official Statement.** No dealer, broker, salesperson or other person has been authorized by the Authority, the City or the Underwriter to give any information or to make any representations with respect to the Bonds other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized by the Authority, the City or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

**Effective Date.** This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the Authority, the City's, the Districts, any other parties described in this Official Statement, or in the condition of property within the Districts since the date of this Official Statement.

**Use of this Official Statement.** This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the Bonds.

**Preparation of this Official Statement.** The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness. The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

**Document References and Summaries.** All references to and summaries of the Indenture or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

**Stabilization of and Changes to Offering Prices.** The Underwriter may overallocate or take other steps that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. If commenced, the Underwriter may discontinue such market stabilization at any time. The Underwriter may offer and sell the Bonds to certain dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriter.

**Bonds are Exempt from Securities Laws Registration.** The issuance and sale of the Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

**Estimates and Projections.** Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements." Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE AUTHORITY AND THE CITY DO NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ANY EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

SECURITIES PRODUCTS AND SERVICES ARE OFFERED THROUGH PIPER JAFFRAY & CO., MEMBER SIPC AND NYSE, INC.

PIPER JAFFRAY & CO. SINCE 1895. MEMBER SIPC AND NYSE.

# CLAYTON FINANCING AUTHORITY

## **City of Clayton City Council and Authority Officers/Board of Directors**

William Walcutt, *Mayor/President of the Authority*  
Gregory Manning, *Vice Mayor/Vice-President of the Authority*  
Julie K. Pierce, *Councilmember/Boardmember*  
David Shuey, *Councilmember/Boardmember*  
Hank Stratford, *Councilmember/Boardmember*

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## **City Staff**

Gary A. Napper, *City Manager and Executive Director of the Authority*  
Merry Pelletier, *Finance Manager*  
Merle Hufford, *Treasurer*  
Laura Hoffmeister, *Assistant to the City Manager*  
Rick Angrisani, *City Engineer*  
Jeremy Graves, *Community Development Director*  
J. Daniel Adams, Esq., *City Attorney*  
Laci J. Jackson, *City Clerk and Secretary to the Authority*

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## **Special Services**

### **Bond and Disclosure Counsel**

Jones Hall, A Professional Law Corporation  
*San Francisco, California*

### **Fiscal Agent**

U.S. Bank National Association  
*San Francisco, California*

### **Special Tax Consultant**

NBS Local Government Solutions  
*Temecula, California*

### **Verification Agent**

The Arbitrage Group  
*Tuscaloosa, Alabama*

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## OFFICIAL STATEMENT

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**\$5,060,000**  
**CLAYTON FINANCING AUTHORITY**  
**2007 SPECIAL TAX REVENUE REFUNDING BONDS**

The purpose of this Official Statement, which includes the cover page and Appendices hereto (the “**Official Statement**”), is to provide certain information concerning the sale and issuance of the Clayton Financing Authority 2007 Special Tax Revenue Refunding Bonds (the “**Bonds**”).

### INTRODUCTION

*This Introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.*

### Financing Purpose

**Purpose of the Bonds.** The Bonds are being issued by the Clayton Financing Authority (the “**Authority**”) for the following purposes (see “**THE FINANCING PLAN**” herein):

- (i) to refund the Authority’s 1997 Special Tax Revenue Refunding Bonds (the “1997 Bonds”), as described below;
- (ii) to finance the acquisition and construction of certain public capital improvements;
- (iii) to establish a reserve fund for the Bonds (the “**Reserve Fund**”) (funded in part from Bond proceeds and in part from the purchase of a surety bond); and
- (iv) to pay the costs of issuance of the Bonds.

### The Bonds

The Bonds are payable from revenues (“**Revenues**”) as defined more completely below, received by the Authority as the result of the payment of debt service on the Local Obligations.

The “**Local Obligations**” consist of the \$6,400,000 original aggregate principal amount of the City of Clayton’s (the “**City**”) Community Facilities District No. 1990-1 Special Tax Bonds, Refunding Series 1997 issued to refund a prior series of special tax bonds issued by the City in connection with the City’s Community Facility District No. 1990-1 (the “**District**”), which comprises residential property the Oakhurst residential area of the City. The original bonds of

the District were issued primarily to finance a portion of the construction of a public middle school and site preparation of an adjacent playing field. See "FINANCING PLAN" herein. The Local Obligations are payable from Special Taxes levied on taxable property in the District, as described herein. See "THE DISTRICT" herein.

### **Legal Authority**

**The Bonds.** The Bonds are being issued under Article 4 of the Joint Powers Act (the "Act") and an Indenture of Trust dated as of May 1, 2007 (the "Indenture"), by and between the Authority and U.S. Bank National Association, as trustee (the "Trustee").

**The Local Obligations.** The Local Obligations were issued in 1997 pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Mello-Roos Act"), and a Fiscal Agent Agreement dated as of November 1, 1997 the "1997 Fiscal Agent Agreement"), by and between the City and First Trust of California, National Association, as the fiscal agent.

### **Sources of Payment for the Bonds**

The Bonds are secured by a first lien on and pledge of all of the Revenues. "Revenues" are defined in the Indenture as (a) all amounts received from the Local Obligations, including on account of the early redemption thereof; and (b) investment income with respect to any moneys held by the Trustee in the funds and accounts established under the Indenture (other than investment income on moneys held in the Rebate Fund and the Surplus Fund). See "SECURITY FOR THE BONDS – Revenues; Flow of Funds" herein.

The Local Obligations are payable from collections of the levy of "Special Taxes" against taxable property in the District, including all scheduled payments and delinquent payments thereof, interest and penalties thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes. See "SECURITY FOR THE LOCAL OBLIGATIONS."

The payment of the principal of and interest on the Bonds when due will be insured by a financial guaranty insurance policy to be issued by Ambac Assurance Corporation (the "Bond Insurer") simultaneously with the delivery of the Bonds. The Bond Insurer will also issue a reserve fund surety bond for a portion of the Reserve Fund. See "SECURITY FOR THE BONDS - Reserve Fund". See also "FINANCIAL GUARANTY INSURANCE" and "APPENDIX G - Specimen Financial Guaranty Insurance Policy."

### **Description of the Bonds**

**Payments.** Interest is payable on March 2, 2008, and semiannually thereafter on September 2 and March 2 each year. Principal of and premium, if any, on the Bonds shall be payable by the Trustee. See "THE BONDS - General Provisions" and "- Book-Entry Only System" herein.

**Denominations.** The Bonds will be issued in denominations of \$5,000 each or integral multiples thereof.

**Redemption.** The Bonds are subject to redemption prior to their maturity. See "THE BONDS - Redemption" herein.



**Registration, transfers and exchanges.** The Bonds will be issued as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), and will be available to actual purchasers of the Bonds (the “Beneficial Owners”) under the book-entry system maintained by DTC. See “THE BONDS – Payment, Registration, Transfer and Exchange of Bonds” and “Book-Entry Only System.”

## **The City**

The City of Clayton (the “City”) is located in Contra Costa County (the “County”). The City was incorporated on March 17, 1964 and is a public body, corporate and politic, organized and existing under and by virtue of the Constitution and laws of the State of California (the “State”). See “APPENDIX C – General Information About the City of Clayton and Contra Costa County” attached hereto.

## **The Authority**

The Authority is a joint exercise of powers authority organized and existing pursuant to Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California. The Authority was formed by City Resolution No. 120-90 adopted on December 4, 1990.

## **Professionals Involved in the Offering**

All proceedings in connection with the issuance of the Bonds are subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. U.S. Bank National Association, San Francisco, California, will act as the Trustee. Jones Hall, A Professional Law Corporation is also acting as Disclosure Counsel. The Arbitrage Group, Tuscaloosa, Alabama, will provide escrow verification services.

*Jones Hall will receive compensation as Bond and Disclosure Counsel contingent upon issuance of the Bonds.*

## **Continuing Disclosure**

The City, on behalf of itself and the Authority, has covenanted for the benefit of holders and beneficial owners of the Bonds to provide certain financial information and operating data relating to the Authority and the City by not later than 9 months following the end of its fiscal year (which currently would be by March 31 each year based upon the June 30 end of their fiscal years), commencing by March 31, 2008 with the report for the 2006-07 Fiscal Year (the “Annual Report”), and to provide notices of the occurrence of certain enumerated events, if material.

The Annual Report will be filed by the City with each Nationally Recognized Municipal Securities Information Repository, and with the appropriate State information repository, if any. The notices of material events will be filed by the City with the Municipal Securities Rulemaking Board (and with the appropriate State information repository, if any). The specific nature of the information to be contained in the Annual Report or the notices of material events is set forth in “APPENDIX E - Form of Continuing Disclosure Certificate.” These covenants have been made in order to assist the Underwriter in complying with S.E.C. Rule 15c2-12(b)(5) (the “Rule”).

The City and the Authority have had no instance in the previous five years in which it failed to comply in all material respects with any previous continuing disclosure obligation under the Rule.

## FINANCING PLAN

### Purpose of Issue and the Refunding Plan

Proceeds of the Bonds will be used by the Authority (i) to refund the Authority's 1997 Special Tax Revenue Refunding Bonds (the "**1997 Bonds**"), (ii) to finance the acquisition and construction of certain public park improvements (the "**Project**"), (iii) to establish a reserve fund for the Bonds (funded in part with cash and in part through the purchase of a surety bond from the Bond Insurer), and (iv) to pay costs of issuance of the Bonds.

The 1997 Bonds were issued to purchase the Local Obligations. The Local Obligations are not being refunded in connection with the refunding of the 1997 Bonds.

**Refunding of the 1997 Bonds.** The 1997 Bonds are outstanding in the principal amount of \$5,285,000. On the date of issuance of the Bonds, a portion of the proceeds will be transferred to U.S. Bank National Association, as the Escrow Agent (the "**Escrow Agent**") for deposit into an Escrow Fund established under Irrevocable Escrow Instructions given by the Authority to secure the payment of the 1997 Bonds. Moneys in the Escrow Fund are irrevocably pledged as a special fund for the payment of the principal of and interest and redemption premium on the 1997 Bonds in accordance with the 1997 Indenture under which the 1997 Bonds were issued. The amount deposited under each Escrow Agreement, together with other available moneys, will be invested in Federal Securities and irrevocably pledged for the payment of the principal of and interest on the 1997 Bonds to and including September 2, 2007 at a redemption price equal to 103% of the principal amount to be redeemed, together with accrued interest to the redemption date.

The amounts held and invested by the Escrow Agent for the 1997 Bonds in the Escrow Funds are pledged solely to the payment of amounts due and payable by the Authority under the 1997 Bonds. Neither the funds deposited in the Escrow Fund for the 1997 Bonds nor the interest on the invested funds will be available for the payment of debt service on the Bonds.

See "Estimated Sources and Uses of Funds" below. See also "MISCELLANEOUS – Verification of Mathematical Accuracy" below.

**Acquisition and Construction of Capital Improvements.** A portion of the proceeds of the Bonds will be deposited in the Project Fund established and administered pursuant to the Indenture for the purpose of financing public capital improvements of benefit to the City, which are expected to consist primarily of park improvements. See "APPENDIX A – Summary of Certain Provisions of the Indenture – Indenture of Trust Relating to the Bonds" herein for a description of the Project Fund.

## Estimated Sources and Uses of Funds

**The Bonds.** The anticipated sources and uses of funds relating to the Bonds and moneys available from the 1997 Bonds are as follows:

<u>Sources:</u>	
Principal Amount of the Bonds	\$5,060,000.00
<i>Less:</i> Original Issue Discount	(37,430.50)
<i>Plus:</i> Moneys Available From 1997 Bonds	<u>1,336,912.65</u>
<b>Total Sources</b>	<b>\$6,359,482.15</b>
 <u>Uses:</u>	
Deposit to Purchase Fund <sup>(1)</sup>	\$5,526,446.57
Deposit to Project Fund	250,000.00
Deposit to Reserve Fund	251,982.51
Deposit to Debt Service Fund	85,294.38
Costs of Issuance <sup>(2)</sup>	<u>245,758.69</u>
<b>Total Uses</b>	<b>\$6,359,482.15</b>

- (1) Proceeds deposited in the Purchase Fund will be used to acquire the Prior Bonds.  
(2) Costs of issuance include Trustee fees, Bond Counsel fees, Underwriter's discount, printing costs, rating agency fees, the financial guaranty insurance premium for the Bonds, and other related costs.

## THE BONDS

### General Provisions

The Bonds will be dated their date of delivery, and will be issued in the aggregate principal amount set forth on the cover hereof. The Bonds will bear interest from their dated date at the rates per annum set forth on the cover page hereof, payable semiannually on each March 2 and September 2, commencing March 2, 2008 (each, an "Interest Payment Date"), and will mature in the amounts and on the dates set forth on the inside cover page hereof. The Bonds will be issued in fully registered form in denominations of \$5,000 each or any integral multiple thereof.

Interest on the Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Bond Register as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed on such Interest Payment Date by first class mail, postage prepaid, to the Owner at the address of such Owner as it appears on the Bond Register or by wire transfer to an account in the United States of America made on such Interest Payment Date upon instructions of any Owner of \$1,000,000 or more in aggregate principal amount of Bonds provided to the Trustee in writing at least five (5) Business Days before the Record Date for such Interest Payment Date. Principal of and premium (if any) on any Bond shall be paid upon presentation and surrender thereof, at maturity or the prior redemption thereof, at the Trust Office of the Trustee. The principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) it is authenticated on or before February 15, 2008, in which event it shall bear

interest from the Closing Date; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon, or from the Closing Date if no interest has been paid or made available for payment.

**Redemption**

**Optional Redemption.** The Bonds maturing on or before September 2, 2017 are not subject to optional call and redemption prior to maturity. The Bonds maturing on or after September 2, 2018 may be redeemed at the option of the Authority, from any source of available funds (other than the proceeds of early redemption of the Local Obligations, which redemptions shall proceed in accordance with subsection (b) below), prior to maturity on any date on or after September 2, 2017 as a whole, or in part and, if in part, from maturities as are selected by the Authority and by lot within a maturity, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date of redemption, without premium.

**Special Redemption of Bonds.** The Bonds are subject to special redemption on any Interest Payment Date from proceeds of early redemption of Local Obligations from prepayment of Special Taxes or from other funds available therefor, in whole or in part (by lot), from maturities corresponding proportionately to the maturities of the Local Obligations simultaneously redeemed, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date of redemption, without premium.

In connection with such redemption, the Authority is required to deliver to the Trustee and the Bond Insurer a certificate of an Independent Accountant verifying that, following such optional redemption of the Local Obligations and redemption of Bonds, the principal and interest generated from the remaining Local Obligations is adequate to make the timely payment of principal and interest due on the Bonds that will remain outstanding following such redemption.

**Mandatory Sinking Fund Redemption.** The Bonds maturing on September 2, 2019 shall be subject to mandatory sinking fund redemption prior to maturity, in part, on September 2, 2017, and on each September 2 thereafter by lot, from sinking fund payments at a redemption price equal to the principal amount of to be redeemed, together with accrued interest to the date of redemption, without premium, as follows:

Redemption Date (September 2)	Redemption Amount
2017	\$355,000
2018	370,000
2019 (maturity)	380,000

**Notice of Redemption.** The Trustee on behalf, and at the expense, of the Authority shall mail (by first class mail, postage prepaid) notice of any redemption to the Bond Insurer and the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Bond Register, and to the Securities Depositories and to the Information Services, at least thirty (30) but not more than sixty (60) days prior to the date fixed for redemption. Neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such

Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue after the redemption date. Any such redemption notice may specify that redemption on the specified date will be subject to receipt by the Authority of moneys sufficient to cause such redemption (and shall specify the proposed source of such moneys), and neither the Authority nor the Trustee shall have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys.

**Selection of Bonds for Redemption.** Unless otherwise provided in the Indenture, whenever provision is made for the redemption of less than all of the Bonds of a maturity, the Trustee shall select the Bonds to be redeemed from all Bonds of such maturity not previously called for redemption, by lot in any manner which the Trustee in its sole discretion shall deem appropriate and fair. For purposes of such selection, all Bonds shall be deemed to be comprised of separate authorized denominations, and such separate authorized denominations shall be treated as separate Bonds which may be separately redeemed.

**Partial Redemption of Bonds.** In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of the same maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

**Effect of Redemption.** From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption have been duly provided, such Bonds so called will cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price, and no interest will accrue thereon from and after the redemption date specified in such notice.

#### **Payment, Registration, Transfer and Exchange of Bonds**

**Book-Entry Only System.** The Bonds will be issued as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), and will be available to actual purchasers of the Bonds (the “Beneficial Owners”) in the denominations set forth above, under the book-entry system maintained by DTC, only through brokers and dealers who are or act through DTC Participants (as defined herein) as described herein. Beneficial Owners will not be entitled to receive physical delivery of the Bonds. See “THE BONDS – Book-Entry Only System.” In the event that the book-entry-only system is no longer used with respect to the Bonds, the Bonds will be registered and transferred in accordance with the Indenture. See “THE BONDS – Book-Entry Only System – Discontinuance of DTC Service.”

**Transfer of Bonds.** Subject to the book-entry only provisions of the Indenture, any Bond may in accordance with its terms, be transferred, upon the Bond Register maintained by the Trustee, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond is surrendered for transfer, the Authority will execute and the Trustee will authenticate and deliver to the transferee a new Bond or Bonds of like Series, tenor, maturity and aggregate principal amount. No Bonds selected for redemption will be subject to transfer during the fifteen days prior to the selection of Bonds for redemption.

The cost of printing any Bonds and any services rendered or any expenses incurred by the Trustee in connection with any transfer or exchange will be paid by the Authority. However,

the Owners of the Bonds will be required to pay any tax or other governmental charge required to be paid for any exchange or registration of transfer and the Owners of the Bonds will be required to pay the reasonable fees and expenses of the Trustee and Authority in connection with the replacement of any mutilated, lost or stolen Bonds.

***Exchange of Bonds.*** Subject to the book-entry only provisions of the Indenture, bonds may be exchanged at the Trust Office of the Trustee for Bonds of the same Series, tenor and maturity and of other authorized denominations. No Bonds selected for redemption will be subject to exchange during the fifteen days prior to the selection of Bonds for redemption. The Owners of the Bonds shall be required to pay any tax or other governmental charge required to be paid for any exchange and the Owners of the Bonds shall be required to pay the reasonable fees and expenses of the Trustee and Authority in connection with the exchange of any Bonds.

***Bond Register.*** The Trustee will keep or cause to be kept at its Trust sufficient records for the registration and transfer of the Bonds, which will be the Bond Register and shall at all times during regular business hours be open to inspection by the Authority upon reasonable notice; and, upon presentation for such purpose, the Trustee will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as hereinbefore provided.

### **Book-Entry Only System**

While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to a Bond will be paid by the Trustee to The Depository Trust Company, New York, New York ("DTC"), which in turn is obligated to remit such payment to its DTC Participants for subsequent disbursement to Beneficial Owners of the Bonds, as described in "APPENDIX F — DTC and the Book-Entry-Only System" herein.

## Debt Service Schedules

The following table presents the debt service schedule for the Bonds, assuming no optional or special redemptions are made:

### CLAYTON FINANCING AUTHORITY Annual Debt Service Schedule for the Bonds

<b>Year Ending Sept. 2</b>	<b>Principal</b>	<b>Interest</b>	<b>Total</b>
2008	\$295,000	\$236,882.16	\$531,882.16
2009	265,000	181,310.02	446,310.02
2010	275,000	172,035.02	447,035.02
2011	285,000	162,410.02	447,410.02
2012	295,000	152,435.02	447,435.02
2013	300,000	142,110.02	442,110.02
2014	320,000	131,310.02	451,310.02
2015	330,000	119,710.02	449,710.02
2016	340,000	107,500.02	447,500.02
2017	355,000	94,750.02	449,750.02
2018	370,000	80,550.02	450,550.02
2019	380,000	65,750.02	445,750.02
2020	395,000	50,550.02	445,550.02
2021	415,000	34,750.02	449,750.02
2022	440,000	18,150.02	458,150.02
<b>Total</b>	<b>\$5,060,000</b>	<b>\$1,750,202.44</b>	<b>\$6,810,202.44</b>

The following table summarizes the scheduled debt service payments, assuming no optional or special redemptions are made, to be received by the Authority as the result of its ownership of the Local Obligations.

**CITY OF CLAYTON  
CFD 1990-1  
Annual Debt Service Schedule for the Local Obligations**

<b>Year Ending Sept. 2</b>	<b>Local Obligations Principal</b>	<b>Local Obligations Interest</b>	<b>Total</b>
2007	\$ 187,000	\$ 329,376.96	\$ 516,376.96
2008	203,000	317,216.34	520,216.34
2009	214,000	304,015.26	518,015.26
2010	230,000	290,098.84	520,098.84
2011	241,000	275,141.94	516,141.94
2012	258,000	259,469.70	517,469.70
2013	274,000	242,691.96	516,691.96
2014	295,000	224,873.74	519,873.74
2015	311,000	205,689.90	516,689.90
2016	332,000	185,465.56	517,465.56
2017	359,000	163,875.60	522,875.60
2018	380,000	140,529.84	520,529.84
2019	402,000	115,818.44	517,818.44
2020	429,000	89,676.38	518,676.38
2021	456,000	61,778.50	517,778.50
2022	494,000	32,124.82	526,124.82



## Debt Service Coverage on the Local Obligations

The annual debt service coverage for the Bonds based on the maximum Special Taxes that can be charged in the District and the current development status of property in the District and the levy of the Maximum Special Tax on all properties in the District is shown in the table set forth below.

### CLAYTON FINANCING AUTHORITY 2007 SPECIAL TAX REVENUE REFUNDING BONDS DEBT SERVICE COVERAGE

Year Ending (Sept. 2)	Series 2007 Debt Service	Total Max Special Tax From Developed Residential Parcels	Debt Service Coverage From Developed Residential Parcels	Total Max Special Tax From All Developed Parcels	Debt Service Coverage From All Developed Parcels	Total Max Special Tax From All Parcels	Debt Service Coverage From All Parcels
2008	\$531,882.16	\$600,000	112.81%	\$600,000	112.81%	\$600,000	112.81%
2009	446,310.02	\$600,000	134.44	600,000	134.44	\$600,000	134.44
2010	447,035.02	\$600,000	134.22	600,000	134.22	\$600,000	134.22
2011	447,410.02	\$600,000	134.11	600,000	134.11	\$600,000	134.11
2012	447,435.02	\$600,000	134.10	600,000	134.10	\$600,000	134.10
2013	442,110.02	\$600,000	135.71	600,000	135.71	\$600,000	135.71
2014	451,310.02	\$600,000	132.95	600,000	132.95	\$600,000	132.95
2015	449,710.02	\$600,000	133.42	600,000	133.42	\$600,000	133.42
2016	447,500.02	\$600,000	134.08	600,000	134.08	\$600,000	134.08
2017	449,750.02	\$600,000	133.41	600,000	133.41	\$600,000	133.41
2018	450,550.02	\$600,000	133.17	600,000	133.17	\$600,000	133.17
2019	445,750.02	\$600,000	134.60	600,000	134.60	\$600,000	134.60
2020	445,550.02	\$600,000	134.67	600,000	134.67	\$600,000	134.67
2021	449,750.02	\$600,000	133.41	600,000	133.41	\$600,000	133.41
2022	458,150.02	\$600,000	130.96	600,000	130.96	\$600,000	130.96

Source: NBS.

## SECURITY FOR THE BONDS

### General

As described below, the Bonds are payable from Revenues, consisting primarily of payments of principal and interest received by the Authority as owner of the Local Obligations.

The Bonds are special obligations of the Authority payable solely from and secured solely by the Revenues and the funds pledged therefor in the Indenture. The Bonds are not a debt or liability of the City, the State of California or any political subdivisions thereof other than the Authority to the limited extent described herein, and neither the faith and credit of the Authority, the City, the State or any of its political subdivisions are pledged to the payment of principal of, premium, if any, or interest on the Bonds and neither the Authority, the City, the State nor any of its political subdivisions is liable therefor, nor in any event shall the Bonds or any interest or redemption premium thereunder be payable out of any funds or properties other than those of the Authority as set forth in the Indenture. Neither the Bonds nor the obligation to make payments under the Local Obligations constitute an indebtedness of the Authority, the City, the State nor any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction. The Authority has no taxing power.

### Revenues; Flow of Funds

**Bonds; Revenues.** The Bonds are secured by a first lien on and pledge of all of the Revenues. So long as any of the Bonds are Outstanding, the Revenues will not be used for any purpose except as is expressly permitted by the Indenture. "Revenues" are defined in the Indenture as (a) all amounts received from the Local Obligations, including on account of the early redemption thereof; and (b) investment income with respect to any moneys held by the Trustee in the funds and accounts established under the Indenture (other than investment income on moneys held in the Rebate Fund and the Surplus Fund).

**Collection by the Trustee.** The Trustee will collect and receive all of the Revenues, and any Revenues collected or received by the Authority will be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. The Trustee is also entitled to and will take all steps, actions and proceedings reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Local Obligations.

**Deposit of Revenues.** All Revenues derived from the Local Obligations will be promptly deposited by the Trustee upon receipt thereof in the Revenue Fund. Any Revenues which represent the payment of delinquent principal of or interest on the Local Obligations will immediately be deposited to the Reserve Fund to the extent necessary to replenish the amount therein to the required balance (or used to reimburse the provider of a Qualified Reserve Fund Credit Instrument, if applicable).

**Application of Revenues.** On each Interest Payment Date and date for redemption of the Bonds, the Trustee shall transfer from the Revenue Fund, and deposit into the following respective accounts for the Bonds, the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(i) Interest Account. On each Interest Payment Date and redemption date, the Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of interest becoming due and payable on such Interest Payment Date on all Outstanding Bonds or to be paid on the Bonds being redeemed on such date. No deposit need be made into the Interest Account if the amount contained therein is at least equal to the interest becoming due and payable upon all Outstanding Bonds on the next succeeding Interest Payment Date or redemption date, as applicable. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity). In the event that the amounts on deposit in the Interest Account on any Interest Payment Date or redemption date, after any transfers from the Reserve Fund, are insufficient for any reason to pay the aggregate amount of interest then coming due and payable on the Outstanding Bonds, the Trustee shall apply such amounts to the payment of interest on each of the Outstanding Bonds on a pro rata basis.

(ii) Principal Account. On each Interest Payment Date and redemption date on which the principal of the Bonds shall be payable, the Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of, and premium (if any) on, the Bonds coming due and payable on such Interest Payment Date, or required to be redeemed on such date; provided, however, that no amount shall be deposited to effect a redemption pursuant to option or prepayment of Special Taxes redemption unless the Trustee has first received a certificate of an Independent Accountant described in the Indenture, assuming for such purposes that the City continues to make timely payments on all Local Obligations not then in default. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of (i) paying the principal of the Bonds at the maturity thereof or (ii) paying the principal of and premium (if any) on any Bonds upon the early redemption thereof.

(iii) Reserve Fund. On each Interest Payment Date on which the balance in the Reserve Fund is less than the Reserve Requirement, after making deposits required under (i) and (ii) above, the Trustee shall transfer from the Revenue Fund an amount sufficient to increase the balance in the Reserve Fund to the Reserve Requirement by depositing the amount necessary to make the various accounts therein equal, together, the Reserve Requirement, provided the value of the moneys deposited therein, as invested, shall be valued at market value on such transfer date for purposes of making such determination.

***Deposit into Rebate Fund.*** On each Interest Payment Date after making the transfers described above, upon receipt of a Request of the Authority to do so, the Trustee will transfer from the Revenue Fund to the Rebate Fund for deposit in the accounts therein the amounts specified in such Request.

***Surplus Fund.*** On September 2 of each year, after making the deposits described above, the Trustee will transfer all amounts remaining on deposit in the Revenue Fund to the Surplus Fund. See "Surplus Fund" below.

## **Reserve Fund**

There shall be maintained in the Reserve Fund an amount equal to the "Reserve Requirement" which is an amount equal to the least of (i) 10% of the initial principal amount of

the Bonds, (ii) Maximum Annual Debt Service on the Outstanding Bonds, or (iii) 125% of average Annual Debt Service on the Outstanding Bonds, provided that in no event shall the Reserve Requirement exceed \$458,150.02. If the amounts in the Interest Account or the Principal Account of the Revenue Fund are insufficient to pay the principal of or interest on the Bonds when due, the Trustee shall withdraw from the Reserve Fund for deposit in the Interest Account and the Principal Account, as applicable, moneys necessary for such purposes. In addition, amounts in the Reserve Fund may be applied (i) in connection with an optional redemption of the Bonds pursuant or a defeasance of the Bonds pursuant to the Indenture, but only to the extent that amounts remaining on deposit in the Reserve Fund after such application are equal to the Reserve Requirement, or (ii) when the balance therein equals the principal and interest due on the Bonds to and including maturity.

In lieu of funding the Reserve Fund in whole or in part with cash, the Reserve Requirement may be met by furnishing an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company deposited with the Trustee (a "**Qualified Reserve Fund Credit Instrument**") as described in, and meeting the requirements of, the Indenture.

The Reserve Requirement will be initially satisfied with cash in the amount of \$251,982.51 and with the balance covered by a Qualified Reserve Fund Credit Instrument in the form of a surety bond in the amount of \$206,167.51 issued by Ambac Assurance Corporation at the time of issuance of the Bonds. See "FINANCIAL GUARANTY INSURANCE POLICY" herein.

### **Surplus Fund**

Any amounts transferred to the Surplus Fund will no longer be considered Revenues and are not pledged to repay the Bonds. So long as Local Obligations are outstanding, on September 3 of each year, after setting aside any amount specified in a Request of the Authority as necessary to pay Administrative Expenses, any moneys remaining in the Surplus Fund shall be transferred to U.S. Bank National Association, as fiscal agent for the Local Obligations, and deposited in the Special Tax Fund.

## **SECURITY FOR THE LOCAL OBLIGATIONS**

### **General**

The Local Obligations are a limited obligation of the City payable solely from Special Taxes (described below) collected in the District and amounts deposited by the City in the Special Tax Fund. The City's limited obligation to pay the principal of, premium, if any, and interest on the Local Obligations from Special Taxes collected in the District and amounts in the Special Tax Fund is absolute and unconditional.

The Local Obligations are not a legal or equitable pledge, charge, lien or encumbrance upon any of the District's property, or upon any of its income, receipts or revenues, except the Special Taxes collected in the District and other amounts in the Special Tax Fund.

**Neither the credit nor the taxing power of the City is pledged for the payment of the Local Obligations or related interest, and no Owner of the Bonds may compel the exercise of taxing power by the City or the forfeiture of any of its property. The principal of and interest on the Local Obligations and premiums upon the redemption thereof, if**

**any, are not a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction.**

### **Mello-Roos Financing**

In California, the financing and refinancing of public facilities may be provided by the issuance of bonds secured by a lien of special taxes on property within a community facilities district (each a "CFD") established by a local agency. As to each local agency issuing Mello-Roos bonds, a Special Tax applicable to each taxable parcel in the CFD is levied and collected according to the tax liability determined by the governing body of such local agency through the application of the appropriate amount or rate for all properties in the CFD. Interest and principal on the Local Obligations is payable from such annual Special Taxes to be levied and collected on property within the District from amounts held in the funds and accounts established under and pursuant to the Fiscal Agent Agreement and from the proceeds, if any, from the sale of such property for delinquency of such Special Taxes.

The amount of Special Taxes that any CFD may levy in any year is limited by the maximum rates approved by the qualified electors within the CFD which are set forth in a Rate and Method of Apportionment of Special Tax (the "Special Tax Formula") established for each CFD in connection with the levy of the Special Tax. Under the Special Tax Formula, Special Taxes will be levied annually within each CFD in an amount, not in excess of the maximum specified in the Special Tax Formula sufficient to at least pay the total amount of principal and interest payable on the respective Mello-Roos bonds for the calendar year. The Special Taxes collected with respect to the District and any interest earned on such Special Taxes constitute a trust fund for the principal and interest on the Local Obligations pursuant to the Fiscal Agent Agreement and so long as the principal of and interest on such Local Obligations remains unpaid, the Special Taxes and investment earnings thereon shall not be used for any other purpose, except as permitted by the Fiscal Agent Agreement, and shall be held in trust for the benefit of the owners by the Fiscal Agent, on behalf of the owners of the Bonds and shall be applied pursuant to the Fiscal Agent Agreement. The Special Tax Formula apportions the annual costs of the District as described in the Special Tax Formula among the taxable parcels of real property within the District according to the rate and methodology set forth in the Special Tax Formula. See "Appendix A - Special Tax Formula" for information as to the maximum Special Tax for property within the District with respect to the Local Obligations.

The Special Taxes are exempt from the property tax limitation of Article XIII A of the California Constitution, pursuant to Section 4 thereof as a "special tax" authorized by a two-thirds vote of the qualified electors. Because each Special Tax levy is limited to the maximum Special Tax rates authorized by the qualified electors of the City as set forth in the Special Tax Formula, no assurance can be given that, in the event of Special Tax delinquencies, the foregoing amount needed to pay the Local Obligations will in fact be collected in any given year. See "GENERAL RISK FACTORS RELATING TO THE BONDS" herein. The Special Taxes are collected for the City by the County in the same manner and at the same time as ad valorem property taxes. In the event of a delinquency in the payment of any installment of Special Taxes, the City is authorized by the Act to order institution of an action in superior court to foreclose any lien therefor and the City has covenanted in certain circumstances to institute superior court foreclosure proceedings to enforce payment of a delinquent Special Tax. See "Foreclosure Covenant" below.

### **Parity Taxes and Assessments**

The lien of the Special Taxes and any interest and penalties thereon is co-equal to and independent of the lien for general taxes and any lien imposed under the Municipal

Improvement Act of 1913 (Division 12 of the California Streets and Highways Code). See "THE DISTRICT – Overlapping Liens."

### **Special Taxes**

The "**Special Taxes**" pledged for payment of the Local Obligations are the proceeds of the Special Taxes for the District received by the City, including all scheduled payments and delinquent payments thereof, interest and penalties thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes. The Special Taxes are levied and collected according to the rate and method of apportionment (the "**Rate and Method**") established for the District at the time it was formed. See "THE DISTRICT" for a description of the Rate and Method. See also Appendix B hereto.

The Special Tax is collected in the manner and at the same time as ad valorem property taxes are collected and is subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for *ad valorem* property taxes.

### **CFD Parity Bonds**

In the CFD Fiscal Agent Agreement, the City covenants that it will not issue additional bonds secured by Special Taxes on a parity with the related Local Obligations, however any such limitation does not prevent the City from issuing such bonds for the purpose of refunding all or a portion of the related Local Obligations (or bonds previously issued for that purpose).

### **Foreclosure Covenant**

In the event of a delinquency in the payment of any installment of Special Taxes securing the Local Obligations, the City is authorized to order institution of an action in superior court to foreclose any lien therefor.

Foreclosure proceedings are instituted by the bringing of an action in the superior court of the county in which the parcel lies, naming the owner and other interested persons as defendants. The action is prosecuted in the same manner as other civil actions. In such action, the real property subject to the Special Taxes may be sold at a judicial foreclosure sale for a minimum price which will be sufficient to pay or reimburse the delinquent Special Taxes. See "GENERAL RISK FACTORS RELATING TO THE BONDS - Bankruptcy and Foreclosure Delays."

In the Fiscal Agent Agreement, the City covenants that it will review the public records of the County relating to the collection of the Special Tax annually on or before June 1 in order to determine by a date not later than one hundred fifty (150) days after the date that each installment thereof is delinquent the amount of the Special Tax collected by such delinquency date, and if the City determines on the basis of such review that the amount so collected is deficient by more than five percent (5%) of the total amount of the Special Tax due and payable by such delinquency date, it will, within thirty (30) days thereafter, institute foreclosure proceedings as authorized by the Mello-Roos Act in order to enforce the lien of the delinquent installments of the Special Tax against each separate lot or parcel of land in the District on which the tax is delinquent, and will diligently prosecute and pursue such foreclosure proceedings to judgment and sale; provided further that, if the City determines on the basis of such review that property owned by any single property owner in the District is delinquent by more than \$25,000 with respect to the Special Tax due and payable by such property owner by such delinquency date, then the City will institute, prosecute and pursue such foreclosure

proceedings in the time and manner provided in the Fiscal Agent Agreement against such property owner.

### Terms of the Local Obligations

The Local Obligations were issued in 1997 as fully registered bonds without coupons in denominations of \$1,000 or any integral multiple thereof. The Local Obligations are not being refunded concurrently with the refunding of the 1997 Bonds.

The Local Obligations are registered in the name of the Trustee for the Authority. Payments of principal, interest and premium (if any) on the Local Obligations are to be paid to the Trustee and are pledged under the Indenture as security for the Bonds. Interest with respect to the Local Obligations is calculated on the basis of a 360-day year consisting of twelve 30-day months, and is payable semiannually no later than March 2 and September 2 of each year. The scheduled payments on the Local Obligations are sufficient to timely pay the scheduled payments on the Bonds.

### Redemption of Local Obligations

**Mandatory Redemption From Prepayment of Special Taxes.** The Local Obligations are subject to mandatory redemption prior to their respective stated maturities as a whole or in part on any Interest Payment Date from funds derived by the City from prepayments of the Special Taxes, at the principal amount of the Local Obligations or portions thereof called for redemption, plus accrued interest thereon to the date of redemption, without premium.

**Optional Redemption.** The Local Obligations maturing on September 2, 2007 are not subject to optional redemption prior to their stated maturity. The Local Obligations maturing on or after September 2, 2008, are subject to optional redemption as a whole or in part on any Interest Payment Date on or after September 2, 2007 from funds derived by the City from any source, other than from prepayments of the Special Taxes, at the following respective redemption prices (computed upon the principal amount of the Local Obligations or portions thereof called for redemption), plus accrued interest thereon to the date of redemption:

Redemption Dates	Redemption Price
September 2, 2007 and March 2, 2008	103%
September 2, 2008 and March 2, 2009	102
September 2, 2009 and March 2, 2010	101
September 2, 2011 and thereafter	100

In order for the redemption of Local Obligations to be effective, the City must notify the Fiscal Agent and the Trustee of its intention to redeem Local Obligations at least 60 days prior to the date selected for redemption, identifying the amount of Local Obligations to be so redeemed, and must deposit with the Fiscal Agent (who shall confirm, in writing, such deposit with the Trustee), all amounts necessary to pay the redemption price on such Local Obligations being redeemed on the date selected for redemption.

## FINANCIAL GUARANTY INSURANCE

Payment of principal of and interest on the Bonds when due will be insured by a financial guaranty insurance policy (the "**Policy**") to be issued simultaneously with issuance of the Bonds by Ambac Assurance Corporation ("**Ambac Assurance**" or the "**Bond Insurer**").

*The following information has been furnished by Ambac Assurance for use in this Official Statement. This information has not been independently confirmed or verified by the City or the Underwriter. No representation is made by the City or the Underwriter as to the accuracy or adequacy of this information subsequent to the date of this Official Statement, or that the information contained and incorporated herein by reference is correct. Reference is made to Appendix I for a specimen of the Insurer's Financial Guaranty Insurance Policy.*

### Payment Pursuant to Financial Guaranty Insurance Policy

Ambac Assurance Corporation ("**Ambac Assurance**") has made a commitment to issue a financial guaranty insurance policy (the "**Financial Guaranty Insurance Policy**") relating to the Bonds, effective as of the date of issuance of the Bonds. Under the terms of the Financial Guaranty Insurance Policy, Ambac Assurance will pay to The Bank of New York, in New York, New York, or any successor thereto (the "**Insurance Trustee**"), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Obligor (as such terms are defined in the Financial Guaranty Insurance Policy). Ambac Assurance will make such payments to the Insurance Trustee on the later of the date on which such principal and/or interest becomes Due for Payment or within one business day following the date on which Ambac Assurance shall have received notice of Nonpayment from the Trustee. The insurance will extend for the term of the Bonds and, once issued, cannot be canceled by Ambac Assurance.

The Financial Guaranty Insurance Policy will insure payment only on stated maturity dates and on mandatory sinking fund installment dates, in the case of principal, and on stated dates for payment, in the case of interest. If the Bonds become subject to mandatory redemption and insufficient funds are available for redemption of all outstanding Bonds, Ambac Assurance will remain obligated to pay the principal of and interest with respect to outstanding Bonds on the originally scheduled interest and principal payment dates, including mandatory sinking fund redemption dates. In the event of any acceleration of the principal of the Bonds, the insured payments will be made at such times and in such amounts as would have been made had there not been an acceleration, except to the extent that Ambac Assurance elects, in its sole discretion, to pay all or a portion of the accelerated principal and interest accrued thereon to the date of acceleration (to the extent unpaid by the Obligor). Upon payment of all such accelerated principal and interest accrued to the acceleration date, Ambac Assurance's obligations under the Financial Guaranty Insurance Policy shall be fully discharged.

In the event the Trustee has notice that any payment of principal of or interest on a Bond that has become Due for Payment and that is made to a holder by or on behalf of the Obligor has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code in accordance with a final, non-appealable order of a court of competent jurisdiction, such registered owner will be entitled to payment from Ambac Assurance to the extent of such recovery if sufficient funds are not otherwise available.

The Financial Guaranty Insurance Policy does not insure any risk other than Nonpayment (as set forth in the Financial Guaranty Insurance Policy). Specifically, the Financial Guaranty Insurance Policy does not cover:



1. payment on acceleration, as a result of a call for redemption (other than mandatory sinking fund redemption) or as a result of any other advancement of maturity;
2. payment of any redemption, prepayment or acceleration premium; and
3. nonpayment of principal or interest caused by the insolvency or negligence of the Trustee, Paying Agent or Bond Registrar, if any.

If it becomes necessary to call upon the Financial Guaranty Insurance Policy, payment of principal requires surrender of the Bonds to the Insurance Trustee together with an appropriate instrument of assignment so as to permit ownership of such Bonds to be registered in the name of Ambac Assurance to the extent of the payment under the Financial Guaranty Insurance Policy. Payment of interest pursuant to the Financial Guaranty Insurance Policy requires proof of holder entitlement to interest payments and an appropriate assignment of the holder's right to payment to Ambac Assurance.

Upon payment of the insurance benefits, Ambac Assurance will become the owner of the Bond, appurtenant coupon, if any, or right to payment of the principal of or interest on such Bond and will be fully subrogated to the surrendering holder's rights to payment.

In the event that Ambac Assurance were to become insolvent, any claims arising under the Financial Guaranty Insurance Policy would be excluded from coverage by the California Insurance Guaranty Association, established pursuant to the laws of the State of California.

#### **Ambac Assurance Corporation**

Ambac Assurance is a Wisconsin-domiciled stock insurance corporation regulated by the Office of the Commissioner of Insurance of the State of Wisconsin, and is licensed to do business in 50 states, the District of Columbia, the Territory of Guam, the Commonwealth of Puerto Rico and the U.S. Virgin Islands, with admitted assets of approximately \$10,194,000,000 (unaudited) and statutory capital of approximately \$6,557,000,000 (unaudited) as of March 31, 2007. Statutory capital consists of Ambac Assurance's policyholders' surplus and statutory contingency reserve. Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc. and Fitch Ratings have each assigned a triple-A financial strength rating to Ambac Assurance.

Ambac Assurance has obtained a ruling from the Internal Revenue Service to the effect that the insuring of an obligation by Ambac Assurance will not affect the treatment for federal income tax purposes of interest on such obligation and that insurance proceeds representing maturing interest paid by Ambac Assurance under policy provisions substantially identical to those contained in the Financial Guaranty Insurance Policy shall be treated for federal income tax purposes in the same manner as if such payments were made by the Obligor.

Ambac Assurance makes no representation regarding the Bonds or the advisability of investing in the Bonds and makes no representation regarding, nor has it participated in the preparation of, this Official Statement other than the information supplied by Ambac Assurance and presented under this heading "FINANCIAL GUARANTY INSURANCE."

#### **Debt Service Reserve Fund Ambac Assurance Surety Bond**

The Indenture requires the establishment of a Debt Service Reserve Fund in the amount of the Reserve Requirement. The Indenture authorizes the Obligor to obtain a Surety Bond in place of fully funding the Reserve Fund. Accordingly, application has been made to Ambac

Assurance for the issuance of a Surety Bond for the purpose of funding a portion of the Reserve Fund (see the "SECURITY FOR THE BONDS – Reserve Fund" above). The Bonds will only be delivered upon the issuance of such Surety Bond. The premium on the Surety Bond is to be fully paid at or prior to the issuance and delivery of the Bonds. The Surety Bond provides that upon the later of (i) one (1) day after receipt by Ambac Assurance of a demand for payment executed by the Trustee certifying that provision for the payment of principal of or interest on the Bonds when due has not been made or (ii) the interest payment date specified in the Demand for Payment submitted to Ambac Assurance, Ambac Assurance will promptly deposit funds with the Paying Agent sufficient to enable the Paying Agent to make such payments due on the Bonds, but in no event exceeding the Surety Bond Coverage, as defined in the Surety Bond.

Pursuant to the terms of the Surety Bond, the Surety Bond Coverage is automatically reduced to the extent of each payment made by Ambac Assurance under the terms of the Surety Bond and the Obligor is required to reimburse Ambac Assurance for any draws under the Surety Bond with interest at a market rate. Upon such reimbursement, the Surety Bond is reinstated to the extent of each principal reimbursement up to but not exceeding the Surety Bond Coverage. The reimbursement obligation of the Obligor is subordinate to the Obligor's obligations with respect to the Bonds.

In the event the amount on deposit, or credited to the Reserve Fund, exceeds the amount of the Surety Bond, any draw on the Surety Bond shall be made only after all the funds in the Reserve Fund have been expended. In the event that the amount on deposit in, or credited to, the Reserve Fund, in addition to the amount available under the Surety Bond, includes amounts available under a letter of credit, insurance policy, Surety Bond or other such funding instrument (the "Additional Funding Instrument"), draws on the Surety Bond and the Additional Funding Instrument shall be made on a pro rata basis to fund the insufficiency. The Indenture provides that the Reserve Fund shall be replenished in the following priority: (i) principal and interest on the Surety Bond and on the Additional Funding Instrument shall be paid from first available Revenues on a pro rata basis; (ii) after all such amounts are paid in full, amounts necessary to fund the Reserve Fund to the required level, after taking into account the amounts available under the Surety Bond and the Additional Funding Instrument shall be deposited from next available Revenues.

The Surety Bond does not insure against nonpayment caused by the insolvency or negligence of the Trustee.

In the event that Ambac Assurance were to become insolvent, any claims arising under the Financial Guaranty Insurance Policy would be excluded from coverage by the California Insurance Guaranty Association, established pursuant to the laws of the State of California.

### **Available Information**

The parent company of Ambac Assurance, Ambac Financial Group, Inc. (the "Company"), is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and in accordance therewith files reports, proxy statements and other information with the Securities and Exchange Commission (the "SEC"). These reports, proxy statements and other information can be read and copied at the SEC's public reference room at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. The SEC maintains an internet site at <http://www.sec.gov> that contains reports, proxy and information statements and other information regarding companies that file electronically with the SEC, including the Company. These reports, proxy statements and other information can also be read

at the offices of the New York Stock Exchange, Inc., 20 Broad Street, New York, New York 10005.

Copies of Ambac Assurance's financial statements prepared in accordance with statutory accounting standards are available from Ambac Assurance. The address of Ambac Assurance's administrative offices is One State Street Plaza, 19th Floor, New York, New York 10004, and its telephone number is (212) 668-0340.

### **Incorporation of Certain Documents by Reference**

The following documents filed by the Company with the SEC (File No. 1-10777) are incorporated by reference in this Official Statement:

- The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2006 and filed on March 1, 2007;
- The Company's Current Report on Form 8-K dated and filed on April 25, 2007; and
- The Company's Quarterly Report on Form 10-Q for the fiscal quarterly period ended March 31, 2007 and filed on May 10, 2007.

All documents subsequently filed by the Company pursuant to the requirements of the Exchange Act after the date of this Official Statement will be available for inspection in the same manner as described above in "Available Information."

## THE DISTRICT

### Location and Description of the District and the Immediate Area

The District is comprised of most of the residential property within the Oakhurst golf and residential development within the City, approximately 30 miles east of the City of San Francisco and 90 miles southwest of the City of Sacramento. The District is located in the northeast portion of the City, immediately adjacent and to the east of the City of Concord on the northern side of Clayton Road. Access from the District property to Route 24 and Interstate Route 680 is via Clayton Road. The District is located on a portion of the property previously known as the Keller Ranch. Clayton is located at the eastern end of Clayton Valley and the District is situated partly in Clayton Valley and partly on Keller Ridge, a side range of Mt. Diablo, which is a prominent 3,850 feet high regional landmark, seen from throughout the East Bay sector of the San Francisco Bay Region.

### Development in the District

Development of the Oakhurst development was conceived by The Presley Companies with an initial development plan submitted to the City in mid-1986. Following a one year planning process, a development agreement between the City and The Presley Companies was approved, per City Ordinance #245 in May of 1987, as amended in November of 1987. The development agreement approved the tentative map as well as the Final Site Development Plan which provided for 1,485 residential units, approximately 15 acres of commercial uses, an 18-hole golf course and related amenities.

District improvements financed by the original bonds are complete and the District has been built out. The District comprises 1,055 single family residential parcels and 303 multi-family parcels, all of which have been developed and sold since the formation of the District in 1990. The District boundaries exclude the commercial and recreational facility properties as well as all residential properties that contained completed homes as of June 12, 1990.

### City of Clayton Community Facilities District No. 1990-1 Summary of Development by Land Use Category – 2006-07 Tax Roll

<u>Land Use/Parcel Type</u>	<u>Parcel Count</u>
Single Family (up to 1,500 Sq Ft)	93
Single Family (1,500 – 2,000 Sq Ft)	322
Single Family (above 2,000 Sq Ft)	<u>640</u>
Total Single Family	1,055
Multi-family	<u>303</u>
Total Residential	1,358
Total Non-Residential	0
Undeveloped	<u>0</u>
Total All Parcels	1,358

*Source: NBS per County data.*

### Improvements Financed With Prior Bonds

The District was formed for the purpose of issuing bonds to provide a funding source to the then-owners of the land in the District for certain improvements eligible to be financed by the

District as set forth in the proceedings for formation of the District. The improvements primarily consisted of the construction of a public middle school and site preparation for adjacent playing fields. All of the improvements have been completed and no unspent bond proceeds remain in any improvement fund related to the bonds. No additional bonds to finance improvements will be issued, however the Local Obligations may be refunded.

**Ownership of Property**

*Unpaid Special Taxes do not constitute a personal indebtedness of the owners of the parcels within the District. There is no assurance that the present property owners or any subsequent owners will have the ability to pay the Special Taxes or that, even if they have the ability, they will choose to pay the Special Taxes. An owner may elect to not pay the Special Taxes when due and cannot be legally compelled to do so. Neither the City nor any Bondowner will have the ability at any time to seek payment directly from the owners of property within the District of the Special Tax or the principal or interest on the Bonds, or the ability to control who becomes a subsequent owner of any property within the District.*

Property in the District subject to the Special Tax consists entirely of single family residences. The following table summarizes major property ownership interests in the District.

**City of Clayton  
Community Facilities District No. 1990-1  
Top 10 Taxpayers  
2006-07 Tax Roll**

<b>Taxpayer</b>	<b>Total Value</b>	<b>Max Special Tax</b>	<b>% of Total Max Tax</b>	<b>Parcel Count</b>	<b>% of Total Parcel Count</b>
Leshaa, Mounir & Claire	\$1,575,197	\$1,433	0.24%	3	0.22%
Kern, Gregory G & Kathleen	1,591,828	1,428	0.24	1	0.07
Pallota, Doug & Kimberly	1,122,815	1,123	0.19	2	0.15
French, Stephen D & Lynne E.	1,291,827	1,106	0.18	3	0.22
Stojanovich, Nickola & Jennifer	1,188,263	898	0.15	2	0.15
Daiker, Jean K.	631,643	762	0.13	2	0.15
Andrews, Bonnie J.	591,769	713	0.12	1	0.07
Atkin, Suat & Raquel	770,113	713	0.12	1	0.07
Barry, Ken	614,322	713	0.12	1	0.07
Bass, John & Candace	625,894	713	0.12	1	0.07
<b>Total:</b>	<b>\$10,003,671</b>	<b>\$9,602</b>	<b>1.60%</b>	<b>17</b>	<b>1.25%</b>

Source: NBS.

The following table summarizes the annual Maximum Special Tax in the District among single family home classifications.

<b>Land Use/Parcel Type</b>	<b>Parcel Count</b>	<b>Aggregate Maximum Tax</b>	<b>Percentage of Maximum Tax</b>
Single Family (up to 1,500 Sq Ft)	93	\$34,434	5.74%
Single Family (1,500 – 2,000 Sq Ft)	322	117,321	19.55
Single Family (above 2,000 Sq Ft)	640	361,544	60.26
Total Single Family	1,055	\$513,300	85.55
Multi-family	303	86,700	14.45
Total Residential	1,358	\$600,000	100.00
Total Non-Residential	0	0	0.00
Undeveloped	0	0	0.00
Total All Parcels	1,358	\$600,000	100.00%

Source: NBS.

### Valuation and Value to Lien Ratio of Property in the District

The value of the land within the District is a critical factor in determining the investment quality of the Bonds. If a property owner defaults in the payment of a special tax, the City's only remedy is to foreclose on the delinquent property in an attempt to obtain funds with which to pay the delinquent special tax. See "SECURITY AND SOURCES OF PAYMENT FOR THE BONDS - Covenant to Commence Superior Court Foreclosure" and "BONDOWNERS' RISKS - Bankruptcy and Foreclosure." Reductions in District property values due to a downturn in the economy, natural disasters such as earthquakes or floods, stricter land use regulations or other events could have an adverse impact on the security for payment of the Special Taxes.

**2006-07 County Assessed Valuation.** In connection with valuing property in the District, the City has obtained the 2006-07 County assessed valuation (the "**Assessed Valuation**") of the property in the District.

The aggregate property valuation of the taxable property in the District has been compiled by the City using the 2006-07 Contra Costa County assessed valuation for the 1,358 residential parcels. The total 2006-07 Contra Costa County assessed valuation for secured real property in the District is \$652,922,985.

Economic and other factors beyond the property owners' control, such as economic recession, deflation of land values, acts of terrorism, or the complete or partial destruction of taxable property caused by, among other possibilities, earthquake, flood, fire or other natural disaster, could cause a reduction in the assessed value within the District. See "SPECIAL RISK FACTORS – Property Values."

Special taxes are levied on each parcel within the District and only the respective individual parcel is responsible for such Special Taxes.

The following table shows assessed valuation of property in the District over the past four fiscal years. The \$660,790,985 figure for 2006-07 is higher than the assessed valuation included elsewhere herein because it includes personal property values on the tax roll.

**City of Clayton**  
**Community Facilities District No. 1990-1 Local Assessed Valuations <sup>(1)</sup>**  
**2003-04 through 2006-07**

2003-04	\$535,420,414
2004-05	569,781,681
2005-06	617,053,092
2006-07	660,790,985

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(1) Includes personal property values.

Source: California Municipal Statistics.

### **Land Movement Within the District**

A portion of the property in the District includes a large slope located in City-owned open space area above a City-owned neighborhood park at the intersection of Keller Ridge Drive and Golden Eagle Place. The sloped area includes what has been determined to be an area of an ancient landslide. It has come to the attention of the city and homeowners in the area that the slope has been moving. Such movement may negatively affect future property values in the area.

Homes in the affected area were originally developed by Presley Homes, a homebuilding company which merged with William Lyon Homes effective January 1, 2000. The land in question is reported by the land developer to have been stabilized at the time of development and home construction. However, a current report from a geotechnical consultant indicates that, while imminent danger of catastrophic movement is unlikely, ongoing movement at an estimated annual rate of 1 inch per year at a depth of 60 feet is occurring and predicted. In addition, it has been reported that a secondary slide plane appears to be developing at a depth of 28 feet. While movement is occurring, the City, Lyon Homes and the homeowners are unable to determine or predict accurately its future pace and magnitude, though it ultimately could affect substantially the value and habitability of 20 to 30 nearby homes. The District is comprised of 1,358 homes.

The slope is owned by the City, having been dedicated to the City for park and open space when the surrounding residential subdivision was developed. Claims by property owners recently have been presented to the City, and the City may be brought into another lawsuit presently pending against William Lyon Homes by other homeowners. The claims against the City seek repair and stabilization of the area at City's expense. It is anticipated that a claim will be asserted by the City against William Lyon Homes as well. The City's attorney is unable to predict the timing or resolution of any litigation.

The current valuation of potentially affected homes does not appear to have been influenced negatively by the current or potential soil movement. (It is reasonable to expect that values may decline if the movement is not addressed. See "GENERAL RISK FACTORS RELATING TO THE BONDS – Factors Affecting Parcel Value and Aggregate Values - Known Land Movement in the District.")

## Value to Lien Ratio

The aggregate property valuation of the real property within the District has been estimated according to the 2006-07 County assessed valuation to be \$652,922,985 excluding personal property values. See "Valuation of Property in the District" above. The principal amount of the Bonds for the District is \$5,060,000. Consequently, the aggregate value of the real property within the District is 129 times the aggregate principal amount of Bonds.

In comparing the aggregate value of the real property within the District and the principal amount of the Bonds, it should be noted that only the Assessor's parcel of real property upon which there is a delinquent special tax can be foreclosed upon. All of the real property within the District cannot be foreclosed upon as a whole to pay delinquent special taxes of a given period. Individual parcels may be foreclosed upon to pay delinquent special taxes levied against such parcels only. See "SECURITY FOR THE BONDS AND SOURCES OF PAYMENT THEREFOR."

The principal amount of the Bonds is not allocated pro-rata among the parcels within the District; rather, the annual special taxes for the District will be billed annually for each parcel within the District. Upon sale of parcels, the buyer typically acquires the property subject to the unpaid portion of any special taxes and assessments levied against the parcel purchased. Special taxes and assessments are not required to be removed from the property and are not required to be, but may be, paid off in full upon transfer of property or upon development of the property.

The following table summarizes the value to lien ratio ranges for property in the District followed by a table showing a summary of values and value to lien ratios by home size.

### City of Clayton Community Facilities District No. 1990-1 Summary of Value to Lien Ratio Ranges

Value to Lien Range	No. of Parcels	Total 2006-07 Assessed Value	Total Max. Special Tax	% of Max. Tax	Total Refunding Bonds	Average Value to Lien
0:1 – 20:1	5	\$430,156	\$2,937.22	0.49%	\$24,770.56	17.37:1
20.01:1 – 80:1	96	17,078,674	35,835.85	5.97	302,215.67	56.51:1
80.01:1 – 140:1	733	304,449,842	340,260.17	56.71	2,869,527.43	106.1:1
140.01:1 – 200:1	406	243,244,384	173,894.84	28.98	1,466,513.15	165.87:1
Greater than 200:1	118	87,719,929	47,071.92	7.85	396,973.19	220.97:1
<b>Total</b>	<b>1,358</b>	<b>\$652,922,985</b>	<b>\$600,000.00</b>	<b>100.00%</b>	<b>\$5,060,000.00</b>	<b>129.04:1</b>

Source: NBS.



**City of Clayton  
Community Facilities District No. 1990-1  
Summary of Values and Value to Lien Ratio**

<b>Land Use/Parcel Type</b>	<b>Parcel Count</b>	<b>Aggregate Maximum Tax</b>	<b>Percentage of Max Tax</b>	<b>Aggregate 2006-07 Assessed Value - Land</b>	<b>Aggregate 2006-07 Assessed Value - Improvements</b>	<b>Total Assessed Value</b>	<b>Max Tax Allocation of Proposed Bonds</b>	<b>Value to Lien Ratio</b>
Single Family up to 1500 Sq Ft	93	\$34,434	5.74%	\$17,430,080	\$15,158,241	\$32,049,321	\$321,386.99	99.72:1
Single Family 1,500 – 2,000 Sq Ft	322	117,321	19.55	64,206,573	71,742,518	134,052,091	1,094,994.23	122.42:1
Single Family above 2000 Sq Ft	640	<u>361,544</u>	<u>60.26</u>	<u>161,044,884</u>	<u>234,323,342</u>	<u>391,553,226</u>	<u>3,374,414.87</u>	<u>116.04:1</u>
Total Single Family	1,055	513,300	85.55	242,681,537	321,224,101	557,654,638	4,790,796.08	116.40:1
Multi-family	303	<u>86,700</u>	<u>14.45</u>	<u>44,695,828</u>	<u>52,189,519</u>	<u>95,268,347</u>	<u>809,203.92</u>	<u>117.73:1</u>
Total Residential	1,358	\$600,000	100.00	287,377,365	373,413,620	652,922,985	5,600,000.00	116.59:1
Total Non-Residential	0	0	0.00	0	0	0	0.00	N/A
Undeveloped	<u>0</u>	<u>0</u>	<u>0.00</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00</u>	<u>N/A</u>
<b>Total All Parcels</b>	1,358	\$600,000	100.00%	\$287,377,365	\$373,413,620	\$652,922,985	\$5,600,000.00	116.59:1

*Source: NBS.*

**Overlapping Liens**

Set forth below is an overlapping debt table showing the existing authorized indebtedness payable with respect to property within the District. This table has been prepared by California Municipal Statistics Inc. as of the date indicated, and is included for general information purposes only. The City has not reviewed the data for completeness or accuracy and makes no representations in connection therewith.

**City of Clayton  
Community Facilities District No. 1990-1  
Summary of Overlapping Debt**

2006-07 Local Secured Assessed Valuation: \$660,790,985

<u>DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applicable</u>	<u>Debt 5/1/07</u>
Bay Area Rapid Transit District	0.150%	\$ 130,778
Contra Costa Community College District	0.458	517,082
Mt. Diablo Unified School District	2.191	4,874,975
Mt. Diablo Unified School District Community Facilities District No. 1	2.191	1,538,192
<b>City of Clayton Community Facilities District No. 1990-1</b>	<b>100.</b>	<b>5,285,000</b>
	(1)	
East Bay Regional Park District	0.205	340,905
<b>TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT</b>		<b>\$12,686,932</b>
<u>OVERLAPPING GENERAL FUND DEBT:</u>	<u>% Applicable (2)</u>	<u>Debt 5/1/07</u>
Contra Costa County General Fund Obligations	0.415%	\$1,264,401
Contra Costa County Pension Obligations	0.415	2,228,571
Contra Costa County Office of Education Certificates of Participation	0.415	3,735
Contra Costa Community College District	0.416	5,054
Mt. Diablo Unified School District	1.991	121,451
Contra Costa Fire Protection District Pension Obligations	0.908	1,164,782
<b>TOTAL OVERLAPPING GENERAL FUND DEBT</b>		<b>\$4,787,994</b>
<b>COMBINED TOTAL DEBT</b>		<b>\$17,474,926 (3)</b>

(1) Excludes Mello-Roos Act bonds to be sold.

(2) Based on redevelopment adjusted all property assessed valuation of \$529,066,243.

(3) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Ratios to 2006-07 Local Secured Assessed Valuation:

<b>Direct Debt (\$5,285,000)</b> .....	<b>0.80%</b>
Total Direct and Overlapping Tax and Assessment Debt.....	1.92%
Combined Total Debt .....	2.64%

STATE SCHOOL BUILDING AID REPAYABLE AS OF 6/30/06: \$0

## GENERAL RISK FACTORS RELATING TO THE BONDS

### Factors Affecting Parcel Value and Aggregate Values

The facts and circumstances concerning the values of the parcels subject to the Special taxes that are of importance are not confined to those relating to individual parcel values because the Local Obligations are not individually secured by particular parcels. The following are some of the factors which may affect the market for and value of particular parcels in the District.

***Geologic, topographic and climatic conditions.*** Values of parcels can be adversely affected by a variety of natural events and conditions. These include, without limitation:

- geologic conditions such as earthquakes;
- topographic conditions such as earth movements and floods; and
- climatic conditions such as droughts.

The possibility of the occurrence of some of these conditions and events has been taken into account to a limited extent in the design of public improvements which have been or may be approved by the District or other public agencies. Building codes require that some of these conditions be taken into account to a limited extent in the design of private improvements. Design criteria in any of these circumstances are established upon the basis of a variety of considerations and may change from time to time leaving previously designed improvements unaffected by more stringent subsequently established criteria. In general, design criteria, at the time of their establishment, reflect a balance between the present costs of protection and the future costs of lack of protection, based in part upon a present perception of the probability that the condition will occur and the seriousness of the condition should it occur. Also reflecting that balance are decisions not to impose design criteria at all.

The City expects that one or more of these conditions may occur from time to time, and, even if design criteria do exist, such conditions may result in damage to property improvements. That damage may entail significant repair or replacement costs, and repair or replacement may never occur. Under any of these circumstances, the value of the parcels in the District could depreciate substantially notwithstanding the establishment of design criteria.

***Known Land Movement in the District.*** A portion of the property in the District includes a large slope located in City-owned open space area. The sloped area has recently been confirmed to be moving. Such movement may negatively affect future property values in the area, and it is currently estimated that significant land movement, if it were to occur, has the potential of substantially affecting the value and habitability of 20 to 30 homes above and below the affected area. The City and others are investigating the severity and potential effect of this circumstance and while there is certainty that movement is occurring, the City and the homeowners are unable to presently accurately determine or predict the pace and magnitude of future movement. The City may be sued in connection with the movement, with the claim seeking repair and stabilization of the area by the City at its expense. The City is investigating the situation and is currently unable to predict the resolution of this matter or the timing or outcome of any litigation involving the land.

It is reasonable to expect that values of homes affected by or perceived to be potentially affected by the land movement may be negatively impacted, perhaps substantially, if the movement is not addressed and a major landslide occurs in the area which could potentially totally destroy several homes.

**Legal requirements.** Other events which may affect the value of a parcel include changes in the law or application of the law. Such changes may include, without limitation, the following:

- local growth control initiatives;
- local utility connection moratoriums;
- local application of statewide tax and governmental spending limitation measures.

**Seismic Conditions.** The District, like all California communities, may be subject to unpredictable seismic activity. There are several active and potentially active fault zones that could affect the area.

### **Other Possible Claims Upon the Value of a Parcel**

**Other Governmental Obligations.** While the Local Obligations are not secured by specific parcels, the security only extends to the value thereof that is not subject to priority and parity liens and similar claims relative to the Local Obligations (i.e., special taxes or assessments). Other governmental obligations may be authorized and undertaken or issued in the future the tax, assessment or charge for which may become an obligation of one or more of the parcels in the District, and may be secured by liens on a parity with the liens of the Special Taxes.

In general, as long as installments of the Special Taxes are collected on the County tax roll, the installments and all other taxes, assessments and charges also collected on the tax roll are on a parity. Questions of priority become significant when collection of one or more of the taxes, assessments or charges is sought by some other procedure, such as foreclosure and sale. In the event of proceedings to foreclose for delinquency of Special Taxes, the Special Tax will be subordinate only to existing prior governmental liens, if any. Otherwise, in the event of such foreclosure proceedings, the Special Taxes will generally be on a parity with the other taxes, assessments and charges, and will share the proceeds of such foreclosure proceedings on a pro-rata basis.

**Hazardous substances.** While governmental taxes, assessments and charges are a common claim against the value of a parcel, other less common claims may be relevant. One of the most serious in terms of the potential reduction in the value that may be realized to pay the special taxes is a claim with regard to a hazardous substance. In general, the owners and operators of a parcel may be required by law to remedy conditions of the parcel relating to released or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as "CERCLA" or "Superfund Act", is the most well known and widely applicable of these laws, but California laws with regard to hazardous substances are also stringent and similar. Under many of these laws, the owner or operator of a property is obligated to remedy a hazardous substance condition whether or not the owner or operator has anything to do with creating or handling the hazardous substance. The effect therefore, should any of the parcels be affected by a hazardous substance, is to reduce the marketability and value of the parcel by the costs of remedying the condition.

Further, it is possible that liabilities may arise in the future with respect to any of the parcels resulting from the current existence on the parcel of a substance presently classified as hazardous but which has not been released or the release of which is not presently threatened, or may arise in the future resulting from the existence on the parcel of a substance not presently classified as hazardous but which may in the future be so classified. Further, such liabilities

may arise not simply from the existence of a hazardous substance but from the method of handling it. All of these possibilities could significantly affect the value of a parcel that is realizable upon delinquency.

***Endangered and Threatened Species.*** It is illegal to harm or disturb any animals in their habitat that have been listed as an endangered species by the United States Fish & Wildlife Service under the Federal Endangered Species Act or by the California Fish & Game Commission under the California Endangered Species Act without a permit. Thus, the presence of an endangered plant or animal could delay development of vacant property in the District or reduce the value of undeveloped property. Failure to develop such vacant property as planned, or substantial delays in the completion of the planned development of the property may increase the amount of Special Taxes and effect the willingness and ability of the owners of property within the District to pay the Special Taxes when due.

### **Bankruptcy and Foreclosure Delays**

***Bankruptcy.*** The payment of the Special Taxes and the ability of the City to foreclose the lien of a delinquent unpaid Special Taxes, as discussed in "SECURITY FOR THE BONDS," may be limited by bankruptcy, insolvency or other laws generally affecting creditors' rights or by the laws of the State of California relating to judicial foreclosure. The various legal opinions to be delivered concurrently with the delivery of the Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights, by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Although bankruptcy proceedings would not cause the Special Taxes to become extinguished, bankruptcy of a property owner or any other person claiming an interest in a property subject to the Special Taxes could result in a delay in superior court foreclosure proceedings and could result in the possibility of Special Tax installments not being paid in part or in full. Such a delay would increase the likelihood of a delay or default in payment of the principal of and interest on the Bonds.

***Property Owned by FDIC.*** In addition, the ability of the City to foreclose upon the lien on property for delinquent Special Taxes may be limited for properties in which the Federal Deposit Insurance Corporation (the "FDIC") has an interest. On November 26, 1996, the FDIC adopted a Statement of Policy Regarding the Payment of State and Local Property Taxes (the "Policy Statement") (which superseded a prior statement issued by the FDIC and the Resolution Trust Corporation in 1991). The Policy Statement applies to the FDIC when it is liquidating assets in its corporate and receivership capacities. The Policy Statement provides, in part, that real property of the FDIC is subject to state and local real property taxes if those taxes are assessed according to the property's value, and that the FDIC is immune from ad valorem real property taxes assessed on other bases. The Policy Statement also provides that the FDIC will pay its proper tax obligations when they become due and will pay claims for delinquencies as promptly as is consistent with sound business practice and the orderly administration of the institution's affairs, unless abandonment of the FDIC interest in the property is appropriate. It further provides that the FDIC will pay claims for interest on delinquent property taxes owned at the rate provided under state law, but only to the extent the interest payment obligation is secured by a valid lien. The FDIC will not pay for any fines or penalties and will not pay nor recognize liens for such amounts. The Policy Statement also provides that if any property taxes (including interest) on FDIC-owned property are secured by a valid lien (in effect before the property became owned by the FDIC), the FDIC will pay those

claims. No property of the FDIC is subject to levy, attachment, garnishment, foreclosure or sale without the FDIC's consent. In addition, a lien for taxes and interest may attach, but the FDIC will not permit a lien or security interest held by the FDIC to be eliminated by foreclosure without the FDIC's consent.

With respect to challenges to assessments, the Policy Statement provides: "The (FDIC) is only liable for state and local taxes which are based on the value of the property during the period for which the tax is imposed, notwithstanding the failure of any person, including prior record owners, to challenge an assessment under the procedures available under state law. In the exercise of its business judgment, the (FDIC) may challenge assessments which do not conform with the statutory provisions, and during the challenge may pay tax claims based on the assessment level deemed appropriate, provided such payment will not prejudice the challenge. The (FDIC) will generally limit challenges to the current and immediately preceding taxable year and to the pursuit of previously filed tax protests. However, the (FDIC) may, in the exercise of its business judgment, challenge any prior taxes and assessments provided that (1) the (FDIC's) records (including appraisals, offers or bids received for the purchase of the property, etc.) indicate that the assessed value is clearly excessive, (2) a successful challenge will result in a substantial savings to the (FDIC), (3) the challenge will not unduly delay the sale of the property, and (4) there is a reasonable likelihood of a successful challenge."

The Policy Statement states that the FDIC generally will not pay non-ad valorem taxes, including special assessments, on property in which it has a fee simple interest unless the amount of tax is fixed at the time the FDIC acquires its fee simple interest in the property, nor will the FDIC recognize the validity of any lien to the extent it purports to secure the payment of any such amounts. Because the Special Taxes are neither ad valorem taxes nor special assessments, and because they are levied under a special tax formula under which the amount of the Special Tax is determined each year, the Special Taxes appear to fall within the category of taxes the FDIC generally will not pay under the Policy Statement.

Following the County of Orange bankruptcy proceedings filed in December 1994, the FDIC filed claims against the County of Orange in the U.S. Bankruptcy Court and the Federal District Court which challenged special taxes that Orange County had levied on FDIC-owned property (and which the FDIC had paid). The FDIC took a position similar to that outlined in the Policy Statement, to the effect that the FDIC, as a governmental entity, is exempt from special taxes under the Mello-Roos Act. The Bankruptcy Court agreed, finding that the FDIC was not liable for post-receivership Mello-Roos taxes, and the Bankruptcy Appellate Panel affirmed. On appeal, the U.S. Court of Appeals for the Ninth Circuit, while not specifically asked to decide on the issue, stated in its decision filed on August 28, 2001, that "the FDIC, as a federal agency, is exempt from the Mello-Roos tax," and quoted Section 53340(c) of the Mello-Roos Act in stating that "'properties or entities' of the federal government are exempt from the tax."

The City is unable to predict what effect the application of the Policy Statement, or the ultimate outcome of the County of Orange case, would have in case of a Special Tax delinquency on a parcel in which the FDIC has an interest. However, prohibiting the judicial foreclosure sale of a FDIC-owned parcel would likely reduce the number of or eliminate the persons willing to purchase a parcel at a foreclosure sale. Owners of the Bonds should assume that the City will be unable to foreclose on parcels of land in the District owned by the FDIC. Such an outcome could cause a draw on the Reserve Funds and perhaps, ultimately, a default in payment of the Bonds.

## **Proposition 218**

Under the California Constitution, the power of initiative is reserved to the voters for the purpose of enacting statutes and constitutional amendments. Over the past 18 years, the voters have exercised this power through the adoption of Proposition 13 and similar measures. On November 5, 1996, the voters approved Proposition 218.

Any such initiative may affect the collection of fees, taxes and other types of revenue by local agencies such as the City. Subject to overriding federal constitutional principles, such collection may be materially and adversely affected by voter-approved initiatives, possibly to the extent of creating cash-flow problems in the payment of outstanding obligations such as the Bonds.

Proposition 218—Voter Approval for Local Government Taxes—Limitation on Fees, Reassessments, and Charges—Initiative Constitutional Amendment, added Articles XIIC and XIID to the California Constitution, imposing certain vote requirements and other limitations on the imposition of new or increased taxes, assessments and property-related fees and charges. Proposition 218 states that all taxes imposed by local governments shall be deemed to be either general taxes or special taxes. Special purpose districts, including assessment districts and community facilities districts, have no power to levy general taxes. No local government may impose, extend or increase any general tax unless and until such tax is submitted to the electorate and approved by a majority vote. No local government may impose, extend or increase any special tax unless and until such tax is submitted to the electorate and approved by a two-thirds vote.

Proposition 218 also provides that no tax, assessment, fee or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except: (i) the ad valorem property tax imposed pursuant to Article XIII and Article XIII A of the California Constitution, (ii) any special tax receiving a two-thirds vote pursuant to the California Constitution, and (iii) assessments, fees and charges for property related services as provided in Proposition 218. Proposition 218 then goes on to add voter requirements for assessments and fees and charges imposed as an incident of property ownership, other than fees and charges for sewer, water, and refuse collection services. In addition, all assessments and fees and charges imposed as an incident of property ownership, including sewer, water, and refuse collection services, are subjected to various additional procedures, such as hearings and stricter and more individualized benefit requirements and findings. The effect of such new provisions will presumably be to increase the difficulty a local agency will have in imposing, increasing or extending such reassessments, fees and charges.

Among other things, Section 3 of Article XIIC states that “. . . the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge.” The Act provides for a procedure which includes notice, hearing, protest and voting requirements to alter the rate and method of apportionment of an existing special tax.

On July 1, 1997, a bill was signed into law by the Governor of the State enacting Government Code Section 5854, which states that:

“Section 3 of Article XIIC of the California Constitution, as adopted at the November 5, 1996, general election, shall not be construed to mean that any owner or beneficial owner of a municipal security, purchased before or after that date, assumes the risk of, or in any way consents to, any action by initiative

measure that constitutes an impairment of contractual rights protected by Section 10 of Article I of the United States Constitution.”

Therefore, although the matter is not free from doubt, it is likely that Proposition 218 has not conferred on the voters the power to repeal or reduce the Special Taxes if such reduction would interfere with the timely retirement of the Local Obligations with the procedural requirements of, Article XIII D of the California Constitution.”

The Special Taxes were authorized by not less than a two-thirds vote of the landowners within the District who constituted the qualified electors of the District at the time of such voted authorization. The City believes, therefore, that issuance of the Local Obligations does not require the conduct of further proceedings under the Mello-Roos Act or Proposition 218.

Like its antecedents, Proposition 218 is likely to undergo both judicial and legislative scrutiny before its impact on the City and its obligations can be determined. Certain provisions of Proposition 218 may be examined by the courts for their constitutionality under both State and federal constitutional law. Neither the City nor the Authority is able to predict the outcome of any such examination.

### **Payment of the Special Taxes is Not a Personal Obligation**

The owners of property in the District subject to the Special Tax are not personally liable for the payment of the Special Taxes. Rather, the Special Taxes are obligations only of the property, as applicable. If the value of a parcel of property is not sufficient to fully secure the Special Taxes on it, as applicable, neither the City nor the Authority has any recourse against the owner.

### **Limited Obligation to Pay Debt Service**

Neither the Authority nor the City has any obligation to pay principal of and interest on the Bonds if Special Tax collections are insufficient for that purpose, other than from amounts, if any, on deposit in the Reserve Fund. Neither the City nor the Authority is obligated to advance its own funds to pay debt service on the Bonds.

### **Depletion of Reserve Fund**

The Reserve Fund is to be maintained at an amount equal to the Reserve Requirement. See “SECURITY FOR THE BONDS – Reserve Fund.” Moneys in the Reserve Fund may be used to pay principal of and interest on the Bonds if insufficient funds are available from the proceeds of the levy and collection of the Special Taxes. If funds in the Reserve Fund for the Bonds are depleted, the funds can be replenished from the proceeds of the levy and collection of the Special Tax that are in excess of the amount required to pay all amounts to be paid to the Bondholders pursuant to the Indenture. However, no replenishment from the proceeds of Special Taxes can occur as long as the proceeds that are collected, together with other available funds, remain insufficient to pay all such amounts. Thus it is possible that the Reserve Fund will be depleted and not replenished.

### **No Acceleration**

The principal of the Local Obligations are not subject to acceleration under the provisions of the Fiscal Agent Agreement under which they were issued.



## **Limitations on Remedies**

Remedies available to the owners of the Bonds may be limited by a variety of factors and may be inadequate to assure the timely payment of principal of and interest on the Bonds or to preserve the tax-exempt status of the Bonds.

Bond Counsel has limited its opinion as to the enforceability of the Bonds and of the Indenture to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium, or other similar laws affecting generally the enforcement of creditors' rights, by equitable principles and by the exercise of judicial discretion. The lack of availability of certain remedies or the limitation of remedies may entail risks of delay, limitation or modification of the rights of the owners of the Bonds.

## **Loss of Tax Exemption**

As discussed under the caption "LEGAL MATTERS – Tax Matters," interest on the Bonds might become includable in gross income for purposes of federal income taxation retroactive to the date the Bonds were issued as a result of future acts or omissions of the Authority or the City in violation of their covenants in the Indenture and the CFD Fiscal Agent Agreements. Neither the Indenture nor the CFD Fiscal Agent Agreement contain a special redemption feature triggered by the occurrence of an event of taxability. As a result, if interest on the Bonds were to be includable in gross income for purposes of federal income taxation, the Bonds would continue to remain outstanding until maturity unless earlier redeemed pursuant to optional or mandatory redemption or redemption.

## **Secondary Market**

There can be no guarantee that there will be a secondary market for the Bonds, or, if a secondary market exists, that such Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then prevailing circumstances. Such prices could be substantially different from the original purchase price.

## **Disclosure to Future Purchasers**

The City has recorded notice of the Special Tax lien in the Office of the Contra Costa County Recorder. While title companies normally refer to such notices in title reports, there can be no guarantee that such reference will be made or, if made, that a prospective purchaser or lender will consider such Special Tax obligation in the purchase of a parcel of land or a home in the District or the lending of money thereon. The Mello-Roos Act requires the subdivider (or its agent or representative) of a subdivision to notify a prospective purchaser or long-term lessor of any lot, parcel, or unit subject to a Mello-Roos special tax of the existence and maximum amount of such special tax using a statutorily prescribed form. California Civil Code Section 1102.6b requires that in the case of transfers other than those covered by the above requirement, the seller must at least make a good faith effort to notify the prospective purchaser of the special tax lien in a format prescribed by statute. Failure by an owner of the property to comply with the above requirements, or failure by a purchaser or lessor to consider or understand the nature and existence of the Special Taxes, could adversely affect the willingness and ability of the purchaser or lessor to pay the Special Taxes when due.

## **Levy and Collection of the Special Tax**

The principal source of payment of principal of and interest on the Local Obligations is the proceeds of the annual levy and collection of the Special Tax against property within the District. The annual levy of the Special Taxes is subject to the maximum tax rates authorized. The levy cannot be made at a higher rate even if the failure to do so means that the estimated proceeds of the levy and collection of the Special Taxes, together with other available funds, will not be sufficient to pay debt service on the corresponding Local Obligations. Other funds which might be available include funds derived from the payment of penalties on delinquent Special Taxes and funds derived from the tax sale or foreclosure and sale of parcels on which levies of the Special Tax are delinquent.

The levy of the Special Taxes will rarely, if ever, result in a uniform relationship between the value of particular taxed parcels and the amount of the levy of the Special Tax against such parcels. Thus, there will rarely, if ever, be a uniform relationship between the value of such parcels and the proportionate share of debt service on the Local Obligations, and certainly not a direct relationship.

The Special Tax levied in any particular tax year on a taxed parcel is based upon the revenue needs and application of the Special Tax Formula. Failure of the owners of taxed parcels to pay the Special Tax and delays in the collection of or inability to collect the Special Tax by tax sale or foreclosure and sale of the delinquent parcels, thereby resulting in an increased tax burden on the remaining parcels.

The CFD Fiscal Agent Agreement provides that the Special Taxes are to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure described in "SECURITY FOR THE LOCAL OBLIGATIONS – Covenants of the City – Commence Foreclosure Proceedings" and in the Mello-Roos Act, is subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* property taxes. Pursuant to these procedures, if taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the County.

In the event that sales or foreclosures of property are necessary, there could be a delay in payments to owners of the Bonds pending such sales or the prosecution of foreclosure proceedings and receipt by the City of the proceeds of sale if the Reserve Fund is depleted. See "SECURITY FOR THE LOCAL OBLIGATIONS - Covenants of the City – Commence Foreclosure Proceedings."

## **Exempt Properties**

Certain properties are exempt from the Special Taxes in accordance with the Special Tax Formula. In addition, the Mello-Roos Act provides that properties or entities of the state, federal or local government are exempt from Special Taxes; provided, however, that property within the District acquired by a public entity through a negotiated transaction or by gift or devise, which is not otherwise exempt from a Special Tax, will continue to be subject to the Special Tax. It is possible that property acquired by a public entity following a tax sale or foreclosure based upon failure to pay taxes could become exempt from the Special Tax. In addition, although the Mello-Roos Act provides that if property subject to the Special Tax is acquired by a public entity through eminent domain proceedings, the obligation to pay the Special Tax with respect to that property is to be treated as if it were a special assessment, the constitutionality and operation of these provisions of the Mello-Roos Act have not been tested, meaning that such property could become exempt from the Special Tax. In the event that additional property is dedicated to the School District or other public entities, this additional property might become exempt from the Special Tax.

The Mello-Roos Act further provides that no other properties or entities are exempt from the Special Tax unless the properties or entities are expressly exempted in a resolution of consideration to levy a new special tax or to alter the rate or method of apportionment of an existing special tax.

## **LEGAL MATTERS**

### **Tax Matters**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes, such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings, and the Bonds are "qualified tax-exempt obligations" within the meaning of section 265(b)(3) of the Internal Revenue Code of 1986 (the "Code") such that, in the case of certain financial institutions (within the meaning of section 265(b)(5) of the Code), a deduction for federal income tax purposes is allowed for 80 percent of that portion of such financial institution's interest expense allocable to interest payable on the Bonds.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that such interest be, or continue to be, excluded from gross income for federal income tax purposes. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds.

If the initial offering price to the public (excluding Bond houses and brokers) at which a Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and

brokers) at which each Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount is disregarded.

Under the Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straightline interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Bond. The Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds after the initial offering of a substantial amount of such maturity. Owners of such Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Bonds under federal individual and corporate alternative minimum taxes.

Under the Code, original issue premium is amortized on an annual basis over the term of the Bond (said term being the shorter of the Bond's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Bond for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Bond is amortized each year over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straightline interpolations between compounding dates). Amortized Bond premium is not deductible for federal income tax purposes. Owners of Premium Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

Owners of the Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Bonds other than as expressly described above.

### **Absence of Litigation**

The Authority and the City will certify at the time the Bonds are issued that no litigation is pending or threatened concerning the validity of the Bonds and that no action, suit or proceeding is known by the Authority or the City to be pending that would restrain or enjoin the delivery of the Bonds, or contest or affect the validity of the Bonds or any proceedings of the Authority or the City taken with respect to the Bonds or the Local Obligations.

## Legal Opinion

All proceedings in connection with the issuance of the Bonds are subject to the approval as to their legality of Jones Hall, A Professional Corporation, San Francisco, California, Bond Counsel in connection with the Bonds. The unqualified opinion of Bond Counsel approving the validity of the Bonds will be attached to each Bond. Bond Counsel's employment is limited to a review of legal procedures required for the approval of the Bonds and to rendering an opinion as to the validity of the Bonds and the exemption of interest on the Bonds from income taxation. Jones Hall, A Professional Law Corporation, San Francisco, California is also serving as Disclosure Counsel.

*Payment of the fees of Bond Counsel and Disclosure Counsel is contingent upon issuance of the Bonds.*

## THE AUTHORITY

The Authority was established December 4, 1990 under Sections 6500 et seq. of the California Government Code and a Joint Exercise of Powers Agreement. The City Council sits as the Board of Directors for the Clayton Financing Authority.

The Authority was established for the purpose of financing the acquisition, construction, improvement and equipping of public capital improvements. The governing board of the Authority is the City Council of the City.

## MISCELLANEOUS

### Rating

**Bonds.** Standard & Poor's Ratings Service ("**S&P**") has assigned its municipal bond rating of "AAA" to the Bonds with the understanding that upon execution and delivery of such Bonds the Financial Guaranty Insurance Policy insuring the payment when due of the principal and interest on Bonds will be issued by Ambac Assurance. Additionally, S&P has assigned an underlying rating of "A" to the Bonds. Such ratings reflect only the views of such organization and an explanation of the significance of such rating may be obtained from S&P. There is no assurance that such ratings will continue for any given period of time or that such rating will not be revised downward or withdrawn entirely by such organization, if in its judgment circumstances so warrant. Any such downward revision or withdrawal of such rating may have an adverse effect on the market price of the Bonds.

### Verification of Mathematical Accuracy

The Arbitrage Group, Tuscaloosa, Alabama, independent accountants, upon delivery of the Bonds, will deliver a report on the mathematical accuracy of certain computations, contained in schedules provided to them which were prepared by the City, relating to the sufficiency of moneys and securities deposited into the Escrow Funds to pay, when due, the principal, whether at maturity or upon prior prepayment, interest and prepayment premium requirements of the Prior Bonds.

The report of The Arbitrage Group will include the statement that the scope of its engagement is limited to verifying the mathematical accuracy of the computations contained in

such schedules provided to it, and that it has no obligation to update its report because of events occurring, or data or information coming to its attention, subsequent to the date of its report.

### **Underwriting**

The Bonds were purchased through negotiation by Piper Jaffray & Co. (the “**Underwriter**”). The Underwriter agreed to purchase the Bonds at a price of \$4,971,969.50 (which is equal to the par amount of the Bonds, less an original issue discount of \$37,430.50 and less the Underwriter’s discount of \$50,600). The initial public offering prices set forth on the cover page hereof may be changed by the Underwriter. The Underwriter may offer and sell the Bonds to certain dealers and others at a price lower than the public offering prices set forth on the cover page hereof.

### **Bank Qualified**

The Code generally prohibits the deduction of interest on indebtedness incurred or continued to purchase or carry tax-exempt obligations, such as the Bonds. Banks and financial institutions, however, are permitted an 80% deduction for their interest expense allocable to “qualified tax-exempt obligations” of small governmental units (a) that together with their subordinate entities or entities issuing on their behalf and entities on whose behalf they issue do not reasonably expect to issue in the aggregate more than \$10,000,000 of tax-exempt obligations (not including private activity bonds other than qualified 501(c)(3) bonds in a calendar year), and (b) that designate such obligations as “qualified tax-exempt obligations”. By resolution, the Authority has (a) represented that it expects that it and all of the above-described entities will not issue in the aggregate more than \$10,000,000 of tax-exempt obligations during calendar year 2001, and (b) designated the Bonds as “qualified tax-exempt obligations”.

### **Additional Information**

References are made herein to certain documents and reports which are brief summaries thereof which do not purport to be complete or definitive, and reference is made to such documents and reports for full and complete statements of the contents thereof.

Any statements in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the Authority and the purchasers or Owners of any of the Bonds.



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## APPENDIX A

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

*The following is a summary of certain provisions of the Indenture of Trust relating to the Bonds not otherwise described in the text of this Official Statement. Such summary is not intended to be definitive, and reference is made to the full text of the Indenture of Trust for the complete terms thereof.*

#### Certain Definitions.

“Act” means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State, as it may hereafter be amended from time to time.

“Annual Debt Service” means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds of a Series in such Bond Year, and (b) the principal amount of the Outstanding Bonds of a Series scheduled to be paid in such Bond Year.

“Authorized Officer” means (i) with respect to the Authority, the President, Executive Director or Secretary or any other Person authorized by the Authority to perform an act or sign a document on behalf of the Authority for purposes of this Indenture and (ii) with respect to the City, the Mayor, the City Manager, or City Clerk of the City, or any other Person authorized by the City to perform an act or sign a document on behalf of the City for purposes of this Indenture.

“Bond Counsel” means Jones Hall, A Professional Law Corporation, and its successors; or any other attorney at law or firm of attorneys selected by the Authority, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

“Bond Insurance Policy” means that financial guaranty insurance policy to be issued by the Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as provided therein.

“Bond Insurer” means Ambac Assurance Corporation, a Wisconsin domiciled stock insurance corporation, and its successors and assigns.

“Bond Law” means the Marks Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act (commencing with Section 6584), as it may hereafter be amended from time to time.

“Bond Register” means the registration books for the Bonds maintained by the Trustee in accordance with the Indenture.

“Bond Year” means each twelve month period extending from September 3 in one calendar year to September 2 of the succeeding calendar year, except in the case of the initial Bond Year which shall be the period from the Closing Date to September 2, 2007, both dates inclusive.

"Business Day" means a day which is not a Saturday or Sunday or a day of the year on which the New York Stock Exchange or banks in New York, New York or Los Angeles, California, or where the Trust Office is located, are not required or authorized to remain closed.

"Certificate of the Authority" means a certificate in writing signed by an Authorized Officer of the Authority.

"City" means the City of Clayton, a municipal corporation and general law city duly established and existing under the Constitution and laws of the State of California.

"Closing Date" means the date of issuance and delivery of the Bonds.

"Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced in the Indenture) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official guidance published, under the Code.

"Dated Date" means the Closing Date.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Debt Service" means the scheduled amount of interest and amortization of principal payable on the Bonds during the period of computation, excluding amounts scheduled during such period which relate to principal which has been retired before the beginning of such period.

"Defeasance Obligations" means:

- (a) cash;
- (b) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series);
- (c) Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities;
- (d) The interest component of Resolution Funding Corporation strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form;
- (e) Subject to the written approval of the Bond Insurer, pre-refunded municipal bonds rated "Aaa" by Moody's and "AAA" by S&P, provided that, if the issue is rated only by S&P (i.e., there is no Moody's rating), then the pre-refunded municipal bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA rated pre-refunded municipals; and
- (f) Subject to the written approval of the Bond Insurer, bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the agency itself): (i) direct obligations or fully guaranteed certificates of

beneficial ownership of the U.S. Export-Import Bank; (ii) certificates of beneficial ownership of the Rural Economic Community Development Administration (formerly the Farmers Home Administration); (iii) obligations of the Federal Financing Bank; (iv) debentures of the Federal Housing Administration; (v) participation certificates of the General Services Administration; (vi) guaranteed Title XI financings of the U.S. Maritime Administration; (vii) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development.

“DTC Participants” means securities brokers and dealers, banks, trust companies, clearing corporations and other organizations maintaining accounts with DTC.

“Event of Default” shall have the meaning assigned to such term under the caption “Events of Default and Remedial Action”.

“Fair Market Value” means, with respect to any investment, the price at which a willing buyer would purchase such investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term “Fair Market Value” means the acquisition price in a bona fide arm's length transaction (as described above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

“Federal Securities” means (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any obligations the principal of and interest on which are unconditionally and fully guaranteed by the United States of America.

“Fiscal Year” means any twelve month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve month period selected and designated by the Authority as its official fiscal year period.

“Independent Accountant” means any accountant or firm of such accountants appointed and paid by the Authority, and who, or each of whom –

- (a) is in fact independent and not under domination of the Authority or the City;
- (b) does not have any substantial interest, direct or indirect, in the Authority or the City; and

(c) is not an officer or employee of the Authority, or the City, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

“Independent Financial Consultant” means any financial consultant or firm of such consultants appointed and paid by the Authority, and who, or each of whom –

(a) is in fact independent and not under domination of the Authority or the City;

(b) does not have any substantial interest, direct or indirect, in the Authority or the City; and

(c) is not an officer or employee of the Authority or the City, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

“Interest Payment Date” means March 2 and September 2 in each year, beginning March 2, 2008, and continuing thereafter so long as any Bonds remain Outstanding.

“Local Obligations” means the \$6,400,000 original aggregate principal amount of the City of Clayton Community Facilities district No. 1990-1 Special Tax Bonds, Refunding Series 1997.

“Local Obligations Fiscal Agent Agreement” means the Fiscal Agent Agreement dated as of November 1, 1997, between the City of Clayton and First Trust of California, National Association, as succeeded by U.S. Bank National Association, as fiscal agent, pursuant to which the Local Obligations were issued.

“Maximum Annual Debt Service” means, as of the date of any calculation, the largest Annual Debt Service on a Bonds during the current or any future Bond Year.

“Maximum Annual Debt Service” means, as of the date of any calculation, the largest Annual Debt Service on a Series during the current or any future Bond Year.

“Moody’s” means Moody’s Investors Service, its successors and assigns.

“Outstanding”, when used as of any particular time with reference to Bonds, means (subject to the provisions of the Indenture relating to defeasance) all Bonds theretofore executed and issued by the Authority and authenticated and delivered by the Trustee under the Indenture (including any Bonds with respect to which the Bond Insurer has paid the principal of and interest) *except* –

(a) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation pursuant to the Indenture;

(b) Bonds paid or deemed to have been paid within the meaning of the defeasance provisions of the Indenture or Bonds called for redemption for which funds have been provided as described in Indenture; and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered pursuant to the Indenture or any Supplemental Indenture.

“Owner”, “Bondowner” or “Bond Owner”, when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Bond Register.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities;

(b) obligations of any of the following federal agencies which obligations represent the full faith and credit of the United States of America, including:

- Export-Import Bank;
- Rural Economic Community Development Administration (formerly the Farmers Home Administration);
- U.S. Maritime Administration;
- Small Business Administration;
- U.S. Department of Housing & Urban Development (PHAs);
- Federal Housing Administration;
- Federal Financing Bank;

(c) direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the United States of America:

- Senior debt obligations issued by the Federal National Mortgage Association (FNMA) or Federal Home Loan Mortgage Corporation (FHLMC);
- Obligations of the Resolution Funding Corporation (REFCORP);
- Senior debt obligations of the Federal Home Loan Bank System;
- Senior debt obligations of other agencies sponsored by the federal government approved by the Bond Insurer;

(d) U.S. dollar denominated deposit accounts, federal funds and bankers’ acceptances with domestic commercial banks, including the Trustee and its affiliates, which have a rating on their short-term certificates of deposit on the date of purchase of “A-1” or “A-1+” by S&P and “P-1” by Moody’s and maturing no more than 360 calendar days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);

(e) commercial paper which is rated at the time of purchase in the single highest classification, “A-1+” by S&P and “P-1” by Moody’s, and which matures not more than 270 calendar days after the date of purchase;

(f) investments in a money market fund rated “AAAm” or “AAAm-G” or better by S&P, including funds for which the Trustee or its affiliates receive fees for investment advisory or other services to the fund;

(g) pre-refunded municipal obligations defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(i) which are rated or guaranteed by an entity rated, based on an irrevocable escrow account or fund (the "Escrow"), in the highest rating category of S&P and Moody's or any successors thereto; or

(ii) (A) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in clause (b) of the definition of Federal Securities, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; and (B) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate;

(h) municipal obligations rated "Aaa/AAA" or general obligations of states with a rating of least "A2/A" or higher by both Moody's and S&P;

(i) investment agreements, including collateralized investment agreements and repurchase agreements, approved in writing by the Bond Insurer;

(j) other forms of investments approved in writing by the Bond Insurer; and

(k) the Local Agency Investment Fund of the State of California.

"Principal Account" means the account by that name established pursuant to and held by the Trustee pursuant to the Indenture.

"Prior Bonds" means \$7,610,000 original principal amount of Clayton Financing Authority 1997 Special Tax Refunding Bonds.

"Prior Bonds Indenture" means the Indenture of Trust dated as of November 1, 1997 between the Authority and First Trust of California, National Association, as succeeded by the Prior Bonds Trustee, as trustee.

"Prior Bonds Trustee" means U.S. Bank National Association.

"Project" means the improvements, the acquisition and construction of which is financed with proceeds of the Bonds.

"Project Fund" means the fund by that name established and held by the Trustee pursuant to the Indenture.

“Qualified Reserve Fund Credit Instrument” means (i) the Surety Bond or (ii) an irrevocable standby or direct-pay letter of credit or surety bond issued by a commercial bank or insurance company and deposited with the Trustee pursuant to the Indenture, provided that all of the following requirements are met: (a) the long-term credit rating of such bank or insurance company is in one of the two highest rating categories by S&P and Moody’s; (b) such letter of credit or surety bond has a term of at least twelve (12) months; (c) such letter of credit or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released pursuant to the Indenture; (d) the Trustee is authorized pursuant to the terms of such letter of credit or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to the Indenture; (e) written notice of the posting of such Qualified Reserve Fund Credit Instrument is given to S&P and Moody’s; and (f) such letter of credit or surety bond is approved by the Bond Insurer.

“Record Date” means, with respect to any Interest Payment Date, the fifteenth calendar day of the month preceding the month in which such Interest Payment Date occurs, whether or not such day is a Business Day.

“Refunding Fund” means the fund by that name established and held by the Trustee pursuant to the Indenture.

“Refunding Instructions” means the Irrevocable Refunding Instructions dated the closing Date from the Authority to the Prior Bonds Trustee relating to the defeasance and redemption of the Prior Bonds.

“Reserve Requirement” means an amount equal to the least of (i) 10% of the initial principal amount of the Bonds, (ii) Maximum Annual Debt Service on the Outstanding Bonds, or (iii) 125% of average Annual Debt Service on the Outstanding Bonds, provided that in no event shall the Reserve Requirement exceed \$458,150.02.

“Responsible Officer” means any officer of the Trustee assigned to administer the Trustee’s duties under the Indenture.

“Revenues” means: (a) all amounts received from the Local Obligations; (b) any proceeds of the Bonds originally deposited with the Trustee and all moneys deposited and held from time to time by the Trustee in the funds and accounts established hereunder with respect to the Bonds (other than the Rebate Fund and the Surplus Fund); and (c) investment income with respect to any moneys held by the Trustee in the funds and accounts established hereunder with respect to the Bonds (other than investment income on moneys held in the Rebate Fund and the Surplus Fund).

“Special Taxes” shall have the meaning assigned to such term in the Local Obligations Fiscal Agent Agreement.

“Supplemental Indenture” means any indenture, agreement or other instrument hereafter duly executed by the Authority in accordance with the Indenture.

“Surety Bond” means the surety bond in the amount of \$206,167.51 issued by the Bond Insurer.

“Trust Office” means, with respect to the Trustee, the office of the Trustee in San Francisco, California, or additional offices as may be specified in writing to the Authority, and the City by the Trustee, provided that for transfer, registration, exchange, payment and surrender of Certificates means the corporate trust office of U.S. Bank National Association in St. Paul, Minnesota, or such other office designated by the Trustee.

“Trustee” means U.S. Bank National Association, and its successors and assigns, and any other corporation or association which may at any time be substituted in its place as provided in the Indenture.

#### Pledge of Revenues.

Subject to certain provisions of the Indenture relating to defeasance and amounts payable to the Trustee, the Bonds shall be secured by a first lien on and pledge of all of the Revenues. The Bonds shall be equally secured by a pledge, charge and lien upon the Revenues without priority for any Bond over any other Bond; and the payment of the interest on and principal of the Bonds and any premiums upon the redemption of any Bonds shall be and are secured by an exclusive pledge, charge and lien upon the Revenues. So long as any of the Bonds are Outstanding, the Revenues shall not be used for any purpose except as is expressly permitted by the Indenture.

The Authority transfers in trust, grants a security interest in and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds, respectively, all of the Revenues and all of the right, title and interest of the Authority in the Local Obligations, subject to the terms of the Indenture. The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. Subject to the provisions of the Indenture relating to the rights of the Bond Insurer, the Trustee also shall be entitled to and shall take all steps, actions and proceedings reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Local Obligations.

Upon the deposit with the Trustee of moneys sufficient to pay all principal of, premium, if any, and interest on the Bonds, and upon satisfaction of all claims against the Authority under the Indenture with respect to a Series, including all fees, charges and expenses of the Trustee and the Authority which are properly payable under the Indenture, or upon the making of adequate provisions for the payment of such amounts as permitted, all moneys remaining in all funds and accounts (except any amounts on deposit in the Rebate Fund and the Surplus Fund and except moneys necessary to pay principal of, premium, if any, and interest on such Series of Bonds, which moneys shall be held by the Trustee pursuant to the defeasance provisions of the Indenture), shall no longer be considered Revenues and are not pledged to repay the Bonds. Such amounts shall be transferred to U.S. Bank National Association, as fiscal agent for the Local Obligations and shall be used to optionally redeem the Local Obligations on the first applicable date. In the event that the Local Obligations have been paid or defeased, or if the portion of the amounts so transferred are sufficient to pay or redeem the Local Obligations in full, then any such excess amounts shall be paid by the Trustee to the Authority to be used by the Authority for any lawful purpose.



## Reserve Fund

The Reserve Requirement will be initially satisfied with cash in the amount of \$251,982.51 and with the balance covered by the Surety Bond.

If the amounts in the Interest Account or the Principal Account of the Revenue Fund are insufficient to pay the principal of or interest on the Bonds when due, the Trustee shall withdraw from the Reserve Fund for deposit in the Interest Account and the Principal Account, as applicable, moneys necessary for such purposes.

In the event that the Reserve Requirement shall at any time be maintained in the Reserve in the form of a combination of cash and a Qualified Reserve Fund Credit Instrument, the Trustee shall apply the amount of such cash to make any payment required to be made from the Reserve Fund before the Trustee shall draw any moneys under such Qualified Reserve Fund Credit Instrument for such purpose. In the event that the Trustee shall at any time draw funds under a Qualified Reserve Fund Credit Instrument to make any payment then required to be made from the Reserve Fund, the Revenues thereafter received by the Trustee, to the extent remaining after making the other deposits (if any) then required to be made pursuant to the Indenture shall be used to reinstate the Qualified Reserve Fund Credit Instrument.

## Provisions Relating to Investments of Moneys in the Funds and Accounts.

All moneys in any of the funds or accounts established with the Trustee pursuant to the Indenture shall be invested by the Trustee solely in Permitted Investments, as directed pursuant to the Request of the Authority filed with the Trustee at least two (2) Business Days in advance of the making of such investments. The Trustee shall be entitled to conclusively rely on any such Request of the Authority and shall be fully protected in relying thereon. In the absence of any such Request of the Authority the Trustee shall invest any such moneys in Permitted Investments described in clause (f) of the definition thereof. Permitted Investments purchased as an investment of moneys in any fund or account established pursuant to the Indenture shall be deemed to be part of such fund or account.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the fund or account from which such investment was made; provided, however, that all interest or gain derived from the investment of amounts in the Reserve Fund shall, to the extent the balance thereof exceeds the Reserve Requirement, shall be withdrawn on or before September 2 of each year and deposited into the Revenue Fund.

## Certain Covenants of the Authority.

*Punctual Payment.* The Authority shall punctually pay or cause to be paid the principal and interest and premium (if any) to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of the Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in the Indenture.

*Against Encumbrances.* The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or

assigned under the Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by the Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Bond Law, and reserves the right to issue other obligations for such purposes.

*Accounting Records and Financial Statements.* The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards in which complete and accurate entries shall be made of transactions made by it relating to the proceeds of Bonds, the Revenues, the Local Obligations and all funds and accounts established pursuant to the Indenture. Such books of record and account shall be available for inspection by the Authority and the City upon reasonable prior notice during regular business hours and under reasonable circumstances, in each case as agreed to by the Trustee.

Not later than 45 days following each Interest Payment Date, the Trustee shall prepare and file with the Authority a report setting forth: (i) amounts withdrawn from and deposited into each fund and account maintained by the Trustee under the Indenture; (ii) the balance on deposit in each fund and account as of the date for which such report is prepared; and (iii) a brief description of all obligations held as investments in each fund and account. Copies of such reports may be mailed to any Owner upon the Owner's written request to the Trustee at the expense of such Owner at a cost not to exceed the Trustee's actual costs of duplication and mailing.

*Local Obligations.* Subject to the provisions of this Indenture (including Article 6), the Authority and the Trustee shall use reasonable efforts to collect all amounts due from the City pursuant to the Local Obligations and shall diligently enforce, and take all steps, actions and proceedings which the Authority and Trustee determine to be reasonably necessary for the enforcement of all of the rights of the Authority thereunder and for the enforcement of all of the obligations and covenants of the City contained in the Local Obligations Fiscal Agent Agreement. The Authority shall instruct the City to authenticate and deliver to the Trustee the Local Obligations registered in the name of the Trustee.

The Authority, the Trustee, and the City may, with prior written notice to the Bond Insurer, at any time consent to, amend or modify any of the Local Obligations pursuant to the terms thereof, (a) with the prior consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding and the Bond Insurer, or (b) without the consent of any of the Owners but with the consent of the Bond Insurer, if such amendment or modification is for any one or more of the following purposes

(a) to add to the covenants and agreements of the City contained in such Local Obligations, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power therein reserved to or conferred upon the City; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in such Local Obligations, or in any other respect whatsoever as the City may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the Owners of the Bonds in the opinion of nationally- recognized bond counsel filed with the Trustee; or

(c) to amend any provision thereof to the extent necessary to comply with the Code, but only if and to the extent such amendment will not, in and of itself, adversely affect the exclusion from gross income of the interest on any of the Bonds under the Code, in the opinion of Bond Counsel filed with the Trustee.

*Sale of Local Obligations.* Notwithstanding anything in this Indenture to the contrary, following prior written consent of the Bond Insurer and prior written notice to Standard & Poor's, the Authority may cause the Trustee to sell, from time to time, all or a portion of an issue of Local Obligations, provided that the Authority shall deliver to the Trustee:

(a) a certificate of an Independent Accountant certifying that, following the sale of such Local Obligations, the Revenues to be paid to the Authority (assuming the timely payment of amounts due thereon with respect to any Local Obligations not then in default), together with interest and principal due on any noncallable Defeasance Obligations pledged to the repayment of the Bonds and the Revenues then on deposit in the funds and accounts established hereunder (valuing any Permitted Investments held hereunder at the then Fair Market Value thereof), will be sufficient to pay the principal of and interest on the Bonds when due;

(b) a certificate of the Bond Insurer consenting to such sale of Local Obligations; and

(c) an opinion of Bond Counsel that such sale of the Local Obligations is authorized under the provisions of this Indenture and will not adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

Upon compliance with the foregoing conditions by the Authority, the Trustee shall sell such Local Obligations in accordance with the Request of the Authority and disburse the proceeds of the sale of such Local Obligations to the Authority or upon the receipt of a Request of the Authority shall deposit such proceeds in the Revenue Fund.

*Refunding Obligations.*

(a) The Authority may issue bonds, notes or other indebtedness ("Additional Bonds") which are payable out of Revenues in whole or in part, to accomplish a refunding of all or a portion of the Bonds provided there shall have been delivered to the Trustee a certificate of an Independent Financial Consultant stating that the annual payments due on the Local Obligations will be adequate to pay the principal of and interest on all Bonds or other indebtedness payable after such refunding from the Revenues when due.

(b) Any Additional Bonds issued to refund a portion of the Bonds must be issued by the Authority and must be secured on a parity to the remaining Bonds. The issuance of such Additional Bonds shall be subject to the condition that the coverage provided by the scheduled debt service on the Local Obligations, for debt service on the aggregate amount of any Bonds and Additional Bonds outstanding after the issuance of such Additional Bonds, shall not be less in any future fiscal year than the coverage provided prior to the refunding.

(c) The Supplemental Indenture providing for the issuance of such Additional Bonds shall provide that interest thereon shall be payable on September 2 and March 2, and principal thereof shall be payable on September 2 in any year in which principal is payable.

(d) The Supplemental Indenture providing for the issuance of such Additional Bonds may provide for the establishment of separate funds and accounts.

(e) No Event of Default shall have occurred and be continuing with respect to the Bonds or any of the Local Obligations.

(f) The Bonds being refunded shall be defeased as provided in the Indenture.

(g) The Authority shall deliver to the Trustee a written Certificate of the Authority certifying that the conditions precedent to the issuance of such Additional Bonds set forth in subsection (b) (excluding any conditions waived by the Bond Insurer) above have been satisfied and that (i) with respect to the Reserve Fund, an amount equal to the Reserve Requirement is on deposit in the Reserve Fund or is held in a separate reserve account established by the Trustee, solely to secure the Bonds and the Additional Bonds (which may be maintained in whole or in part in the form of a Qualified Reserve Fund Credit Instrument as described herein).

*Continuing Disclosure.* The Authority covenants and agrees that it will cause the City to comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of the Indenture, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any Participating Underwriter or any holder or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

*Tax Covenants.*

Private Activity Bond Limitation. The Authority shall assure that the proceeds of the Bonds are not used so as to cause the Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

Federal Guarantee Prohibition. The Authority shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

No Arbitrage. The Authority shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the Bond proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

Rebate of Excess Investment Earnings to United States. The Authority shall calculate or cause to be calculated excess investment earnings with respect to the Bonds which are required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and shall pay the full amount of such excess investment earnings to the United States of

America in such amounts, at such times and in such manner as may be required pursuant to the Code. Such payments shall be made by the Authority from any source of legally available funds of the Authority, including amounts deposited into the Rebate Fund, if any. The Authority shall keep or cause to be kept, and retain or cause to be retained for a period of six (6) years following the final payment of the Bonds, records of the determinations made pursuant to this covenant. In order to provide for the administration of this covenant, the Authority may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Authority may deem appropriate.

Maintenance of Tax Exemption. The Authority shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners thereof to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Bonds.

Small Issuer Exemption from Bank Nondeductibility Restriction. The Authority hereby designates the Bonds for purposes of paragraph (3) of section 265(b) of the Code and covenants that none of the Bonds constitute private activity bonds as defined in section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under section 103(a) of the Code) from gross income for federal income taxes (excluding, however, private activity bonds, as defined in section 141 of the Code, other than qualified 501(c)(3) bonds as defined in section 145 of the Code), including the Bonds, have been or shall be issued by the Authority, including all subordinate entities of the Authority, during the calendar year 2007.

Amendment of the Indenture.

*With Bondowner Consent.* The Indenture and the rights and obligations of the Authority and of the Owners of either Series of the Bonds may, be modified or amended at any time by a Supplemental Indenture which shall become binding when the prior written consent of the Bond Insurer and the Owners of a majority in aggregate principal amount of the Bonds then Outstanding (and as to the Bonds only, the prior written consent of the Bond Insurer) are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or redemption premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without written consent of the Trustee, modify any of the rights or obligations of the Trustee.

*Without Bondowner Consent.* The Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may, with prior written consent of the Bond Insurer, also be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption, without consent of any Bond Owners, to the extent permitted by law but only for any one or more of the following purposes

- (a) to add to the covenants and agreements of the Authority contained in this Indenture, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or powers reserved to or conferred upon the Authority so long as such addition, limitation or surrender of such rights or powers shall not materially adversely affect the Owners of the Bonds; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Authority may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the Owners of the Bonds; or

(c) to amend any provision thereof relating to the Code as may be necessary or appropriate to assure compliance with the Code and the exclusion from gross income of interest on the Bonds; or

(d) to amend any provision thereof to place any Additional Bonds on a parity with the Bonds for all purposes of this Indenture, including, but not limited to, for the purpose of exercising all rights and remedies hereunder.

*Amendment by Mutual Consent.* Any Bond Owner may accept any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

*Consent of Insurer.*

Amendment of Rights of the Bond Insurer. Any provision of the Indenture expressly recognizing or granting rights in or to the Bond Insurer may not be amended in any manner which affects the rights of the Bond Insurer under the Indenture without the prior written consent of the Bond Insurer.

Consent of Bond Insurer Upon Default. Anything in the Indenture to the contrary notwithstanding, upon the occurrence and continuance of an event of default as defined in the Indenture, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Owners or the Trustee for the benefit of the Owners under the Indenture.

Consent of Bond Insurer in lieu of Bondowner Consent. The Bond Insurer's consent shall be required in lieu of the consent of the Bondowners, when required, for the following purposes: (i) execution and delivery of any Supplemental Indenture relating to the Bonds or any amendment, supplement to or modification of the Local Obligations Fiscal Agent Agreement, (ii) removal of the Trustee or selection and appointment of any successor Trustee, and (iii) initiation or approval of any action not described in (i) or (ii) above which requires consent of the Bondowners.

Consent of Bond Insurer in the Event of Insolvency. Any reorganization or liquidation plan with respect to the Authority must be acceptable to the Bond Insurer. In the event of any reorganization or liquidation, the Bond Insurer shall have the right to vote on behalf of all Owners of Bonds absent a default by the Bond Insurer under the applicable Bond Insurance Policy insuring such Bonds.

#### Events of Default and Remedial Action.

*Events of Default.* The following events shall be Events of Default under the Indenture.

(a) Default in the due and punctual payment of the principal of any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by declaration or otherwise.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Default by the Authority in the observance of any of the other covenants, agreements or conditions on its part in the Indenture or in the Bonds contained, if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority and the Bond Insurer by the Trustee, or to the Authority, the Bond Insurer and the Trustee by the Owners of not less than twenty five percent (25%) in aggregate principal amount of the Bonds at the time Outstanding or to the Authority and Trustee by the Bond Insurer; provided that such default (other than a default arising from nonpayment of the Trustee's fees and expenses, which must be cured within such 60 day period unless waived by the Trustee) shall not constitute an Event of Default under the Indenture if the Authority shall commence to cure such default within said sixty (60) day period and thereafter diligently and in good faith shall cure such default within a reasonable period of time; or

(d) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

In determining whether a default has occurred under (a) or (b) above, or whether a payment on the Bonds has been made under the Indenture, no effect shall be given to payments made under the Bond Insurance Policy.

The Authority and the Trustee agree to give notice to the Bond Insurer immediately upon the occurrence of an Event of Default under (a) or (b) above and within 30 days of such party's knowledge of an Event of Default under (c) or (d) above.

*Remedies; Rights of Bond Owners.* Upon the occurrence of a Event of Default, the Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Outstanding Bonds, and to enforce any rights of the Trustee under or with respect to the Indenture; provided, however, that, except as described in the following sentence, so long as the Bond Insurer has not defaulted under the Bond Insurance Policy, the Trustee shall obtain the prior written consent of the Bond Insurer before exercising any remedies. In the event of a Event of Default arising out of a nonpayment of Trustee's fees and expenses, the Trustee may, without Bond Insurer consent, sue the Authority to seek recovery of its fees and expenses; provided, however, that such recovery may be made only from Subordinate Revenues or the funds of the Authority and not from Revenues.

If a Event of Default shall have occurred and be continuing and if requested so to do by the Bond Insurer, or if the Bond Insurer has failed to comply with its payment obligations under the Bond Insurance Policy, if requested to do so by the Owners of at least twenty five percent

(25%) in aggregate principal amount of Outstanding Bonds, and, in each case, if indemnified as provided in the Indenture, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by the Indenture and, as applicable, under the Local Obligations, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bond Owners.

No remedy by the terms of the Indenture conferred upon or reserved to the Trustee (or to the Bond Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bond Owners under the Indenture or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

Notwithstanding any other provisions of the Indenture, the Bond Insurer shall have the right, so long as it is not in default under the Bond Insurance Policy, to direct the remedies to be taken upon any Event of Default, and the Bond Insurer's consent shall be required for remedial action taken by the Trustee or the Authority under the Indenture.

*Application of Revenues and Other Funds After Event of Default.* All amounts received by the Trustee with respect to the Bonds pursuant to any right given or action taken by the Trustee under the provisions of the Indenture relating to the Bonds shall be applied by the Trustee in the following order upon presentation of the several Bonds, and the stamping thereon of the amount of the payment if only partially paid, or upon the surrender thereof if fully paid –

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in carrying out the provisions of the Indenture, including reasonable compensation to its agents, attorneys and counsel (including outside counsel and the allocated costs of internal attorneys), and to the payment of all other outstanding fees and expenses of the Trustee; and

Second, to the payment of the whole amount of interest on and principal of the Bonds then due and unpaid, with interest on overdue installments of principal and interest to the extent permitted by law at the net effective rate of interest then borne by the Outstanding Bonds; provided, however, that in the event such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied in the following order of priority.

- (a) first to the payment of all installments of interest on the Bonds then due and unpaid,
- (b) second, to the payment of all installments of principal of the Bonds then due and unpaid, and
- (c) third, to the payment of interest on overdue installments of principal and interest on Bonds.



*Power of Trustee to Control Proceedings.* In the event that the Trustee, upon the happening of a Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties under the Indenture, whether upon its own discretion or upon the request of the Bond Insurer or the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, it may, with the consent of the Bond Insurer, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues a Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time the Bond Insurer is in default under the Bond Insurance Policy and there has been filed with it a written request signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds under the Indenture opposing such discontinuance, withdrawal, compromise, settlement or other such litigation and provided further that the Trustee shall have the right to decline to comply with such written request unless indemnification satisfactory to it has been provided. Any suit, action or proceeding which any Owner of Bonds shall have the right to bring to enforce any right or remedy under the Indenture may be brought by the Trustee for the equal benefit and protection of all Owners of Bonds similarly situated and the Trustee is appointed (and the successive respective Owners of the Bonds issued under the Indenture, by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney in fact of the respective Owners of the Bonds for the purposes of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners of the Bonds as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney in fact.

*Appointment of Receivers.* Upon the occurrence of a Event of Default under the Indenture, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bond Owners under the Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged under the Indenture, pending such proceedings, with such powers as the court making such appointment shall confer.

*Rights and Remedies of Bond Owners.* No Owner of any Bond issued under the Indenture shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon the Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of a Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers in the Indenture before granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy under the Indenture; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to enforce any right under the Indenture, except in the manner in the Indenture provided, and that all proceedings at law or in equity to enforce any provision of the Indenture shall be instituted, had and maintained in the

manner in the Indenture provided and for the equal benefit of all Owners of the Outstanding Bonds and the Bond Insurer.

The right of any Owner of any Bond to receive payment of the principal of and interest and premium (if any) on such Bond as in the Indenture provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner, notwithstanding any other provision of the Indenture.

#### Limited Liability of Authority.

Notwithstanding anything in the Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues and the other assets held under the Indenture for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants in the Indenture contained (except to the extent any such covenants are expressly payable under the Indenture from the Revenues). The Authority may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues or Subordinated Revenues, as the case may be, and other funds as in the Indenture provided. The general fund of the Authority is not liable, and the credit of the Authority is not pledged, for the payment of the interest and premium (if any) on or principal of the Bonds. The Owners of the Bonds shall never have the right to compel the forfeiture of any property of the Authority. The principal of and interest on the Bonds, and any premiums upon the redemption of any thereof, shall not be a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as in the Indenture provided.

#### Discharge of Indenture.

If the Authority pays and discharges any or all of the Outstanding Bonds in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on such Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established with the Trustee pursuant to the Indenture and available for such purpose, is fully sufficient to pay such Bonds, including all principal, interest and redemption premiums; or

(c) by irrevocably depositing with the Trustee or any other fiduciary, in trust, Federal Securities in such amount as an Independent Accountant shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established with the Trustee pursuant to the Indenture and available for such purpose, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates;

then any such Outstanding Bond or Bonds shall be deemed to have been paid and discharged; provided, however, that any such Outstanding Bond or Bonds shall be deemed to have been paid and discharged under paragraph (c) above only if (i) in the case of Bonds to be redeemed prior to the maturity thereof, notice of such redemption shall have been mailed pursuant to the Indenture or provision satisfactory to the Trustee shall have been made for the mailing of such notice, (ii) a verification report of an Independent Accountant shall be delivered to the Trustee, which shall be in a form acceptable to the Bond Insurer in the case of a discharge of Bonds, and (iii) an opinion of Bond Counsel shall be delivered to the Trustee and the Bond Insurer in the case of a defeasance of Bonds, to the effect that the requirements of the Indenture have been satisfied with respect to such discharge of Bonds. Upon a discharge of one or more Bonds as described above, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the pledge of the Revenues, Subordinated Revenues, and other funds provided for in the Indenture with respect to such Bonds, and all other pecuniary obligations of the Authority under the Indenture with respect to such Bonds, as applicable, shall cease and terminate, except only the obligation of the Authority to comply with the tax covenants and the indemnification provisions set forth in the Indenture, to pay or cause to be paid to the Owners of such Bonds not so surrendered and paid all sums due thereon from amounts set aside for such purpose, to pay all expenses and costs of the Trustee and to comply with the tax covenants set forth in the Indenture. Any funds thereafter held by the Trustee, which are not required for said purposes, shall be paid over to the Authority or upon a Request of the Authority to the City.

In the event that the Bonds are to be defeased, the Bond Insurer shall be notified and provided with draft copies of the proposed escrow agreement, Independent Accountant certification and preliminary official statement of the refunding issue (if applicable). These materials shall be delivered to the Bond Insurer no less than five business days prior to the scheduled defeasance.

Defeasance shall be accomplished only with an irrevocable deposit in escrow of certain investments referred to in the Indenture. Further substitutions of securities in the escrow are not permitted. The deposit in the escrow must be sufficient, without reinvestment, to pay all principal and interest as schedule on the Bonds to and including the date of redemption. Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

Notwithstanding anything in the Indenture to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Bond Insurer pursuant to the Bond Insurance Policy, the Bonds will remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Authority, and the assignment and pledge of the Revenues and all covenants, agreements and other obligations of the Authority to the registered owners of the Bonds shall continue to exist and shall run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of such registered owners of the Bonds.

#### Payment on, and Conditions of, Bond Insurance Policy.

As long as the Bond Insurance Policy shall be in full force and effect, the Authority and the Trustee agree to comply with the following provisions:

(a) At least one (1) business day prior to all Interest Payment Dates, the Trustee will determine whether there will be sufficient funds in the Funds and Accounts to pay the principal of or interest on the Bonds on such Interest Payment Date. If the Trustee, determines that there will be insufficient funds in such Funds or Accounts, the Trustee, shall so notify the Bond Insurer. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the Trustee, has not so notified the Bond Insurer at least one (1) business day prior to an Interest Payment Date, the Bond Insurer will make payments of principal or interest due on the Bonds on or before the first (1st) business day next following the date on which the Bond Insurer shall have received notice of nonpayment from the Trustee.

(b) The Trustee shall, after giving notice to the Bond Insurer as provided in (a) above, make available to the Bond Insurer and, at the Bond Insurer's direction, to The Bank of New York, in New York, New York, as insurance trustee for the Bond Insurer or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Authority maintained by the Trustee, and all records relating to the Funds and Accounts maintained under the Indenture.

(c) The Trustee shall provide the Bond Insurer and the Insurance Trustee with a list of registered owners of Bonds entitled to receive principal or interest payments from the Bond Insurer under the terms of the Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Bonds entitled to receive full or partial interest payments from the Bond Insurer and (ii) to pay principal upon Bonds surrendered to the Insurance Trustee by the registered owners of Bonds entitled to receive full or partial principal payments from the Bond Insurer.

(d) The Trustee shall, at the time it provides notice to the Bond Insurer pursuant to (a) above, notify registered owners of Bonds entitled to receive the payment of principal or interest thereon from the Bond Insurer (i) as to the fact of such entitlement, (ii) that the Bond Insurer will remit to them all or a part of the interest payments next coming due upon proof of Holder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Bond Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Bond Insurer) for payment to the Insurance Trustee, and not the Trustee, and (iv) that should they be entitled to receive partial payment of principal from the Bond Insurer, they must surrender their Bonds for payment thereon first to the Trustee, who shall note on such Bonds the portion of the principal paid by the Trustee, and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(e) In the event that the Trustee has notice that any payment of principal of or interest on a Bond which has become Due for Payment and which is made to a Holder by or on behalf of the Authority has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee shall, at the time the Bond Insurer is notified pursuant to (a) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from the Bond Insurer to the extent of such recovery if

sufficient funds are not otherwise available, and the Trustee shall furnish to the Bond Insurer its records evidencing the payments of principal of and interest on the Bonds which have been made by the Trustee and subsequently recovered from registered owners and the dates on which such payments were made.

(f) In addition to those rights granted the Bond Insurer under the Indenture, the Bond Insurer shall, to the extent it makes payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books of the Authority maintained by the Trustee, upon receipt from the Bond Insurer of proof of the payment of interest thereon to the registered owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Bond Insurer's rights as subrogee on the registration books of the Authority maintained by the Trustee, upon surrender of the Bonds by the registered owners thereof together with proof of the payment of principal thereof.

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**APPENDIX B**  
**RATE AND METHOD OF APPORTIONMENT OF**  
**SPECIAL TAXES FOR THE DISTRICT**

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CITY OF CLAYTON  
CLAYTON MIDDLE SCHOOL FINANCING PROGRAM  
COMMUNITY FACILITIES DISTRICT NO. 1990-1  
SPECIAL TAX FORMULA

BOOK 1597210 602

A special tax shall be levied on and collected from each parcel in Community Facilities District No. 1990-1, of the City of Clayton, in each fiscal year commencing on July 1, 1991, in an amount determined by the City Council of the City of Clayton through the application of the appropriate special tax for Residences and Residential Land. However, no special tax shall be levied unless bonds are issued by the community facilities district.

The special tax shall be levied upon those lots and parcels listed in Table 1 within Subdivision 6990 (filed of record on December 20, 1988, in Book 328 of Maps, at Page 21, in the Official Records of the Contra Costa County Recorder) included within the boundaries of the community facilities district.

The special tax shall be levied on Residences and Residential Land.

*Residence* means a residential dwelling, and the subdivided lot upon which it is constructed, for which a certificate of occupancy has been issued by the City of Clayton.

*Residential Land* means those lots and parcels listed in Table 1 excepting (1) Residences and (2) any lands not zoned or designated by the City of Clayton for the construction of a Residence.

Wherever it is stated that the City of Clayton shall designate the number of Residences or the land on which Residences are to be constructed, such designation shall be made at the time a subdivision map is filed of record.

**Residence Special Tax**

The special tax will be levied against a Residence following the issuance of a certificate of occupancy. For each fiscal year (July 1 – June 30), the special tax on a Residence will be levied against each Residence for which a certificate of occupancy has been issued by July 15 of that year.

The Special Tax for a Residence on a parcel showing one residence under ESTIMATED NUMBER OF RESIDENCES on Table 1 shall be the amount shown for that parcel under MAXIMUM SPECIAL TAX on Table 1.

The Special Tax for Residences on parcels showing a number greater than one under ESTIMATED NUMBER OF RESIDENCES on Table 1 shall be determined as follows: When a subdivision map for such parcel is filed of record, the Special Tax for Residences on such parcel shall be apportioned equally to each new lot

and parcel created by the subdivision map based on the number of Residences to be constructed thereon as designated by the City of Clayton; no Special Tax shall be apportioned to any lands not zoned or designated for the construction of a Residence. Upon any further resubdivision of a parcel created by such subdivision map, a further apportionment shall be made in a manner consistent with the preceding apportionment rules.

### **Residential Land Special Tax**

Beginning July 1, 1991, and ending when there is no Residential Land in the community facilities district, a Residential Land Special Tax may be annually levied on the Residential Land. The total Residential Land Special Tax so levied shall be one hundred percent (100%) of the annual debt service, on the bonds to be issued by the community facilities district, for the following bond year (increased to one hundred five percent (105%) commencing July 1, 1997), less the total of the following amounts:

- The total Residence Special Taxes to be levied for that fiscal year
- Interest earnings available from unspent bond proceeds during the pre-development and construction period of the school, to the extent such earnings may be legally used to pay interest on the bonds for the following bond year pursuant to the Mello-Roos Community Facilities District Act of 1982.
- Any other funds which the City of Clayton determines are available to the community facilities district for payment of the debt service for the following bond year other than those funds which are designated for other purposes.

The total Residential Land Special Tax resulting from the above calculation, but not more than such total tax, shall be apportioned to the Residential Land as follows:

- a. The Maximum Residential Land Special Tax for each subdivided lot zoned or designated by the City of Clayton for the construction of a Residence shall be equal to the Maximum Residence Special Tax which would be levied on the lot if it were a Residence.
- b. The balance of the total Residential Land Special Tax shall be levied against all other parcels of Residential Land based on the anticipated number of Residences to be constructed thereon as determined by the City of Clayton.

The special taxes of the community facilities district will be collected in the same manner and at the same time as ad valorem property taxes.

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TABLE 1 ■ MAXIMUM SPECIAL TAX

Lot/ Parcel Number <sup>1</sup>	Assessor's Parcel Number	Estimated Number of Residences	Estimated Special Tax Per Residence <sup>2</sup>	Maximum Special Tax <sup>2</sup>
48	118-391-018	1	\$427.00	\$ 427
54	118-391-024	1	427.00	427
55	118-392-001	1	427.00	427
56	118-392-002	1	427.00	427
57	118-392-003	1	427.00	427
58	118-392-004	1	427.00	427
59	118-392-005	1	427.00	427
60	118-392-006	1	427.00	427
61	118-392-007	1	427.00	427
66	118-392-012	1	427.00	427
67	118-392-013	1	427.00	427
68	118-392-014	1	427.00	427
69	118-392-015	1	427.00	427
70	118-392-016	1	427.00	427
85	118-382-015	1	427.00	427
86	118-382-016	1	427.00	427
87	118-382-017	1	427.00	427
88	118-382-018	1	427.00	427
89	118-382-019	1	427.00	427
90	118-382-020	1	427.00	427
91	118-382-021	1	427.00	427
92	118-382-022	1	427.00	427
94 <sup>3</sup>	118-370-003	72	367.00	26,424
94 <sup>3</sup>	118-402-001	1	367.00	367
94 <sup>3</sup>	118-402-002	1	367.00	367
94 <sup>3</sup>	118-402-003	1	367.00	367
94 <sup>3</sup>	118-402-004	1	367.00	367
94 <sup>3</sup>	118-402-005	1	367.00	367
94 <sup>3</sup>	118-402-006	1	367.00	367
94 <sup>3</sup>	118-402-007	1	367.00	367
94 <sup>3</sup>	118-402-008	1	367.00	367
94 <sup>3</sup>	118-402-009	1	367.00	367
94 <sup>3</sup>	118-402-010	1	367.00	367
94 <sup>3</sup>	118-402-011	1	367.00	367
94 <sup>3</sup>	118-402-012	1	367.00	367
94 <sup>3</sup>	118-402-013	1	367.00	367
94 <sup>3</sup>	118-402-014	1	367.00	367
94 <sup>3</sup>	118-402-015	1	367.00	367
94 <sup>3</sup>	118-402-016	1	367.00	367
94 <sup>3</sup>	118-402-017	1	367.00	367
94 <sup>3</sup>	118-402-018	1	367.00	367
94 <sup>3</sup>	118-402-019	1	367.00	367
94 <sup>3</sup>	118-402-020	1	367.00	367
94 <sup>3</sup>	118-402-021	1	367.00	367
94 <sup>3</sup>	118-402-022	1	367.00	367
94 <sup>3</sup>	118-402-023	1	367.00	367

(continued)

TABLE 1 ■ MAXIMUM SPECIAL TAX (continued)

Lot/ Parcel Number <sup>1</sup>	Assessor's Parcel Number	Estimated Number of Residences	Estimated Special Tax Per Residence <sup>2</sup>	Maximum Special Tax <sup>2</sup>
94 <sup>3</sup>	118-402-024	1	367.00	367
94 <sup>3</sup>	118-402-025	1	367.00	367
94 <sup>3</sup>	118-402-026	1	367.00	367
94 <sup>3</sup>	118-402-027	1	367.00	367
94 <sup>3</sup>	118-402-028	1	367.00	367
94 <sup>3</sup>	118-402-029	1	367.00	367
95 <sup>3</sup>	118-401-001	1	367.00	367
95 <sup>3</sup>	118-401-002	1	367.00	367
95 <sup>3</sup>	118-401-003	1	367.00	367
95 <sup>3</sup>	118-401-004	1	367.00	367
95 <sup>3</sup>	118-401-005	1	367.00	367
95 <sup>3</sup>	118-401-006	1	367.00	367
95 <sup>3</sup>	118-401-007	1	367.00	367
95 <sup>3</sup>	118-401-008	1	367.00	367
95 <sup>3</sup>	118-401-009	1	367.00	367
95 <sup>3</sup>	118-401-010	1	367.00	367
95 <sup>3</sup>	118-401-019	1	367.00	367
95 <sup>3</sup>	118-401-029	1	367.00	367
95 <sup>3</sup>	118-401-030	1	367.00	367
95 <sup>3</sup>	118-401-031	1	367.00	367
95 <sup>3</sup>	118-401-032	1	367.00	367
95 <sup>3</sup>	118-401-033	1	367.00	367
95 <sup>3</sup>	118-401-034	1	367.00	367
95 <sup>3</sup>	118-401-035	1	367.00	367
95 <sup>3</sup>	118-401-036	1	367.00	367
95 <sup>3</sup>	118-401-037	1	367.00	367
95 <sup>3</sup>	118-401-038	1	367.00	367
95 <sup>3</sup>	118-401-039	1	367.00	367
95 <sup>3</sup>	118-401-040	1	367.00	367
95 <sup>3</sup>	118-401-041	1	367.00	367
95 <sup>3</sup>	118-401-042	1	367.00	367
95 <sup>3</sup>	118-370-004	160	367.00	58,720
95 <sup>3</sup>	118-370-005	52	298.00	15,496
96 <sup>3</sup>	118-410-001	1	298.00	298
96 <sup>3</sup>	118-410-002	1	298.00	298
96 <sup>3</sup>	118-410-003	1	298.00	298
96 <sup>3</sup>	118-410-004	1	298.00	298
96 <sup>3</sup>	118-410-005	1	298.00	298
96 <sup>3</sup>	118-410-006	1	298.00	298
96 <sup>3</sup>	118-410-007	1	298.00	298
96 <sup>3</sup>	118-410-008	1	298.00	298
96 <sup>3</sup>	118-410-009	1	298.00	298
96 <sup>3</sup>	118-410-010	1	298.00	298
96 <sup>3</sup>	118-410-011	1	298.00	298
96 <sup>3</sup>	118-410-012	1	298.00	298
96 <sup>3</sup>	118-410-013	1	298.00	298

(continued)

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TABLE 1 ■ MAXIMUM SPECIAL TAX (continued)

Lot/ Parcel Number <sup>1</sup>	Assessor's Parcel Number	Estimated Number of Residences	Estimated Special Tax Per Residence <sup>2</sup>	Maximum Special Tax <sup>2</sup>
96 <sup>1</sup>	118-410-014	1	298.00	298
96 <sup>3</sup>	118-410-015	1	298.00	298
96 <sup>3</sup>	118-410-016	1	298.00	298
96 <sup>3</sup>	118-410-017	1	298.00	298
96 <sup>3</sup>	118-410-018	1	298.00	298
96 <sup>3</sup>	118-410-019	1	298.00	298
96 <sup>3</sup>	118-410-020	1	298.00	298
96 <sup>3</sup>	118-410-021	1	298.00	298
96 <sup>3</sup>	118-410-022	1	298.00	298
96 <sup>3</sup>	118-410-023	1	298.00	298
96 <sup>3</sup>	118-410-024	1	298.00	298
96 <sup>3</sup>	118-410-025	1	298.00	298
96 <sup>3</sup>	118-410-026	1	298.00	298
96 <sup>3</sup>	118-410-027	1	298.00	298
96 <sup>3</sup>	118-410-028	1	298.00	298
96 <sup>3</sup>	118-410-029	1	298.00	298
96 <sup>3</sup>	118-410-030	1	298.00	298
96 <sup>3</sup>	118-410-031	1	298.00	298
96 <sup>3</sup>	118-410-032	1	298.00	298
96 <sup>3</sup>	118-410-033	1	298.00	298
96 <sup>3</sup>	118-410-034	1	298.00	298
96 <sup>3</sup>	118-410-035	1	298.00	298
96 <sup>3</sup>	118-410-036	1	298.00	298
96 <sup>3</sup>	118-410-037	1	298.00	298
96 <sup>3</sup>	118-410-038	1	298.00	298
96 <sup>3</sup>	118-410-039	1	298.00	298
96 <sup>3</sup>	118-410-040	1	298.00	298
96 <sup>3</sup>	118-410-041	1	298.00	298
96 <sup>3</sup>	118-410-042	1	298.00	298
96 <sup>3</sup>	118-410-043	1	298.00	298
96 <sup>3</sup>	118-410-044	1	298.00	298
96 <sup>3</sup>	118-410-045	1	298.00	298
96 <sup>3</sup>	118-410-046	1	298.00	298
96 <sup>3</sup>	118-410-047	1	298.00	298
96 <sup>3</sup>	118-410-048	1	298.00	298
96 <sup>3</sup>	118-410-049	1	298.00	298
96 <sup>3</sup>	118-410-050	1	298.00	298
96 <sup>3</sup>	118-410-051	1	298.00	298
96 <sup>3</sup>	118-410-052	1	298.00	298
96 <sup>3</sup>	118-410-053	1	298.00	298
96 <sup>3</sup>	118-410-054	1	298.00	298
96 <sup>3</sup>	118-410-055	1	298.00	298
96 <sup>3</sup>	118-410-056	1	298.00	298
96 <sup>3</sup>	118-410-057	1	298.00	298
96 <sup>3</sup>	118-410-058	1	298.00	298
96 <sup>3</sup>	118-410-059	1	298.00	298

(continued)

CITY OF CLAYTON

CITY OF CLAYTON  
P. O. BOX 280  
CLAYTON, CALIF. 94517

TABLE 1 ■ MAXIMUM SPECIAL TAX (continued)

Lot/ Parcel Number <sup>1</sup>	Assessor's Parcel Number	Estimated Number of Residences	Estimated Special Tax Per Residence <sup>2</sup>	Maximum Special Tax <sup>2</sup>
96 <sup>3</sup>	118-410-060	1	298.00	298
96 <sup>3</sup>	118-410-061	1	298.00	298
96 <sup>3</sup>	118-410-062	1	298.00	298
96 <sup>3</sup>	118-410-063	1	298.00	298
96 <sup>3</sup>	118-410-064	1	298.00	298
96 <sup>3</sup>	118-410-065	1	298.00	298
96 <sup>3</sup>	118-410-066	1	298.00	298
96 <sup>3</sup>	118-410-067	1	298.00	298
96 <sup>3</sup>	118-410-068	1	298.00	298
96 <sup>3</sup>	118-410-069	1	298.00	298
96 <sup>3</sup>	118-410-070	1	298.00	298
96 <sup>3</sup>	118-410-071	1	298.00	298
96 <sup>3</sup>	118-410-072	1	298.00	298
96 <sup>3</sup>	118-410-073	1	298.00	298
96 <sup>3</sup>	118-410-074	1	298.00	298
96 <sup>3</sup>	118-410-075	1	298.00	298
96 <sup>3</sup>	118-410-076	1	298.00	298
96 <sup>3</sup>	118-410-077	1	298.00	298
96 <sup>3</sup>	118-410-078	1	298.00	298
96 <sup>3</sup>	118-410-079	1	298.00	298
96 <sup>3</sup>	118-410-080	1	298.00	298
96 <sup>3</sup>	118-410-081	1	298.00	298
96 <sup>3</sup>	118-410-082	1	298.00	298
96 <sup>3</sup>	118-410-083	1	298.00	298
96 <sup>3</sup>	118-410-084	1	298.00	298
96 <sup>3</sup>	118-410-085	1	298.00	298
96 <sup>3</sup>	118-410-086	1	298.00	298
96 <sup>3</sup>	118-410-087	1	298.00	298
96 <sup>3</sup>	118-410-088	1	298.00	298
96 <sup>3</sup>	118-410-089	1	298.00	298
96 <sup>3</sup>	118-410-090	1	298.00	298
96 <sup>3</sup>	118-410-091	1	298.00	298
96 <sup>3</sup>	118-410-092	1	298.00	298
96 <sup>3</sup>	118-410-093	1	298.00	298
96 <sup>3</sup>	118-410-094	1	298.00	298
96 <sup>3</sup>	118-410-095	1	298.00	298
96 <sup>3</sup>	118-410-096	1	298.00	298
96 <sup>3</sup>	118-410-097	1	298.00	298
96 <sup>3</sup>	118-410-098	1	298.00	298
96 <sup>3</sup>	118-410-099	1	298.00	298
96 <sup>3</sup>	118-410-100	1	298.00	298
96 <sup>3</sup>	118-410-101	1	298.00	298
96 <sup>3</sup>	118-410-102	1	298.00	298
96 <sup>3</sup>	118-410-103	1	298.00	298
96 <sup>3</sup>	118-410-104	1	298.00	298
96 <sup>3</sup>	118-410-105	1	298.00	298

(continued)

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TABLE 1 ■ MAXIMUM SPECIAL TAX (continued)

Lot/ Parcel Number <sup>1</sup>	Assessor's Parcel Number	Estimated Number of Residences	Estimated Special Tax Per Residence <sup>2</sup>	Maximum Special Tax <sup>2</sup>
96 <sup>3</sup>	118-410-106	1	298.00	298
96 <sup>3</sup>	118-410-107	1	298.00	298
96 <sup>3</sup>	118-410-108	1	298.00	298
96 <sup>3</sup>	118-410-109	1	298.00	298
96 <sup>3</sup>	118-410-110	1	298.00	298
96 <sup>3</sup>	118-410-111	1	298.00	298
96 <sup>3</sup>	118-410-112	1	298.00	298
96 <sup>3</sup>	118-410-113	1	298.00	298
96 <sup>3</sup>	118-410-114	1	298.00	298
96 <sup>3</sup>	118-410-115	1	298.00	298
96 <sup>3</sup>	118-410-116	1	298.00	298
96 <sup>3</sup>	118-410-117	1	298.00	298
105	118-370-020	147	638.00	93,786
106-107	{ 118-370-021 118-370-022 }	302	427.00	128,954
108	118-370-023	130	638.00	82,940
109-111	{ 118-370-025 118-370-026 118-370-028 }	163	301.70	49,170
116	118-370-036	142	742.50	105,432
Totals		1,361		\$625,000

1 - Refers to Subdivision 6990.

2 - If one hundred five percent (105%) of the maximum annual debt service is less than the total Maximum Special Tax of \$625,000, then, commencing in the fiscal year following the issuance of the bonds, the Maximum Special Tax and the Estimated Special Tax Per Residence shall be reduced proportionately so that the total Maximum Special Tax is reduced to the greater of one hundred five percent (105%) of the maximum annual debt service or Six Hundred Thousand Dollars (\$600,000).

3 - A lot or parcel which has been further subdivided.

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## APPENDIX C

### GENERAL INFORMATION ABOUT THE CITY OF CLAYTON AND CONTRA COSTA COUNTY

*Financial and economic data for the City of Clayton are presented in this Appendix for information purposes only. The Bonds are not a debt or obligation of the City, but are a limited obligation secured solely by the funds held under the Indenture.*

#### **General**

The City of Clayton is located in the north central portion at the eastern end of Contra Costa County, at the northern base of Mt. Diablo. It is approximately 30 miles east of San Francisco and 90 miles southwest of Sacramento. The City of Concord abuts the City on the northwest, west and southwest sides, while unincorporated rural areas of the County lie to the south and east. City limits cover approximately 4.2 square miles.

The location of Clayton beyond the edge of the growing communities of Concord and Walnut Creek to the west and Pittsburg and Antioch to the north has preserved a distinctly rural atmosphere in the City. Clayton's setting among the rolling foothills of Mt. Diablo is unique in its scenic views and heritage oak trees. Although the City is becoming more and more a suburban community, the City's general plan is intended to, and the surrounding buffers of Mt. Diablo and Black Diamond Regional Parks help insure that this rural atmosphere is preserved.

#### **Municipal Government**

The City was incorporated in 1964, as a general law city. The council-manager form of government is utilized, with five city council members, including the mayor, elected to four year terms. The City Council appoints a city administrator to administer the day-to-day operations under the guidelines of the City Council. City offices are located near the downtown area, which is sometimes referred to as "Old Town".

The members of the City Council, their titles and the expiration of their current terms are listed below.

William Walcutt, Mayor	November 2008
Gregory Manning, Vice Mayor	November 2008
Julie K. Pierce, Councilmember	November 2008
David Shuey, Councilmember	November 2010
Hank Stratford, Councilmember	November 2010

## Population

The following chart indicates historic population estimates of the City, County and the State of California.

### HISTORICAL CITY, COUNTY AND STATE POPULATION DATA

<u>Year</u>	<u>City of Clayton</u>	<u>Contra Costa County</u>	<u>State of California</u>
2003	10,998	996,159	35,691,472
2004	11,041	1,008,178	36,245,016
2005	10,967	1,019,101	36,728,196
2006	10,924	1,029,377	37,172,015
2007	10,781	1,042,341	37,662,518

*Sources: State of California, Department of Finance, as of January 1.*

## Employment

The unemployment rate in the Oakland-Fremont-Hayward MSA (which includes Contra Costa and Alameda Counties) was 4.4 percent in April 2007. This compares with an unadjusted unemployment rate of 4.4 percent for Alameda County, 4.4 percent for Contra Costa County, 5.0 percent for California and 4.5 percent for the nation during the same time period.

The following table summarizes the annual average civilian labor force, employment and unemployment in the County for the calendar years 2002 through 2006.

**OAKLAND-FREMONT-HAYWARD METROPOLITAN STATISTICAL AREA  
(Contra Costa And Alameda Counties)  
Civilian Labor Force, Employment and Unemployment  
(Annual Averages)**

	2002	2003	2004	2005	2006
Civilian Labor Force <sup>(1)</sup>	1,288,500	1,273,400	1,261,500	1,259,700	1,264,400
Employment	1,206,800	1,189,500	1,188,600	1,196,200	1,209,100
Unemployment	81,700	83,900	72,900	63,500	55,300
Unemployment Rate	6.3%	6.6%	5.8%	5.0%	4.4%
<b>Wage and Salary Employment: <sup>(2)</sup></b>					
Agriculture	3,000	2,600	1,500	1,600	1,400
Natural Resources and Mining	1,200	900	1,200	1,100	1,200
Construction	66,600	67,100	69,800	72,800	73,500
Manufacturing	103,600	98,000	98,200	95,600	96,900
Wholesale Trade	53,100	50,600	49,200	48,600	48,700
Retail Trade	112,000	110,500	110,500	112,100	112,200
Transportation, Warehousing and Utilities	39,500	36,000	34,200	34,300	34,500
Information	35,200	32,600	31,300	30,700	29,700
Finance and Insurance	44,200	49,400	49,500	50,800	50,500
Real Estate and Rental and Leasing	18,300	18,200	18,100	18,700	18,500
Professional and Business Services	149,600	144,900	147,700	150,600	155,000
Educational and Health Services	114,700	117,000	117,200	118,500	121,800
Leisure and Hospitality	79,900	80,400	80,600	83,000	85,700
Other Services	37,800	37,500	36,600	35,600	35,900
Federal Government	18,600	18,600	17,600	17,300	17,300
State Government	49,100	48,800	47,000	46,200	45,800
Local Government	116,500	115,000	115,100	116,500	118,900
Total, All Industries <sup>(3)</sup>	1,042,800	1,028,200	1,025,200	1,033,700	1,047,600

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: Labor Division of the California State Employment Development Department.

## Major Employers

Major industries in the County include petroleum refining, steel manufacturing, prefabricated metals, chemicals, electronic equipment, paper products and food processing. Most of the heavy manufacturing is located along the north shore of the County, fronting on the Suisun and San Pablo Bays, which lead to San Francisco Bay and the Pacific Ocean. A description of the major industries and companies follows.

Petroleum and Petroleum Products. The production of petroleum products formed the initial basis of industrial development in the County. Currently, four companies manufacture products from crude oil. The largest in terms of capacity is Chevron Corporation's (Standard Oil Company of California) Richmond Refinery, which began operations in 1902 and is the company's oldest and fourth largest refinery. The Richmond refinery, located on 3,000 acres, has a capacity of 365,000 barrels per day, although typical production is between 230,000 and 250,000 barrels per day. The refinery produces a complete line of petroleum products and imports the bulk of the crude oil from Alaska. Shipping facilities include the company's own wharf which is capable of handling four tankers at a time, making it the largest in the Bay Area in terms of tonnage. Chevron operates a fleet of 53 tankers of which nine are for intrastate business. Petroleum products are also shipped by truck and by two railroad carriers. The company is presently constructing a \$160 million natural-gas-fired cogeneration plant to fulfill its own requirements for electricity and steam.

A number of Chevron's divisions are located throughout the County. Chevron Research and Technology Company is in Richmond and is the only non-geological research arm of the company. This facility is used by Chevron Research in its continuing program to improve the efficiency of conventional auto, aircraft and marine fuels. Chevron Accounting Division is located in a 400,000 square foot building in Concord and serves as a finance and computer center for Chevron's entire domestic operations. In 1987, a San Ramon facility was opened and houses 3,900 employees involved in computer services, marketing, consumer services and other administrative functions.

Chevron currently has the fifth largest workforce of any employer in the Bay Area and is the largest employer in the County, reporting approximately 50,000 people on its worldwide payrolls as of December 1993. The company has nearly 10,000 employees located among its various facilities in the County. Due to a corporate consolidation of Chevron's domestic exploration and production subsidiary, Chevron U.S.A. Production Company, approximately 200 positions were eliminated in the finance division in Concord during 1992 and 1993.

Shell Oil Company ("Shell") began operating in Martinez in 1915. The Shell Oil and Chemical Martinez Manufacturing Complex, located on 1,100 acres, is a combination oil refinery and industrial chemical production unit. It is one of three Shell facilities on the West Coast which supplies all Shell products to the western states. The complex has the capacity to process 145,000 to 160,000 barrels of crude oil per day. About 70-80% of this crude oil is transferred via the company's pipeline from California oil fields, while the remainder is shipped from Alaska. Shell's docking facilities can handle two tankers and two barges simultaneously. Finished petroleum products are shipped via a company owned pipeline, Southern Pacific Railroad's pipeline, and by rail car.

Shell employees in the County total about 900, of whom approximately 850 work at the Martinez complex and 50 work at a retail district office in Concord.

Tosco Corporation operates a refinery with a capacity of 140,000 barrels per day. The refinery, which has been in operation since 1913, uses crude oil from the North Slope of Alaska, as well as the heaviest crude oil from California oil fields, and refines it into high grade light fuel products. It is located on a 2,200-acre site and employs approximately 800 people. Tosco moved its corporate headquarters from Bakersfield to Concord in the fall of 1990, and the relocation added another 80 employees to payrolls in the County.

Health Care. One of the Bay Area's largest private employers, Kaiser Permanente Medical Group, has approximately 3,500 employees in the County. Kaiser provides medical coverage to about one in three Bay Area residents and operates hospital and clinic facilities in Richmond, Martinez, Antioch and Walnut Creek and anticipates buying land within one mile of the District for future medical facility expansion.

Telephone Services. Air Touch Communications is one of the largest employers in the Bay Area, reporting 9,000 employees as of December 1997. The company provides paging, cellular and wireless radio services, and employs 300 at its Walnut Creek headquarters.

The following table lists the largest employers within the County.

**COUNTY OF CONTRA COSTA  
Major Employers  
(As of January 2007)**

<b>Employer Name</b>	<b>Location</b>	<b>Industry</b>
Bank Of The West	Walnut Creek	Banks
Bart	Richmond	Transit Lines
Berlex Biosciences	Richmond	Pharmaceutical Preparation
Bio-Rad Laboratories Inc	Hercules	Laboratory Analytical Instruments (Mfrs)
Chevron Texaco Downstream	San Ramon	Service Stations-Gasoline & Oil
Concord Naval Weapons Station	Concord	Federal Government-National Security
Contra-Costa Regional Med Ctr	Martinez	Government Offices-County
Diablo Valley College	Pleasant Hill	Schools-Universities & Colleges Academic
Doctor's Medical Ctr	San Pablo	Hospitals
John Muir Medical Ctr	Walnut Creek	Hospitals
Kaiser Permanente Medical Ctr	Martinez	Health Plans
Martinez Refining Co	Martinez	Petroleum Products-Manufacturers
Mt Diablo Medical Ctr	Concord	Rehabilitation Services
Muirlab	Walnut Creek	Laboratories-Medical
Oakley Muffler Svc	Oakley	Automobile Repairing & Service
Parthenon Real Est & Financial	Concord	Real Estate
Pmi Mortgage Insurance Co	Walnut Creek	Insurance-Mortgage
Richmond City Offices	Richmond	Government Offices-City, Village & Twp
San Ramon Regional Medical Ctr	San Ramon	Hospitals
St Mary's College-California	Moraga	Schools-Universities & Colleges Academic
Sutter Delta Medical Ctr	Antioch	Hospitals
Tesoro Refining & Marketing	Pacheco	Convenience Stores
Us Veterans Medical Ctr	Martinez	Hospitals
Uss-Posco Industries	Pittsburg	Steel Mills
Va Outpatient Clinic	Martinez	Physicians & Surgeons

*Source: California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database.*

## Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the County, the State and the United States for the period 2001 through 2005.

### COUNTY OF CONTRA COSTA Effective Buying Income As of January 1, 2001 through 2005

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2001	Contra Costa County	\$23,902,953	\$56,507
	California	650,521,407	43,532
	United States	5,303,481,498	38,365
2002	Contra Costa County	\$24,571,388	\$54,448
	California	647,879,427	42,484
	United States	5,340,682,818	38,035
2003	Contra Costa County	\$25,962,828	\$54,862
	California	674,721,020	42,924
	United States	5,466,880,008	38,201
2004	Contra Costa County	\$27,273,658	\$56,165
	California	705,108,410	43,915
	United States	5,692,909,567	39,324
2005	Contra Costa County	\$27,450,775	\$56,979
	California	720,798,106	44,681
	United States	5,894,663,750	40,529

*Source: Sales & Marketing Management Survey of Buying Power for 2001 through 2004;  
Claritas Demographics for 2005.*

## Commercial Activity

Total taxable sales during the first quarter of calendar year 2006 in the City were reported to be \$6,434,000, a 3.8% decrease over the total taxable sales of \$6,685,000 reported during the first quarter of calendar year 2005. The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the City is presented in the following table. Annual figures for 2006 are not yet available.

**CITY OF CLAYTON**  
**Taxable Retail Sales**  
**Number of Permits and Valuation of Taxable Transactions**  
**(Dollars in Thousands)**

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2001	93	\$32,181	193	\$37,955
2002	92	31,764	187	37,050
2003	100	28,691	201	34,355
2004	103	26,535	201	32,628
2005	93	26,073	191	32,064

*Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).*

Total taxable sales during the first quarter of calendar year 2006 in the County were reported to be \$3,106,888,000, a 3.9% increase over the total taxable sales \$2,989,338,000 reported during the first quarter of calendar year 2005. The number of establishments selling merchandise subject to sales tax and the valuation of taxable transactions in the County is presented in the following table. Annual figures for 2006 are not yet available.

**CONTRA COSTA COUNTY**  
**Taxable Retail Sales**  
**Number of Permits and Valuation of Taxable Transactions**  
**(Dollars in Thousands)**

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2001	10,782	\$8,942,822	22,609	\$12,256,721
2002	10,836	9,044,346	22,541	12,159,424
2003	11,575	9,025,114	23,253	12,223,295
2004	11,717	9,697,365	23,571	12,990,538
2005	11,776	10,072,084	23,692	13,480,075

*Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).*

## Construction Activity

Building activity for the past five years in the County is shown in the following table.

### CONTRA COSTA COUNTY Building Permit Valuation (Valuation in Thousands of Dollars)

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
<u>Permit Valuation</u>					
New Single-family	\$1,219,607.6	\$1,263,359.9	\$1,113,572.4	\$1,525,515.3	\$986,684.1
New Multi-family	60,107.3	190,449.4	123,332.9	106,511.5	157,971.5
Res. Alterations/Additions	<u>213,248.0</u>	<u>230,427.8</u>	<u>233,108.3</u>	<u>293,394.4</u>	<u>307,152.6</u>
Total Residential	1,492,962.9	1,684,237.2	1,470,013.6	1,925,421.2	1,451,818.2
New Commercial	134,262.0	128,738.0	102,549.3	87,900.5	101,785.9
New Industrial	9,316.4	33,047.1	17,421.4	21,155.9	14,529.4
New Other	87,959.0	53,034.2	68,104.1	122,625.7	122,628.4
Com. Alterations/Additions	<u>143,627.8</u>	<u>197,298.8</u>	<u>187,108.9</u>	<u>161,187.6</u>	<u>173,556.4</u>
Total Nonresidential	\$375,165.2	\$412,118.0	\$375,183.8	\$392,869.7	\$412,500.1
New Dwelling Units					
Single Family	5,076	4,965	4,222	5,452	3,310
Multiple Family	<u>729</u>	<u>1,930</u>	<u>1,261</u>	<u>860</u>	<u>1,178</u>
TOTAL	5,805	6,895	5,483	6,312	4,488

*Source: Construction Industry Research Board, Building Permit Summary.*

## Transportation

Interstate Route 680 and State Route 24 provide access for destinations in downtown Concord, Walnut Creek, Martinez, Pittsburg, Antioch, Alameda County and San Francisco. Clayton Road carries traffic to downtown Clayton from State Route 24 in Concord and from there to Interstate Route 680. Bay Area Rapid Transit (BART) runs from Concord to many destinations in the Bay Area, including San Francisco and Oakland.



**APPENDIX D**  
**FORM OF BOND COUNSEL OPINION**

May 17, 2007

Clayton Financing Authority  
311 Vernon Street  
Clayton, California 95678

**OPINION:**     \$5,060,000 Clayton Financing Authority  
                  2007 Special Tax Revenue Refunding Bonds

Members of the Authority:

We have acted as bond counsel to the Clayton Financing Authority (the "Authority") in connection with the delivery by the Authority of the above-referenced bonds (the "Bonds"), issued pursuant to the provisions of the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4 (commencing with Section 6584) of Chapter 5, Division 7, Title 1 of the Government Code of the State of California (the "Bond Law"), and pursuant to an Indenture of Trust dated as of May 1, 2007 (the "Indenture"), by and between the Authority and U.S. Bank National Association, as trustee. We have examined the Bond Law, an executed copy of the Indenture and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon representations of the Authority contained in the Indenture and in the certified proceedings and other certifications of public officials furnished to us, without undertaking to verify the same by independent investigation.

Based upon our examination we are of the opinion, under existing law, that:

1. The Authority is a public agency duly organized and existing under the laws of the State of California, with power to enter into the Indenture, to perform the agreements on its part contained therein and to issue the Bonds.

2. The Bonds have been duly authorized, executed and delivered by the Authority and are legal, valid and binding obligations of the Authority, payable solely from the sources provided therefor in the Indenture.

3. The Indenture has been duly approved by the Authority and constitutes a legal, valid and binding obligation of the Authority enforceable against the Authority in accordance with its terms.

4. Pursuant to the Bond Law, the Indenture establishes a valid lien on and pledge of the Revenues (as defined in the Indenture) for the security of the Bonds.

5. Interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; it should be noted, however, that for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings. The opinions set forth in the preceding sentence are subject to the condition that the Authority and the City of Clayton comply with all requirements of the Internal Revenue Code of 1986 that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excluded from gross income for federal income tax purposes. The Authority and the City have covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds. We express no opinion regarding other federal tax consequences arising with respect to the Bonds.

6. Interest on the Bonds is exempt from personal income taxation imposed by the State of California.

The rights of the owners of the Bonds and the enforceability of the Bonds and the Indenture may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and may also be subject to the exercise of judicial discretion in accordance with principles of equity or otherwise in appropriate cases.

Respectfully submitted,

*Jones Hall,*  
A Professional Law Corporation

## APPENDIX E

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

#### CLAYTON FINANCING AUTHORITY 2007 SPECIAL TAX REVENUE REFUNDING BONDS

#### CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by the City of Clayton, for and on behalf of itself and the Clayton Financing Authority (the "**Authority**"), in connection with the issuance by the Authority of its \$5,060,000 2007 Special Tax Revenue Refunding Bonds (the "**Bonds**"). The Bonds are generally secured by revenues derived from debt service payments made the \$6,400,000 original principal amount of City of Clayton Community Facilities District No. 1990-1 Special Tax Bonds, Refunding Series 1997 (the "Local Obligations") "**Local Obligations**"). The Bonds are being issued pursuant to an Indenture of Trust, dated as of May 1, 2007 (the "**Indenture**"), by and between the Authority and U.S. Bank National Association, as trustee (the "**Trustee**"). The City, on behalf of itself and the Authority, hereby covenants and agrees as follows:

**SECTION 1. Definitions.** In addition to the definitions set forth in the Agreement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 2 and 3 of this Disclosure Agreement.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

"Disclosure Representative" shall mean the designees of the City to act as the disclosure representative.

"Dissemination Agent" shall mean NBS Local Government Solutions, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the City.

"Listed Events" shall mean any of the events listed in Section 4(a) of this Disclosure Agreement and any other event legally required to be reported pursuant to the Rule.

"National Repository" shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. Any filing under this Disclosure Agreement with a National Repository may be made solely by transmitting such filing to the Texas Municipal Advisory Council (the "MAC") as provided at <http://www.disclosureusa.org> unless the United States Securities and Exchange Commission has withdrawn the interpretive advice in its letter to the MAC dated September 7, 2004.

"Official Statement" means the Official Statement, dated May 17, 2007, relating to the Bonds.

"Participating Underwriter" shall mean any of the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"Repository" shall mean each National Repository and each State Repository.

"Rule" shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

"State" shall mean the State of California.

"State Repository" shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Disclosure Agreement, there is no State Repository.

## **SECTION 2. Provision of Annual Reports.**

(a) The City shall, or shall cause the Dissemination Agent to, not later than January 15 after the end of the City's fiscal year, commencing with the fiscal year ending June 30, 2007 (for the report due January 15, 2008), provide to each Repository an Annual Report which is consistent with the requirements of Section 3 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 3 of this Disclosure Agreement. Not later than fifteen (15) Business Days prior to said date, the City shall provide the Annual Report to the Dissemination Agent. The City shall provide an Officer's Certificate with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder. The Dissemination Agent may conclusively rely upon such Officer's Certificate of the City.

(b) If by fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to the Repositories, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with subsection (a).

(c) If the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repositories by the date required in subsection (a), the Dissemination Agent shall provide to (i) each National Repository or the Municipal Securities Rulemaking Board and (ii) each appropriate State Repository (with a copy to the Trustee) a notice, in substantially the form attached as Exhibit A.

(d) With respect to the Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and the State Repository, if any; and

(i) (if the Dissemination Agent is other than the City), to the extent appropriate information is available to it, file a report with the City certifying that

the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided.

**SECTION 3. Content of Annual Reports.** The City's Annual Report shall contain or include by reference the following:

- (a) The following information:
  - 1. Principal amount of Bonds outstanding.
  - 2. Balance in debt service reserve fund, and statement of the reserve fund requirement. Statement of projected reserve fund draw, if any.
  - 3. Balance in other funds and accounts held by Issuer or fiscal agent related to the Bonds.
  - 4. The Special Tax levy, the delinquency rate, total amount of delinquencies, number of parcels delinquent in payment for the two most recent fiscal years for the Community Facilities District related to the Local Obligations.
  - 6. Notwithstanding the June 30th reporting date for the Annual Report, the following information shall be reported as of the last day of the month immediately preceding the date of the Annual Report rather than as of June 30th. Identity of each delinquent taxpayer responsible for 5 percent or more of total special tax/assessment levied, and the following information: assessor parcel number, assessed value of applicable properties, amount of Special Tax levied, amount delinquent by parcel number and status of foreclosure proceedings. If any foreclosure has been completed, summary of results of foreclosure sales or transfers.
  - 7. List of landowners and assessor's parcel number of parcels subject to 20 percent or more of the Special Tax levy including the following information: development status to the extent shown in City records, land use classification, assessed value (land and improvements).

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues with respect to which the City is an "obligated person" (as defined by the Rule), which have been filed with each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

**SECTION 4. Reporting of Significant Events.**

(a) Pursuant to the provisions of this Section 4, the City shall give an Officer's Certificate including notice of the occurrence of any of the following events with respect to the Bonds, if material:

- 1. Principal and interest payment delinquencies.
- 2. Non-payment related defaults.
- 3. Modifications to rights of Bondholders.
- 4. Optional, contingent or unscheduled Bond calls.

5. Defeasances.
6. Rating changes.
7. Adverse tax opinions or events affecting the tax-exempt status of the Bonds.
8. Unscheduled draws on the debt service reserves, if any, reflecting financial difficulties.
9. Unscheduled draws on credit enhancements reflecting financial difficulties.
10. Substitution of credit or liquidity providers, or their failure to perform.
11. Release, substitution, or sale of property securing repayment of the Bonds.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would constitute material information for Holders of Bonds, provided, that any event under subsection (a)(6) will always be defined to be material.

(c) If the City determines that knowledge of the occurrence of a Listed Event would be material under applicable Federal securities law, the City shall, or by written direction cause the Dissemination Agent (if not the City) to, promptly file a notice of such occurrence with (i) each National Repository or the Municipal Securities Rulemaking Board and (ii) each appropriate State Repository with a copy to the Trustee, together with written direction to the Trustee whether or not to notify the Bond holders of the filing of such notice. In the absence of any such direction, the Trustee shall not send such notice to the Bond holders. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(4) and 5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Certificates pursuant to the Indenture.

(d) If in response to a request under subsection (b), the City determines that the Listed Event would not be material under applicable federal securities laws, the City shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (e).

(e) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Repository. Notwithstanding the foregoing:

**SECTION 5. Termination of Reporting Obligation.** The obligations of the City, the Dissemination Agent under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 4(e) hereof. If the City's obligations under the Agreement are assumed in full by some other entity, such person shall be responsible for compliance with this Disclosure Agreement in the same manner as if it were the City, and the City shall have no further responsibility hereunder.

**SECTION 6. Dissemination Agent.** The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent may resign at any time by providing at least 30 days' notice in writing to the Issuer and the City.

**SECTION 7. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment so requested by the Issuer, provided no amendment increasing or affecting the obligations or duties of the Dissemination Agent shall be made without the consent of either such party) and any provision of this Disclosure Agreement may be waived if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the Issuer, the City and the Dissemination Agent to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

**SECTION 8. Additional Information.** Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

**SECTION 9. Duties, Immunities and Liabilities of Dissemination Agent.** The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their respective powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall have no duty or obligation to review any information provided to it hereunder and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Bondholders, or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

**SECTION 10. Notices.** Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the City:

City of Clayton  
6000 Heritage Trail  
Clayton, California 94517  
Attn: Finance Director

To the Dissemination Agent:

NBS Local Government Solutions  
32605 Highway 79 South, Suite 100  
Temecula, CA 92592  
Telephone: 800.676.751

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

**SECTION 11. Beneficiaries.** This Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

**SECTION 12. Counterparts.** This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Disclosure Agreement as of the date first above written.

CITY OF CLAYTON, for and on behalf of  
itself and the CLAYTON FINANCING  
AUTHORITY

By: \_\_\_\_\_

AGREED AND ACCEPTED:

NBS LOCAL GOVERNMENT SOLUTIONS,  
*as Dissemination Agent*

By: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**

**NOTICE OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: CLAYTON FINANCING AUTHORITY  
Name of Bond Issue: 2007 Special Tax Revenue Refunding Bonds  
Date of Issuance: June 7, 2007

NOTICE IS HEREBY GIVEN that the City, on behalf of itself and the Clayton Financing Authority, has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture of Trust dated as of May 1, 2007 between the City and U.S. Bank National Association. The City anticipates that the Annual Report will be filed by

\_\_\_\_\_.

Dated: \_\_\_\_\_

CITY OF CLAYTON, for and on behalf of  
itself and the CLAYTON FINANCING  
AUTHORITY

By \_\_\_\_\_

cc: Dissemination Agent

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## APPENDIX F

### DTC AND THE BOOK-ENTRY-ONLY SYSTEM

*The following description of the Depository Trust Company ("DTC"), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.*

*Neither the issuer of the Bonds (the "Issuer") nor the trustee, fiscal agent or paying agent appointed with respect to the Bonds (the "Agent") take any responsibility for the information contained in this Appendix.*

*No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.*

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the securities (the "Bonds"). The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for the Bonds, in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned

by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

3. Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

4. To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the security documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners, in the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of the notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC's Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting

rights to those Direct Participants to whose accounts the Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts, upon DTC's receipt of funds and corresponding detail information from Issuer or Agent on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC nor its nominee, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor securities depository is not obtained, Bond certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

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**APPENDIX G**  
**SPECIMEN FINANCIAL GUARANTY INSURANCE POLICY**

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## Financial Guaranty Insurance Policy

Obligor:

Policy Number:

Obligations:

Premium:

Ambac Assurance Corporation (Ambac), a Wisconsin stock insurance corporation, in consideration of the payment of the premium and subject to the terms of this Policy, hereby agrees to pay to The Bank of New York, as trustee, or its successor (the "Insurance Trustee"), for the benefit of the Holders, that portion of the principal of and interest on the above-described obligations (the "Obligations") which shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Obligor.

Ambac will make such payments to the Insurance Trustee within one (1) business day following written notification to Ambac of Nonpayment. Upon a Holder's presentation and surrender to the Insurance Trustee of such unpaid Obligations or related coupons, uncanceled and in bearer form and free of any adverse claim, the Insurance Trustee will disburse to the Holder the amount of principal and interest which is then Due for Payment but is unpaid. Upon such disbursement, Ambac shall become the owner of the surrendered Obligations and/or coupons and shall be fully subrogated to all of the Holder's rights to payment thereon.

In cases where the Obligations are issued in registered form, the Insurance Trustee shall disburse principal to a Holder only upon presentation and surrender to the Insurance Trustee of the unpaid Obligation, uncanceled and free of any adverse claim, together with an instrument of assignment, in form satisfactory to Ambac and the Insurance Trustee duly executed by the Holder or such Holder's duly authorized representative, so as to permit ownership of such Obligation to be registered in the name of Ambac or its nominee. The Insurance Trustee shall disburse interest to a Holder of a registered Obligation only upon presentation to the Insurance Trustee of proof that the claimant is the person entitled to the payment of interest on the Obligation and delivery to the Insurance Trustee of an instrument of assignment, in form satisfactory to Ambac and the Insurance Trustee, duly executed by the Holder or such Holder's duly authorized representative, transferring to Ambac all rights under such Obligation to receive the interest in respect of which the insurance disbursement was made. Ambac shall be subrogated to all of the Holders' rights to payment on registered Obligations to the extent of any insurance disbursements so made.

In the event that a trustee or paying agent for the Obligations has notice that any payment of principal of or interest on an Obligation which has become Due for Payment and which is made to a Holder by or on behalf of the Obligor has been deemed a preferential transfer and theretofore recovered from the Holder pursuant to the United States Bankruptcy Code in accordance with a final, nonappealable order of a court of competent jurisdiction, such Holder will be entitled to payment from Ambac to the extent of such recovery if sufficient funds are not otherwise available.

As used herein, the term "Holder" means any person other than (i) the Obligor or (ii) any person whose obligations constitute the underlying security or source of payment for the Obligations who, at the time of Nonpayment, is the owner of an Obligation or of a coupon relating to an Obligation. As used herein, "Due for Payment", when referring to the principal of Obligations, is when the scheduled maturity date or mandatory redemption date for the application of a required sinking fund installment has been reached and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by application of required sinking fund installments), acceleration or other advancement of maturity; and, when referring to interest on the Obligations, is when the scheduled date for payment of interest has been reached. As used herein, "Nonpayment" means the failure of the Obligor to have provided sufficient funds to the trustee or paying agent for payment in full of all principal of and interest on the Obligations which are Due for Payment.

This Policy is noncancelable. The premium on this Policy is not refundable for any reason, including payment of the Obligations prior to maturity. This Policy does not insure against loss of any prepayment or other acceleration payment which at any time may become due in respect of any Obligation, other than at the sole option of Ambac, nor against any risk other than Nonpayment.

In witness whereof, Ambac has caused this Policy to be affixed with a facsimile of its corporate seal and to be signed by its duly authorized officers in facsimile to become effective as its original seal and signatures and binding upon Ambac by virtue of the countersignature of its duly authorized representative.



President



Secretary

Effective Date:

Authorized Representative

THE BANK OF NEW YORK acknowledges that it has agreed to perform the duties of Insurance Trustee under this Policy.

Form No.: 2B-0012 (1/01)



Authorized Officer of Insurance Trustee

## Endorsement

Policy for:

Attached to and forming part of Policy No.:


Effective Date of Endorsement:

In the event that Ambac Assurance Corporation were to become insolvent, any claims arising under the Policy would be excluded from coverage by the California Insurance Guaranty Association, established pursuant to the laws of the State of California.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, provisions, agreements or limitations of the above mentioned Policy other than as above stated.

**In Witness Whereof**, Ambac has caused this Endorsement to be affixed with a facsimile of its corporate seal and to be signed by its duly authorized officers in facsimile to become effective as its original seal and signatures and binding upon Ambac by virtue of the countersignature of its duly authorized representative.

**Ambac Assurance Corporation**



President



Secretary

Authorized Representative



