

RESOLUTION NO. 2011-02

**RESOLUTION OF INTENTION TO ESTABLISH
A COMMUNITY FACILITIES DISTRICT**

**DONNER SUMMIT PUBLIC UTILITY DISTRICT
Community Facilities District No. 1**

RESOLVED, by the Board of Directors (the "Board of Directors") of the Donner Summit Public Utility District (the "DSPUD"), County of Nevada, State of California that:

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

WHEREAS, this Board of Directors, having the need to construct, improve and expand public facilities of benefit to users of such facilities within the areas of land proposed to be included in a proposed community facilities district, desires to proceed with the establishment of a community facilities district in order to finance costs of public improvements necessary or incidental to the purposes for which DSPUD was established and to meet increased demands on its wastewater treatment facility and drainage facilities as a result of development or rehabilitation of property in the District;

NOW, THEREFORE, IT IS ORDERED as follows:

1. **Authority.** This Board of Directors proposes to conduct proceedings to establish a community facilities district and improvement areas therein pursuant to the Act.
2. **Name of CFD and Improvement Areas.** The name proposed for the community facilities district is "Donner Summit Public Utility District Community Facilities District No. 1" (the "CFD").

Pursuant to Section 53350 of the Act, the territory to be included in the CFD (as shown on the map described in Section 3 hereof) is hereby designated as within one of three distinct improvement areas to be named "Improvement Area No. 1 of the Donner Summit Public Utility District Community Facilities District No. 1" ("Improvement Area No. 1"), "Improvement Area No. 2 of the Donner Summit Public Utility District Community Facilities District No. 1" ("Improvement Area No. 2") and "Improvement Area No. 3 of the Donner Summit Public Utility District Community Facilities District No. 1" ("Improvement Area No. 3" and together with Improvement Area No. 1 and Improvement Area No. 2, the "Improvement Areas").

3. **Boundaries Described.** The proposed boundaries of the CFD and the Improvement Areas are as shown on the map of them on file with the Secretary and a copy of which is attached hereto as Exhibit A, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The Secretary is hereby directed to record, or cause to be recorded, the map of the

boundaries of the CFD, Improvement Area No. 1, Improvement Area No. 2 and Improvement Area No. 3 in the office of the Nevada County Recorder within 15 days of the date of adoption of this Resolution, but in any event at least 15 days prior to the public hearing specified below.

4. Facilities. The type of public facilities proposed to be financed by the CFD pursuant to the Act shall consist of those listed as facilities on Exhibit B hereto and hereby incorporated herein, including costs incidental thereto (the "Facilities"). This Board of Directors hereby determines that the Facilities include expansion of DSPUD's capital facilities necessary to meet increased demands placed upon the DSPUD as the result of development occurring within the CFD. It is presently intended that the Facilities will be provided to benefit the all of the current users of DSPUD's facilities as well as persons owning property within the CFD and desiring to use or join in the use of DSPUD's facilities upon future development or rehabilitation of their property within the CFD.

This Board of Directors hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.5(a) of the Act. Notwithstanding the foregoing, this Board of Directors, on behalf of CFD, may enter into one or more contracts directly with any of the property owners with respect to the construction and/or acquisition of the any portion of the Facilities.

This Board of Directors hereby finds and determines that the Facilities are to be financed through the Special Taxes and in connection with a loan proposed to be obtained from the Clean Water State Revolving Fund ("CWSRF") program established under the federal Clean Water Act. Through the CWSRF program, the State of California maintains revolving loan funds to provide independent and permanent sources of financing of water quality infrastructure projects. The Facilities are proposed to be financed in part from a CWSRF loan repayable from Special Taxes.

5. Special Tax. Except to the extent that funds are otherwise available to the CFD to pay for the Facilities, and/or the principal and interest as it becomes due on debt incurred by DSPUD payable from Special Taxes of the CFD, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in Improvement Area No. 1, Improvement Area No. 2 and Improvement Area No. 3 (the respective "Improvement Area No. 1 Special Tax," "Improvement Area No. 2 Special Tax" and "Improvement Area No. 3 Special Tax") will be levied annually within each Improvement Area, and collected in the same manner as ordinary *ad valorem* property taxes, or otherwise in such other manner as DSPUD or the General Manager shall determine, including all or in part by direct billing of the affected property owners.

The proposed rate and method of apportionment of the Improvement Area No. 1 Special Tax (the "Improvement Area No. 1 Rate and Method") among the parcels of real property within Improvement Area No. 1 in sufficient detail to allow each landowner within the proposed Improvement Area No. 1 to estimate the maximum amount such owner will have to pay are described in Exhibit C-1 attached hereto and hereby incorporated herein; the proposed rate and method of apportionment of the Improvement Area No. 2 Special Tax (the "Improvement Area No. 2 Rate and Method") among the parcels of real property within Improvement Area No. 2 in sufficient detail to allow each landowner within the proposed Improvement Area No. 2 to estimate the

maximum amount such owner will have to pay are described in Exhibit C-2 attached hereto and hereby incorporated herein; and the proposed rate and method of apportionment of the Improvement Area No. 3 Special Tax (the "Improvement Area No. 3 Rate and Method") among the parcels of real property within Improvement Area No. 3 in sufficient detail to allow each landowner within the proposed Improvement Area No. 3 to estimate the maximum amount such owner will have to pay are described in Exhibit C-3 attached hereto and hereby incorporated herein.

The Special Tax shall not be levied in any Improvement Area of the CFD after fiscal year 2050-51 except that any Special Tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. Under no circumstances shall the Special Tax levied in any Improvement Area against any parcel in such Improvement Area used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within such Improvement Area by more than 10 percent, and under no circumstances shall the Special Tax levied in any Improvement Area against any parcel in such Improvement Area be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within any other Improvement Area.

The Board of Directors hereby finds that the provisions of Section 53313.6, 53313.7 and 53313.9 (relating to adjustments to *ad valorem* property taxes) are inapplicable to the proposed CFD.

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

7. Election. The levy of the Improvement Area No. 1 Special Tax shall be subject to the approval of the qualified electors of Improvement Area No. 1 at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed Improvement Area No. 1, with each owner having one vote for each acre or portion of an acre such owner owns in Improvement Area No. 1.

The levy of the Improvement Area No. 2 Special Tax shall be subject to the approval of the qualified electors of Improvement Area No. 2 at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the proposed Improvement Area No. 2, with each owner having one vote for each acre or portion of an acre such owner owns in Improvement Area No. 2.

The levy of the Improvement Area No. 3 Special Tax shall be subject to the approval of the qualified electors of Improvement Area No. 3 at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the registered

voters in the proposed Improvement Area No. 3, with each registered voter in Improvement Area No. 3 having one vote.

In the event the ballot measure passes in some but not all of the Improvement Areas, the Board may elect by resolution to abandon the CFD or to proceed as appropriate under the Act to leave the CFD in place and authorize the levy of the Special Taxes only within the Improvement Area or Improvement Areas where the ballot measure passed.

8. CFD Report. DSPUD's General Manager, as the officer having charge and control of the Facilities in and for the CFD, or the designee of such officer, is hereby directed to study said proposed Facilities and to make, or cause to be made, and file with the Secretary a report in writing, (the "CFD Report") presenting the following:

(a) A description of the Facilities by type which will be required to adequately meet the needs of the CFD.

(b) An estimate of the fair and reasonable cost of the Facilities including the cost of acquisition of lands, rights-of-way and easements, any physical facilities required in conjunction therewith and incidental expenses in connection therewith, including the costs of the proposed bond financing and all other related costs as provided in Section 53345.3 of the Act.

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

9. Public Hearing. May 24th, 2011 at 6:00 p.m. or as soon as possible thereafter, in this Board of Directors' Board Room, 53823 Sherritt Lane, Soda Springs, California, be, and the same are hereby appointed and fixed as the time and place when and where this Board of Directors, as legislative body for the CFD, will conduct a public hearing on the establishment of the CFD, Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3 and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD, Improvement Area No. 1, Improvement Area No. 2, and Improvement Area No. 3 and the levy of the corresponding Improvement Area Special Taxes.

10. Notice of Hearing. The Secretary is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication shall be completed at least seven days before the date of the public hearing specified above. The Secretary may, but is not required to, also cause notice of the hearing to be given to each property owner within the CFD by first class mail, postage prepaid, to each such owner's addresses as it appears on the most recent tax records of Nevada County or Placer County, or as otherwise known to the Secretary to be correct. Such mailing shall be completed not less than 15 days before the date of the public hearing. Each of the notices shall be substantially in the form specified in Section 53322 of the Act.

11. Notice to Counties. The Secretary is hereby authorized and directed to provide notice and a copy of this Resolution to Placer County and Nevada County as required pursuant to Section 53315.6 of the Act.

PASSED AND ADOPTED at the regular meeting of the Board of Directors of the Donner Summit Public Utility District, State of California, held April 19, 2011 by the following vote to wit:

AYES: Bob Sherwood, Taylor Dolph, Cathy Preis, Dave Oneto, Phil Gamick
NOES: None
ABSENT: None
ABSTAIN: None



Cathy Preis,
President of the Board of Directors



Bob Sherwood,
Secretary of the Board of Directors

EXHIBIT A

**DONNER SUMMIT PUBLIC UTILITY DISTRICT
Community Facilities District No. 1**

BOUNDARY MAP

(CFD Boundary, including boundary of Improvement Area Nos. 1, 2 and 3)

**PROPOSED BOUNDARIES OF
DONNER SUMMIT PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 1
IMPROVEMENT AREA NO. 1
COUNTY OF NEVADA, STATE OF CALIFORNIA**

SHEET 1 OF 3

FILED IN THE OFFICE OF THE CLERK OF THE BOARD OF DIRECTORS OF THE
DONNER SUMMIT PUBLIC UTILITY DISTRICT, THIS 19TH DAY OF APRIL, 2011

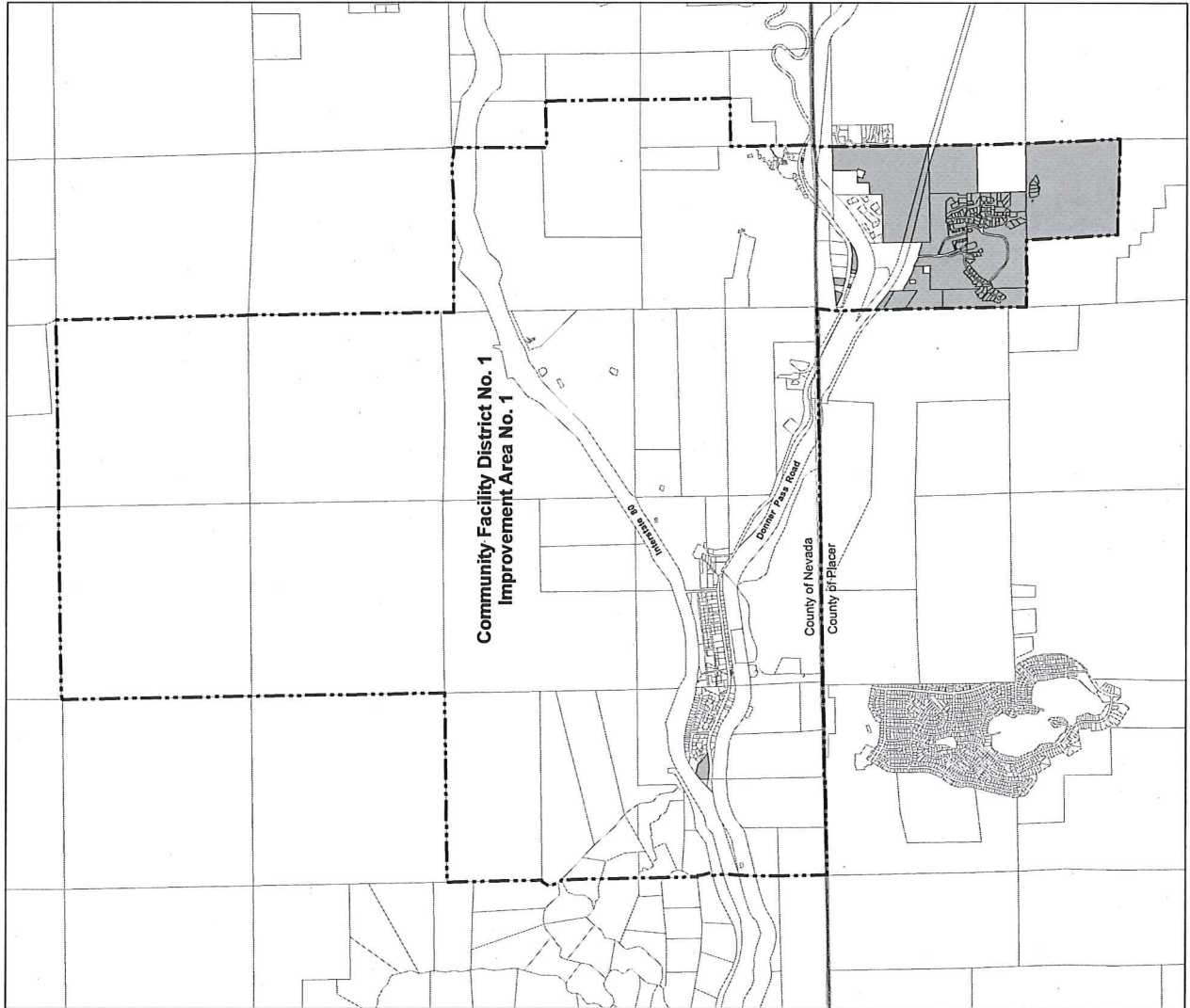
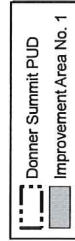
CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES
OF THE DONNER SUMMIT PUBLIC UTILITY DISTRICT, COMMUNITY FACILITIES
DISTRICT NO. 1, IMPROVEMENT AREA NO. 1, WAS APPROVED BY THE BOARD OF
DIRECTORS OF THE DONNER SUMMIT PUBLIC UTILITY DISTRICT AT A REGULAR
MEETING THEREFORE, HELD ON THE 19TH DAY OF APRIL, 2011, BY ITS
RESOLUTION NO. _____

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

FILED THIS _____ DAY OF _____, 2011 AT THE HOUR
OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS
OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE _____
IN THE COUNTY OF NEVADA, STATE OF CALIFORNIA.

COUNTY RECORDER
COUNTY OF NEVADA



ECONOMIC & PLANNING SYSTEMS

**PROPOSED BOUNDARIES OF
DONNER SUMMIT PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 1
IMPROVEMENT AREA NO. 2
COUNTY OF NEVADA, STATE OF CALIFORNIA**

SHEET 2 OF 3

FILED IN THE OFFICE OF THE CLERK OF THE BOARD OF DIRECTORS OF THE
DONNER SUMMIT PUBLIC UTILITY DISTRICT, THIS 19TH DAY OF APRIL, 2011

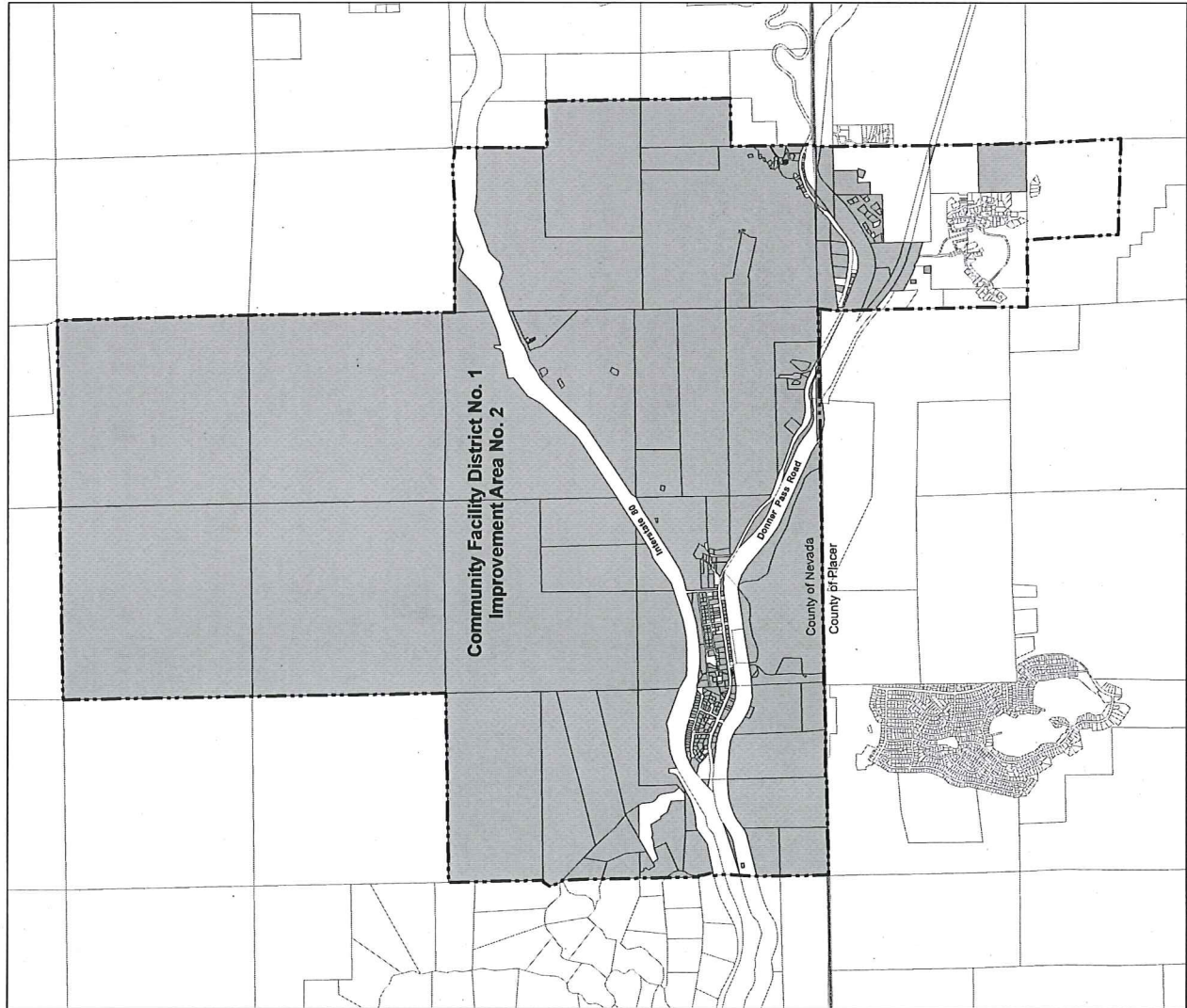
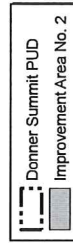
CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES
OF THE DONNER SUMMIT PUBLIC UTILITY DISTRICT, COMMUNITY FACILITIES
DISTRICT NO. 1, IMPROVEMENT AREA NO. 2, COUNTY OF NEVADA, STATE OF
CALIFORNIA, WAS APPROVED BY THE BOARD OF DIRECTORS AT A REGULAR
MEETING HELD AND OPENED, HELD ON THE 15TH DAY OF APRIL, 2011, BY ITS
RESOLUTION NO. _____

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITIES DISTRICT

FILED THIS _____ DAY OF _____, 2011 AT THE HOUR
OF _____ M. IN BOOK _____ OF MAPS
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COUNTY RECORDER
COUNTY OF NEVADA



ECONOMIC & PLANNING SYSTEMS

**PROPOSED BOUNDARIES OF
DONNER SUMMIT PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 1
IMPROVEMENT AREA NO. 3
COUNTY OF NEVADA, STATE OF CALIFORNIA**

SHEET 3 OF 3

FILED IN THE OFFICE OF THE CLERK OF THE BOARD OF DIRECTORS OF THE
DONNER SUMMIT PUBLIC UTILITY DISTRICT, THIS 19TH DAY OF APRIL, 2011

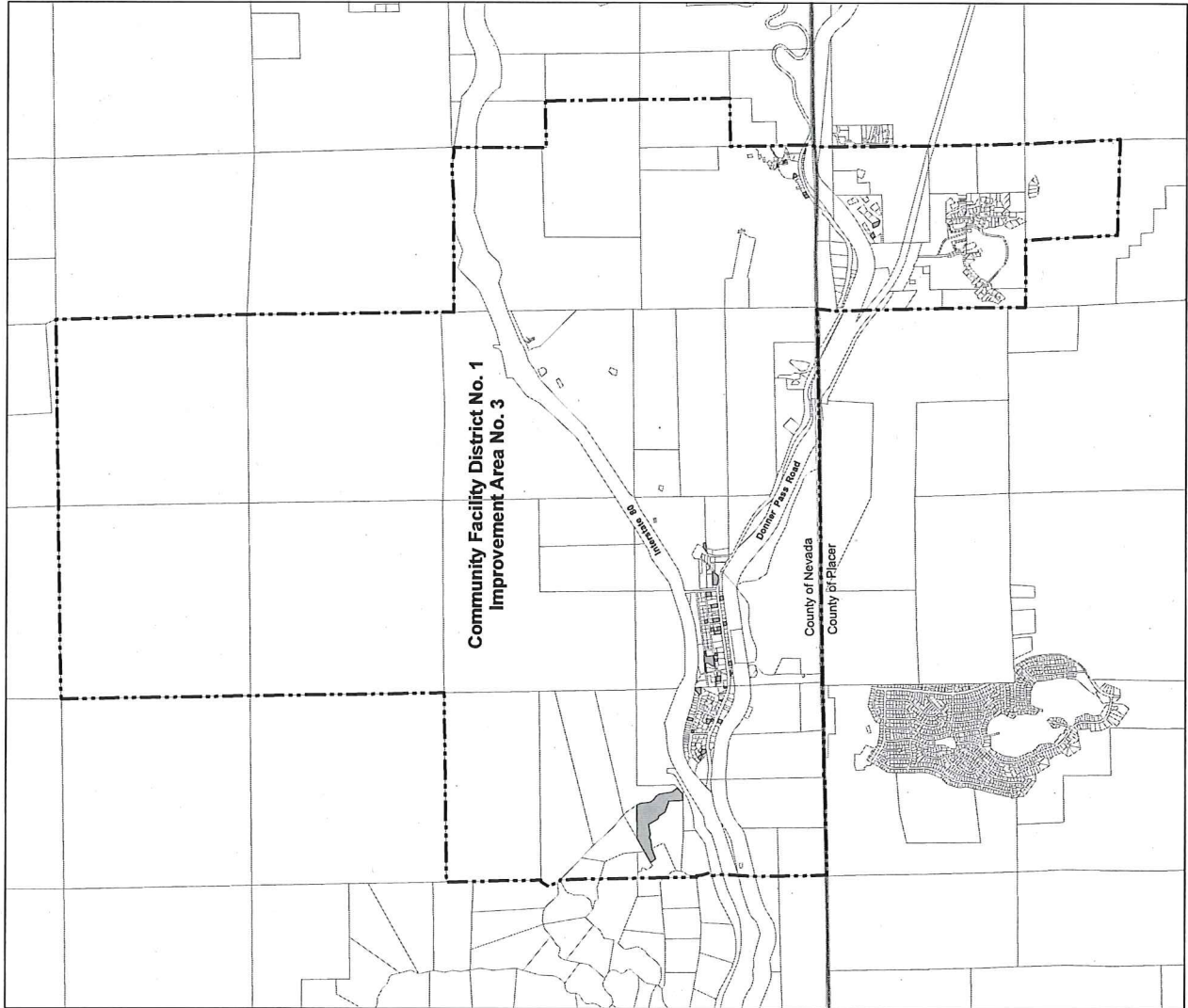
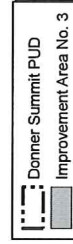
CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES
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CALIFORNIA, WAS APPROVED BY THE BOARD OF DIRECTORS AT A REGULAR
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RESOLUTION NO. _____

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITIES DISTRICT

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IN THE COUNTY OF NEVADA, STATE OF CALIFORNIA, _____

COUNTY RECORDER
COUNTY OF NEVADA



**PROPOSED BOUNDARIES OF
DONNER SUMMIT PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 1
IMPROVEMENT AREA NO. 1
COUNTY OF PLACER, STATE OF CALIFORNIA**

SHEET 1 OF 3

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DONNER SUMMIT PUBLIC UTILITY DISTRICT, THIS 19TH DAY OF APRIL, 2011

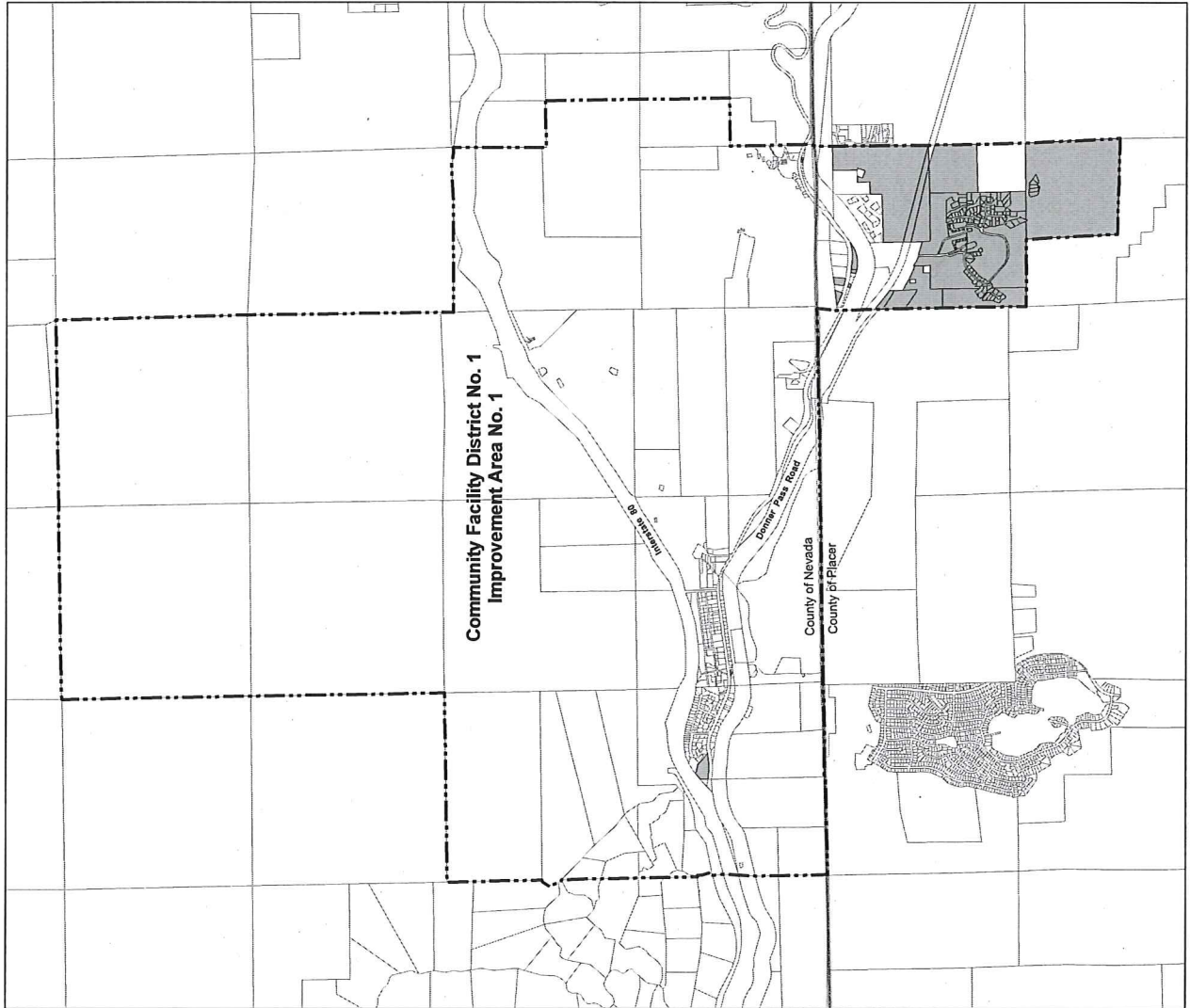
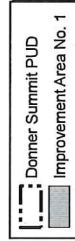
CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES
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DISTRICT NO. 1, IMPROVEMENT AREA NO. 1, COUNTY OF PLACER, STATE OF
CALIFORNIA, WAS APPROVED BY THE BOARD OF DIRECTORS AT A REGULAR
MEETING THEREFORE, HELD ON THE 19TH DAY OF APRIL, 2011, BY ITS
RESOLUTION NO. _____

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITIES DISTRICT

FILED THIS _____ DAY OF _____, 2011 AT THE HOUR
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INSTRUMENT NO. _____ IN THE COUNTY OF PLACER, STATE OF
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COUNTY RECORDER
COUNTY OF PLACER



ECONOMIC & PLANNING SYSTEMS

**PROPOSED BOUNDARIES OF
DONNER SUMMIT PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 1
IMPROVEMENT AREA NO. 2
COUNTY OF PLACER, STATE OF CALIFORNIA**

SHEET 2 OF 3

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DONNER SUMMIT PUBLIC UTILITY DISTRICT, THIS 19TH DAY OF APRIL, 2011

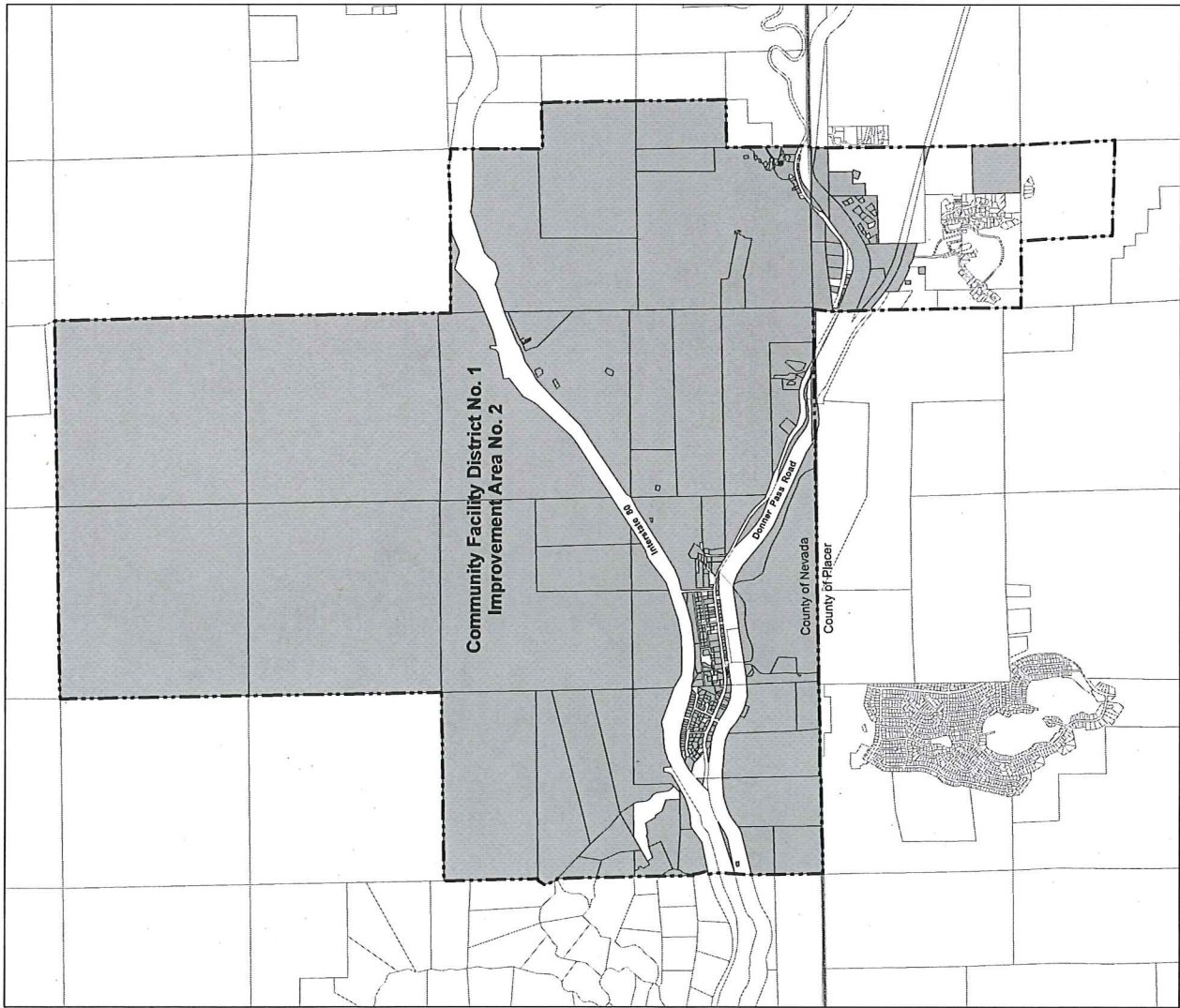
CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

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OF THE DONNER SUMMIT PUBLIC UTILITY DISTRICT, COMMUNITY FACILITIES
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RESOLUTION NO. _____

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITIES DISTRICT

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COUNTY RECORDER
COUNTY OF PLACER



ECONOMIC & PLANNING SYSTEMS

**PROPOSED BOUNDARIES OF
DONNER SUMMIT PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 1
IMPROVEMENT AREA NO. 3
COUNTY OF PLACER, STATE OF CALIFORNIA**

SHEET 3 OF 3

FILED IN THE OFFICE OF THE CLERK OF THE BOARD OF DIRECTORS OF THE
DONNER SUMMIT PUBLIC UTILITY DISTRICT, THIS 19th DAY OF APRIL, 2011

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES
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DISTRICT NO. 1, IMPROVEMENT AREA NO. 3, COUNTY OF PLACER, STATE OF
CALIFORNIA, WAS APPROVED BY THE BOARD OF DIRECTORS AT A REGULAR
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RESOLUTION NO. _____

CLERK OF THE BOARD OF DIRECTORS
DONNER SUMMIT PUBLIC UTILITY DISTRICT

FILED THIS _____ DAY OF _____, 2011 AT THE HOUR
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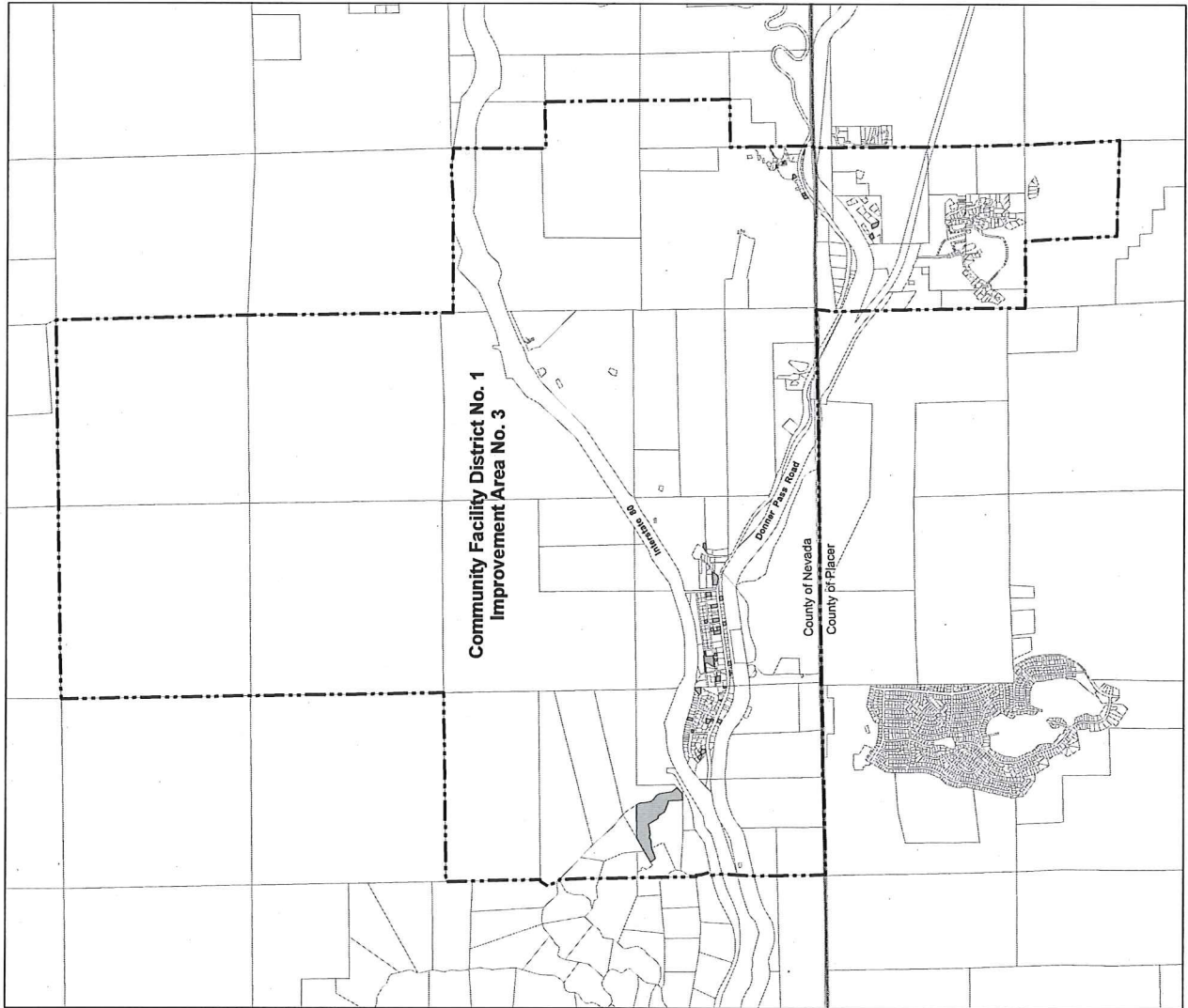
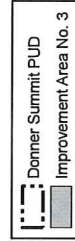


EXHIBIT B

DONNER SUMMIT PUBLIC UTILITY DISTRICT Community Facilities District No. 1

DESCRIPTION OF FACILITIES TO BE FINANCED BY THE CFD AND EACH IMPROVEMENT AREA THEREIN

A. Public Improvements

The following types of improvements are authorized to be constructed or acquired with proceeds of indebtedness issued or incurred, or with special taxes collected with respect to the CFD No. 1 (Improvement Area 1) and any improvement area therein (the "CFD").

1. Sewer and Drainage System Improvements

Authorized facilities include any and all sewer and/or drainage system improvements designed to serve the existing or future development needs of the Donner Summit Public Utility District ("DSPUD"). These facilities may include, but are not limited to, wastewater treatment facility upgrades and expansions and permitting related thereto, and any other appurtenances related to sewer system improvements and all improvements related to drainage facilities of DSPUD.

2. Ancillary Improvements

Authorized facilities include any pipelines and all appurtenances thereto related to the wastewater treatment facility, including but not limited to manholes, tie-in to existing main line, force mains, lift stations, and odor control facilities; and backbone drainage and storm drainage improvements, including but not limited to mains, pipelines and appurtenances, outfalls and water quality measures, temporary drainage facilities, detention/retention basins and drainage pretreatment facilities, drainage ways/channels, pump stations, landscaping and irrigation, access roads, gates, and fencing; and striping and signage.

B. Other Expenses

1. The above listed types of facilities are proposed to include incidental expenses as authorized by the Mello-Roos Community Facilities Act of 1982, including, but not limited to, the cost of planning, engineering, and designing the facilities (including the cost of environmental evaluation and environmental remediation or mitigation thereof); cost associated with the creation of CFD; issuance of debt thereof; determination of the amount of taxes; collection of taxes; payment of taxes; or costs otherwise incurred in order to carry out the authorized purposes of the CFD; and any other expenses incidental to the construction, completion, and inspection of the facilities and certification of the facilities as completed and usable for the purposes intended.

2. Reimbursement of costs related to the formation of the CFD (and each improvement area therein) advanced by the DSPUD, the landowner(s) in the CFD (and each

improvement area therein), or any party related to any of the foregoing, as well as reimbursement of any costs advanced by the DSPUD, the landowner(s) in the CFD (and each improvement area therein) or any party related to any of the foregoing, for facilities, fees or other purposes or costs of the CFD.

3. Expenses related to obtaining a State Revolving Fund Loan, including reserve fund, capitalized interest, and all incidental expenses.

4. Administrative fees of the DSPUD related to the CFD and the State Revolving Fund loan.

EXHIBIT C-1

**DONNER SUMMIT PUBLIC UTILITY DISTRICT
Community Facilities District No. 1**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
FOR IMPROVEMENT AREA NO. 1**

EXHIBIT C-2

**DONNER SUMMIT PUBLIC UTILITY DISTRICT
Community Facilities District No. 2**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
FOR IMPROVEMENT AREA NO. 2**

EXHIBIT C-3

**DONNER SUMMIT PUBLIC UTILITY DISTRICT
Community Facilities District No. 3**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX
FOR IMPROVEMENT AREA NO. 3**