

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification of the securities laws of such jurisdiction.

**PRELIMINARY OFFICIAL STATEMENT DATED AS OF NOVEMBER 8, 2005**

**NEW ISSUE – BOOK-ENTRY-ONLY**

**NOT RATED**

(See “CONCLUDING INFORMATION - No Rating on the Bonds” herein)

*In the opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, (“Bond Counsel”), under existing statutes, regulations, rulings and judicial decisions, and assuming certain representations and compliance with certain covenants and requirements described herein, interest (and original issue discount) on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals and corporations. In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income tax. In addition, the difference between the issue price of a Bond (the first price at which a substantial amount of the Bonds of a maturity is to be sold to the public) and the stated redemption price at maturity with respect to the Bonds constitutes original issue discount. See “LEGAL MATTERS – Tax Matters” herein with respect to tax consequences relating to the Bonds.*

**ORANGE COUNTY**

**STATE OF CALIFORNIA**

**\$2,470,000\***

**COSTA MESA PUBLIC FINANCING AUTHORITY  
REVENUE REFUNDING BONDS, SERIES 2005A**

**Dated: Date of Delivery**

**Due: August 1 As Shown on the  
Inside Front Cover.**

The cover page contains certain information for quick reference only. It is not a summary of the issue. Potential investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision. See “BONDHOLDERS’ RISKS” herein for a discussion of special risk factors that could affect the ability of the Authority to pay the principal of or interest on the Bond when due that should be considered in evaluating the investment quality of the Bonds. In making any investment decision, investors must rely on their own examination of the District and its financial feasibility and the terms of the offering, including the merits and risks involved. Investment in the Bonds involves risks which may not be appropriate for some investors.

Interest on the Bonds is payable semiannually on February 1 and August 1 of each year, commencing on February 1, 2006, until maturity or earlier redemption. The Bonds are subject to optional, special mandatory and mandatory redemption in certain circumstances. See “THE BONDS – General Provisions” and “THE BONDS – Redemption” herein.

The Bonds are limited obligations of the Authority payable solely from and secured by the Revenues (as defined herein) consisting principally of repayments of the Local Obligations, (as defined herein), which are derived from and secured by liens of Special Taxes (as defined herein) more fully described herein (see “SOURCES OF PAYMENT FOR THE BONDS” and “BONDHOLDERS’ RISKS” herein).

The Bonds are being offered when, as and if issued, subject to the approval as to their legality by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, Bond Counsel. Certain other legal matters will be passed on for the City and the Authority by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California as Disclosure Counsel and by Thomas C. Wood, Esq., Acting City Attorney. It is anticipated that the Bonds, in book-entry form, will be available for delivery in New York, New York on or about \_\_\_\_\_, 2005 for deposit with The Depository Trust Company (see “THE BONDS - Book-Entry-Only System” herein).

**SOUTHWEST LOGO**

The date of this Official Statement is \_\_\_\_\_, 2005.

\_\_\_\_\_  
\* Preliminary, subject to change.

**\$2,470,000\***  
**COSTA MESA PUBLIC FINANCING AUTHORITY**  
**REVENUE REFUNDING BONDS, SERIES 2005A**

**MATURITY SCHEDULE**

\$ \_\_\_\_\_ Serial Bonds

(Base CUSIP®† \_\_\_\_\_)

<b>Maturity Date</b>	<b>Principal</b>	<b>Interest</b>	<b>Reoffering</b>	<b>CUSIP®†</b>
<u>August 1</u>	<u>Amount</u>	<u>Rate</u>	<u>Yield</u>	

\$ \_\_\_\_\_ % Term Bond due August 1, \_\_\_\_\_ Yield \_\_\_\_\_ % CUSIP®† \_\_\_\_\_

---

\* Preliminary, subject to change.

† CUSIP® A registered trademark of the American Bankers Association. Copyright © 1999-2005 Standard & Poor's, a Division of The McGraw-Hill Companies, Inc. CUSIP® data herein is provided by Standard & Poor's CUSIP® Service Bureau. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP® Service Bureau. CUSIP® numbers are provided for convenience of reference only. Neither the Agency, the Financial Advisor nor the Underwriter takes any responsibility for the accuracy of such numbers.

## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

***Use of Official Statement.*** This Official Statement is submitted in connection with the offer and 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 to be construed as a contract with the purchasers of the Bonds.

***Estimates and Forecasts.*** When used in this Official Statement and in any continuing disclosure by the Authority in any press release and in any oral statement made with the approval of an authorized officer of the Authority or any other entity described or referenced herein, the words or phrases “will likely result,” “are expected to,” “will continue,” “is anticipated,” “estimate,” “project,” “forecast,” “expect,” “intend” and similar expressions identify “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material.

***Limit of Offering.*** No dealer, broker, salesperson or other person has been authorized by the Authority to give any information or to make any representations in connection with the offer or sale of the Bonds other than those contained herein and if given or made, such other information or representation must not be relied upon as having been authorized by the Authority, the Financial Advisor or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

***Involvement of Underwriter.*** The Underwriter has submitted the following statement for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as a 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.

***Information Subject to Change.*** The information and expressions of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Authority or any other entity described or referenced herein since the date hereof. All summaries of the documents referred to in this Official Statement are made subject to the provisions of such documents, respectively, and do not purport to be complete statements of any or all of such provisions.

***Stabilization of Prices.*** In connection with this offering, the Underwriter may overallocate or effect transactions which stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriter may offer and sell the Bonds to certain dealers and others at prices lower than the public offering prices set forth on the inside front cover page hereof and said public offering prices may be changed from time to time by the Underwriter.

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXCEPTION FROM THE REGISTRATION REQUIREMENTS CONTAINED IN SUCH ACT. THE BONDS HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

**COSTA MESA PUBLIC FINANCING AUTHORITY  
COSTA MESA, CALIFORNIA**

**CITY COUNCIL AND AUTHORITY BOARD**

Gary Monahan, *Mayor and Chair*  
Allan Mansoor, *Mayor Pro Tem and Vice Chair*  
Libby Cowan, *Council Member and Board Member*  
Chris Steel, *Council Member and Board Member*  
Michael Scheafer, *Council Member and Board Member*

---

**CITY AND AUTHORITY STAFF**

Allan L. Roeder, *City Manager*  
Donald D. Lamm, *Deputy City Manager & Development Services Director*  
Marc R. Puckett, *Finance Director*  
Steven E. Hayman, *Administrative Services Director*  
William J. Morris, *Public Services Director*  
Thomas C. Wood, Esq., *Acting City Attorney*

---

**PROFESSIONAL SERVICES**

**Bond Counsel and Disclosure Counsel**

Stradling Yocca Carlson & Rauth,  
a Professional Corporation  
Newport Beach, California

**Financial Advisor**

Harrell & Company Advisors, LLC  
Orange, California

**Underwriter**

Southwest Securities, Inc.  
Newport Beach, California

**Underwriter's Counsel**

Fulbright & Jaworski L.L.P.  
Los Angeles, California

**Trustee and Escrow Bank**

U.S Bank National Association  
Los Angeles, California

# TABLE OF CONTENTS

<p><b>INTRODUCTION .....1</b></p> <p style="padding-left: 20px;">Purpose .....1</p> <p style="padding-left: 20px;">Security and Sources of Repayment for the Bonds .....2</p> <p style="padding-left: 20px;">The Authority.....2</p> <p style="padding-left: 20px;">The District .....2</p> <p style="padding-left: 20px;">The Local Obligations .....3</p> <p style="padding-left: 20px;">Limited Obligations .....3</p> <p style="padding-left: 20px;">Information Concerning this Official Statement .....3</p> <p style="padding-left: 20px;">Estimated Sources and Uses of Funds .....4</p> <p><b>THE BONDS .....6</b></p> <p style="padding-left: 20px;">General Provisions.....6</p> <p style="padding-left: 20px;">Redemption.....6</p> <p style="padding-left: 20px;">Scheduled Debt Service on the Bonds .....9</p> <p style="padding-left: 20px;">No Additional Obligations .....9</p> <p style="padding-left: 20px;">Book-Entry-Only System .....9</p> <p><b>SOURCES OF PAYMENT FOR THE BONDS .....12</b></p> <p style="padding-left: 20px;">Repayment of the Bonds.....12</p> <p style="padding-left: 20px;">Repayment of the Local Obligations .....13</p> <p style="padding-left: 20px;">Interest Rate Differential Between the Bonds and the Local Obligations .....15</p> <p style="padding-left: 20px;">Debt Service on the Bonds and the Local Obligations.....16</p> <p style="padding-left: 20px;">Non-Asset Bonds .....16</p> <p><b>THE CITY OF COSTA MESA .....18</b></p> <p><b>THE DISTRICT .....18</b></p> <p style="padding-left: 20px;">General.....18</p> <p style="padding-left: 20px;">Limited Participation of the Property Owner.....19</p> <p style="padding-left: 20px;">Assessed Values .....20</p> <p style="padding-left: 20px;">Direct and Overlapping Debt.....21</p> <p style="padding-left: 20px;">No Delinquencies or Foreclosure Actions .....23</p> <p style="padding-left: 20px;">Special Tax Levy .....23</p>	<p><b>BONDHOLDERS’ RISKS .....24</b></p> <p style="padding-left: 20px;">The Bonds.....24</p> <p style="padding-left: 20px;">The Local Obligations .....25</p> <p><b>LEGAL MATTERS .....34</b></p> <p style="padding-left: 20px;">Enforceability of Remedies .....34</p> <p style="padding-left: 20px;">Approval of Legal Proceedings .....34</p> <p style="padding-left: 20px;">Tax Matters .....34</p> <p style="padding-left: 20px;">Absence of Litigation .....36</p> <p><b>CONCLUDING INFORMATION .....37</b></p> <p style="padding-left: 20px;">No Rating on the Bonds.....37</p> <p style="padding-left: 20px;">Underwriting.....37</p> <p style="padding-left: 20px;">The Financial Advisor.....37</p> <p style="padding-left: 20px;">Continuing Disclosure .....37</p> <p style="padding-left: 20px;">Additional Information .....38</p> <p style="padding-left: 20px;">References .....38</p> <p style="padding-left: 20px;">Execution .....38</p> <p><b>APPENDIX A - SUMMARY OF THE LEGAL DOCUMENTS</b></p> <p><b>APPENDIX B – RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX</b></p> <p><b>APPENDIX C – CITY OF COSTA MESA INFORMATION STATEMENT</b></p> <p><b>APPENDIX D – FORM OF BOND COUNSEL OPINION</b></p> <p><b>APPENDIX E – FORM OF CONTINUING DISCLOSURE CERTIFICATE</b></p>
---	---

# OFFICIAL STATEMENT

**\$2,470,000\***

## **COSTA MESA PUBLIC FINANCING AUTHORITY REVENUE REFUNDING BONDS, SERIES 2005A**

This Official Statement which includes the cover page and appendices (collectively, the “Official Statement”) is furnished by the Costa Mesa Public Financing Authority (the “Authority”) to provide certain information in connection with the issuance of \$2,470,000\* aggregate principal amount of Costa Mesa Public Financing Authority Revenue Refunding Bonds, Series 2005A (the “Bonds”). For definitions of certain capitalized terms used herein and not otherwise defined, and the terms relating to the Bonds and the Local Obligations (as defined herein), see the forms of agreements included in “APPENDIX A – SUMMARY OF THE LEGAL DOCUMENTS” herein.

### INTRODUCTION

*This Introduction contains only a brief description of this issue and does not purport to be complete. The Introduction is subject in all respects to more complete information in the entire Official Statement and the offering of the Bonds to potential investors is made only by means of the entire Official Statement and the documents summarized herein. Investment in the Bonds involves risks. Potential investors must read the entire Official Statement to obtain information essential to the making of an informed investment decision with respect to the Bonds (see “BONDHOLDERS’ RISKS” herein).*

The Bonds are being issued by Costa Mesa Public Financing Authority, a California joint exercise of powers authority, pursuant to the provisions of an Amended and Restated Indenture of Trust, dated as of December 1, 2005 (the “Indenture”), by and between the Authority and U.S. Bank National Association, as trustee (the “Trustee”). The Bonds will be issued pursuant to the provisions of 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 “Act”), and the Authority is authorized pursuant to Article 4 of the Act to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations to provide financing and refinancing for capital improvements of member entities of the Authority.

### **Purpose**

Proceeds from the Bonds will be used to refund the Authority’s previously issued 1991 Local Agency Revenue Bonds, Series A (the “Series 1991 Bonds”), to purchase the City of Costa Mesa Community Facilities District No. 91-1 (Plaza Tower Public Improvements) 1991 Special Tax Bonds (the “Local Obligations”), to fund certain capital improvements described under the heading “Estimated Sources and Uses of Funds” to fund a reserve fund for the Bonds and to pay the costs of issuing the Bonds (see “Estimated Sources and Uses of Funds” herein).

---

\* Preliminary, subject to change.

## **Security and Sources of Repayment for the Bonds**

The Bonds are secured under an Amended and Restated Indenture of Trust dated as of December 1, 2005 between the Authority and the Trustee (see “APPENDIX A - SUMMARY OF THE LEGAL DOCUMENTS” herein). The Bonds are secured by a lien on and security interest in all of the Revenues and any other amounts held in any fund or account established pursuant to the Indenture. “Revenues” consist of all amounts received by the Trustee as the payment of interest or redemption premium on, or the equivalent thereof, and the payment or return of principal of, or the equivalent thereof, all Local Obligations, whether as a result of scheduled payments or Prepayments or remedial proceedings taken in the event of a default thereon, and all investment earnings on any moneys held in the funds or accounts established under the Indenture, except the Rebate Fund (see “APPENDIX A - SUMMARY OF THE LEGAL DOCUMENTS” herein). Revenues include all amounts received by the Trustee representing a redemption of the Local Obligations and resulting from the prepayment by any property owner of the special tax lien on his or her property within the District (as defined herein).

Pursuant to the provisions of the Indenture, the Authority has transferred in trust and assigned to the Trustee, for the benefit of the Owners of the Bonds, all of the Revenues and all of the right, title and interest, if any, of the Authority in the Local Obligations on the acquisition thereof on the Date of Delivery. From and after the acquisition of the Local Obligations, the Local Obligations will be owned and held by the Trustee, in trust for the benefit of the Bondholders until the discharge of the Bonds pursuant to the Indenture.

### **The Authority**

The Authority is a joint exercise of powers authority formed by its members, the City of Costa Mesa (the “City”) and the Redevelopment Agency of the City of Costa Mesa (the “Agency”). The Authority was established under that certain Joint Exercise of Powers Agreement by and between the City and the Agency dated August 1, 1990 and under the provisions of the Act, and is authorized pursuant to Article 4 of the Act to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations to provide financing and refinancing for capital improvements of member entities of the Authority.

The Authority is governed by a board of five directors, which is composed of the members of the City Council. The Executive Director of the Authority is the City Manager. The Authority is specifically granted all of the powers specified in the Joint Powers Act, including but not limited to the power to issue bonds and to sell such bonds to public or private purchasers at public or by negotiated sale. The Authority is entitled to exercise powers common to its members and necessary to accomplish the purpose for which it was formed.

### **The District**

The Mello-Roos Community Facilities Act of 1982, as amended, constituting Sections 53311, *et seq.* of the Government Code of the State (the “Mello-Roos Act”), was enacted by the California Legislature to provide an alternative method of financing certain public facilities, improvements and services. The Mello-Roos Act authorizes local governmental entities to establish community facilities districts as legally constituted governmental entities within defined boundaries, with the legislative body of the local applicable governmental entity acting on behalf of City of Costa Mesa Community Facilities District No. 91-1 (Plaza Tower Public Improvements) (the “District”). Subject to approval by at least a two-thirds vote of the votes cast by qualified electors within the District and compliance with the provisions of the Mello-Roos Act, the legislative body may issue bonds for the District established by it and may levy and collect a special tax (the “Special Tax”) within the District to repay such bonds (see “APPENDIX B – RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX” herein). On August 19, 1991, the City Council established Community Facilities District No. 91-1 by the adoption of Resolution No. 91-71. See “THE DISTRICT” herein.

**Concentration of Ownership.** The District consists of one 5.093 acre parcel located at the northwest corner of Anton Boulevard and Avenue of the Arts in the City of Costa Mesa. The District is fully developed with a 21-story office building commonly known as Plaza Tower. Plaza Tower was constructed in 1991. 600 Anton Boulevard Associates, a California General Partnership (the “Property Owner”) is the sole owner of the property subject to the Special Tax (see “THE DISTRICT - General” herein). Because of the existing concentration of ownership of land in the District, the timely payment of the Local Obligations, and consequently, the Bonds, currently depends upon the willingness and ability of the Property Owner to pay the Special Taxes when due. The only assets of the Property Owner which constitutes security for the Local Obligations are the real property holdings of the Property Owner located within the District. See “BONDHOLDERS’ RISKS.”

## **The Local Obligations**

The Local Obligations are issued and outstanding under the terms of a Fiscal Agent Agreement dated as of October 1, 1991 (the “Fiscal Agent Agreement”) between the City and the Authority, acting as fiscal agent (the “Fiscal Agent”) (see “APPENDIX A - SUMMARY OF THE LEGAL DOCUMENTS” herein). The Local Obligations are limited obligations of the City, payable from the proceeds of the Special Tax levied within the District by the City pursuant to the Mello-Roos Act, Ordinance No. 91-22 of the City adopted September 3, 1991 (the “Ordinance”), and the Fiscal Agent Agreement (see “SOURCES OF PAYMENT FOR THE BONDS – Repayment of the Local Obligations” herein).

The City has covenanted in the Fiscal Agent Agreement to levy the Special Tax in each year sufficient to pay annual debt service on the Local Obligations, the cost of Administrative Expenses of the City, plus the amount, if any, equal to delinquencies in the payment of Special Taxes levied in the previous Fiscal Year, subject to the limitation on the maximum annual Special Tax that may be levied within the District. See “APPENDIX B – RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX” for a description of the Special Tax.

## **Limited Obligations**

The Bonds are special obligations of the Authority. The Bonds do not constitute a debt or liability of the City, the State of California or of any political subdivision thereof, other than the Authority. The Authority shall only be obligated to pay the principal of the Bonds, or the interest thereon, from the funds described herein, and neither the faith and credit nor the taxing power of the City, the State of California or any of its political subdivisions is pledged to the payment of the principal of or the interest on the Bonds. The Authority has no taxing power.

The Local Obligations are limited obligations of the City payable from the proceeds of Special Taxes levied on the property within the District and other funds pledged under the Fiscal Agent Agreement. The Local Obligations do not constitute a debt or liability of the State of California or of any political subdivision thereof, other than the City. The City shall only be obligated to pay the principal of the Local Obligations, or the interest thereon, from the funds described herein, and neither the faith and credit nor the taxing power of the City (except to the limited extent described herein), the State of California or any of its political subdivisions is pledged to the payment of the principal of or the interest on the Local Obligations.

## **Information Concerning this Official Statement**

This Official Statement speaks only as of its date. The information set forth herein has been obtained by the City and the Authority with the assistance of Harrell & Company Advisors, LLC, (the “Financial Advisor”) from sources which are believed to be reliable, but such information is not guaranteed as to accuracy or completeness, nor has it been independently verified and is not to be construed as a representation by the Financial Advisor, the Underwriter or Disclosure Counsel. Statements contained in

this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended as such and are not to be construed as representations of fact.

**Preliminary Official Statement Deemed Final.** The information set forth herein is in a form deemed final, as of its date, by the Authority for the purpose of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (except for the omission of certain information permitted to be omitted under the Rule). The information herein is subject to revision, amendment and completion in a Final Official Statement. The information and expressions of opinion herein are subject to change without notice and the delivery of this Official Statement shall not, under any circumstances, create any implication that there has been no change in the information or opinions set forth herein or in the affairs of the Authority since the date hereof.

**Availability of Legal Documents.** The summaries and references contained herein with respect to the Indenture, the Fiscal Agent Agreement and other statutes or documents do not purport to be comprehensive or definitive and are qualified by reference to each such document or statute, and references to the Bonds are qualified in their entirety by reference to the form thereof included in the Indenture. Copies of the documents described herein are available for inspection during the period of initial offering of the Bonds at the offices of the Underwriter, Southwest Securities, 620 Newport Center Drive, Suite 300, Newport Beach, California 92660, telephone (949) 717-2000. Copies of these documents may be obtained after delivery of the Bonds at the corporate trust office of the Trustee, U.S Bank National Association, in Los Angeles, California 90012 or from the Authority at 77 Fair Drive, Costa Mesa, California 92628-1200.

## **Estimated Sources and Uses of Funds**

Under the provisions of the Indenture, the Trustee will receive the proceeds from the sale of the Bonds and other funds held by the trustee for the Series 1991 Bonds and will apply them as follows:

### **Sources of Funds**

Principal Amount of Bonds  
Funds held under the 1991 Indenture  
Total Available Funds

### **Uses of Funds**

Proceeds Fund  
Capital Improvement Fund  
Escrow Fund  
Reserve Fund  
Expense Fund <sup>(1)</sup>  
Underwriter's Discount  
Total Uses

---

<sup>(1)</sup> Represents costs of issuance, including Bond Counsel fees, Disclosure Counsel fees, Trustee and Fiscal Agent fees, Trustee and Fiscal Agent's Counsel fees, Financial Advisor fees, printing costs and other miscellaneous costs of issuance of the Bonds.

**Proceeds Fund.** Under the provisions of the Indenture, amounts in the Proceeds Fund will be used to refund the Series 1991 Bonds and acquire the Local Obligations. The Authority issued the Series 1991 Bonds in the principal amount of \$3,225,000 in order to finance the acquisition of the Local Obligations issued to fund public facilities of benefit to the District, to fund a reserve fund and to pay the costs of issuing the Series 1991 Bonds. On the Delivery Date of the Bonds, \$2,120,000 of the Series 1991 Bonds remain outstanding.

On the Delivery Date, the proceeds of the Bonds, together with certain other funds on deposit with the trustee for the Series 1991 Bonds, will be deposited in trust with U.S. Bank National Association as escrow bank (the "Escrow Bank"). Pursuant to an Escrow Agreement dated as of December 1, 2005 between the Authority and the Escrow Bank (the "Escrow Agreement"), the Authority will deposit proceeds of the Bonds with the Escrow Bank in an amount sufficient, together with other funds deposited therewith, to pay the redemption price of the Series 1991 Bonds pursuant to an optional redemption of the Series 1991 Bonds on February 1, 2006. The lien of the Series 1991 Bonds, including, without limitation, the pledge of the Local Obligations to repay the Series 1991 Bonds, will be discharged, terminated and of no further force and effect upon the deposit with the Escrow Bank of the amounts required pursuant to the Escrow Agreement.

**Capital Improvement Fund.** Under the provisions of the Indenture, amounts in the Capital Improvement Fund will be used to finance the capital improvements, which is expected to include, but may not be limited to, Tewinkle Park Lake Improvements.

**Escrow Fund.** Under the provisions of the Indenture, certain amounts in the Escrow Fund will be transferred to the Capital Improvement Fund each August 2, commencing August 2, 2006, to the extent not required to offset the existence of Non-Asset Bonds, as defined herein. See "THE BONDS - Non-Asset Bonds" herein.

# THE BONDS

## General Provisions

**Denominations.** The Bonds will be issued in book-entry form in denominations of \$5,000 each and integral multiples of \$5,000 in excess thereof and will be dated as of and bear interest from the date of issuance (the “Date of Delivery”). The Bonds will be issued without coupons.

**Payment.** Interest is payable on the Bonds at the rates per annum set forth on the inside front cover page hereof, payable on each February 1 and August 1, commencing February 1, 2006 (the “Interest Payment Dates”). Interest with respect to the Bonds will be computed on the basis of a year consisting of 360 days and twelve 30-day months. Each Bond will be dated as of the Date of Delivery, and interest thereon will be on each Interest Payment Date. The principal of and redemption premium, if any, and interest on the Bonds shall be payable by check in lawful money of the United States of America. Payment of the interest on any Bond shall be made to the Person whose name appears on the Bond Register as the Owner thereof as of the Record Date (as such terms are defined in the Indenture), such interest to be paid by check mailed by first class mail on the Interest Payment Date to the Owner at the address which appears on the Bond Register as of the Record Date, for that purpose; except that in the case of an Owner of one million dollars (\$1,000,000) or more in aggregate principal amount of Bonds, upon written request of such Owner to the Trustee, in form satisfactory to the Trustee, received not later than the Record Date, such interest shall be paid on the Interest Payment Date in immediately available funds by wire transfer. The principal of and redemption premium, if any, on the Bonds shall be payable at the Principal Corporate Trust Office of the Trustee upon presentation and surrender of such Bonds.

Notwithstanding any other provision of the Indenture, any interest not punctually paid or duly provided for, as a result of an Event of Default or otherwise, shall forthwith cease to be payable to the Owner on the Record Date and shall be paid to the Owner in whose name the Bond is authenticated at the close of business on a Special Record Date (as defined in the Indenture) for the payment of such defaulted interest to be fixed by the Trustee, notice whereof being given to the Owners not less than 10 days prior to such Special Record Date.

Initially, interest on and principal and premium, if any, of the Bonds will be payable when due by wire of the Trustee to DTC which will in turn remit such interest, principal and premium, if any, to DTC Participants (as defined herein), which will in turn remit such interest, principal and premium, if any, to Beneficial Owners (as defined herein) of the Bonds (see “Book-Entry-Only System” below).

## Redemption

**Optional Redemption.** The Bonds may be redeemed, upon at least 45 days prior written notice to the Trustee, at the option of the Authority from any moneys deposited in the Redemption Fund, prior to maturity on any Interest Payment Date on or after August 1, 20\_\_ in whole or in part from such maturities as are selected by the Authority, and by lot within a maturity, at the following redemption prices, expressed as a percentage of the principal amount of the Bonds to be redeemed, together with accrued interest to the date of redemption:

<u>Redemption Period</u>	<u>Redemption Price</u>
August 1, 20__ through August 1, __	
August 1, 20__ through August 1, __	
August 1, 20__ and thereafter	

**Mandatory Redemption from Sinking Fund Payments.** The Bonds maturing on August 1, \_\_\_\_ and August 1, \_\_\_\_ are subject to mandatory redemption in part by lot, on August 1 in each year commencing August 1, \_\_\_\_ and August 1, \_\_\_\_, respectively, from mandatory sinking payments made by the Authority into the Redemption Fund pursuant to the Indenture, at a redemption price equal to the principal amount thereof to be redeemed, without premium, plus accrued interest thereon to the date of redemption in the aggregate respective principal amounts; provided, however that in lieu of redemption of any Bond pursuant to the mandatory sinking fund provisions of the Indenture, amounts on deposit in the Proceeds Fund, the Principal Fund or in the Redemption Fund may also be used and withdrawn by the Trustee at any time prior to selection of Bonds for redemption having taken place with respect to such amounts, upon a Written Order for the purchase of such Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Fund) as the Authority may in its discretion determine, but not in excess of the redemption price thereof plus accrued interest to the purchase date.

**SCHEDULE OF MANDATORY SINKING PAYMENT REDEMPTIONS  
TERM BONDS MATURING AUGUST 1, \_\_\_\_**

<b><u>August 1</u></b> <b><u>Year</u></b>	<b><u>Principal</u></b> <b><u>Amount</u></b>
--	---

**SCHEDULE OF MANDATORY SINKING PAYMENT REDEMPTIONS  
TERM BONDS MATURING AUGUST 1, \_\_\_\_**

<b><u>August 1</u></b> <b><u>Year</u></b>	<b><u>Principal</u></b> <b><u>Amount</u></b>
--	---

**Mandatory Redemption from Prepayment of Local Obligations.** The Bonds shall be subject to mandatory redemption in part on any Interest Payment Date by the Trustee from moneys transferred from the Prepayment Account to the Redemption Fund pursuant to the Indenture, but only if such moneys are derived from Prepayments of Special Taxes. The mandatory redemption required under this provision of the Indenture shall be made at a redemption price equal to the principal amount being redeemed plus a premium equal to 3% of such principal amount, plus interest accrued and unpaid to the redemption date.

**Notice of Redemption.** While the Bonds are subject to DTC's book-entry system, the Trustee will be required to give notice of redemption only to DTC as provided in the letter of representations executed by the Authority and received and accepted by DTC. DTC and the Participants will have sole responsibility for providing any such notice of redemption to the beneficial owners of the Bonds to be redeemed. Any failure of DTC to notify any Participant, or any failure of Participants to notify the Beneficial Owner of any Certificates to be redeemed, of a notice of redemption or its content or effect will not affect the validity of the notice of redemption, or alter the effect of redemption.

During any period in which the Bonds are not subject to the book-entry system, the Trustee shall on behalf of and at the expense of the Authority give official notice of the redemption of the Bonds by mailing a copy thereof by first class mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Owners of the Bonds to be redeemed at the addresses shown on the registration books kept by the Trustee, and to the securities depositories and information services specified in the Indenture. Such official notice shall state the date of the notice and shall specify: (i) the redemption date, (ii) the redemption price and place of redemption, (iii) the CUSIP numbers, the Bond numbers (in the event of a partial redemption) and the maturity or maturities (in the event of redemption of all Bonds of such maturity or maturities in whole), (iv) that interest on such Bonds shall cease to accrue from and after such redemption date and (v) that such Bonds be then surrendered at the corporate trust office of the Trustee, for payment of the redemption price. Neither failure to receive 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 from and after the date fixed for redemption.

If, on the date fixed for redemption, moneys for the redemption of all of the Bonds to be redeemed, together with interest to the redemption date shall be held by the Trustee and the notice of redemption shall have been mailed and not canceled, interest shall cease to accrue on such Bonds from and after the redemption date specified in the notice of redemption.

**Selection of Bonds for Redemption.** Whenever provision is made in the Indenture for the redemption of less than all of the Bonds of a maturity, the Trustee shall, at least 60 days prior to the redemption date, receive a Cash Flow Certificate specifying the maturity or maturities of Bonds to be redeemed so that the remaining payments of principal of and interest on Local Obligations, together with other Revenues available to the Trustee, will be sufficient to pay on a timely basis the principal of and the interest on the Bonds not so redeemed when due. Whenever less than all the Outstanding Bonds of any one maturity are to be redeemed on any one date, the Trustee shall select the particular Bonds to be redeemed by lot and in selecting the Bonds for redemption the Trustee shall treat each Bond of a denomination of more than five thousand dollars (\$5,000) as representing that number of Bonds of five thousand dollars (\$5,000) denomination which is obtained by dividing the principal amount of such Bond by five thousand dollars (\$5,000), and the portion of any Bond of a denomination of more than five thousand dollars (\$5,000) to be redeemed shall be redeemed in an Authorized Denomination. The Trustee shall promptly notify the Authority in writing of the numbers of the Bonds so selected for redemption in whole or in part on such date.

## Scheduled Debt Service on the Bonds

The following is the scheduled annual debt service on the Bonds.

<u>Bond Year Ending</u>	<u>Principal*</u>	<u>Interest</u>	<u>Annual Debt Service</u>
August 1, 2006	\$ 145,000		
August 1, 2007	115,000		
August 1, 2008	120,000		
August 1, 2009	125,000		
August 1, 2010	130,000		
August 1, 2011	130,000		
August 1, 2012	140,000		
August 1, 2013	145,000		
August 1, 2014	150,000		
August 1, 2015	155,000		
August 1, 2016	165,000		
August 1, 2017	170,000		
August 1, 2018	180,000		
August 1, 2019	190,000		
August 1, 2020	200,000		
August 1, 2021	<u>210,000</u>		
Total	\$2,470,000		

## No Additional Obligations

The Authority has covenanted in the Indenture that it will not issue any additional Bonds, other than for the purpose of refunding the Bonds, which are secured by the Revenues.

## Book-Entry-Only System

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for 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 will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

---

\* Preliminary, subject to change.

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 instruments 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).

Purchases of the 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 the Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

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 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.

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.

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

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to 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 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, prepayment price 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 the Authority or Trustee 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), Trustee, or Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal, prepayment price and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or Trustee, disbursement of such payments to Direct Participants is the responsibility of DTC, and disbursement of such payments to Beneficial Owners is the responsibility of Direct and Indirect Participants.

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

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

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

## SOURCES OF PAYMENT FOR THE BONDS

### Repayment of the Bonds

The Bonds are equally secured by a lien on and security interest in the Trust Estate, which is defined as each and all of the following (collectively the “Trust Estate”): (a) the proceeds of sale of the Bonds; (b) the Revenues (as herein defined); (c) the amounts in the funds established by the Indenture, except amounts in the Rebate Fund; and (d) the Local Obligations. Payment of the principal of, premium, if any, and interest on the Bonds is expected to be made from Revenues, which consist of:

- (a) all amounts received by the Trustee as the payment of interest or redemption premium on, or the equivalent thereof, and the payment or return of principal of, or the equivalent thereof, all Local Obligations, whether as a result of scheduled payments or Prepayments or remedial proceedings taken in the event of a default thereon, and
- (b) all investment earnings on any moneys held in the funds or accounts established under the Indenture, except the Rebate Fund.

Pursuant to the provisions of the Indenture, the amounts held by the Trustee in the Revenue Fund shall be held, disbursed, allocated and applied by the Trustee only as provided in the Indenture on each Interest Payment Date in the following order of priority: All Revenues, other than Revenues resulting from Prepayment of the Local Obligations, received by the Trustee shall be deposited by the Trustee into the Debt Service Account within the Revenue Fund. The Trustee shall transfer Revenues from the Debt Service Account, in the amounts and at the times specified in the Indenture for deposit into the following respective funds in the following order of priority, the requirements of each fund to be fully satisfied, leaving no deficiencies therein, prior to any deposit into any fund later in priority: (i) Interest Fund; (ii) Principal Fund; (iii) Reserve Fund; (iv) Expense Fund; and (v) Surplus Fund.

All Revenues derived from Prepayments received by the Trustee shall be deposited in the Prepayment Account within the Revenue Fund. Amounts in the Prepayment Account shall be transferred as soon as practicable (and in any event prior to the next succeeding Interest Payment Date which is at least forty-five (45) days following receipt of such Prepayment) to the Redemption Fund to be used to redeem Bonds on such Interest Payment Date.

**The Bonds are special obligations of the Authority. The Bonds shall not be deemed to constitute a debt or liability of the District, the City, the State of California or of any political subdivision thereof, other than the Authority. The Authority shall only be obligated to pay the principal of the Bonds and the interest thereon from the funds described herein, and neither the faith and credit nor the taxing power of the City, the State of California or any of their political subdivisions is pledged to the payment of the principal of or the interest on the Bonds. The Authority has no taxing power.**

### Reserve Fund

In order to further secure the payment of principal of and interest on the Bonds, the Indenture provides that, from the proceeds of the sale of the Bonds, an amount will be deposited into the Reserve Fund equal to the Reserve Requirement. The Reserve Requirement is defined in the Indenture to mean, as of any date of calculation, an amount equal to the least of (i) Maximum Annual Debt Service (as defined in the Indenture), (ii) ten percent (10%) of the original principal amount of the Bonds less original issue discount plus original issue premium, if any, or (iii) 125% of average annual debt service on the Bonds.

Monies in the Reserve Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on or the principal of or the redemption premium, if any, on the Bonds; but solely in the event that insufficient moneys are available in the Interest Fund, the Principal Fund, the Redemption Fund or the Surplus Fund for such purpose. On each Interest Payment Date, the Trustee shall withdraw any amounts in the Reserve Fund in excess of the Reserve Requirement and transfer such moneys to the Principal Fund. Notice of any withdrawal from the Reserve Fund shall be provided immediately to the Cash Flow Consultant.

## **Repayment of the Local Obligations**

### **General**

The Local Obligations are secured by and payable from a first pledge of all of the Special Tax Revenues received by the District, subject to the provisions of the Fiscal Agent Agreement. Special Tax Revenues are defined as all Special Taxes collected within the District and received by the City, including any scheduled payments and any prepayments thereof, interest and penalties thereon and proceeds of the redemption of sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest and penalties thereon. The Local Obligations are also secured by a first pledge of all amounts in the Bond Fund held under the Fiscal Agent Agreement and, until disbursed as provided in the Fiscal Agent Agreement, the Special Tax Fund held by the Treasurer of the City.

Subject to the limitations contained in the Special Tax Formula (defined below), the City has covenanted in the Fiscal Agent Agreement to annually levy the Special Taxes in accordance with the Special Tax Formula described below, which amount, if timely paid, is sufficient to pay the principal of and interest on the Local Obligations and to fund the Administrative Expense.

**The Local Obligations are limited obligations of the City payable solely from the proceeds of Special Taxes levied on the property within the District. The Local Obligations shall not be deemed to constitute a debt or liability of the State of California or of any political subdivision thereof, other than the City. Neither the faith and credit nor the taxing power of the City (except to the limited extent described herein), the State of California or any of its political subdivisions is pledged to the payment of the principal of or the interest on the Local Obligations.**

### **Special Taxes**

The Special Taxes are levied and collected according to the rate and method of apportionment set forth in “APPENDIX B – RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX” (the “Special Tax Formula”). The Special Taxes are to be levied by the City Council acting as legislative body of the District each Fiscal Year on all Taxable Parcels within the District in accordance with the Special Tax Formula. On July 1 of each year all parcels within the District shall be categorized either as Taxable Parcels or Tax-Exempt Parcels, and each Taxable Parcel shall be subject to a Special Tax in accordance with the Special Tax Formula described in Appendix B, not in excess of \$183,585.32 per acre.

### **Special Tax Fund**

The Fiscal Agent Agreement established a separate account to be held by the Treasurer, the Special Tax Fund. The City is required to deposit into the Special Tax Fund all Special Tax Revenues as soon as practicable after receipt. No later than ten Business Days after such receipt, an amount in the Special Tax Fund will be transferred by the City to the Administrative Expense Fund that is estimated by the City to be sufficient to pay the Administrative Expenses during the current Fiscal Year. Pending any disbursement, moneys in the Special Tax Fund will be subject to a lien in favor of the Owners of the Bonds. See “APPENDIX A – SUMMARY OF THE LEGAL DOCUMENTS.”

## **Covenant to Commence Foreclosure Proceedings**

Pursuant to the Mello-Roos Act, in the event of any delinquency in the payment of the Special Tax, the City may order the institution of a Superior Court action to foreclose the lien therefore within specified time limits. In such an action, the real property subject to the unpaid amount may be sold at judicial foreclosure sale. Such judicial foreclosure action is not mandatory.

The City has covenanted for the benefit of the owners of the Bonds that it will, within 150 days of receipt of notification of a delinquency in the payment of any Special Taxes, order, and cause to be commenced, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due. In the event that foreclosure proceedings are commenced, such foreclosure proceedings could be stayed by the commencement of bankruptcy proceedings by or against the owner of the property being foreclosed.

No assurances can be given that a judicial foreclosure action, once commenced, will be completed or that it will be completed in a timely manner. See "BONDHOLDERS' RISKS – The Local Obligations - Bankruptcy Proceedings." If a judgment of foreclosure and order of sale is obtained, the judgment creditor (the City) must cause a Notice of Levy to be issued. Under current law, a judgment debtor (property owner) has 120 days from the date of service of the Notice of Levy and 20 days from the subsequent notice of sale in which to redeem the property to be sold. If a judgment debtor fails to so redeem and the property is sold, his only remedy is an action to set aside the sale, which must be brought within 90 days of the date of sale. If, as a result of such action, a foreclosure sale is set aside, the judgment is revived and the judgment creditor is entitled to interest on the revived judgment as if the sale had not been made. The constitutionality of the aforementioned legislation, which repeals the former one-year redemption period, has not been tested; and there can be no assurance that, if tested, such legislation will be upheld. Any parcel subject to foreclosure sale must be sold at the minimum bid price unless a lesser minimum bid price is authorized by the Owners of 75% of the principal amount of Bonds Outstanding.

**No assurances can be given that the real property subject to sale or foreclosure will be sold or, if sold, that the proceeds of sale will be sufficient to pay any delinquent Special Tax installment. The Mello-Roos Act does not require the City to purchase or otherwise acquire any lot or parcel of property offered for sale or subject to foreclosure if there is no other purchaser at such sale. The Mello-Roos Act does specify that the Special Taxes will have the same lien priority in the case of delinquency as for ad valorem property taxes.**

If the Reserve Fund is depleted and delinquencies in the payment of Special Taxes exist, there could be a default or delay in payments to the Bondholders pending prosecution of foreclosure proceedings and receipt by the District of foreclosure sale proceeds, if any. There is no assurance that the maximum Special Tax rates will be at all times sufficient to pay the amounts required to be paid on the Local Obligations by the Fiscal Agent Agreement

## **Priority of Lien**

Each annual installment of Special Tax when levied, and any interest and penalties thereon, constitutes a lien against the parcel of land on which it was imposed until the same is paid. The lien has priority over all private liens and over all fixed special assessment liens which may thereafter be created against the property. The lien is co-equal to and independent of the lien for general taxes and any other special taxes levied pursuant to the Mello-Roos Act, including general taxes and community facilities district special taxes levied or imposed subsequent to the date the Special Tax securing the Local Obligations was imposed on land in the District.

Property in the District is currently encumbered by certain fixed liens other than the fixed liens securing the Local Obligations. [Although none of the liens have a priority over the lien securing the Local Obligations, certain of the liens are on a parity with the lien securing the Local Obligations and secure outstanding or proposed debt.] The direct and overlapping debt of property within the District as of December 1, 2003 is shown under the heading “THE DISTRICT - Direct and Overlapping Debt.”

### **Interest Rate Differential Between the Bonds and the Local Obligations**

The Local Obligations bear interest at rates which are substantially higher than the rates on the Bonds. As a result, debt service on the Bonds is less than the amount of debt service coming due and payable on the Local Obligations in each Bond Year, as shown in Table No. 1 below. The amount of debt service paid on the Local Obligations which is in excess of the amount required to pay debt service on the Bonds will be received by the Trustee as a part of Revenues, and will be available to offset any shortfalls in Revenues due to delinquencies on the Local Obligations. The Indenture provides that Revenues, after setting aside amounts in the Interest Fund, the Principal Fund, the Reserve Fund and the Expense Fund in accordance with the Indenture, may be paid to the City and released from the lien of the Indenture. Therefore, surplus Revenues received in one year will not be available to offset any shortfalls in Revenues in future years.

## Debt Service on the Bonds and the Local Obligations

The following table shows the total amount of scheduled debt service on the Local Obligations in each Bond Year and the amount of scheduled debt service on the Bonds in each Bond Year. Such table is presented without regard to any redemption of the Local Obligations or the Bonds other than sinking fund redemption. See “BONDHOLDERS’ RISKS” herein.

**TABLE NO. 1  
SCHEDULED ANNUAL DEBT SERVICE  
ON THE LOCAL OBLIGATIONS AND THE BONDS**

<b><u>Bond Year Ending</u></b>	<b><u>Principal Payments on Local Obligations</u></b>	<b><u>Interest Payments on Local Obligations</u></b>	<b><u>Debt Service Payments on Local Obligations</u></b>	<b><u>Debt Service Payments on Bonds*</u></b>
August 1, 2006	\$ 70,000.00	\$ 175,960.00	\$ 245,960.00	\$217,166.67
August 1, 2007	75,000.00	170,150.00	245,150.00	218,465.00
August 1, 2008	80,000.00	163,925.00	243,925.00	219,497.50
August 1, 2009	85,000.00	157,285.00	242,285.00	220,177.50
August 1, 2010	95,000.00	150,230.00	245,230.00	220,490.00
August 1, 2011	100,000.00	142,345.00	242,345.00	215,420.00
August 1, 2012	110,000.00	134,045.00	244,045.00	220,090.00
August 1, 2013	120,000.00	124,915.00	244,915.00	219,140.00
August 1, 2014	130,000.00	114,955.00	244,955.00	217,760.00
August 1, 2015	140,000.00	104,165.00	244,165.00	216,010.00
August 1, 2016	150,000.00	92,545.00	242,545.00	218,880.00
August 1, 2017	165,000.00	80,095.00	245,095.00	216,125.00
August 1, 2018	175,000.00	66,400.00	241,400.00	218,050.00
August 1, 2019	190,000.00	51,875.00	241,875.00	219,410.00
August 1, 2020	210,000.00	36,105.00	246,105.00	220,195.00
August 1, 2021	<u>225,000.00</u>	<u>18,675.00</u>	<u>243,675.00</u>	<u>220,395.00</u>
Total	\$2,120,000.00	\$1,783,670.00	\$3,903,670.00	\$3,497,271.67

## Non-Asset Bonds

The aggregate principal amount of the Bonds, plus the amount initially deposited into the Reserve Fund for the Bonds, will exceed the aggregate principal amount of the Local Obligations by approximately \$130,000 as of the date of original delivery of the Bonds. Such amount is approximately 6% of the aggregate principal amount of the Local Obligations. However, the Local Obligations bear interest rates which are substantially higher than the interest rates on the Bonds, as a result of which the amount of scheduled debt service on the Local Obligations provides Revenues which exceed the amount of scheduled debt service on the Bonds in every year. See “TABLE NO. 1 - SCHEDULED ANNUAL DEBT SERVICE ON THE LOCAL OBLIGATIONS AND THE BONDS” above.

\* Preliminary, subject to change.

To the extent the aggregate principal amount of the Bonds plus the amount held in the Reserve Fund exceeds the aggregate principal amount of the Local Obligations, such excess is referred to as “Non-Asset Bonds.” Non-Asset Bonds present a risk to Bondholders in the event that the Local Obligations are redeemed prior to maturity, since such redemption terminates the accrual of interest on Local Obligations at the higher rates needed to provide sufficient Revenues to pay debt service on the Bonds, and since the redemption of the Local Obligations does not return a sufficient amount of principal to pay a corresponding principal amount of the Bonds.

Principal of the Local Obligations amortizes more gradually than principal of the Bonds. As a result, the amount of Non-Asset Bonds diminishes and is eventually eliminated. The following table shows the amount of Non-Asset Bonds as of the August 1 maturity date in each year through August 1, 2006, at which time there are no Non-Asset Bonds.

The Indenture provides that, so long as there are Non-Asset Bonds, a portion of the proceeds of the Bonds will be held by the Trustee in an escrow fund (the “Escrow Fund”). Amounts will be transferred from the Escrow Fund to the City for deposit in the Capital Improvement Fund, free and clear of the lien of the Indenture, on each August 2, commencing August 2, 2006, in an amount such that the amount to remain on deposit in the Escrow Fund following such transfer is the amount that equals the then-current Non-Asset Bonds.

<u>Date</u>	<u>Principal Amount of Bonds*</u>	<u>Reserve Fund*</u>	<u>Principal Amount of Local Obligations</u>	<u>Non-Asset Bonds*</u>	<u>Required Escrow Fund Balance <sup>(1)</sup>*</u>
Closing Date	\$2,470,000	\$(220,000)	\$2,120,000	\$130,000	\$130,000
8/1/06	2,325,000	(220,000)	2,050,000	55,000	55,000
8/1/07	2,210,000	(220,000)	1,975,000	None	None

<sup>(1)</sup> The release of funds from escrow is as follows: August 2, 2006 - \$75,000\*; August 2, 2007 - \$55,000\*.

\* Preliminary, subject to change.

## **THE CITY OF COSTA MESA**

The City of Costa Mesa was incorporated in 1953 as a general law city and operates under the council-manager form of government. The City encompasses 16.8 square miles and is located in the southern coastal area of Orange County, adjacent to the cities of Santa Ana and Newport Beach. At its nearest point, the City is approximately 1.5 miles from the Pacific Ocean. Other neighboring cities include Huntington Beach, Fountain Valley and Irvine. The City is approximately 35 miles southeast of Los Angeles and 85 miles northwest of San Diego. The City Council is composed of a Mayor and four members elected bi-annually at large to four-year alternating terms with the mayor rotating on an annual basis. Positions of City Manager and City Attorney are filled by appointments of the City Council. See “APPENDIX C - CITY OF COSTA MESA INFORMATION STATEMENT” herein.

## **THE DISTRICT**

*The information set forth herein regarding the Property Owner within the District was provided by the Property Owner and has not been independently verified. The City makes no representation as to the accuracy or completeness of any such information. The information set forth herein has been included because it is considered relevant to an informed evaluation of the District. The information should not be construed to suggest that the Bonds or the proceeds of Special Taxes that will be used to pay the Local Obligations are personal obligations of the Property Owner within the District.*

*The owners of property within the District will not be personally liable for payments of the Special Taxes to be applied to pay the principal of and interest on the Local Obligations. Accordingly, no property owner's financial statements have been included in this Official Statement.*

### **General**

The District consists of one 5.093 acre parcel located at the northwest corner of Anton Boulevard and Avenue of the Arts in the City of Costa Mesa. The District is fully developed with a 21-story office building commonly known as Plaza Tower, together with a \_\_ space parking structure. Plaza Tower was constructed in 1991.

The current real property owner of property within the District is 600 Anton Boulevard Associates, a California general partnership. The general partners of the Property Owner are Three Town Center, a California general limited liability company (the “Company”), and International Business Machines Corporation, a New York Corporation. The managing partners of the Company are [Henry T. Segerstrom and Chase J. McLaughlin].

Plaza Tower is one of seven office buildings totaling over 2 million square feet owned and operated by various related entities of the Company. These seven office buildings, along with the Performing Arts Center, the South Coast Repertory theatre, Westin South Coast Plaza Hotel, movie theaters, restaurants and other commercial buildings, occupy approximately 70 acres near the junction of Interstate 405 (San Diego Freeway), Route 55 (Costa Mesa Freeway) and Route 73 (San Joaquin Hills Toll Road) in the South Coast Metro area of Orange County. The John Wayne Orange County Airport is approximately 1 mile away. In addition to the properties owned by the Company and its related entities, several other office buildings, hotels, apartments and retail are located on adjacent properties. Each office building has its own separate parking structure which is primarily used by its own tenants and guests. South Coast Plaza retail center, a major retail center in Orange County, is located on the opposite side of Bristol Street and can be accessed by an overhead walkway that connects this mixed use office, retail and entertainment center with the retail center.

Office space occupancy rates and net absorption for 2002 for the Greater Airport Area and Orange County are summarized in Table No. 2. The Greater Airport Area includes the South Coast Metro Area, together with the cities of Costa Mesa, Newport Beach, Fountain Valley, Corona del Mar and portions of Irvine, Tustin and Santa Ana. The South Coast Metro area encompasses several square miles bounded by the San Diego Freeway, the Costa Mesa Freeway, MacArthur Boulevard and the Santa Ana River.

**TABLE NO. 2  
OCCUPANCY AND NET ABSORPTION  
AS OF FOURTH QUARTER 2002 AND 2003**

Area	Occupancy Rate 2002	Occupancy Rate 2003	Net Absorption Sq.Ft - 2002	Net Absorption Sq.Ft- 2003
Greater Airport Area	82.2%	85.3%	28,504	623,403
Orange County	84.2%	85.9%	421,864	820,307

Source: CB Richard Ellis.

Plaza Tower contains approximately 452,700 square feet of leasable space. Shown in Table No. 3 are the largest tenants of Plaza Tower as of March 2004.

**TABLE NO. 3  
PLAZA TOWER  
LARGEST TENANTS  
AS OF OCTOBER 2005**

Tenant

Source: 600 Anton Boulevard Associates.

### **Limited Participation of the Property Owner**

Other than the information discussed under the heading “THE DISTRICT – General,” the Property Owner has provided no other information regarding the land or improvements in the District and the Property Owner will not be providing any updated operating data with respect to the Plaza Tower.

## Assessed Values

The County-determined assessed valuation of the District is provided as an estimate for purposes of valuation. The County assessed valuation is derived from the fiscal year 2005/06 County Assessor's assessed valuation of land and improvements. As of November 2005, the assessed value of secured property in the District is \$71,337,909. Table No. 4 shows historical assessed valuations for the property. Periodically, the Property Owner has appealed the value of the property (see "Assessment Appeals" below).

The County's assessed valuation of land and improvements is based on the base year assessed value (which may or may not be reflective of the fair market value of the land and improvements) increased by a maximum of 2% a year each year thereafter, as allowed under Article XIII A of the Constitution of the State of California. Therefore, the assessor's value typically does not accurately reflect the fair market value of the land and improvements which may be higher or lower than the Assessor's value. The fair market value can only be established through the sale of the property or an M.A.I. appraisal of the property within the District. The City has not undertaken to obtain an M.A.I. appraisal of property within the District. The City can provide no assurance that the property in the District can be or will be sold at judicial foreclosure or otherwise for the values determined by the County Assessor or as otherwise shown herein. The Property Owner further represents that there has never been any foreclosure actions filed with respect to the Property Owner's property within the district or bankruptcy proceedings initiated with respect to the Property Owner. The Property Owner has also represented that it has never been delinquent in the payment of ad valorem taxes for the real property within the District.

**TABLE NO. 4  
PLAZA TOWER  
SECURED ASSESSED VALUATION**

<u>Fiscal Year</u>	<u>Secured Assessed Value</u>
1991/92	\$52,995,931
1992/93	72,511,166
1993/94	76,458,163
1994/95	89,141,785
1995/96	60,000,000
1996/97	68,967,391
1997/98	70,297,667
1999/99	71,633,873
1999/00	64,911,070
2000/01	64,923,133
2001/02	66,162,816
2002/03	67,417,544
2003/04	68,721,395
2004/05	
2005/06	71,337,909

Source: HdL Coren & Cone.

**Property Values and Value-to-Lien Ratios.** Value to lien ratios are derived by dividing the 2005/06 fiscal year County Assessor’s assessed valuation of land plus improvements by the principal amount of the Local Obligations. On this basis, the aggregate value-to-lien ratio for the District based upon a \$2,120,000 principal amount of Local Obligations, is 33.6:1. There may be additional overlapping debt related to property in the District which will reduce the overall value to lien ratios based solely on the District’s Local Obligations. See “Direct and Overlapping Debt.” No assurance can be given that the aggregate value-to-lien ratio can or will be maintained during the period of time that the Bonds are outstanding. The District has no control over the amount of additional indebtedness that may be issued in the future by other public agencies, the payment of which, through the levy of a tax or an assessment, is on a parity with the Special Taxes. The City has covenanted not to issue additional bonds payable on parity with the Local Obligations from the Special Taxes except to refund the Local Obligations.

**Assessment Appeals.** The Property Owner has filed appeals in prior years and the Appeals Board has granted a reduction in the assessed value from time to time. See “BONDHOLDER’S RISKS – The Local Obligations – Appeals of Assessed Values.” The following chart shows a history of appeals as of January 2004.

<u>Date Filed</u>	<u>Action Date</u>	<u>Original Value</u>	<u>Value Change</u>	<u>Resulting Taxable Value</u>	<u>Board Action</u>
9/13/1991	8/2/1995	\$52,995,931	\$ 0	\$52,995,931	Sustained <sup>(1)</sup>
9/15/1992	8/2/1995	72,511,186	(22,211,166)	50,300,000	Prop 8 <sup>(2)</sup>
9/15/1993	8/2/1995	76,458,163	(33,308,163)	43,150,000	Prop 8 <sup>(2)</sup>
9/15/1994	8/2/1995	89,141,785	(42,891,785)	46,250,000	Prop 8 <sup>(2)</sup>
9/15/1995	9/9/1999	60,000,000	0	60,000,000	Sustained <sup>(1)</sup>
9/16/1996	9/9/1999	68,967,391	(6,732,698)	62,234,693	Prop 8 <sup>(2)</sup>
9/15/1997	2/6/1999	70,297,667	(8,785,124)	61,512,543	Stipulation <sup>(3)</sup>

<sup>(1)</sup> Assessed value was sustained by the Hearing Officer.

<sup>(2)</sup> Assessor recommendation to lower value.

<sup>(3)</sup> Assessor stipulated to the assessed value asserted by the Property Owner. See “BONDHOLDER’S RISKS – The Local Obligations – Appeals of Assessed Values.”

Source: HdL Coren & Cone.

The Authority makes no representation that the Property Owner has not and will not file additional appeals to the assessed value of the property within the District.

## **Direct and Overlapping Debt**

The Debt Report generally includes long-term obligations sold in the public credit markets by public agencies whose boundaries overlap the boundaries of the District in whole or in part. Such long-term obligations are not payable from the Special Taxes nor are they necessarily obligations secured by property within the District. In many cases, long-term obligations issued by a public agency are payable only from the general fund or other revenues of such public agency.

Presently, the District is subject to \$\_\_\_\_\_ of other net direct and overlapping tax and assessment debt and overlapping general fund obligation debt, figures which do not include the Local Obligations. To repay the direct and overlapping tax and assessment debt and overlapping general fund obligation debt, the property owners of the land within the District must pay the annual assessments and the general property tax levy.

In addition, other public agencies whose boundaries overlap those of the District could, without the consent of the City, and in certain cases without the consent of the owners of the land within the District, impose additional taxes or assessment liens on the real property within the District in order to finance public improvements or services to be located or furnished inside of or outside of the District. The lien created on the real property within the District through the levy of such additional taxes or assessments may be on a parity with the lien of the Special Taxes. The imposition of additional liens on a parity with the Special Taxes may reduce the ability or willingness of the landowners to pay the Special Taxes and increases the possibility that foreclosure proceeds, if any, will not be adequate to pay delinquent Special Taxes.

The Debt Report is included for general information purposes only. The Authority believes such information to be reliable but makes no representations as to its completeness or accuracy.

**TABLE NO. 3  
CITY OF COSTA MESA  
COMMUNITY FACILITIES DISTRICT NO. 1991-1  
DIRECT AND OVERLAPPING DEBT**

[to be re-ordered]

2005/06 Local Secured Assessed Valuation: \$68,721,395

Source: California Municipal Statistics, Inc.

## **No Delinquencies or Foreclosure Actions**

As of October 31, 2005, there are no delinquencies or foreclosure actions filed with respect to the properties in the District. The City has no knowledge that there has been any delinquency in the payment of the Special Tax since the District was formed.

## **Special Tax Levy**

The City Treasurer is required each Fiscal Year to determine the amount of Special Taxes needed to pay annual debt service on the Local Obligations, administrative expenses of the City, plus the amount, if any, equal to delinquencies in the payment of Special Taxes levied in the previous Fiscal Year. The City Treasurer is expected to incur administrative expenses for the levy and collection of the Special Taxes, foreclosure proceedings, Trustee Fees, Fiscal Agent fees and arbitrage rebate calculations.

A certified list of all parcels subject to the Special Tax, including the amount of the Special Tax to be levied on each such parcel, is filed by the City with the County Auditor on or before the tenth day of August of that tax year.

The Special Tax is payable and are collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable and have the same priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property.

Annual Special Taxes are due in two equal installments and become delinquent on the following December 10th and April 10th. Currently a 10% penalty is added to delinquent taxes.

When received, the Special Taxes are required to be deposited in the Special Tax Fund to be held by the Treasurer and transferred by the Treasurer to the Fiscal Agent as provided in the Fiscal Agent Agreement.

## **BONDHOLDERS' RISKS**

BEFORE PURCHASING ANY OF THE BONDS, ALL PROSPECTIVE INVESTORS AND THEIR PROFESSIONAL ADVISORS SHOULD CAREFULLY CONSIDER, AMONG OTHER THINGS, THE FOLLOWING RISK FACTORS, WHICH ARE NOT MEANT TO BE AN EXHAUSTIVE LISTING OF ALL RISKS ASSOCIATED WITH THE PURCHASE OF THE BONDS. MOREOVER, THE ORDER OF PRESENTATION OF THE RISK FACTORS DOES NOT NECESSARILY REFLECT THE ORDER OF THEIR IMPORTANCE.

*The purchase of the Bonds involves investment risk. In making any investment decision, investors must rely on their own examination of the District and its financial feasibility and the terms of the offering, including the merits and risks involved. Investment in the Bonds involves risks which may not be appropriate for some investors. The Bonds have not been rated by a rating agency. If a risk factor materializes to a sufficient degree, it could delay or prevent payment of principal of and/or interest on the Bonds. Such risk factors include, but are not limited to, the following matters.*

### **The Bonds**

The ability of the Authority to pay the principal and interest on the Bonds depends upon the receipt by the Trustee of sufficient Revenues from repayment of the Local Obligations and interest earnings on amounts in the funds and accounts for the Bonds established by the Indenture. BECAUSE DEBT SERVICE PAYMENTS ON THE BONDS ARE SUBSTANTIALLY EQUAL TO REVENUES EXPECTED TO BE RECEIVED FROM THE PAYMENT OF PRINCIPAL AND INTEREST ON THE LOCAL OBLIGATIONS, ANY FAILURE OF THE PROPERTY OWNER TO PAY SPECIAL TAXES IN A TIMELY MANNER COULD CAUSE THE CITY TO BE UNABLE TO PAY DEBT SERVICE ON THE LOCAL OBLIGATIONS IN A TIMELY MANNER, THEREBY, CAUSING REVENUES TO BE INSUFFICIENT TO TIMELY PAY DEBT SERVICE ON THE BONDS. See "THE DISTRICT – No Delinquencies or Foreclosure Actions" herein. A number of risks that could prevent the District from paying the principal of and interest on the Local Obligations timely are outlined under the heading below in this section "The Local Obligations."

### **No Liability of the Authority to the Owners**

Except as expressly provided in the Indenture, the Authority will not have any obligation or liability to the Owners of the Bonds with respect to the payment when due of the Bonds, or with respect to the observance or performance by the Authority of other agreements, conditions, covenants and terms required to be observed or performed by it under the Bonds, or any related documents or with respect to the performance by the Trustee of any duty required to be performed by it under the Indenture.

### **Depletion of Reserve Fund**

The Reserve Fund is to be maintained at an amount equal to the Reserve Requirement, which will initially be set at the maximum annual debt service on the Bonds. Funds in the Reserve Fund may be used to pay principal of and interest on the Bonds in the event the proceeds of the levy and collection of the Special Tax against property within the District are insufficient to timely pay the Local Obligations, and as a result, the Bonds. 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 pursuant to the Fiscal Agent Agreement. However, no replenishment from the proceeds of a Special Tax levy can occur as long as the proceeds that are collected from the levy of the Special Tax against property within the District at the maximum tax rates, together with other available funds, remains insufficient to pay all such amounts. Thus it is possible that the Reserve Fund will be depleted and not be replenished by the levy of the Special Tax.

## **Loss of Tax Exemption**

As discussed in the section herein entitled “LEGAL MATTERS - Tax Matters,” interest on the Bonds could become includable in gross income for purposes of federal income taxation, retroactive to the date of issuance, as a result of acts or omissions of the City subsequent to issuance in violation of the Authority’s and the City’s covenants applicable to the Bonds and the Local Obligations, respectively. Should interest become includable in gross income, the Bonds are not subject to redemption by reason thereof and may remain outstanding. The Bonds are subject to redemption for other reasons as discussed in the section herein entitled “THE BONDS - Redemption.”

## **Limited 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. Although the City has committed to provide certain statutorily-required financial and operating information, there can be no assurance that such information will be available to Bondholders on a timely basis. The failure to provide the required annual financial information does not give rise to monetary damages but merely an action for specific performance. Occasionally, because of general market conditions, lack of current information, the absence of credit rating for the Bonds 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.

## **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. See “Payments by FDIC,” “Other Possible Claims Upon the Value of a Taxable Property” and “No Acceleration Provision” herein.

Bond Counsel has limited its opinion as to the enforceability of the Bonds, the Indenture, the Local Obligations and the Fiscal Agent Agreement 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.

## **The Local Obligations**

### **General**

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 Tax 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 Tax, together with other available funds, will not be sufficient to pay debt service on the Local Obligations (see “APPENDIX B – RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX.” Other funds which might be available include funds derived from the payment of delinquent special taxes and funds derived from the tax sale or foreclosure and sale of property on which levies of the Special Tax are delinquent.

Except as set forth above under “SOURCES OF PAYMENT FOR THE BONDS – Repayment of the Local Obligations - Special Taxes” herein, the Fiscal Agent Agreement provides that the Special Tax is 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 below and in the Mello-Roos Act, is to be 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 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 District of the proceeds of sale if the Reserve Fund is depleted. See “SOURCES OF PAYMENT FOR THE BONDS - Repayment of the Local Obligations – Covenant to Commence Foreclosure Proceedings.”

### **Concentration of Ownership**

All of the land within the District is currently owned by the Property Owner. The only asset of the Property Owner which constitutes security for the Local Obligations is its property holdings located within the District. If foreclosure proceedings were ever instituted, any mortgage or deed of trust holder could, but would not be required to, advance the amount of delinquent Special Taxes to protect its security interest. There may be subsequent transfers of ownership of the property within the District.

The one Property Owner is responsible for paying 100% of the annual Special Tax levy. Because of the concentration of ownership of District land, the timely payment of the Bonds depends upon the willingness and the ability of the Property Owner to pay the Special Taxes levied when due. If the Property Owner experiences financial difficulties and is unwilling or unable to pay the Special Taxes, a potential shortfall in revenues available to pay debt service on the Local Obligations could occur, which in turn could significantly impact the security of the Bonds. See “THE DISTRICT – General” and “SOURCES OF PAYMENT FOR THE BONDS – Repayment of the Local Obligations - Covenant to Commence Foreclosure Proceedings.”

### **Limited Participation of the Property Owner**

Other than the information discussed under the heading “THE DISTRICT – General,” the Property Owner has provided no other information regarding the land or improvements in the District and the Property Owner will not be providing any updated operating data with respect to the Plaza Tower.

### **Bankruptcy Proceedings**

The payment of the Special Tax and the ability of the City to foreclose the lien of a delinquent unpaid tax, as discussed in “SOURCES OF PAYMENT 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 the Property Owner could result in a delay in prosecuting superior court foreclosure proceedings and could result in the possibility of delinquent Special Tax installments not being paid in full. Such a delay would increase the likelihood of a delay or default in payment of the principal of and interest on the Local Obligations, and as a result, the Bonds. Since property in the District continues to be owned by one property owner, the chances are increased that the Reserve Fund established for the Bonds could be fully depleted during any such delay in obtaining payment of delinquent Special Taxes. As a result, sufficient moneys would not be available in the Reserve Fund for transfer to the Revenue Fund to make up shortfalls resulting from delinquent payments of the Special Tax and thereby to pay principal of and interest on the Bonds on a timely basis.

On July 30, 1992, the United States Court of Appeals for the Ninth Circuit issued an opinion in a bankruptcy case entitled *In re Glasply Marine Industries* holding that ad valorem property taxes levied by a county in the State of Washington after the date that the property owner filed a petition for bankruptcy would not be entitled to priority over the claims of a secured creditor with a prior lien on the property. Although the court upheld the priority of unpaid taxes imposed before the bankruptcy petition, unpaid taxes imposed subsequent to the filing of the bankruptcy petition were declared to be “administrative expenses” of the bankruptcy estate, payable after the claims of all secured creditors. As a result, the secured creditor was able to foreclose on the subject property and retain all the proceeds from the sale thereof except the amount of the pre-petition taxes. Pursuant to this holding, post-petition taxes would be paid only as administrative expenses and only if a bankruptcy estate has sufficient assets to do so. In certain circumstances, payment of such administrative expenses may be allowed to be deferred. Once the property is transferred out of the bankruptcy estate (through foreclosure or otherwise) it would be subject only to current ad valorem taxes (i.e., not those accruing during the bankruptcy proceeding).

The *Glasply* decision is controlling precedent in bankruptcy court in the State of California. If *Glasply* were held to be applicable to Special Taxes, a bankruptcy petition filing would prevent the lien for Special Taxes levied in subsequent fiscal years from attaching so long as the property was part of the estate in bankruptcy, which could reduce the amount of Special Taxes available to pay debt service on the Bonds. However, *Glasply* speaks as to ad valorem taxes, and not Special Taxes and no case law exists with respect to how a bankruptcy court would treat the lien for Special Taxes levied after the filing of a petition in bankruptcy.

It should also be noted that on October 22, 1994, Congress enacted 11 U.S.C. §362(b)(18), which added a new exception to the automatic stay for ad valorem property taxes imposed by a political subdivision after the filing of a bankruptcy petition. Pursuant to this new provision of law, in the event of a bankruptcy petition filed on or after October 22, 1994, the lien for ad valorem taxes in subsequent fiscal years will attach even if the property is part of the bankruptcy estate. Bondholders should be aware that the potential effect of 11 U.S.C. §362(b)(18) on the Special Taxes also depends upon whether a court were to determine that the Special Taxes should be treated like ad valorem taxes for this purpose.

In addition, potential investors should be aware that judicial foreclosure proceedings are not summary remedies and can be subject to significant procedural and other delays caused by crowded court calendars and other factors beyond control of the District or the City. Potential investors should assume that, under current conditions, it is estimated that a judicial foreclosure of the lien of Special Taxes will take up to two or three years from initiation to the lien foreclosure sale. At a Special Tax lien foreclosure sale, each parcel will be sold for not less than the “minimum bid amount” which is equal to the sum of all delinquent Special Tax installments, penalties and interest thereon, costs of collection (including reasonable attorneys fees), post-judgment interest and costs of sale. Each parcel is sold at foreclosure for the amounts secured by the Special Tax lien on such parcel and multiple parcels may not be aggregated in a single “bulk” foreclosure sale. If any parcel fails to obtain a “minimum bid,” the City may, but is not obligated to, seek superior court approval to sell such parcel at an amount less than the minimum bid. Such Superior Court approval requires the consent of the owners of 75% of the aggregate principal amount of the Outstanding Local Obligations.

Delays and uncertainties in the Special Tax lien foreclosure process create significant risks for Bondholders. High rates of special tax payment delinquencies which continue during the pendency of protracted Special Tax lien foreclosure proceedings, could result in the rapid, total depletion of the Reserve Fund prior to replenishment from the resale of property upon foreclosure. In that event, there could be a default in payment of the principal of, and interest on, the Bonds.

## **Foreclosure and Sale Proceedings**

The City Council is obligated under certain conditions to institute foreclosure and sale proceedings against property which has delinquent Special Taxes. Foreclosure proceedings are instituted by the bringing of an action in the superior court of the county in which the property lies, naming the owner and other interested persons as defendants. The action is prosecuted in the same manner as other civil actions. Upon judgment of foreclosure the property may be offered for sale at a minimum price. The initially established minimum price will be sufficient to cover the amount of the delinquent installments together with penalties, costs, fees and charges and the costs of execution and sale. The buyer in a foreclosure sale takes the parcel subject to the remaining special taxes and regular taxes.

However, in the event the property does not sell for the minimum price the court may modify its judgment and reduce or eliminate the minimum price. In order to do so, however, written notice of a hearing on the matter of reducing or eliminating the minimum price is required to be given to the owners of the Local Obligations.

If at the hearing the court determines that such a sale will not result in an ultimate loss to the owners of the Local Obligations, or if the owners of 75% of the outstanding Local Obligations by principal amount consent and the sale will not result in an ultimate loss to the non-consenting owners of the Local Obligations, the court may reduce or eliminate the minimum price at which a property may be sold. Further, if the owners of 75% of the outstanding Local Obligations by principal amount consent, the court may reduce or eliminate the minimum price at which a property may be sold even if sale below the minimum price will result in an ultimate loss to non-consenting owners of the Local Obligations, provided that the court makes certain additional determinations specified by statute including the reasonable unavailability of any other remedy acceptable to the owners of 75% or more of the applicable outstanding Local Obligations by principal amount.

## **Factors Affecting Parcel Values**

The values described under the heading “THE DISTRICT – Assessed Values” are based on the County-determined secured assessed values of property in the District derived from the 2003/04 County Assessor’s assessed valuation of land and improvements, which may or may not be reflective of such property’s fair market value or what a property could be sold for at judicial foreclosure. The County’s assessed value for improvements reflects the value of substantial improvements as of the time the improvements were made. Annual increases in value, in the absence of substantial improvements, cannot exceed 2 percent. The County’s assessed values for property tax purposes do not, therefore, necessarily reflect current actual market value nor do they assume the completion of future improvements, public or private. The City has not undertaken to provide an appraisal of property within the District.

## **Seismic Conditions**

The District, like most areas of California, may be subject to unpredictable seismic activity. The occurrence of seismic activity in the District could result in substantial damage to property in the District, which, in turn, could substantially reduce the value of such property and could affect the ability or willingness of the Property Owner to pay their Special Taxes.

## **Assessed Value-To-Lien Ratios**

Assessed value-to-lien ratios have traditionally been used in land-secured bond issues as a measure of the “collateral” supporting the willingness of property owners to pay their special taxes and assessments (and, in effect, their general property taxes as well). The value-to-lien ratio is mathematically a fraction, the numerator of which is the value of the property (usually a market value as determined by an appraiser) and the denominator of which is the “lien” of the assessments or special taxes. A value-to-lien ratio should not, however, be viewed as a guarantee of credit-worthiness. Land values are more volatile in the early stages

of a development, and are especially sensitive to economic cycles. A downturn of the economy may depress land values and hence the value-to-lien ratios, by increasing risk to investors and lenders. Further, the value-to-lien ratio cited for a bond issue is an average. Individual parcels in a community facilities district may fall above or below the average, sometimes even below a 1:1 ratio. (With a 1:1 ratio, the land is worth less than the debt on it). Although judicial foreclosure proceedings can be initiated rapidly, the process can take several years to complete, and the bankruptcy courts may impede the foreclosure action. Finally, local agencies may form overlapping community facilities districts or assessment districts. They typically do not coordinate their bond issuances. Debt issuance by another entity can dilute value-to-lien ratios. See “THE DISTRICT – Assessed Values - Property Values and Value-to-Lien Ratios” and “– Direct and Overlapping Debt.”

Prospective purchasers of the Bonds should not assume that the land could be sold for its assessed value or its fair market value at a foreclosure sale for delinquent Special Taxes. The actual value of the land is subject to future events. The future value of the land can be expected to fluctuate due to many different, not fully predictable, real estate related investment risk factors, including, but not limited to: general tax law changes related to real estate, changes in competition, general area employment base changes, population changes, changes in real estate related interest rates affecting general purchasing power, advertising, changes in allowed zoning uses and density, natural disasters such as floods, earthquakes and landslides, and similar factors.

### **Other Possible Claims Upon the Value of a Taxable Property**

While the Special Taxes are secured by the Taxable Property (as defined in the Special Tax Formula), the security only extends to the value of such Taxable Property that is not subject to priority and parity liens and similar claims.

The table in “THE DISTRICT – Direct and Overlapping Debt” states the presently outstanding amount of governmental obligations (with stated exclusions) the tax or assessment for which is or may become an obligation of the Taxable Property. Additional amounts of general obligation bonds may be issued, the tax for which, if and when issued, may become an obligation of the Taxable Property. The table does not specifically identify which of the governmental obligations are secured by liens on the parcels of Taxable Property.

In addition, 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 the Taxable Property and may be secured by a lien on a parity with the lien of the Special Tax securing the Local Obligations.

In general, as long as the Special Tax is collected on the county tax roll, the Special Tax 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 securing the Local Obligations, 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. Although the Special Taxes will generally have priority over non-governmental liens on the Taxable Property, regardless of whether the non-governmental liens were in existence at the time of the levy of the Special Tax or not, this result may not apply in the case of bankruptcy.

While governmental taxes, assessments and charges are a common claim against the value of a parcel of Taxable Property, 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 Tax is a claim with regard to a hazardous substance. 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 the property within the District be affected by a hazardous substance, is to reduce the marketability and value of the parcel by the costs of remedying the condition.

The assessed values shown herein do not take into account the possible reduction in marketability and value of the property within the District by reason of the possible liability of the owner or operator for the remedy of a hazardous substance condition of the property within the District. Further, the City has not undertaken to independently determine if any such conditions exist.

Further, it is possible that liabilities may arise in the future with respect to the property within the District resulting from the current existence on the property within the District 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 property within the District 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 the property within the District that is realizable upon delinquency.

### **Appeals of Assessed Values**

There are two basic types of assessment appeals provided for under California law. The first type of appeal, commonly referred to as a base year assessment appeal, involves a dispute on the valuation assigned by the assessor immediately subsequent to an instance of a change in ownership or completion of new construction. If the base year value assigned by the assessor is reduced, the valuation of the property cannot increase in subsequent years more than 2 percent annually unless and until another change in ownership and/or additional new construction activity occurs. The second type of appeal, commonly referred to as a Proposition 8 appeal, can result if factors occur causing a decline in the market value of the property to a level below the property's then current taxable value (escalated base year value). Pursuant to California law, a property owner may apply for a Proposition 8 reduction of the property tax assessment for such owner's property by filing a written application, in form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board.

In Orange County, a property owner desiring a Proposition 8 reduction of the assessed value of such owner's property in any one year must submit an application to the Orange County Assessment Appeals Board (the "Appeals Board"). Following a review of the application by the County Assessor's Office, the Assessor may offer to the property owner the opportunity to stipulate to a reduced assessment, or may confirm the assessment. If no stipulation is agreed to, and the applicant elects to pursue the appeal, the matter is brought before the Appeals Board (or, in some cases, a hearing examiner) for a hearing and decision. The Appeals Board generally is required to determine the outcome of appeals within two years of each appeal's filing date. Reductions based on Proposition 8 do not establish new base year values, and the property may be reassessed as of the following lien date up to the lower of the then-current fair market value or the factored base year value. The State Board of Equalization has approved this reassessment formula and such formula has been used by county assessors statewide.

In a ruling issued on December 27, 2001, in *County of Orange v. Orange County Assessment Appeals Board No. 3*, Case No. 00CC03385, the Orange County Superior Court held that the Orange County assessor violated the 2% annual inflation adjustment provision of Article XIII A when the assessor tried to "recapture" the taxable value of a single family residential property by increasing its assessed value by approximately 4% in a single year. The assessor had not increased the assessed value of the property during a year in which the market value of the property was determined by the assessor to have declined below its taxable value pursuant to Article XIII A. In the following year, the assessor established the taxable value of the property by determining that its then-current market value was greater than if the 2%

annual inflation adjustment had been applied in the previous year. The assessor enrolled the property at a taxable value that recaptured the foregone 2% inflation adjustment from the previous year, resulting in a one-year increase of approximately 4%.

The case had been certified as a class action with all affected County residents as class members. In 2002, two local courts (Los Angeles and San Diego) ruled differently on the “recapture” issue. Therefore the issues of uniformity and equal protection for each taxpayer statewide must be addressed. When local courts differ, the subject matter is often subject to a uniformity review. On June 12, 2003, the Orange County Assessor and the Orange County Tax Collector, in conjunction with Orange County, filed a notice to appeal the Superior Court ruling to State Court of Appeal, Fourth District. The Appellate Court heard oral arguments in the case on January 7, 2004, and issued its opinion on March 26, 2004, reversing the holding of the Orange County Superior Court. The Plaintiffs filed an appeal with the California State Supreme Court and on July 21, 2004, the California State Supreme Court by a 5-2 vote decided not to hear an appeal, ending this litigation.

The Property Owner has filed appeals in prior years and the Appeals Board has granted a reduction in the assessed value from time to time. See “THE DISTRICT – Assessed Values.” However, no appeals are pending with respect to the property within the District. Appeals to assessed values in the District may be filed from time to time in the future. The City cannot predict the extent of these appeals or their likelihood of success.

#### **Payment of Special Tax Not a Personal Obligation of the Property Owner**

An owner of property in the District is not personally obligated to pay the Special Tax. Rather, the Special Tax is an obligation only against the Taxable Property. If the value of the Taxable Property is not sufficient, taking into account other obligations also payable thereby to fully secure the Special Tax, the District has no recourse against the Property Owner.

#### **No City Obligation to Pay Debt Service**

The City has no obligation to advance funds to pay debt service on the Local Obligations in the event special tax collections are insufficient for such purpose.

#### **No Acceleration Provision**

The Local Obligations do not contain a provision allowing for the acceleration of the Local Obligations in the event of a payment default or other default under the terms of the Local Obligations or the Fiscal Agent Agreement.

## **Payments by FDIC**

The City's ability to collect interest and penalties specified by State law and to foreclose the lien of delinquent Special Taxes, may be limited in certain respects with regard to properties in which the Internal Revenue Service, the Drug Enforcement Agency, the Federal Deposit Insurance Corporation (the "FDIC") or other similar federal agencies has or obtains an interest. On June 4, 1991 the FDIC issued a Statement of Policy Regarding the Payment of State and Local Real Property Taxes. The 1991 Policy Statement was revised and superseded by a new Policy Statement effective January 9, 1997 (the "Policy Statement"). The Policy Statement provides that real property owned by the FDIC is subject to state and local real property taxes only if those taxes are assessed according to the property's value, and that the FDIC is immune from real property taxes assessed on any basis other than property value. According to the Policy Statement, the FDIC will pay its proper tax obligations when they become due and payable and will pay claims for delinquent property taxes as promptly as is consistent with sound business practice and the orderly administration of the institution's affairs, unless abandonment of the FDIC's interest in the property is appropriate. The FDIC will pay claims for interest on delinquent property taxes owed at the rate provided under state law, to the extent the interest payment obligation is secured by a valid lien. The FDIC will not pay any amounts in the nature of fines or penalties and will not pay nor recognize liens for such amounts. 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. The Policy Statement further provides that no property of the FDIC is subject to levy, attachment, garnishment, foreclosure or sale without the FDIC's consent. In addition, the FDIC will not permit a lien or security interest held by the FDIC to be eliminated by foreclosure without the FDIC's consent.

Under the Policy Statement, it is unclear whether the FDIC considers special assessments, such as those levied by the City, to be "real property taxes" which they intend to pay. 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."

However, the Resolution Trust Corporation, which adopted a similar policy (but which dissolved at the end of 1995 and transferred all of its assets to the FDIC) stated in a letter dated July 2, 1993 to the Honorable Lucille Roybel-Allard, member of the United States House of Representatives from the State of California, that it "...will pay Mello-Roos special taxes and other special assessments and related interest where those taxes and assessments were imposed prior to receivership. However, Mello-Roos special taxes and other special assessments that are imposed on property when the institution owning the property is in receivership will not be paid."

The City is unable to predict what effect the application of the Policy Statement would have in the event of a delinquency with respect to a parcel in the District in which the FDIC has an interest, although prohibiting the lien of the FDIC to be foreclosed on at a judicial foreclosure sale would likely reduce the number of or eliminate the persons willing to purchase such a parcel at a foreclosure sale. Owners of the Bonds should assume that the City will be unable to foreclose on any parcel owned by the FDIC. Such an outcome would cause a draw on the Reserve Fund and perhaps, ultimately, a default in payment of the Bonds. The City has not undertaken to determine whether the FDIC currently has, or is likely to acquire, any interest in the parcel in the District, and therefore expresses no view concerning the likelihood that the risks described above will materialize while the Bonds are outstanding. However, the City is not aware of any existing, pending or potential ownership by the FDIC of any property in the District.

### **District Formation**

California voters approved an amendment (“Article XIII A”) to the California Constitution on June 6, 1978. Section 4 of Article XIII A, requires a vote of two-thirds of the qualified electorate to impose “special taxes,” or any additional ad valorem, sales or transaction taxes on real property. At an election held pursuant to the Mello-Roos Act, more than two-thirds of the qualified electors within the District, consisting of the landowners within the boundaries of the District, authorized the District to incur bonded indebtedness to finance public improvements and approved the Special Tax Formula. The Supreme Court of the State of California has not yet decided whether landowner elections (as opposed to resident elections) satisfy requirements of Section 4 of Article XIII A, nor has the Supreme Court decided whether the special taxes of a community facilities district constitute a “special tax” for purposes of Article XIII A.

Section 53341 of the Mello-Roos Act requires that any action or proceeding to attack, review, set aside, void or annul the levy of a special tax or an increase in a special tax pursuant to the Mello-Roos Act shall be commenced within 30 days after the special tax is approved by the voters. No such action has been filed with respect to the Special Taxes.

# **LEGAL MATTERS**

## **Enforceability of Remedies**

The remedies available to the Trustee and the Owners of the Bonds upon an event of default under the Indenture or any other document described herein are in many respects dependent upon regulatory and judicial actions which are often subject to discretion and delay. Under existing law and judicial decisions, the remedies provided for under such documents may not be readily available or may be limited. The various legal opinions to be delivered concurrently with the delivery of the Bonds will be qualified to the extent that the enforceability of certain legal rights related to the Indenture is subject to limitations imposed by bankruptcy, reorganization, insolvency or other similar laws affecting the rights of creditors generally and by equitable remedies and proceedings generally.

## **Approval of Legal Proceedings**

The legality of the issuance of the Bonds is subject to the approval of Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, as Bond Counsel, who will render an opinion which states that the Indenture is a valid and binding obligation of the Authority and enforceable in accordance with its terms. The legal opinion of Bond Counsel will be subject to the effect of bankruptcy, insolvency, moratorium and other similar laws affecting creditors' rights and to the exercise of judicial discretion in accordance with general principles of equity.

A copy of its opinion will be substantially in the form set forth in "APPENDIX D" hereto. In addition, certain legal matters will be passed on for the Authority and the City by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, as Disclosure Counsel, and for the Authority and the City by Thomas C. Wood, Esq, Acting City Attorney. Fees payable to Bond Counsel and Disclosure Counsel are contingent upon the sale and delivery of the Bonds.

## **Tax Matters**

In the opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, Bond Counsel, under existing statutes, regulations, rulings and judicial decisions, interest and original issue discount on the Bonds is excluded from gross income for federal income tax purposes and is not an item of tax preference for purposes of calculating the federal alternative minimum tax imposed on individuals and corporations. In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income tax. Bond Counsel notes that, with respect to corporations, interest and original issue discount on the Bonds will be included as an adjustment in the calculation of alternative minimum taxable income, which may affect the alternative maximum taxable liability of such corporations.

The difference between the issue price of a Bond (the first price at which a substantial amount of the Bonds of a maturity are to be sold to the public) and the stated redemption price at maturity with respect to such Bond constitutes original issue discount. Original issue discount accrues under a constant yield method, and original issue discount will accrue to a Bondowner before receipt of cash attributable to such excludable income. The amount of original issue discount deemed received by a Bondowner will increase the Bondowner's basis in the applicable Bond.

Bond Counsel's opinion as to the exclusion from gross income for federal income tax purposes of interest and original issue discount on the Bonds is based upon certain representations of fact and certifications made by the Agency, the Underwriter and others and is subject to the condition that the Agency complies with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds to assure that interest and original issue discount on the Bonds will not become includable in gross income for federal income tax purposes. Failure to comply with such requirements of the Code might cause interest

and original issue discount on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The Authority and the City have covenanted to comply with all such requirements.

Should the interest and original issue discount on the Bonds become includable in gross income for federal income tax purposes, the Bonds are not subject to early redemption as a result of such occurrence and will remain outstanding until maturity or until otherwise redeemed in accordance with the Indenture.

Bond Counsel's opinion may be affected by action taken (or not taken) or events occurring (or not occurring) after the date of the issuance of the Bonds. Bond Counsel has not undertaken to determine, or to inform any person, whether any such action or events are taken or do occur, or whether such actions or events may adversely affect the value or tax treatment of a Bond and Bond Counsel expresses no opinion with respect thereto.

Although Bond Counsel has rendered an opinion that interest and original issue discount on the Bonds is excluded from gross income for federal income tax purposes provided that the City and the Authority continue to comply with certain requirements of the Code, the accrual or receipt of interest and original issue discount on the Bonds may otherwise affect the tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status and other items of income or deductions. Bond Counsel expresses no opinion regarding any such consequences. Accordingly, all potential purchasers should consult their tax advisors before purchasing any of the Bonds.

In order to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds, the Authority has covenanted in the Indenture and the City has covenanted in the Fiscal Agent Agreement to comply with each applicable requirement of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended, relative to arbitrage and avoidance of characterization as private activity bonds, among other things. The interest on the Bonds could become includable in gross income for purposes of federal income taxation retroactive to the date of issuance of the Bonds, as a result of acts or omissions of the City and the Authority in violation of covenants in the Indenture and the Fiscal Agent Agreement. Should such an event of taxability occur, the Bonds are not subject to acceleration, redemption or any increase in interest rates and will remain Outstanding until maturity or until redeemed under one of the redemptive provisions contained in the Indenture.

The Internal Revenue Service (the "IRS") has initiated an expanded program for the auditing of tax-exempt bond issues, including both random and targeted audits. It is possible that the Bonds will be selected for audit by the IRS. It is also possible that the market value of the Bonds might be affected as a result of such an audit of the Bonds (or by an audit of similar bonds). Congress or the IRS might change the Code (or interpretation thereof) subsequent to the issuance of the Bonds to the extent that it adversely affects the exclusion from gross income of interest and original issue discount on the Bonds or their market value. In many instances, the audit will be directed toward the issuer of the bonds (with no participation rights by bondholders). The Authority and the City (and Bond Counsel) are not obligated to defend the tax-exempt status of interest and original issue discount on the Bonds.

The amount by which a Bond Owner's original basis for determining loss on sale or exchange in the applicable Bond (generally, the purchase price) exceeds the amount payable on maturity (or on an earlier call date) constitutes amortizable Bond premium, which must be amortized under Section 171 of the Code; such amortizable Bond premium reduces the Bond Owner's basis in the applicable Bond (and the amount of tax-exempt interest received), and is not deductible for federal income tax purposes. The basis reduction as a result of the amortization of Bond premium may result in a Bond Owner realizing a taxable gain when a Bond is sold by the Owner for an amount equal to or less (under certain circumstances) than the original cost of the Bond to the Owner. Purchasers of the Bonds should consult their own tax advisors as to the treatment, computation and collateral consequences of amortizable Bond premium.

A copy of the proposed opinion of Bond Counsel is set forth in "APPENDIX D" hereto.

In its Circular 230, the Department of the Treasury has proposed modifications to Treasury Regulations (the “Proposed Regulations”) which govern the practice of attorneys and other tax advisors before the Internal Revenue Service. The Proposed Regulations provide that they will be effective for opinions delivered on or after the date such regulations are published in final form in the Federal Register. The Proposed Regulations would classify all tax-exempt bonds as “tax shelters,” which are subject to certain restrictions. In addition, the Proposed Regulations could require a discussion in Bond Counsel’s opinion of the facts and law and Bond Counsel’s analysis of the law relevant to its conclusions together with certain mandatory disclosures including that (1) Bond Counsel’s opinion may not be sufficient for a Bondholder to use for the purpose of avoiding penalties relating to substantial understatement of income under Section 6662(d) of the Code, and (2) Bondholders should seek advice from their own tax advisors with respect to certain material tax issues. The Proposed Regulations would be applicable to Bond Counsel’s opinion with respect to the Bonds if adopted in final form as currently drafted on or prior to the date Bond Counsel’s opinion is to be delivered. In any event, Bond Counsel expects to deliver an opinion with the same ultimate conclusions as those described in “APPENDIX D,” however, if the Proposed Regulations are promulgated in their current form on or prior to the date of issuance of the Bonds, Bond Counsel will not be in a position to render its opinion in the form contained in “APPENDIX D.” No assurance can be given as to when final regulations will be promulgated or what form they may take.

### **Absence of Litigation**

The Authority and the City will each furnish a certificate dated as of the date of delivery of the Bonds that there is not now known to be pending or threatened any litigation restraining or enjoining the execution or delivery of the Indenture, or the sale or delivery of the Bonds or the acquisition of the Local Obligations or in any manner questioning the proceedings and authority under which the Indenture is to be executed or delivered or the Bonds are to be delivered or affecting the validity thereof or of the Local Obligations or the Fiscal Agent Agreement.

## **CONCLUDING INFORMATION**

### **No Rating on the Bonds**

The Authority has not made, and does not contemplate making, any application for a rating on the Bonds. No such rating should be assumed based upon any other Authority or City rating that may be obtained. Prospective purchasers of the Bonds are required to make independent determinations as to the credit quality of the Bonds and their appropriateness as an investment. Should a Bondholder elect to sell a Bond prior to maturity, no representations or assurances can be made that a market will have been established or maintained for the purchase and sale of the Bonds. The Underwriter assumes no obligation to establish or maintain a market for the purchase and sale of the Bonds and is not obligated to repurchase any of the Bonds at the request of the holder thereof.

### **Underwriting**

Southwest Securities, Newport Beach, California (the "Underwriter") is offering the Bonds at the prices set forth on the inside front cover page hereof. The initial offering prices may be changed from time to time and concessions from the offering prices may be allowed to dealers, banks and others. The Underwriter has purchased the Bonds at a price equal to \_\_\_% (\$\_\_\_\_\_) of the aggregate principal amount of the Bonds, which amount represents the principal amount of the Bonds, less the Underwriter's discount of \$\_\_\_\_\_. The Underwriter will pay certain of its expenses relating to the offering.

### **The Financial Advisor**

The material contained in this Official Statement was prepared by the Authority with the assistance of the Financial Advisor, who advised the Authority and the City as to the financial structure and certain other financial matters relating to the Bonds. The information set forth herein has been obtained by the Authority and the City from sources which are believed to be reliable, but such information is not guaranteed by the Financial Advisor as to accuracy or completeness, nor has it been independently verified. Fees paid to the Financial Advisor are contingent upon the sale and delivery of the Bonds.

### **Continuing Disclosure**

The Authority will provide annually certain financial information and data relating to the Bonds and the Local Obligations and the District by not later than March 31 in each year commencing March 31, 2005 (the "Annual Report"), and to provide notices of the occurrence of certain other enumerated events if deemed by the City to be material. The Annual Report will be filed by the City with each Nationally Recognized Municipal Securities Information Repository certified by the Securities and Exchange Commission (the "Repositories") and a State repository, if any. The notices of material events will be timely filed by the City with the Municipal Securities Rulemaking Board, the Repositories and a State repository, if any. The specific nature of the information to be contained in the Annual Report or the notices of material events and certain other terms of the continuing disclosure obligation are summarized in "APPENDIX E – FORM OF CONTINUING DISCLOSURE CERTIFICATE." The City has never failed to comply timely with any obligation to make a filing under Rule 15c2-12 under the Securities Exchange Act of 1934.

## **Additional Information**

The summaries and references contained herein with respect to the Indenture, the Bonds, the Fiscal Agent Agreement, the Local Obligations, statutes and other documents, do not purport to be comprehensive or definitive and are qualified by reference to each such document or statute and references to the Bonds are qualified in their entirety by reference to the form hereof included in the Indenture. Copies of the Indenture are available for inspection during the period of initial offering on the Bonds at the offices of the Underwriter, Southwest Securities, 620 Newport Center Drive, Suite 300, Newport Beach, California 92660, telephone (949) 717-2000. Copies of these documents may be obtained after delivery of the Bonds from the Authority through the Finance Director, City of Costa Mesa, 77 Fair Drive, Costa Mesa, California 92628-1200.

## **References**

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.

## **Execution**

The execution of this Official Statement by the Executive Director has been duly authorized by the Costa Mesa Public Financing Authority.

## **COSTA MESA PUBLIC FINANCING AUTHORITY**

By: \_\_\_\_\_  
Executive Director

**APPENDIX A**  
**SUMMARY OF THE LEGAL DOCUMENTS**

(to be provided by Bond Counsel)

## APPENDIX B

### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each assessor's parcel or portion thereof in the District shall be levied and collected according to the tax liability determined by the Finance Director of the City of Costa Mesa, through the application of the rate and method of apportionment of the Special Tax set forth below. All of the property in the District, unless exempted by law, shall be taxed to the extent and in the manner provided therein.

The Special Tax is to be levied each Fiscal Year in an amount sufficient to pay Debt Service on the Bonds, all Administrative Fees or Expenses, all payments required under the Fiscal Agent Agreement or any supplement or amendment to the Fiscal Agent Agreement, plus an amount equal to any delinquencies in the Special Taxes levied in the prior Fiscal Year.

#### I. DEFINITIONS

**"Acre" or Acres"** means, (i) with respect to an Original Parcel, the number of acres within tile Original Parcel as specified in the Boundary Map of the District attached hereto and by this reference made a part hereof; and (ii) with respect to a Successor Parcel, the number of acres within the Successor Parcel determined as follows:

- (a) determine the acreage of each Successor Parcel by reference to a parcel map, tract map or other map as recorded in the County of Orange Assessor's Office, or otherwise as determined by the City Engineer, and exclude from such acreage any portion of a Successor Parcel which, in itself, would constitute a Tax-Exempt Parcel (because of its use as public right-of-way, etc.);
- (b) add together the acreage as determined in (a) for all Successor Parcels created from the Original Parcel; and
- (c) for each Successor Parcel, divide the acreage of the Successor Parcel determined in (a) above, by the acreage for all Successor Parcels to the same Original Parcel determined in (b) above, and multiply the result by the acreage for such Original Parcel, with the result being the Acreage for such Successor Parcel.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

**"Administrative Fees or Expenses"** means any or all of the following: the fees and expenses of the Fiscal Agent (including any fees or expenses of its counsel), the expenses of the City in carrying out its duties with respect to the District (including, but not limited to, the levy and collection of the Special Taxes), including the fees and expenses of its counsel, an allocable share of the salaries of the City staff directly related thereto, a proportionate amount of City general administrative overhead related thereto, any amounts required to be rebated to the federal government pursuant to the Internal Revenue Code of 1986, any amounts paid by the City from its general funds with respect to the District, and all other costs and expenses of the City or the Fiscal Agent incurred in connection with the discharge of their respective duties under the Fiscal Agent Agreement, and in the case of the City, in any way related to administration of the District.

**"Annual Costs"** for any Fiscal Year, equals the sum of (i) Debt Service for such Fiscal Year; (ii) Administrative Fees or Expenses for such Fiscal Year; (iii) the amount, if any, necessary to replenish the Reserve Fund for the Bonds, plus an amount equal to delinquencies in the payment of Special Taxes

levied in the previous Fiscal Year; and (iv) any other payment required under the Fiscal Agent Agreement and any supplement or amendment thereto for such Fiscal Year.

**“Bond Fund”** means the fund of that name created under the Fiscal Agent Agreement.

**“Bonds”** means the City of Costa Mesa Community Facilities District No. 91-1 (Plaza Tower Public Improvements) 1991 Special Tax Bonds.

**“City”** means the City of Costa Mesa, California.

**“Debt Service”** for each Fiscal Year, means the total annual principal and interest payable on the Bonds during the calendar year commencing on the January of such Fiscal Year, less investment earnings on the Reserve Fund not required to be set aside pursuant to the Fiscal Agent Agreement for purposes of rebate to the federal government pursuant to the Internal Revenue Code of 1986, and less any capitalized interest and any other amounts remaining in the Bond Fund held under the Fiscal Agent Agreement from the previous Fiscal Year.

**“District”** means the City of Costa Mesa Community Facilities District No. 91-1 (Plaza Tower I Public Improvements).

**“Finance Director”** means the Finance Director of the City or his or her designee.

**“Fiscal Agent”** means Fiscal Agent under the Fiscal Agent Agreement.

**“Fiscal Agent Agreement”** means the agreement by and between the City and the Fiscal Agent approved pursuant to a Resolution of Issuance.

**“Fiscal Year”** means the period starting on July 1 and ending the following June 30 in any year in which the Bonds are outstanding.

**“Maximum Special Tax”** means one hundred eighty-three thousand five hundred eighty-five dollars and thirty-two cents (\$183,585.32) per Acre, (based on 43,560 square feet per Acre), per Fiscal Year.

**“Original Parcel”** means a Parcel as it existed at the time of the adoption by the City Council of the City of the Resolution of Formation and as described in the map of Proposed Boundaries for the District by this reference made a part hereof.

**“Parcel”** means any County of Orange Assessor’s parcel that is within the boundaries of the District, based on the equalized tax rolls of the County of Orange as of March 1 in the prior Fiscal Year.

**“Resolution of Formation”** means the resolution of the City Council of the City adopted under the Act to establish the District.

**“Resolution of Issuance”** means the resolution of the City Council of the City, acting as the legislative body of the District, authorizing the issuance of the Bonds in accordance with the Mello-Roos Community Facilities Act of 1982 (California Government Code, Section 53311 et seq.).

**“Special Tax”** means any tax levied within the District pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 et seq. and the Rate and Method of Apportionment of the Special Tax).

**“Successor Parcel”** means a Parcel created by subdivision, lot line adjustment or parcel map from an Original Parcel that results in a different assessor’s parcel.

**“Taxable Parcel”** means any Parcel that is not a Tax-Exempt Parcel.

**“Tax-Exempt Parcel”** means (i) any Parcel owned by a governmental entity, or irrevocably offered for dedication to a governmental entity, (ii) any Parcel which constitutes public right-of-way or which is encumbered by an unmanned utility easement, making impractical its utilization for other than the purpose set forth in the easement, or (iii) any Parcel assigned a zero value by the County of Orange Assessor. Where open spaces, access ways (other than streets), private parks, common areas, etc., are part of a Parcel, the area devoted to such uses shall be included in the area of the Parcel. Notwithstanding the foregoing, a Parcel acquired by a governmental entity after the adoption of the Resolution of Formation by means of negotiated transaction, or by gift or devise, or by eminent domain proceedings, shall be a Taxable Parcel.

## **II. CLASSIFICATION OF PARCELS**

At the beginning of each Fiscal Year, using the definitions above, the Finance Director shall:

- A. cause each Parcel to be classified as a Tax-Exempt Parcel or a Taxable Parcel; and
- B. for each Taxable Parcel determine the Acreage of the Parcel.

## **III. APPORTIONMENT, LEVY AND COLLECTION OF SPECIAL TAXES**

- A. Immediately following the classification of Parcels as provided in Section II above, the Finance Director shall cause the Special Taxes to be apportioned, levied and bill to the property owner in each Fiscal Year as follows:
  - 1. determine the Annual Costs for such Fiscal Year;
  - 2. for Tax-Exempt Parcels, no Special Tax shall be apportioned or levied; and
  - 3. for Taxable Parcels, Special Taxes shall be apportioned and levied upon each Parcel of Taxable Property at a uniform rate, not in excess of the Maximum Special Tax Rate of one hundred eighty-three thousand five hundred eighty-five dollars and thirty-two cents (\$183,585.32) per Acre, per year, sufficient to raise an amount equal to the Annual Costs for such Fiscal Year.
- B. Prepare an invoice to the property owner(s) for each Taxable Parcel and request payment for such Fiscal Year.

## **IV. EXAMPLE OF THE APPLICATION OF THE SPECIAL TAX**

An example of the application of the Special Tax for two situations follows. This example is provided to give guidance in the administration of the District, and in no way modifies the terms of Sections 1, 2, 3 and 5.

- 1. Assume the area within the District boundary, as shown on the Boundary Map of the District, is 5.093 acres. Assume a parcel map is recorded creating two parcels and dedicating Plaza Tower road, the two parcels are 4.0 acres and 1.0 acre, respectively, for a total of 5.0 acres. Further assume that the Annual Costs are \$344,999.82 for the Fiscal year.
  - A. The determination of Acreage for purposes of the Special Tax (see Section 1 Definitions) must be made as follows:

Original Parcel Acreage	=	5.093
Successor Parcel Acreage	=	4.000 Parcel 1 <u>1.000</u> Parcel 2 5.000
Successor Parcel Acreage	=	$\frac{4.000 \times 5.093}{(4.000 + 1.000)}$ = 4.074 Acres
Successor Parcel 2 Acreage	=	$\frac{1.000 \times 5.093}{(4.000 + 1.000)}$ = 1.019 Acres
Total		5.093 Acres

The computation of Successor Parcel Acreage is rounded to the nearest one thousandth of an Acre.

- B. The determination of the Special Tax for each Parcel can be accomplished as follows:

Annual Costs	=	\$935,000.03
Total Acres	=	5.093
Special Tax per Acre Required	=	\$185,585.32 (\$935,000.03 ÷ 5.093)
Special Tax-Successor Parcel 1	=	4.074 Acres X \$185,585.32/Acre = \$747,926.59
Special Tax -Successor Parcel 2	=	1.019 Acres X \$183,585.32/Acre = \$187,073.44
Total	=	\$935,000.03

## V. PREPAYMENT OF SPECIAL TAXES

The Special Taxes for a Parcel may be prepaid and the obligation of the Parcel satisfied provided that there are no delinquent Special Taxes with respect to such Parcel at the time of prepayment, prepayment is made not less than 120 days prior to an interest payment date on the Bonds and the following is applied:

- A. The prepayment amount is computed by dividing the Maximum Special Tax for the Parcel by the total of the Maximum Special Taxes for all Taxable Parcels, and multiplying the result by the principal amount of any Bonds then outstanding. Round the result up to the nearest five thousand dollars.
- B. The prepayment penalty is computed by multiplying the prepayment amount by the applicable redemption premium, if any, on the Bonds, plus an amount determined by the Finance Director to be the difference between the carrying cost of the Bonds and the amount derived from the reinvestment of the prepaid Special Taxes pending their disposition in redeeming the Bonds. Add that penalty to the prepayment amount determined in Subsection A above.

- C. The administrative fees of the City are as determined by the Finance Director and include the costs of computation of the prepayment, the costs of calling Bonds and the costs of recording any notices to evidence the prepayment and the redemption. Add these costs of the amounts determined in Subsection A and B above.
- D. Any reserve fund credit is computed by comparing the prepayment amount determined in Subsection A above to the outstanding principal amount of the Bonds. Apply that percentage to the amount in the Reserve Fund, if any. Deduct the result from the total of the amounts determined in Subsection A, B and C above.
- E. The result determined in Subsection D above is the amount needed to prepay a Special Tax obligation. The amount shall be placed in the Bond Fund and used to retire Bonds; provided that the administrative fees of the city as determined in Subsection C above shall be retained by the city. Upon prepayment, a Notice of Cessation of Special Tax shall be recorded by the city with respect to the Parcel for which prepayment is received, and the obligation of that Parcel to pay the Special Taxes shall cease.

## **APPENDIX C**

### **CITY OF COSTA MESA INFORMATION STATEMENT**

*The following information concerning the City of Costa Mesa is presented as general background data. The Bonds are payable solely from the Revenues as described in the Official Statement. Neither the Authority nor the City are obligated in any manner to pay principal or interest on the Bonds or the Local Obligations or to cure any delinquency or default on the Bond or the Local Obligations.*

#### **General Information**

The City of Costa Mesa encompasses 16.8 square miles and is located in the southern coastal area of Orange County, adjacent to the cities of Santa Ana and Newport Beach. At its nearest point, Costa Mesa is approximately 1.5 miles from the Pacific Ocean. Other neighboring cities include Huntington Beach, Fountain Valley and Irvine. Costa Mesa is approximately 35 miles southeast of Los Angeles and 85 miles northwest of San Diego. The City is home to the Orange County Performing Arts Center and the Orange County Fairgrounds.

#### **City Government**

The City of Costa Mesa is a general law city and was incorporated in 1953. The City has a Council/Manager form of government. The City Council appoints the City Manager who is responsible for the day-to-day administration of City business and the coordination of all departments of the City. The City Council is composed of five members elected bi-annually at large to four-year terms. Costa Mesa employs a staff of 605 full-time employees and 104 full-time equivalent part-time employees under the direction of the City Manager.

#### **Governmental Services**

##### *Public Safety and Welfare*

Law enforcement and fire protection are provided by the City. The Costa Mesa Police Department currently employs 160 sworn officers. The Costa Mesa Fire Department employs 104 sworn fire fighters operating out of six fire stations. The City has a National City Class II fire insurance rating. Other services provided by the City include animal control, emergency medical aid, traffic safety maintenance and building safety regulation and inspection.

##### *Public Services*

Water and sanitation are provided to City residents through independent special districts.

##### *Public Works*

Additional services include parkway and median maintenance and improvements, refuse management, sewer maintenance, recycling, zoning and development administration, environmental review, code enforcement, street lighting and maintenance, housing and community development.

##### *Leisure and Community Services*

The City's Community Facilities Program provides its citizens with a variety of year-round recreational activities and facilities for enjoyment, health, relaxation and cultural enrichment. Such facilities include twenty-eight park sites, two 18-hole golf courses and four community centers.

## Transportation

The Costa Mesa Freeway (State Highway 55), the San Diego Freeway (Interstate 405) and the San Joaquin Tollway (State Highway 73) intersect in the northeastern section of the City. These routes provide access to Riverside and San Bernardino via the Costa Mesa Freeway and Los Angeles and San Diego by way of the San Diego Freeway. Nearby interchanges with the Garden Grove Freeway (I-22), the Riverside Freeway (I-91) and the Santa Ana Freeway (I-5) provide access to all of Orange County.

Commercial rail service is provided by the Atchison, Topeka & Santa Fe Railway and the Southern Pacific Railroad. Amtrak, which provides passenger rail service between San Diego and Los Angeles, has local stops in the neighboring cities of Irvine and Santa Ana.

## Population

The following table provides a comparison of population growth for Costa Mesa, surrounding cities and Orange County between 2001 and 2005.

**TABLE NO. C-1  
CHANGE IN POPULATION  
COSTA MESA, SURROUNDING CITIES AND ORANGE COUNTY  
2001 – 2005**

Year	COSTA MESA		SURROUNDING CITIES		ORANGE COUNTY	
	Population	Percentage Change	Population	Percentage Change	Population	Percentage Change
2001	109,765		468,396		2,891,023	
2002	110,872	1.0%	481,086	2.7%	2,940,713	1.7%
2003	111,668	0.7%	500,200	4.0%	2,983,757	1.5%
2004	113,118	1.3%	509,841	1.9%	3,022,613	1.3%
2005	113,440	0.3%	522,039	2.4%	3,056,865	1.1%
% Increase Between 2001 - 2005		3.3%				5.7%

Surrounding cities include Huntington Beach, Newport Beach, Fountain Valley and Irvine.

Source: State of California Department of Finance, Population Research Unit, “*Population Estimates for California Cities, Counties and State.*”

## Employment and Industry

The City is located in the Orange County labor market area. Six major job categories constitute 76.8% of the work force. They are professional and business services (18.3%), service producing (15.9%), manufacturing (12.4%), leisure and hospitality (11.3%), government (10.0%) and financial activities (8.9%). The July 2005 unemployment rate in the Orange County area was 3.9%. The State of California July 2005 unemployment rate (unadjusted) was 5.4%. The distribution of employment in the Orange County area is presented in the following table.

**TABLE NO. C-2**  
**ORANGE COUNTY MSA**  
**WAGE AND SALARY WORKERS BY INDUSTRY <sup>(1)</sup>**  
**(in thousands)**

Industry	2001	2002	2003	2004	2005
Government	142.0	145.0	149.8	148.2	149.9
Other Services	45.5	46.3	46.5	48.0	48.5
Leisure and Hospitality	156.7	159.7	163.8	168.9	169.0
Educational and Health Services	113.5	116.5	125.7	129.8	130.7
Professional and Business Services	249.5	247.3	253.6	260.5	273.3
Financial Activities	105.6	109.8	124.2	132.2	133.2
Information	39.3	37.1	35.3	33.4	32.4
Transportation, Warehousing and Utilities	30.5	28.4	29.3	29.5	29.3
Service Producing					
Retail Trade	148.1	149.9	150.2	152.2	156.1
Wholesale Trade	83.3	82.6	83.2	82.3	82.8
Manufacturing					
Nondurable Goods	60.5	57.2	57.1	56.8	56.3
Durable Goods	146.9	132.5	126.2	127.1	128.5
Goods Producing					
Construction	83.2	79.3	84.9	94.5	98.3
Natural Resources and Mining	<u>0.6</u>	<u>0.5</u>	<u>0.5</u>	<u>0.6</u>	<u>0.6</u>
Total Nonfarm	1,405.2	1,392.1	1,430.3	1,464.0	1,488.9
Farm	<u>7.0</u>	<u>7.9</u>	<u>6.7</u>	<u>6.9</u>	<u>6.9</u>
Total (all industries)	<u>1,412.2</u>	<u>1,400.0</u>	<u>1,437.0</u>	<u>1,470.9</u>	<u>1,495.8</u>

<sup>(1)</sup> Annually, as of July.

Source: State of California Employment Development Department, "Annual Planning Information and California Labor Market Bulletin."

The five largest major employers operating within the City and their respective number of employees as of July 2005 are as follows:

**TABLE NO. C-3  
CITY OF COSTA MESA  
MAJOR EMPLOYERS**

<u>Employer</u>	<u>Number of Employees</u>	<u>Product/Service</u>
Fairview Development Center	1,500	Medical Services
Coast Community College	1,132	Higher Education
Nordstrom Department Store	1,000	Retail
Los Angeles Times	800	Newspaper
FileNET Corporation	800	Computer Imaging

Source: City of Costa Mesa Planning Division.

## Personal Income

Personal income information for the City of Costa Mesa, Orange County, the State of California and the United States are summarized in the following table.

**TABLE NO. C-4  
EFFECTIVE BUYING INCOME  
CITY OF COSTA MESA, ORANGE COUNTY, CALIFORNIA AND UNITED STATES  
2000 – 2004**

<b>Year</b>	<b>Costa Mesa</b>	<b>Orange County</b>	<b>State of California</b>	<b>United States</b>
2000	\$46,475	\$55,262	\$44,464	\$39,129
2001	46,955	53,277	43,532	38,365
2002	44,250	49,726	42,484	38,035
2003	45,100	50,755	42,924	38,201
2004	45,872	51,823	43,915	39,324

Source: Sales and Marketing Management “*Survey of Buying Power.*”

## Commercial Activity

The following table summarizes the volume of retail sales and taxable transactions for the City of Costa Mesa for 1999 through 2003.

**TABLE NO. C-5  
CITY OF COSTA MESA  
TOTAL TAXABLE TRANSACTIONS  
(in thousands)  
1999 – 2003**

Year	Retail Sales		Total Taxable Transactions		Issued Sales	
	(\$000's)	% Change	Retail Sales Permits	(\$000's)	% Change	Permits
1999	\$2,170,961			\$2,825,793		9,372
2000	2,394,340	10.3%	3,300	3,108,323	10.0%	9,569
2001	2,473,284	3.3%	3,673	3,160,603	1.7%	9,814
2002	2,549,945	3.1%	4,172	3,176,417	0.5%	10,500
2003	2,806,984	10.1%	4,524	3,452,450	8.7%	11,055

Source: State Board of Equalization, "Taxable Sales in California."

The following table compares taxable transactions for the City of Costa Mesa and surrounding cities.

**TABLE NO. C-6  
CHANGE IN TOTAL TAXABLE TRANSACTIONS  
COSTA MESA AND SURROUNDING CITIES  
(in thousands)  
1999 – 2003**

City	1999	2000	2001	2002	2003	% Change from 1999 - 2003
COSTA MESA	\$2,825,793	\$3,108,323	\$3,160,603	\$3,176,417	\$3,452,450	22.2%
Fountain Valley	801,623	869,965	840,033	809,698	824,719	2.9%
Huntington Beach	2,043,221	2,335,272	2,113,445	2,104,087	2,220,984	8.7%
Irvine	3,617,140	3,982,449	3,893,976	3,660,618	4,087,470	13.0%
Newport Beach	1,641,782	1,763,466	1,716,344	1,798,205	1,913,046	16.5%

Source: State Board of Equalization, "Taxable Sales in California."

Taxable transactions by type of business for the City of Costa Mesa for 1999 through 2003 are summarized in Table No. C-7.

**TABLE NO. C-7**  
**CITY OF COSTA MESA**  
**TAXABLE TRANSACTIONS BY TYPE OF BUSINESS**  
**(in thousands)**

	1999	2000	2001	2002	2003
<i>Retail Stores</i>					
Apparel Stores	\$ 275,664	\$ 290,786	\$ 301,223	\$ 321,210	\$ 343,620
General Merchandise Stores	537,235	538,298	549,926	545,758	568,868
Food Stores	81,648	85,324	88,778	88,963	90,069
Eating/Drinking Places	206,494	236,199	237,227	241,220	264,078
Home Furnishings and Appliances	124,795	141,113	147,905	154,429	192,732
Building Materials and Farm Implements	56,678	111,209	121,909	131,698	143,463
Auto Dealers/Suppliers	397,446	455,441	485,143	528,355	598,721
Service Stations	93,208	104,991	97,401	94,496	107,959
Other Retail Stores	<u>397,793</u>	<u>430,979</u>	<u>443,772</u>	<u>443,816</u>	<u>497,474</u>
<b>Total Retail Stores</b>	<b>2,170,961</b>	<b>2,394,340</b>	<b>2,473,284</b>	<b>2,549,945</b>	<b>2,806,984</b>
<i>All Other Outlets</i>	<u>654,832</u>	<u>713,983</u>	<u>687,319</u>	<u>626,472</u>	<u>645,466</u>
<b>Total All Outlets</b>	<b><u>\$2,825,793</u></b>	<b><u>\$3,108,323</u></b>	<b><u>\$3,160,603</u></b>	<b><u>\$3,176,417</u></b>	<b><u>\$3,452,450</u></b>

Source: State Board of Equalization, "Taxable Sales in California."

## Building Activity

The following table summarizes building activity valuations for the City of Costa Mesa for the five-year period from 2000/01 through 2004/05.

**TABLE NO. C-8**  
**CITY OF COSTA MESA**  
**BUILDING ACTIVITY AND VALUATION**  
**(IN THOUSANDS)**  
**2000/01 – 2004/05**

	<b>2000/01</b>	<b>2001/02</b>	<b>2002/03</b>	<b>2003/04</b>	<b>2004/05</b>
Residential	\$20,409	\$11,002	\$17,500	\$27,926	
Commercial	<u>34,961</u>	<u>13,308</u>	<u>33,034</u>	<u>35,000</u>	
<b>Total Valuation</b>	<b><u>\$55,370</u></b>	<b><u>\$24,310</u></b>	<b><u>\$50,534</u></b>	<b><u>\$62,926</u></b>	
<b>Residential Units</b>	<b>439</b>	<b>432</b>	<b>427</b>	<b>508</b>	

Source: City of Costa Mesa Financial Report.

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

(to be provided by Bond Counsel)

# APPENDIX E

## FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the City of Costa Mesa Public Financing Authority (the “Issuer”) in connection with the issuance of \$\_\_\_\_\_ Costa Mesa Public Financing Authority Refunding Bonds, Series 2005A (the “Bonds”). The Bonds are being issued pursuant to an Amended and Restated Indenture of Trust, dated as of December 1, 2005 (the “Indenture”), by and between the Issuer and U.S. Bank National Association, as Trustee (the “Trustee”). The Issuer covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Issuer for the benefit of the Holders and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with the Rule (as defined below).

SECTION 2. Definitions. In addition to the definitions set forth in the Indenture, 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 Issuer pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“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.

“City” means the City of Costa Mesa, California.

“Dissemination Agent” shall mean the Issuer, or any successor Dissemination Agent designated in writing by the Issuer and which has filed with the Issuer a written acceptance of such designation.

“District” means the City of Costa Mesa Community Facilities District No. 91-1 (Plaza Tower Public Improvements).

“Holders” shall mean the Owners as defined in the Indenture.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The current National Repositories approved by the Securities and Exchange Commission are included in a list which is maintained on the Internet at <http://www.sec.gov/answers/nrmsir.htm>.

“Official Statement” shall mean the Official Statement relating to the Bonds, dated \_\_\_\_\_, 2005.

“Participating Underwriter” shall mean any of the original underwriters 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 Certificate, there is no State Repository.

**SECTION 3. Provision of Annual Reports.**

(a) The Issuer shall, or shall cause the Dissemination Agent to, no later than February 15th of each year following the end of the Issuer’s fiscal year (presently such fiscal year ends June 30), commencing with the report for the fiscal year ending June 30, 2005, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate.

(b) If the Issuer is unable to provide to the Repositories an Annual Report by the date required in subsection (a), the Issuer shall send a notice to each Repository in substantially the form attached as Exhibit A.

(c) 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

(ii) if the Dissemination Agent is other than the Issuer, file a report with the Issuer certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, stating the date it was provided and listing all the Repositories to which it was provided.

**SECTION 4. Content of Annual Reports.** The Issuer’s Annual Report shall contain or include the audited financial statements of the Issuer for the prior fiscal year, if any have been prepared and which, if prepared, shall be prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the Issuer is preparing audited financial statements and the Issuer’s audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

In addition, the Annual Report shall contain or incorporate by reference the following:

(i) the principal amount of Bonds outstanding as of the August 2 preceding the filing of the Annual Report;

(ii) the balance in each fund under the Indenture and the Reserve Requirement as of the August 2 preceding the filing of the Annual Report;

(iii) any changes to the Rate and Method of Apportionment of the Special Taxes approved or submitted to the qualified electors for approval prior to the filing of the Annual Report and a description of any prepayments of Special Taxes which have been prepaid in the Fiscal Year for which the Annual Report is being prepared; and

(iv) any information not already included under (i) through (iv) above that the Issuer or the City is required to file in its annual report to the California Debt and Investment Advisory Commission pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, as amended.

Any or all of the items of the Annual Report may be included by specific reference to other documents, including official statements of debt issues of the Issuer or related public entities, which have been submitted to 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 Issuer shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Issuer shall give, or cause to be given, 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 reflecting financial difficulties.
9. unscheduled draws on the credit enhancements reflecting financial difficulties.
10. substitution of the credit or liquidity providers or their failure to perform.
11. release, substitution or sale of property securing repayment of the Bonds.

(b) Whenever the Issuer obtains knowledge of the occurrence of a Listed Event, the Issuer shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) If the Issuer determines that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the Issuer shall promptly file a notice of such occurrence with the Repositories. 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 Bonds pursuant to the Indenture.

SECTION 6. Termination of Reporting Obligation. The Issuer's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior prepayment or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Issuer shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

SECTION 7. Dissemination Agent. The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Issuer pursuant to this Disclosure Certificate.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Issuer may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that, in the opinion of nationally recognized Bond counsel, such amendment or waiver is permitted by the Rule. In the event of any amendment or waiver of a provision of this Disclosure Certificate, the Issuer shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Issuer. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made shall present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Issuer from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate 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 Certificate. If the Issuer 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 Certificate, the Issuer shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the Issuer to comply with any provision of this Disclosure Certificate, any Holders or Beneficial Owners of at least 50% aggregate principal amount of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Issuer to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the Issuer to comply with this Disclosure Certificate shall be an action to compel performance.

No Owners or Beneficial Owners may institute such action, suit or proceeding to compel performance unless they shall have first delivered to the Issuer satisfactory written evidence of their status as Owners or Beneficial Owners of at least 50% aggregate principal amount of the Bonds, and a written notice of and request to cure such failure, and the Issuer shall have refused to comply therewith within a reasonable time.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its 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 obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Issuer, 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.

Date: \_\_\_\_\_, 2005

COSTA MESA PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Its: Executive Director

**EXHIBIT A**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Person: COSTA MESA PUBLIC FINANCING AUTHORITY  
Name of Issue: \$\_\_\_\_\_ REFUNDING REVENUE BONDS, SERIES 2005A  
Date of Issuance: \_\_\_\_\_, 2005

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate executed by the City on the date of execution and delivery of the Bonds. The City anticipates that the Annual Report will be filed by \_\_\_\_\_.

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

CITY OF COSTA MESA

By: [no signature required; form only]