



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 05/28/02
AGENDA ITEM 9
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Finance and Internal Services Director
SUBJECT: Establishment of a Community Facilities District

RECOMMENDATION:

It is recommended that the Council adopt the attached resolutions to initiate the formation of a Community Facilities District (CFD), appoint disclosure counsel and set July 9, 2002 as the date for the public hearing concerning formation of the district.

DISCUSSION:

Last October, Council adopted an ordinance governing the establishment of Community Facilities Districts. The ordinance establishes certain requirements and minimum standards for any CFDs authorized by the City. For example, the City has established the minimum value-to-lien ratio (land value compared to the amount of debt issued.) at 3:1 and relies on the preparation of an appraisal as a means of determining compliance. In addition, the City's ordinance complies with State law.

The Development Agreement for property located south of Route 92 includes a provision that allows the City to consider establishing a CFD to finance public improvements associated with the project. As provided by the agreement, Duc Housing Partners, Inc. submitted a request to form a CFD. In response to Duc Housing Partner's request staff began an evaluation process to determine if a CFD would be suitable for this development.

Staff has concluded its evaluation and is recommending that the council establish a CFD as requested by Duc Housing Partners, Inc. Further, in response to the developer's petition to form a CFD, staff had an appraisal prepared for the Oliver East project. The appraisal was prepared in conformance with the City's ordinance and establishes a value of \$36,900,000. Using the 3:1 ratio discussed above this results in a bond issuance amount of not more than \$12,300,000.

Another financial issue that requires separate mention is the amount of the special tax and the tax rate formula. A special tax consultant was engaged by the City to compute the tax for the proposed CFD. For this CFD the tax rate is expressed on a per acre basis and all acreage within the boundaries of the CFD is taxed equally. The rate established by the consultant for this CFD is \$11,130 per acre for fiscal year 2002-03. In accordance with the City's ordinance the tax must provide 110% debt service coverage for all bonded indebtedness, cover all operating expenses of the CFD and fund any required reserves. The tax that has been computed by the special tax consultant is in compliance with both state law and the City's ordinance.

The following sections of this report outline the` general purposes of a CFD and also review the procedural steps that will need to be completed to form the CFD:

Establishment of Community Facilities District. Community Facilities Districts are formed under the Mello-Roos Community Facilities Act of 1982. The Act provides that cities, counties and special districts may form a “community facilities district”, over specifically defined areas within their jurisdiction. Once established the community facilities district becomes an entity through which the local government is authorized to levy special taxes and issue bonds if authorized by a two-thirds vote of the qualified electors of such a district.

Such districts offer considerable flexibility in terms of the type of improvements that can be financed, how parcels may be benefited by the improvements, tax structure and district composition. In this instance where the improvements generally benefit all of the parcels in the district a community facilities district is an efficient and effective financing mechanism. The parcels in the district become the ultimate security for any debt issued and a special tax is levied each year to pay the annual debt service.

CFD financing is often used to finance public improvements in both commercial and residential developments, such as Oliver East, in California. Some advantages and concerns to communities, developers and end users are as follows:

Interest paid on CFD bonds is non-taxable for Federal and State income tax purposes. This results in a lower interest rate than a “taxable” borrowing. This savings can be passed on to the buyers of the developed property.

In addition to a financial savings to the ultimate consumer, the community can enjoy some of the benefits of the development such as job creation, enhanced tax base and installation of public improvements sooner that might otherwise be realized. For example, if the developer were to obtain conventional financing, it would be necessary to access a different market. Consequently, factors outside the instant development might negatively influence the availability of funds, hence delaying the project.

On the other hand, there are some potential disadvantages to forming a CFD. The most significant disadvantage is the potential of default. That is, the parcel holders do not pay their assessments and hence funds are not available to pay the bondholders. The City would not be financially liable for the bond payments, but as the administrator of the CFD, would be involved in any remedial steps, such a foreclosure. The exact impact to the City is difficult to assess. However, the City’s guidelines are designed to insure that sufficient value is present in the project to pay bondholders if a default does occur.

Resolution Declaring Intention to Establish a Community Facilities District. One of the requirements for establishing a CFD is that Council adopt a resolution of intention. This resolution states that a community facilities district is proposed to be established.

In addition, Council must adopt a resolution declaring the need and intention to incur bonded indebtedness. It also sets out the maximum amount of debt that can be supported by the proposed community facilities district.

As part of the public hearing a Community Facilities District Report must be prepared. This report sets out a description of the facilities, proposed boundaries and estimated cost.

State law requires at least a 30-day notice period before a public hearing may be scheduled. During that hearing any property owner in the proposed community facilities district may protest the establishment of the district or the boundaries of the district. If the owners of more than one-half of the land in the proposed district protest, the proceedings must be discontinued for one year.

Appointment of Disclosure Counsel. One of the key documents that must be prepared for a public financing is the Official Statement. The Official Statement describes the financing and contains all significant information necessary to properly inform and protect potential investors. In land secured financings, such as the proposed CFD an independent "disclosure counsel" specializing in this area is generally selected to prepare the official statement.

Staff recommends that the firm of Lofton & Jennings be appointed as disclosure counsel for the proposed CFD. Staff is proposing Lofton & Jennings after reviewing several firms that specialize in bond disclosure law. This firm has an excellent reputation and is well known in the governmental finance community. Lofton and Jennings is a minority/woman-owned business located in San Francisco, California. Authorization language for the City Manager to execute a professional services contract for disclosure counsel services in connection with the proposed CFD is contained within the resolution declaring intention to establish a CFD.

Recommended by:

Perry H. Carter

Perry H. Carter, Finance and Internal Services Director

Approved by:

Jesús Armas

Jesús Armas, City Manager

Exhibits:
Resolution of Intention to Establish a Community Facilities District
Resolution of Intention to Incur Bonded Indebtedness

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

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

**Community Facilities District No. 1
(Eden Shores)**

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), Chapter 2.4 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code, this Council is authorized to establish a community facilities district and to act as the legislative body for such community facilities district; and

WHEREAS, this Council, having received indications of interest from the owners of the areas of land proposed to be included in a proposed community facilities district, desires to proceed with the establishment of a community facilities district in order to finance costs of public infrastructure necessary or incident to development in the City.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward:

Section 1. Authority. This Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act.

Section 2. Name of CFD. The name proposed for the community facilities district is the Community Facilities District No. 1 (Eden Shores) (the "CFD")

Section 3. Boundaries Described. The proposed boundaries of the CFD are as shown on the map of it on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to record, or cause to be recorded, said map of the boundaries of the CFD in the office of the County Recorder within fifteen days of the date of adoption of this Resolution, but in any event at least fifteen days prior to the public hearing specified in paragraph 10 below.

Section 4. Facilities. The type of public facilities proposed to be financed by the CFD and pursuant to the Act shall consist of those items listed as Facilities (the "Facilities") on Exhibit A hereto and hereby incorporated herein. The Council hereby finds a determines that the public interest will not be served by allowing the property owners in the CFD to enter into a contract in accordance with Section 53329.4(q) of the Act. Notwithstanding the foregoing, the Council, on

behalf of the CFD, may enter into one or more contracts directly with any of the property owners with respect to the construction and/or acquisition of any portion of the Facilities.

Section 5. Special Tax. Except to the extent that funds are otherwise available to the CFD to pay for the Facilities and/or the principal and interest as it becomes due on bonds issued by the City for the CFD to construct and/or acquire the Facilities, a special tax (the "Special Tax") sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the CFD, will be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes, or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and hereby incorporated herein.

This Council hereby finds that the provision of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD.

Section 6. Exempt Property. Except as may otherwise be provided by law or by the rate and method of apportionment of the Special Tax for the CFD, all lands owned by any public entity, including the United States, the State of California and the City, or any departments or political subdivision thereof, shall be omitted from the levy of the Special Tax. In the event that a portion of the property within the CFD shall become for any reason exempt, wholly or in part, from the levy of the Special Tax, this Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD which is not exempt in order to yield the required debt service payments and other annual expenses of the CFD, if any, subject to the provisions of the rate and method of apportionment of the Special Tax.

Section 7. Election. The levy of the Special Tax shall be subject to the approval of the qualified electors of the CFD at a special election. The proposed voting procedure shall be by mail or hand-delivered ballot among the landowners in the proposed CFD, with each owner having one vote for each acre or portion of an acre such owner owns in the CFD. The Council hereby determines that the Facilities are necessary to meet the increased demands placed upon local agencies as a result of the development occurring within the CFD.

Section 8. Special Tax Bonds. It is the intention of this Council, acting as the legislative body for the CFD, to cause bonds of the City to be issued for the CFD pursuant to the Act to finance in whole or in part the construction and/or acquisition of the Facilities. The bonds shall be in an aggregate principal amount not to exceed \$12,300,000, shall be issued in such series and bear interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds, and shall mature not to exceed 30 years from the date of the

issuance of thereof.

Section 9. CFD Report. The Finance Director, as the officer having charge and control of the Facilities in and for the CFD, or the designee of such official, is hereby directed to study said proposed Facilities and to make , or cause to be made, and file with the City Clerk a report in writing, (the "CFD Report") presenting the following:

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

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

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

Section 10. Public Hearing. Tuesday, July 9, 2002, at 8:00 p.m. or as soon as possible thereafter, in the City Council Chambers 777 "B" Street, Hayward, California be, and the same are hereby appointed and fixed as the time and place when and where this Council, a legislative body for the CFD, will conduct a public hearing on the establishment of the CFD and consider and finally determine whether the public interest, convenience and necessity require the formation of the CFD and the levy of the Special Tax.

Section 11. Notice of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the CFD. The publication shall be completed at least seven days before the date of the public hearing referenced in Section 10. The notice shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

Section 12. Appointment of Disclosure Counsel. The firm of Lofton & Jennings is appointed and employed to serve as Disclosure Counsel to the City in Connection with the issuance of the special tax bonds, and the City Manager is hereby authorized to negotiate and execute a contract with said firm on behalf of the City, in the form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

EXHIBIT A

City of Hayward
Community Facilities District No. 1
(Eden Shores)

Description of Facilities to be Financed by the CFD

The Facilities shown below are to be financed by the above-designated community facilities district (the "CFD") of the City of Hayward (the "City"). The Facilities shall include the attributable costs of engineering, design, planning, and coordination, together with the expenses related to the issuance and sale of any special tax bonds, including underwriters' discount, appraisals, reserve fund, capitalized interest, bond counsel, special tax consultant, bond and official statement printing and all other expenses incidental thereto. The Facilities shall be constructed pursuant to plans and specifications approved by the City and by the respective officials of the other public entities that will own any of the Facilities.

The Facilities consist of various public street improvements including landscaping and traffic signals, sanitary sewer and storm drain facilities, a public sports park, and such other public improvements as are authorized under the Act.

EXHIBIT B

COMMUNITY FACILITIES DISTRICT NO. 1 (EDEN SHORES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 1 (Eden Shores) (herein "CFD No. 1") shall be levied and collected according to the tax liability determined through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed into CFD No. 1 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. Definitions

The terms hereinafter set forth have the following meanings:

"Acre" or **"Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, or other recorded County parcel map.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, of Title 5 of the Government Code of the State of California.

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

"APN" means the Assessor's Parcel number assigned by the Alameda County assessor to designate an individual Parcel on an Assessor's Parcel Map.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Alameda designating Parcels by APN.

"Bonds" means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by the City for and on behalf of CFD No. 1 under the Act.

“City” means the City of Hayward.

“City Manager” means the City Manager of the City of Hayward or his/her designee.

“Council” means the City Council of the City of Hayward, acting as the legislative body of CFD No.1.

“Developed Property” means, in any Fiscal Year, all Taxable Property for which a construction building permit, in addition to a grading permit, was issued prior to January 1 of the previous Fiscal Year.

“Facilities” means the public improvements defined as Facilities in the Resolution of Intention.

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

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

“Owner Association Property” means any property within the boundaries of CFD No. 1 owned by a homeowner association or property owner association, including any master or sub-association.

“Proportionately” means, for Developed Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Undeveloped Property.

“Public Property” means any property within the boundaries of CFD No. 1 that is owned by the federal government, State of California, or other local governments or public agencies.

“Resolution of Intention” means the Resolution of Intention to Establish a Community Facilities District approved by the Council on April 9, 2002.

“Special Tax” means any special tax to be levied each Fiscal Year on Assessor’s Parcels of Taxable Property to fund the Special Tax Requirement. The Special Tax shall be applied to pay for debt service on outstanding Bonds or directly for the Facilities, including appurtenant expenses such as design, engineering, inspection, and financing costs.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to: (i) pay principal and interest on Bonds; (ii) create or replenish reserve funds; (iii) cure any delinquencies in the payment of principal or interest on Bonds that have occurred in the prior Fiscal Year or (based on delinquencies in the payment of Special Taxes that have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected; (iv) pay administrative expenses of the CFD; and (v) pay construction expenses to be funded directly from Special Tax proceeds.

“Square Foot,” “Square Footage,” or “Square Feet” means the square footage reflected on the original construction building permit issued for construction of a residential or non-residential building.

“Taxable Property” means all of the Assessors’ Parcels within the boundaries of CFD No. 1 that are not exempt from the Special Tax pursuant to law or Section E below.

“Undeveloped Property” means all Taxable Property in CFD No. 1 not classified as Developed Property.

B. Assignment to Land Use Categories

For each Fiscal Year, all Taxable Property within CFD No. 1 shall be classified as either Developed Property or Undeveloped Property and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. If a construction building permit has been issued for development of a structure on an Assessor’s Parcel in the CFD, and additional structures are anticipated to be built on the Parcel as shown on the approved site plan for such Parcel, a portion of the Acreage of the Assessor’s Parcel shall be taxed as Undeveloped Property if building permits for all of the structures in the approved site plan for the Assessor’s Parcel were **not** issued as of January 1 of the Fiscal Year prior to the Fiscal Year in which the Special Taxes are being levied. If the Acreage assigned to each building anticipated on the Assessor’s Parcel is not clearly delineated on a subdivision map, the Acreage of the portion of the Assessor’s Parcel to be taxed as Developed Property shall be equal to the structure’s pro rata share of the total Square Footage anticipated on the Assessor’s Parcel, as determined by the City, multiplied by the total Acreage of the Assessor’s Parcel. The remaining Acreage within the Assessor’s Parcel shall be taxed as Undeveloped Property. Determination of the amount of Developed Property and Undeveloped Property on an Assessor’s Parcel shall be at the sole discretion of the City Manager.

C. Maximum Special Tax

1. Maximum Special Tax, Developed Property

The Fiscal Year 2002-03 Maximum Special Tax for Developed Property in the CFD is \$11,130 per Acre. On each July 1, commencing July 1, 2003, the Maximum Special Tax for Developed Property for the Fiscal Year commencing such July 1 shall be increased by two percent (2%) of the respective Maximum Special Tax in effect in the previous Fiscal Year.

2. Maximum Special Tax, Undeveloped Property

The Fiscal Year 2002-03 Maximum Special Tax for Undeveloped Property in the CFD is \$11,130 per Acre. On each July 1, commencing July 1, 2003, the Maximum Special Tax for

Undeveloped Property for the Fiscal Year commencing such July 1 shall be increased by two percent (2%) of the respective Maximum Special Tax in effect in the previous Fiscal Year.

D. Method of Apportionment of the Special Tax

Commencing with Fiscal Year 2002-03 and for each following Fiscal Year, the City Manager shall determine the Special Tax Requirement to be collected from Taxable Property in CFD No. 1 in the Fiscal Year. The Special Tax shall then be levied as follows:

- First:** The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property that is neither Owner Association Property nor Public Property up to 100% of the Maximum Special Tax for Developed Property, as determined by reference to Section C.1 above;
- Second:** If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first step has been applied, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property that is neither Owner Association Property nor Public Property up to 100% of the Maximum Special Tax for Undeveloped Property, as determined by reference to Section C.2 above;
- Third:** If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Owner Association Property, using the Maximum Special Tax rate for Undeveloped Property, as determined by the second step above; and
- Fourth:** If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first three steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Public Property that is Taxable Property, using the Maximum Special Tax rate for Undeveloped Property, as determined by the second step above.

E. Limitations

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Taxes shall be levied on land that is within the definition of Public Property. As provided in Sections 53317.3 and 53317.5 of the Act, land that subsequently becomes Public Property will continue to be subject to Special Taxes on the terms and in the priorities set forth in Section D above, except that sports park property will not be subject to Special Taxes once it becomes owned by the City (designated as Lot A on the boundary map for CFD No. 1). In any event, no Special Taxes shall be levied on Owner Association Property or Public Property unless it is necessary to satisfy the Special Tax Requirement pursuant to Section D above.

F. Appeals

Any taxpayer that believes that the amount of the Special Tax has been incorrectly calculated may file a written notice with the City Manager appealing the Special Tax. Any such notice of appeal must be filed by January 1 of the Fiscal Year for which the Special Tax in question has been levied. The City Manager will then promptly review all such timely-filed appeals, and at the City Manager's discretion, meet with the appellant. If the City Manager determines that the Special Tax should be modified, the Special Tax shall be corrected and, if applicable, a refund for Special Taxes paid shall be granted.

G. Manner of Collection

The Special Taxes will be collected in the same manner and at the same time as ordinary ad valorem property taxes; provided, however, that prepayments are permitted as set forth in Section H below and provided further that the City Manager may directly bill the Special Taxes and may collect Special Taxes at a different time or in a different manner as set forth in the proceedings for the formation of CFD No. 1.

H. Prepayment of Special Tax

The following definitions apply to this Section H:

"Future Facilities Costs" means the Public Facilities Costs minus any costs funded by Outstanding Bonds, developer equity, and/or any other source of funding.

"Outstanding Bonds" means all Previously Issued Bonds that remain outstanding, with the following exception: if a Special Tax has been levied against or already paid by an Assessor's Parcel making a prepayment, and the Special will be used to pay a portion of the next principal payment on the Bonds that remain outstanding (as determined by the City Manager), that next principal payment shall not be included in the amount of Outstanding Bonds for purposes of this prepayment formula.

"Prepayment Date" means the first business day that is: (i) at least 30 days after the City's receipt of a complete signed and written notice of intent to prepay from the property owner; and (ii) at least 75 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

"Previously Issued Bonds" means all Bonds that have been issued by or on behalf of CFD No. 1 prior to the date of prepayment.

"Public Facilities Costs" means \$10,084,000 in 2002 dollars, which shall increase by three percent (3%) on January 1, 2003, and on each January 1 thereafter.

The entire Special Tax obligation applicable to each Assessor's Parcel in CFD No. 1 may be prepaid and the obligation of the Assessor's Parcel to pay the Special Tax permanently satisfied as described herein, provided that a prepayment may be made only if there are no delinquent Special Taxes at the time of prepayment with respect to such Assessor's Parcel or any other Assessor's Parcel in CFD No. 1 owned or partially owned by the owner or partial owner of the subject Assessor's Parcel, and the owner requesting prepayment provides a written guarantee to the City that there are no such delinquencies. Anyone intending to prepay the Special Tax obligation of an Assessor's Parcel shall provide the City with (i) written notice of intent to prepay, (ii) payment of fees established by the City to process the prepayment request, and (iii) a written guarantee that there are no delinquent Special Taxes or property taxes against the Parcel or any other Parcel in CFD No. 1 owned or partially owned by the owner or partial owner of the subject Parcel. Within a reasonable time frame (as determined by the City), the City shall notify such owner of the prepayment amount for such Assessor's Parcel.

The Prepayment Amount shall be calculated as follows (capitalized terms are defined below):

	Bond Redemption Amount	(Step 3)
plus:	Future Facilities Amount	(Step 5)
plus:	Redemption Premium	(Step 6)
plus:	Defeasance	(Step 9)
plus:	Administrative Fees and Expenses	(Step 10)
less:	<u>Reserve Fund Credit</u>	(Step 11)
equals:	Prepayment Amount	(Step 12)

As of the Prepayment Date, the City shall calculate the Prepayment Amount by applying the following steps:

Step Number:

1. Compute the Maximum Special Tax that could be collected from the specified Assessor's Parcel in the Fiscal Year of the Prepayment Date.
2. Divide the Maximum Special Tax computed pursuant to Step 1 for the specified Assessor's Parcel by the Maximum Special Taxes that can be collected within the entire CFD in the Fiscal Year of the Prepayment Date.
3. Multiply the quotient computed pursuant to Step 2 by the Outstanding Bonds to determine the amount of Outstanding Bonds to be retired and prepaid (the "**Bond Redemption Amount**").
4. Compute the current Future Facilities Costs (if any).

5. Multiply the quotient computed pursuant to Step 2 by the amount determined pursuant to Step 4 to determine the amount of Future Facilities Costs to be prepaid (the “**Future Facilities Amount**”).
6. Multiply the Bond Redemption Amount computed pursuant to Step 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the “**Redemption Premium**”).
7. Compute the amount needed to pay interest on the Bond Redemption Amount from the last interest payment date on the Outstanding Bonds to be redeemed until the earliest redemption date for the Outstanding Bonds to be redeemed.
8. Compute the amount the City reasonably expects to derive from the reinvestment of the Bond Redemption Amount plus the Redemption Premium until the redemption date for the Outstanding Bonds that the City expects to redeem with the prepayment.
9. Subtract the amount computed pursuant to Step 8 from the amount computed pursuant to Step 7 (the “**Defeasance**”).
10. The administrative fees and expenses of CFD No. 1 are as calculated by the City and include the costs of computing the prepayment, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the “**Administrative Fees and Expenses**”).
11. A reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “**Reserve Fund Credit**”).
12. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to Steps 3, 5, 6, 9, and 10, less the amount computed pursuant to Step 11 (the “**Prepayment Amount**”).

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HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

**RESOLUTION OF INTENTION TO INCUR BONDED
INDEBTEDNESS**

**Community Facilities District No. 1
(Eden Shores)**

WHEREAS, the Council has this date adopted its Resolution of Intention to Establish a Community Facilities District, stating its intention to form the Community Facilities District No.1 (Eden Shores) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.4 of Part 1 of Division 2 of Title 5 of the California Government Code (the "Act"), for the purpose of financing certain public improvements (the "Facilities") as further provided in that Resolution: and

WHEREAS, this Council estimates the amount required for the financing of the costs of the Facilities to be the sum of not to exceed \$12,300,000; and

WHEREAS, in order to finance the costs of the Facilities it is necessary to incur bonded indebtedness in the amount of not to exceed \$12,300,000 on behalf of the CFD.

NOW, THEREFORE, BE IT RESOLVED:

Section 1. Bonded Debt. It is necessary to incur bonded indebtedness within the boundaries of the proposed CFD in the amount of up to \$12,300,000 to the costs of the Facilities.

Section 2. Purposes of Bonded Debt. The bonded indebtedness is proposed to be incurred for the purpose of financing the costs of the Facilities, including acquisition and improvement costs and all costs incidental to or connected with the accomplishment of said purposes and of the financing thereof, as permitted by Section 53345.3 of the Act.

Section 3. Terms of Bonds. This Council, acting as legislative body for the CFD intends to authorize the issuance and sale of bonds in the maximum aggregate principal amount of not to exceed \$12,300,000, bearing interest payable semi-annually or in such other manner as this Council shall determine, at a rate not to exceed the maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds, and maturing not to exceed 30 years from the date of the issuance of said bonds.

Section 4. Public Hearing. Tuesday, July 9, 2002, at 8:00 p.m., or as soon as possible thereafter, in the City Council Chambers, 777 B" Street, Hayward, California be, and the same are hereby appointed and fixed as the time and place when and where this Council, as legislative body for the District, will conduct a public hearing on the proposed debt issue and consider and finally determine whether the public interest, convenience and necessity require the issuance of bonds of the City on behalf of the CFD.

Section 5. Notice of Hearing. The City Clerk is hereby directed to cause notice of said public hearing to be given by publication one time in a newspaper of general circulation circulated within the CFD. The publication of said notice shall be completed at least seven (7) days before the date herein set for said public hearing. The notice shall be substantially in the form specified in Section 53322 of the Act, with the form summarizing the provisions hereof hereby specifically approved.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2002

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS;

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward