



CITY OF
HAYWARD
HEART OF THE BAY

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DATE: June 2, 2009
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance of the City of Hayward Levying Special Tax within Community Facilities District – Community Facilities District No. 2 (Cannery Place Public Services)

RECOMMENDATION

That the City Council adopts the attached Ordinance.

BACKGROUND

The ordinance was introduced by Council Member Zermefio at the May 26, 2009, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermefio, Quirk, Halliday, May, Dowling, Henson
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The ordinance was published in the Hayward Daily Review on Saturday, May 30, 2009. Adoption at this time is therefore appropriate.

Recommended by:

Miriam Lens, City Clerk

Approved by:

Gregory T. Jones, City Manager

Attachment: Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD

**ORDINANCE OF THE CITY OF HAYWARD LEVYING SPECIAL TAX WITHIN
COMMUNITY FACILITIES DISTRICT**

CITY OF HAYWARD
Community Facilities District No. 2
(Cannery Place Public Services)

WHEREAS, on April 21, 2009, the City Council (the "Council") of the City of Hayward (the "City") adopted a resolution entitled "Resolution of Intention to Establish Community Facilities District" (the "Resolution of Intention"), and has conducted proceedings (the "Proceedings") to establish "City of Hayward Community Facilities District No. 2 (Cannery Place Public Services)" (the "CFD") and a future annexation area (the "Future Annexation Area") pursuant to the Mello-Roos Community Facilities Act, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act") to finance certain public services (the "Services) as provided in the Act;

WHEREAS, pursuant to notice as specified in the Act, and as part of the Proceedings, the Council has held a public hearing under the Act relative to the determination to proceed with the formation of the CFD and the Future Annexation Area and the rate and method of apportionment of the special tax ("Special Tax") to be levied within the CFD to finance the Services, and at such hearing all persons desiring to be heard on all matters pertaining to the formation of the CFD and the Future Annexation Area and the levy of the Special Tax were heard, substantial evidence was presented and considered by this Council and a full and fair hearing was held;

WHEREAS, upon the conclusion of the hearing, this Council adopted its "Resolution of Formation of Community Facilities District" (the "Resolution of Formation), pursuant to which it completed the Proceedings for the establishment of the CFD and the Future Annexation Area, the authorization of the levy of the Special Tax within the CFD and the calling of an election within the CFD on the propositions of levying the Special Tax and establishing an appropriations limit within the CFD, respectively; and

WHEREAS, on May 26, 2009, a special election was held among the landowner voters within the CFD at which such voters approved such propositions by the two-thirds vote required by the Act, which approval has been confirmed by resolution of this Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAYWARD as follows:

Section 1. By the passage of this Ordinance, the Council hereby authorizes and levies the Special Tax within the CFD pursuant to the Act, at the rate and in accordance with the rate and method of apportionment of Special Tax set forth in the Resolution of Formation which rate and method is by this reference incorporated herein. The Special Tax is hereby levied commencing in fiscal year 2009-10, and in each fiscal year thereafter to pay for the Services for the CFD, as

contemplated by the Resolution of Formation and the Proceedings and all costs of administering the CFD.

Section 2. The City Manager or designee, or an employee or consultant of the City, is hereby authorized and directed each fiscal year to determine the specific Special Tax to be levied for the next ensuing fiscal year for each parcel of real property within the CFD, in the manner and as provided in the Resolution of Formation.

Section 3. Exemptions from the levy of the Special Tax shall be as provided in the Resolution of Formation and the applicable provisions of the Act. In no event shall the Special Tax be levied on any parcel within the CFD in excess of the maximum Special Tax specified in the Resolution of Formation.

Section 4. All of the collections of the Special Tax shall be used as provided in the Act and in the Resolution of Formation, including, but not limited to, the payment of costs of the Services, the payment of the costs of the City in administering the CFD, and the costs of collecting and administering the Special Tax.

Section 5. The Special Tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that the Council may provide for other appropriate methods of collection by resolution(s) of the Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent Special Tax payments. The City Manager (or its designee) is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of Alameda in order to effect proper billing and collection of the Special Tax, so that the Special Tax shall be included on the secured property tax roll of the County of Alameda for fiscal year 2009-10 and for each fiscal year thereafter until no longer required to pay for the Services or until otherwise terminated by the City.

Section 6. If for any reason any portion of this ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this ordinance and the application of the Special Tax to the remaining parcels within the CFD shall not be affected.

Section 7. The Mayor shall sign this Ordinance and the City Clerk shall cause the same to be published immediately after its passage at least once in a newspaper of general circulation circulated in the City.

Section 8. This Ordinance shall take effect 30 days from the date of final passage.

Introduced at a meeting of the Hayward City Council held May 26, 2009, the above-entitled ordinance was introduced by Council Member Zermefio.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on June 2, 2009, at 8:00 p.m., in the Council Chamber, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: May 30, 2009

Miriam Lens, City Clerk
City of Hayward