

CITY COUNCIL  
CITY OF ENCINITAS

RESOLUTION NO. 95-75

**A RESOLUTION OF INTENTION TO ESTABLISH A COMMUNITY FACILITIES DISTRICT  
AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES PURSUANT TO THE MELLO-  
ROOS COMMUNITY FACILITIES ACT OF 1982**

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

WHEREAS, this City Council has received petitions by the owners of the land within the proposed Encinitas Ranch development requesting the formation of a community facilities district to finance public facilities necessary or incident to such development; and

WHEREAS, this City Council now desires to proceed with the establishment of a community facilities district under the Act in order to finance such public facilities as contemplated by the development agreement for the Encinitas Ranch project to which the City is a party.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENCINITAS AS FOLLOWS:

1. This City Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act.
2. The name proposed for the community facilities district (the "District") is City of Encinitas Community Facilities District No. 1 (Encinitas Ranch Public Improvements).
3. The proposed boundaries of the District are as shown on the map of the District 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 District 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 referred to in paragraph 10 below.
4. The type of public facilities proposed to be financed by the District and pursuant to the Act shall consist of those items listed as facilities on Exhibit A hereto and by this reference incorporated herein (the "Facilities"). The City Council hereby finds and determines that the public interest will not be served by allowing the property owners in the District to enter into a contract in accordance with Section 53329.5(a) of the Act; however the District may enter into one or more contracts directly with any of the property owners with respect to the construction and/or operation of the Facilities.

The City Manager is hereby authorized and directed to enter into joint community facilities agreements with any entity that will own or operate any of the Facilities, as determined by bond counsel to be necessary to comply with the provisions of Section

53316.2(a) and (b) of the Act. The City Council hereby declares that such joint agreements will be beneficial to residents in the area of the District.

5. Except to the extent that funds are otherwise available to the District to pay for the Facilities and/or the principal and interest as it becomes due on bonds of the District issued to acquire the Facilities, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the District, will be levied annually within the District; and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as this City 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 District and the interests in those parcels, in sufficient detail to allow each landowner within the proposed District to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and by this reference incorporated herein.

This City Council hereby finds that the provisions 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 District.

6. It is the intention of this City Council acting as the legislative body for the District to cause bonds of the City to be issued for the District pursuant to the Act to finance in whole or in part the Facilities. Said bonds shall be in the aggregate principal amount of not to exceed \$40,000,000, shall bear interest payable semi-annually or in such other manner as this City 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 40 years from the date of the issuance thereof.

7. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in said proposed District, with each owner having one vote for each acre or portion of an acre such owner owns in the District.

8. Except as may otherwise be provided by law or by the rate and method of apportionment of the special taxes for the District, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the special tax to be made to cover the costs and expenses of the Facilities and the District. In the event that a portion of the property within the District shall become for any reason exempt, wholly or in part, from the levy of the special tax described in Exhibit B, this City Council will, on behalf of the District, increase the levy to the extent necessary upon the remaining property within the District which is not exempt in order to yield the required debt service payments and other annual expenses of the District, if any, subject to the provisions of the rate and method of apportionment of the special taxes for the District.

9. The Director of Engineering Services of the City, as the officer having charge and control of the Facilities in and for the District, or his designee, 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, presenting the following:

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

(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.

Said report shall be made a part of the record of the public hearing provided for below.

10. Wednesday, August 23, 1995, at 6:00 p.m., in the City Council Chambers, 505 South Vulcan Avenue, Encinitas, California, be, and the same are hereby appointed and fixed as the time and place when and where this City Council, as legislative body for the District, will conduct a public hearing on the establishment of the District and consider and finally determine whether the public interest, convenience and necessity require the formation of the District and the levy of said special tax.

11. The City Clerk is hereby directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District. The publication of said notice shall be completed at least seven days before the date herein set for said hearing. Said notice shall be substantially in the form of Exhibit C hereto.

12. The City proposes to repay certain landowners within the District, solely from the proceeds of bonds of the City issued for the District, funds advanced by such landowners to pay costs of the City to form the District.

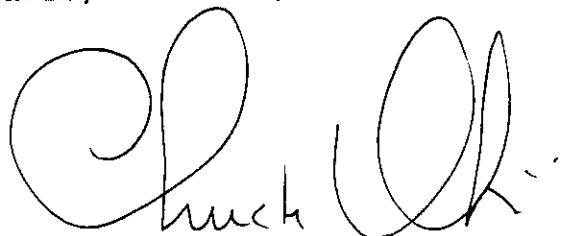
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PASSED AND ADOPTED at the regular meeting of the City Council of the City of Encinitas, State of California, on this 12th day of July, 1995, by the following vote to wit:

AYES: Aspell, Bond, Davis, DuVivier, Hano

NOES: None

ABSENT: None



Mayor of the City of Encinitas

ATTEST:

  
City Clerk of the City of Encinitas

15032-03-11720  
06/23/95

## EXHIBIT A

CITY OF ENCINITAS  
COMMUNITY FACILITIES DISTRICT NO. 1  
(ENCINITAS RANCH PUBLIC IMPROVEMENTS)

## DESCRIPTION OF FACILITIES TO BE FINANCED BY THE DISTRICT

## FACILITIES

1. A multiple lane roadway connecting Leucadia Boulevard from its existing eastern terminus to an intersection with Olivenhain Road at El Camino Real, together with grade separated bridges and/or crossings for wildlife, pedestrian, and drainage purposes.
2. Improvements to Leucadia Boulevard from its existing terminus at the westerly edge of the Encinitas Ranch to the Interstate 5 interchange.
3. Improvements to the Interstate 5 interchange at Leucadia Boulevard to provide for adequate movement, including bridge widening, ramp, pedestrian and other improvements.
4. Improvements to El Camino Real north of the intersection of Garden View and El Camino Real.
5. A multiple lane roadway from the existing terminus of Via Cantabria to the southerly Carlsbad City boundary in the area west of El Camino Real.
6. A multiple lane roadway from the existing terminus of Garden View Road and El Camino Real to an intersection with the extension of Leucadia Boulevard and/or an extension of Via Cantabria.
7. Improvements to and new construction of a multiple land roadway from the existing terminus of Quail Gardens Drive at the southerly boundary of the Encinitas Ranch to an intersection at the north with Quail Hollow Drive.
8. Portions of road improvements for widening of Olivenhain Road east of El Camino Real, Encinitas Boulevard at Saxony Road and the intersection of El Camino Real and La Costa Boulevard.
9. A multiple lane roadway extending from the existing intersection of Woodley Road and El Camino Real to an intersection with the extension of Garden View Drive.
10. Improvements of Saxony Road bounded on the east and west by the Encinitas Ranch.
11. A street from an intersection on Saxony Road to an intersection with Quail Gardens Drive traversing the Encinitas Ranch property.
12. A drainage channel with biological mitigation, desiltation, and decontamination facilities, together with related pedestrian and other improvements located west of El Camino Real and north of the existing terminus of Garden View Road and El Camino Real and south of the City boundary with El Camino.

13. A public park, including recreational fields and related parking, service and restroom facilities in the area west of El Camino Real, together with associated permanent fixtures for the recreational fields.
14. The acquisition of Indian Head Canyon, an approximately 50 acre parcel located east of Saxony Road and south of Quail Hollow Drive.
15. Relocation of a fire station.
16. Revegetated and undisturbed natural vegetation including acquisition of conservation easements, fee ownership or otherwise consistent with the environmental mitigation set forth in the Certified Environmental Impact Report for the Encinitas Ranch Specific Plan, within or in the vicinity of the CFD.
17. Construction of a performing arts center, library and/or a community center, including acquisition, installation and equipping thereof and all appurtenances related thereto.
18. Construction of an 18 hole municipal golf course in the vicinity of the CFD.
19. All wet and dry utilities within the CFD or otherwise serving the property within the CFD, including potable and reclaimed water lines and facilities, sewer and storm drainage lines and facilities, and electrical, natural gas and communications lines and facilities, and all equipment and appurtenances related to any of the foregoing.

All road and road improvements may include any landscaping, right of way acquisitions, intersection improvements, widening, paving and/or repaving, striping, and/or restriping, pedestrian sidewalks or other related improvements or appurtenances, and wildlife and utilities (wet and dry) located within the right of way.

The Facilities shall include the attributable costs of engineering, design, planning, construction staking, materials testing and coordination. The Facilities shall be constructed, whether or not acquired in their completed states, pursuant to plans and specifications approved by the City (other governmental entity that will own and operate the same).

#### OTHER

Bond related expenses, including underwriters discount, appraisals, reserve fund, capitalized interest, bond counsel, special tax consultant, bond and official statement printing and all other incidental expenses.

Administrative fees of the City, the CFD and the Bond trustee or fiscal agent related to the CFD and the Bonds.

**EXHIBIT B**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES  
FOR CITY OF ENCINITAS  
COMMUNITY FACILITIES DISTRICT NO. 1  
(ENCINITAS RANCH PUBLIC IMPROVEMENTS)**

A special tax shall be levied on and collected in the City of Encinitas Community Facilities District No. 1 (Encinitas Ranch Public Improvements)("CFD No. 1") each Fiscal Year, in an amount determined through the application of the rate and method of apportionment described below. All of the property in CFD No. 1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

**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, condominium plan, or other recorded parcel map.

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules; the costs of collecting the Special Taxes; the costs of remitting the Special Taxes to the Fiscal Agent; the costs of the Fiscal Agent (including its legal counsel) in the discharge of the duties required of it under the Fiscal Agent Agreement; the costs of the City or its designee of complying with disclosure requirements of applicable federal and state securities laws and of the Act, including public inquiries regarding the Special Taxes; the costs of the City or its designee related to any appeal or legal action related to the Special Taxes; costs associated with the release of funds from an escrow account; and an allocable share of the salaries of the City staff and City overhead directly related to the foregoing. Administrative Expenses shall also include amounts advanced by the City for any other administrative purposes of the CFD No. 1, including the costs related to the prepayment of Special Taxes, recordings related to such prepayment and satisfaction of Special Taxes, and the costs of pursuing foreclosure in respect of delinquent Special Taxes.

"Agricultural Property" means a total of 130 acres, comprised of portions of Assessor's Parcels 254-200-34, 255-011-07, 257-010-34, 257-010-36, 257-010-37, 257-020-02, 257-030-28, 257-040-23, and 257-040-24, as indicated in the table below. The remaining Acreage of such Assessor's Parcels shall be classified as Undeveloped Property. If these Assessor's Parcels cease to exist or if a change in land use occurs, then the landowner

which is a party to that certain Development Agreement dated as of September 28, 1994, and recorded in the Official Records of the County of San Diego as Document No. 1994-0713667, or its successor in interest thereunder, shall provide to the City a list of Assessor's Parcels then in agricultural use and the City Manager shall designate up to 130 acres of Agricultural Property from the Assessor's Parcels on such list. If the total Acreage of the Assessor's Parcel(s) designated as Agricultural Property exceeds 130 acres, then the City Manager shall identify the portion of each Assessor's Parcel that is Agricultural Property, as well as the classification and acreage for the remainder of each Assessor's Parcel. Under no circumstances will more than 130 acres be classified as Agricultural Property. If the City Manager has not been provided with the updated list of Assessor's Parcels in agricultural use by July 1 of each Fiscal Year then the City shall ascertain which Assessor's Parcels are currently in agricultural use and the City Manager shall make the designation as described above.

Assessor's Parcel	Acres of Agricultural Property
254-200-34	6.60
255-011-07	3.60
257-010-34	22.40
257-010-36	3.20
257-010-37	18.50
257-020-02	32.40
257-030-28	35.80
257-040-23	3.90
257-040-24	3.60
<b>Total</b>	<b>130.00</b>

"Apartment Property" means all Assessor's Parcels of Residential Property for which a building permit has been issued for building a structure comprised of attached residential units, all of which are made available for rental, but not purchase, by the general public, exclusive of Congregate Care Property.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

**"Assessor's Parcel Map"** means an official map of the County Assessor of the County of San Diego designating parcels by Assessor's Parcel number.

**"Assigned Special Tax"** means the Special Tax for each Land Use Class, as determined by reference to Table 1 of Section C below.

**"Backup Special Tax"** means the Special Tax applicable to each Assessor's Parcel of Developed Property as determined in accordance with Section C below.

**"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 CFD No. 1 under the Act.

**"Building Square Footage"** means, for any Assessor's Parcel of Residential Property, the square footage of living area listed on the building permit(s) issued for such Assessor's Parcel, exclusive of garages or other structures which are not used as living spaces.

**"City"** means the City of Encinitas.

**"City Manager"** means the City Manager of the City or his/her designee.

**"Commercial Property"** means all Assessor's Parcels of Non-Residential Property other than Hotel Property and Regional Commercial Center Property.

**"Congregate Care Property"** means all Assessor's Parcels of Residential Property, for which a building permit has been issued for building a structure comprised of attached residential units designed for elderly living, and that may include functionally related and contiguous dining facilities, medical facilities, and recreational facilities.

**"Council"** means the City Council of the City of Encinitas, acting as the legislative body of CFD No. 1.

**"County"** means the County of San Diego.

**"Developed Property"** means, for any Fiscal Year, all Assessor's Parcels of Taxable Property for which a building permit has been issued as of March 1 of the prior Fiscal Year, exclusive of Agricultural Property and Taxable Property Owner Association Property.

**"Expected Special Tax"** means the Special Tax that is only applicable to Assessor's Parcels containing both Apartment Property and Commercial Property and that is calculated pursuant to Section C.d.



**"Fiscal Agent"** means the entity acting as Fiscal Agent under the Fiscal Agent Agreement.

**"Fiscal Agent Agreement"** means the agreement by that name between the City and the Fiscal Agent pursuant to which the Bonds are issued, including any amendment thereof or supplement thereto.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"Gross Floor Area"** means the covered and enclosed space determined to be within the perimeter of a non-residential structure, not including any storage areas incidental to the principal use of the development, garage, parking structure, unenclosed walkway, or utility or disposal area. The amount of chargeable covered and enclosed space within the perimeter of a commercial or industrial structure shall be based on the building permit issued for the structure.

**"Hotel Property"** means all Assessor's Parcels of Non-Residential Property for which a building permit was issued for building a structure that constitutes a place of lodging providing sleeping accommodations and related facilities for travelers. Any ancillary uses on the same Assessor's Parcel, such as retail, shall be considered Hotel Property.

**"Inflation Index"** means the annual percentage change in the Engineering News-Record Building Cost Index for the City of Los Angeles, measured as of the calendar year ending in the previous Fiscal Year. In the event this index ceases to be published, the Inflation Index shall be another index as determined by the City Manager that is reasonably comparable to the Engineering News-Record Building Cost Index for the City of Los Angeles.

**"Initial Assigned Special Tax"** means the Assigned Special Tax for an Assessor's Parcel for the first Fiscal Year following its designation as Developed Property.

**"Land Use Class"** means any of the classes listed in Table 1 below.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C, that can be levied by CFD No. 1 in any Fiscal Year for Undeveloped Property, each Land Use Class of Developed Property, Agricultural Property, and Taxable Property Owner Association Property, as applicable.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which the building permit was issued for purposes of constructing a non-residential structure(s), including Commercial Property, Hotel Property, and Regional Commercial Center Property.

**"Open Space Property"** means, for any Fiscal Year, any Assessor's Parcel, or portion of an Assessor's Parcel, designated as open space on the current Assessor's Parcel Map.

**"Property Owner Association Property"** means, for any Fiscal Year, all Assessor's Parcels within the boundaries of CFD No. 1 owned by a property owner association as of March 1 of the prior Fiscal Year.

**"Public Property"** means any property within the boundaries of CFD No. 1 that is owned by the federal government, State of California or other governmental agency, or that is designated as Open Space Property.

**"Regional Commercial Center Property"** means all Assessor's Parcels of Non-Residential Property designated as ER-C (Regional Commercial Center) in the Encinitas Ranch Specific Plan.

**"Residential Property"** means all Assessor's Parcels of Developed Property for which the building permit was issued for purposes of constructing a residential dwelling unit(s), including Apartment Property, Congregate Care Property, Single Family Attached Property, and Single Family Detached Property.

**"Single Family Attached Property"** means all Assessor's Parcels of Residential Property, other than Apartment Property and Congregate Care Property, for which a building permit has been issued for purposes of constructing a residential structure made up of two or more units that share common walls.

**"Single Family Detached Property"** means all Assessor's Parcels of Residential Property for which a building permit has been issued for purposes of constructing a detached residential dwelling unit.

**"Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property, Agricultural Property, Undeveloped Property, and Taxable Property Owner Association Property to fund the Special Tax Requirement.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for CFD No. 1 to: (1) pay debt service on all outstanding Bonds of CFD No. 1, or other periodic costs on the Bonds, (2) pay the Administrative Expenses, (3) accumulate funds to pay directly for authorized facilities to the extent that doing so does not cause the Special Tax to be levied on any Assessor's Parcel of Undeveloped Property to increase by more than \$100 per acre over the Special Tax that would have been levied if no funds were accumulated to pay directly for authorized facilities, (4) pay costs associated with the release of funds from an escrow account if any, (5) pay any amounts required to establish or replenish any reserve funds for any outstanding Bonds for CFD No. 1, (6) pay any amounts determined by the City Manager necessary to make rebate payments to the

federal government, and (7) pay for anticipated delinquent special taxes (such delinquent special taxes shall be estimated based on the delinquency rate in the CFD for the previous Fiscal Year.)

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 1 which are not exempt from the Special Tax pursuant to law or Section E below.

"Taxable Property Owner Association Property" means all Assessor's Parcels of Property Owner Association Property which has not been exempted pursuant to Section E.

"Undeveloped Property" means, for any Fiscal Year, all Assessor's Parcels of Taxable Property not classified as Developed Property, Agricultural Property or Taxable Property Owner Association Property as of March 1 of the prior Fiscal Year.

**B. ASSIGNMENT TO LAND USE CATEGORIES**

For each Fiscal Year, all Taxable Property within CFD No. 1 shall be classified as Developed Property, Agricultural Property, Undeveloped Property, or Taxable Property Owner Association Property, and shall be subject to the Special Tax in accordance with the rate and method of apportionment determined pursuant to Sections C and D below.

For purposes of determining the applicable Assigned Special Tax for each Assessor's Parcel of Developed Property, all Developed Property shall be assigned to one of the Land Use Classes designated in Table 1 below. Single Family Detached Property shall be assigned to Land Use Classes 1 through 12 based on Building Square Footage. Single Family Attached Property shall be assigned to Land Use Classes 13 through 17 based on Building Square Footage. Apartment units shall be assigned to Land Use Class 18. Congregate Care Property shall be assigned to Land Use Class 19. Hotel Property shall be assigned to Land Use Class 20. Commercial Property shall be assigned to Land Use Class 21. Regional Commercial Center Property shall be assigned to Land Use Class 22.

**C. MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

**a. Maximum Special Tax**

The Maximum Special Tax for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Backup Special Tax or (ii) the amount derived by application of the Assigned Special Tax.

b. Initial Assigned Special Taxes

The Fiscal Year 1995-96 Initial Assigned Special Tax for each Land Use Class is shown below in Table 1.

**TABLE 1**

**Initial Assigned Special Taxes for Developed Property in  
Community Facilities District No. 1 (Fiscal Year 1995-96)**

Land Use Class	Description	Building Square Footage	FY 1995-96 Assigned Special Tax
1	Single Family Detached Property	≥ 3,650 sq. ft.	\$3,574.43 per unit
2	Single Family Detached Property	3,350 - 3,649 sq. ft.	\$2,839.98 per unit
3	Single Family Detached Property	3,200 - 3,349 sq. ft.	\$2,735.30 per unit
4	Single Family Detached Property	3,050 - 3,199 sq. ft.	\$2,628.91 per unit
5	Single Family Detached Property	2,900 - 3,049 sq. ft.	\$2,393.82 per unit
6	Single Family Detached Property	2,750 - 2,899 sq. ft.	\$2,157.01 per unit
7	Single Family Detached Property	2,450 - 2,749 sq. ft.	\$2,047.19 per unit
8	Single Family Detached Property	2,150 - 2,449 sq. ft.	\$1,937.36 per unit
9	Single Family Detached Property	1,850 - 2,149 sq. ft.	\$1,827.54 per unit
10	Single Family Detached Property	1,550 - 1,849 sq. ft.	\$1,716.00 per unit
11	Single Family Detached Property	1,250 - 1,549 sq. ft.	\$1,547.83 per unit
12	Single Family Detached Property	< 1,250 sq. ft.	\$1,458.60 per unit
13	Single Family Attached Property	≥ 2,150 sq ft.	\$2,208.49 per unit
14	Single Family Attached Property	1,850 - 2,149 sq. ft.	\$1,999.14 per unit
15	Single Family Attached Property	1,550 - 1,849 sq. ft.	\$1,158.30 per unit
16	Single Family Attached Property	1,250 - 1,549 sq. ft.	\$1,046.76 per unit
17	Single Family Attached Property	< 1,250 sq. ft.	\$935.22 per unit
18	Apartment Property	NA	\$823.68 per unit
19	Congregate Care Property	NA	\$823.68 per room

Land Use Class	Description	Building Square Footage	FY 1995-96 Assigned Special Tax
20	Hotel Property	NA	\$823.68 per room
21	Commercial Property	NA	\$4,787.64 per acre
22	Regional Commercial Center Property	NA	\$2,442.44 per acre

c. Increases in the Initial Assigned Special Tax

The Initial Assigned Special Tax in Table 1 shall be applicable for Fiscal Year 1995-96, and shall increase thereafter, commencing on July 1, 1996, and on each July 1 up to and including July 1, 2000, according to the Inflation Index, with a maximum annual increase of four percent (4.00%) and a minimum annual increase of two percent (2.00%). The increase in the Assigned Special Tax for Assessor's Parcels of Developed Property shall be two percent (2.00%) per year.

Beginning July 1, 2001 and on each July 1 thereafter, the Initial Assigned Special Tax and the Assigned Special Tax for Assessor's Parcels of Developed Property shall be increased by two percent (2.00%) per year.

Notwithstanding the above, on July 1, 2004, the Initial Assigned Special Tax and the Assigned Special Tax for Regional Commercial Center Property shall be increased to \$5,400 per acre, and shall be increased by two percent (2.00%) on each July 1, thereafter.

d. Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain both Apartment Property and Commercial Property. The Assigned Special Tax for such an Assessor's Parcel shall be the summation of the Assigned Special Taxes for both the Apartment Property and Commercial Property located on that Assessor's Parcel. In making this calculation, the Assigned Special Tax allocated to Commercial Property shall equal the Acreage of the Assessor's Parcel times the Assigned Special Tax per acre of Commercial Property.

The Expected Special Tax for an Assessor's Parcel containing both Apartment Property and Commercial Property shall be the summation of

the Assigned Special Taxes for the Apartment Property and the Assigned Special Tax per acre of Commercial Property times the acreage of the portion of the Assessor's Parcel allocated to Commercial Property. For purposes of computing the Expected Special Tax, the acreage of the portion of the Assessor's Parcel allocated to Commercial Property shall be determined based on the ratio of the Gross Floor Area of the Commercial Property to the total Gross Floor Area and Building Square Footage located on the Assessor's Parcel.

e. Backup Special Tax

The Backup Special Tax shall be the lesser of

- (i) \$0.3437 per square foot of Assessor's Parcel, or
- (ii) the amount calculated with each issuance of Bonds pursuant to the following formula:

$$[(DS \times 1.1) + AE - AT] \div (TA \times 0.85)$$

Where the terms used in the formula have the following meaning:

DS= The highest discounted annual debt service on outstanding Bonds, using a discount rate of two percent and discounting to the Fiscal Year in which any series of Bonds are issued.

AE= Administrative Expenses for the most recent Fiscal Year.

AT= The total of Assigned Special Taxes that can be collected from parcels of Developed Property as of the date any series of Bonds are actually issued.

TA= The anticipated Acreage of Developed Property (in square feet) at full buildout of CFD No. 1, excluding the taxable Acreage of parcels that are Developed Property as of the date any series of Bonds are actually issued, determined by reference to Attachment A, by the City Manager (the City Manager may request a certification as to the Acreage for purposes of this calculation from engineers involved in any projects proposed for or under development within CFD No. 1).

The Backup Special Tax shall be applied to the Acreage of each Assessor's Parcel measured in square feet. The land area applicable to a condominium, Apartment, or Congregate Care dwelling unit shall be

computed from the Acreage of the lot on which the condominium, Apartment, or Congregate Care dwelling unit is located, with the Acreage for such lot divided equally among all of the dwelling units located on such lot.

If an Assessor's Parcel of Developed Property contains both Apartment Property and Commercial Property, the land area allocated to Apartment Property shall be determined based on the ratio of the Building Square Footage of the Apartment Property to the total Gross Floor Area and Building Square Footage located on the Assessor's Parcel. The land area allocated to Commercial Property shall be determined based on the ratio of the Gross Floor Area of the Commercial Property to the total Gross Floor Area and Building Square Footage located on the Assessor's Parcel.

f. Increase in the Backup Special Tax

The Backup Special Tax determined pursuant to Section C.e. (i) above shall be applicable for Fiscal Year 1995-96 and shall increase by two percent (2%) annually each Fiscal Year thereafter. The Backup Special Tax determined pursuant to Section C.e. (ii) above shall be applicable starting in the Fiscal Year in which any series of Bonds are actually issued and shall increase by two percent (2%) annually thereafter. The Backup Special Tax on an Assessor's Parcel of Developed Property shall increase by two percent (2%) each Fiscal Year and shall not increase as a result of Bonds issued subsequent to the date a building permit is issued with respect to such Assessor's Parcel.

g. Limits on Special Tax on Residential Property

Pursuant to Section 53321 of the Act, under no circumstances shall the Special Tax levied against any Assessor's Parcel of Residential Property be increased by more than ten percent (10.00%) as a consequence of delinquency or default by the owner of any other Assessor's Parcel. An increase of ten percent (10.00%) or more shall be determined by comparison to what the levy of Special Tax would be for any Assessor's Parcel if there were no delinquencies or defaults on any other Assessor's Parcel in the CFD.

2. **Undeveloped Property, Agricultural Property, and Taxable Property Owner Association Property**

a. Maximum Special Tax

The Maximum Special Tax for Undeveloped Property shall be \$35,343 per acre for Fiscal Year 1995-96.

The Maximum Special Tax for Agricultural Property shall be \$4,488 per acre for Fiscal Year 1995-96.

The Maximum Special Tax for Taxable Property Owner Association Property shall be \$35,343 per acre for Fiscal Year 1995-96.

b. Multiple Land Uses

In some instances a single Assessor's Parcel may consist of more than one type of property (i.e. Undeveloped Property, Agricultural Property, or Public Property). The Maximum Special Tax for such an Assessor's Parcel shall be based on the number of Acres devoted to each land use, as determined by the City Manager, and shall equal the sum of the Maximum Special Taxes for each segment of Taxable Property located on the Assessor's Parcel.

c. Increases in the Maximum Special Tax

On each July 1, commencing July 1, 1996, the Maximum Special Tax for Undeveloped Property, Agricultural Property, and Taxable Property Owner Association Property shall be increased by two percent (2.00%) of the amount in effect in the previous Fiscal Year.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 1996-97 and for each following Fiscal Year, and prior to the final date on which the County Auditor will accept the levy for inclusion on the ad valorem real property tax roll for such Fiscal Year, the City Manager shall determine the Special Tax Requirement to be collected from Taxable Property in CFD No. 1 in such Fiscal Year. The Special Tax shall be levied as follows until the amount of the levy equals the Special Tax Requirement, subject to the limitations specified herein and in the final paragraph of Section 53321(d) of the Act.

First: The Special Tax shall be levied in equal percentages on each Assessor's Parcel of Developed Property (except Assessor's Parcels containing both Apartment Property



and Commercial Property) up to 100% of the applicable Assigned Special Tax for such Assessor's Parcel and up to 100% of the Expected Special Tax for Assessor's Parcels containing both Apartment Property and Commercial Property;

Second: If additional monies are needed after the first step has been completed, the Special Tax shall be levied in equal percentages on each Assessor's Parcel of Undeveloped Property, up to 100% of the Maximum Special Tax for Undeveloped Property;

Third: If additional monies are needed after the first two steps have been completed then the Special Tax on each Assessor's Parcel of Developed Property containing both Apartment Property and Commercial Property shall be increased from the Expected Special Tax up to 100% of the Assigned Special Tax for such Assessor's Parcels;

Fourth: If additional monies are needed after the first three steps have been completed, the Special Tax shall be levied in equal percentages on each Assessor's Parcel of Agricultural Property, up to 100% of the Maximum Special Tax for Agricultural Property;

Fifth: If additional monies are needed after the first four steps have been completed, then the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Maximum Special Tax is determined through the application of the Backup Special Tax shall be increased in equal percentages from the Assigned Special Tax up to the Maximum Special Tax for each such Assessor's Parcel; and

Sixth: If additional monies are needed after the first five steps have been completed, then the Special Tax shall be levied in equal percentages on each Assessor's Parcel of Taxable Property Owner Association Property up to the Maximum Special Tax for Taxable Property Owner Association Property.

E. EXEMPTIONS

The Council shall not levy a Special Tax on the following:

- 1) Up to a total of 437.6 acres of Public Property, except as otherwise provided in Sections 53317.3, 53317.5, and 53340.1 of the Act; and
- 2) Up to a total of 10.2 acres of Property Owner Association Property.

All such property will be irrevocably allocated by the City Manager on a first in time basis. If the total number of acres of land conveyed exceeds the amount stated above, then the acres exceeding such total shall be taxed at the applicable rate set forth in Section C.2 above and to the extent set forth in Section D above.

F. MANNER OF COLLECTION

The Special Tax 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 Sections G and H below and provided further that CFD No. 1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent parcels as permitted by the Act.

G. PREPAYMENT OF SPECIAL TAX

The following definitions apply to this Section G:

"Future Facilities Costs" means the difference between the Public Facilities Requirements and the dollar amount deposited to the Construction Fund from the proceeds of Previously Issued Bonds plus the dollar amount of public facility costs funded by interest earnings on the Construction Fund established in the Fiscal Agent Agreement actually earned prior to the date of prepayment plus the dollar amount of public facility costs funded directly with Special Taxes prior to the date of prepayment.

"Outstanding Bonds" means all Previously Issued Bonds which remain outstanding.

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

"Public Facilities Requirements" means \$30,219,044 in 1995 dollars, which shall increase by the Inflation Index on July 1, 1996, and on each July 1 thereafter, or such lower number as (i) shall be determined by the City Manager to be sufficient to provide the public facilities to be provided by CFD No. 1, or (ii) shall be determined by the City Manager concurrently with the adoption of a covenant that CFD No. 1 will not issue any additional Bonds (not including refunding bonds) to be supported by Special Taxes levied under this Rate and Method of Apportionment for CFD No. 1 as described in Section D.

The Special Tax obligation for an Assessor's Parcel of Developed Property or Undeveloped Property 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 with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation shall provide CFD No. 1 with written notice of intent to prepay. Within 30 days of receipt of such written notice, CFD No. 1 shall notify such owner of the Prepayment Amount for such Assessor's Parcel and may charge a reasonable fee for providing this service. Prepayment must be made not less

than 60 days prior to any redemption date for Bonds to be redeemed with the proceeds of such prepaid Special Taxes.

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

	Bond Redemption Amount
plus	Future Facilities Amount
plus	Redemption Premium
plus	Defeasance
plus	Administrative Fees and Expenses
less	<u>Reserve Fund Credit</u>
Total: equals	Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount (defined below) shall be calculated as follows:

Paragraph No.:

1. (a) For an Assessor's Parcel of Developed Property: compute the Assigned Special Tax and Backup Special Tax (using the Backup Special Tax per square foot indicated in Section C.1.e.(i)) for the Assessor's Parcel to be prepaid; or  
  
(b) For an Assessor's Parcel of Undeveloped Property: (i) if the entire Special Tax liability for the Assessor's Parcel is being prepaid, multiply the Backup Special Tax indicated in Section C.1.e.(i) times the square footage of the Assessor's Parcel, or (ii) if the Special Tax liability for the Assessor's Parcel is being partially prepaid, calculate the Maximum Special Tax for the Assessor's Parcel.
2. Estimate the Assigned Special Taxes for the entire authorized bonding program for CFD No. 1 (excluding any Assessor's Parcels which have previously prepaid the Special Tax) assuming that all anticipated Developed Property were in existence as of the date the prepayment is being calculated.
3. Estimate the Backup Special Taxes for the entire authorized bonding program for CFD No. 1 using the Backup Special Tax per square foot indicated in Section C.1.e.(i) (excluding any Assessor's Parcels which have previously prepaid the Special Tax).
4. (a) For an Assessor's Parcel of Developed Property: (i) divide the Assigned Special Tax computed pursuant to paragraph 1(a) by the total Assigned

- Special Taxes computed pursuant to paragraph 2; and (ii) divide the Backup Special Tax computed pursuant to paragraph 1(a) by the total Backup Special Taxes computed pursuant to paragraph 3; or
- (b) For an Assessor's Parcel of Undeveloped Property: (i) if the entire Special Tax liability for the Assessor's Parcel is being prepaid, divide the Backup Special Tax computed pursuant to paragraph 1(b)(i) by the total Backup Special Taxes computed pursuant to paragraph 3; or (ii) if the Special Tax liability for the Assessor's Parcel is being partially prepaid, divide the Maximum Special Tax computed pursuant to paragraph 1(b)(ii) by the total Assigned Special Taxes computed pursuant to paragraph 2.
5. (a) For an Assessor's Parcel of Developed Property: multiply the larger quotient computed pursuant to paragraph 4(a)(i) or 4(a)(ii) by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*); or
- (b) For an Assessor's Parcel of Undeveloped Property: multiply the applicable quotient computed pursuant to paragraph 4(b)(i) or 4(b)(ii), depending on if a full or partial prepayment is being made, by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (*the "Bond Redemption Amount"*).
6. Compute the current Future Facilities Costs.
7. (a) For an Assessor's Parcel of Developed Property: multiply the larger quotient computed pursuant to paragraph 4(a)(i) or 4(a)(ii) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (*the "Future Facilities Amount"*); or
- (b) For an Assessor's Parcel of Undeveloped Property: multiply the applicable quotient computed pursuant to paragraph 4(b)(i) or 4(b)(ii), depending on if a full or partial prepayment is being made, by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (*the "Future Facilities Amount"*).
8. Multiply the Bond Redemption Amount computed pursuant to paragraph 5 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed with the proceeds of the Bond Redemption Amount (*the "Redemption Premium"*).
9. Compute the amount needed to pay interest on the Outstanding Bonds to be redeemed with the proceeds of the Bond Redemption Amount until the earliest call date for Outstanding Bonds.

10. Compute the amount of Special Taxes paid with respect to the applicable Assessor's Parcel during the current Fiscal Year and confirm that no Special Tax delinquencies apply to such Assessor's Parcel. The applicable Assessor's Parcel shall receive a credit for any Special Taxes paid which have not yet been utilized to pay the Special Tax Requirement, but no credit shall be given for Special Taxes paid that have already been used to pay the Special Tax Requirement.
11. The City Manager, at his discretion, shall compute the amount of interest earnings to be derived from the reinvestment of the Prepayment Amount until the redemption date for the Outstanding Bonds that will be available to offset such Prepayment Amount.
12. Add the amounts computed pursuant to paragraph 9 and subtract the amounts computed pursuant to paragraphs 10 and 11 (*the "Defeasance"*).
13. The administrative fees and expenses of CFD No. 1 are as calculated by the City Manager and include the costs of computation of the Prepayment Amount, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (*the "Administrative Fees and Expenses"*).
14. The Reserve Fund credit, if any, shall be calculated as a reduction in the applicable reserve fund resulting from the redemption of Outstanding Bonds with the Prepayment Amount. If the applicable reserve fund is below the Reserve Requirement as specified in the Fiscal Agent Agreement, no Reserve Fund credit shall be given. (*the "Reserve Fund Credit"*).
15. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 5, 7, 8, 12, and 13, less the amount computed pursuant to paragraph 14 (*the "Prepayment Amount"*).

The Prepayment Amount less the amounts computed pursuant to paragraphs 7 and 13 shall be placed in the Bond Fund established under the Fiscal Agent Agreement and used to retire Outstanding Bonds in accordance with the terms of the Fiscal Agent Agreement. The Future Facilities Amount computed pursuant to paragraph 7 shall be placed in the Construction Fund established under the Fiscal Agent Agreement to be used for the construction and/or acquisition of future public facilities in accordance with the terms of the Fiscal Agent Agreement. The amount computed pursuant to paragraph 13 shall be retained by the City.

When a total prepayment is made on an Assessor's Parcel of Undeveloped Property, the applicable quotient utilized in paragraphs 5(b) and 7(b) shall be that computed in paragraph 4(b)(i).

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless, in all cases (i) the amount of maximum Special Taxes that may be levied on the Taxable Property within CFD No. 1 shall be at least 1.1 times annual debt service on all Outstanding Bonds, and (ii) if the Assessor's Parcels subject to the prepayment elect to prepay, the Special Taxes generated by the Assessor's Parcels of Taxable Property that have not been prepaid will be adequate to pay the principal of and interest on all Bonds when due, all as determined by the City Manager or his designee.

Prepayments of the Special Tax may be collected as described in Section F above. All capitalized terms used herein and not defined herein shall have the meaning set forth in the Fiscal Agent Agreement. With respect to any Assessor's Parcel that is prepaid, the City shall cause a suitable notice to be recorded in compliance with the Act following receipt of such prepayment of Special Taxes, to indicate the prepayment of Special Taxes and the release of the Special Tax lien, and the obligation of such Assessor's Parcel to pay the Special Tax shall cease.

#### H. PARTIAL PREPAYMENT OF SPECIAL TAX

The Special Tax on an Assessor's Parcel of Developed Property or Undeveloped Property may be partially prepaid and that portion of the Special Tax obligation permanently satisfied. The amount of the prepayment shall be calculated as in Section G; except that a partial prepayment shall be calculated according to the following formula:

$$PP = P_E \times F.$$

These terms have the following meaning:

PP = the partial prepayment

$P_E$  = the Prepayment Amount calculated according to Section G

F = the percent by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax.

As stated in Section G, when a partial prepayment is made on an Assessor's Parcel of Undeveloped Property, the applicable quotient utilized in paragraphs 5(b) and 7(b) shall be that computed in paragraph 4(b)(ii).

The owner of any Assessor's Parcel who desires such prepayment shall notify CFD No. 1 in writing of (i) such owner's intent to partially prepay the Special Tax and, (ii) the percentage of the Special Tax to be prepaid. The City Manager shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax for an Assessor's Parcel within 30 days of the request and may charge a reasonable fee for providing this service.

With respect to any Assessor's Parcel that is partially prepaid, the City shall (i) distribute the funds remitted to it according to the Fiscal Agent Agreement, (ii) cause a suitable notice to be recorded following receipt of such prepayment of Special Taxes, to indicate the partial prepayment of Special Taxes, (iii) indicate in the records of CFD No. 1 that there has been a partial prepayment of the Special Tax and that a portion of the Special Tax applicable to such Assessor's Parcel, equal to the outstanding percentage (1.00 - F) of the remaining Maximum Special Tax, shall continue to be levied on such Assessor's Parcel. When a partial prepayment is made for an Assessor's Parcel of Undeveloped Property, the percentage reduction in the Maximum Special Tax shall continue to apply to such Assessor's Parcel after it becomes Developed Property, or to any succeeding Assessor's Parcels should such Assessor's Parcel subdivide.

I. TERM OF SPECIAL TAX

The Special Tax shall be levied for a term of up to 50 years, commencing with Fiscal Year 1996-97.

J. APPEALS

Any property owner claiming that the amount or application of the Special Tax is not correct and requesting a refund may file a written notice of appeal with the City Manager not later than one calendar year after having paid the Special Tax that is disputed. The City Manager shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and decide the appeal. If the City Manager's decision requires the Special Tax be modified or changed in favor of the property owner, a cash refund shall not be made (except for the last year of levy), but an adjustment shall be made to the next Special Tax levy. Any dispute over the decision of the City Manager shall be referred to the Council and the decision of the Council shall be final. This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to any legal action by such owner.

**Attachment A**  
**Community Facilities District No. 1**  
**Work Sheet for Calculating**  
**Anticipated Acreage of Developed Property at Full Build-out**

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A.	Gross acreage in project:	_____
B.	Acreage in all public streets (including in-tract streets):	_____
C.	Acreage in other publicly-owned properties:	
	1. Parks and Open Space	_____
	2. Schools	_____
	3. Other publicly-owned properties (specify)	_____
		<b>Total</b> _____
D.	Acreage in Agricultural Property:	_____
E.	Acreage in Property Owners' Association properties:	
	1. Private streets	_____
	2. Parks and Open space	_____
	3. Other Property Owners' Association properties	_____
		<b>Total</b> _____
F.	Acreage in utility easement properties which cannot be utilized for purposes other than those set forth in their easements:	_____
G.	Taxable Acreage of Developed Property:	_____

**NET TAXABLE ACREAGE (G=A-B-C-D-E-F)\***

\* Net Taxable Acreage should be equivalent to all acreage in taxable lots and parcels.



## EXHIBIT C

## NOTICE OF PUBLIC HEARING

City of Encinitas  
 Community Facilities District No. 1  
 (Encinitas Ranch Public Improvements)

Notice is hereby given that on July 12, 1995, the City Council of the City of Encinitas adopted a Resolution entitled "A Resolution of Intention To Establish A Community Facilities District And To Authorize The Levy Of Special Taxes Pursuant To The Mello-Roos Community Facilities Act Of 1982". Pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act") the City Council hereby gives notice as follows:

A. The text of said Resolution of Intention is as follows:

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

WHEREAS, this City Council has received petitions by the owners of the land within the proposed Encinitas Ranch development requesting the formation of a community facilities district to finance public facilities necessary or incident to such development; and

WHEREAS, this City Council now desires to proceed with the establishment of a community facilities district under the Act in order to finance such public facilities as contemplated by the development agreement for the Encinitas Ranch project to which the City is a party.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ENCINITAS AS FOLLOWS:

1. This City Council proposes to conduct proceedings to establish a community facilities district pursuant to the Act.
2. The name proposed for the community facilities district (the "District") is City of Encinitas Community Facilities District No. 1 (Encinitas Ranch Public Improvements).
3. The proposed boundaries of the District are as shown on the map of the District 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 District 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 referred to in paragraph 10 below.
4. The type of public facilities proposed to be financed by the District and pursuant to the Act shall consist of those items listed as facilities on Exhibit A hereto and by this reference incorporated herein (the "Facilities"). The City Council hereby finds and determines that the public interest will not be served by allowing the property

owners in the District to enter into a contract in accordance with Section 53329.5(a) of the Act; however the District may enter into one or more contracts directly with any of the property owners with respect to the construction and/or operation of the Facilities.

The City Manager is hereby authorized and directed to enter into joint community facilities agreements with any entity that will own or operate any of the Facilities, as determined by bond counsel to be necessary to comply with the provisions of Section 53316.2(a) and (b) of the Act. The City Council hereby declares that such joint agreements will be beneficial to residents in the area of the District.

5. Except to the extent that funds are otherwise available to the District to pay for the Facilities and/or the principal and interest as it becomes due on bonds of the District issued to acquire the Facilities, a special tax sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the District, will be levied annually within the District, and collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as this City 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 District and the interests in those parcels, in sufficient detail to allow each landowner within the proposed District to estimate the maximum amount such owner will have to pay, are described in Exhibit B attached hereto and by this reference incorporated herein.

This City Council hereby finds that the provisions 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 District.

6. It is the intention of this City Council acting as the legislative body for the District to cause bonds of the City to be issued for the District pursuant to the Act to finance in whole or in part the Facilities. Said bonds shall be in the aggregate principal amount of not to exceed \$40,000,000, shall bear interest payable semi-annually or in such other manner as this City 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 40 years from the date of the issuance thereof.

7. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in said proposed District, with each owner having one vote for each acre or portion of an acre such owner owns in the District.

8. Except as may otherwise be provided by law or by the rate and method of apportionment of the special taxes for the District, all lands owned by any public entity, including the United States, the State of California and/or the City, or any departments or political subdivisions thereof, shall be omitted from the levy of the special tax to be made to cover the costs and expenses of the Facilities and the District. In the event that a portion of the property within the District shall become for any reason exempt, wholly or in part, from the levy of the special tax described in Exhibit B, this City Council will, on behalf of the District, increase the levy to the extent necessary upon the remaining property within the District which is not exempt in order to yield the required debt service payments and other annual expenses of the District, if any, subject to the provisions of the rate and method of apportionment of the special taxes for the District.

9. The Director of Engineering Services of the City, as the officer having charge and control of the Facilities in and for the District, or his designee, 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, presenting the following:

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

(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.

Said report shall be made a part of the record of the public hearing provided for below.

10. Wednesday, August 23, 1995, at 6:00 p.m., in the City Council Chambers, 505 South Vulcan Avenue, Encinitas, California, be, and the same are hereby appointed and fixed as the time and place when and where this City Council, as legislative body for the District, will conduct a public hearing on the establishment of the District and consider and finally determine whether the public interest, convenience and necessity require the formation of the District and the levy of said special tax.

11. The City Clerk is hereby directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District. The publication of said notice shall be completed at least seven days before the date herein set for said hearing. Said notice shall be substantially in the form of Exhibit C hereto.

12. The City proposes to repay certain landowners within the District, solely from the proceeds of bonds of the City issued for the District, funds advanced by such landowners to pay costs of the City to form the District.

B. The exhibits to the Resolution which describe the facilities to be financed and the rate and method of apportionment of the special taxes for the district are on file in the office of the City Clerk of the City.

C. The time and place established under said Resolution for the public hearing required under the Act are Wednesday, August 23, 1995, at 6:00 p.m., in the City Council Chambers, 505 South Vulcan Avenue, Encinitas, California.

D. At said hearing, the testimony of all interested persons or taxpayers for or against the establishment of the district, the extent of the district or the furnishing of the specified types of facilities will be heard. Any person interested may file a protest in writing as provided in Section 53323 of the Act. If fifty percent or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be included in the district, or the owners of one-half or more of the area of land in the territory proposed to be included in the district and not exempt from the special tax, file written protests against the establishment of the district and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council shall take no further action to create the district or levy the special taxes for period of one year from the date of decision of the City Council, and if the majority protests of the registered voters or landowners are only against the furnishing of a type or types of facilities within the district, or against levying a specified special tax, those types of facilities or the specified special tax will be eliminated from the proceedings to form the district.

E. The proposed voting procedure shall be by special mail or hand-delivered ballot to the property owners within the territory proposed to be included in the district.

Dated: July 13 1995

By: /s/ Deborah Cervone  
City Clerk