

STAFF REPORT*CITY OF OCEANSIDE*

DATE: December 3, 2014

TO: Honorable Mayor and City Councilmembers

FROM: Property Management Division

SUBJECT: **ADOPTION OF A RESOLUTION TO FORM THE EL CAMINO EXECUTIVE CENTER COMMUNITY FACILITY DISTRICT**

SYNOPSIS

Staff recommends that the City Council adopt a resolution declaring Council's intention to order the formation of the El Camino Executive Center Community Facilities District, and setting a public hearing for January 7, 2015, at 6:00 p.m. in the City Council Chambers.

BACKGROUND

The City of Oceanside ("City") was approached by the developer of the El Camino Executive Center ("Project"), Hawks Development ("Developer"), to facilitate the formation of a Community Facilities District ("Facilities District") for the required habitat mitigation adjacent to the Developer's Project. The Project, consisting of a two-story 32,616 square foot commercial office building on 3.5 acres, is located on the east side of El Camino Real, between Via Las Rosas and Fire Mountain Drive within the City of Oceanside.

A conservation easement area comprised of approximately 2.5 acres of the Project was required as a condition of approval to the Project by the Planning Commission, to be preserved in perpetuity. The Developer desires to create the Facilities District as a funding mechanism to maintain the conservation area in perpetuity pursuant to the Developer's Property Owner Consent to the Formation of a Facilities District ("Developer's Request").

ANALYSIS

Staff is recommending that the City Council approve the formation of the Facilities District in order to address the habitat maintenance in perpetuity that is a requirement of the Project. The affected property owner will be asked to approve an annual assessment in the amount required per a report completed by Harris & Associates ("Harris"), and will be asked to cast a ballot.

Staff has hired the consultant, Harris, to assist in the formation of the Facilities District. Harris has collected the necessary data and prepared the analysis that is required by the Mello-Roos Community Facilities Act of 1982 in order to form the Facilities District. Harris was required to perform a benefit analysis with respect to the affected property in order to come up with an assessment amount for the property owner.

In order to form the Facilities District and approve the new assessments to be levied against the affected property, the City Council is required to first adopt a resolution declaring its intention to form the Facilities District and setting a public hearing. The public hearing provides all interested person(s) an opportunity to be heard, either in writing or orally.

The City owns the adjacent habitat parcel, therefore assuming responsibility of the Facilities District will help keep costs down through an economy of scale. Assuming responsibility of the Facilities District is desirable for both parties as the current market for habitat mitigation trusts are difficult to locate on projects of this size.

FISCAL IMPACT

According to the analysis by Harris, in order to effectively maintain the habitat area on the property in perpetuity, the Facilities District would levy an average assessment of \$5,275.98 per year against the property owner in the Facilities District for an annual maintenance budget of \$5,275.98. The revenue will be placed in the El Camino Executive Center Fund Account No. 320343254.4143. The annual assessment under this Facilities District shall be adjusted each year. The index used will be the semi-annual Consumer Price Index for "All Urban Consumers" for San Diego, California. If this index is no longer published, the index for adjustment will be the U.S. Department of Labor's "Comprehensive Official Index" most comparable to the aforesaid index.

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

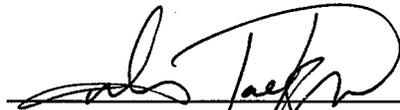
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved to form.

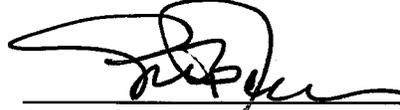
RECOMMENDATION

Staff recommends that the City Council adopt a resolution declaring Council's intention to order the formation of the El Camino Executive Center Community Facilities District, and setting a public hearing for January 7, 2015, at 6:00 p.m. in the City Council Chambers.

PREPARED BY:

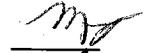

Curtis M. Jackson
Property Management

SUBMITTED BY:


Steven R. Jepsen
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Assistant City Manager
Douglas E. Eddow, Real Property Manager
James R. Riley, Financial Services Director





Attachments:

- 1) Resolution
- 2) Developer's Request

RESOLUTION NO.

1 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
2 OCEANSIDE, CALIFORNIA, DECLARING ITS INTENTION
3 TO ESTABLISH A COMMUNITY FACILITIES DISTRICT
4 AND SETTING A PUBLIC HEARING DATE ON JANUARY
5 7, 2015

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

11 WHEREAS, the City Council, having received petitions from the owners of not
12 less than 10% of the area of land proposed to be included in the proposed
13 community facilities district, now desires to proceed with the establishment of a
14 community facilities district in order to finance costs of public services for open
15 space and habitat maintenance necessary or incident to development in an area of
16 the City.

17 NOW, THEREFORE, the City Council of the City of Oceanside does resolve
18 as follows:

19 SECTION 1. The City Council proposes to conduct proceedings to establish a
20 community facilities district pursuant to the Act.

21 SECTION 2. The City Council hereby declares its intention to form a
22 community facilities district to be known as the "City of Oceanside Community
23 Facilities District No. 2014-1 (Open Space and Habitat Maintenance)" (the "CFD").

24 SECTION 3. The proposed boundaries of the CFD are as shown on the map
25 of it on file with the City Clerk, a copy of which is attached and marked Exhibit A,
26 which boundaries are hereby preliminarily approved and to which map reference is
27 hereby made for further particulars. The City Clerk is hereby directed to record, or
28 cause to be recorded, the map of the boundaries of the CFD in the office of the San

RESOLUTION NO.

1 Diego County Recorder within fifteen days of the date of adoption of this Resolution,
2 but in any event at least fifteen days prior to the public hearing specified below.

3 SECTION 4. The type of services proposed to be financed by the CFD and
4 pursuant to the Act shall consist of those listed on Exhibit B hereto and hereby
5 incorporated herein (the "Services"). The Council hereby determines that the
6 Services are necessary to meet increased demands placed upon local agencies as
7 the result of development occurring within the area of the CFD.

8 SECTION 5. Except to the extent that funds are otherwise available to the
9 CFD to pay for the Services, a special tax (the "Special Tax") sufficient to pay the
10 costs thereof, secured by recordation of a continuing lien against all non-exempt
11 real property in the CFD, will be levied annually within the CFD, and collected in the
12 same manner as ordinary ad valorem property taxes, or in such other manner as
13 this Council or its designee shall determine, including direct billing of the affected
14 property owners. The proposed rate and method of apportionment of the Special
15 Tax among the parcels of real property within the CFD in sufficient detail to allow
16 each landowner within the proposed CFD to estimate the maximum amount such
17 owner will have to pay, are described in Exhibit C attached hereto and hereby
18 incorporated herein. This Council hereby finds that the provisions of Section
19 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to ad valorem
20 property taxes and schools financed by a community facilities district) are
21 inapplicable to the proposed CFD.

22 SECTION 6. Except as may otherwise be provided by law or by the rate and
23 method of apportionment of the Special Tax for the CFD, all lands owned by any
24 public entity, including the United States, the State of California and/or the City, or
25 any departments or political subdivisions thereof, shall be omitted from the levy of
26 the Special Tax to be made to cover the costs and expenses of the Services and
27 the CFD. In the event that a portion of the property within the CFD shall become for
28 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

RESOLUTION NO.

1 remaining property within the CFD which is not exempt in order to yield the required
2 debt service payments and other annual expenses of the CFD, if any, subject to the
3 provisions of the rate and method of apportionment of the Special Tax.

4 SECTION 7. The levy of the Special Tax shall be subject to the approval of
5 the qualified electors of the CFD at a special election. The proposed voting
6 procedure shall be by mailed or hand-delivered ballot among the landowners in the
7 proposed CFD, with each owner having one vote for each acre or portion of an acre
8 such owner owns in the CFD.

9 SECTION 8. The City Engineer, as the officer having charge and control of
10 the Services in and for the CFD, or the designee of such officer, is hereby directed
11 to study said proposed Services and to make, or cause to be made, and file with the
12 City Clerk a report in writing, (the "CFD Report"), which shall be a part of the record
13 of the public hearing hereinafter specified and which report shall present the
14 following:

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

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

21 SECTION 9. Wednesday, January 7, 2015, at 6:00 p.m. or as soon as
22 possible thereafter, in the City Hall, Council Chambers, 300 North Coast Highway,
23 Oceanside, California, are hereby appointed and fixed as the time and place when
24 and where this Council, as legislative body for the CFD, will conduct a public
25 hearing on the establishment of the CFD and consider and finally determine
26 whether the public interest, convenience and necessity require the formation of the
27 CFD and the levy of the Special Tax.

28 SECTION 10. 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

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1 the CFD. The publication shall be completed at least seven days before the date of
2 the public hearing specified above. The City Clerk shall also cause notice of the
3 hearing to be given to each property owner within the CFD by first class mail,
4 postage prepaid, to each such owner's address as it appears on the most recent tax
5 records of San Diego County or as otherwise known to the City Clerk to be correct.
6 Such mailing shall be completed not less than fifteen days before the date of the
7 public hearing, unless waived by unanimous consent of the property owners within
8 the boundary of the proposed CFD. Each of the notices shall be substantially in the
9 form specified in Section 53322 of the Act, with a form summarizing the provisions
10 hereof hereby specifically approved.

11
12 PASSED AND ADOPTED by the City Council of the City of Oceanside,
13 California, on this _____ day of _____, 2014 by the following vote:

14 AYES:

15 NOES:

16 ABSENT:

17 ABSTAIN:

18 _____
Mayor of the City of Oceanside

19
20 APPROVED AS TO FORM:
21 OFFICE OF THE CITY ATTORNEY

22 ATTEST:

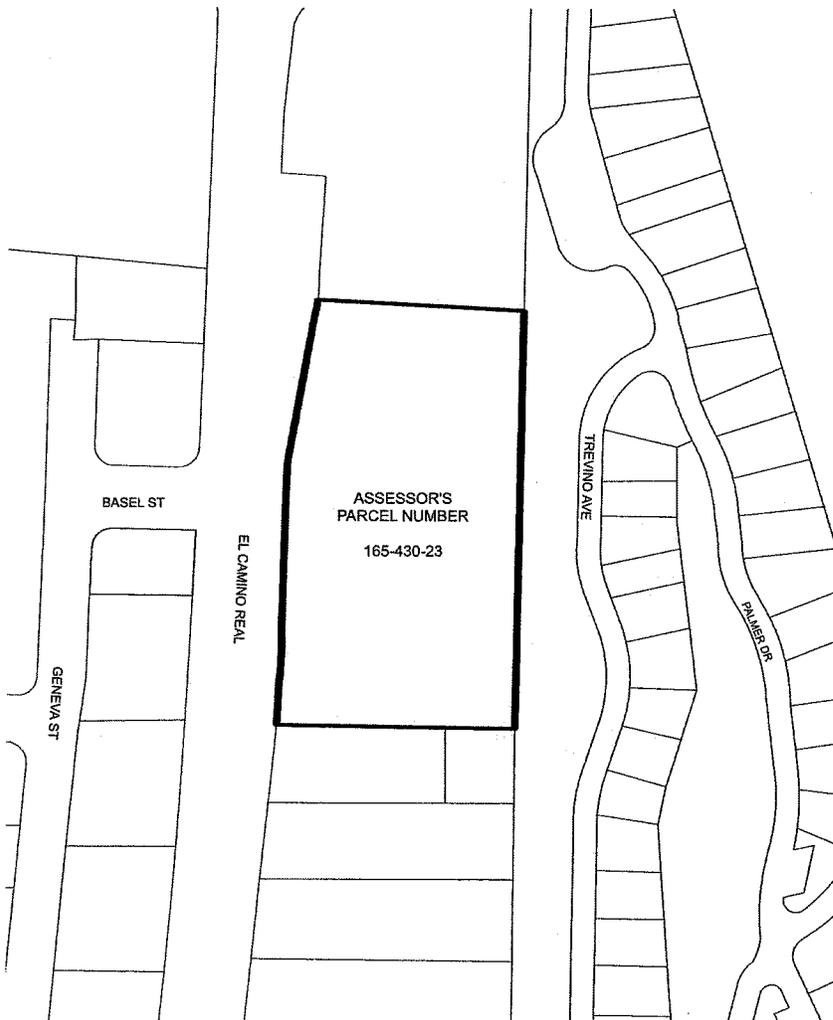
23 *Patricia Hamilton, ASST.*
24 City Attorney

25 _____
City Clerk

26 Resolution declaring intention to establish a
27 Community Facilities District and
28 setting public hearing on January 7, 2015

EXHIBIT A
BOUNDARIES OF THE CFD

**PROPOSED BOUNDARY OF
CITY OF OCEANSIDE
COMMUNITY FACILITIES DISTRICT NO. 2014-1
(OPEN SPACE AND HABITAT MAINTENANCE)
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA**



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF OCEANSIDE THIS _____ DAY OF _____ 2014.

CITY CLERK OF THE CITY OF OCEANSIDE

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING THE PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2014-1, CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF OCEANSIDE: AT A REGULARLY SCHEDULED MEETING THEREOF, HELD ON THE _____ DAY OF _____ 2014. BY ITS RESOLUTION NO. _____

CITY CLERK OF THE CITY OF OCEANSIDE

FILED THIS _____ DAY OF _____ 2014. AT THE HOUR OF _____ O'CLOCK _____ M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS PAGE NOS. _____ THROUGH _____ AS INSTRUMENT NO. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF OCEANSIDE, STATE OF CALIFORNIA.

COUNTY RECORDER OF THE COUNTY OF SAN DIEGO

FEE \$ _____

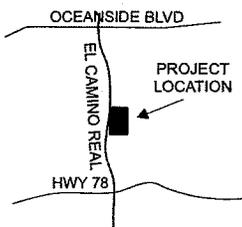
REFERENCE THE SAN DIEGO COUNTY ASSESSOR'S MAPS FOR A DETAILED DESCRIPTION OF PARCEL LINES AND DIMENSIONS



LEGEND

-  DISTRICT BOUNDARY
-  PARCEL

LOCATION MAP
(NOT TO SCALE)



PROPOSED BOUNDARY MAP

City of Oceanside
Community Facilities District No. 2014-1
(Open Space and Habitat Maintenance)
County of San Diego, California

Sheet _____ of _____



HARRIS & ASSOCIATES
22 Executive Park, Suite 200
Irvine, California 92614
800-827-4901

EXHIBIT B

CITY OF OCEANSIDE COMMUNITY FACILITIES DISTRICT NO. 2014-1 (OPEN SPACE AND HABITAT MAINTENANCE)

DESCRIPTION OF DISTRICT SERVICES

Description of services:

Maintenance of public open space and habitat area

- Maintenance means the furnishing of services and materials for the ordinary and usual operation, maintenance and servicing of the public open space and habitat area, dedicated easements, and appurtenant facilities, and administration and overhead of all aspects of the CFD.

Reserve Fund

- The CFD special taxes may be collected and set-aside in designated funds, collected over several years, that may be used by the CFD to fund future repairs to open space and habitat areas and other related services as determined by the CFD.

EXHIBIT C

**CITY OF OCEANSIDE
COMMUNITY FACILITIES DISTRICT NO. 2014-1
(OPEN SPACE AND HABITAT MAINTENANCE)**

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

EXHIBIT C

CITY OF OCEANSIDE COMMUNITY FACILITIES DISTRICT NO. 2014-1 (OPEN SPACE AND HABITAT MAINTENANCE)

RATE AND METHOD OF APPORTIONMENT

Pursuant to The Act, a Special Tax of Community Facilities District No. 2014-1 (Open Space and Habitat Maintenance) of the City of Oceanside (the "District") shall be levied on all Assessor's Parcels in the District and collected each Fiscal Year commencing in Fiscal Year 2014-15 in an amount determined by the City through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property in the District, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accepted Facilities" means the public open space and habitat area accepted for maintenance by the City.

"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 subdivision map, a final parcel map, or functionally equivalent final map or instrument recorded in the Office of the County Recorder. If the area shown on said map is in square footage, Acreage shall be calculated by dividing the square footage by 43,560.

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

"Administrator" means the City Engineer or his/her designee or other person designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment.

"Administrative Expenses" means the actual or estimated costs incurred by the City as Administrator of the District to determine, levy and collect the Special Taxes, including, but not limited to: legal counsel, the costs of placing and collecting installments of the Special Tax upon general property tax rolls, salaries and benefits of City employees whose duties are directly related to administration of the District and the fees of consultants, preparation of required reports, and any other costs required to administer the District as determined by the City.

"Annual Escalation Factor" means the greater of the increase in the annual percentage change (from January of the previous year to January of the year that the Special Tax is levied) for the All Urban Consumers – Consumers Price Index (CPI) (1982-84 = 100) or three percent (3%). The annual CPI used shall be for the area of San Diego as determined by the United States Bureau of Labor Statistics. In the event that the CPI defined above is no longer reported, the City Council shall select a similar index to replace it.

“Assessor’s Parcel” means a lot or parcel in an Assessor’s Parcel Map with an assigned assessor’s parcel number.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by assessor’s parcel number.

“Base Year” means Fiscal Year ending June 30, 2014.

“City” means the City of Oceanside in the County of San Diego, California.

“City Council” means the City Council of the City, acting as the legislative body of the District.

“County” means the County of San Diego, California.

“District” means Community Facilities District No. 2014-1 (Open Space and Habitat Maintenance) of the City of Oceanside.

“Final Map” means a final subdivision map, a final parcel map, a final approved condominium plan, or functionally equivalent final map that has been recorded in the Office of the County Recorder.

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

“Land Use Class” means any of the categories of Taxable Property listed in Table 1 by applicable special tax rate.

“Lot” means property within a recorded Final Map identified by a lot number for which a building permit has been issued or may be issued.

“Maximum Special Tax” means the maximum amount of Special Tax, determined in accordance with Section C below that can be levied in the District in any Fiscal Year on any Assessor’s Parcel.

“Proportionately” means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels within each Land Use Class.

“Public Property” means any property within the boundaries of the District that is at the time of the District formation or at the time of an annexation, used or expected to be used for rights-of-way, parks, schools or any other public purpose and is owned by or irrevocably offered for dedication to the Federal government, the State, the City, the County or any other public agency.

“Services” means the contribution to the estimated and reasonable costs of providing open space and habitat maintenance services for the Accepted Facilities, including but not limited to (i) the costs and contracting services, (ii) the salaries and benefits of City staff that directly provide open space and habitat maintenance services, (iii) City overhead costs associated with providing such open space and habitat maintenance services within the District, and (iv) other costs incidental to providing open space and habitat maintenance services within the District.

“Special Tax” means the Special Tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement, and shall include Special Taxes levied or to be levied under Sections C and D, below.

“Special Tax Requirement” means that amount required in any Fiscal Year for the District to: (i) pay for the Services; (ii) pay reasonable Administrative Expenses; (iii) pay any amounts required to establish or replenish any reserve funds; and (iv) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less any surplus of funds available from the previous Fiscal Year’s Special Tax levy.

“State” means the State of California.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of the District and any future annexation to the District that are not exempt from the Special Tax pursuant to law or as defined herein.

“Tax-Exempt Property” means all Assessors Parcels not subject to the Special Tax. Tax-Exempt Property includes: (i) Public Property and (ii) property designated by the City or Administrator as Tax-Exempt Property.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year using the definitions above, all Taxable Property within the District shall be classified as Taxable Property, or Tax-Exempt Property. Commencing with the Base Year and for each subsequent Fiscal Year, all Taxable Property shall be subject to Special Taxes pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Taxable Property

a. Assigned Special Tax

The Assigned Special Tax for each Assessor’s parcel of Taxable Property shall be \$1,598.78 per Acre. On each July 1 following the Base Year, the Maximum Special Tax rate shall be increased in accordance with the Annual Escalation Factor.

b. Backup Annual Special Tax

The Backup Annual Special Tax for each Assessor’s parcel of Taxable Property shall be equal to \$5,275.98 for Fiscal Year 2014-15, and shall be increased in accordance with the Annual Escalation Factor.

In the event a Parcel subdivides, the Backup Annual Special Tax shall be apportioned to the newly subdivided lots based on the Land Area of the new lots. If two or more Parcels combine, the Backup Annual Special Tax for each Parcel shall be combined. The Backup Annual Special Tax shall not change in the event a Parcel experiences a reduction in Land Area due to the dedication or irrevocable dedication of public property, public right-of-way, or public easement.

c. Maximum Annual Special Tax

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

2. Tax-Exempt Property

No Special Tax shall be levied on Tax-Exempt Property.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2014-15, and for each subsequent Fiscal Year, the Administrator shall calculate the Special Tax Requirement based on the definitions in Section A and the rates in Section C and levy the Special Tax as follows until the amount of the Special Tax levied equals the Special Tax Requirement.

First: The Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Taxable Property up to 100% of the applicable Assigned Special Tax.

Second: If additional monies are needed to satisfy the Special Tax Requirement after the First Step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Property at up to 100% of the applicable Maximum Special Tax to meet the Special Tax Requirement of the District.

E. APPEALS

Any taxpayer that believes that the amount of the Special Tax assigned to a Parcel is in error may file a written notice with the Administrator appealing the levy of the Special Tax. This notice is required to be filed with the Administrator during the Fiscal Year the error is believed to have occurred. The Administrator or designee will then promptly review the appeal and, if necessary, meet with the taxpayer. If the Administrator verifies that the Special Tax should be changed the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted. The determination of the Administrator shall be final.

F. MANNER OF COLLECTION

Special Tax as levied pursuant to Section D above shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the District or as otherwise determined appropriate by the Administrator.

G. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition the interpretation and application of any section of this document shall be left to the City's discretion.

The City may make interpretations by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in the Rate and Method of Apportionment.

H. TERM OF SPECIAL TAX

The Special Taxes shall be levied in perpetuity.

CITY OF OCEANSIDE
Community Facilities District No. 2014-1
(Habitat Maintenance)

PETITION
(With Waivers)

To Create a Community Facilities District
and Related Matters

To the Honorable City Council,
CITY OF OCEANSIDE
300 North Coast Highway
Oceanside, CA 92054

Members of the Council:

This is a petition to create a community facilities district and related matters under the Mello-Roos Community Facilities Act of 1982, Sections 53311 and following of the California Government Code (the "Act") and it states as follows:

1. **Petitioner.** This Petition is submitted by the person (the "Petitioner") (whether one or more) identified below as or for the record owner(s) of the parcels of land identified below (the "Property"). The Petitioner warrants to the City that the Petitioner is such owner or is legally authorized to execute this Petition for and on behalf of such owner(s).
2. **Proceedings Requested.** This Petition asks that the City Council undertake proceedings under the Act to create a community facilities district to be designated "City of Oceanside, Community Facilities District No. 2014-1 (Habitat Maintenance) (the "CFD") to levy special taxes in the CFD.
3. **Boundaries.** This Petition asks that the territory to be included in the boundaries of the CFD consist of that shown on a map of the proposed boundaries of the CFD filed with the City Clerk of the City and which map is hereby made a part hereof and which map includes the Property.
4. **Purpose.** This Petition asks that the CFD be created and the special taxes be levied to finance all or a part of the public street, lighting and landscaping maintenance (the "Services") authorized by the Act.
5. **Special Taxes.** The Petitioner agrees that the City will, subject to the approval of the Petitioner in the proceedings for the CFD be authorized to levy of Special Taxes in the CFD to pay for the Services, subject to the completion of all proceedings by the City under the Act.
6. **Election.** The Petitioner asks that the special property-owner election to be held under the Act to authorize the special taxes and to establish any appropriations limits for the CFD be conducted by the City and its officials, using a mailed or hand-delivered ballot and that such ballot be canvassed and the results certified at the same meeting of the City Council as the public hearing on the CFD under the Act or as soon thereafter as possible.
7. **Waivers.** To expedite the completion of the proceedings for the CFD, the Petitioner waives all notices of hearing and all published notices regarding the establishment of

the CFD, notices of election, applicable waiting periods under the Act for the holding of any public hearing and for election and all ballot arguments and analysis for the election, it being acknowledged by the Petitioner that all such notices are for the benefit of the Petitioner and may be waived.

8. Authority Warranted. The Petitioner warrants to the City that the presentation of this Petition, any waivers contained herein, casting of ballots at the property owner election and other actions mandated by the City for the formation of the CFD shall not constitute or be construed as events of default or delinquencies under any existing or proposed financing documents entered into or to be entered into by the Petitioner for the Property, including any "due-on-encumbrance" clauses under any existing security instruments secured by the Property. If requested by the City, the Petitioner agrees, at its expense, to supply to the City, current title evidence so that the City may supply any notice and ballot required under the Act for the establishment of the CFD.

9. Due-Diligence and Disclosures. The Petitioner agrees to cooperate with the City, its attorneys and consultants and provide all information and disclosures required by the City about the Special Taxes to purchasers of the Property or any part of it.

10. Agreements. The Petitioner further agrees to execute such additional or supplemental agreements as may be required by the City to provide for any of the actions and conditions under this Petition, including any amount of cash deposit required to pay for the City's costs in establishing the CFD. Petitioner agrees that this Petition shall not be considered as filed with the City for purposes of commencing proceedings for the CFD under the Act unless and until deemed filed by the City in its absolute discretion.

The Property is Sacramento County

Assessor Parcel No(s):
165-430-23-00

and the Property contains a total of 3.30 acres.

The Petitioner (record owner) is:

Hawkes O-side I, LLC

By: Jeff Hawkes, manager

The address of the above for receiving any notice and ballot is:

c/o 4309 Foothill Dr.
Bountiful, UT 84010