

CITY OF DANA POINT
AGENDA REPORT

Reviewed By:	
DH	_____
CM	_____
CA	_____

DATE: APRIL 26, 2006

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: INVESTMENT REVIEW COMMITTEE

**SUBJECT: FORMATION OF COMMUNITY FACILITIES DISTRICT –
HEADLANDS RESERVE LLC**

RECOMMENDED ACTION:

That the City Council take the following actions in accordance with Government Code Section 53311 et seq. regarding the formation of the Headlands Reserve LLC Community Facilities District (CFD) No. 2006-1:

A. Approve and adopt the City of Dana Point Statement of Goals and Policies for the Use of the Mello-Roos Community Facilities Act of 1982.

B. Approve and adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN.

C. Approve and adopt a resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING ITS INTENTION TO INCUR BONDED INDEBTEDNESS FOR PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT.

BACKGROUND:

On February 12, 2002 the City Council adopted Ordinance No. 02-02 approving the Headlands Development Agreement (DA 01-01) between the City of Dana Point and Headlands Reserve LLC. The agreement contains provisions which state that upon the request of the Headlands, both parties shall cooperate in establishing one or more "Financing Districts" for the purpose of financing the Headlands' obligations to construct public facilities and public park and open space facilities in conjunction with the Headlands development.

CFD Financing Team: As the Council will recall, at your meeting of October 12, 2005 a financial services contract was awarded to Fieldman, Rolapp & Associates to provide independent financial advisory services, including assisting the City in coordinating the overall planning and execution of the CFD formation, and identifying qualified finance team members.

Subsequently, at your meeting of February 22, 2006, the City Council authorized the City Manager to execute professional consultant agreements with Stephen G. White, MAI for real estate appraisal services, MuniFinancial for special tax services, and Empire Economics, Inc. for price point analysis and market absorption studies relative to the proposed CFD.

Finally, in response to the City Council's direction to issue proposals for bond counsel and underwriting services for the proposed CFD, at its March 6th special meeting, the Investment Review Committee (IRC) evaluated the Statements of Qualifications submitted by several qualified firms. Subsequently, at its March 22, 2006 meeting, the City Council approved the IRC's recommendation to retain Rutan & Tucker LLP for bond counsel, and UBS Investment Bank for underwriting services.

The entire financing team and City staff continue to work together diligently and have done an outstanding job accomplishing the pre-formation activities.

Investment Review Committee Review: At the direction of the City Council, the IRC held a special meeting on March 6, 2006 at which time Mr. Rolapp recused himself from participating and taking action on the CFD agenda items as a voting member of the IRC. Instead he served in the capacity of the City's financial advisor, under contract, for the proposed CFD. Mr. Rolapp provided the Committee with an overview of the CFD process; including the pre-formation CFD activities, the CFD legal proceeding steps, and the subsequent CFD bond issue activities. As part of the discussion, Mr. Rolapp presented the usual sequence of events for Mello-Roos community facilities districts per State law. The Committee also briefly reviewed the Headlands Development Agreement (DA01-01), and the City's Draft Statement of Goals and Policies for the formation of CFD's. A subcommittee of the IRC was formed to review the draft Goals and

Policies and to report back to the Committee on April 17th in anticipation of developing a formal recommendation to the City Council.

DISCUSSION:

At its April 17, 2006 meeting, the IRC continued its review of the legal proceedings and projected timeline, and required legal documents necessary for the formation of the CFD, and developed recommendations for the City Council's consideration. The IRC received and filed the projected timeline for formation of the CFD **(SUPPORTING DOCUMENT A)** and is recommending that the legal proceedings be initiated by the City Council at its April 26, 2006 Council Meeting commencing with the approval of the required documents described below.

Draft Statement of Goals and Policies for the Use of the Mello-Roos Community Facilities Act of 1982: The IRC considered the draft Statement of Goals and Policies and the revisions thereto which were recommended by the subcommittee of the IRC. The Statement of Goals and Policies is a blanket policy which would apply to any and all community facilities districts formed or proposed to be formed by the City. The purpose of the Statement of Goals and Policies is to provide the City staff, the residents of the City and the owners and developers of property located within the City with guidance in the application for and consideration of the establishment of CFD's within the City for the purpose of financing or assisting in financing the acquisition, construction, or maintenance of public infrastructure or the provision of services to benefit and serve either existing or new development or a combination thereof. The underlying principles behind this policy are the protection of the public interest, assuring fairness in the application of special taxes to current and future property owners, assuring full disclosure of the existence of any special tax liens, insuring the creditworthiness of any CFD bonds, protecting the City's credit rating and financial position and assuring that applicants for all CFD proceedings other than City-initiated proceedings pay all costs associated with the formation of any CFD. The IRC took action to recommend that the City Council approve the draft Statement of Goals and Policies as presented in this report **(ACTION DOCUMENT C)**.

CFD Resolutions: The IRC also reviewed the proposed resolutions necessary to form the CFD and levy special taxes (Resolution of Intention), and to incur bonded indebtedness (Resolution to Incur Bonded Indebtedness). Revisions requested by the IRC have been incorporated into the two resolutions and it is recommended the City Council adopt both resolutions at this time.

The Resolution of Intention to Establish CFD No. 2006-1 and to Authorize the Levy of Special Taxes Therein does the following: Accepts and files the petition of the landowner; designates the CFD name; establishes the boundaries of the CFD; identifies facilities to be funded through the CFD; declares the City's intention to

conduct proceedings to form the CFD, levy taxes and issue bonds; sets the time and place for a public hearing on June 14, 2006 at 6:00 p.m. to consider the establishment of the CFD and to determine whether the public interest, convenience and necessity require formation of the CFD and the levy of special taxes; and approves the Rate and Method of Apportionment of Special Taxes, the taxing formula used to determine the amount of special taxes applicable to each taxable parcel within the CFD **(ACTION DOCUMENT D)**.

The Resolution Declaring Intention to Incur Bonded Indebtedness for the Proposed CFD declares the estimated cost for the acquisition and or construction of the facilities to be \$31.6 million; and, that it is necessary to incur bonded indebtedness within the boundaries of the proposed CFD in the amount not to exceed \$45 million in order to finance the cost of facilities. The bond authorization (not to exceed \$45 million) is set at an amount to: 1) permit the inclusion of a capitalized bond reserve fund, funded interest, and costs of issuance; 2) allow for any adjustments to the interest rate assumptions, and 3) compensate for adjustments to facilities and services contract costs that may exceed current estimates. This resolution also sets a public hearing for June 14, 2006 at 6:00 p.m. to determine whether the public interest, convenience and necessity require the issuance of bonds for the CFD **(ACTION DOCUMENT E)**.

Should the City Council approve the Statement of Goals and Policies and the two resolutions, the City Council will conduct public hearings on June 14, 2006. At such time as the City Council closes the public hearings, it shall determine whether or not a majority protest exists (for landowner CFDs, by determining if the owners of one-half or more of the area of the land in the territory proposed to be included in the CFD, and not exempt from the special tax, file written protests against the establishment of the CFD). If a majority protest does not exist, the City Council may determine 1) to establish the CFD and 2) the necessity to incur bonded indebtedness by adopting a resolution of formation establishing the CFD and a resolution to incur bonded indebtedness.

The City Council shall then submit the levy of the special taxes, the incurring of bonded indebtedness and the establishment of an appropriations limit to the qualified electors of the CFD (the landowner). Ballots would then be counted. Upon determination by the City Council that the requisite two-thirds of votes cast are in favor of levying the special tax, incurring bonded indebtedness and establishing an appropriations limit, the City Council would then adopt an Ordinance of Special Tax (two readings) and the Clerk would record a Notice of Special Tax Lien. The aforementioned activities and actions would conclude the CFD formation proceedings.

NOTIFICATION AND FOLLOW-UP:

Headlands Reserve LLC
City's CFD Consultant Team

STRATEGIC PLAN INITIATIVE:

Achieve total excellence in municipal services and City administration/planning with excellent customer service and cost-effectiveness.

Maintain, modernize and beautify the City's infrastructure and neighborhoods.

Provide, acquire and retain open space, parks, recreational facilities, greenbelts and trails, and community serving property.

FISCAL IMPACT:

There is no impact to the City's General Fund Budget. The fees associated with bond counsel and underwriter will be contingent upon the sale of bonds (excluding any out-of-pocket costs and expenses). Per Section 3.13 of the Headlands Development Agreement (DA01-01), on February 28, 2006 the developer provided the City with a \$75,000 advance deposit to reimburse the City for the actual and reasonable costs incurred to establish the CFD, including administrative staff costs, consultants' costs, and legal fees. In lieu of a Reimbursement Agreement, the developer provided a letter to the City on April 7, 2006 (**SUPPORTING DOCUMENT B**) indicating that until such time as the bond sale closes and reimbursement of such costs can occur via bond proceeds, when the \$75,000 deposit is depleted, Headlands Reserve LLC agrees to replenish the account pursuant to monthly statements from the City. This commitment on behalf of the developer is consistent with the terms set forth in the City of Dana Point Statement of Goals and Policies for the Use of the Mello-Roos Community Facilities Act of 1982 which protects the City from incurring any out-of-pocket expenses.

ALTERNATIVE ACTIONS:

Do not approve the recommended actions.
Alternative actions as deemed appropriate by the City Council.

SUPPORTING DOCUMENTS **PAGE NO.**

A.	<u>Projected Timeline for CFD Proceedings.....</u>	<u>7</u>
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- B. April 7, 2006 letter from Headlands Reserve LLC.....8

(Hard copy to be provided.)

ACTION DOCUMENTS **PAGE NO.**

- C. City of Dana Point Statement of Goals and Policies for the Use of the Mello-Roos Community Facilities Act of 1982

(Hard copy to be provided.)

- D. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN

(Hard copy to be provided.)

- E. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA DECLARING ITS INTENTION TO INCUR BONDED INDEBTEDNESS FOR PROPOSED COMMUNITY FACILITIES DISTRICT NO. 2006-1 OF THE CITY OF DANA POINT

(Hard copy to be provided.)

SUPPORTING DOCUMENT A

City of Dana Point Headlands CFD – Projected Timeline

Petition Date 2/28/06

Documents / Action	Current Schedule	Last Day / Statute Requirement
Price Point Analysis	Complete	Complete
Goals and Policies / Council Consideration	April 26, 2006	May 24, 2006
ROI / Council Consideration	April 26, 2006	May 24, 2006
JCFA's / Council Consideration	June 14, 2006	July 12, 2006
Acquisition Agreement / Council Consideration	June 14, 2006	July 12, 2006 *
Public Hearing / Council Action District Formation / Council Action Election / Landowner Vote	June 14, 2006	July 12, 2006 *
Bond Documents Approval / Council Consideration	TBD	TBD
Bond Sale	TBD	TBD
Bond Closing	TBD	TBD

***Pursuant to 53325 of the Act, the Public Hearing may be continued to +/- November 8, 2006 if the legislative body finds the complexity of the proposed CFD or the need for public participation requiring additional time.**