

**SUBMITTAL TO THE BOARD OF SUPERVISORS,
COMMUNITY FACILITIES DISTRICT'S LEGISLATIVE BODY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

390



FROM: Executive Office

SUBMITTAL DATE:
July 26, 2005

SUBJECT: Community Facilities District No. 89-1 - Resolution No. CFD 2005-07.

RECOMMENDED MOTION: That the Legislative Body of Community Facilities No. 89-1 of the County of Riverside adopt Resolution No. CFD 2005-07 correcting a clerical error appearing in the Amended and Restated Rate and Method of Apportionment of Special Taxes for Community Facilities District No. 89-1.

BACKGROUND: On December 12, 2000, the Legislative Body of Community Facilities District No. 89-1 of the County of Riverside ("CFD No. 89-1") by the adoption of Resolution No. 2000-10 completed and approved a change proceeding (the "Change Proceeding") for CFD No. 89-1 that among other things caused the rate and method of apportionment of special taxes to be amended and restated (the "Amended and Restated RMA"). Subsequent to the Change Proceeding, the Legislative Body authorized the sale and issuance of \$12,000,000 in special tax refunding bonds on January 23, 2001.

The Developer, Shea Homes Inc., has placed the Administrator of CFD No. 89-1 on notice that it intends to construct approximately 170 attached single family dwelling units, which has brought to light the fact that the Amended RMA contains an omission. The Amended RMA provides definitions for both "Single Family Attached Residential Units" and "Single Family Detached Residential Units", however Table 1 in Section B of the Amended RMA only makes reference to "Single Family Detached Residential Units". Table 1 establishes the tax classifications for all residentially developed property.

Continued on Page 2


Jerry Norris, Senior Management Analyst

FORM APPROVED
COUNTY COUNSEL

JUL 21 2005
Michele J. [Signature]

Departmental Concurrence

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	N / A
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	N / A
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2006
SOURCE OF FUNDS: N / A				Positions To Be Deleted Per A-30 <input type="checkbox"/>
				Requires 4/5 Vote <input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature 

Policy Policy

Consent Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: | District: 1 | Agenda Number:

**ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD**

8 . 1

July 26, 2005
Community Facilities District No. 89-1
Resolution No. CFD 2005-07
Page 2

The Clerk of the Legislative Body has been provided declarations from the Administrator for CFD No. 89-1 and from the Secretary for Shea Homes Inc. stating that they have no personal knowledge as to the reason for the omission of the term "Attached" from Table 1, and a review of their respective files has not provided any written statements that would support the omission.

Staff recommends that the Legislative Body find that the omission from Table 1 of Section B to "Single Family Attached Residential Units" is a clerical error and direct staff to take those actions necessary to cause the error to be corrected by the adoption of Resolution No. CFD 2005-07

3 **RESOLUTION NO. CFD 2005-07**

4 **RESOLUTION OF THE LEGISLATIVE BODY OF COMMUNITY FACILITIES**
5 **DISTRICT NO. 89-1 OF THE COUNTY OF RIVERSIDE CORRECTING**
6 **A CLERICAL ERROR APPEARING IN THE AMENDED AND RESTATED RATE**
7 **AND METHOD OF APPORTIONMENT OF SPECIAL TAX**
8 **FOR COMMUNITY FACILITIES DISTRICT NO. 89-1 OF THE COUNTY OF RIVERSIDE**

9 **WHEREAS**, the Board of Supervisors (the "Board of Supervisors") of the County of Riverside
10 (the "County"), acting ex officio as the Legislative Body (the "Legislative Body"), of Community Facilities
11 District No. 89-1 of the County of Riverside (the "Community Facilities District") adopted Resolution No.
12 CFD 2000-06 on October 24, 2000, pursuant to the provisions of the Mello-Roos Community Facilities
13 Act of 1982, as amended (the "Act"), commencing with Section 53311 of the California Government
14 Code (the "Code"), stating that it would consider certain changes proposed by the entity owning twenty-
15 five percent (25%) or more of the territory within the boundaries of the Community Facilities District and
16 that among the changes to be considered was one to amend and restate the Rate and Method of
17 Apportionment of Special Taxes (the "Rate and Method") for the Community Facilities District in order
18 to, among other things, reflect changes to Specific Plan No. 221 that had been approved by the Board of
19 Supervisors on May 23, 2000, including modifying tax rates, changing property classifications and
20 altering the basis of apportionment of the special taxes; and,

21 **WHEREAS**, on November 28, 2000, a noticed public hearing (the "Public Hearing") was held by
22 the Legislative Body to consider the proposed changes including the change to the Rate and Method and
23 to receive any written or oral testimony in support of or opposition to the proposed changes; and,

24 **WHEREAS**, after closing the Public Hearing, the Legislative Body called a special election (the
25 "Special Election") on the proposed changes, including the change to the Rate and Method, for December
26 12, 2000 by the adoption of Resolution No. CFD 2000-10 in which the Legislative Body determined that
27 the qualified elector for the Special Election was Shea Homes, Inc. (the "Property Owner") which owned
28 all property within the boundaries of the Community Facilities District and had properly waived certain
election procedures allowing for an expedited special election date and found that the Registrar of Voters
for the County had consented to the date and time of the Special Election; and,

1 **WHEREAS**, On December 19, 2000, the Legislative Body canvassed the Special Election and
2 determined that the proposition regarding the proposed changes was approved by more than two-thirds
3 (2/3) of the votes cast at the Special Election and determined the proposed changes, including the
4 Amended and Restated Rate and Method of Apportionment of Special Taxes for the Community
5 Facilities District (the "Amended Rate and Method"), to be fully authorized by the adoption of Resolution
6 No. 2000-14 consistent with the provisions of the Act; and,

7 **WHEREAS**, the Board of Supervisors, on January 9, 2001, adopted Ordinance No. 680.1
8 providing for the annual levy of a special tax on the taxable parcels within the boundaries of the
9 Community Facilities District pursuant to the Amended Rate and Method; and,

10 **WHEREAS**, the Amended Rate and Method contains a definition for both "Single Family
11 Attached Dwelling Units" and "Single Family Detached Dwelling Units" but Table 1 of the Amended
12 Rate and Method which establishes the tax classifications for all residentially developed property within
13 the Community Facilities District fails to make reference to "Single Family Attached Dwelling Units;"
14 and,

15 **WHEREAS**, declarations have been filed with the Clerk of the Legislative Body from the
16 Administrator of the Community Facilities District, who has responsibility for levy and enrollment of
17 special taxes, and James Shontere, Secretary of the Property Owner that owned all of the property within
18 the Community Facilities District on the date of the Special Election and was determined to be the
19 qualified elector entitled to cast more than two-thirds of the votes at the Special Election, and both
20 declarations state that each individual has reviewed his respective files with regard to the change
21 proceeding, can find no documents to explain the omission of the term "Single Family Attached Dwelling
22 Units" from Table 1 of Section B. of the Amended Rate and Method, and has no personal knowledge with
23 regard to said omission;

24 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**
25 **RIVERSIDE, ACTING *EX OFFICIO* AS THE LEGISLATIVE BODY OF COMMUNITY**
26 **FACILITIES DISTRICT NO. 89-1 OF THE COUNTY OF RIVERSIDE**, in regular session
27 assembled on July 26, 2005, does hereby resolve, find, determine and order as follows:

28 **Section 1.** The above recitals are true and accurate.

1 **Section 2.** The omission of any reference to the term "Single Family Attached Dwelling Unit" in
2 Table 1 of Section B. of the Amended Rate and Method is a clerical error unintended by both the
3 Community Facilities District (including its administrators, agents and consultants) and the Property
4 Owner (including its employees and consultants), and the Amended Rate and Method is to be corrected so
5 that Table I which establishes the special tax classifications for residentially developed property makes
6 reference to "Single Family Attached/Detached Dwelling Units."

7 **Section 3.** Attached hereto, marked as Exhibit A, is the corrected Amended Rate and Method.

8 **Section 4.** The Clerk of the Legislative Body is hereby directed to record in the Office of the
9 County Recorder within fifteen (15) days of the date hereof the "Correction to Amendment No. 1 to
10 Amended Notice of Special Tax Lien County of Riverside Community Facilities District No. 89-1" in the
11 form prepared by counsel to the Community Facilities District, reflecting the correction to be made to
12 Table 1 of the Amended Rate and Method

13 **Section 5.** The officers of the County, acting *ex officio* on behalf of the Community Facilities
14 District, are, and each of them is, hereby authorized and directed to do any and all things and to execute
15 and deliver any and all documents which said officers may deem necessary or advisable in order to
16 accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

17
18
19
20
21
22
23
24
25
26
27
28

1 **ADOPTED, SIGNED AND APPROVED**, this 26th day of July, 2005 by the Board of
2 Supervisors of the County of Riverside, acting *ex officio* as the Legislative Body of Community Facilities
3 District No. 89-1 of the County of Riverside.

4
5 _____
6 Chairman of the Legislative Body

7 ATTEST:
8 Nancy Romero
9 Clerk of the Legislative Body

10 By: _____
11 Deputy

12 FORM APPROVED
13 COUNTY COUNSEL

14 JUL 21 2005
15 BY *[Signature]*