

FREQUENTLY ASKED QUESTIONS

Community Facilities District #1

As of July 2017

QUESTION: When was the Encinitas Ranch Community Facilities District (CFD #1) established?

ANSWER: CFD #1 was established on 07\12\1995 via the adoption of City of Encinitas Resolution Number 95-75, declaring the City's intention to form a Community Facilities District. This action was taken as part of the implementation of a Development Agreement between the City and the developers of Encinitas Ranch.

QUESTION: What was the original purpose of CFD #1, and for the levying of the Special Taxes?

ANSWER: Bonds were issued to pay for the construction of the public infrastructure, such as streets and roads, drainage, water and sewer services, needed to build the Encinitas Ranch neighborhood. Approximately \$44 million of bonds (in total) have been issued. Of that amount, approximately \$35 million of bonds are still outstanding.

QUESTION: Who is responsible for the repayment of CFD #1 bonds?

ANSWER: Under the laws regulating Community Facilities Districts, private property owners within CFD #1, which in Encinitas Ranch are home owners and the retail shopping center owner, are solely responsible for the repayment of both the principal and interest on the CFD #1 bonds. There is a "Maximum Special Tax" established each fiscal year, for each privately-owned property within CFD #1. The homeowners and retail center owner are responsible for paying up to that maximum amount each fiscal year.

QUESTION: Is all property within the boundaries of the CFD#1 subject to the Special Tax (also referred to as the "Mello-Roos Tax.")?

ANSWER: All Public Property (the Encinitas Ranch Golf Course and Indian Head Canyon Park) as well as dedicated open space and agricultural land, are exempt from taxation. All other properties are responsible for their fair share, based on the "Rate & Method of Apportionment" established at the time of the CFD's formation.

QUESTION: If the Encinitas Ranch Golf Course is exempt from CFD taxation, then why does it contribute to the relinquishment of the bond debt?

ANSWER: The Development Agreement that established Encinitas Ranch and the golf course created joint ownership of the golf course by the City and the master developer. Because the master developer is a private citizen that would benefit from the exemption, the City and developer agreed to amend the Development Agreement to provide for an annual contribution toward that portion of the public improvements that benefit the golf course.

There is a maximum amount that the Golf Course is required to contribute in any fiscal year, and that payment is only required when the golf course generates a calculated rate of profit, identified as the “Excess Golf Course Net Revenue” (EGCNR). See below for a more detailed explanation of the EGCNR.

QUESTION: I have heard that the Encinitas Towne Center is part of the Community Facilities District #1, but that it only pays its fair share of the special assessments if retail sales are above certain levels. Is this true? Are there any circumstances where the Encinitas Towne Center does not pay its fair share of the Special Taxes?

ANSWER: No, The Towne Center and any other business owners within the District pay their fair share each year, based on the established formula(s) (Rate & Method) in the formation documents. There is no “relief” and any other type of abatement clause for any of the business owners. They are required to pay their fair share, regardless of their economic condition or results.

QUESTION: What happens if there is not enough money in any one year to pay the full amount due on the bonds?

ANSWER: All properties subject to taxation will (first) pay the Maximum Special Tax. Any shortfall after that will be paid by monies maintained in an Escrow Account with the Bond Trustee. Those amounts must later be replenished. Any further shortfall is paid by the Bond Insurer.

QUESTION: How long does the Special Tax run for CFD #1?

ANSWER: Through 2029

QUESTION: How much is the average assessment on residential property per year in CFD #1?

ANSWER: There are nineteen classes of residential property within the Ranch distinguished by the total square footage of each home. The yearly (actual) assessments in the current year range from about \$950 to \$4,650 per year. The average is in the \$2,000 to \$2,500 range. (The current assessment schedule is attached.)

QUESTION: Who owns and operates the Encinitas Ranch Golf Course?

ANSWER: The Encinitas Ranch Golf Authority (ERGA) owns the Golf Course. ERGA is a California Joint Powers Agency (JPA). ERGA is governed by a Board of Directors with five members. The makeup of the Board is defined in the Encinitas Ranch Development Agreement, and includes the Encinitas City Manager, the Encinitas Parks and Recreation Director, the Encinitas City Engineer,, an independent Director who serves as Chairman of the Board, and one appointed representative of the developer, the Carlitas Company. The Golf Course is operated under a management agreement with JC Resorts LLC, a privately-held company specializing in Golf Course and Resort management.

QUESTION: Was any of the money raised in the CFD #1 bond issues used to construct the Golf Course?

ANSWER: No. all CFD #1 monies raised were utilized to construct qualified public infrastructure within the District. Golf Course construction was paid for either through the issuance of a separate ERGA Golf Course Revenue Bond sale or by the developer, the Carlitas Company. No homeowner funds have been used to build or improve the course.

QUESTION: Who pays the debt service on the ERGA Golf Course Revenue Bonds that were used to construct the Golf Course?

ANSWER: Revenues from the operation of the Golf Course are pledged towards the repayment of the ERGA Golf Course Revenue Bonds. This is the only source of repayment for those bonds.

QUESTION: How is that maximum Golf Course contribution calculated?

ANSWER: It is determined by the amount of the original infrastructure in the Development, and the amount that was deemed to have benefit to the Golf Course. That percentage was calculated by the Financial Advisor on the 1998 CFD #1 bond issue. It is approximately 14.25% of the total CFD #1 obligation for any fiscal year (currently approximately \$372,000.)

QUESTION: What happens if the Golf Course does not produce sufficient EGCNR in any fiscal year to make its full scheduled payment?

ANSWER: The Golf Course's contribution to the CFD #1 is reduced and the difference is required to be made up by the homeowners and business owners subject to the Special Tax. In no case will any homeowners be liable for paying any more than the Maximum Special Tax for that year.

The obligation to pay all of the CFD #1 debt payments is (entirely) the obligation of the homeowners and business owners within CFD #1. To the extent that the Golf Course is able to contribute, the actual assessments of the homeowners and businesses are reduced by a like amount.

A provision exists for the Golf Course to repay contributions it fails to make in any given year. However, this repayment obligation is limited by a “five-year look-back clause. This clause limits the pay back contributions to only amounts that have accrued in any previous five-year period.

For example, if the Golf course were required to contribute \$1,000 to bond debt relinquishment in 2010, but only contributed \$500 that year, ERGA would be required to repay all or a portion of that \$500, as well as the on-going regular contribution. However, enough Excess Golf Course Net Revenue must exist to do so, and the repayment requirement is extinguished after five years. If it failed to pay its full contribution in a series of years, all owed amounts would need to be repaid, except for any portion that is more than five years old.

QUESTION: How much is my assessment affected (reduced) as a result of the Agreement that the Golf Course make contributions to the payment of the assessments?

ANSWER: As of FY 2016-2017 the actual assessed amounts were approximately 70% -72% of the amount(s) that could have been assessed, ignoring other sources of income to the District. There is a Maximum Special Tax that can be assessed in any fiscal year, that amount was set in conjunction with the issuance of the CFD Bonds. In the current year, the actual assessment is about 71% of the Maximum Special Tax.

QUESTION: How much has the Golf Course contributed over the years (since inception) towards the payments on the CFD bonds?

ANSWER: Approximately \$5.7 million through fiscal year 2017.

QUESTION: I have heard that the City Council took some actions in April 2011 that will affect the amount of my assessment(s) in the future. What action was taken, and what financial impact will that have on my future assessments?

ANSWER: The City Council approved a loan extension for the Caritas Company, which does not affect CFD #1 in any way. As a part of that action, the City Council also approved a change to the formula in the Development Agreement, regarding how Golf Course revenues will be distributed going forward. The change allows the Golf Course to develop and fund a contingency reserve of up to \$100,000 per year (\$500,000 total) from revenues that otherwise would have been used to pay CFD bond payments. This could have the effect of reducing the Golf Course’s contribution to the CFD bond payments. If revenues continue at healthy levels,

the change may not have any effect of CFD assessments amounts. Should revenues remain at more depressed levels, the maximum impact on the average residential assessments is about 3% of the assessed amount (or an increase of about \$90 per year, for up to five years, on an average \$2,500 assessment.

QUESTION: Is the golf course in CFD #1?

ANSWER: Yes, the golf course is within the boundaries of the CFD #1.

QUESTION: Who is in the Joint Powers Authority (JPA)?

ANSWER: The City of Encinitas and the San Dieguito Water District.

QUESTION: What are the names of the ERGA Board members?

ANSWER:	Rich Houk	Chairman of the Board
	Karen Brust	Encinitas City Manager
	Jennifer Campbell	Encinitas Director of Parks and Recreation
	Frank Belock (interim)	Encinitas City Engineer
	Cindy Jacob	Director, representative of the Carltas Company

The makeup of the Board is defined in the Encinitas Ranch Development Agreement

QUESTION: What is the definition of an independent Director?

ANSWER: I'm not sure there is a "definition" per se. There is one appointed director, who acts as Chairman of the Board. Under the by-laws, this Director is appointed by the City Manager. The Director that represents Carltas is appointed by Carltas. There are no stated terms for a Board appointment.

QUESTION: What is the compensation of the board members?

ANSWER: \$100 per meeting, which applies only to the two outside directors.

QUESTION: Should CFD#1 Homeowners be represented on the ERGA Board

ANSWER: Dick Stern, President of the Encinitas Ranch Community Association serves as a non-voting member of the board and represents all of the homeowners and HOA's in CFD #1.

QUESTION: Compared to current amounts how much can the assessments increase in any year on a percentage basis?

ANSWER: The assessments can increase up to the amount of the Maximum Special Tax in any fiscal year, should there be a need to assess at that level. That is not likely, but permissible under the terms of the Special Tax.

QUESTION: Who and how would any bond repayment shortfall be addressed if the homeowners have not yet hit the maximum special tax limit?

ANSWER: Again, the assessments for ALL taxpayers, including residential and commercial, would increase up to the amount of the Maximum Special Tax for that fiscal year. Any shortfall after that would (first) be addressed by a draw from the Bond Reserve Fund. Any draws from this Fund must be repaid at the earliest possible timeframe.

QUESTION: How does the developer profit from the golf course and how does it vary by year?

ANSWER: The Developer has the right to receive distributions to the extent that there are Surplus Golf Course Net Revenues (SGCNR) in any fiscal year. SGCNR is defined as any net revenues that are left over after the Golf Course pays all of its obligations, including the current amount due on the CFD Golf Course Bonds, as well as any prior unpaid assessments (taking into account the five year lookback rule.) The "distributions" to the Developer can only be used to pay principal and interest on the Sales Tax loan to the City. After 2030, the Developer shares 50%/50% in all SGCNR.

QUESTION: Are the homeowners paying for the purchase and/or development of Indian Head Canyon?

ANSWER: No, Indian Head Canyon was donated to the City by Carltas. Indian Head Canyon is undeveloped.

QUESTION: Are the homeowners paying for the purchase and/or development of a Performing Arts Center?

ANSWER: No, the Performing Arts Center site is the subject of an IOD (Irrevocable Offer of Dedication) from Carltas to the City.

QUESTION: Given ERGA is allowed to establish a 3% contingency reserve what was the rationale for establishing the new contingency reserve fund?

ANSWER: ERGA has an Operations Reserve (2 months operating expenses) and a Capital Reserve (up to 4% of gross revenues) that are part of the original Development Agreement and Bond Indenture. The Contingency Reserve was created to account for (potential) events of a catastrophic nature, that would require immediate outlays of cash by the Golf Course.

QUESTION: It would be good to graphically show how the retail center is contributing ~15% of the bond repayments, ERGA ~14% and the homeowner the remaining 71% and how does the Maximum Special Tax relate to the 71%

Distribution of Bond Repayments		
Retail Center	ERGA	Homeowners
~15%	~14%	~71%

- The homeowners are currently paying about 71 – 71% of the Maximum

Special Tax.

- How does the

Maximum Special Tax relate to the 71% ?

ANSWER: To clarify, if ERGA makes its full contribution, then residential pays about 85% of the remainder and commercial pays 15% of the remainder (of the ACTUAL amount assessed). This translates to about 73% of the TOTAL for residential and 13% of the TOTAL for commercial. If ERGA pays nothing in a year, then the 85% / 15% numbers apply.

The Maximum Special Tax is an amount that was determined in conjunction with the 2004 CFD bond issue. It bears no direct relationship to the amount actually assessed in any year (except that the actual amount assessed cannot exceed the Maximum in any fiscal year). The amount taxpayers pay in any one year will vary depending on the factors previously discussed (the actual amount of debt service, any amounts credited due to interest earnings on the Reserve Fund, and the contributions of the Golf Course.)

To graphically depict this relationship, one needs to choose an assumption. There are several choices (Golf Course pays full amount, Golf Course makes partial payment, Golf Course makes no payment.) In past years, interest earned credits have come into the equation. At this point, those amounts are of minimal importance.

QUESTION: How does the developer profit from the golf course and how does it vary by year?

ANSWER: As noted above, the Developer has the right to receive distributions, under circumstances specified in the Development Agreement. It is not a sharing of profits. The Developer donated the land for the Golf Course. As part of the Agreement, the Developer will be repaid for the value of that land (plus accrued interest) starting in 2030 and ending in 2055.

There is a “cap” to how much the Developer can receive, and if the Surplus Golf Course Net Revenues are not sufficient to repay the full amount during that period, the Agreement expires and the Developer has no further right to receive distributions.