

## Staff Summary Report



Council Meeting Date: 1/10/08

Agenda Item Number:   /  

**SUBJECT:** Request adoption of a resolution of the Board of Directors of the Rio Salado Community Facilities District (City of Tempe, Arizona) acknowledging waiver and agreeing to non-enforcement.

**DOCUMENT NAME:** (20080110fsjh01) **IMPROVEMENT (ASSESSMENT) DISTRICT (0805-80) RESOLUTION NO. CFD 2008.01**

**SUPPORTING DOCS:** Yes

**COMMENTS:** The Rio Salado Community Facilities District (CFD) previously entered into an intergovernmental agreement in which the district is obligated to pay certain amounts (operating and capital assessments) to the City of Tempe. The CFD has assessed the amounts due the City against property within the district. The City will assess, or has assessed some property within the CFD to secure the payment of its Pier at Town Lake Improvement District No. 180 Improvement Bonds. The lien of the CFD assessments may have a priority right over the lien of the City improvement district assessments, which would adversely impact the ability to sell the improvement district bonds. **This resolution requests that the CFD waive any right to enforce the CFD assessments against any property subject to the city assessments in any manner which would prevent the prompt enforcement of the City improvement district assessments against such property. This change would allow the improvement district bonds to be sold and is consistent with past action taken by the CFD Board for other affected improvement district assessments.**

**PREPARED BY:** Jerry Hart, Financial Services Manager (8505)

**REVIEWED BY:** N/A

**LEGAL REVIEW BY:** Keith Hoskins, Gust Rosenfeld P.L.C., (602) 257-7967

**FISCAL NOTE:** Board of Director approval would mean that the CFD assessments would not have a priority right over the lien of the City improvement district assessments.

**RECOMMENDATION:** Staff recommends approval of Resolution No. CFD 2008.01

**ADDITIONAL INFO:** N/A

RESOLUTION NO. CFD 2008.01

RESOLUTION OF THE BOARD OF DIRECTORS OF THE RIO SALADO  
COMMUNITY FACILITIES DISTRICT (CITY OF TEMPE, ARIZONA)  
ACKNOWLEDGING WAIVER AND AGREEING TO NON-ENFORCEMENT.

WHEREAS, the Rio Salado Community Facilities District (City of Tempe, Arizona) (the "District"), has entered into an intergovernmental agreement in which the District is obligated to pay certain amounts to the City of Tempe (the "City"); and

WHEREAS, the District has assessed, and has agreed to continue to assess, the amounts due the City against property within the District (the "District Assessments"); and

WHEREAS, the City has assessed some property within the District to secure the payment of its Pier at Town Lake Improvement District Improvement Bonds (the "City Assessments"); and

WHEREAS, the lien of the District Assessments may have a priority right over the lien of the City Assessments; and

WHEREAS, the City has waived any right to cause the District to enforce the District Assessments in any manner which would prevent the prompt enforcement of the City Assessments and has requested the District Board to acknowledge this waiver and agree not to undertake any such enforcement;

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF DIRECTORS OF THE RIO SALADO COMMUNITY FACILITIES DISTRICT (CITY OF TEMPE, ARIZONA), that:

**Section 1.** The waiver by the City of Tempe is hereby acknowledged.

**Section 2.** The District shall not undertake any enforcement of the District Assessments against any property subject to the City Assessments in manner which would prevent the prompt enforcement of the City Assessments against such property.

PASSED AND ADOPTED on January 10, 2008.

\_\_\_\_\_  
Hugh Hallman, Chairman

ATTEST:

\_\_\_\_\_  
Jan Hort, District Clerk

**CERTIFICATION**

I, Jan Hort, the duly appointed and acting District Clerk of the Board of Directors of the Community Facilities District, do hereby certify that the above and foregoing Resolution No. \_\_\_\_ was duly passed by the Board of Directors of the Community Facilities District, at a regular meeting held on January 10, 2008, and the vote was \_\_\_\_ aye's and \_\_\_\_ nay's and that the Chairman and \_\_\_\_ Board Members were present thereat.

DATED: \_\_\_\_\_

\_\_\_\_\_  
District Clerk