

OAKLAND CITY COUNCIL

RESOLUTION NO. _____

C.M.S.

B. Plabach

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUN 26 PM 2:27

**RESOLUTION ACCEPTING PETITION AND
DETERMINING TO UNDERTAKE PROCEEDINGS**

**Community Facilities District No. 2003-1
(Werner Court Vegetation Management)**

WHEREAS, Werner Development, LLC (“Werner Development”), as the owner of certain real property situated in the City of Oakland (the “City”), has filed with the City Clerk (the “Clerk”) a petition (the “Petition”), signed by an authorized representative, containing the matters required by Sections 53318 and 53319 of the California Government Code and requesting this Council to initiate and conduct legal proceedings pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code; hereafter, the “Act”) for the establishment of a community facilities district to be known as “Community Facilities District No. 2003-1 (Werner Court Vegetation Management), City of Oakland, County of Alameda, State of California” (“CFD No. 2003-1”) and for the conduct of the related landowner-voter election to authorize levy of a special tax upon the 21 parcels of taxable property within CFD No. 2003-1 and utilize the proceeds thereof for certain described maintenance services for an open space parcel adjacent to CFD No. 2003-1, as shall be more fully established by said legal proceedings; and

WHEREAS, as set forth in the Petition, Werner Development requests that the proposed CFD No. 2003-1 include the real property shown on the exhibit map attached as Exhibit A to the Petition, which real property is situated within the City; and

WHEREAS, the proposed CFD No. 2003-1 is to be established for the purpose of financing the maintenance services described therein pertaining to weed abatement and

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vegetation management respecting an open space parcel adjacent to CFD No. 2003-1 (the "Maintenance Services") and related administrative expenses of CFD No. 2003-1; and

WHEREAS, Werner Development represents in the Petition that it is the sole owner of the subject 21 parcels of land situated within CFD No. 2003-1 and which will be subject to the Special Tax; and

WHEREAS, the Petition has been submitted in accordance with and contains the matters required by the provisions of Sections 53318 and 53319 of the Act;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakland as follows:

1. The Petition is hereby found to be legally sufficient and is accepted by the Council, and this action shall be final and conclusive within the meaning of Section 53319 of the Act.

2. The legal proceedings shall be initiated and conducted pursuant to the Act.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES: - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

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CITY COUNCIL
JUL 15 2003

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

B. P. Kelly
FILED
OFFICE OF THE CITY CLERK
OAKLAND
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RESOLUTION APPROVING BOUNDARY MAP

**Community Facilities District No. 2003-1
(Werner Court Vegetation Management)**

WHEREAS, a proposed boundary map (the "Boundary Map") entitled "Proposed Boundaries of Community Facilities District No. 2003-1 (Werner Court Vegetation Management), City of Oakland, City of Alameda, State of California" has been filed with the City Clerk (the "Clerk") of the City of Oakland (the "City"); and

WHEREAS, in connection with the intention of the City Council (the "Council") to initiate proceedings under the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code) (the "Act"), the Council wishes to approve the Boundary Map as the means of describing the boundaries of the proposed Community Facilities District No. 2003-1 (Werner Court Vegetation Management) ("CFD No. 2003-1");

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Oakland as follows:

1. The Council approves the Boundary Map and adopts the boundaries shown thereon as describing the extent of the territory to be included in a proposed community facilities district to be known as "Community Facilities District No. 2003-1 (Werner Court Vegetation Management), City of Oakland, County of Alameda, State of California."

2. The Council finds that the Boundary Map is in the form and contains the matters prescribed by Section 3110 of the California Streets and Highways Code, as required by Section 53328.5 of the California Government Code.

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3. The Council directs the Clerk to certify the adoption of this resolution on the face of the Boundary Map and to file a copy of thereof with the Alameda County Recorder for placement in the Book of Maps of Assessment and Community Facilities Districts.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES: - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

S-45-2
ORA/COUNCIL

JUL 15 2003

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

OAKLAND CITY COUNCIL

FILED
OFFICE OF THE CITY CLERK
OAKLAND

B. Peltier

RESOLUTION NO. _____

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**RESOLUTION OF INTENTION
TO ESTABLISH COMMUNITY FACILITIES DISTRICT
AND TO AUTHORIZE LEVY OF A SPECIAL TAX
TO FINANCE MAINTENANCE SERVICES**

**Community Facilities District No. 2003-1
(Werner Court Vegetation Management)**

WHEREAS, in response to a petition (the "Petition") submitted to the Council by Werner Development, LLC ("Werner Development"), as the sole owner of the 21 parcels of privately-owned real property shown on an exhibit map attached to the Petition, the Council proposes to establish a community facilities district within the City of Oakland (the "City") under the terms of the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code) (the "Act"), and the boundaries of the proposed community facilities district are shown on the boundary map (the "Boundary Map") which is on file with the City Clerk of this City (the "Clerk") and which has been approved by resolution of the Council previously adopted this same date; and

WHEREAS, by said resolution approving the Boundary Map, the Council has established that the name of the proposed community facilities district shall be as requested by the Petition, namely "Community Facilities District No. 2003-1 (Werner Court Vegetation Management), City of Oakland, County of Alameda, State of California" ("CFD No. 2003-1"); and

WHEREAS, Section 53321 of the Act provides that legal proceedings for the establishment of a community facilities district pursuant to the Act shall be instituted by the adoption of a resolution of the Council declaring its intention as provided hereafter in this resolution;

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NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Oakland as follows:

1. The types of maintenance services proposed to be provided within or adjacent to CFD No. 2003-1 are described as maintenance services for an open space parcel situated immediately adjacent to and generally to the northeast of the boundary of CFD No. 2003-1, which services shall consist of weed abatement and vegetation management on a buffer strip approximately 50 feet wide between the boundary line of CFD No. 2003-1 and the balance of the open space parcel.

2. A special tax sufficient to pay for all such maintenance services and related administrative expenses will be annually levied within CFD No. 2003-1. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property within CFD No. 2003-1, and this lien shall continue in force and effect in perpetuity or until the Council terminates the levy of the special tax by further legal proceedings not presently anticipated. The rate and method of apportionment of the special tax (the "Rate and Method") is set forth in Exhibit A, attached hereto and by this reference incorporated herein, and the amount of the special tax which may be levied annually shall be subject to the limitation imposed by the definition of "Maximum Special Tax" set forth in the Rate and Method.

3. The types of administrative expenses proposed to be authorized to be paid from the proceeds of the special tax are described in the definition of "Administrative Expenses" set forth in the Rate and Method.

4. On the basis of the written waiver and consent of Werner Development, as the sole owner of the 21 parcels to be subject to the special tax, the Council hereby sets Tuesday,

July 15, 2003, at 7:00 p.m. or as soon thereafter as the matter may be heard, in the Council Chambers located on the 3rd floor at 1 Frank Ogawa Plaza, Oakland, California, as the time and place for the public hearing on the establishment of CFD No. 2003-1. At the hearing, testimony of all interested persons and taxpayers for or against establishment of CFD No. 2003-1, the extent of CFD No. 2003-1, the proposed list of maintenance services to be authorized, the proposed rate and method of apportionment of the special tax, or any other aspect of the proposed CFD No. 2003-1 will be heard and protests will be considered from both registered voters, if any, residing within CFD No. 2003-1 and persons owning real property within CFD No. 2003-1. As provided by the Act, written protests by a majority of the registered voters, if any, but including a minimum of six registered voters, or by the owners of a majority in area of the land within the proposed CFD No. 2003-1 will constitute a "majority protest" and will require the suspension of proceedings for at least one year. Written protests must be filed with the Clerk at or before the time fixed for the hearing. If such majority protests are directed only against certain elements of the proposed improvements or proposed special tax, only those elements shall be deleted from the proceedings.

8. It is anticipated that the special tax will be billed as a separate line item on the regular property tax bill of the County of Alameda. However, the Council reserves the right, under Section 53340, to utilize any method of collecting the special tax which it shall, from time to time, determine to be in the best interests of the City, including, but not limited to, direct billing by the City to the property owners and supplemental billing.

9. Goodwin Consulting Group, as special tax consultant for CFD No. 2003-1, is hereby ordered to prepare and file the report required by Section 53321.5 of the Act (the "Hearing Report").

10. On the basis of the information set forth in that certain certificate entitled "Certificate re Land Owners," on file with the Clerk, in the election to be held in these proceedings the electors will be the landowner(s) within proposed CFD No. 2003-1 in accordance with Section 53326 of the Act.

11. This Council also intends to establish the annual appropriations limit of CFD No. 2003-1 at \$10,000.00 for the 2003-2004 fiscal year.

12. On the basis of the written waiver and consent of Werner Development, as the sole owner of the 21 parcels of taxable property within CFD No. 2003-1, this Council finds and determines that the publication of a notice of hearing has been waived and is therefore not required.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES: - BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

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JUL 15 2003

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

CITY OF OAKLAND COMMUNITY FACILITIES DISTRICT NO. 2003-1 (WERNER COURT VEGETATION MANAGEMENT)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 2003-1 (Werner Court Vegetation Management) [herein "CFD No. 2003-1"] shall be levied and collected according to the tax liability determined by the City Council through the application of the appropriate Special Tax rate, as described below. All of the property in CFD No. 2003-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acreage" or "Acre" means the land area making up 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 or other parcel map recorded at the County Recorder's Office.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means any or all of the following: the expenses of the City in carrying out its duties for CFD No. 2003-1, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Tax, and all other costs and expenses of the City in any way related to the establishment or administration of CFD No. 2003-1.

"Administrator" shall mean the person or firm designated by the City to administer the Special Tax according to this Rate and Method of Apportionment of Special Tax.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Alameda designating parcels by Assessor's Parcel number.

“Buildable Lot” means an individual lot within a Final Map for which a building permit for new construction may be issued without further subdivision of such lot.

“City” means the City of Oakland.

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

“County” means the County of Alameda.

“Final Map” means a final map, or portion thereof, approved by the County pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq*) that creates individual lots for which building permits may be issued. The term “Final Map” shall not include any large-lot subdivision map, Assessor’s Parcel Map, or subdivision map or portion thereof, that does not create individual lots for which building permits may be issued, including Assessor’s Parcels that are designated as remainder parcels.

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

“Maximum Special Tax” means the maximum Special Tax determined in accordance with Section C below that can be levied on Taxable Property in any Fiscal Year.

“Proportionately” means, for Buildable Lots, that the ratio of the actual Special Tax levied to the Maximum Special Tax is equal for all Buildable Lots.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for the following: (i) services, maintenance expenses, sinking fund payments and capital reserves authorized to be funded by CFD No. 2003-1, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or (based on delinquency rates in prior years) may be expected to occur in the Fiscal Year in which the tax will be collected.

“Special Tax” means any tax levied pursuant to the Act on property within CFD No. 2003-1.

“Taxable Property” means all Assessor’s Parcels within the boundaries of CFD No. 2003-1 which are not exempt from the Special Tax pursuant to law or Section E below.

B. CATEGORIZING PARCELS FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property within CFD No. 2003-1. The Administrator shall also

determine whether each Parcel meets the definition of a Buildable Lot based on a review of all Final Maps recorded in CFD No. 2003-1.

C. MAXIMUM SPECIAL TAX

The maximum Special Tax for Taxable Property in CFD No. 2003-1 is \$125 per Buildable Lot for fiscal year 2003-04. Beginning January 1, 2004, and each January 1 thereafter, the Maximum Special Tax shall be adjusted by applying the increase, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers that has occurred since January of the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied Proportionately on each Buildable Lot up to 100% of the Maximum Special Tax determined pursuant to Section C above.

The Special Tax for CFD No. 2003-1 shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. 2003-1 financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Act.

F. 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. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

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