

CITY OF OAKLAND
COUNCIL AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 JUN 26 PM 2: 26

TO: Office of the City Manager
ATTN: Robert C. Bobb
FROM: Financial Services Agency
DATE: July 8, 2003
RE: PUBLIC HEARING AND RESOLUTION OF FORMATION, RESOLUTION CALLING SPECIAL MAILED-BALLOT ELECTION, AND RESOLUTION DECLARING ELECTION RESULTS, ALL IN CONNECTION WITH THE COMMUNITY FACILITIES DISTRICT NO. 2003-1 (WERNER COURT VEGETATION MANAGEMENT); AND ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLAND LEVYING A SPECIAL TAX FOR THE FISCAL YEAR 2003-2004 AND FOLLOWING FISCAL YEARS SOLELY WITHIN AND RELATING TO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (WERNER COURT VEGETATION MANAGEMENT)

SUMMARY

A Community Facilities District ("CFD"), encompassing a 21-lot subdivision on Werner Court, has been proposed in order to levy and collect funds from the 21 lots within the District in order to fund the vegetation management and related costs required as a condition of developing this subdivision. Following the Public Hearing on this Community Facilities District No. 2003-1 (Werner Court Vegetation Management), the City Council must adopt additional resolutions and an ordinance in order to complete the establishment of CFD No. 2003-1.

FISCAL IMPACT

The proposed Werner Court Vegetation Management District (the "District") will be fully supported by an annual special tax levied exclusively on the 21 parcels within the District. The City's administrative costs related to the District will be reimbursed from the special tax proceeds. There will be no impact on the City's finances or on the General Fund.

BACKGROUND

Pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Community Facilities Act"), the City Council has on this same date adopted the necessary resolutions preliminary to a Public Hearing on the Community Facilities District No. 2003-1 (Werner Court Vegetation Management), and has conducted the Public Hearing. Based on a petition by the owner of the Werner Court subdivision, the District will provide a legally binding mechanism for the annual levy and collection of a special tax on the 21 parcels, whose proceeds will pay for the required vegetation management costs and the administrative expenses of the City pertaining to the District.

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Finance and Management Comm.

July 8, 2003

The Community Facilities Act provides that a Public Hearing must be held on the establishment of a CFD. At the close of the Public Hearing, absent any objections by the single property owner in the proposed District, the Council may determine that there was no majority protest, as defined by the Community Facilities Act.

In addition, as part of the proceedings for establishing the District, a formula for calculating the annual special tax on the taxable parcels (called the "Rate and Method of Apportionment of Special Tax" in the Community Facilities Act, and referred to in this report as the "Special Tax Formula") must be approved, first by the City Council (in the previously approved Resolution of Intention) and then by the qualified electors in the District voting at a special election conducted as a mailed-ballot election. If, as is the case here, there are no registered voters living in the District, the qualified elector is the landowner; since Werner Development is the sole landowner, it is the sole qualified elector. In the mailed-ballot election for the CFD No. 2003-1, the sole ballot was cast in favor of the establishment of the District. Therefore, at the close of the Public Hearing, the Council determined that there was no majority protest, as defined by the Community Facilities Act.

The Special Tax Formula (as set forth as Exhibit A to the previously-adopted Resolution of Intention) provides for a \$125 maximum special tax on each of the 21 lots for fiscal year 2003-04, for a total of \$2,625, with provision to increase the maximum special tax amount each year thereafter in accordance with the increase, if any, in the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers. As indicated in the hearing report for CFD No. 2003-1, the estimated cost and expense for the District for fiscal year 2003-04 is \$2,625.

Upon the final approval of the District, a notice of special tax lien will be recorded with the Alameda County Recorder, resulting in a permanent lien on each of the 21 buildable lots of Tract 7049 to secure payment of the annual special tax of CFD No. 2003-1. The lien continues in perpetuity unless the City Council terminates the special tax obligation by later Council actions in accordance with the Community Facilities Act.

As the local agency which establishes the District, the City of Oakland will have the obligation to provide annually for calculation of the special tax levy and for timely submission to the Alameda County Auditor-Controller of the information required for posting the special tax levy to the secured property tax roll of the County. The legislation recommended for adoption delegates this responsibility to the Director of the Financial Services Agency and provides that she may hire private consultants to perform these duties. The costs for preparation of the levy and any other administrative costs incurred by the City in conjunction with the District will be recovered by the City from the proceeds of the special tax.

KEY ISSUES AND IMPACTS

The establishment of the proposed Community Facilities District will provide a permanent mechanism to guarantee funding for the weed abatement and vegetation management which are a condition for the development of this subdivision in the Oakland Hills. The entire costs of the District - including any administrative costs incurred by the City - will be covered by the special tax to be levied on the 21 parcels located within the District, pursuant to the owner's petition.

SUSTAINABLE OPPORTUNITIES

Economic: The establishment of the District will permit the development of a 21-lot subdivision, which will provide new property tax revenues for the City's General Fund.

Environmental: The District will ensure that adequate vegetation management is carried out in this section of the sensitive Oakland Hills.

Social Equity: The resulting property tax revenues will be available in the City's budget, which can provide needed services to City residents.

DISABILITY AND SENIOR CITIZEN ACCESS

There is no impact to disability or senior citizen access following actions under this report.

RECOMMENDATIONS AND RATIONALE

Staff recommends that the City Council approve the resolutions and ordinance providing for the establishment of Community Facilities District No. 2003-1 (Werner Court Vegetation Management), and for levying the special tax needed to provide the required funding for vegetation management in this section of the Oakland Hills.

ACTION REQUESTED OF THE CITY COUNCIL

Council is requested to conduct the Public Hearing and to approve the Resolution of Formation, the Resolution Calling Special Mailed-Ballot Election, the Resolution Declaring Results of Election, and the Ordinance Levying a Special Tax for the Community Facilities District No. 2003-1 (Werner Court Vegetation Management).

Respectfully submitted,




DEBORAH EDGERLY
Director, Financial Services Agency

Prepared by:

Joseph T. Yew, Jr.
Treasury Manager

APPROVED AND FORWARDED TO THE
FINANCE AND MANAGEMENT COMMITTEE



OFFICE OF THE CITY MANAGER

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FINANCE & MANAGEMENT CMTE.
JUL 8 2003

OAKLAND CITY COUNCIL

RESOLUTION NO. _____

B. Pabst
PC
FILED
OFFICE OF THE CITY CLERK
OAKLAND
C.M.S.
2003 JUN 26 PM 2:26

RESOLUTION OF FORMATION

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

WHEREAS, reference is made to the Resolution of Intention, adopted by the City Council (the "Council") on this same date, and to the Hearing Report on file with the City Clerk (the "Clerk"), for the description of the authorized maintenance services and the special tax proposed to be authorized by these proceedings; and

WHEREAS, at the time set for the public hearing on this date, the Council conducted the public hearing, and at the close of the public hearing, the Council determined that a majority protest under Section 53324 of the Government Code was not made at the hearing;

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

1. The Council finds and determines that the foregoing recitals are true and correct.
2. There is hereby formed a community facilities district by the City of Oakland (the "City") under the terms of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Division 2 of Title 5 of the California Government Code, commencing with Section 53311. The boundaries of the community facilities district are shown on the boundary map approved by the Resolution Approving Boundary Map, adopted by this Council on this same date. A copy of the approved boundary map is on file with the Clerk.

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3. The name of the community facilities district is “Community Facilities District No. 2003-1 (Werner Court Vegetation Management), City of Oakland, County of Alameda, State of California” (“CFD No. 2003-1”).

4. The types of maintenance services authorized to be financed by 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.

5. A special tax sufficient to pay for all such services and the authorized 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 this 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.

6. The types of administrative expenses 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.

7. Advances of funds or contributions of work in kind from any lawful source, specifically including owners of property within CFD No. 2003-1, may be reimbursed from special tax revenue to the extent of the lesser of the value or cost of the contribution, but any agreement to do so shall not constitute a debt or liability of the City.

8. The Director of the Financial Services Agency of the City (the "Finance Director") is designated as the person responsible for annually preparing or causing the preparation of a current roll of special tax levy obligations by assessor's parcel number, for submitting said roll to the County of Alameda Auditor-Controller for inclusion on the property tax roll, and for responding to inquiries regarding estimates of future special tax levies. The City may contract with private consultants to provide this service in lieu of the Finance Director.

9. The special tax will be collected and enforced as a separate line item on the regular property tax bill. 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.

10. The Council hereby establishes the annual appropriations limit of CFD No. 2003-1 at \$10,000 for the 2003-2004 fiscal year.

11. Based upon the Certificate Re Land Ownership on file with the Clerk and presented to this Council, the qualified electors for the election to be held in these proceedings shall be Werner Development, LLC, the sole landowner of the taxable property within CFD No. 2003-1. The election will be conducted as a mailed-ballot election, and this Council hereby designates the Clerk as the official to conduct the mailed-ballot election.

12. The Council now finds and determines that all proceedings up to and including the adoption of this resolution were and are valid and in conformity with the requirements of the Mello-Roos Community Facilities Act. This determination and finding is final and conclusive in accordance with Government Code Section 53325.1(b).

13. This resolution shall take effect from and after its adoption.

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 -

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

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JUL 8 2003

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.

OAKLAND CITY COUNCIL

RESOLUTION NO. _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND
C.M.S.

B. P. [Signature]
PC

2003 JUN 26 PM 2: 26

RESOLUTION CALLING SPECIAL MAILED-BALLOT ELECTION

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

WHEREAS, on July 15, 2003, at the time set for the public hearing by the Resolution of Intention, adopted by the City Council (the "Council") this same date, the Council conducted the public hearing, and at the close of the public hearing the Council determined that a majority protest under Section 53324 of the Government Code was not made at the hearing; and

WHEREAS, at the conclusion of the public hearing, the Council adopted its Resolution of Formation pursuant to Section 53325.1 of the Government Code, thereby completing its proceedings for formation of proposed Community Facilities District No. 2003-1 (Werner Court Vegetation Management) ("CFD No. 2003-1"), to which resolution reference is hereby made for the description of the authorized maintenance services and administrative expenses and the authorized special tax approved by these proceedings; and

WHEREAS, in order to proceed with (1) the authorized maintenance services, (2) the levy of the authorized special tax and (3) establishment of the appropriations limitation for CFD No. 2003-1, as provided by the Resolution of Formation, the three matters must be submitted to an election of the qualified electors of CFD No. 2003-1; and

WHEREAS, the Council wishes to provide that the three ballot questions just described be combined into a single ballot measure pursuant to Section 53353.5 of the Government Code, as provided in the form of special election ballot attached hereto as Exhibit A and by this reference incorporated herein; and

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WHEREAS, a Certificate re Land Ownership has been filed with the City Clerk (the “Clerk”), certifying that at no time relevant to these proceedings were there ever twelve or more persons registered to vote within the territory of CFD No. 2003-1, with the result that, pursuant to Section 53326 of the Government Code, the qualified electors of CFD No. 2003-1 for the proposed special election shall be the landowners of CFD No. 2003-1;

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

1. The Council finds and determines that the foregoing recitals are true and correct.
2. The Council accepts the Certificate re Land Ownership heretofore filed in these proceedings and finds, in accordance therewith, that there presently are, and at all times relevant to these proceedings there have been fewer than twelve registered voters residing within the boundaries of CFD No. 2003-1. Accordingly, under Section 53326 of the Government Code, the qualified electors of CFD No. 2003-1 for the proposed special election shall be the landowners of CFD No. 2003-1.
3. The Council further finds and determines that the sole landowner of record owning private property within CFD No. 2003-1 is Werner Development, LLC (“Werner Development”), the entity set forth in the Certificate re Land Ownership (the “Ownership Certificate”) and that, as set forth on the special election ballot attached hereto as Exhibit A, all of the votes which may be cast in said special election are to be cast by Werner Development.
4. The Council further finds and determines that the authorized representative of Werner Development has filed with the Clerk (a) the special election ballot pertaining to Werner Development’s property and (b) a waiver and consent, by which, among other things, the time limits and related requirements respecting preparation and distribution of election materials are waived.

5. Pursuant to Sections 53326 and 53351 of the Government Code, the Council hereby calls an election, to be held and conducted forthwith upon adoption of this resolution, and sets this same date as the election date. Pursuant to Section 53326 of the Government Code, the election shall be conducted by mailed ballot; provided that personal service of the ballot is permitted under the terms of the waiver and consent on file with the Clerk and shall therefore be permitted. The prior receipt of the election ballot by Werner Development is hereby ratified as a form of personal service.

6. The combined measure to be submitted to the qualified electors of CFD No. 2003-1 shall be as set forth in Exhibit A.

7. The Clerk having certified to the receipt of the signed and marked ballot of Werner Development prior to adoption of this resolution, the Council hereby closes the election.

8. This resolution shall take effect from and after its adoption.

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 -

10-2
FINANCE & MANAGEMENT CMTE.
JUL 8 2003

ATTEST: _____

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

(Form of Special Election Ballot)

SPECIAL ELECTION BALLOT

(Mailed-Ballot Election)

This ballot is for the use of the authorized representative of the following owner of land within Community Facilities District No. 2003-1, City of Oakland, County of Alameda, State of California ("CFD No. 2003-1"):

<u>Name of Landowner</u>	<u>Number of Acres Owned</u>	<u>Total Votes</u>
Werner Development, LLC	All	All

According to the provisions of the Mello-Roos Community Facilities Act of 1982, and resolutions of the City Council (the "Council") of the City of Oakland (the "City"), the above-named landowner, as the sole owner of the privately-owned real property in CFD No. 2003-1, is entitled to cast all of the votes for CFD No. 2003-1.

In order to be counted, this ballot must be executed and certified below and be returned to the City Clerk, either by mail or in person, prior to 7:00 p.m. on July 15, 2003 (the "Election Date"), or as soon thereafter as the matter of the special election for CFD No. 2003-1 shall be considered by the Council at its meeting on said date, to:

City Clerk
City of Oakland
1 Frank Ogawa Plaza
Oakland, CA 94612

Mailing on the Election Date will not be sufficient. The ballot must be physically received by the City Clerk prior to the deadline in order to be counted.

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AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT.

BALLOT MEASURE

Shall the City Council of the City of Oakland be authorized to levy a special tax on the taxable property within its Community Facilities District No. 2003-1 ("CFD No. 2003-1") and utilize the proceeds thereof to finance certain authorized maintenance services and administrative expenses of CFD No. 2003-1, all as specified in its resolutions pertaining thereto, adopted on the Election Date; and shall the appropriations limit for CFD 2003-1 for fiscal year 2003-2004 be established at \$10,000 in accordance therewith?

MARK "YES" OR "NO"
WITH AN "X":

YES

NO

Certification for Special Election Ballot

The undersigned is an authorized representative of the above-named landowner and is a person legally authorized and entitled to cast this ballot on behalf of the above-named landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on July 15, 2003.

WERNER DEVELOPMENT, LLC,
a California limited liability company

By: _____
Brian Purcell, Manager

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JUL 8 2003

B.P. [unclear]
PL

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION DECLARING ELECTION RESULTS

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

WHEREAS, this same date, at the time set for the public hearing in the matter of Community Facilities District No. 2003-1 (Werner Court Vegetation Management) ("CFD No. 2003-1") by its Resolution of Intention, the City Council (the "Council") conducted the public hearing as scheduled, and at the close of the public hearing, the Council determined that a majority protest under Section 53324 of the Government Code was not made at the hearing; and

WHEREAS, at the conclusion of the public hearing, the Council adopted its Resolution of Formation pursuant to Section 53325.1 of the Government Code, thereby completing its proceedings for formation of CFD No. 2003-1; and

WHEREAS, in order to proceed with (1) the authorized maintenance services, (2) the levy of the authorized special tax and (3) establishment of the appropriations limitation for CFD No. 2003-1, as provided by the Resolution of Formation, the three matters were required to be submitted to an election of the qualified electors of CFD No. 2003-1; and

WHEREAS, by separate resolution adopted by the Council on this same date, the special mailed-ballot election has been called for this date;

WHEREAS, by said resolution calling the special mailed-ballot election, the three ballot questions just described were combined into a single ballot measure pursuant to Section 53353.5

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JUL 8 2003

of the Government Code, as provided in the form of special election ballot attached thereto as Exhibit A; and

WHEREAS, a Certificate of Clerk re Receipt of Property Owner Waiver and Consent Forms and Ballots and Declaring Election Results (the "Clerk's Certificate"), executed by the City Clerk (the "Clerk"), has been filed with this Council, certifying that a completed ballot has been returned to the Clerk for the sole landowner-voter eligible to cast a ballot in said special, with all votes cast as "Yes" votes in favor of the ballot measure, and further certifying on said basis that the ballot measure has passed; and

WHEREAS, the Council has received, reviewed and hereby accepts the Clerk's Certificate and wishes by this resolution to declare the results of the special mailed-ballot election;

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

1. The Council finds and determines that the foregoing recitals are true and correct.
2. The Council hereby finds and determines and declares that the ballot measure submitted to the qualified electors of CFD No. 2003-1 has been passed and approved by those qualified electors in accordance with Sections 53328(a) and 53355 of the Government Code.
3. The Council hereby authorizes and directs the Clerk to cause the preparation and recordation with the Alameda County Recorder of a notice of special tax lien in accordance with the provisions of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code. Said notice shall be recorded in said County Recorder's office within fifteen days of today's date.

4. This resolution shall take effect from and after its adoption.

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 -

10-3

FINANCE & MANAGEMENT CMTE.

JUL 8 2003

ATTEST: _____

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

Boyd
ML

Notice and Digest

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLAND
LEVYING A SPECIAL TAX FOR THE FISCAL YEAR 2003-2004 AND
FOLLOWING FISCAL YEARS SOLELY WITHIN AND RELATING TO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(WERNER COURT VEGETATION MANAGEMENT)

This ordinance establishes the legal authority for the City of Oakland, acting through the Director of the Financial Services Agency, to annually levy the special tax of this community facilities district upon the 21 single family parcels which comprise the district. For tax year 2003-04, the special tax will be set by the City Council, and this amount will be indexed to permit an increase each year thereafter by the increase in the specified consumer price index (the CPI of the San Francisco-Oakland-San Jose area for all urban consumers).

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FINANCE & MANAGEMENT CMTE.

JUL 8 2003

APPROVED AS TO FORM AND LEGALITY
FILED
OFFICE OF THE CITY CLERK
CITY ATTORNEY
OAKLAND

INTRODUCED BY COUNCILMEMBER _____

2003 JUN 26 PM 2: 26

ORDINANCE NO. ____ C.M.S.

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKLAND
LEVYING A SPECIAL TAX FOR THE FISCAL YEAR 2003-2004 AND
FOLLOWING FISCAL YEARS SOLELY WITHIN AND RELATING TO
COMMUNITY FACILITIES DISTRICT NO. 2003-1
(WERNER COURT VEGETATION MANAGEMENT)**

WHEREAS, at the time set for the public hearing in the matter of Community Facilities District No. 2003-1 (Werner Court Vegetation Management) ("CFD No. 2003-1") by its Resolution of Intention, the City Council (the "Council") conducted the public hearing as scheduled, and at the close of the public hearing, the Council determined that a majority protest under Section 53324 of the Government Code was not made at the hearing; and

WHEREAS, at the conclusion of the public hearing, the Council adopted its Resolution of Formation pursuant to Section 53325.1 of the Government Code, thereby completing its proceedings for formation of CFD No. 2003-1; and

WHEREAS, in order to proceed with (1) the authorized maintenance services, (2) the levy of the authorized special tax and (3) establishment of the appropriations limitation for CFD No. 2003-1, as provided by the Resolution of Formation, the three matters were submitted to an election of the qualified electors of CFD No. 2003-1; and in said special election all votes were cast as "Yes" votes in favor of the ballot measure, and the Clerk having certified on said basis that the ballot measure has passed; Now therefore:

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FINANCE & MANAGEMENT CMTE
JUL 8 2003

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAKLAND:

1. Pursuant to Government Code Sections 53328 and 53340, and in accordance with the Rate and Method of Apportionment of Spécial Tax (the "Rate and Method of Apportionment") as set forth in Exhibit A to that certain resolution of the City Council (the "Council") entitled "Resolution of Formation of Community Facilities District No. 2003-1 (Werner Court Vegetation Management)," adopted by the Council on July 15, 2003 (the "Resolution"), a special tax is hereby levied on all taxable property within Community Facilities District No. 2003-1 (Werner Court Vegetation Management) ("CFD No. 2003-1") for the 2003-2004 fiscal year and for all subsequent fiscal years in the amount to be established annually in accordance with the Rate and Method of Apportionment, subject to the maximum authorized special tax limit.

2. The Director of the Financial Services Agency (the "Finance Director") of the City of Oakland (the "City"), is authorized and directed, with the aid of the appropriate officers and agents of the City but without further action of the Council, to determine the Special Tax Requirement and the Special Tax for each parcel of Taxable Property within CFD No. 2003-1 (as said terms are defined in the Rate and Method of Apportionment), to prepare or cause to be prepared the annual Special Tax roll in the amount of the Special Tax in accordance with the Rate and Method of Apportionment and, without further action of the Council, to provide all necessary and appropriate information to the Alameda County Auditor-Controller in proper form, and in proper time, necessary to effect the correct and timely billing and collection of the Special Tax on the secured property tax roll of the County of Alameda (the "County"); provided that, as provided in the Resolution and Government Code Section 53340, this Council reserves the right 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.

3. The appropriate officers and agents of the City are authorized to make adjustments to the Special Tax roll prior to the final posting of the Special Taxes to the secured property tax roll of the County each fiscal year, as may be necessary to achieve a correct match of the Special Tax levy with the assessor's parcel numbers finally utilized by the County in sending out property tax bills.

4. If for any cause any portion of this ordinance is found to be invalid, or if the Special Tax is found inapplicable to any particular parcel by a court of competent jurisdiction, the balance of this ordinance, and the application of the Special Tax to the remaining parcels, shall not be affected.

5. This ordinance shall take effect and be in force immediately upon adoption as a tax measure.

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 -

10-4
FINANCE & MANAGEMENT CMTE.
JUL 8 2003

ATTEST: _____

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