

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

841



**FROM:** EXECUTIVE OFFICE

**SUBMITTAL DATE:** February 27, 2003

**SUBJECT:** Proposed Community Facilities District No. 03-1 (Newport Road) of the County of Riverside

**RECOMMENDED MOTION:** That the Board approves and adopts (1) Resolution No. 2003-110 declaring its intention to establish a Community Facilities District and authorize the levy of special taxes and, (2) Resolution No. 2003-111 to incur bonded indebtedness and to set a date and time for a public hearing.

**BACKGROUND:** A majority of the property owners within the boundaries of the proposed district have approached their supervisor requesting the extension of Newport Road. The extension of Newport Road would provide a major east west connection between Interstate 215 and Winchester Road/State Route 79, easing traffic congestion on Winchester Road.

The Community Facilities District would provide for the construction of a six-lane roadway extending from Menifee Road on the west to Winchester Road on the east, and halfwidth bridges crossing Salt

Continued on page 2

*Debra Cournoyer*  
Debra Cournoyer, Senior Management Analyst

FORM APPROVED  
COUNTY COUNSEL  
MAR 03 2003  
BY *[Signature]*

**FINANCIAL DATA:**

<input checked="" type="checkbox"/> Policy	<b>CURRENT YEAR COST</b>	N/A	<b>ANNUAL COST:</b>	\$	
<input checked="" type="checkbox"/> Policy	<b>NET COUNTY COST</b>	N/A	<b>IN CURRENT YEAR BUDGET:</b>	Yes/	No/
<input type="checkbox"/> Consent			<b>BUDGET ADJUSTMENT FY:</b>	Yes/	No/

**SOURCE OF FUNDS:** CFD Formation proceeds

**C.E.O. RECOMMENDATION:** APPROVE

*Bronda King*  
County Executive Officer Signature

Department Recommendation:  
Per Executive Office:

Prev. Agn. ref.

Dist. 3

AGENDA NO.

3.4

Creek at Leon and Rice Roads. It is estimated that the maximum cost of the facilities will be approximately \$20 million. The property owners would like to finance \$15 million with the balance coming from Road and Bridge Benefit District fees and various state and federal funds, which may become available. Property owners would receive a credit toward their road and bridge benefit district fee for that portion of the facilities constructed by the CFD.

The property owners have been working closely with TLMA and CFD Administration to facilitate the formation of this district. The owners have deposited \$53,000 with the CFD Administration to be used for formation costs. It is proposed that this CFD be a construction and acquisition district rather than solely an acquisition district, because of the immediate need to ease congestion in the area and the multiple property owners involved. The Debt Advisory Committee heard this item on February 20, 2003 and recommended approval of the waiver of Policy B-12 with regard to construction of the facilities. All other requirements of Policy B-12 have been met.

**RESOLUTION NO. 2003-110**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF  
THE COUNTY OF RIVERSIDE OF INTENTION TO  
ESTABLISH A COMMUNITY FACILITIES DISTRICT  
AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES  
AND SETTING A DATE AND TIME FOR A PUBLIC  
HEARING THEREON**

**WHEREAS**, a community facilities district may be established under the Mello-Roos Community Facilities Act of 1982 (the "Act"), commencing with Section 53311 of the California Government Code (the "Government Code"), in order to finance public capital facilities;

**WHEREAS**, proceedings for the establishment of a community facilities district under the Act may be instituted by the legislative body of a local agency on its own initiative;

**WHEREAS**, the Board of Supervisors (the "Board of Supervisors") of the County of Riverside (the "County") constitutes the legislative body of a local agency for purposes of the Act;

**WHEREAS**, the Board of Supervisors desires to institute proceedings to establish a community facilities district (the "District") and to authorize the levy of special taxes therein in order to finance certain road and bridge improvements;

**WHEREAS**, Section 53314.9 of the Government Code provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district;

**WHEREAS**, Section 53314.9 of the Government Code further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Government Code and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Government Code, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds;

**WHEREAS**, the County and Winchester Valley, LLC have entered into a Fee Deposit and Reimbursement Agreement (the "Deposit Agreement") that provides for the advancement of funds by certain owners of property within the proposed District (the "Property Owners") to be used to pay costs incurred in connection with the creation of the District, and provides for the reimbursement to the Property Owners of such funds advanced, without interest, from the proceeds of bonds issued by the District;

**WHEREAS**, the Board of Supervisors desires to include in this Resolution, in accordance with Section 53314.9 of the Government Code, the proposal to repay funds pursuant to the Deposit Agreement;

**WHEREAS**, Section 53314.9 of the Government Code provides that land devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products may be included in a community facilities district only if such land is contiguous to other land which is included within the described exterior boundaries of the community facilities district, and only if the legislative body finds that the land will be benefited by any of the types of public facilities and services proposed to be included within the district; and

**WHEREAS**, certain of the land within the proposed District, which land is contiguous to other land which is included within the described exterior boundaries of the proposed District, is devoted primarily to agricultural or livestock uses and being used for the commercial production of agricultural or livestock products, and the Board of Supervisors desires to make such finding with respect to such land;

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE**, in regular session assembled on March 11, 2003, does hereby resolve, find, determine and order as follows:

**Section 1.** The Board of Supervisors proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the District are described in the map showing the proposed District on file with the Clerk of the Board of Supervisors (the "Clerk of the Board"), which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The Clerk of the Board is hereby directed to record, or cause to be recorded, said map of the boundaries of the District in the office of the Riverside County Recorder within fifteen days of the date of adoption of this Resolution.

**Section 2.** The name proposed for the District is "Community Facilities District No. 03-1 (Newport Road) of the County of Riverside".

**Section 3.** The public facilities (the "Facilities") proposed to be financed by the District pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto, which is by this reference incorporated herein. The incidental expenses proposed to be incurred are identified under the caption "Incidental Expenses" on Exhibit A hereto.

**Section 4.** Except where funds are otherwise available, a special tax sufficient to pay for all Facilities, secured by recordation of a continuing lien against all nonexempt real property in the District, will be annually levied within the District. The rate and method of apportionment of

the special tax (the "Rate and Method"), in sufficient detail to allow each landowner within the proposed District to estimate the maximum amount that he or she will have to pay, is described in Exhibit B attached hereto, which is by this reference incorporated herein. The conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied are specified in the Rate and Method. The special tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the Board of Supervisors shall determine, including direct billing of the affected property owners.

The tax year after which no further special tax will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the special tax levied against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the District by more than 10%. For purposes of this paragraph, a parcel shall be considered "used for private residential purposes" not later than the date on which an occupancy permit for private residential use is issued.

**Section 5.** Pursuant to Section 53344.1 of the Government Code, the Board of Supervisors hereby reserves to itself the right and authority to allow any interested owner of property within the District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the District treasurer in full payment or part payment of any installment of the special taxes levied pursuant to the Rate and Method or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

**Section 6.** The Board of Supervisors hereby fixes Tuesday, April 15, 2003, at 10:00 a.m., or as soon thereafter as the Board of Supervisors may reach the matter, at the Board of Supervisors Chambers, 4080 Lemon Street, Riverside, California, as the time and place when and where the Board of Supervisors will conduct a public hearing on the establishment of the District.

**Section 7.** The Clerk of the Board is hereby directed to publish, or cause to be published, a notice of said public hearing, as prepared and approved by County Counsel, one time in *The Press-Enterprise*, a newspaper of general circulation published in the area of the District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53322 of the Government Code.

The Clerk of the Board is hereby further directed to give notice of said public hearing, as prepared and approved by County Counsel, by first-class mail to each registered voter and to each landowner within the District. Said notice shall be mailed at least 15 days prior to the date of said hearing and shall contain the same information as is required to be contained in the notice published pursuant to Section 53322 of the Government Code.

**Section 8.** The levy of said proposed special tax shall be subject to the approval of the qualified electors of the District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the District, with each owner having one vote for each acre or portion of an acre such owner owns in the District.

**Section 9.** The officers of the County are, and each of them is, hereby directed to study, or cause to be studied, the proposed District and, at or before said public hearing, file a report with the Board of Supervisors containing a brief description of the public facilities by type which will in his or her opinion be required to adequately meet the needs of the District, and his or her estimate of the cost of providing the Facilities. Such officers are hereby also directed to estimate the fair and reasonable cost of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

**Section 10.** In the opinion of the Board of Supervisors, the public interest will not be served by allowing the property owners within the proposed District to enter into a contract in accordance with subdivision (a) of Section 53329.5 of the Government Code and, accordingly, the Board of Supervisors hereby provides that such property owners may not enter into a contract in accordance with said subdivision.

**Section 11.** The Property Owners have heretofore advanced certain funds, and may advance additional funds, which have been or may be used to pay costs incurred in connection with the creation of the District. The Board of Supervisors proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of bonds of the District, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

**Section 12.** The Board of Supervisors hereby finds that the land in the proposed District devoted primarily to agricultural or livestock uses and being used for the commercial production of agricultural or livestock products will be benefited by the Facilities.

**Section 13.** The officers of the County are, and each of them is, hereby authorized and directed to do any and all things, and to execute and deliver any and all documents which said officers may deem necessary or advisable in order to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

**ADOPTED, SIGNED AND APPROVED** this 11th day of March, 2003, by the Board of Supervisors of the County of Riverside.

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Chairman of the Board of Supervisors

ATTEST:  
Nancy Romero  
Clerk to the Board of Supervisors

By: \_\_\_\_\_  
Deputy

RESOLUTION NO. 2003-111

**RESOLUTION OF THE BOARD OF SUPERVISORS OF  
THE COUNTY OF RIVERSIDE TO INCUR BONDED  
INDEBTEDNESS OF THE PROPOSED COMMUNITY  
FACILITIES DISTRICT NO. 03-1 (NEWPORT ROAD) OF  
THE COUNTY OF RIVERSIDE AND SETTING A DATE  
AND TIME FOR A PUBLIC HEARING THEREON**

**WHEREAS**, the Board of Supervisors (the "Board of Supervisors") of the County of Riverside (the "County") has this date adopted its Resolution entitled "A Resolution of the Board of Supervisors of the County of Riverside of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes and Setting a Date and Time for a Public Hearing Thereon", stating its intention to establish Community Facilities District No. 03-1 (Newport Road) of the County of Riverside (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, commencing with Section 53311 of the California Government Code (the "Government Code"), for the purpose of financing certain public facilities (the "Facilities"), as further provided in said Resolution; and

**WHEREAS**, in order to finance the Facilities it is necessary to incur bonded indebtedness in the amount of up to \$20,000,000;

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE**, in regular session assembled on March 11, 2003, does hereby resolve, find, determine and order as follows:

**Section 1.** The Board of Supervisors hereby declares that in order to finance the Facilities, it is necessary to incur bonded indebtedness.

**Section 2.** The purpose for which the proposed debt is to be incurred is to provide the funds necessary to pay the costs of the Facilities, including construction costs and all costs incidental to, or connected with, the accomplishment of said purpose and of the financing thereof, as permitted by Section 53345.3 of the Government Code.

**Section 3.** The maximum amount of the proposed debt is \$20,000,000.

**Section 4.** The Board of Supervisors hereby fixes Tuesday, April 15, 2003, at 10:00 a.m., or as soon thereafter as the Board of Supervisors may reach the matter, at the Board of Supervisors Chambers, 4080 Lemon Street, Riverside, California, as the time and place when and where the Board of Supervisors will conduct a public hearing on the proposed debt issue.

**Section 5.** The Clerk of the Board of Supervisors is hereby directed to publish, or cause to be published, a notice of said public hearing, as prepared and approved by County Counsel, one time in *The Press-Enterprise*, a newspaper of general circulation published in the area of the

District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said hearing. Said notice shall contain the information prescribed by Section 53346 of the Government Code.

**Section 6.** The officers of the County are, and each of them is, hereby authorized and directed to do any and all things, and to execute and deliver any and all documents which said officers may deem necessary or advisable in order to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

**ADOPTED, SIGNED AND APPROVED** this 11th day of March, 2003, by the Board of Supervisors of the County of Riverside.

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Chairman of the Board of Supervisors

ATTEST:  
Nancy Romero  
Clerk to the Board of Supervisors

By: \_\_\_\_\_  
Deputy