

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



FROM: County Executive Office

SUBMITTAL DATE:
December 21, 2004

SUBJECT: Resolution No. 2005-03 A Resolution of the County of Riverside Establishing Community Facilities District No. 04-2 (Lake Hills Crest) of the County of Riverside, Authorizing the Levy of a Special Tax and Calling an Election.

RECOMMENDED MOTION: That the Board of Supervisors conduct the public hearing and adopt Resolution No. 2005-03 approving the formation of Community Facilities District No. 04-2 of the County of Riverside, authorizing the levy of a special tax, establishing an appropriations limit for said District, and calling an election.

BACKGROUND: On September 14, 2004 the Board of Supervisors declared its intent to form Community Facilities District No. 04-2 (Lake Hills Crest) of the County of Riverside (the "CFD") and set the public hearing for October 19, 2004. The public hearing was opened and continued to November 23, 2004 and again to December 14, 2004, when the public hearing was again continued to January 11, 2005. The continuances were necessitated by the statutory requirement that prior to establishing a community facilities district, a joint community facilities agreement ("JCFA") must be entered into with those public agencies receiving public improvements to be financed by the bonds sold by the proposed CFD. The required JCFA was approved by the Board of Directors of Western Municipal Water District on December 8, 2004. A JCFA with the
(Continued on Page 2)

Debra Cournoyer
Debra Cournoyer, Senior Management Analyst

FORM APPROVED
COUNTY COUNSEL

DEC 23 2004

Departmental Concurrence

BY FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	No
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	04/05

SOURCE OF FUNDS: Bond Proceeds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:
APPROVE

County Executive Office Signature *[Signature]*

- Dept't Recomm.: Consent Policy
- Per Exec. Ofc.: Consent Policy

Riverside County Flood Control and Water Conservation District and the property owners had been entered into previously.

The proposed CFD has boundaries that are coterminous with Final Tract Nos. 28815 and 28816 and will provide for 512 single-family, detached residential units. It will also finance approximately \$18,500,000 of public improvements, of which \$10,115,633 are to be accepted and maintained by the Western Municipal Water District.

The Registrar of Voters for the County of Riverside has filed a certificate with the Clerk of the Board of Supervisors that states that there have been fewer than 12 registered voters residing on the property within the boundaries of the CFD for the 90 days preceding the date of the public hearing. By the terms of the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), this determination means that the qualified electors for the election are the owners of property within the boundaries of the CFD with each land owner receiving one vote for each acre of land or portion thereof that it owns.

Each of the property owners have filed with the Clerk of the Board of Supervisors a "Waiver of Certain Election Procedures with Respect to the Landowner Election for Community Facilities District No. 04-2 (Lake Hills Crest) of the County of Riverside" which allows for the Board, pursuant to the Act, to set the date of the election to be January 11, 2005. Resolution No. 2005-03 designates the County Executive Officer, or his designee, to be the official that is to conduct the election.

There are three propositions that will be voted on by the qualified electors: (i) should the CFD be able to incur bonded indebtedness in an aggregate principal amount not to exceed \$32,500,000, (ii) should the CFD be able to levy a special tax within its boundaries consistent with the terms of the Rate and Method, and (iii) should the CFD establish an annual appropriations limit equal to \$3,250,000.

2 RESOLUTION NO. 2005-03

3 RESOLUTION OF THE BOARD OF SUPERVISORS
4 OF THE COUNTY OF RIVERSIDE ESTABLISHING
5 COMMUNITY FACILITIES DISTRICT NO. 04-2 (LAKE HILLS CREST)
6 OF THE COUNTY OF RIVERSIDE,
7 AUTHORIZING THE LEVY OF A SPECIAL TAX THEREIN,
8 CALLING AN ELECTION AND APPROVING AND AUTHORIZING
9 CERTAIN ACTIONS RELATED THERETO

10 WHEREAS, Board of Supervisors of the County of Riverside (the "Board of Supervisors") has
11 approved Final Tract Map Nos. 28815 and 28816, and Environmental Impact Report No. 112 and
12 Environmental Assessment No. 37348 were reviewed and a Negative Declaration was approved
13 (collectively, the "Environmental Review Documents") prior to taking any action on Final Tract Map
14 Nos. 28815 and 28816 pursuant to the California Environmental Quality Act (Public Resources Code
15 Section 21000 *et seq.*) ("CEQA") and its implementing guidelines (14 California Code of Regulations
16 section 15000 *et seq.*) (the "Guidelines"); and

17 WHEREAS, the project descriptions contained in both Final Tract Map Nos. 28815 and 28816
18 and the Environmental Review Documents include descriptions of (a) development activities proposed
19 within the area covered by or authorized pursuant to the Final Tract Map Nos. 28815 and 28816, and
20 (b) the proposed improvements associated with development pursuant to the Final Tract Map Nos.
21 28815 and 28816, and the various environmental effects of such development activities and water,
22 sewer, storm and street improvements are analyzed in detail in the Environmental Review Documents;
23 and

24 WHEREAS, the Board of Supervisors of the County of Riverside (the "County") has heretofore
25 adopted Resolution No. 04-427 stating its intention to form Community Facilities District No. 04-2
26 (Lake Hills Crest) of the County of Riverside ("Community Facilities District No. 04-2" or the
27 "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter
28 2.5 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (the "Act"); and

WHEREAS, in connection with the proposed formation of the District, the County has entered
into certain Joint Community Facilities Agreements with the Riverside County Flood Control and Water

1 Conservation District (the "County Flood Control") and the Western Municipal Water District (the
2 "Water District") relating to certain Facilities proposed to be financed by the District and owned and
3 operated by such entities (collectively, the "Joint Community Facilities Agreements"); and

4 WHEREAS, a copy of Resolution No. 04-427 setting forth a description of the proposed
5 boundaries of Community Facilities District No. 04-2, the facilities and incidental expenses to be
6 financed by the District (the "Facilities" and "Incidental Expenses," respectively) and the rate and
7 method of apportionment of the special tax initially proposed to be levied within the District is on file
8 with the Clerk of the Board of Supervisors and is incorporated herein by reference; and

9 WHEREAS, notice was published and mailed to all landowners of the land proposed to be
10 included within the District as required by law relative to the intention of this Board of Supervisors to
11 form proposed Community Facilities District No. 04-2 and to levy a special tax and to incur bonded
12 indebtedness in the amount of up to \$32,500,000 therein; and

13 WHEREAS, on January 11, 2005, this Board of Supervisors conducted noticed public hearings
14 as required by law relative to the proposed formation of Community Facilities District No. 04-2, the levy
15 of the special tax therein and the issuance of bonded indebtedness by the District; and

16 WHEREAS, at the January 11, 2005 public hearings there was filed with this Board of
17 Supervisors a report containing a description of the facilities necessary to meet the needs of the District
18 and an estimate of the cost of such facilities as required by Section 53321.5 of the Act (the "Engineer's
19 Report"); and

20 WHEREAS, at the January 11, 2005 public hearings all persons desiring to be heard on all
21 matters pertaining to the formation of Community Facilities District No. 04-2, the levy of the special tax
22 and the issuance of bonded indebtedness were heard and full and fair hearings were held; and

23 WHEREAS, at the public hearings, evidence was presented to this Board of Supervisors on the
24 matters before it, and the proposed special tax to be levied within the District was not precluded by a
25 majority protest of the type described in Section 53324 of the Act, and this Board of Supervisors at the
26 conclusion of the hearings was fully advised as to all matters relating to the formation of the District, the
27 levy of the special tax and the issuance of bonded indebtedness therein; and

28 WHEREAS, this Board of Supervisors has determined that there have been fewer than twelve

1 registered voters residing in the proposed boundaries of Community Facilities District No. 04-2 for the
2 period of 90 days prior to January 11, 2005 and that the qualified electors in Community Facilities
3 District No. 04-2 are the landowners within the District; and

4 WHEREAS, on the basis of all of the foregoing, this Board of Supervisors has determined to
5 proceed with the establishment of Community Facilities District No. 04-2 and to call an election therein
6 to authorize (i) the levy of special taxes pursuant to the rate and method of apportionment of the special
7 tax, as set forth in Attachment "C" attached to Resolution No. 04-427, (ii) the issuance of bonds to
8 finance the Facilities and Incidental Expenses, and (iii) the establishment of an appropriations limit for
9 Community Facilities District No. 04-2;

10 NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE
11 HEREBY FINDS, DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

12 SECTION 1. Each of the above recitals is true and correct.

13 SECTION 2. To the extent the creation of the District will result in bond proceeds which will
14 be expended for the construction of improvements included within Final Tract Map Nos. 28815 and
15 28816 which have been reviewed and analyzed in the Environmental Review Documents, and
16 authorized and approved by the County, CEQA requirements have been complied with and
17 accommodated in the conditions of approval for such Final Tract Maps. Accordingly, there is no
18 possibility that the formation of the proposed District, the levying of a special tax therein, and the
19 issuance of bonds pursuant thereto for the purpose of funding the construction of the Facilities will have
20 a significant effect on the environment, and, therefore, pursuant to Guidelines Section 15162, there is no
21 need for additional environmental analysis or documentation; and, further, because it can be seen with
22 certainty that the creation of the District, the levy of a special tax therein, and the issuance of bonds
23 pursuant thereto will have no significant effect on the environment, the formation of the proposed
24 District, levy of special tax, and issuance of bonds thereunder is exempt from CEQA pursuant to
25 Guidelines Section 15061. The Clerk of the Board is directed to cause a notice of exemption to be
26 posted as to the foregoing CEQA finding.

27 SECTION 3. A community facilities district to be designated "Community Facilities District
28 No. 04-2 (Lake Hills Crest) of the County of Riverside" is hereby established pursuant to the Act. The

1 Board of Supervisors hereby finds and determines that all prior proceedings taken with respect to the
2 establishment of the District were valid and in conformity with the requirements of law, including the
3 Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

4 SECTION 4. The boundaries of Community Facilities District No. 04-2 are established as
5 shown on the map designated "Map of Proposed Boundaries of Community Facilities District No. 04-2
6 (Lake Hills Crest) of the County of Riverside", which map is on file in the office of the Clerk of the
7 Board of Supervisors and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways
8 Code in the County of Riverside Book of Maps of Assessment and Community Facilities Districts in the
9 County Recorder's Office in Book No. 58, Page Nos. 78-80, on September 17, 2004 as Instrument
10 No. 2004-0743161.

11 SECTION 5. The types of Facilities and Incidental Expenses authorized to be provided for
12 Community Facilities District No. 04-2 are those set forth in Resolution No. 04-427. The estimated cost,
13 of the Facilities and Incidental Expenses to be financed is set forth in the Engineer's Report, which
14 estimates may change as the Facilities are designed and bid for construction and acquisition.

15 The County is authorized by the Act and by the Joint Community Facilities Agreements to
16 construct or to finance the construction and acquisition of the Facilities, all in accordance with the Act.
17 The Board of Supervisors finds that the proposed Facilities are necessary to meet the increased demand
18 that will be placed upon public infrastructure as a result of new development within the District and that
19 the Facilities to be financed pursuant to the Joint Community Facilities Agreements benefit the future
20 residents of the District.

21 SECTION 6. Except where funds are otherwise available, it is the intention of the Board of
22 Supervisors, subject to the approval of the eligible voters of the District, to levy the proposed special tax
23 at the rates set forth in Attachment "C" to Resolution No. 04-427 on all non-exempt property within the
24 District sufficient to pay for (i) the Facilities, (ii) the principal and interest and other periodic costs on
25 the bonds proposed to be issued to finance the Facilities and Incidental Expenses, including the
26 establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity
27 facility fees and other expenses of the type permitted by Section 53345.3 of the Act; and (iii) the
28 Incidental Expenses. The District expects to incur, and in certain cases has already incurred, Incidental

1 Expenses in connection with the creation of the District, the issuance of bonds, the levying and
2 collecting of the special tax, the completion and inspection of the Facilities and the annual
3 administration of the bonds and the District. The rate and method of apportionment of the special tax is
4 described in detail in Attachment "C" to Resolution No. 04-427 and incorporated herein by this
5 reference, and the Board of Supervisors hereby finds that Attachment "C" to Resolution No. 04-427
6 contains sufficient detail to allow each landowner within the District to estimate the maximum amount
7 that may be levied against each parcel. As described in greater detail in the Engineer's Report, which is
8 incorporated by reference herein, the special tax is based on the expected demand that each parcel of real
9 property within Community Facilities District No. 04-2 will place on the Facilities and on the benefit
10 that each parcel will derive from the right to access the Facilities and, accordingly, is hereby determined
11 to be reasonable. The special tax shall be levied on each assessor's parcel for a period not to exceed the
12 earlier of Fiscal Year 2035-2036 or the stated maturity of the Bonds (as defined in Attachment "C" to
13 Resolution No. 04-427). The special tax is apportioned to each parcel on the foregoing bases pursuant
14 to Section 53325.3 of the Act and such special tax is not on or based upon the ownership of real
15 property.

16 The County Executive Officer of the County of Riverside or his designee, 4080 Lemon Street,
17 14th Floor, Riverside, California 92501-3651, telephone number (909) 955-1127, will be responsible for
18 preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by
19 assessor's parcel number and will be responsible for estimating future special tax levies pursuant to
20 Section 53340.2 of the Act.

21 SECTION 7. In the event that a portion of the property within Community Facilities District
22 No. 04-2 shall become for any reason exempt, wholly or partially, from the levy of the special tax
23 specified in Attachment "C" to Resolution No. 04-427, the Board of Supervisors shall, on behalf of
24 Community Facilities District No. 04-2, increase the levy to the extent necessary and permitted by law
25 and these proceedings upon the remaining property within Community Facilities District No. 04-2 which
26 is not exempt in order to yield the required debt service payments on any outstanding bonds of the
27 District or to prevent the District from defaulting on any of its other obligations or liabilities; provided,
28 however, that in no event shall the special tax on a parcel used for private residential purposes increase

1 as a result of a default by more than 10 percent. The amount of the special tax will be set in accordance
2 with the rate and method of apportionment of the special tax attached to Resolution No. 04-427 as
3 Attachment "C."

4 SECTION 8. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the
5 Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all
6 non-exempt real property in the District and this lien shall continue in force and effect until the special
7 tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until
8 collection of the special tax by the District ceases.

9 SECTION 9. Consistent with Section 53325.6 of the Act, the Board of Supervisors finds and
10 determines that the land within Community Facilities District No. 04-2, if any, devoted primarily to
11 agricultural, timber or livestock uses and being used for the commercial production of agricultural,
12 timber or livestock products is contiguous to other land within Community Facilities District No. 04-2,
13 and will be benefited by the Facilities proposed to be provided within Community Facilities District
14 No. 04-2.

15 SECTION 10. The District may accept advances of funds or work-in-kind from any source,
16 including, but not limited to, private persons or private entities, for any authorized purpose, including,
17 but not limited to, paying any cost incurred in creating Community Facilities District No. 04-2. The
18 District may enter into agreements, including but not limited to the Joint Communities Facilities
19 Agreements and an acquisition agreement to be entered into for the acquisition of the Facilities, with the
20 person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or
21 to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as
22 determined by the Board of Supervisors, with or without interest. The District is hereby authorized to
23 reimburse La Sierra Development Company LLC or its assignees, including, without limitation, Lake
24 Hills-Riverside, L.P., or its assignee, for moneys advanced pursuant to that certain Reimbursement
25 Agreement dated as of May 8, 2001 by and between La Sierra Development Company LLC and the
26 County.

27 SECTION 11. It is hereby further determined that there is no ad valorem property tax currently
28 being levied on property within proposed Community Facilities District No. 04-2 for the exclusive

1 purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the
2 construction of capital facilities which provide the same services to the territory of Community Facilities
3 District No. 04-2 as are proposed to be provided by the Facilities to be financed by Community
4 Facilities District No. 04-2.

5 SECTION 12. Written protests against the establishment of the District have not been filed by
6 one-half or more of the registered voters within the boundaries of the District or by the property owners
7 of one-half (1/2) or more of the area of land within the District. The Board of Supervisors hereby finds
8 that the proposed special tax has not been precluded by a majority protest pursuant to Section 53324 of
9 the Act.

10 SECTION 13. An election is hereby called for Community Facilities District No. 04-2 on the
11 propositions of levying the special tax on the property within Community Facilities District No. 04-2
12 and establishing an appropriations limit for the District pursuant to Section 53325.7 of the Act and shall
13 be consolidated with the election on the proposition of incurring bonded indebtedness, pursuant to
14 Section 53351 of the Act. The language of the propositions to be placed on the ballot is attached hereto
15 as Attachment "A."

16 SECTION 14. The date of the election for Community Facilities District No. 04-2 on the
17 propositions of incurring the bonded indebtedness, authorizing the levy of the special tax and
18 establishing an appropriations limit for the District shall be January 11, 2005 or such later date as is
19 consented to by the County Executive Officer of the County of Riverside or his designee. The County
20 Executive Office has received the unanimous written consent of the qualified electors within the District
21 consenting to holding the election on such date. The polls shall be open for said election between the
22 hours of 9:30 a.m. and 5:00 p.m. The election shall be conducted by the County Executive Officer or
23 his designee. Except as otherwise provided by the Act, the election shall be conducted in accordance
24 with the provisions of law regulating elections of the County of Riverside insofar as such provisions are
25 determined by the County Executive Officer or his designee to be applicable. The County Executive
26 Officer or his designee is authorized to conduct the election following the adoption of this resolution,
27 and all ballots shall be received by, and the County Executive Officer or his designee shall close the
28 election by, 5:00 p.m. on the election day; provided the election shall be closed at such earlier time as all

1 qualified electors have voted as provided in Section 53326(d) of the Act. Pursuant to Section 53326 of
2 the Act, the ballots for the special election shall be distributed in person or by mail with return postage
3 prepaid to the qualified electors within Community Facilities District No. 04-2. A certificate of the
4 Registrar of Voters of the County of Riverside is on file with the Clerk of the Board certifying that there
5 were fewer than 12 registered voters within the boundaries of the District as of the close of the January
6 11, 2005 public hearing. Accordingly, the vote shall be a landowner vote, and each landowner, or the
7 authorized representative thereof, shall have one vote for each acre or portion thereof that he or she
8 owns within Community Facilities District No. 04-2, as provided in Section 53326 of the Act.

9 SECTION 15. The preparation of the Engineer's Report is hereby ratified. The Engineer's
10 Report, as submitted, is hereby approved and was made a part of the record of the public hearing
11 regarding the formation of Community Facilities District No. 04-2. The Engineer's Report is ordered to
12 be kept on file with the transcript of these proceedings and open for public inspection.

13 SECTION 16. This Resolution shall be effective upon its adoption.
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15 _____
16 Marion Ashley, Chairman
Board of Supervisors, County of Riverside

17 ATTEST:

18 Nancy Romero, Clerk of the Board
19 of Supervisors

20 _____
21 Deputy
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1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF RIVERSIDE)
3

4 I, Nancy Romero, Clerk to the Board of Supervisors of Riverside County, California, hereby
5 certify that the above and foregoing Resolution was duly and regularly adopted by said Board at a
6 regular meeting thereof held on the 11th day of January, 2005 and passed by the following vote of said
7 Board.

8 Ayes:

9 Noes:

10 Abstain:

11 Absent:

12 IN WITNESS WHEREOF, I have hereunto set my hand and seal this 11th day of January, 2005.

13 _____
14 Clerk to the Board of Supervisors of Riverside County,
15 California
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ATTACHMENT A

SAMPLE

BALLOT PROPOSITIONS

**COMMUNITY FACILITIES DISTRICT NO. 04-2
(LAKE HILLS CREST) OF THE COUNTY OF RIVERSIDE**

SPECIAL TAX AND SPECIAL BOND ELECTION

January 11, 2005

This ballot represents _____ votes.

To vote, stamp a cross (+) in the voting square after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the County Executive Officer of the County of Riverside or his designee and obtain another.

PROPOSITION A: Shall Community Facilities District No. 04-2 (Lake Hills Crest) of the County of Riverside (the "District") incur an indebtedness and issue bonds in the maximum principal amount of \$32,500,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 2005-03 of the Board of Supervisors of the County of Riverside establishing the District?

YES _____

NO _____

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Resolution No. 04-427 of the Board of Supervisors of the County of Riverside be levied within the District to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 2005-03 establishing the District, including the payment of the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses?

YES _____

NO _____

PROPOSITION C: For each year commencing with Fiscal Year 2005-2006, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the District be an amount equal to \$3,250,000?

YES _____

NO _____