

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



264

FROM: EXECUTIVE OFFICE

SUBMITTAL DATE:
July 17, 2006

SUBJECT: Initiation of Proceedings to form Community Facilities District No. 05-3 (Winchester Creekside) of the County of Riverside.

RECOMMENDED MOTION: That the Board: (1) approve and authorize the Chairman to execute the attached Fee Deposit and Reimbursement Agreements; (2) adopt Resolution No. 2006-302 of its Intention to Establish Community Facilities District No. 05-3 (Winchester Creekside) of the County of Riverside, to Designate Improvement Areas, and to Authorize the Levy of a Special Tax; (3) adopt Resolution No. 2006-303 to Incur Bonded Indebtedness; and, (4) set the Public Hearing consistent with the resolutions, for October 3, 2006 at 9:30 or as soon thereafter as the Board may reach the matter.

Continued on Page 2

Debra Cournoyer
Debra Cournoyer, Principal Management Analyst

FORM APPROVED
COUNTY COUNSEL
AUG 14 2006
BY *[Signature]*
Departmental Concurrence

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget: Budget Adjustment: For Fiscal Year:
	Current F.Y. Net County Cost:	\$	
	Annual Net County Cost:	\$	

SOURCE OF FUNDS: CFD bond funds	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

Prev. Agn. Ref.: | District: 3 | Agenda Number: **3.15**
ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

BACKGROUND: Property owners in the vicinity of the Winchester / Menifee area have requested that the County form a community facilities district to fund improvements in the area consistent with Board Policy B-12.

A deposit in the amount of \$25,000 has been deposited to be applied to pay, in part, those professional services, which must be contracted for by the County in evaluating the Developer's application and establishing the District. The Formation Act provides that incidental costs associated with the establishment of a district may be advanced and the amounts advanced may be included as costs to be supported by the special taxes to be levied if bonds are sold and issued. This agreement will establish the framework by which the Developer is to advance additional fees for professional services necessary to evaluate the application and establish the District and to reimburse the Developer for monies advanced should the District be established and bonds be sold and issued.

It is the intent of the County that the proposed CFD will issue bonds to fund public improvements including school sites for Hemet Unified School District. The proposed district contains three improvement areas (numbered 'A' through 'C'). It is a Participant CFD to the proposed CFD No. 05-1 (Salt Creek Bridges).

Winchester Creekside is just south of Salt Creek and west of Winchester Road. It is generally located in the Menifee / Winchester Valley area, in an unincorporated area of southern Riverside County.

It is estimated that \$49 million in Special Tax Bonds will be issued to finance the improvements of the three improvement areas. Principal and interest payments on the bonds will be made to the bondholders until 2036. The special tax rates are sufficient to support the bonded indebtedness to be incurred by the proposed district and are consistent with Board Policy B-12 regarding overlapping debt limitations for residential development.

There are approximately 413 single-family and 718 multifamily dwelling units approved within the boundaries of the proposed CFD. Sufficient funds will be generated by the developed property to pay the annual debt service. The assigned annual special tax for developed property will escalate annually. Below is a table of the initial assigned annual special tax range for a single family unit and the maximum annual special tax per acre for undeveloped property:

Improvement Area	Land Use Category	Taxable Parcel/Acre	Special Tax Rate
A	SF and MF Property	Parcel	\$1,176 - \$3,954
A	Undeveloped	Acre	\$47,762
B	Single Family Property	Parcel	\$3,056 - \$3,851
B	Undeveloped	Acre	\$22,897
C	SF and MF Property	Parcel	\$1,507 - \$3,484
C	Undeveloped	Acre	\$33,990

The value to lien ratio is anticipated to be sufficient to meet the County's 3 to 1 requirement. The proposed project is not requesting any waivers of County policy.

2 **RESOLUTION NO. 2006-302**

3 **A RESOLUTION OF THE BOARD OF SUPERVISORS OF**
4 **THE COUNTY OF RIVERSIDE OF INTENTION TO**
5 **ESTABLISH A COMMUNITY FACILITIES DISTRICT, TO**
6 **DESIGNATE IMPROVEMENT AREAS AND TO**
7 **AUTHORIZE THE LEVY OF SPECIAL TAXES AND**
8 **SETTING A DATE AND TIME FOR A PUBLIC HEARING**
9 **THEREON**

10 **Community Facilities District No. 05-3 (Winchester Creekside)**

11 **WHEREAS**, the Board of Supervisors (the “Board of Supervisors”) of the County of
12 Riverside (the “County”) has received written petitions (the “Petitions”) from Pulte Home
13 Corporation, Trimark Pacific-Homestead, LLC, SF 150, LLC and Continental Residential, Inc.
14 (collectively, the “Landowners”), requesting the institution of proceedings for the establishment
15 of a community facilities district (the “Community Facilities District”);

16 **WHEREAS**, each Landowner’s Petition also requests that proceedings be instituted to
17 designate an improvement area within the Community Facilities District, the boundaries of which
18 improvement area would include such Landowner’s property that is within the proposed
19 boundaries of the Community Facilities District;

20 **WHEREAS**, in total, the Petitions request that proceedings be instituted to designate three
21 improvement areas within the Community Facilities District (each, an “Improvement Area”);

22 **WHEREAS**, each of certain of the Landowners has represented and warranted to the
23 Board of Supervisors that such Landowner is the owner of not less than 10% of the area of land
24 proposed to be included within the Community Facilities District;

25 **WHEREAS**, each Landowner has represented and warranted to the Board of Supervisors
26 that such Landowner is the owner of not less than 10% of the area of land proposed to be included
27 within the Improvement Area, the institution of proceedings to designate which is requested in
28 such Landowner’s Petition;

1 **WHEREAS**, under the Mello-Roos Community Facilities Act of 1982 (the “Act”), the
2 Board of Supervisors is authorized to establish the Community Facilities District and designate
3 the Improvement Areas within the Community Facilities District;

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

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

22 **WHEREAS**, the County and the Landowners expect to enter into a Fee Deposit and
23 Reimbursement Agreement, dated as of June 1, 2006 (the “Deposit Agreement”), that provides for
24 the advancement of funds by the Landowners to be used to pay costs incurred in connection with
25 the establishment of the Community Facilities District and the issuance of special tax bonds
26 thereby, and provides for the reimbursement to the Landowners of such funds advanced, without
27 interest, from the proceeds of any such bonds issued by the Community Facilities District; and
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1 **WHEREAS**, the County desires to include in this Resolution, in accordance with Section
2 53314.9 of the Government Code, the proposal to repay funds pursuant to the Deposit Agreement;

3 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**
4 **RIVERSIDE**, in regular session assembled on August 29, 2006, does hereby resolve, find,
5 determine and order as follows:

6 **Section 1.** The Board of Supervisors hereby finds that the Petitions are signed by the
7 requisite number of owners of land proposed to be included in the Community Facilities District.

8 **Section 2.** The Board of Supervisors proposes to establish a community facilities district
9 under the terms of the Act. For purposes of contributing to the financing of the public facilities to
10 be financed by the Community Facilities District, the Board of Supervisors proposes to designate
11 portions of the Community Facilities District as three improvement areas. The boundaries of the
12 territory proposed for inclusion in the Community Facilities District, and each portion of the
13 Community Facilities District proposed to be designated as an Improvement Area, are described
14 in the map showing the proposed Community Facilities District and each proposed Improvement
15 Area (the "Boundary Map") on file with the Clerk to the Board of Supervisors (the "Clerk"),
16 which boundaries are hereby preliminarily approved and to which map reference is hereby made
17 for further particulars. The Clerk is hereby directed to sign the original Boundary Map and
18 record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the
19 office of the Riverside County Recorder within 15 days of the date of adoption of this Resolution,
20 all as required by Section 3111 of the California Streets and Highways Code.

21 **Section 3.** The name proposed for the Community Facilities District is "Community
22 Facilities District No. 05-3 (Winchester Creekside) of the County of Riverside." The
23 Improvement Areas designated within the Community Facilities District are proposed to be
24 known as "Improvement Area A of Community Facilities District No. 05-3 (Winchester
25 Creekside) of the County of Riverside" ("Improvement Area A"), "Improvement Area B of
26 Community Facilities District No. 05-3 (Winchester Creekside) of the County of Riverside"
27 ("Improvement Area B") and "Improvement Area C of Community Facilities District No. 05-3
28 (Winchester Creekside) of the County of Riverside" ("Improvement Area C").

1 **Section 4.** The public facilities (the "Facilities") proposed to be financed by the
2 Community Facilities District, and to the financing of which each Improvement Area is proposed
3 to contribute, pursuant to the Act are described under the caption "Facilities" on Exhibit A hereto,
4 which is by this reference incorporated herein. Those Facilities proposed to be purchased as
5 completed public facilities are described under the caption "Facilities to be Purchased" on Exhibit
6 A hereto. The incidental expenses proposed to be incurred are identified under the caption
7 "Incidental Expenses" on Exhibit A hereto. All or any portion of the Facilities may be financed
8 through a financing plan, including, but not limited to, a lease, lease-purchase or installment-
9 purchase arrangement.

10 **Section 5.** Except where funds are otherwise available, a special tax sufficient to pay for
11 all Facilities will be annually levied within the Improvement Areas, secured by recordation of a
12 continuing lien against all nonexempt real property in each Improvement Area.

13 The rate and method of apportionment of the special tax for Improvement Area A (the
14 "Improvement Area A Rate and Method"), in sufficient detail to allow each landowner within the
15 proposed Improvement Area A to estimate the maximum amount that he or she will have to pay,
16 is described in Exhibit B attached hereto, which is by this reference incorporated herein. The
17 conditions under which the obligation to pay the special tax for Improvement Area A may be
18 prepaid and permanently satisfied are specified in the Improvement Area A Rate and Method.
19 The special tax for Improvement Area A will be collected in the same manner as ordinary *ad*
20 *valorem* property taxes or in such other manner as the Board of Supervisors shall determine,
21 including direct billing of the affected property owners. The tax year after which no further
22 special tax will be levied against any parcel within Improvement Area A used for private
23 residential purposes is specified in the Improvement Area A Rate and Method. Under no
24 circumstances shall the special tax levied against any parcel within Improvement Area A used for
25 private residential purposes be increased as a consequence of delinquency or default by the owner
26 of any other parcel or parcels within Improvement Area A by more than 10%.

27 The rate and method of apportionment of the special tax for Improvement Area B (the
28 "Improvement Area B Rate and Method"), in sufficient detail to allow each landowner within the

1 proposed Improvement Area B to estimate the maximum amount that he or she will have to pay,
2 is described in Exhibit C attached hereto, which is by this reference incorporated herein. The
3 conditions under which the obligation to pay the special tax for Improvement Area B may be
4 prepaid and permanently satisfied are specified in the Improvement Area B Rate and Method.
5 The special tax for Improvement Area B will be collected in the same manner as ordinary *ad*
6 *valorem* property taxes or in such other manner as the Board of Supervisors shall determine,
7 including direct billing of the affected property owners. The tax year after which no further
8 special tax will be levied against any parcel within Improvement Area B used for private
9 residential purposes is specified in the Improvement Area B Rate and Method. Under no
10 circumstances shall the special tax levied against any parcel within Improvement Area B used for
11 private residential purposes be increased as a consequence of delinquency or default by the owner
12 of any other parcel or parcels within Improvement Area B by more than 10%.

13 The rate and method of apportionment of the special tax for Improvement Area C (the
14 “Improvement Area C Rate and Method”), in sufficient detail to allow each landowner within the
15 proposed Improvement Area C to estimate the maximum amount that he or she will have to pay,
16 is described in Exhibit D attached hereto, which is by this reference incorporated herein. The
17 conditions under which the obligation to pay the special tax for Improvement Area C may be
18 prepaid and permanently satisfied are specified in the Improvement Area C Rate and Method.
19 The special tax for Improvement Area C will be collected in the same manner as ordinary *ad*
20 *valorem* property taxes or in such other manner as the Board of Supervisors shall determine,
21 including direct billing of the affected property owners. The tax year after which no further
22 special tax will be levied against any parcel within Improvement Area C used for private
23 residential purposes is specified in the Improvement Area C Rate and Method. Under no
24 circumstances shall the special tax levied against any parcel within Improvement Area C used for
25 private residential purposes be increased as a consequence of delinquency or default by the owner
26 of any other parcel or parcels within Improvement Area C by more than 10%.

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1 For purposes of this Section, a parcel shall be considered "used for private residential
2 purposes" not later than the date on which an occupancy permit for private residential use is
3 issued.

4 **Section 6.** Pursuant to Section 53344.1 of the Government Code, the Board of
5 Supervisors hereby reserves to itself the right and authority to allow any interested owner of
6 property within an Improvement Area, subject to the provisions of said Section 53344.1 and to
7 those conditions as it may impose, and any applicable prepayment penalties as prescribed in the
8 bond indenture or comparable instrument or document for that Improvement Area, to tender to the
9 Community Facilities District treasurer in full payment or part payment of any installment of the
10 special taxes or the interest or penalties thereon which may be due or delinquent, but for which a
11 bill has been received, any bond or other obligation of the Community Facilities District for such
12 Improvement Area secured thereby, the bond or other obligation to be taken at par and credit to be
13 given for the accrued interest shown thereby computed to the date of tender.

14 **Section 7.** The Board of Supervisors hereby fixes Tuesday, October 3, 2006, at 9:30 a.m.,
15 or as soon thereafter as the Board of Supervisors may reach the matter, at the Board of
16 Supervisors Chambers, 4080 Lemon Street, 1st Floor, Riverside, California, as the time and place
17 when and where the Board of Supervisors will conduct a public hearing on the establishment of
18 the Community Facilities District and the designation of the Improvement Areas.

19 **Section 8.** The Clerk is hereby directed to publish, or cause to be published, a notice of
20 said public hearing, as prepared and approved by bond counsel, one time in *The Press-Enterprise*,
21 a newspaper of general circulation published in the area of the Community Facilities District. The
22 publication of said notice shall be completed at least seven days prior to the date herein fixed for
23 said hearing. Said notice shall contain the information prescribed by Section 53322 of the
24 Government Code.

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

3 **Section 9.** The levy of said proposed special tax in each Improvement Area shall be
4 subject to the approval of the qualified electors of such Improvement Area at a separate special
5 election. The proposed voting procedure for the election in each Improvement Area shall be by
6 mailed or hand-delivered ballot among the landowners in such Improvement Area, with each
7 owner within such Improvement Area having one vote for each acre or portion of an acre such
8 owner owns in such Improvement Area.

9 **Section 10.** Each officer of the County who is or will be responsible for providing one or
10 more of the proposed types of Facilities is hereby directed to study, or cause to be studied, the
11 proposed Community Facilities District and, at or before said public hearing, file a report with the
12 Board of Supervisors containing a brief description of the public facilities by type which will in
13 his or her opinion be required to adequately meet the needs of the Community Facilities District,
14 and his or her estimate of the cost of providing the Facilities. Such officers are hereby also
15 directed to estimate the fair and reasonable cost of completed public facilities proposed to be
16 purchased and the incidental expenses proposed to be paid. Such report shall be made a part of
17 the record of said public hearing.

18 **Section 11.** In the opinion of the Board of Supervisors, the public interest will not be
19 served by allowing the property owners within the proposed Community Facilities District to
20 enter into a contract in accordance with subdivision (a) of Section 53329.5 of the Government
21 Code and, accordingly, the Board of Supervisors hereby provides that such property owners may
22 not enter into a contract in accordance with said subdivision.

23 **Section 12.** The Landowners have heretofore advanced certain funds, and may advance
24 additional funds, to the County, which have been or may be used to pay costs incurred in
25 connection with the creation of the Community Facilities District and the issuance of special tax
26 bonds thereby. The Board of Supervisors proposes to repay all or a portion of such funds
27 expended for such purpose, from the proceeds of such bonds, pursuant to the Deposit Agreement.
28 The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

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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 29th day of August, 2006, by the Board of Supervisors of the County of Riverside.

Chairman of the Board of Supervisors

ATTEST:
Nancy Romero
Clerk to the Board of Supervisors

By: _____
Deputy

FORM APPROVED
COUNTY COUNSEL

AUG 14 2006
BY *[Signature]*

2 RESOLUTION NO. 2006-303

3 A RESOLUTION OF THE BOARD OF SUPERVISORS OF
4 THE COUNTY OF RIVERSIDE TO INCUR BONDED
5 INDEBTEDNESS OF THE PROPOSED COMMUNITY
6 FACILITIES DISTRICT NO. 05-3 (WINCHESTER
7 CREEKSIDE) OF THE COUNTY OF RIVERSIDE

8 **Community Facilities District No. 05-3 (Winchester Creekside)**

9 WHEREAS, the Board of Supervisors (the "Board of Supervisors") of the County of
10 Riverside (the "County") has this date adopted its Resolution entitled "A Resolution of the Board
11 of Supervisors of the County of Riverside of Intention to Establish a Community Facilities
12 District, to Designate Improvement Areas and to Authorize the Levy of Special Taxes and Setting
13 a Date and Time for a Public Hearing Thereon," stating its intention to establish Community
14 Facilities District No. 05-3 (Winchester Creekside) of the County of Riverside (the "Community
15 Facilities District") and to designate portions of the Community Facilities District as three
16 improvement areas (each an "Improvement Area") to be known as "Improvement Area A of
17 Community Facilities District No. 05-3 (Winchester Creekside) of the County of Riverside"
18 ("Improvement Area A"), "Improvement Area B of Community Facilities District No. 05-3
19 (Winchester Creekside) of the County of Riverside" ("Improvement Area B") and "Improvement
20 Area C of Community Facilities District No. 05-3 (Winchester Creekside) of the County of
21 Riverside" ("Improvement Area C"), pursuant to the Mello-Roos Community Facilities Act of
22 1982 for the purpose of financing certain public facilities (the "Facilities"), as further provided in
23 said Resolution;

24 WHEREAS, in order to finance the Facilities it is necessary to incur bonded indebtedness
25 in the amount of up to \$49,000,000; and

26 WHEREAS, the portion of the Community Facilities District designated as Improvement
27 Area A will pay for the bonded indebtedness in the amount of up to \$11,000,000, the portion of
28 the Community Facilities District designated as Improvement Area B will pay for the bonded
indebtedness in the amount of up to \$16,000,000 and the portion of the Community Facilities

1 District designated as Improvement Area C will pay for the bonded indebtedness in the amount of
2 up to \$22,000,000;

3 **NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF**
4 **RIVERSIDE**, in regular session assembled on August 29, 2006, does hereby resolve, find,
5 determine and order as follows:

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

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

12 **Section 3.** The maximum amount of the proposed debt is \$49,000,000. The
13 maximum amount of the proposed debt to be paid for by the portion of the Community Facilities
14 District designated as Improvement Area A is \$11,000,000. The maximum amount of the
15 proposed debt to be paid for by the portion of the Community Facilities District designated as
16 Improvement Area B is \$16,000,000. The maximum amount of the proposed debt to be paid for
17 by the portion of the Community Facilities District designated as Improvement Area C is
18 \$22,000,000.

19 **Section 4.** The Board of Supervisors hereby fixes Tuesday, October 3, 2006, at
20 9:30 a.m., or as soon thereafter as the Board of Supervisors may reach the matter, at the Board of
21 Supervisors Chambers, 4080 Lemon Street, 1st Floor, Riverside, California, as the time and place
22 when and where the Board of Supervisors will conduct a public hearing on the proposed debt
23 issue.

24 **Section 5.** The Clerk to the Board of Supervisors is hereby directed to publish, or
25 cause to be published, a notice of said public hearing, as prepared and approved by bond counsel,
26 one time in *The Press-Enterprise*, a newspaper of general circulation published in the area of the
27 Community Facilities District. The publication of said notice shall be completed at least seven
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1 days prior to the date herein fixed for said hearing. Said notice shall contain the information
2 prescribed by Section 53346 of the California Government Code.

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

7 **ADOPTED, SIGNED AND APPROVED** this 29th day of August, 2006, by the Board of
8 Supervisors of the County of Riverside.

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10 _____
Chairman of the Board of Supervisors

11 ATTEST:
12 Nancy Romero
13 Clerk to the Board of Supervisors

14 By: _____
15 Deputy

16 FORM APPROVED
17 COUNTY COUNSEL

18 AUG 14 2006
19 BY *Nancy Romero*
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1 STATE OF CALIFORNIA)
2 COUNTY OF RIVERSIDE)

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I, Nancy Romero, Clerk to the Board of Supervisors of the County of Riverside, California, do hereby certify that the foregoing Resolution No. 2006-303 was duly adopted by the Board of Supervisors of said County at a meeting of said Board held on the 29th day of August, 2006, and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____, Deputy
Clerk to the Board of Supervisors of the
County of Riverside

1 STATE OF CALIFORNIA)
2 COUNTY OF RIVERSIDE)

ss.

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I, Nancy Romero, Clerk to the Board of Supervisors of the County of Riverside, California, do hereby certify that the above and foregoing is a full, true and correct copy of Resolution No. 2006-303 of the Board of Supervisors of said County, and that the same has not been amended or repealed.

Dated: _____

_____, Deputy
Clerk to the Board of Supervisors of the
County of Riverside