

**RESOLUTION NO. 02-353**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA OF FORMATION OF THE COUNTY OF SANTA BARBARA COMMUNITY FACILITIES DISTRICT NO. 2002-1 (ORCUTT COMMUNITY PLAN), AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN THE DISTRICT AND ESTABLISHING AN APPROPRIATIONS LIMIT FOR THE DISTRICT**

**WHEREAS**, on July 9, 2002, the Board of Supervisors (the "Board of Supervisors") of the County of Santa Barbara (the "County") adopted a resolution entitled "A Resolution of the Board of Supervisors of the County of Santa Barbara of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes and Rescinding Resolution No. 02-191" (the "Resolution of Intention"), stating its intention to form a community facilities district (the "Community Facilities District") proposed to be named the County of Santa Barbara Community Facilities District No. 2002-1 (Orcutt Community Plan) pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act");

**WHEREAS**, on this date, the Board of Supervisors conducted a public hearing originally noticed for August 13, 2002, and continued to this date on the establishment of the Community Facilities District, as required by the Act and the Resolution of Intention;

**WHEREAS**, at or before the time of the hearing, the report required by Section 53321.5 of the Act was filed with the Board of Supervisors;

**WHEREAS**, at the hearing, the Board of Supervisors proposed to modify the Resolution of Intention in a way that would increase the probable special tax to be paid by the owners of property within the Community Facilities District;

**WHEREAS**, at the hearing, the Board of Supervisors directed that the report required by Section 53325 of the Act be prepared, the Board of Supervisors received and considered such report, and thereafter adopted a resolution entitled "A Resolution of the Board of Supervisors of the County of Santa Barbara Modifying Resolution of Intention and Approving Amended and Restated Rate and Method of Apportionment" modifying the Resolution of Intention so as to amend and restate the rate and method of apportionment of the special tax originally proposed to be levied within the Community Facilities District in its entirety;

**WHEREAS**, at the hearing, the testimony of all interested persons and taxpayers for or against the establishment of the Community Facilities District, the extent of the Community Facilities District and the furnishing of the specified types of services was heard;

**WHEREAS**, the proposed boundaries of the Community Facilities District are shown on the map entitled "Proposed Boundary of Community Facilities District No. 2002-1 (Orcutt Community Plan), County of Santa Barbara, State of California" (the "Boundary Map"), which

map was filed with the Clerk of the Board of Supervisors and was recorded in the County in Book 4 at Page 23 of Maps of Assessments and Community Facilities Districts in the office of the County Recorder; and

**WHEREAS**, written protests against the establishment of the Community Facilities District, the furnishing of any specified type or types of services within the Community Facilities District or the levying of any specified special tax from at least six registered voters residing within the territory proposed to be included in the Community Facilities District, or the owners of one-half or more of the area of land in the territory proposed to be included in the Community Facilities District and not exempt from the specified special tax, have not been filed at or before the hearing, and the hearing was concluded on this date;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Santa Barbara as follows:

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** The Community Facilities District is hereby established pursuant to the Act.

**Section 3.** The Community Facilities District is hereby named the "County of Santa Barbara Community Facilities District No. 2002-1 (Orcutt Community Plan)".

**Section 4.** The services (the "Services") proposed to be financed by the Community Facilities District and funded by the special tax pursuant to the Act are services for (i) fire protection and suppression services, (ii) police protection services, (iii) maintenance of parks, parkways and open space, and (iv) flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems. The incidental expenses proposed to be incurred are the costs associated with the creation of the Community Facilities District, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District.

**Section 5.** The proposed special tax to be levied within the Community Facilities District has not been precluded by majority protest pursuant to Section 53324 of the Act.

**Section 6.** Except where funds are otherwise available, a special tax sufficient to pay for all Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities 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 Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit A attached hereto, which is by this reference incorporated herein. 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.

**Section 7.** The name, address and telephone number of the office which will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and which will be responsible for estimating further special tax levies pursuant to

Section 53340.1 of the Act are as follows: Treasurer-Tax Collector, County of Santa Barbara, 105 East Anapamu Street, Santa Barbara, California 93101, (805) 568-2920.

**Section 8.** 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 in the Community Facilities District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the Board of Supervisors ceases.

**Section 9.** The Boundary Map has been recorded in the County in Book 4 at Page 23 of Maps of Assessments and Community Facilities Districts in the office of the County Recorder.

**Section 10.** The annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the Community Facilities District is hereby established at \$5,000,000.

**Section 11.** Pursuant to the provisions of the Act, the levy of the special tax and a proposition to establish the appropriations limit specified above shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

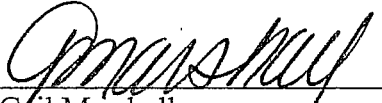
**Section 12.** The Board of Supervisors hereby determines and finds that all proceedings up to and including the adoption of this Resolution were valid and in conformity with the requirements of the Act. In accordance with Section 53325.1 of the Act, such finding shall be final and conclusive.

**Section 13.** This Resolution shall take effect immediately upon its adoption.

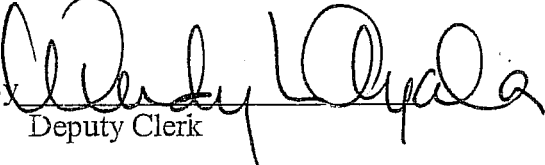
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**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Barbara,  
State of California, this 8th day of October, 2002, by the following vote:

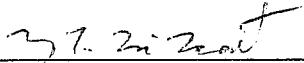
AYES: Supervisor Schwartz, Rose, Marshall and Urbanske  
NOES: None  
ABSENT: Supervisor Gray  
ABSTAIN: None

  
\_\_\_\_\_  
Gail Marshall  
Chair, Board of Supervisors  
County of Santa Barbara

ATTEST:  
MICHAEL F. BROWN  
CLERK OF THE BOARD

By   
\_\_\_\_\_  
Deputy Clerk

Approved as to Form:  
Stephen Shane Stark  
County Counsel

By   
\_\_\_\_\_  
Deputy County Counsel

Approved as to Form:  
Robert W. Geis  
Auditor-Controller

By   
\_\_\_\_\_  
Deputy Auditor-Controller

**EXHIBIT A**

**PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

**RATE AND METHOD OF APPORTIONMENT FOR  
COUNTY OF SANTA BARBARA  
COMMUNITY FACILITIES DISTRICT NO. 2002-1  
(ORCUTT COMMUNITY PLAN)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in County of Santa Barbara Community Facilities District No. 2002-1 (Orcutt Community Plan) ("CFD No. 2002-1") and collected each Fiscal Year commencing in Fiscal Year 2002-03, in an amount determined by the Board through the application of the appropriate Special Tax for "Developed Property" and "Graded Property," as described below. All of the real property in CFD No. 2002-1, unless exempted by law or by the provisions hereof, 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:

"**Act**" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"**Administrative Expenses**" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2002-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the County or any designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the County, CFD No. 2002-1 or any designee thereof of complying with County, CFD No. 2002-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the County, CFD No. 2002-1 or any designee thereof related to an appeal of the Special Tax; and the County's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the County or CFD No. 2002-1 for any other administrative purposes of CFD No. 2002-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

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

"**Board**" means the Board of Supervisors of the County, acting as the legislative body of CFD No. 2002-1.

**"Building Permit One-Time Special Tax"** means a Special Tax collected once for each Assessor's Parcel of Residential Property and Non-Residential Property at the time a building permit is issued for such property, for all building permits issued on or after March 1, 2002. The Building Permit One-Time Special Tax shall equal \$250 per Dwelling Unit and \$0.20 per square foot of Non-Residential Floor Area. This Special Tax shall only apply to new development and additions to existing non-residential development. It shall not apply to the redevelopment of existing structures.

**"CFD Administrator"** means an official of the County, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

**"CFD No. 2002-1"** means County of Santa Barbara Community Facilities District No. 2002-1 (Orcutt Community Plan).

**"County"** means the County of Santa Barbara.

**"Developed Property"** means, for each Fiscal Year, all Assessor's Parcels for which a building permit has been issued on or after March 1, 2002. In addition, the real property identified on May 1, 2002 as the following Assessor's Parcels shall be considered to be Developed Property, with the square footages of Retail Commercial Property located on those Assessor's Parcels as listed below being subject to Special Taxes despite the issuance of building permits on those Assessor's Parcels prior to March 1, 2002.

Assessor's Parcel Number	Taxable Retail Commercial Square Footage
103-740-28	14,179
103-740-25	11,080
103-740-31	1,666
103-740-32	3,053
103-740-34	2,037

**"Dwelling Unit"** means a building or portion thereof designed for and occupied in whole or part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

**"Final Map"** means a subdivision of property creating buildable single family residential lots by recordation of a final map or a lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq., as such section may be amended or replaced), or recordation of a condominium plan pursuant to California Civil Code Section 1352, as such section may be amended or replaced, that creates individual lots for which land use permits may be issued without further subdivision.

**"Graded Property"** means, for each Fiscal Year, all Legal Lots for which a Land Use Permit for Grading has been issued on or after March 1, 2002, but which is not Developed Property.

**"Grading Permit Special Tax"** means a Special Tax of \$50 collected for each Legal Lot of Graded Property (i) at the time the Land Use Permit for Grading is issued and (ii) each Fiscal Year thereafter until that Legal Lot becomes Developed Property.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"Land Use Class"** means any of the classes listed in Table 1.

**"Land Use Permit for Grading"** means a permit issued by the Planning and Development Department of the County authorizing the commencement of any work pertaining to the grading of a Legal Lot as stated in Section 35-314.2 of the County of Santa Barbara Inland Zoning Ordinance Permit Procedures, as such section may be amended or replaced.

**"Legal Lot"** means each legal parcel of land shown on a tentative or parcel map, a recorded subdivision map, or as evidenced by a certificate of compliance.

**"Los Angeles Urban Consumer Price Index"** means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the Los Angeles - Anaheim - Riverside Area, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the City of Los Angeles.

**"Maximum Special Tax"** means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C below, that can be levied in such Fiscal Year on any Legal Lot or Assessor's Parcel.

**"Multi-Family Property"** means, for each Fiscal Year, all Assessor's Parcels of Developed Property for which a building permit was issued on or after March 1, 2002 for purposes of constructing attached residential units, detached multifamily residential units, Second Unit Property, or installing one or more mobile homes.

**"Non-Residential Floor Area"** means the total floor area of a non-residential building(s) located on a Assessor's Parcel, measured from outside wall to outside wall, exclusive of overhangs, porches, patios, carports, or similar spaces attached to the building but generally open on at least two sides, as specified in the building permit(s) issued for that Assessor's Parcel, or if these are not available, as otherwise determined by the CFD Administrator.

**"Non-Residential Property"** means, for each Fiscal Year, all Assessor's Parcels of Developed Property for which a building permit was issued on or after March 1, 2002 for a non-residential use. In addition, the five Assessor's Parcels listed separately under the



definition of "Developed Property" (above) shall be considered to be Non-Residential Property, with the listed square footages of Retail Commercial Property located on those Assessor's Parcels being subject to special taxes despite the issuance of building permits for this square footage prior to March 1, 2002.

**"Non-Retail Commercial/Industrial Property"** means, for each Fiscal Year, all Assessor's Parcels of Non-Residential Property that are not Retail Commercial Property.

**"Property Owner Association Property"** means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 2002-1 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association.

**"Proportionately"** means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property.

**"Public Property"** means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2002-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the County or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2002-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

**"Residential Property"** means, for each Fiscal Year, all Assessor's Parcels of Developed Property for which a building permit was issued on or after March 1, 2002 for purposes of constructing one or more residential Dwelling Units.

**"Retail Commercial Property"** means, for each Fiscal Year, all Assessor's Parcels of Developed Property for which a building permit was issued on or after March 1, 2002 for a retail commercial use, including but not limited to, food stores, book stores, video rental stores, drug stores, laundry and cleaning establishments, barber shops and beauty parlors, repair shops for shoes, radios, TV and domestic appliances, professional services, studios and clinics, automotive service stations, vehicle maintenance and repair, banking, insurance and real estate services, restaurants, bakeries, theaters, bowling alleys, social clubs, discount stores and home supply stores. In addition, the five Assessor's Parcels listed separately under the definition of "Developed Property" (above) shall be considered to be Retail Commercial Property, with the listed square footages of Retail Commercial Property located on those Assessor's Parcels being subject to special taxes despite the issuance of building permits for this square footage prior to March 1, 2002.

**"Second Unit Property"** means Residential Property containing an attached or detached Dwelling Unit on a permanent foundation, which provides independent living facilities for one or more persons in addition to a principal one-family dwelling.

**"Services"** means services for (i) fire protection and suppression services, (ii) police protection services, (iii) maintenance of parks, parkways and open space, and (iv) flood

and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems. CFD No. 2002-1 shall finance Services only to the extent that they are in addition to those provided in the territory of CFD No. 2002-1 before the CFD was created and such Services may not supplant services already available within CFD No. 2002-1 when the CFD was created.

**"Single Family Property"** means, for each Fiscal Year, all Assessor's Parcels of Developed Property for which a building permit was issued on or after March 1, 2002 for purposes of constructing detached residential units.

**"Special Tax"** means the special tax to be levied in each Fiscal Year on each Legal Lot or Assessor's Parcel of Graded Property and Developed Property to fund the Special Tax Requirement.

**"Special Tax Requirement"** means that amount to be collected in any Fiscal Year for CFD No. 2002-1 to pay for certain costs as required to meet the needs of the CFD in that Fiscal Year. The costs to be covered shall be the direct costs for (i) Services, and (ii) Administrative Expenses; less (iii) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator. Under no circumstances shall the Special Tax Requirement include debt service payments for debt financings by CFD No. 2002-1.

**"State"** means the State of California.

**"Undeveloped Property"** means, for each Fiscal Year, all property not classified as Developed Property, Graded Property, Property Owner Association Property, or Public Property.

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, all Assessor's Parcels or Legal Lots, as applicable, within CFD No. 2002-1 shall be classified as Developed Property, Graded Property, Undeveloped Property, Property Owner Association Property, or Public Property. However, only Developed Property and Graded Property shall be subject to annual Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1 and 2 based on the type of residential development. Non-Residential Property shall be assigned to Land Use Classes 3 and 4 based on the type of non-residential development.

C. MAXIMUM SPECIAL TAX RATE

1. **Developed Property**

a. Maximum Special Tax

The Maximum Special Tax for Fiscal Year 2002-03 for each Land Use Class is shown below in Table 1. Such Special Taxes shall only be levied for new structures on Residential Property and Non-Residential Property that were authorized to be constructed with building permits issued on or after March 1, 2002, or on additions to existing structures on Non-Residential Property that were authorized to be constructed with building permits issued on or after March 1, 2002. In addition, the five Assessor's Parcels listed separately under the definition of "Developed Property" (above) shall be subject to Special Taxes, despite the issuance of building permits prior to March 1, 2002. However, under no circumstances shall a Special Tax be levied on additions to existing Dwelling Units.

**TABLE 1**

**Maximum Special Taxes for Developed Property  
For Fiscal Year 2002-03  
Community Facilities District No. 2002-1**

<b>Land Use Class</b>	<b>Land Use</b>	<b>Maximum Special Tax Per Dwelling Unit or Per Square Foot of Non-Residential Floor Area</b>
1	Single Family Property	\$600.00 per Dwelling Unit
2	Multi-Family Property	\$408.00 per Dwelling Unit
3	Non-Retail Commercial/Industrial Property	\$0.582 per square foot
4	Retail Commercial Property	\$0.41401 per square foot

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2003, the Maximum Special Tax set forth above will be increased annually by the greater of the change in the Los Angeles Urban Consumer Price Index during the twelve months prior to December of the previous Fiscal Year, or two percent (2%).

c. Multiple Land Use Classes

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax that can be levied on an Assessor's Parcel shall be the sum of the Maximum Special Taxes that can be levied for all Land Use Classes located on that Assessor's Parcel.

d. Building Permit One-Time Special Tax

A maximum Building Permit One-Time Special Tax of \$250 per Dwelling Unit and \$0.20 per square foot of Non-Residential Floor Area shall be levied at building permit issuance on Developed Property.

**2. Graded Property**

A maximum Grading Permit Special Tax of \$50 at issuance of a Land Use Permit for Grading and an annual maximum Grading Permit Special Tax of \$50 shall be levied on Graded Property.

**3. Undeveloped Property**

No Special Taxes shall be levied on Undeveloped Property.

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with Fiscal Year 2002-03, the Building Permit One-Time Special Tax and the Grading Permit Special Tax shall be levied at 100% of the applicable Maximum Special Tax for each Assessor's Parcel of Developed Property and for each Legal Lot of Graded Property.

Commencing with Fiscal Year 2002-03 and for each following Fiscal Year, the Board shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Developed Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

**E. EXEMPTIONS**

In addition to Undeveloped Property being exempt from annual Special Taxes, no Special Tax shall be levied on Public Property or Property Owner Association Property. However, should an Assessor's Parcel no longer be classified as Public Property or Property Owner Association Property, such Assessor's Parcel shall, upon each reclassification, no longer be exempt from Special Taxes.

**F. APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property

with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Board by filing a written notice of appeal with the County Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant's disagreement with the CFD Administrator's determination. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

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

**G. MANNER OF COLLECTION**

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2002-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. The direct billing of the Special Tax may include the collection of the Grading Permit Special Tax and the Building Permit One-Time Special Tax.

**H. TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement.

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