

CITY OF YUBA CITY  
STAFF REPORT

**Date:** September 17, 2019  
**To:** Honorable Mayor & Members of the City Council  
**From:** Finance Department  
**Presentation By:** Spencer Morrison, Accounting Manager

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**Summary**

**Subject:** Ordering judicial foreclosures of delinquent special assessments in Tierra Buena Water Reassessment District 2003-1 and the Staple Ashley Dennis Cornwell Assessment District 2004-1

**Recommendation:** Adopt a Resolution ordering judicial foreclosure of two parcels for delinquent special assessments in two 1915 Act districts.

**Fiscal Impact:** No fiscal impact to the City as all legal and administrative costs incurred in this process are added to the districts' claims against the properties. All proceeds from either foreclosure sale or payment plans will be used to cover district costs incurred and to pay the delinquent assessments, currently \$4,105.78.

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**Purpose:**

To exercise the rights of district bondholders to collect delinquent assessment levies per the bond covenants.

**Background:**

In 2003, the City conducted proceedings under the Improvement Bond Act and the Municipal Improvement Act to create Tierra Buena Water Reassessment District 2003-1 ("AD 2003-1"). Those proceedings resulted in the City's issuance of bonds and levy of special assessments to pay principal and interest on the bonds for AD 2003-1. The special assessments are collected in bi-annual installments which become delinquent on December 10 and April 10 of each tax year. This staff report also includes the Staple Ashley Dennis Cornwell Assessment District 2004-1 ("AD 2004-1"), created by Council in 2004, also for public water improvements. Two delinquent properties, 62-071-001 and 53-080-008, have been granted, and failed to adhere to, payment plans and have discontinued contact with the City's district administrator, Willdan Financial Services, leaving the City in the position to take the recommended action of initiating foreclosure.

**Analysis:**

Pursuant to the trust indenture regarding the bonds issued for AD 2003-1 and AD 2004-1, the City has covenanted to bondholders to commence judicial foreclosure proceedings against

properties within these districts for which special assessments are delinquent. Pursuant to the Improvement Bond Act, judicial foreclosure proceedings cannot be initiated until the City, as legislative body of the districts, has ordered the commencement of such actions. The resolution authorizes the initiation of foreclosure proceedings against the properties located in AD 2003-1 and AD 2004-1, respectively, which have been reported as delinquent with respect to the payment of special assessments. Once authorized, staff will work with Stradling, Yocca Carlson & Rauth, foreclosure counsel, to begin with demand letters, negotiate payment plans, and foreclosure proceedings if the earlier attempts to collect are unsuccessful.

**Fiscal Impact:**

No fiscal impact to the City as all legal and administrative costs incurred in this process are added to the districts' claims against the properties. All proceeds from either foreclosure sale or payment plans will be used to cover district costs incurred and to pay the delinquent assessments, currently \$4,105.78.

**Alternatives:**

Do not authorize the initiation of foreclosure on these properties at the risk of inviting action by the bondholders against the assessment district and the City.

**Recommendation:**

Adopt a resolution ordering judicial foreclosure of two parcels for delinquent special assessments in two 1915 Act districts.

**Attachments:**

1. Resolution to Initiate Foreclosure
2. Notice of Intent to Remove Delinquent Tax Assessment(s)

Prepared By:

*/s/ Spencer Morrison*

Spencer Morrison  
Accounting Manager

Submitted By:

*/s/ Michael Rock*

Michael Rock  
City Manager

Reviewed By:

Finance

City Attorney

RB

SLC by email

# ATTACHMENT 1

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
ORDERING THE COMMENCEMENT OF JUDICIAL FORECLOSURE PROCEEDINGS  
PURSUANT TO THE IMPROVEMENT BOND ACT OF 1915 TO COLLECT DELINQUENT  
ASSESSMENT AND REASSESSMENT INSTALLMENTS LEVIED WITHIN  
STAPLE/ASHLEY/DENNIS/CORNWELL ASSESSMENT DISTRICT NO. 2004-1 AND  
TIERRA BUENA WATER REASSESSMENT DISTRICT NO. 2003-1 AND DIRECTING  
THE REMOVAL OF DELINQUENT ASSESSMENT AND REASSESSMENT  
INSTALLMENTS FROM THE COUNTY TAX ROLL**

**WHEREAS**, the City of Yuba City ("City") has incurred bonded indebtedness to finance public infrastructure improvements pursuant to the Improvement Bond Act of 1915 (Division 10 of the Streets and Highways Code of California) (the "Bond Act") and duly and regularly levied, by way of the Sutter County tax roll, (i) special assessments ("Assessments") pursuant to the Municipal Improvement Act of 1913 (Division 12 of the Streets and Highways Code of California) against parcels of real property within Staple/Ashley/Dennis/Cornwell Assessment District No. 2004-1 and (ii) special reassessments ("Reassessments") pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, (Division 11.5 of the Streets and Highways Code of California) (the "Refunding Act") against parcels of real property within Tierra Buena Water Reassessment District No. 2003-1. (The foregoing assessment and reassessment districts are collectively referred herein as the "Districts"); and

**WHEREAS**, the City has duly recorded notices of the Assessments and Reassessments, thereby imposing liens securing each installment thereof, and interest and penalties thereon, against those parcels within the Districts set forth in said notices; and

**WHEREAS**, those installments of the Assessments and Reassessments set forth in Exhibit "A" attached hereto and incorporated herein by this reference have not been paid when due and remain delinquent ("Delinquent Installments"); and

**WHEREAS**, the City Council of the City of Yuba City ("City Council") is authorized by the Bond Act, not later than four (4) years subsequent to the last maturity of the principal of bonds secured by the Assessments and Reassessments, to order that the Delinquent Installments be collected by an action brought in the Superior Court to foreclose the liens securing those installments; and

**WHEREAS**, the City has covenanted with the owners of certain bonded indebtedness pursuant to the Bond Act to commence and diligently prosecute judicial foreclosure proceedings to collect Delinquent Installments ("Bond Covenant"); and

**WHEREAS**, the City Council has determined that the public interest and convenience, including, but not limited to, the Bond Covenant, requires the prosecution of judicial foreclosure proceedings to collect the Delinquent Installments; and

**WHEREAS**, pursuant to Section 8833 of the Bond Act, when a foreclosure action is ordered, the county tax collector shall be credited upon the current tax roll with the amount charged on account of the delinquent Assessments and Reassessments to be sued on,

including applicable penalties, interest, and costs, and relieved of further duty in regard thereto; and

**WHEREAS**, pursuant to Section 8833 of the Bond Act, a Notice of Intent to Remove Delinquent Assessment Installment from the Tax Roll (“NOI”) must be recorded prior to the removal of the Delinquent Installments from the county tax roll; and

**WHEREAS**, the City previously retained Willdan Financial Services, a Professional Corporation (“Financial Consultant”), to administer the Districts on the behalf of the City; and

**WHEREAS**, the City previously retained Stradling, Yocca, Carlson & Rauth, a Professional Corporation (“Special Counsel”), to prosecute judicial foreclosure actions on the behalf of the City; and

**WHEREAS**, the Financial Consultant previously recorded a NOI in the official records of Sutter County for the Delinquent Installments and requested that the Sutter County Tax Collector (“Tax Collector”) remove said installments from the county tax roll.

**NOW, THEREFORE**, the City Council does hereby resolve, determine, and order as follows:

**SECTION 1.** The Delinquent Installments shall be collected by actions brought pursuant to the Bond Act in the Superior Court of the State of California for the County of Sutter to foreclose the liens securing those installments (“Foreclosure Actions”).

**SECTION 2.** Special Counsel is authorized to initiate and litigate the Foreclosure Actions on behalf of the City.

**SECTION 3.** All costs and attorneys’ fees incurred in the collection of the Delinquent Installments shall be sought in the Foreclosure Actions pursuant to the Bond Act. Special Counsel is authorized to require the payment of costs and attorneys’ fees as a condition of any pre-judgment or post-judgment redemption.

**SECTION 4.** The Financial Consultant, in conjunction with Special Counsel, is directed to take the following actions pursuant to Section 8833 of the Bond Act:

- a. Record an NOI against the delinquent parcels listed in Exhibit “A”; and
- b. To present to the Tax Collector written proof of the recordation of the NOI together with a request for the Tax Collector to remove the Delinquent Installments from the tax roll; and
- c. To credit the Tax Collector upon the current tax roll with the amount charged on account for the parcels listed in Exhibit “A” (including applicable penalties, interest, and costs) and relieve the Tax Collector of further duty in regard thereto.

**SECTION 5.** To the extent that any of the actions set forth in Section 4 above have already been completed by the Financial Consultant, the City Council hereby ratifies such prior actions.

**SECTION 6.** In the event that future installments of the Assessments and Reassessments levied against parcels listed in Exhibit "A" become delinquent during the pendency of the Foreclosure Action and/or prior to the delinquent parcel's sale pursuant to judgment, Special Counsel is directed to cause those future delinquent installments to be removed from the county tax roll and collected, along with any applicable interest, penalties, costs, fees, and other charges, through the pending Foreclosure Action or modification of the judgment pursuant to Section 8830(c) of the Bond Act.

**SECTION 7.** The City Council hereby finds and determines that the recitals set forth above are true and correct and are incorporated herein.

**SECTION 8.** This resolution shall take effect immediately upon its adoption.

The foregoing resolution was **PASSED AND ADOPTED** by the Council of the City of Yuba City at a regular meeting thereof held in accordance with law on September 17, 2019.

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
Shon Harris, Mayor

ATTEST:

\_\_\_\_\_  
Patricia Buckland, City Clerk

APPROVED AS TO FORM  
COUNSEL FOR YUBA CITY

\_\_\_\_\_  
Shannon L. Chaffin, City Attorney  
Aleshire & Wynder, LLP

**EXHIBIT "A"**

**Delinquent Assessment and Reassessment Installments**

<b>Parcel</b>	<b>Owner's Name</b>	<b>Assessment/ District</b>	<b>Reassessment</b>	<b>Tax Year(s)</b>	<b>Installments</b>
62-071-001	GOLDEN ACRES HOME CARE II, GP	Tierra Buena Water Reassessment District No. 2003-1		2016/2017	1 <sup>st</sup> and 2 <sup>nd</sup>
62-071-001	GOLDEN ACRES HOME CARE II, GP	Tierra Buena Water Reassessment District No. 2003-1		2017/2018	1 <sup>st</sup> and 2 <sup>nd</sup>
62-071-001	GOLDEN ACRES HOME CARE II, GP	Tierra Buena Water Reassessment District No. 2003-1		2018/2019	1 <sup>st</sup> and 2 <sup>nd</sup>
53-080-008	KANADA, CORY	Staple/Ashley/Dennis/Cornwell Assessment District No. 2004-1		2017/2018	1 <sup>st</sup> and 2 <sup>nd</sup>
53-080-008	KANADA, CORY	Staple/Ashley/Dennis/Cornwell Assessment District No. 2004-1		2018/2019	1 <sup>st</sup> and 2 <sup>nd</sup>

# ATTACHMENT 2



RECORDING REQUESTED BY:  
City of Yuba City  
1201 Civic Center Boulevard  
Yuba City, CA 95993

AND WHEN RECORDED  
MAIL TO:

Willdan Financial Services  
Attn: Nancy Castellanos  
27368 Via Industria, Ste 200  
Temecula, CA 92590

THIS SPACE FOR RECORDER'S USE

NOTICE OF INTENT TO REMOVE DELINQUENT TAX ASSESSMENT(S)

(Please fill in document title(s) on this line)

- 1  Exempt from fee per GC27388.1 due to being recorded in connection with concurrent transfer that is subject to the imposition of documentary transfer tax, or,
- 2  Exempt from fee per GC27388.1 due to being recorded in connection with a transfer that was subject to documentary transfer tax which was paid on document recorded previously on \_\_\_\_\_ (date\*) as document number \_\_\_\_\_ of Official Records, or,
- 3  Exempt from fee per GC27388.1 due to the maximum fees being paid on documents in this transaction, or,
- 4  Exempt from fee per GC27388.1 due to the maximum fees having been paid on documents in the transaction(s) recorded previously on \_\_\_\_\_ (date\*) as document number(s) \_\_\_\_\_ of Official Records, or,
- 5  Exempt from fee per GC27388.1, document transfers real property that is a residential dwelling to an owner-occupier, or, document is recorded in connection with concurrent transfer that is a residential dwelling to an owner-occupier, or,
- 6  Exempt from fee per GC27388.1 due to it being recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. The recorded document transferring the dwelling to the owner-occupier was recorded on \_\_\_\_\_ (date\*) as document number(s) \_\_\_\_\_
- 7  Exempt from fee per GC27388.1 due to being executed or recorded by the federal government in accordance with the Uniform Federal Lien Registration Act, by the state, or any county, municipality or other political subdivision of the state, or,
- 8  Exempt from the fee per GC 27388.1 (a) (1); Not related to real property, or,
- 9  Exempt from fee under GC27388.1 for the following reasons:  
\_\_\_\_\_

THIS PAGE ADDED TO PROVIDE SENATE BILL 2 EXEMPTION INFORMATION

Recording Requested By:  
City of Yuba City  
1201 Civic Center Boulevard  
Yuba City, CA 95993

**When Recorded Mail to:**

**Willdan Financial Services  
Attn: Nancy Castellanos  
27368 Via Industria, Suite 200  
Temecula, CA 92590**

This Space for Recorder's Use Only

Notice of Intent to Remove Delinquent  
Special Tax Installments from Tax Roll

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**NOTICE OF INTENT TO REMOVE DELINQUENT  
ASSESSMENT INSTALLMENTS FROM TAX ROLL**

In accordance with **Section 8833 of the California Streets and Highways Code, as amended, please TAKE NOTICE THAT:**

1. The City of Yuba City (the "Agency") has ordered and is responsible for a foreclosure action against the following described parcel(s) of real property located in Sutter County (the "County"), for the purpose of collecting delinquent assessment installments existing with respect to such parcel(s) pursuant to **Section 8833 of the California Streets and Highways Code, as amended.**
2. The parcel(s) which is (are) the subject of this Notice are described by County Assessor's Parcel Number(s) on **EXHIBIT A** attached hereto and by this reference incorporated herein (the "Parcel(s)").
3. Upon presentation of written proof of the recordation of this Notice with the County Recorder's Office, the Agency shall request the County tax collector to remove from the County tax roll, the delinquent assessment installments levied against the Parcel(s) during certain tax years, as the same are more particularly described on **EXHIBIT A.**
4. The name(s) of the owner(s) of the Parcel(s) as shown on the last equalized County tax roll is (are) described on **EXHIBIT A.**
5. Willdan Financial Services, Inc., a California corporation is a contractor for the Agency and is authorized to execute, acknowledge and record this Notice on behalf of the Agency.
6. For questions concerning the delinquent assessment installment(s) amounts covered by this Notice, please contact:

**Willdan Financial Services  
Attn: Nancy Castellanos  
27368 Via Industria, Suite 200  
Temecula, CA 92590  
(951) 587-3500**

DATED:           8/8/19          

City of Yuba City  
By Willdan Financial Services, Agent  
By:           Anthony Thrasher            
Anthony Thrasher, Project Manager

**APPROVED FOR RECORDING**

DATED:           8/8/19          

City of Yuba City  
By Willdan Financial Services, Authorized Agent  
By:           Anthony Thrasher            
Anthony Thrasher, Project Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


State of California )

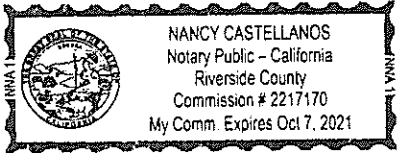
County of Riverside )

On 8/8/2019, before me, Nancy Castellanos, Notary Public, personally appeared Anthony Thrasher who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

  
\_\_\_\_\_  
Signature of Notary Public



(Seal)

**EXHIBIT A**

<b>Parcel</b>	<b>Owner's Name</b>	<b>District</b>	<b>Tax Year</b>	<b>Installments</b>
62-071-001	GOLDEN ACRES HOME CARE II GP	RAD No. 2003-1	2016/17	1 <sup>st</sup> and 2 <sup>nd</sup>
62-071-001	GOLDEN ACRES HOME CARE II GP	RAD No. 2003-1	2017/18	1 <sup>st</sup> and 2 <sup>nd</sup>
62-071-001	GOLDEN ACRES HOME CARE II GP	RAD No. 2003-1	2018/19	1 <sup>st</sup> and 2 <sup>nd</sup>
53-080-008	KANADA CORY	AD Staple Ashley D.C.	2017/18	1 <sup>st</sup> and 2 <sup>nd</sup>
53-080-008	KANADA CORY	AD Staple Ashley D.C.	2018/19	1 <sup>st</sup> and 2 <sup>nd</sup>