

ORDINANCE NO. 46-2008

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE LEVYING AND APPORTIONING THE SPECIAL TAX IN TERRITORY ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 2006-1 (MAINTENANCE SERVICES) (ANNEXATION NO. 10)

WHEREAS, City Council has established Community Facilities District No. 2006-1 (Maintenance Services) (the "CFD") pursuant to Resolution No. 2006-73 (the "Resolution of Formation"), duly adopted on March 22, 2006, for the purpose of providing for the financing of certain maintenance services in and for the City; and

WHEREAS, the City Council duly adopted Resolution No. 2008-219 (the "Resolution") on September 10, 2008, wherein the City Council submitted the question of levying a special tax in territory proposed to be annexed to the CFD at the rate and according to the method of apportionment described therein; and

WHEREAS, at an election held in the territory proposed to be annexed to the CFD on September 10, 2008, the qualified electors of such territory authorized the levy of the special tax described in the Resolution; and

WHEREAS, the City Council duly adopted Resolution No. 2008-220 on September 10, 2008, wherein the City Council determined that the territory proposed to be annexed was added to the CFD (such territory being referred to herein as "Annexation No. 10").

NOW, THEREFORE, the City Council of the City of Elk Grove does ordain as follows:

1. **Recitals.** The foregoing recitals are true and correct.
2. **Levy of Special Tax.** Pursuant to Section 53340 of the California Government Code, the special tax is hereby levied at the maximum rates and apportioned in the manner specified in the Resolution on all parcels in Annexation No. 10.
3. **Collection of Special Tax.** Pursuant to Section 53340 of the California Government Code and the Resolution, the special tax shall be collected in the same manner as ordinary *ad valorem* property taxes are collected and shall be subject to the same procedure, sale, and lien priority in case of delinquency as is provided for *ad valorem* taxes; provided, however, that the City may directly bill the special tax, may collect special taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD or as otherwise determined appropriate by the City.
4. **Claims for Refund.** Claims for refund of the tax shall comply with the following and any additional procedures as established by the City Council:
 - (a) All claims shall be filed, in writing, with the Director of Finance during the Fiscal Year in which the error is believed to have occurred. The

claimant shall file the claim within this time period and the claim shall be finally acted upon by the City Council as a prerequisite to bringing suit thereon.

(b) Pursuant to Government Code section 935(b), the claim shall be subject to the provisions of Government Code sections 945.6 and 946.

(c) The City Council shall act on a timely claim within the time period required by Government Code section 912.4.

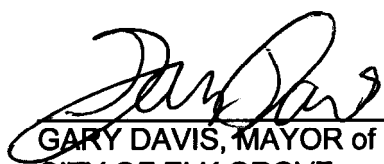
(d) The procedure described in this Ordinance, and any additional procedures established by the City Council, shall be the exclusive claims procedure for claimants seeking a refund of the tax. The decision of the City Council shall be final.

5. No Mandatory Duty of Care. This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

7. Effective Date and Publication. This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code section 36933(c)(1).

ORDINANCE: 46-2008
INTRODUCED: September 10, 2008
ADOPTED: October 8, 2008
EFFECTIVE: November 7, 2008



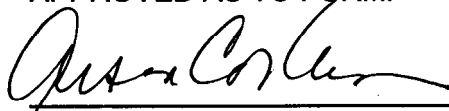
GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: October 10, 2008

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 46-2008**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on September 10, 2008 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on October 8, 2008 by the following vote:

AYES : **COUNCILMEMBERS:** *Davis, Hume, Leary, Cooper*

NOES: **COUNCILMEMBERS:** None

ABSTAIN: **COUNCILMEMBERS:** None

ABSENT: **COUNCILMEMBERS:** Scherman

A summary of the ordinance was published pursuant to GC 36933(c) (1).



**Susan J. Blackston, City Clerk
City of Elk Grove, California**