

RESOLUTION NO. 2004-177

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
CALLING AN ELECTION TO SUBMIT TO THE QUALIFIED ELECTORS
THE QUESTION OF LEVYING A SPECIAL TAX
WITHIN THE AREA PROPOSED TO BE ANNEXED TO
COMMUNITY FACILITIES DISTRICT NO. 2003-2 (POLICE SERVICES)
(ANNEXATION NO. 2)**

WHEREAS, on November 5, 2003, the City Council (the "City Council") of the City of Elk Grove (the "City"), approved Resolution 2003-214 establishing Community Facilities District No. 2003-2 (Police Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, for the purpose of providing for the financing of certain police protection services (the "Services") described in Exhibit A hereto; and

WHEREAS, at an election held on November 5, 2003, more than two-thirds of the votes cast were in favor of the levy of a special tax and the establishment of an appropriations limit, all as determined by the Council in Resolution No. 2003-215, duly adopted on November 5, 2003; and

WHEREAS, the City Council on May 19, 2004, duly adopted Resolution No. 2004-101 (the "Resolution of Intention") declaring its intention to annex certain territory to the CFD and to levy a special tax within that territory to pay for the Services and setting a public hearing on the proposed annexation for July 7, 2004; and

WHEREAS, the territory proposed to be annexed is identified in a map entitled "Annexation Map No. 2 of Community Facilities District No. 2003-2 (Police Services)" a copy of which was recorded, on May 24, 2004, in Book 98 of Maps of Community Facilities Districts at Page 19 in the office of the Sacramento County Recorder; and

WHEREAS, the hearing was duly continued by a Notice of Continuance to July 21, 2004; and

WHEREAS, the City Council convened a public hearing on Wednesday, July 21, 2004, after 6:30 p.m., at the regular meeting place of the City Council, City Council Chambers, 8400 Laguna Palms Way, Elk Grove, California, at which hearing all persons interested, including all taxpayers, property owners and registered voters within the CFD and the territory proposed to be annexed, were given an opportunity to appear and be heard on the proposed annexation of territory to the CFD and the levy of special taxes within the territory proposed to be annexed; and

WHEREAS, written protests have not been filed by fifty percent (50%) or more the registered voters residing within the CFD, or by fifty percent (50%) or more of the registered voters residing within the territory to be annexed, or by the owners of one-half

(1/2) or more of the area within the CFD, or by the owners of one-half (1/2) or more of the territory to be annexed; and

WHEREAS, the City Council has determined that there are fewer than twelve registered voters residing in the territory proposed to be annexed to the CFD and that the qualified electors in such territory are the landowners; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined to call an election to authorize the annexation of territory to the CFD and the levying of a special tax as described in Exhibit B hereto; and

WHEREAS, the City Council has received a written instrument from each landowner in the territory proposed to be annexed to the CFD consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk Grove that:

Section 1. Recitals. All of the above recitals are true and correct, and the City Council so finds and determines.

Section 2. Confirmation of Findings in Resolution of Intention. The City Council reconfirms all of its findings and determinations as set forth in the Resolution of Intention.

Section 3. Finding Regarding Protests. The City Council finds and determines that written protests to the proposed annexation of territory to the CFD and the levy of the special tax within such territory are insufficient in number and in amount under the Act, and the City Council hereby further orders and determines that all such protests are hereby overruled.

Section 4. Finding Regarding Prior Proceedings. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the annexation of territory to CFD are valid and in conformity with the requirements of the Act.

Section 5. Tax Lien. Upon recordation of an amended notice of special tax lien pursuant to Sections 3117.5 and 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the territory proposed to be annexed and this lien shall continue in force and effect until the collection of the tax is terminated by the City Council.

Section 6. Call and Order of Election. The City Council hereby calls and orders a special election to be held on Wednesday, July 21, 2004 ("election day"), at which election the question of levying the special tax within the territory proposed to be annexed shall be submitted to the qualified electors of the territory proposed to be annexed. The terms of the measure are described in this Resolution. The abbreviated

form of the statement of the ballot measure is set forth in Exhibit C hereto and is incorporated herein by reference.

Section 7. Vote Required. If the proposition on the question of levying the special tax within the territory proposed to be annexed receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, then the territory proposed to be annexed will be added to and become part of the CFD with full legal effect and the City Council will be authorized to levy the special tax within the annexed territory.

Section 8. Submission of Ballot Proposition. The City Council hereby submits to the landowners within the territory proposed to be annexed to the CFD at the special election the ballot proposition set forth in Section 6 of this resolution. The City Council hereby authorizes the City Clerk to conduct the election.

Section 9. Conduct of Election. The special election shall be held and conducted, the returns canvassed, and the results ascertained and determined, as herein provided:

(a) All owners of land within the territory proposed to be annexed to the CFD upon the date of the special election shall be qualified to vote upon the measure submitted at the special election. Each landowner shall have one vote for each acre or portion thereof that she, he, or it owns within the territory proposed to be annexed to the CFD, as provided in Government Code section 53326(b).

(b) Pursuant to Government Code section 53327, the special election shall be conducted as a mailed ballot election, in accordance with the provisions of Sections 4100-4108 of the Elections Code. There shall be no polling places for the special election.

(c) The City Clerk has mailed to each landowner in the territory proposed to be annexed to the CFD a ballot in the form set forth in Exhibit C hereto (showing the originally expected election date of July 7), which action is hereby ratified by the City Council.

(d) Each voter desiring to vote for the measure to levy a special tax shall mark an "X" in the voting square opposite the word "YES." To vote against the measure, the voter shall mark an "X" in the voting square opposite the word "NO."

(e) The City Clerk shall accept the ballots of the landowners up to five minutes following the adoption of this resolution by the City Council. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(f) The City Clerk shall commence the canvass of the returns of the special election as soon as the election is closed (i.e., five minutes following the adoption of this resolution by the City Council or when all qualified electors have voted). At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(g) The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

Section 10. General Authorization with Respect to the Election. The members of the City Council, the City Clerk, and the other officers of the City are hereby authorized and directed, individually and collectively, to do any and all things and to execute, deliver, and perform any and all agreements and documents that they deem necessary or advisable in order to effectuate the purposes of this Resolution. All actions heretofore taken by the officers and agents of the City that are in conformity with the purposes and intent of this Resolution are hereby ratified, confirmed, and approved in all respects.

Section 11. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the City has created a separate account into which the special tax proceeds shall be deposited; and the City shall prepare a report, as required, pursuant to the requirements of Section 53343.1.


Section 12. Effective Date. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 21st day of July 2004.




SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

EXHIBIT A

List of Authorized Services

Authorized services are police protection services. Eligible costs include, but are not limited to, the costs of contracting services, the salaries and benefits of City staff if the City directly provides police protection services and City overhead costs associated with providing such services within the CFD.

EXHIBIT B

CITY OF ELK GROVE COMMUNITY FACILITIES DISTRICT NO. 2003-2 (Police Services) RATE AND METHOD OF APPORTIONMENT

A Special Tax of Community Facilities District No. 2003-2 (Police Services) of the City of Elk Grove ("CFD") shall be levied on all Assessor's Parcels in the CFD and collected each Fiscal Year commencing in Fiscal Year 2004-05 in an amount determined by the City through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property in the CFD, 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, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or estimated costs incurred by the City as administrator of the CFD to determine, levy and collect the Special Taxes, including salaries of City employees and the fees of consultants, legal counsel, the costs of collecting installments of the Special Taxes upon the general tax rolls, preparation of required reports; and any other costs required to administer the CFD as determined by the City.

"Assessor's Parcel" means a lot or parcel shown in 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.

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

"CFD" means Community Facilities District No. 2003-2 (Police Services) of the City of Elk Grove.

"City" means the City of Elk Grove.

"Council" means the City Council of the City of Elk Grove, acting as the legislative body of the CFD.

"County" means the County of Sacramento, California.

"Developed Property" means all Taxable Property, exclusive of Property Owner Association Property, or Public Property, for which a building permit was issued after January 1, 2003, and prior to May 1st preceding the Fiscal Year in which the Special Tax is being levied.

"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.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below, that can be levied in the CFD in any Fiscal Year on any Assessor's Parcel.

"Multi-Family Property" means all Assessor's Parcels of Developed Property for which a building permit has been issued for a residential structure consisting of two or more residential units that share common walls, including, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartment units.

"Non-Residential Property" means all Assessor's Parcels of Developed Property for which a building permit(s) has been issued for a non-residential use and does not contain any residential units as defined under Residential Property or Multi-Family Property.

"Property Owner Association Property" means any property within the boundaries of the CFD that is owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to, a property owner association, including any master or sub-association.

"Proportionately" means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels within each Land Use Class.

"Public Property" means any property within the boundaries of the CFD that is, at the time of the CFD formation, expected to be used for rights-of-way, parks, schools or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State, the County, the City or any other public agency. Once an Assessor's Parcel has been designated as Public Property, it shall retain such status permanently, unless transferred in accordance with the transfer provisions provided in Section G below.

"Public Safety Costs" means the estimated and reasonable costs of providing police protection services, including but not limited to the costs of contracting services, the salaries and benefits of City staff if the City directly provides police protection services and City overhead costs, associated with providing such

services within the CFD. The Public Safety Special Tax provides only partial funding for police protection services.

"Residential Property" means all Assessor's Parcels of Developed Property for which a building permit(s) has been issued for purposes of constructing one residential dwelling unit.

"Special Tax" means the Special Tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property to fund the Special Tax Requirement, and shall include Special Taxes levied or to be levied under Sections C and D, below.

"Special Tax Requirement" means that amount required in any Fiscal Year for the CFD to: (a) (i) pay for Public Safety Costs; (ii) pay reasonable Administrative Expenses; (iii) pay any amounts required to establish or replenish any reserve funds; and (iv) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; less (b) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator:

"State" means the State of California.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or as defined below.

"Tax-Exempt Property" means an Assessor's Parcel not subject to the Special Tax. Tax-Exempt Property includes: (i) Public Property, (ii) Non-Residential Property, and (iii) Property Owner Association Property.

"Undeveloped Property" means, for each Fiscal Year, all Taxable Property not classified as Developed Property.

"Unit" means any residence in which a person or persons may live, and is not considered to be for commercial or industrial use.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year using the definitions above, all Taxable Property within the CFD shall be classified as Developed Property or Undeveloped Property. Developed Property shall be further assigned to a Land Use Class as specified in Table 1 and shall be subject to Special Taxes pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

**TABLE 1
Maximum Special Tax for Developed Property
Community Facilities District No. 2003-2
Annexation No. 2**

Land Use Class	Description	Maximum Special Tax Per Unit
1	Residential Property	\$325 per Unit
2	Multi-Family Property	\$230 per Unit

On each July 1, commencing on July 1, 2004, the Maximum Public Safety Special Tax shall be increased by the lesser of Local Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Area for All Urban Consumers or 5% of the amount in effect for the previous Fiscal Year. The CPI used shall be as determined by the Bureau of Labor Statistics from April to April beginning with the period from April 2003 through April 2004.

2. 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 levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax levies that can be imposed on all Land Use Classes located on that Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

3. Undeveloped Property; Tax-Exempt Property

No Special Tax shall be levied on Undeveloped Property or Tax-Exempt Property.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2004-05, and for each following Fiscal Year, the Council shall levy the Special Tax until the amount of the Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year on each Assessor's Parcel of Developed Property Proportionately up to 100% of the applicable Maximum Special Tax.

E. APPEALS

Any taxpayer that believes that the amount of the Special Tax assigned to a Parcel is in error may file a written notice with the CFD Administrator appealing

the levy of the Special Tax. This notice is required to be filed with the CFD Administrator during the Fiscal Year the error is believed to have occurred. The CFD Administrator or designee will then promptly review the appeal and, if necessary, meet with the taxpayer. If the CFD Administrator verifies that the tax should be changed the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

F. MANNER OF COLLECTION

Special Tax as levied pursuant to Section D above shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the CFD Administrator 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 CFD Administrator.

G. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity.

EXHIBIT C

OFFICIAL BALLOT

**SPECIAL TAX ELECTION
CITY OF ELK GROVE
ANNEXATION OF TERRITORY TO COMMUNITY FACILITIES DISTRICT
NO. 2003-2 (POLICE SERVICES) Annexation No. 2
(July 7, 2004)**

Number of votes entitled to cast:

INSTRUCTIONS TO VOTERS: To vote on the measure, mark an (X) 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 City Clerk, City of Elk Grove, 8380 Laguna Palms Way, Elk Grove, California 95758, to obtain another.

MEASURE SUBMITTED TO VOTE OF VOTERS

Ballot Measure: Shall the City of Elk Grove be authorized to levy a special tax at the rates and apportioned as described in Exhibit A to the Resolution Declaring its Intention to Annex Territory to Community Facilities District No. 2003-2 (Police Services) adopted by the City Council on May 19, 2004 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Annexation Map No. 2 of Community Facilities District No. 2003-2 (Police Services), City of Elk Grove, County of Sacramento," to finance certain services as set forth in Section 3 to the Resolution?	YES <input type="checkbox"/>
	NO <input type="checkbox"/>

NOTE: This is a special landowner election. You must return this ballot to the City Clerk, City of Elk Grove, either (i) to her office at City Hall, 8380 Laguna Palms Way, Elk Grove, California 95758, by 4:00 p.m. on July 7, 2004 or (ii) thereafter, to the regular meeting place of the Council at 8400 Laguna Palms Way on July 7, 2004, by five minutes following the adoption of the resolution calling the election (the City Council meeting convenes at 6:30 p.m. on July 7, 2004).

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2004-177**

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

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 21st day of July 2004 by the following vote:

AYES 3: COUNCILMEMBERS: Scherman, Soares, Briggs


NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 0: COUNCILMEMBERS:

RECUSED 2: COUNCILMEMBERS: Cooper, Leary





**Peggy E. Jackson, City Clerk
City of Elk Grove, California**