

## RESOLUTION NO. 2002-209

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2003-1 (POPPY RIDGE) AND TO LEVY A SPECIAL TAX TO PAY FOR CERTAIN PUBLIC FACILITIES AND SERVICES

**WHEREAS**, the City Council has adopted local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, Part 1, Division 2, Title 5 (commencing with Section 53311) of the California Government Code) (the "Act");

**WHEREAS**, City staff has reviewed an application from owners of property in a portion of the East Franklin Specific Plan area south of Poppy Ridge Road (the "Landowners") requesting the City to provide financing under the Act; and staff has recommended that the City Council grant the owners' request;

**WHEREAS**, the City Council has duly considered the advisability and necessity of establishing a community facilities district pursuant to the Act encompassing a portion of the East Franklin Specific Plan area and levying a special tax therein to finance the acquisition and construction costs of certain public capital facilities and to pay the cost of certain services;

**WHEREAS**, the City Council has determined that the establishment of the proposed community facilities district is consistent with and follows the City's goals and policies for use of the Act;

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

1. **Recitals**. The above recitals are true and correct.
2. **Intent to Establish Community Facilities District**. The City Council hereby grants the request of the Landowners and declares that it proposes and intends to establish a community facilities district pursuant to the provisions of the Act, in the manner described below.
3. **Description of Boundaries**. The proposed boundaries of the community facilities district are shown on a map on file in the office of the City Clerk. The City Council hereby directs the City Clerk endorse the certificates set forth on the map indicating its filing in the office of the City Clerk and evidencing the date and adoption of this resolution. The City Council further directs the City Clerk to record a copy of the map with the Sacramento County Recorder within 15 days after the adoption of this resolution, in accordance with the provisions of Sections 3111 of the California Streets and Highways Code.

4. **Name of the Community Facilities District.** The community facilities district proposed to be formed shall be known as "Community Facilities District No. 2003-1 (Poppy Ridge)" (the "District").

5. **Description of Public Facilities and Services.** The facilities proposed to be financed by the District, which include completed facilities (the "Facilities"), and the services proposed to be financed by the District (the "Services") are described in Exhibit A hereto. The Facilities have a useful life of five years or longer. The cost of financing the acquisition and construction of the Facilities and the provisions of the Services includes "incidental expenses," which include the cost of planning and designing the Facilities and environmental evaluations thereof; costs associated with the creation of the District, issuance of bonds, determination of the amount of special taxes, collection or payment of special taxes, or costs otherwise incurred in order to carry out the authorized purposes of the District; and any other expenses incidental to the design, construction, completion, and inspection of the Facilities. The Services authorized to be financed by the District are in addition to those currently provided in the territory of the District and do not supplant services already available within that territory.

6. **Levy of Special Tax.** Except where funds are otherwise available, a special tax sufficient to pay the costs of the Facilities and the Services (including incidental expenses and debt service on bonds issued to finance the Facilities), secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the District. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B. Exhibit B specifies the conditions under which the special tax to pay for the Facilities may be prepaid and permanently satisfied. Exhibit B also specifies the year after which no further special tax levied to pay for the Facilities shall be levied against any parcel used for private residential purposes. Under no circumstances will the special tax levied against any parcel used for private residential purposes to pay for the Facilities be increased by more than ten percent as a consequence of delinquency or default by the owner of any other parcel or parcels of land within the District.

7. **Repayment of Advances.** The City and the owners of property within the District have entered into an "Agreement for Advance of Funds" pursuant to which the property owners have deposited funds with the City for the payment of certain costs related to the establishment of the District. To the extent proceeds of any bonds issued are sufficient therefor (as determined by the City), the City proposes to repay a portion of the funds advanced and may also repay the value or cost (whichever is less) of any work-in-kind advanced.

8. **Public Hearing.** The City Council hereby fixes 6:30 p.m., or as soon thereafter as practicable, on Wednesday, January 15, 2003, at the regular meeting place of the City Council, City Council Chambers, 8400 Laguna Palms Way, Elk Grove, California, as the time and place for a public hearing on the establishment of the District. The hearing on the establishment of the District shall be consolidated with the hearing

on the bonded indebtedness proposed to be incurred and shall be conducted as a single hearing.

9. **Notice of Hearing.** The City Council directs the City Clerk to publish a notice of the consolidated hearing, in substantially the form attached hereto as Exhibit C, once not later than seven days prior to the date fixed for the hearing, in *The Elk Grove Citizen*, a newspaper of general circulation published in the area of the District, and to mail the notice to each registered voter and each landowner within the District by first-class mail at least 15 days before the date fixed for the hearing.

10. **Hearing Report.** The City Council directs the Public Works Director to study the proposed District and, at or before the time of the hearing, to cause to be prepared and filed with the City Council a report containing a brief description of the facilities and services by type that will in his opinion be required to adequately meet the needs of the District, his estimate of the cost of providing those public facilities and services; the fair and reasonable cost of any of the facilities to be purchased; and the fair and reasonable cost of incidental expenses to be incurred in connection therewith.

11. **Description of Proposed Voting Procedures.** If, at the conclusion of the public hearing, the City Council adopts a resolution establishing the District, the City Council proposes to order an election by mailed ballot and submit the question of the levy of the special tax to the qualified electors. The City Council hereby determines that the Facilities are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District. Because fewer than twelve registered voters currently reside within the District, the qualified electors shall be the landowners within the District, and each landowner who is the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the proposed District.

12. **Tender of Bonds for Payment of Taxes.** The City Council reserves to itself the right and authority to allow any interested owner of property within the District, subject to the provisions of Government Code section 53344.1 and to those conditions it may impose, and any applicable prepayment penalties as described in a fiscal agent agreement or comparable document providing for the issuance of bonds, to tender to the City's Director of Administrative Services in full payment or part payment of any installment of the special taxes or the interest or penalties thereon that may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove on this 4<sup>th</sup> day of December 2002.



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RICK SOARES, MAYOR of the  
CITY OF ELK GROVE

ATTEST:



\_\_\_\_\_  
PEGGY JACKSON, CITY CLERK

APPROVED AS TO FORM:



\_\_\_\_\_  
ANTHONY B. MANZANETTI,  
CITY ATTORNEY

**AYES:** Soares, Briggs, Cooper  
Scherman, Leary  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** None

**EXHIBIT A**

**Public Capital Facilities and Services**

# EXHIBIT A

## City of Elk Grove, California Community Facilities District No. 2003-1 (Poppy Ridge)

### LIST OF AUTHORIZED FACILITIES, SERVICES, AND COSTS

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Authorized facilities, services, and costs that may be funded through the Community Facilities District (CFD) include the following public improvements, development impact fees, public services, and formation and administrative expenses:

#### PUBLIC IMPROVEMENTS

##### **Transportation Improvements**

Authorized facilities include the following transportation-related improvements:

- Franklin Boulevard;
- Bruceville Road;
- Bilby Road;
- Blossom Ridge Drive;
- Poppy Ridge Road; and
- Other public roadway improvements required to meet the needs of the project.

Eligible transportation-related facility improvements include, but are not limited to: grading and paving; existing pavement removal; joint trenches; utility relocations and underground utilities; curbs; gutters; bridge and/or box culvert crossings; street lights and signalization; signage and striping; and median landscaping related thereto. Eligible improvements also include reconstruction of roads (wherever located) damaged during the development of the land within the CFD.

##### **Wastewater System Improvements**

Authorized facilities include any and all on- and off-site wastewater conveyance and collection facilities designed to meet the needs of development within the CFD. These facilities include, but are not limited to: gravity sewer lines; force mains; lift stations; odor-control facilities; and related wastewater improvements (including interim facilities).

##### **Potable and Non-Potable Water System Improvements**

Authorized facilities include any and all on- and off-site water facilities designed to meet the needs of development within the CFD. These facilities include, but are not limited to: wells and well facilities, potable and non-potable water transmission and distribution

facilities (including fire hydrants); water treatment and storage facilities; pressure reducing stations; pumps; flow meters; and related water system improvements.

### **Drainage System Improvements**

Authorized facilities include any and all on- and off-site drainage and storm water conveyance improvements designed to serve the needs of development within the CFD. These facilities include, but are not limited to: pipelines and appurtenances; drainage channels; detention basins; temporary drainage facilities; water quality improvements (including basins); and related drainage system improvements.

### **Landscaping Improvements**

Authorized facilities include any and all landscaping improvements designed to serve the needs of development within the CFD. These facilities include, but are not limited to: grading; turf and irrigation; trees and shrubs; sidewalks, pathways, and trails; masonry soundwalls; entry monumentation and signage; and other related hard and soft-scape improvements along roadways and adjacent to or within parks, open space, drainage channels, and detention basins.

### **Other Public Facility Improvements or Costs**

Authorized facilities also include the following public improvements or costs:

- Funding share of a traffic operations center;
- Funding share of a corporation yard;
- Funding share of a library; and
- Funding share of parks, community centers, sports (including aquatic) facilities, and other recreational amenities.

### **PUBLIC 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.

### **DEVELOPMENT IMPACT FEES**

Eligible expenditures include prepayment of development impact fees applicable to new development within the CFD. The following development impact fees will be eligible for prepayment:

- Laguna South Public Facilities Fee Program (LSPFFP) fees;
- Sacramento County Zone 11A Drainage Fees;
- Sacramento County Zone 40 Water Fees; and
- Sacramento County Sanitation District No. 1 Fees.

## FORMATION AND ADMINISTRATIVE EXPENSES

In addition to the above facilities, other incidental expenses as authorized by the Mello-Roos Community Facilities Act of 1982, including, but not limited to: the cost of planning, permitting, and designing the facilities (including the cost of environmental evaluation and environmental remediation/mitigation); land acquisition for authorized CFD facilities; project management, construction staking; utility relocation and demolition costs incident to the construction of the public facilities, cost associated with the creation of the Mello-Roos CFD; issuance of bonds; 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 CFD; reimbursements to other areas for infrastructure facilities serving development within the CFD; and any other expenses incidental to the construction, completion, and inspection of the facilities.

**EXHIBIT B**

**Rate, Method of Apportionment, and Manner of Collection of the Special Tax**

**Exhibit "B"**

**CITY OF ELK GROVE  
COMMUNITY FACILITIES DISTRICT NO. 2003-1  
(POPPY RIDGE)**

**RATE AND METHOD OF APPORTIONMENT**

A Special Tax of Community Facilities District No. 2003-1 (Poppy Ridge) 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 2003-04 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:

**"Acre or Acreage"** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County parcel map. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

**"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, paying agents, fiscal agents, and trustees; the costs of collecting installments of the Special Taxes upon the general tax rolls; the cost of arbitrage calculation and arbitrage rebates, 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.

**"Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued or incurred by the CFD and secured by the levy of Special Taxes under the Act.

**"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. 2003-1 (Poppy Ridge) 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 July 1, 2001, but prior to the May 1st preceding the Fiscal Year in which the Special Tax is being levied.

**"Facilities Special Tax"** means the Special Tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property and Undeveloped Property pursuant to Sections C and D, below.

**"Final Map Residential Property"** means a Residential lot created by a Final Subdivision Map, but for which no building permit has been issued pursuant to the definition of Developed Property.

**"Final Subdivision Map"** means a subdivision of property creating buildable lots by recordation of a final subdivision map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.), or recordation of a condominium plan pursuant to California Civil Code 1352, that creates individual lots for which building permits may be issued without further subdivision and is recorded prior to June 1 of any Fiscal Year.

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

**"Gross Acre(age)"** means the acreage of an Assessor's Parcel as shown on an Assessor's Parcel Map prior to dedication of right-of-way or easement for streets, roads, landscaping, and other public purposes.

**"Indenture"** means the indenture, trust agreement, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Land Use Class"** means any of the classes listed in Table 1 or Table 2.

**"Large Lot Property"** means any Taxable Property created by the recordation of a final large lot subdivision map, parcel map or lot line adjustment, i.e. subdivision, parcel or other map that does not create Final Map Residential Property.

**"Lot"** means any Assessor's Parcel created by the recordation of a Final Subdivision Map.

**"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 prior to the full prepayment or partial prepayment of Special Tax.

**"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.

**"Net Acre(age)"** means the acreage of an Assessor's Parcel as shown on the Final Subdivision Map excluding right-of-way for streets, roads, and other public purposes. Net Acreage includes acreage subject to a public utility easement.

**"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.

**"Other Taxable Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Final Map Residential Property, Large Lot Property, or Tentative Map Property.

**"Outstanding Bonds"** means, as of any date, all Bonds previously issued that are outstanding under the applicable Indenture.

**"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.

**"Public Safety Special Tax"** means the Special Tax assigned to Developed Property to cover its proportionate share of Public Safety Costs pursuant to Section C.

**"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 prior to full prepayment or termination of Special Tax on each Assessor's Parcel of Developed Property and Undeveloped 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 debt service on all Outstanding Bonds for the calendar year that commences in such Fiscal Year; (ii) pay periodic costs on the Bonds, including but not limited to, credit enhancement and rebate payments on the Bonds; (iii) pay reasonable Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) pay directly for acquisition or construction of authorized facilities to be constructed or acquired by the CFD, except Special Taxes on Undeveloped Property shall not be levied for this purpose; (vi) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; and (vii) pay for Public Safety Costs for Developed Property, less (b) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator pursuant to the Indenture.

**"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 include: (i) Public Property, or (ii) any Assessor's Parcel that has prepaid its Special Taxes pursuant to Section H, or (iii) Property Owner Association Property.

**"Tentative Map"** means the tentative subdivision map filed pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) and approved for the East Franklin Specific Plan project by the City.

**"Tentative Map Property"** means any Taxable Property for which a Tentative Map has been approved by the City prior to June 1 of any Fiscal Year that is not Residential Property. Once classified as Tentative Map Property, it shall not be reclassified as Other Taxable Property notwithstanding any subsequent abandonment or expiration of the applicable Tentative Map.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"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, and shall be subject to Special Taxes pursuant to Sections C and D below. Developed Property shall be further assigned to a Land Use Class as specified in Table 1. Undeveloped Property shall be further assigned to a Land Use Class as specified in Table 2.

**C. MAXIMUM SPECIAL TAX RATE**

**1. Developed Property**

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

<b>Land Use Class</b>	<b>Description</b>	<b>Maximum Facilities Special Tax Per Unit/Acre</b>	<b>Maximum Public Safety Special Tax Per Unit/Acre</b>
1	Residential Property	\$965 per Unit	\$150 per Unit
2	Multi-Family Property	\$4,825 per Net Acre	\$115 per Unit
3	Non-Residential Property	\$4,825 per Net Acre	\$250 per Net Acre

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.

The Maximum Special Tax that may be levied on Developed Property is the sum of the Maximum Facilities Special Tax and the Maximum Public Safety Special Tax.

**2. Undeveloped Property**

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

<b>Land Use Class</b>	<b>Description</b>	<b>Maximum Facilities Special Tax Per Lot/Acre</b>
4	Final Map Residential Property	\$965 per Lot
5	Large Lot Property	\$4,710 per Gross Acre
6	Tentative Map Property	\$3,675 per Gross Acre
7	Other Taxable Property	\$3,675 per Gross Acre

Undeveloped Property is not subject to the Public Safety Special Tax.

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.

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

Commencing with Fiscal Year 2003-04, 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 as follows:

First: The Special Tax shall be levied on each Assessor's Parcel of Developed Property at 100% of the applicable Maximum Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Final Map Residential Property at up to 100% of the Maximum Special Tax for Final Map Residential Property. However, under no circumstances shall Special Taxes be levied under this second step to pay for Public Safety Costs;

Third: If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Large Lot Property at up to 100% of the Maximum Special Tax for Large Lot Property. However, under no circumstances shall Special Taxes be levied under this third step to pay for Public Safety Costs;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Tentative Map Property at up to 100% of the Maximum Special Tax for Tentative Map Property. However, under no circumstances shall Special Taxes be levied under this fourth step to pay for Public Safety Costs; and;

Fifth: If additional monies are needed to satisfy the Special Tax Requirement after the first four steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Other Taxable Property at up to 100% of the Maximum Special Tax for Other Taxable Property. However, under no circumstances shall Special Taxes be levied under this fifth step to pay for Public Safety Costs.

Notwithstanding the above the Council may, in any Fiscal Year, levy Proportionately less than 100% of the Maximum Special Tax in step one of Section D (above), when (i) the Council is no longer required to levy a Special Tax pursuant to steps two through five above

in order to meet the Special Tax Requirement; (ii) all authorized CFD Bonds have already been issued or the Council has covenanted that it will not issue any additional CFD Bonds (except refunding bonds) to be supported by Special Taxes; and (iii) all authorized facilities have been constructed or acquired and paid for from Bonds and/or Special Taxes.

Notwithstanding the above, under no circumstances will the Facilities Special Tax levied against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased by more than ten percent annually up to the Maximum Special Tax as a consequence of delinquency or default by the owner of any other Assessor's Parcel within the CFD.

**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. TRANSFER OF SPECIAL TAX OBLIGATION**

Taxable Property acquired by a public agency after the CFD is formed will remain subject to the applicable Facilities Special Tax unless the Facilities Special Tax obligation is satisfied pursuant to Section 53317.5 of the Government Code. An exception to this may be made if an Assessor's Parcel of Public Property, such as a school site, is relocated to an Assessor's Parcel(s) of Taxable Property, the previously Tax-Exempt Property of comparable acreage becomes Taxable Property and the Maximum Special Tax from the previously Taxable Property is transferred to the new Taxable Property. This trading of Special Taxes will be permitted to the extent that there is no net loss in Maximum Special Tax revenue.

**H. PREPAYMENT OF FACILITIES SPECIAL TAX**

The following definitions apply to Section H.

"CFD Public Facilities Costs" means either \$42,000,000 in 2002 dollars, which shall increase by the Construction Inflation Index on July 1, 2003, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to

acquire or construct the bond financed authorized facilities to be financed by the CFD under the authorized Mello-Roos financing program for the CFD, or (ii) shall be determined by the Council concurrently with a covenant that it will not issue any more CFD Bonds (except refunding bonds) to be supported by the CFD Special Taxes.

**"Construction Fund"** means the fund (regardless of its name) established pursuant to the Indenture to hold funds, which are currently available for expenditure to acquire or construct public facilities eligible under the Act.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News-Record Construction Cost Index measured as of the calendar year, which ends in the previous Fiscal Year. In the event this index ceases to be published, the Inflation Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Engineering News-Record Construction Cost Index.

**"Future Facilities Costs"** means the CFD Public Facilities Costs minus (i) costs previously paid from the Construction Fund to acquire or construct the Authorized Facilities, (ii) monies currently on deposit in the Construction Fund, and (iii) monies currently on deposit in an escrow or other earmarked fund that are expected to be available to finance Public Facilities Costs.

**"Outstanding Prepayment Bonds"** means, as of any date, all Bonds previously issued that are anticipated by the CFD Administrator to be outstanding under the applicable Indenture immediately after the first principal payment date for such Bonds following the then current Fiscal Year as reduced by scheduled debt service payment and any previous prepayments.

**"Update Property"** means an Assessor's Parcel of Taxable Property for which a building permit has been issued, but which has not yet been classified as Developed Property.

#### **1. Prepayment of Facilities Special Tax in Full**

The Facilities Special Tax obligation described in Section D above with respect to any Assessor's Parcel of Developed Property or Update Property may be fully prepaid. A prepayment may be made on an Assessor's Parcel only if there are no delinquent Special Tax levies with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Facilities Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount of such Assessor's Parcel. The CFD Administrator may charge the Assessor's Parcel's owner a reasonable fee for providing these figures, which must be paid by the owner of the Assessor's Parcel prior to the calculation of the prepayment amount. Prepayment must be made not less than 15 days prior to the next occurring date that notice of redemption of Bonds from the proceeds of such prepayment may be given to the Trustee pursuant to the Indenture.

The Prepayment Amount (defined below) for any Assessor's Parcel of Public Property that is Taxable Property shall be determined by the CFD Administrator as

authorized under Sections 53317.3 and 53317.5 of the Act. However, no Facilities Special Tax prepayment for any Assessor's Parcel of Taxable Public Property shall be allowed unless the amount of Maximum Facilities Special Tax levies that may be imposed on Taxable Property within the CFD after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Prepayment Bonds after the redemption of Bonds resulting from the proposed prepayment.

The Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

Bond Redemption Amount  
plus Redemption Premium  
plus Future Facilities Amount  
plus Defeasance Amount  
plus Administrative Fees and Expenses  
less Reserve Fund Credit  
Total: equals Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount (defined below) shall be calculated as follows:

**Paragraph No.:**

1. For Assessor Parcels of Developed Property, compute the Facilities Special Tax for the Assessor's Parcel to be prepaid. For Assessor Parcels of Undeveloped Property to be prepaid, compute the Facilities Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the building permit which has already been issued for that Assessor's Parcel. For Assessor Parcels of Taxable Public Property and/or Taxable Association Property to be prepaid, compute the Facilities Special Tax for that Assessor's Parcel.
2. Divide the Facilities Special Tax computed pursuant to paragraph 1 by the total estimated Facilities Special Taxes as set forth in Attachment 1 for the CFD which could be charged, less any Assessor Parcels which have been prepaid.
3. Multiply the quotient computed pursuant to paragraph 2 by the Outstanding Bonds to compute the amount of Outstanding Bonds to be retired and prepaid (the "*Bond Redemption Amount*").
4. Multiply the Bond Redemption Amount computed pursuant to paragraph 3 by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "*Redemption Premium*").
5. Compute the current Future Facilities Costs.
6. Multiply the quotient computed pursuant to paragraph 2 by the amount

determined pursuant to paragraph 5 to compute the amount of Future Facilities Costs to be prepaid (the "*Future Facilities Amount*").

7. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds.
8. Compute the amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Administrative Fees and Expenses from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
9. Add the amounts computed pursuant to paragraph 7 and subtract the amount computed pursuant to paragraph 8 (the "*Defeasance Amount*").
10. Add the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming the Outstanding Bonds, and the costs of recording any notices to evidence the prepayment and the redemption less the amount of the refundable deposit (the "*Administrative Fees and Expenses*").
11. The reserve fund credit (the "*Reserve Fund Credit*") shall equal the lesser of, (a) the expected reduction in the reserve requirement (as defined in the Indenture), if any, associated with the redemption of Outstanding Bonds as a result of the prepayment, or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Outstanding Bonds as a result of the prepayment from the balance in the reserve fund on the prepayment date, but in no event shall such amount be less than zero.
12. The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 3, 4, 6, 9 and 10, less the amount computed pursuant to paragraph 11 (the "*Prepayment Amount*").
13. From the Prepayment Amount, the amounts computed pursuant to paragraphs 3, 4, 9 and 11 shall be deposited into the appropriate fund as established under the Indenture and be used to retire Outstanding Bonds or make debt service payments. The amount computed pursuant to paragraph 6 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 10 shall be retained by the CFD.

In addition, any property owner prepaying its Facilities Special Taxes must pay current and any delinquent Special Taxes and penalties prior to prepayment.

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be

retained in the appropriate fund established under the Indenture to be used with the next prepayment of bonds or to make debt service payments.

With respect to any Assessor's Parcel that is prepaid, once the CFD Administrator has confirmed that all levied Special Taxes have been paid, the City shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of Facilities Special Tax and the release of the Facilities Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay the Facilities Special Tax shall cease.

Notwithstanding the foregoing, no Facilities Special Tax prepayment shall be allowed unless the amount of Facilities Special Taxes that may be levied on Taxable Property within the CFD after the proposed prepayment is at least 1.1 times the maximum annual debt service on all Outstanding Prepayment Bonds. In addition, prepayment of the Facilities Special Tax shall not relieve any property owner of Developed Property from paying the Public Safety Special Tax.

## **2. Mandatory Prepayment**

Upon notification by the City of the approval or the recordation of a Final Subdivision Map, the CFD Administrator will assign Units/Acres to each of the newly created parcels. If the number of Units/Acres assigned to the Final Subdivision Map is less than the number of Units/Acres assigned in Attachment 1, the City shall (i) calculate the loss of Facilities Special Taxes by multiplying the number of reduced Units/Acres by the Facilities Special Tax per Unit/Acres from Table 1; and (ii) require the Prepayment of this difference pursuant to Section H.1. Prepayment shall be made prior to, or concurrent with, recordation of the Final Subdivision Map.

Prepayment of the Facilities Special Tax shall not be required to the extent the City has allowed a transfer of Units/Acres and associated Facilities Special Taxes to other Taxable Property pursuant to Section G or the City determines that the Facilities Special Tax base for the CFD is sufficient to meet debt service on outstanding and future bonds without the Facilities Special Tax from these Units.

## **I. TERM OF SPECIAL TAX**

For each year that any Bonds are outstanding or in which there is a Facilities Special Tax Requirement the Facilities Special Tax shall be levied on all Assessor's Parcels subject to the Facilities Special Tax. The Facilities Special Tax will not be levied later than the 2045-46 Fiscal Year. The Public Safety Special Tax shall be levied in perpetuity.

**Attachment 1  
City of Elk Grove  
Community Facilities District 2003-1  
(Poppy Ridge)**

Area	Estimated Residential Units (\$965 per Unit)	Multi-Family/Non-Residential Acreage (\$4,825 per Acre)	Maximum Facilities Special Tax
Elk Grove Meadows Phase III	434		\$418,810
Gillium Meadows Units 1 & 2	692	2.90	681,773
Quail Ridge South	798		770,070
East Meadow Units 1 & 2	243		234,495
Machado Dairy	602		580,930
Southmeadow Unit 1	229		220,985
Bilby Ranch	232		223,880
Bilby Meadows	299		288,535
Kuhn Property	41	11.90	96,983
<b>Totals</b>	<b>3,570</b>	<b>14.80</b>	<b>\$3,516,461</b>

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# EXHIBIT C

## Form of Notice of Public Hearing

## EXHIBIT C

### Form of Notice of Public Hearing

#### NOTICE OF PUBLIC HEARING

#### ON PROPOSED ESTABLISHMENT OF A COMMUNITY FACILITIES DISTRICT AND ISSUANCE OF DEBT

#### CITY OF ELK GROVE COMMUNITY FACILITIES DISTRICT NO. 2003-1 (POPPY RIDGE)

NOTICE IS HEREBY GIVEN that the City Council of the City of Elk Grove on December 4, 2002, adopted its Resolution No. 2002-\_\_\_\_, in which it declared its intention to establish a community facilities district and to levy a special tax to pay for certain public facilities and services, all pursuant to the provisions of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5, Part 1, Division 2, Title 5 of the California Government Code. The resolution describes the boundaries of the proposed district, the facilities and services proposed to be financed, and the rate, method of apportionment, and manner of collection of the proposed special tax. The City proposes to tax all interests in property that may be taxed under the Act. The City Council also adopted its Resolution No. 2002-\_\_\_\_, in which it declared the necessity to incur a bonded indebtedness in the amount of \$55,000,000 to finance all or a portion of the proposed facilities. Any bonds issued would be secured by the special taxes to be levied in the proposed community facilities district. For further details, the two resolutions are available in the office of the City Clerk at City Hall, 8400 Laguna Palms Way, Elk Grove, California.

NOTICE IS HEREBY FURTHER GIVEN that the City Council has fixed Wednesday, January 15, 2003, at the hour of 6:30 p.m., or as soon thereafter as the matter may be heard, at City Hall, 8400 Laguna Palms Way, Elk Grove, California, as the time and place when and where the City Council will hold a public hearing to consider the establishment of the district and the issuance of debt. At the hearing, the testimony of all interested persons, including all persons owning property in the area, or taxpayers for or against the establishment of the district, the extent of the district, the furnishing of the specified public facilities and services, the levy of the special tax, and the debt issue will be heard.

If six registered voters residing within the proposed district or the owners of one-half or more of the area of land in the territory included in the district and not exempt from the special tax file written protests against the establishment of the district, and the protests are not withdrawn so as to reduce the value of the protests to less than a majority, the creation of the district and the tax levy shall not be considered for a period of one year from the date of the decision of the City Council after the hearing. If

the majority protests of the registered voters or landowners are only against a specific type of facility or a specified tax, then that type of facility or tax shall be precluded.

NOTICE IS HEREBY FURTHER GIVEN that if, at the conclusion of the public hearing, the City Council determines to establish the district, the City Council will order an election to be held by the landowners of the district by mailed ballot, with each landowner having one vote for each acre or portion of an acre of land that such landowner owns within the proposed district, on the questions of levying the special tax and incurring debt.

DATED: \_\_\_\_\_, 2002 \_\_\_\_\_

Peggy Jackson, City Clerk  
City of Elk Grove