

RESOLUTION NO. 2009-156

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ADOPTING THE SPECIAL TAX AND ASSESSMENT DISTRICT
DELINQUENCY MANAGEMENT POLICY**

WHEREAS, on May 15, 2002, the City Council adopted a resolution establishing Community Facilities District (CFD) 2002-1; and

WHEREAS, on January 15, 2003, the City Council adopted a resolution establishing CFD 2003-1; and

WHEREAS, on March 8, 2006, the City Council adopted a resolution establishing CFD 2005-1; and

WHEREAS, the City of Elk Grove and U.S. Bank National Association, as fiscal agent (the "Fiscal Agent"), entered into Fiscal Agent Agreements (the "Agreements") which authorized the issuance of bonds in City of Elk Grove Community Facilities Districts 2002-1 (East Franklin), 2003-1 (Poppy Ridge), and 2005-1 (Laguna Ridge); and

WHEREAS, the respective bond covenants within the Agreements associated with the debt issued within the Districts sets for requirements for the City as it relates to delinquency management for property owners that become delinquent in property tax payments; and

WHEREAS, the City has been required to act upon the foreclosure covenants in managing delinquencies for Fiscal Years 2007-08 and 2008-09; and

WHEREAS, the City may have cause to form additional CFDs, special tax or special assessment districts to fund facility construction in future plan areas; and

WHEREAS, the City Council desires to provide direction for future delinquency management proceedings.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby adopts a Special Tax and Assessment District Delinquency Management Policy, attached as Exhibit A.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 22nd day of July 2009.



PATRICK HUME, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, ASSISTANT CITY CLERK

APPROVED AS TO FORM:


SUSAN COCHRAN, CITY ATTORNEY

EXHIBIT A



City of Elk Grove Special Tax and Assessment District Delinquency Management Policy

Date: 07/22/2009
Revised:

Department: Finance
Division: Accounting

Authority: Resolution 2009-155

Table of Contents

SUMMARY OF THE DELINQUENCY MANAGEMENT POLICY	1
1.0 SCOPE:.....	1
1.1 PURPOSE:.....	1
1.2 POLICY:	1
1.3.1 "Administrator"	1
1.3.2 "Counsel"	1
1.3.3 "Demand Letter"	1
1.3.4 "Foreclosure"	1
1.3.5 "Policy"	1
1.3.6 "Reminder Letter"	1
1.3.7 "Strip Date"	1
1.3.8 "Tax Collector"	1
1.3.9 "Tax Roll"	1
PROPERTY OWNER PROTECTION	2
2.0 PROCEDURES:.....	2
2.0.1 <i>Best Reasonable Effort and Ethical Concerns</i>	2
2.0.2 <i>Delinquency and Direct Levy Information Hotline</i>	2
2.0.3 <i>Pledge for Continuous Review and Improvement</i>	2
2.0.4 <i>First Semi-Annual Installment Delinquency Reminder Letter</i>	2
2.0.5 <i>Second Semi-Annual Installment Delinquency Reminder Letter</i>	3
2.0.6 <i>Final Delinquency Reminder Letter</i>	3
FORECLOSURE PROCEEDINGS	4
3.0 PROCEDURES:.....	4
3.0.1 <i>City Council Approval to Initiate Foreclosure Proceedings</i>	4
3.0.2 <i>Delinquency Demand Letter</i>	4
3.0.3 <i>Foreclosure Proceedings</i>	4

Summary of the Special Tax and Assessment District Delinquency Management Policy

- 1.0 **SCOPE:** To provide a consistent and effective Special Tax and Assessment District Delinquency Management Policy for all current and future Bonded Mello-Roos Community Facilities District's or other bonded special tax or assessment districts within the boundaries of the City.
- 1.1 **PURPOSE:** The City intends to provide a policy with the following goals: (i) to protect the interest of homeowners, lenders and other parties; (ii) encourage property owners to resolve delinquencies prior to litigation for the least expense to the City; (iii) to treat property owners fairly and equally and; (iv) to allow for the commencement of Judicial Foreclosure Proceedings if necessary through a series of standard administrative procedures.
- 1.2 **POLICY:** The Policy establishes rules and guidelines governing delinquency management of Bonded Mello-Roos Community Facilities Districts.
- 1.3 **DEFINITIONS:** When appearing in this policy, the following terms shall have the corresponding definitions.
 - 1.3.1 **"Administrator"** shall mean the City's contracted district special tax or delinquency management administrator (if any).
 - 1.3.2 **"Counsel"** shall mean the City Attorney or any contracted judicial foreclosure attorney.
 - 1.3.3 **"Demand Letter"** shall mean the letter sent on the Strip Date notifying owners that the parcel has been removed from the Tax Roll and is subject to judicial foreclosure proceedings.
 - 1.3.4 **"Foreclosure"** shall mean the City's undertaking of judicial foreclosure proceedings on a delinquent parcel per the foreclosure covenant of each bonded special tax or special assessment district the City manages.
 - 1.3.5 **"Policy"** shall mean this City of Elk Special Tax and Assessment District Delinquency Management Policy.
 - 1.3.6 **"Reminder Letter"** shall mean any letter sent by the City reminding owners of the City's special tax lien and foreclosure covenant.
 - 1.3.7 **"Strip Date"** shall mean the Sacramento County Tax Collector's designated cutoff date for a given Fiscal Year for declaring a Notice of Intent to Remove Delinquent Special Tax Installments from the Tax Roll.
 - 1.3.8 **"Tax Collector"** shall mean the Sacramento County Tax Collector.
 - 1.3.9 **"Tax Roll"** shall mean the Direct Levy Property Tax Roll for Sacramento County.

Property Owner Protection

2.0 PROCEDURES: The implementation steps of property owner protection practices and a description of each step are as follows.

2.0.1 Best Reasonable Effort and Ethical Concerns

Throughout the delinquency management process, City Staff, the Administrator and Counsel will take every reasonable measure to ensure that every current property owner is informed by Reminder Letter before Foreclosure is initiated. This includes distribution of multiple Reminder Letters, title searches and diligent response to every inquiry from current or former property owners. Each measure will be executed with the best effort of the responsible party.

The Staff, the Administrator and Counsel recognize that the information provided in these letters can be frightening or unexpected to property owners, many of whom may be homeowners subject to Foreclosure, and can potentially cause intense emotional reactions. Property owners, be they homeowners, developers, lenders, or any other title holder will be respected and treated with fairness and equity at all times. Any request for information relating to the Foreclosure process or the Policy will be granted as soon as possible per the City's Records Request Policy by Staff, the Administrator or Counsel.

2.0.2 Delinquency and Direct Levy Information Hotline

Staff will maintain a year round Delinquency and Direct Levy Information Hotline advertised on the City's website and monitored by the current CFD administrator on Staff. All correspondence will reference this hotline, and the Staff CFD administrator will be fully trained in the Policy in addition to CFDs and collections practices.

2.0.3 Pledge for Continuous Review and Improvement

In December of each year, the Staff, the Administrator and Counsel will meet to discuss the effectiveness of the Policy and recommend any changes to improve the Policy in future years.

2.0.4 First Semi-Annual Installment Delinquency Reminder Letter

If the first installment of the given Tax Year becomes delinquent upon receipt of the first installment delinquent tax rolls from Sacramento County in January of a given Tax Year, Staff will prepare or instruct the contracted Administrator to prepare and mail a Reminder Letter to individual property owners whose delinquency exceeds an amount determined by the covenants of the District's bonds, or all delinquent property owners regardless of the delinquent amount if:

- a.) the entire District has delinquencies in excess of an amount determined by the covenants of the District's bonds; or
- b.) City Staff has reasonable expectations that the County of Sacramento

may decline to Teeter a particular levy.

Such letter will inform property owners of their delinquent status and instruct them to remit payment in full to the Tax Collector prior to the Strip Date for stripping parcels from the Tax Roll to avoid facing potential Foreclosure.

2.0.5 Second Semi-Annual Installment Delinquency Reminder Letter

Upon receipt of the second installment delinquent tax roll from the County in May of a given Tax Year, Staff will instruct the Administrator to prepare and mail a Reminder Letter to individual property owners whose delinquency exceeds an amount determined by the covenants of the District's bonds, or all delinquent property owners regardless of the delinquent amount if:

- a.) the entire District has delinquencies in excess of an amount determined by the covenants of the District's bonds; or
- b.) City Staff has reasonable expectations that the County of Sacramento may decline to Teeter a particular levy

Such letter will inform property owners of their delinquent status and instruct them to remit payment in full to the Tax Collector prior to the Strip Date to avoid facing potential Foreclosure.

2.0.6 Final Delinquency Reminder Letter

If any installment remains unpaid after the mailing of the first two Reminder Letters upon receipt of the final delinquency report from the County in July, Staff will instruct the Administrator to prepare and mail a Final Reminder Letter to all delinquent property owners regardless of the delinquent amount if they previously received a Reminder Letter and have not satisfied the delinquent tax obligation.

Such letter will inform property owners that the installment or installments have not been paid and that if the installment or installments are not paid in full to the Tax Collector prior to the Strip Date, the delinquency information may be provided to Counsel for initiation of Foreclosure against the property.

Foreclosure Proceedings

3.0 PROCEDURES: The implementation steps of Foreclosure action and a description of each step are as follows:

3.0.1 City Council Approval to Initiate Foreclosure Proceedings

Upon receipt of the final delinquency report from the County in July, in conjunction with the dissemination to property owners of the Final Reminder Letter, and prior to the Strip Date, City Staff will prepare a Resolution Ordering the Collection of Delinquent Special Taxes by Action to Foreclose the Lien of Special Tax proceedings for the approval of the City Council. The Resolution will also establish that the City plans to accept all penalties and interest accrued by the Tax Collector up to the Strip Date and continue to accrue interest at the then current accrual rate used by the Tax Collector as payment to cover City delinquency administration fees.

The Resolution shall be presented to the City Council prior to the Strip Date and will authorize the City Staff to instruct the Tax Collector to strip the delinquent parcels from the Tax Roll and provide the delinquency information to Counsel for initiation of Foreclosure.

In the event the City has contracted with an Administrator to perform prepare and distribute Demand Letters, the Resolution will also establish a onetime per parcel fee equal to the cost of preparation of one Demand Letter.

3.0.2 Delinquency Demand Letter

On the Strip Date, the City will instruct the Administrator to prepare and mail a Demand Letter to all delinquent property owners if they previously received a Reminder Letter and have not satisfied the delinquent tax obligation. Such letter will inform property owners that the installment or installments have not been paid and that the delinquency information may be provided to the Counsel for initiation of judicial foreclosure proceedings against the property.

3.0.3 Foreclosure Proceedings

For execution of Foreclosure, City Staff will contract with qualified Counsel to facilitate the proceedings.

CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2009-156

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

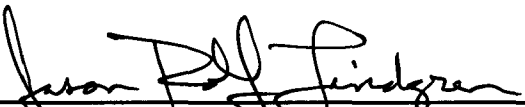
I, Jason Lindgren, Assistant City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on July 22, 2009 by the following vote:

AYES : **COUNCILMEMBERS:** *Hume, Scherman, Cooper, Davis, Detrick*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN : **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



Jason Lindgren, Assistant City Clerk
City of Elk Grove, California