

RESOLUTION NO. 2003-214

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2003-2 (POLICE
SERVICES) AND CALLING AN ELECTION FOR THE PURPOSE OF SUBMITTING
THE LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT OF AN
APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT**

WHEREAS, the City Council, on October 1, 2003, adopted its Resolution No. 2003-180 (the "Resolution of Intention") (i) declaring its intention to establish Community Facilities District No. 2003-2 (Police Services) (the "District") pursuant to 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"), (ii) proposing to levy a special tax therein for the purpose of providing for the financing of certain services (the "Services") described in Exhibit A hereto, and (iii) calling a public hearing on the establishment of the District;

WHEREAS, before the time for the hearing, as directed in the Resolution of Intention, the Director of Administrative Services filed with the City Council the report required by California Government Code section 53321.5 (the "Hearing Report");

WHEREAS, a notice of the hearing was duly published as required by the Act, as evidenced by the affidavit of publication on file with the City Clerk; and notice of the hearing was also mailed to the property owners and registered voters within the District;

WHEREAS, pursuant to the Act and the Resolution of Intention, a noticed public hearing was convened by the Council on November 5, 2003, not earlier than the hour of 6:30 p.m. at the City Hall, 8400 Laguna Palms Way, Elk Grove, California, relative to the establishment of the District;

WHEREAS, at the hearing, the testimony of all interested persons, including all taxpayers, property owners, and registered voters within the District, desiring to be heard on the establishment of the District, the extent thereof, the furnishing of specified types of services, the proposed special tax, the establishment of an appropriations limit for the District, or any other matters set forth in the Resolution of Intention was heard and a full and fair hearing was conducted thereon;

WHEREAS, written protests against the establishment of the District, the furnishing of specified type or types of services in the District as listed in the Hearing Report, or the levying of the special tax have not been filed by six registered voters residing within the territory proposed to be included in the District or by the owners of one-half or more of the area of land in the territory proposed to be included in the District and not exempt from this special tax;

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to establish the District and to submit to the qualified electors of the District

the levy of the special tax therein (as such tax is more particularly described in Exhibit B hereto) and the establishment of an appropriations limit for the District;

WHEREAS, the Sacramento County Registrar of Voters has certified that fewer than twelve persons were registered to vote within the territory of the District as of September 26, 2003, which date is within the 90-day period preceding the close of the hearing;

WHEREAS, the City Council has received a written instrument from each landowner in the District consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election;

WHEREAS, the City Clerk has concurred in the election date set forth herein;

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

1. **Recitals**. The foregoing recitals are true and correct.
2. **Hearing Report**. The City Council hereby makes the Hearing Report a part of the record of the hearing.
3. **No Majority Protest**. The proposed special tax to be levied in the District has not been precluded by majority protest pursuant to Section 53324 of the Act.
4. **Establishment of District**. As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated "Community Facilities District No. 2003-2 (Police Services)."
5. **Finding of Procedural Regularity**. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the District are valid and in conformity with requirements of the Act.
6. **Boundaries of District**. The City Council hereby amends the map of the proposed boundaries of the District that was filed with the Sacramento County Recorder on October 10, 2003, in Book 97 of Maps of Assessment and Community Facilities Districts, at Page 3. The boundaries of the District shall be as set forth in the map entitled Amended Boundary Map of Community Facilities District No. 2003-2 (Police Services). The City Clerk is authorized to file this amended map with the Sacramento County Recorder.
7. **Description of Services**. The Services to be financed by the District are set forth in Exhibit A hereto. The Services authorized to be financed by the District are in addition to those provided in the territory of the District and do not supplant Services already available within that territory.

8. **Special Tax.** As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of the District, a special tax sufficient to pay the costs of the Services (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually in the District. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B.

9. **Apportionment of Tax.** The special tax as apportioned to each parcel is based on the cost of making the Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

10. **Tax Roll Preparation.** The office of the Director of Administrative Services, 8400 Laguna Palms Way, Elk Grove, California 95758, telephone (916) 478-2272, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code section 53340.2. The Director of Administrative Services may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

11. **Appropriations Limit.** The City Council proposes that the appropriations limit, as defined by Article XIII B, Section 8(h), of the Constitution of the State of California, for the District be established in the amount of special taxes collected.

12. **Accountability Measures.** Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Director of Administrative Services annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Services financed in the District.

13. **Special Election; Voting Procedures.** The City Council hereby submits the questions of levying the special tax and the establishment of the annual appropriations limit for the District to the qualified electors within the District, in accordance with and subject to the Act. The special election shall be held on November 5, 2003, and shall be conducted as follows:

(a) **Qualified Electors.** The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the District. Because fewer than twelve registered voters resided within the District on September 26, 2003 (a date within the 90 days preceding the close of the public hearing on the establishment of the District), the qualified electors shall be the landowners within the District, and each landowner who was 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 District.

(c) **Mail Ballot Election.** Pursuant to Government Code section 53327.5, the election shall be conducted as a mail ballot election. The City

Council hereby ratifies the City Clerk's delivery to each landowner in the District of a ballot in the form set forth in Exhibit C.

(d) **Return of Ballots.** The City Clerk shall accept the ballots of the landowners up to five minutes following the adoption of this resolution by the 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.

(e) **Canvass of Election.** 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 Council or when all qualified electors have voted) at the City Clerk's office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) **Declaration of Results.** 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.

14. **Filing of Resolution and Map with City Clerk.** The City Council hereby directs the City Clerk to file a copy of this resolution and the map of the boundaries of the District in her office.

15. **Lien to Secure Special Tax.** Upon a determination by the City Council that two-thirds of the votes cast upon the question of levying the special tax were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the District, and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien cancelled in accordance with law or until collection of the tax by the City Council ceases.

16. **CEQA Exemption.** The Council hereby determines that the formation of the proposed District is not a project pursuant to the California Environmental Quality Guidelines section 15378(b)(4).

PASSED AND ADOPTED by the Elk Grove City Council on November 5, 2003.



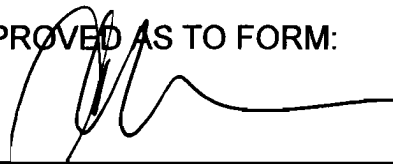
SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY MANZANETTI,
CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2003-214**

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

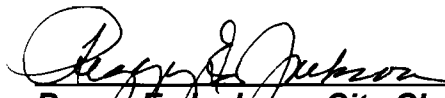
I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 5th day of November 2003 by the following vote:

AYES 5: COUNCILMEMBERS: Scherman, Soares, Briggs, Cooper, Leary

NOES 0: COUNCILMEMBERS:

ABSTAIN 0: COUNCILMEMBERS:

ABSENT 0: COUNCILMEMBERS:



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

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 District

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.

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"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

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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.

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C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

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

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

[ResFormation]

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

Form of Ballot

OFFICIAL BALLOT

**SPECIAL TAX ELECTION
CITY OF ELK GROVE
COMMUNITY FACILITIES DISTRICT
NO. 2003-2 (POLICE SERVICES)
NOVEMBER 5, 2003**

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, 8400 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 B to the Resolution of Formation (the "Resolution of Formation") for Community Facilities District No. 2003-2 (Police Services) (the "District") adopted by the City Council on November 5, 2003, which is incorporated herein by this reference, within the District to finance certain police services as set forth in Exhibit A to the Resolution of Formation and shall an appropriations limit be established for the District in the amount of the special taxes collected?	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 to her office at City Hall, 8400 Laguna Palms Way, Elk Grove, California 95758, by 4:00 p.m. on November 5, 2003 or thereafter, to the regular meeting place of the Council at City Hall on November 5, 2003, by five minutes following the adoption of the resolution establishing the District (the City Council meeting convenes at 6:30 p.m. on November 5, 2003.