

RESOLUTION NO. 2011-023

Adopted by the Sacramento City Council

January 11, 2011

RESOLUTION ESTABLISHING THE FUTURE ANNEXATION AREA FOR THE NEIGHBORHOOD PARK MAINTENANCE COMMUNITY FACILITIES DISTRICT NO. 2002-02 AND LEVYING A SPECIAL TAX WITHIN ANNEXED AREAS TO FINANCE PARKS MAINTENANCE AND RELATED SERVICES

BACKGROUND:

- A. The City Council (the "Council") of the City of Sacramento (the "City") has previously established, through Resolution Numbers 2002-302 and 2002-446 and Ordinance Number 2002-026, the Neighborhood Park Maintenance Community Facilities District No. 2002-02 (the District) under the Mello-Roos Community Facilities Act of 1982 (Government Code sections 53311 to 53368.3) (the Act), and has previously levied a Special Tax on new residential property in the District to pay for neighborhood parks maintenance and related services to be provided within the District, all in accordance with the Act and Title 3, Chapter 3.124, of the Sacramento City Code ("Chapter 3.124").
- B. On November 30, 2010, the Council adopted Resolution No. 2010-679 (the "Resolution of Intention") declaring among other things its intention to provide for the possible future annexation to the District of the territory identified in Exhibit A, on condition that when using this procedure parcels within that territory may be annexed into the District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed and with the boundaries of future annexed parcel or parcels to be included in the District being more particularly described and shown on maps entitled substantially similar to "THE NEIGHBORHOOD PARK MAINTENANCE COMMUNITY FACILITIES DISTRICT NO. 2002-02 Annexation No. ____ (each map/annexation will be numbered consecutively)."
- C. The Resolution of Intention fixed January 11, 2011, in the Council Chambers at City Hall, 915 I Street, First Floor, Sacramento, California, as the time and place for a Public Hearing to consider the future annexation of territory pursuant to Section 53339.2 of the Act, the levying of Special Taxes within the territory proposed to be annexed in the future, and all other matters set forth herein.
- D. The Public Hearing was duly convened by the Council and all protests received by the Clerk were presented to the City Council.
- E. At the public hearing the Council duly considered all protests and heard and considered testimony at such public hearing from all interested persons, including all taxpayers, property owners and registered electors within the existing District and the Future Annexation Area, for or against the identification of territory for possible future annexation to the community facilities district, the levying of a special tax within the

territory proposed to be annexed in the future, and any other matters set forth in the Resolution of Intention, and the City Council at the conclusion of the public hearing was fully advised and was authorized to proceed as provided herein.

- F. The Council has determined that the establishment of the future annexation area and procedure is consistent with and follows the local goals and policies concerning the use of the Act that have been adopted by the Council and are now in effect. The District was formed solely to provide parks maintenance services and for related purposes, and will not finance capital improvements or issue bonds. Public convenience and necessity may require that territory be added to the District in the future. The territory proposed for possible annexation in the future is shown in Exhibit A, attached hereto and incorporated herein.
- G. All services will be shared in common between the District and the territory proposed to be annexed in the future and no new or additional services beyond those described in the District's Resolution of Formation, and as shown in the attached Hearing Report, will be provided in the territory proposed to be annexed to the District, all of which are as authorized by the Act and by Chapter 3.124.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The above recitals are true, and the Council so finds and determines.
- Section 2. The Council finds and determines that written protests to the proposed identification of territory for possible future annexation to the District, or the levy of the special tax in the Future Annexation Area, are insufficient in number and in amount under the Act, and the Council hereby further orders and determines that all protests are hereby overruled.
- Section 3. The Council hereby reapproves and readopts the Resolution of Intention, and reconfirms all of its findings and determinations contained therein. The Council hereby provides for the possible future annexation to the District of the territory identified in Exhibit A, on condition that when using this procedure parcels within that territory may be annexed into the District only with the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed and with the boundaries of future annexed parcel or parcels to be included in the District being more particularly described and shown on maps entitled substantially similar to "THE NEIGHBORHOOD PARK MAINTENANCE COMMUNITY FACILITIES DISTRICT NO. 2002-02 Annexation No. ___ (each map/annexation will be numbered consecutively)." Such maps are hereby authorized to be filed with the City Clerk (the Clerk) at the time of future annexation and the Clerk is hereby authorized and directed to record a copy of such maps with the County Recorder of Sacramento County in accordance with the provisions of Section 3111 of the Streets and Highways Code of the State of California.
- Section 4. The Council hereby calls for unanimous consent in the Future Annexation Area to the District and to authorize the levy of a special tax therein (as the

rate, method of apportionment and manner of collection of such tax is more particularly set forth herein) to finance Park Maintenance and related services proposed for the District when future annexations are requested by property owners within the Future Annexation Area. The Council hereby proposes to levy a Special Tax annually within the territory proposed to be annexed in the future, when the territory is annexed, sufficient to pay that territory's share of the cost of the services to be provided as described herein, together with all costs incurred to carry out the authorized purposes of the District, as well as all costs incidental to the administration of the District. The Special Tax is to be collected as a separately stated item on the county property-tax bill, but the Council reserves the right to change the method of collection at any time. The Special Tax shall be apportioned according to the number of Residential Units assigned to a parcel, at the per annum tax rates specified in the "Rate and Method of Apportionment of Special Tax," attached hereto as Exhibit C and incorporated herein by this reference. The rates shown in Exhibit C are maximum rates. The Special Tax levied on all parcels may be escalated for inflation under Chapter 3.124, as specified in Exhibit C. If tax collections at the stated rates exceed the amount required to pay the Annual Costs, the rates may be reduced in accordance with the formula set forth in Exhibit C. The Special Tax levied and to be collected hereunder shall be in perpetuity, unless and until the need for the parks maintenance and related services no longer exists.

- Section 5. The services to be provided in the territory proposed to be annexed in the future are those services described in the District's Resolution of Formation. The plan required by Section 53339.3 subdivision (c) of the Act for providing services to the territory to be annexed in the future will be the same as set forth in the existing District.
- Section 6. The Council authorizes and directs the City Attorney to approve forms for the unanimous consent including but not limited to petition for annexation of territory and unanimous consent to such annexation and levy of the Special Tax pursuant to the Mello-Roos Community Facilities Act of 1982, and if necessary waiver of consent regarding certain time and conduct requirements relating to special landowner election, and the Council hereby finds that the rights, procedures and time periods therein waived are solely for the protection of the voters and may be waived under Section 53326(a) of the Government Code of the State of California, and that such forms and waivers shall constitute full and knowing waivers by each voter who executes the form of those rights, procedures and time periods.
- Section 7. The Council hereby authorizes and directs the City Clerk to record boundary maps reflecting the annexation after unanimous consent.
- Section 8. The Council hereby authorizes and directs the City Clerk to file the Notice of Special Tax Lien within 15 days of the date of the property owner unanimous consent, as provided for in Section 3114.5 of the Streets and Highways Code of the State of California.

Section 9. There shall be no alteration in the Special Tax rate levied in the existing District and the maximum tax rate in the existing District may not be increased as a result of the future annexation of territory pursuant to this resolution.

Section 10. The Exhibits to this Resolution are a part of this Resolution.

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Hearing Report for Future Annexation Territory – 25 pages

Adopted by the City of Sacramento City Council on January 11, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

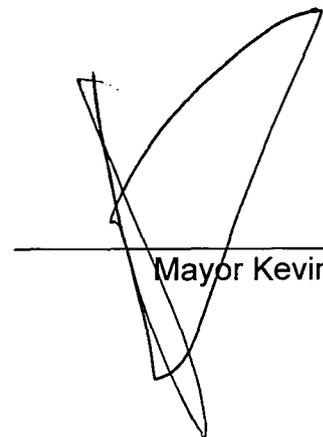
Noes: None.

Abstain: None.

Absent: None.

Attest:

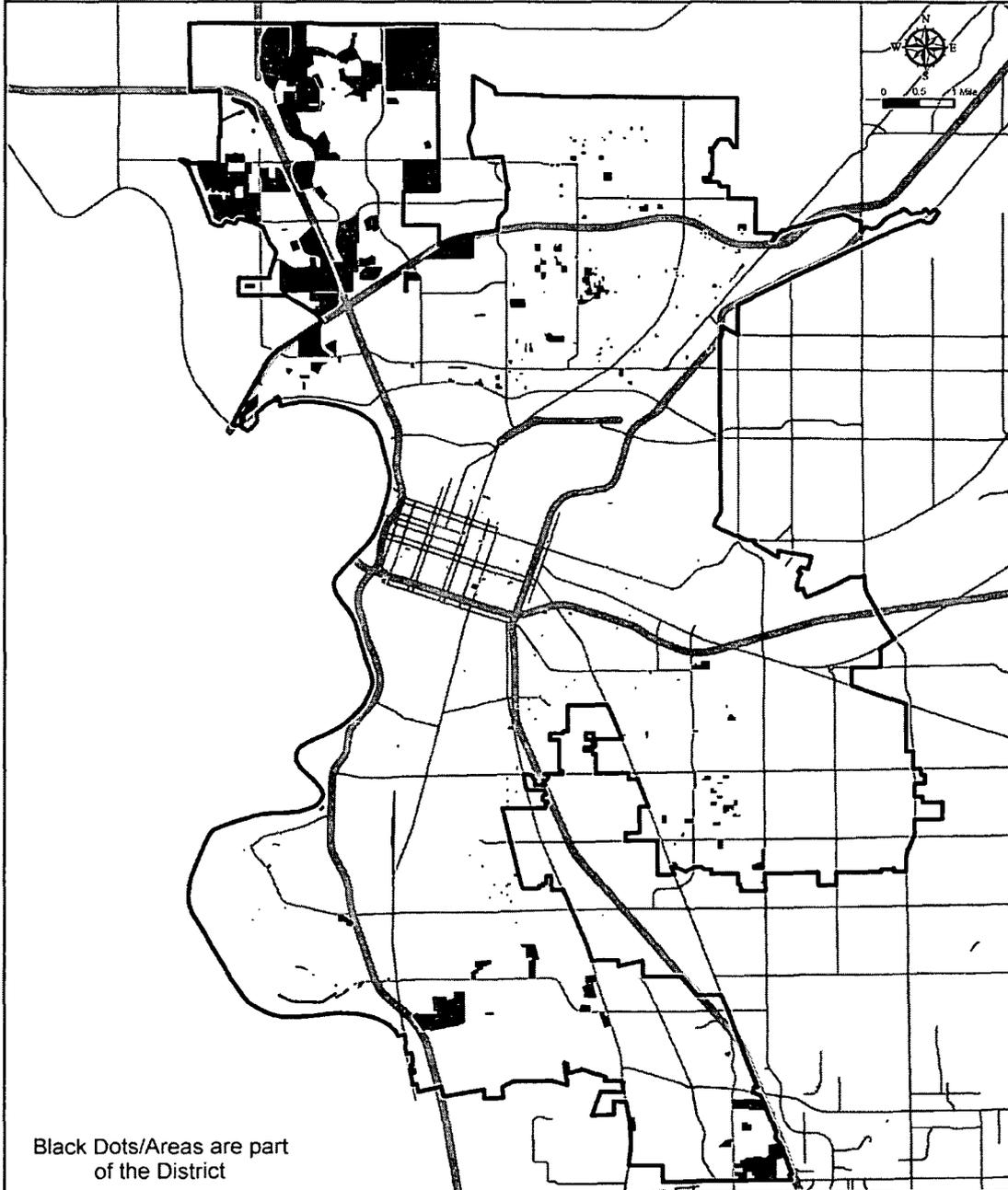

Shirley Concolirfo, City Clerk



Mayor Kevin Johnson

EXHIBIT A
Map Of Future Annexation Area

Neighborhood Park Maintenance District No. 2002-02



Area Map



EXHIBIT B

**City of Sacramento, California
Neighborhood Park Maintenance
Community Facilities District No. 2002-02**

LIST OF AUTHORIZED SERVICES

The authorized services include those set forth below in addition to the costs associated with collecting and administering the Special Taxes, and annually administering the District. The Special Taxes may be levied to pay for any authorized services or to accumulate funds for that purpose. The primary function of the Community Facilities District (CFD) is to fund the maintenance of neighborhood parks in the City of Sacramento. The CFD's authorized services include the following:

1. The maintenance of landscaping, recreation facilities, irrigation facilities, lighting, necessary maintenance equipment, and other appurtenances and improvements within neighborhood parks (including those areas designated as neighborhood serving in conjunctive use park land within drainage detention basins, community parks, regional parks and parkway systems)
2. CFD formation and annual administration of the District
3. Other miscellaneous services related to items 1 or 2, including planning, engineering, legal, elections, and administration.

EXHIBIT C

City of Sacramento, California
Neighborhood Park Maintenance
Community Facilities District No. 2002-02

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

1. Basis of Special Tax Levy

A Special Tax authorized under the Mello-Roos Community Facilities Act of 1982 (the "Act") applicable to the land in Neighborhood Park Maintenance Community Facilities District No. 2002-02 (the "CFD") of the City of Sacramento (the "City") shall be levied and collected according to the tax liability determined by the City through the application of the appropriate amount or rate, as described below.

2. Definitions

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 and following of the California Government Code.

"Administrative Expenses" means the actual or estimated costs incurred by the City to form the CFD and to determine, levy and collect the Special Taxes, including salaries of City employees and the fees of consultants and 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.

"Annexation Parcel" means a Parcel which was not included within the boundaries of the CFD at the time of formation. Parcels are required to annex to the District based upon City policy.

"Annual Costs" means for each Fiscal Year, the total of 1) Authorized Services 2) Administrative Expenses; and 3) any amounts needed to cure actual or estimated delinquencies in Special Taxes for the current or previous Fiscal Year.

"Assessor" means the Assessor of the County of Sacramento.

"Authorized Services" mean those services authorized for funding under the CFD, as listed in the resolution forming the CFD.

"Base Fiscal Year" means the Fiscal Year beginning July 1, 2002 and ending

June 30, 2003.

“CFD” means the Neighborhood Park Maintenance Community Facilities District No. 2002-02 of the City of Sacramento, California.

“City” means City of Sacramento, California.

“Condominium/Townhouse Residential Parcel” means a Parcel created by a subdivision map, building permit, or action of the County Assessor, that creates individual condominium or townhouse Parcels. The number of Residential Units assigned to each Condominium/Townhouse Parcel is determined by the number of condominium or townhouse units created by subdivision map or building permit for each Parcel.

“Council” means the City Council of the City of Sacramento acting for the CFD under the Act.

“County” means the County of Sacramento, California.

“Developed Parcel” means a Parcel that has a recorded final subdivision map or has been issued a building permit or special use permit for the land uses stated below:

Land Use	Developed Parcel Trigger
Single Family Residential Parcel(s)	-Final Subdivision Map
Condominium/Townhouse Residential Parcel(s)	-Final Subdivision Map
Duplex/Half-plex/Tri-plex Residential Parcel(s)	-Building Permit
Multi-Family Residential Parcel(s)	-Building Permit
Mobile Home Park Parcel(s)	-Special Use Permit
Mixed Use Parcel(s)	-Building Permit

“Duplex/Tri-plex Residential Parcel” means a Parcel with a building permit for a duplex or a tri-plex residential use. The number of Residential Units assigned to a Duplex/Tri-plex Residential Parcel is two for a duplex residential structure and three for a tri-plex residential structure.

“Fiscal Year” means the period starting July 1 and ending the following June 30.

“Maximum Annual Special Tax” means the greatest amount of Special Tax that can be levied against a Parcel calculated by multiplying the Maximum Annual Special Tax Rate times the Residential Units assigned to each Developed Parcel.

“Maximum Annual Special Tax Rate” means the amount shown in **Attachment 1** for a Fiscal Year that is used in calculating the Maximum Annual Special Tax for a Parcel based on its land use classification.

“Maximum Annual Special Tax Revenue” means the greatest amount of revenue that can be collected in total from a group of Parcels by levying the Maximum Annual Special Tax Rates.

“Mixed Use Parcel” means a Parcel with a building permit for a mix of uses, which includes residential uses. The number of Residential Units assigned to a Mixed Use Parcel is determined at building permit issuance for the original structure, or by subsequent building permits issued for further tenant improvements.

“Mobile Home Park Parcel” means a Parcel with a special use permit for a mobile home park. The number of Residential Units assigned to the Mobile Home Park Parcel is determined by the number of spaces available for the placement of mobile homes.

“Multi-Family Residential Parcel” means a Parcel with a building permit for multi-family residential use. The number of Residential Units assigned to a Multi-Family Residential Parcel is determined at building permit issuance.

“Non-Residential Use Parcels” means Parcels designated for commercial, industrial, office, or other non-residential uses. Parcels with uses other than residential uses are Tax-Exempt.

“Parcel” means any Assessor's parcel in the CFD based on the equalized tax rolls of the County as of March 1 of each Fiscal Year.

“Parcel Number” means the Assessor's Parcel Number for any Parcel based on the equalized tax rolls of the County as of March 1 of each Fiscal Year.

“Public Parcel” means, except as otherwise provided herein, any Parcel, that is publicly owned, not used for residential purposes, and normally exempt from the levy of general *ad valorem* property taxes under California law, including, but not limited to, public streets, schools, parks, and public drainageways; public landscaping, wetlands, greenbelts, and public open space. These parcels are exempt from the levy of Special Taxes. Any such Parcel shall be a Tax-Exempt Parcel.

“Residential Unit(s)” means the number of taxable residential dwelling units assigned to a Parcel based on its Developed Parcel tax category assignment.

“Single Family Residential Parcel” means a single family residential lot created by the recordation of a final subdivision map, which has a building permit issued for a single family residential dwelling. A Single Family Residential Parcel is

assigned one Residential Unit.

“Special Tax(es)” mean(s) any tax levy under the Act in the CFD.

“Tax Collection Schedule” means the document prepared by the City for the County Auditor-Controller to use in levying and collecting the Special Taxes each Fiscal Year.

“Taxable Parcel” means any Parcel that is not a Tax-Exempt Parcel.

“Tax Escalation Factor” means an annual percentage increase in the Maximum Annual Special Tax Rate based upon the Consumer Price Index (CPI) (prior calendar year annual average, San Francisco, All Urban Consumers (CPI-U) Index, not to exceed 4% in any given year.

“Tax-Exempt Parcel” means a Parcel not subject to the Special Tax. Tax-Exempt Parcels are (i) Public Parcels including developed parcels acquired by a public agency (subject to the limitations set forth in **Section 4**, below), (ii) Undeveloped Parcels, or (iii) Non-Residential Use Parcels. Privately owned Parcels that are non-developable, such as common areas, wetlands, and open space, are exempt from the levy of Special Taxes as determined by the City.

“Undeveloped Parcel” means a Parcel that is not a Developed Parcel or a Non-Residential Use Parcel.

3. Duration of the Special Tax

Parcels in the CFD will remain subject to the service tax in perpetuity.

4. Assignment of Maximum Annual Special Tax

A. Classification of Parcels. By June 30 of each Fiscal Year, using the Definitions above, the parcel records of the Assessor's Secured Tax Roll as of January 1, and other City development approval records, the City shall classify each Parcel as a Tax-Exempt Parcel or Taxable Parcel. Only Taxable Parcels are subject to the Special Tax according to the formula detailed below.

It shall be the burden of the taxpayer to timely correct any errors in the determination of the Parcels subject to the Special Tax and their Special Tax assignments.

B. Assignment of Maximum Annual Special Tax. By August 1 of each Fiscal Year, using the Definitions from **Section 2** and the Maximum Annual Special Tax Rates from **Attachment 1**, the Finance Director shall assign the Maximum Annual Special Taxes to Parcels as follows:

1) **Developed Parcels:** Parcels shall be assigned a Maximum Annual Special

Tax using the following steps. The Maximum Annual Special Tax Rate is increased by the Tax Escalation Factor in each Fiscal Year after the Base Fiscal Year.

- a. **Single Family Residential Parcels.** The Maximum Annual Special Tax is calculated by multiplying the Maximum Annual Special Tax Rate in **Attachment 1** for Single Family Residential Parcels by the number of Residential Units assigned to the Parcel.
 - b. **Duplex/Half-Plex/Tri-plex Residential Parcels.** The Maximum Annual Special Tax is calculated by multiplying the Maximum Annual Special Tax Rate in **Attachment 1** for Duplex/Half-Plex/Tri-plex Residential Parcels by the number of Residential Units assigned to the Parcel.
 - c. **Multi-Family Residential Parcels.** The Maximum Annual Special Tax is calculated by multiplying the Maximum Annual Special Tax Rate in **Attachment 1** for Multi-Family Residential Parcels by the number of Residential Units assigned to the Parcel.
 - d. **Condominium/Townhouse Parcels.** The Maximum Annual Special Tax is calculated by multiplying the Maximum Annual Special Tax Rate in **Attachment 1** for Condominium/Townhouse Parcels by the number of Residential Units assigned to the Parcel.
 - e. **Mixed Use Parcels.** The Maximum Annual Special Tax is calculated by multiplying the Maximum Annual Special Tax Rate in **Attachment 1** for Mixed Use Parcels by the number of Residential Units assigned to the Parcel.
 - f. **Mobile Home Park Parcels.** The Maximum Annual Special Tax is calculated by multiplying the Maximum Annual Special Tax Rate in **Attachment 1** for Mobile Home Park Parcels by the number of Residential Units assigned to the Parcel.
- 2) **Annexation Parcels:** The City will require the periodic annexation of Parcels to the CFD. When Parcels are annexed to the CFD, the City will first determine if they are Taxable or Tax-Exempt, using the Definitions in **Section 2**. For Developed Parcels, the City will assign the number of Residential Units for each Parcel based on Assessor Parcel records, building permit or special use permit records, recorded final subdivision map, or other relevant information obtained by the City. The City then shall assign a Maximum Annual Special Tax Rate to Developed Parcels using the Definitions in **Section 2** and **Attachment 1** (applying the Tax Escalation Factor as permitted) and calculate the Maximum Annual Special Tax following the steps in **Section 4.B(1)**.
- 3) **Conversion of a Tax-Exempt Parcel to a Taxable Parcel:** If a Public Parcel is not needed for public use and is converted to private residential use, it shall become subject to the Special Tax. A Maximum Annual Special Tax Rate will be assigned using the Definitions in **Section 2** and **Attachment 1** (applying the Tax Escalation Factor as permitted) and calculate the Maximum Annual

Special Tax following the steps in **Section 4.B(1)**.

- 4) **Taxable Parcels Acquired by a Public Agency**: A Taxable Parcel that is acquired by a public agency after the CFD is formed will be re-classified as Tax-Exempt provided it is determined by the City in the exercise of its sole discretion, that it is no longer used for residential purposes.

5. Calculating Annual Special Taxes

The City shall assign the Maximum Annual Special Tax per Taxable Parcel based on **Attachment 1** as adjusted annually by the Tax Escalation Factor.

The City shall prepare the Tax Collection Schedule listing the Special Tax levy for each Taxable Parcel and send it to the County Auditor-Controller requesting that it be placed on the general, secured property tax roll for that Fiscal Year. The Tax Collection Schedule shall not be sent later than the date required by the County Auditor-Controller for such inclusion.

The City shall make every effort to correctly calculate the Special Tax for each Parcel. It shall be the burden of the taxpayer to timely prove any alleged errors in the determination of the Parcels subject to the Special Tax and their Special Tax assignments.

6. Records Maintained for the CFD

As development takes place within the CFD, the City will maintain a file containing the following information regarding each Parcel:

- The current Parcel Number;
- Whether a final subdivision map has been recorded or whether a building permit or special use permit for residential use has been issued; and
- The number of residential units assigned to that Parcel.

The file containing the information listed above will be available for public inspection.

7. Appeals and Interpretation Procedure

Any taxpayer may contest the levy of the Special Tax by filing a written notice of appeal, setting forth with specificity the grounds for appeal, with the City Manager. Any such notice must be filed within thirty (30) days following the formation of the CFD, or annexation of the property that is the subject of the appeal to the CFD; and failure to do so within the time period specified herein constitutes a bar to any such appeal. Grounds for appeal are limited to the following: (i) clerical errors in assigning an amount of tax to a parcel and (ii) an error in defining the use of a parcel or its classification. The City Manager, or designee, shall promptly review the appeal, and if necessary, meet with the

appellant.

If the findings of the City Manager verify that the Special Tax should be modified or changed, a recommendation to that effect shall be made to the Council, and as appropriate, the Special Tax levy shall be corrected and, if applicable in such case, a credit for next year's Special Tax levy shall be granted. If the City Manager denies the appeal, the taxpayer may file an appeal of that determination with the Council within fourteen (14) days of the mailing of notification of the City Manager's decision; and failure to do so within the time period specified herein constitutes a bar to such an appeal. The Council may hear the appeal, or refer it to a hearing officer pursuant to Chapter 1.24 of the Sacramento City Code. The hearing on the appeal shall be conducted not more than thirty (30) days following the filing of the appeal of the City Manager's determination. The failure of the Council or the appointed hearing officer to timely hear the appeal, or to render a decision within thirty (30) days following the conclusion of the hearing thereon, shall constitute a denial of the appeal. The determination of the Council or hearing officer on the appeal shall be final for all purposes. The filing of a written notice contesting the levy of the Special Tax or an appeal shall not relieve the taxpayer of the obligation to pay the Special Tax when due.

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to any of the terms or provisions of this Rate and Method of Apportionment.

**Attachment 1 to Exhibit C
City of Sacramento CFD No. 2002-02 (Neighborhood Park Maintenance)
Maximum Annual Special Tax Rates**

Updated November 20, 2009

Tax Category	Maximum Annual Special Tax Rate [2]	
	Base Year[1] 2002-2003	Current Year 2010-2011
	<i>per Residential Unit</i>	<i>per Residential Unit</i>
<u>Developed Parcels [3]</u>		
Single Family Residential Parcels	\$48.00	\$56.38
Condominium/Townhouse Parcels	\$48.00	\$56.38
Duplex/Half-plex/Tri-plex Residential Parcels	\$48.00	\$56.38
Multi-Family Residential Parcels	\$28.00	\$32.88
Mixed Use Parcels	\$28.00	\$32.88
Mobile Home Park Parcels	\$28.00	\$32.88
<u>Other Uses</u>		
Non-Residential Use Parcels [4]	<i>Tax-Exempt</i>	<i>Tax-Exempt</i>
Undeveloped Parcels [5]	<i>Tax-Exempt</i>	<i>Tax-Exempt</i>
Public Parcels	<i>Tax-Exempt</i>	<i>Tax-Exempt</i>

- "attachment_1"*
- [1] The Base Fiscal Year for the CFD is Fiscal Year 2002-2003. The Maximum Annual Special Tax Rate will be escalated by the Tax Escalation Factor, not to exceed 4 percent annually thereafter, as determined by the Consumer Price Index.
 - [2] The Maximum Annual Special Tax Rate is applied to the Residential Units assigned to each Taxable Parcel. Condominium/Townhouse Residential Parcels and Single Family Residential Parcels are assumed to have one Unit. Multi-Family Residential Parcels, Mixed Use Parcels, and Mobile Home Park Parcels may have more than one Unit assigned to a Parcel. The number of Residential Units assigned to these Parcels will be determined by the final subdivision map, initial building permit, or subsequent building permits for tenant improvements.
 - [3] Developed Parcels are residential or mixed use Parcels with a building permit for residential use.
 - [4] Non-Residential Use Parcels are commercial, industrial, office, and other non-residential uses.
 - [5] Undeveloped Parcels are Parcels that are not classified as a Developed Parcel or Non-Residential Use Parcel.