REPORT TO COUNCIL
City of Sacramento

41

915 I Street, Sacramento, CA 95814-2604
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PUBLIC HEARING
December 12, 2006

Honorable Mayor and
Members of the City Council

Title: Del Paso Nuevo Landscaping Community Facilities District No. 2006-06 Public Hearing, Call for a Special Election

Location/Council District: The Del Paso Nuevo Landscaping Community Facilities District (CFD) No. 2006-06 is located in North Sacramento in Council District 2 (Exhibit "A", Page 9).

Recommendation: Conduct a public hearing and upon conclusion adopt a **Resolution** establishing the CFD, providing for Levy of Special Tax and calling for a Special Election on January 9, 2007.

Contact: Steven Sakakihara, Administrative Technician, (916) 808-8970; Ron Wicky, Program Specialist, (916) 808-5628

Presenters: Steven Sakakihara

Department: Planning

Division: Public Improvement Financing

Organization No: 4915

Description/Analysis

Issue: The property owners for Del Paso Nuevo Units 4 & 5 Subdivisions have requested the formation of the Del Paso Nuevo Landscaping CFD. Approval of this formation will authorize the City to collect assessments in an amount sufficient to provide funding for maintenance of landscaped areas constructed within and around these subdivisions.

Policy Considerations: The procedures under which this CFD is being initiated are set forth in Government Code, Sections 53311-53368.3, entitled "The Mello-Roos Community Facilities Act of 1982." Formation of this District is consistent with the City's Strategic Plan 3-Year Goal to "achieve sustainability and enhance livability". Approval will fund, for the first time for a Mello-Roos Community Facilities District within the City of Sacramento, maintenance of separated sidewalk landscape strips.

Environmental Considerations: Under California Environmental Quality Act (CEQA) Guidelines, administration and formation of a CFD does not constitute a

project and therefore is exempt from review.

Committee/Commission Action: None

Rationale for Recommendation: The actions in the recommended Resolution are required by the Mello-Roos Community Facilities Act of 1982 (in Government Code Sections 53339-53339.9) for formation of a new district.

Financial Considerations: There will be no cost to the City or the General Fund. The maximum annual Special Tax rate levied on new residential properties for FY 2007/08 will be $100.00 per parcel. The property owners shall pay for all costs associated with this CFD.

The Special Tax for future years may be adjusted with an annual escalation factor not to exceed 4%.

Emerging Small Business Development (ESBD): None. No goods or services are being purchased.

Respectfully Submitted by: _____
Mark Griffin
Fiscal Manager, Planning Department

Approved by: _____
Carol Shearly
Director, Planning Department

Recommendation Approved:

for _____
Ray Kerridge
City Manager

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Attachment 1

BACKGROUND

Subdivision maps for Del Paso Nuevo Units 4 & 5 have been submitted to the Development Services Department for final review and approval for recordation. Property owners for Del Paso Nuevo Units 4 & 5 subdivisions, which include the Sacramento Housing and Redevelopment Agency (SHRA), have requested that the City form a maintenance district to maintain the landscaped corridors that will be constructed in and around these subdivisions. These corridors include landscape lots, which are located between the sidewalk and property line, and separated sidewalk areas, which are located between the street curb, gutter and sidewalk. Separated sidewalk areas are typically maintained by the adjacent property owner and not the City.

SHRA has requested that the corridors within the Del Paso Nuevo community be maintained by the City and financed by the property owners. The Department of Transportation has agreed to maintain the corridors. As other future subdivision maps within this area are submitted to the City for approval, they may be required to annex to this District. This district would be entitled "Del Paso Nuevo Landscaping Community Facilities District No. 2006-06".

Attachment 2

SCHEDULE OF PROCEEDINGS

DEL PASO NUEVO LANDSCAPING COMMUNITY FACILITIES DISTRICT (CFD) NO. 2006-06 SCHEDULE

November 9, 2006	City Council – Resolution of Intention
November 13, 2006	Mail Notice of Hearing
December 12, 2006	**City Council – Public Hearing, Call for Special Election**
December 13, 2006	Mail Ballots
December 28, 2006	Ballots Due
January 9, 2007	City Council - Election Results & Pass for Publication Ordinance to Levy Tax
January 10, 2007	Record Notice of "Special Tax"
January 16, 2007	City Council - Adopt Ordinance to Levy Tax

Attachment 3

RESOLUTION NO.

Adopted by the Sacramento City Council

RESOLUTION ESTABLISHING DEL PASO NUEVO LANDSCAPING COMMUNITY FACILITIES DISTRICT NO. 2006-06; PROVIDING FOR THE LEVY OF A SPECIAL TAX FOR LANDSCAPING MAINTENANCE SERVICES; AND CALLING A SPECIAL ELECTION ON THE QUESTION OF LEVYING THE SPECIAL TAX AND ESTABLISHING AN APPROPRIATIONS LIMIT

BACKGROUND:

A. The City Council (the "Council") of the City of Sacramento (the "City") has duly adopted Resolution No. 2006-814 (the "Resolution") on November 9, 2006 wherein the Council declared its intention to and proposed to establish a community facilities district under and pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982," being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Act"), and Chapter 3.124 of the Sacramento City Code ("Chapter 3.124"), to be known and designated as the "Del Paso Nuevo Landscaping Community Facilities District No. 2006-06" (the "District"), to finance the maintenance and related services (the "Services") in and for the District under and pursuant to the Act and Chapter 3.124 (which are services that the City is authorized by law to provide and that are necessary to meet increased demands placed upon the City as a result of development occurring and anticipated to occur in the District), and which Services are generally described as specified in Exhibit A, attached hereto and incorporated herein by this reference. The cost of the Services includes incidental expenses for the services, including the costs of planning the Services, together with the costs of environmental evaluations thereof, and all costs associated with the creation of the District, the determination of the amount of any taxes or the collection or payment of any taxes and costs otherwise incurred in order to carry out the authorized purposes of the District, together with any other expenses incidental to provision of the Services.

B. The Resolution of Intention fixed a time and place for a public hearing at which the City Council would consider (1) the establishment of the District; (2) the proposed rate, method of apportionment, and manner of collection of a special tax to finance providing the Services for the Distict; and (3) all other matters set forth in the Resolution of Intention.

C. A report on the proposal to establish the District was prepared by the City's

Development Engineering Manager of the Development Services Department in accordance with the Resolution of Intention. The City Council has reviewed the report, which is incorporated into this resolution and made a part of the record of the public hearing on the Resolution of Intention.

D. In accordance with the Resolution of Intention, the City Council convened a public hearing at 2:00 p.m. on Tuesday, December 12, 2006, in the City Council's regular meeting place: City Council Chambers, Sacramento City Hall, 915 I Street, first floor, Sacramento, California. At the hearing, the City Council considered the establishment of the District; the proposed rate, method of apportionment, and manner of collection of the special tax; and all other matters set forth in the Resolution of Intention. All persons interested in these matters, including all taxpayers, property owners, and registered voters within the boundaries of the District, were given an opportunity to appear and be heard, and the City Council heard and considered the testimony of all such interested persons for or against the following: the establishment of to the District, the levy of the special tax, the extent of the district, the types of Services proposed to be provided, and any other matters set forth in the Resolution of Intention. The special tax was not precluded by a majority protest under Government Code section 53324, and at the conclusion of the hearing the City Council was fully advised in the premises and was authorized to proceed as provided in this resolution.

E. On the basis of all the foregoing, the City Council has determined to call an election within the District to authorize the following: (1) the levy of a special tax on real property within the District to pay for the Services proposed to be provided for the District (the rate, method of apportionment, and manner of collection of the tax are more particularly described in Exhibit B to this resolution); and (2) the establishment of an appropriations limit for the District.

F. The City Council is fully advised in this matter.

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

Section 1. The City Council finds and determines that the Background Statements A through F are true and correct.

Section 2. The City Council approves the Resolution of Intention and confirms all of its determinations and findings. The rate, method of apportionment, and manner of collection of the special tax for the District are set forth in Exhibit B to this resolution. Upon recordation of a notice of special tax lien in accordance with Streets and Highways Code section 3114.5, a continuing lien to secure each levy of the special tax will attach to all nonexempt real property in the District. The lien will continue in effect until the collection of the special tax ceases or the lien is canceled in accordance with law.

Section 3. The City Council determines and finds that written protests against the

establishment of the District, the levy of the special tax, the extent of the District, and the types of Services to be provided do not constitute a majority protest under the Act. Accordingly, the City Council overrules all protests to the establishment of the District, to the levy of the special tax, the extent of the District, the types of Services to be provided, or the establishment of an appropriations limit for the District.

Section 4. The City Council determines and finds that all of its prior proceedings with respect to the establishment of the District are valid and conform to the requirements of the Act. Accordingly, the City Council determines and orders, consistent with the Resolution of Intention and in accordance with the Act, that the District is established and that the boundaries of the District are as set forth in Exhibit C to this resolution.

Section 5. Except when funds are otherwise available, a special tax will be levied annually on real property within the District in an amount sufficient to do the following, as appropriate: (a) pay for the Services; (b) repay funds advanced by the City for the District; and (c) repay advances of funds or reimburse the value or cost (whichever is less) of work provided in kind for the District under agreements between the City and the persons or entities advancing the funds or providing the work (these agreements will not constitute debts or liabilities of the City). The special tax will be secured by recordation of a continuing lien against all nonexempt property in the District. Exhibit B to this resolution sets forth the rate, method of apportionment, and manner of collection of the special tax in sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that the landowner or resident will have to pay.

Section 6. In accordance with Government Code section 53317.3, the City Council intends to levy the special tax on property that is not otherwise exempt from the special tax and is acquired by a public entity through a negotiated transaction or by gift or devise.

Section 7. In accordance with Government Code section 53317.5, the City Council intends to treat the special tax levied against property that is acquired by a public entity through eminent domain proceedings as if it were a special annual assessment.

Section 8. In accordance with Government Code section 53340.1, the City Council intends to levy the special tax on the leasehold or possessory interests in property owned by a public agency and otherwise exempt from the special tax.

Section 9. A special election is ordered to be held, in accordance with the Act, applicable law, and this resolution, on **Thursday, December 28, 2006**, in the territory comprised by the District. At the special election, the question of levying the special tax on real property within the District and establishing an appropriations limit (as defined by article XIIIB, section 8, subdivision (h) of the California Constitution) in the amount of **$17,600** per fiscal year for the District will be submitted to the landowners within the District (who are the electors and persons qualified to vote at the special election).

Section 10. The City Clerk is designated as the official to conduct the special election

in accordance with the Act, applicable law, and the following provisions:

(a) The special election will be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined, all as provided in this section 11. In all particulars not prescribed by this resolution, the special election will be held and conducted and the votes received and canvassed in the manner provided by law for holding of general elections in the City and consistent with the Act.

(b) All landowners within the District on the date of the special election will be qualified to vote on the proposition submitted at the special election.

(c) The special election will be conducted as a mailed-ballot election in accordance with Elections Code sections 4000, 4002, 4003, 4004, and 4108 and the City's prior proceedings under those sections, and there will be no polling places for the special election. The City Clerk is directed to deliver all ballots to the qualified electors, and all voted ballots must be received at the City Clerk's office **by 5:00 p.m. on the election day** to be counted. If, however, all qualified electors have voted before that date and time, then the election will be closed.

(d) To vote for levying the special tax and establishing the appropriations limit, a voter must mark a cross (+) in the blank space opposite the word "YES" on the ballot to the right of the proposition. To vote against levying the special tax and establishing the appropriations limit, a voter must mark a cross (+) in the blank space opposite the word "NO" on the ballot to the right of the proposition. A cross (+) may be marked with either pen or pencil.

(e) The City Clerk shall commence the canvass of the returns of the special election at **5:00 p.m. on Thursday, December 28, 2006**, at the City Clerk's office, Historic Sacramento City Hall, 915 I Street, first floor, Sacramento, California, and at the conclusion of the canvass shall determine the results of the special election. If all the qualified voters have voted before that date and time, then the City Clerk shall close the special election and proceed to canvass the returns and determine the results.

(f) The City Council shall meet at its regular meeting on **Tuesday, January 9, 2007, at 2:00 p.m.** at its usual meeting place and declare the results of the special election, and shall cause to be spread upon its minutes a statement of the results of the special election as ascertained by the canvass.

Section 11. If two-thirds of the votes cast upon the question of levying the special tax and establishing the appropriations limit are cast in favor of levying the special tax and establishing the appropriations limit, as determined by the City Council after reviewing the canvass of the returns of the election, then the City Council may levy the special tax within the territory of the District in accordance with the Act, in the amount and for the purposes specified in this resolution, and the appropriations limit will be established for the District, as defined by article XIIIB, section 8, subdivision (h) of the California

Constitution. The special tax may be levied only at the rate and may be apportioned only in the manner specified in this resolution, subject to the Act, except that the special tax may be levied at a rate lower than the rate specified in Exhibit B. The special tax may be levied only so long as it is needed to pay for the Services (including the repayment of funds advanced for the District).

Section 12. The Administrative Technician, Special Districts, Planning Department of the City, 915 I Street, Sacramento, California 95814 (telephone 916-808-8970) will be responsible for preparing annually a current roll of special tax levy obligations by Sacramento County Assessor's parcel numbers, and will be responsible for estimating future special tax levies pursuant to Government Code section 53340.1.

Section 13. Exhibits A, B, and C are part of this resolution.

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Exhibit B: Rate and Method of Apportionment of Special Tax
Exhibit C: Area Map of Proposed Boundary

Exhibit A

Del Paso Nuevo Landscaping CFD No. 2006-06
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 landscape areas for subdivisions.

The CFD's authorized services include the following:

1. The repair and maintenance of landscaping, irrigation facilities, lighting, soundwalls, monuments and signs, and other appurtenances within and along public rights-of-way.

2. Costs of scheduled inspection of maintenance of landscaped areas.

3. Utility bills associated with maintenance of landscaped areas.

4. CFD formation and annual administration costs.

5. Miscellaneous costs related to any of the items described above including planning, engineering, legal, and administration.

Exhibit B

CITY OF SACRAMENTO

DEL PASO NUEVO LANDSCAPING COMMUNITY FACILITIES DISTRICT NO. 2006-06

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in the City of Sacramento Del Paso Nuevo Landscaping Community Facilities District No. 2006-06 shall be levied and collected according to the tax liability determined by the City Council, through the application of the appropriate amount or rate for SFD Lots, as described below. All Parcels of Developed Property in the CFD shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless a separate Rate and Method of Apportionment (RMA) of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code.

"Administrator" shall mean the person or firm designated by the City to administer the Special Taxes according to this RMA.

"Administrative Expenses" means any or all of the following: the fees and expenses of the City in carrying out its duties with respect to CFD No. 2006-06, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County in connection with the levy and collection of Special Taxes, costs related to property owner inquiries regarding the Special Tax, and all other costs and expenses of the City in any way related to the establishment or administration of CFD No. 2006-06.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"CFD" or **"CFD No. 2006-06"** means the City of Sacramento Del Paso Nuevo Landscaping Community Facilities District No. 2006-06.

"City" means the City of Sacramento.

"City Council" means the City Council of the City of Sacramento.

"County" means the County of Sacramento.

"Developed Property" means, in any Fiscal Year, all SFD Lots for which a Final Map was recorded prior to June 1 of the preceding Fiscal Year.

"Final Map" means a final map, or portion thereof, recorded pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual SFD Lots.

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

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C below that can be levied on SFD Lots in any Fiscal Year.

"SFD Lot" means an individual residential lot, identified and numbered on a recorded Final Map, on which a building permit has been or can be issued for construction of a Single Family Unit without further subdivision of the lot.

"Single Family Unit" means a single family detached unit or an individual unit within a duplex or halfplex structure. A second, accessory unit (i.e., granny flat) that shares a Parcel with a single family detached unit shall not be considered a separate Single Family unit for purposes of this RMA.

"Special Tax" means a special tax levied in any Fiscal Year to pay the Special Tax Requirement.

"Special Tax Requirement" means the amount necessary in any Fiscal Year to (i) pay authorized operations and maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay Administrative Expenses, and (iv) cure any delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

B. DATA FOR ANNUAL ADMINISTRATION OF SPECIAL TAX

Each Fiscal Year, the Administrator shall (i) identify all SFD Lots within the CFD, (ii) determine the current Assessor's Parcel number for each SFD Lot, (iii) determine which SFD Lots are Developed Property, and (iv) calculate the Special Tax Requirement for the Fiscal Year.

In any Fiscal Year, if it is determined that (i) a Final Map for a portion of property in CFD No. 2006-06 was recorded after January 1 of the prior Fiscal Year (or any other date after

which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Taxes for the property affected by recordation of the Final Map by determining the Special Taxes that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels of Developed Property within CFD No. 2006-06 for Fiscal Year 2007-08 is $100 per SFD Lot. On July 1, 2008 and each July 1 thereafter, the Maximum Special Tax shall be escalated by four percent (4%) of the amount in effect in the prior Fiscal Year.

Once a Special Tax has been levied and collected on a Parcel of Developed Property, the Maximum Special Tax applicable to that Parcel shall not be reduced in future Fiscal Years regardless of changes in land use on the Parcel. Notwithstanding the foregoing, the actual Special Tax levied on a Parcel of Developed Property in any Fiscal Year may be less than the Maximum Special Tax if a lower Special Tax is calculated pursuant to Section D below.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

The Administrator shall determine the Special Tax Requirement to be collected each Fiscal Year, and the Special Tax shall be levied proportionately on each parcel of Developed Property up to 100% of the Maximum Special Tax for such Fiscal Year until the amount levied is equal to the Special Tax Requirement for the Fiscal Year. The Special Taxes for CFD No. 2006-06 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill the Special Taxes and may collect Special Taxes at a different time or in a different manner if needed.

E. LIMITATIONS

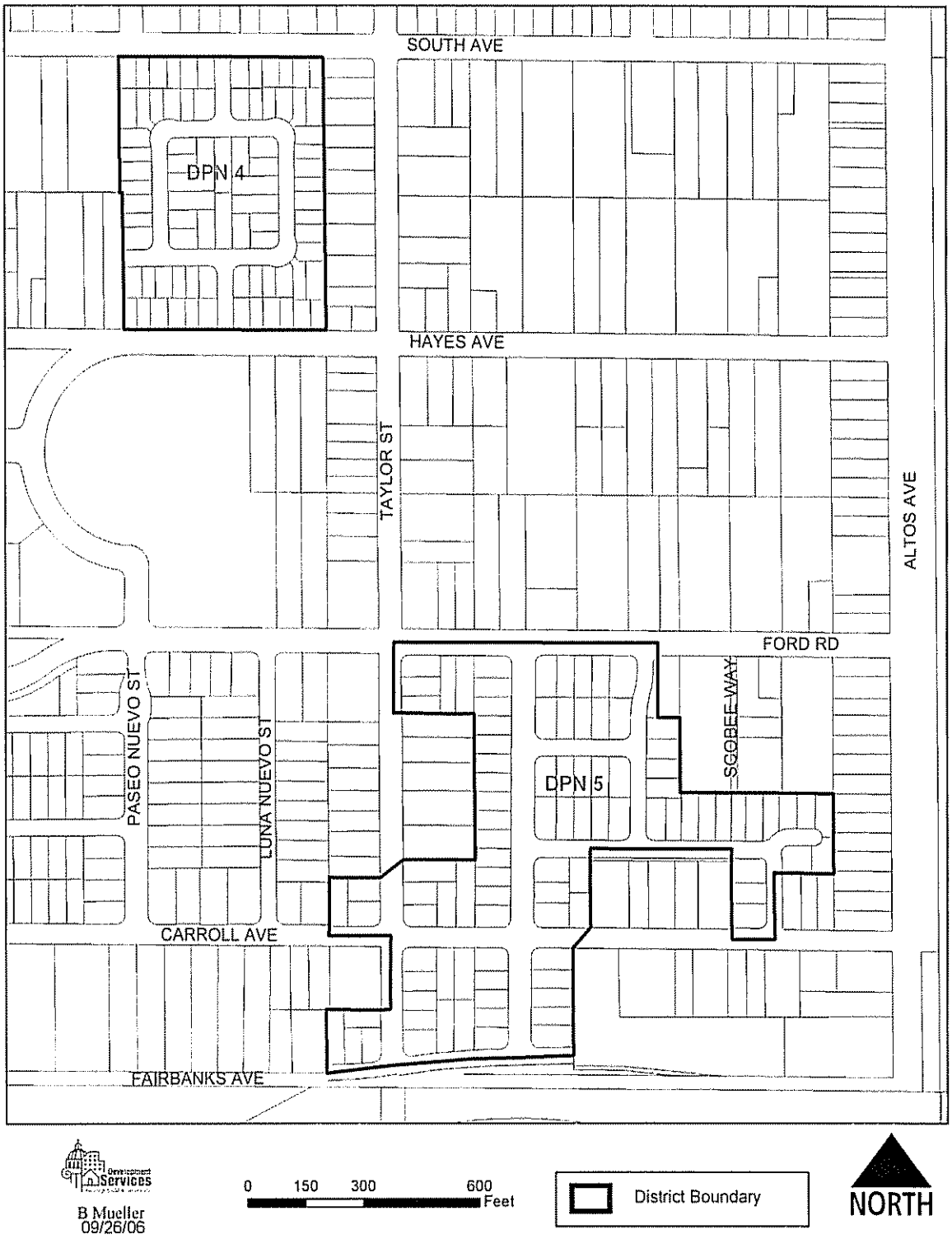
Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on Parcels that are not Developed Property, as defined herein.

F. INTERPRETATION OF SPECIAL TAX FORMULA

Interpretations may be made by Resolution of the Council for purposes of clarifying any vagueness or ambiguity as it relates to the Special Tax rates, method of apportionment, classification of properties or any definition applicable to the CFD.

G. APPEALS

Any taxpayer who feels that the amount of the Special Tax assigned to a Parcel is in error may file a notice with the City appealing the levy of the Special Tax. The City shall then promptly review the appeal and, if necessary, meet with the applicant. If the City verifies that the Special Tax should be modified, a recommendation at that time will be made to the Council and, as appropriate, the Special Tax levy shall be corrected and, if applicable in any case, a refund shall be granted.

Exhibit C

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