# RESOLUTION NO. 2007-058

Adopted by the Sacramento City Council

January 30, 2007

## CALLING SPECIAL MAILED-BALLOT ELECTION WITHIN NATOMAS CENTRAL COMMUNITY FACILITIES DISTRICT NO. 2006-02, CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

## BACKGROUND

**A.** The City Council (the "Council") of the City of Sacramento (the "City"), on October 10, 2006, adopted its Resolution No. 2006-729 (the "Resolution of Intention") and its Resolution No. 2006-730 (the "Resolution to Incur Bonded Indebtedness") thereby initiating proceedings 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 (commencing with Section 53311) of the Government Code of the State of California (the "Act"), to be known and designated as "Natomas Central Community Facilities District No. 2006-02, City of Sacramento, County of Sacramento, State of California" (the "Community Facilities District").

**B.** Both the Resolution of Intention and the Resolution to Incur Bonded Indebtedness set public protest hearings to be held concurrently on November 14, 2006 (the "Public Hearing").

**C.** On November 14, 2006, at the time and place set, the Public Hearing was opened by the Council, and then continued to January 9, 2007.

**D.** On January 9, 2007, at the time and place set, the Public Hearing was reopened by the Council, and then, after making findings that the complexity of the proposed Community Facilities District and the need for public participation required additional time, the Council continued the Public Hearing to January 30, 2007.

**E.** The City Clerk has submitted to the Council her Certificate that proper notices of the continuances of the Public Hearing were posted by the entrance to the Council Chambers.

**F.** The Public Hearing was then resumed in the Council Chambers on the date and at the time specified in the posted notice. At the close of the Public Hearing, the Council determined that there was no majority protest under Section 53324 of the Government Code.

**G.** At the conclusion of the Public Hearing, the Council adopted its Resolution No. 2007-056 establishing the Community Facilities District (the "Resolution of Formation") pursuant to Section 53325.1 of the Act, and its Resolution No. 2007-

057 Deeming It Necessary To Incur Bonded Indebtedness (the "Resolution Deeming it Necessary to Incur Bonded Indebtedness") pursuant to Section 53351 of the Act.

**H.** In order to proceed with the levy of the special tax and establishment of an appropriations limitation for the Community Facilities District, as provided by the Resolution of Formation, and with the incurring of indebtedness as provided by the Resolution Deeming it Necessary to Incur Bonded Indebtedness, the three matters must be submitted to an election of the qualified electors of the Community Facilities District.

**I.** The three ballot questions just described may be combined into a single ballot measure pursuant to Section 53353.5 of the Act, as provided in the form of special election ballot attached hereto as Exhibit A and by this reference incorporated herein.

**J.** A Certificate Re: Registered Voters and Landowners (the "Certificate re: Landowners") has been filed with the City Clerk (the "Clerk") and submitted to the Council, certifying that at no time during the ninety days preceding the close of the Public Hearing on January 30, 2007, were there ever twelve or more persons registered to vote within the territory of the Community Facilities District.

**K.** A Certificate of Clerk re: Receipt of Property Owner Waiver, Consent and Appointments has been submitted by the Clerk, stating that each Landowner, or an authorized representative of each Landowner, has filed with the Clerk a properly executed Waiver, Consent and Appointment (as defined in Section 4 below) in the form attached hereto as Exhibit B, and by this reference incorporated herein.

**L.** The 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 above recitals are true and correct, and the Council so finds and determines.

**Section 2.** The Council accepts the Certificate re: Landowners heretofore filed in these proceedings and finds, in accordance therewith, that there presently are, and at all times during the ninety days just past there have been, fewer than twelve registered voters residing within the boundaries of the Community Facilities District. Accordingly, under Section 53326(b) of the Act, the qualified electors of the Community Facilities District for the proposed special election shall be the owners of land within the Community Facilities District.

**Section 3.** The Council further finds and determines that the owners of land within the Community Facilities District (the "Landowners") are the landowners set forth in the attachment to the Certificate re: Landowners and that the attachment correctly sets forth the amount of property owned by each

Landowner and the number of votes to which each Landowner is entitled pursuant to Section 53326(b), being the number of acres owned rounded up to the next whole acre.

**Section 4.** The Council hereby approves the form of "Waiver and Consent Shortening Time Periods and Waiving Various Requirements for Conducting a Mailed-Ballot Election and Appointment of Representative to Act for Property Owner in Voting and Casting Ballot" (the "Waiver, Consent and Appointment") by which the time limits and related requirements respecting preparation and distribution of election materials are waived, a copy of which is attached hereto as Exhibit B. The Council hereby finds that the rights, procedures and time periods therein waived are solely for the protection of the qualified electors and may be waived by the qualified electors under Section 53326(a) and 53327(b) of the Act and under other provisions of law dealing with waiver generally, and that the Waiver, Consent and Appointment constitutes a full and knowing waiver, by any qualified elector who has executed the form, of those rights, procedures and time periods.

**Section 5.** The Council further finds and determines, based on a Certificate of Clerk re: Receipt of Property Owner Waiver, Consent and Appointments provided this date by the Clerk, that each Landowner, or an authorized representative of each Landowner, has filed with the Clerk a properly executed Waiver, Consent and Appointment. The Council therefore is establishing the procedures and time periods for this special mailed-ballot election without regard to statutory schedules.

**Section 6.** Pursuant to Sections 53326 and 53351 of the Act, the Council hereby calls an election, to be held and conducted upon adoption of this Resolution, and sets February 9, 2007, as the election date. Pursuant to Section 53326 of the Act, the election shall be conducted by mailed ballot; provided that personal service of the respective ballots to authorized representatives of each Landowner is permitted under the terms of the Waiver, Consent and Appointment forms on file with the Clerk and shall therefore be permitted. The Clerk is directed to either mail or make personal service of the ballots, in the form of the attached Exhibit A, to each Landowner or, if one has been appointed pursuant to a Waiver, Consent and Appointment, to the Landowner's authorized representative.

**Section 7.** The proposition to be submitted to the qualified electors of the Community Facilities District shall be as set forth in the form of special election ballot attached hereto as Exhibit A.

**Section 8.** The Clerk is hereby designated as the official to conduct the special mailed-ballot election pursuant to the Act and California Elections Code Sections 307 and 320 and the following provisions:

(a) The special election shall be held and conducted, and the votes canvassed and the returns made, and the results determined, as provided herein; and in all particulars not prescribed by this Resolution the special election shall be held and conducted and the votes received and canvassed in the manner provided by law for the holding of special elections consistent with the Act.

(b) All Landowners within the Community Facilities District as of the close of the Public Hearing shall be qualified to vote upon the proposition to be submitted at the special election.

(c) The special election shall be conducted as a mailed-ballot election, in accordance with the provisions of the Act and the proceedings of the Council, and there shall be no polling places for the special election. All ballots shall be delivered or mailed by the Clerk to the Landowners, and all voted ballots are required to be received by the Clerk not later than 5:00 p.m. on the day of the election in order to be counted. However, if at any time the Clerk determines that all votes have been cast, the Clerk shall immediately declare the election closed.

(d) Each voter desiring to vote in favor of the proposition to be submitted at the special election shall mark a cross (x) or similar mark in the blank space opposite the word "YES" on the ballot to the right of the proposition; and each voter desiring to vote against the proposition shall mark a cross (x) or similar mark in the blank space opposite the word "NO" on the ballot to the right of the proposition. The cross (x) or similar mark may be marked with either pen or pencil.

(e) The Clerk shall commence the canvass of the returns of the special election, and report the returns to the Council no later than the Council meeting of February 13, 2007.

(f) The Council may thereupon 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 9** This resolution takes effect immediately upon its passage.

Adopted by the City of Sacramento City Council on January 30, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: Councilmembers Sheedy, Tretheway and Waters.

Heather Fargo

Mayor, Heather Fargo

Attest:

Shirley Concolino

Shirley Concolino, City Clerk

**EXHIBIT A**

NATOMAS CENTRAL COMMUNITY FACILITIES DISTRICT NO. 2006-02
CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

**SPECIAL ELECTION BALLOT**

(Mailed-Ballot Election)

This ballot is for the use of the authorized representative of the following owner of land within the Natomas Central Community Facilities District No. 2006-02, City of Sacramento, County of Sacramento, State of California ("the Community Facilities District"):

| Name of Landowner | Number of Acres Owned | Total Votes |
|---|---|---|
| _____ | [ ] | [ ] |

According to the provisions of the Mello-Roos Community Facilities Act of 1982, and resolutions of the City Council (the "Council") of the City of Sacramento (the "City"), the above-named Landowner is entitled to cast the number of votes shown above under the heading "Total Votes," representing the total votes for the property owned by the Landowner.

In order to be counted, this ballot must be executed and certified below and be returned to the City Clerk, by mail or in person, prior to 5:00 p.m. on February 9, 2007, in the Sacramento City Hall, 915 "I" Street, Sacramento, California.

Mailing by that time will not be sufficient. This ballot must be received by the time stated in order to be counted.

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT.

BALLOT MEASURE

| | MARK "YES" OR "NO" WITH AN "X": |
|---|---|
| Shall the City Council (the "Council") of the City of Sacramento, by and through its Natomas Central Community Facilities District No. 2006-02, City of Sacramento, County of Sacramento, State of California (the "District"), be authorized to annually levy a special tax within the District to finance the acquisition and construction of certain public facilities and to finance certain governmental development fees (collectively, the "Facilities"), and be authorized to incur debt in the principal amount of not to exceed thirty-five million dollars ($35,000,000) to pay for the Facilities, including the payment, using the proceeds of the special tax collections, of principal of and interest on the debt and including the repayment of funds advanced for the authorized purposes of the Community Facilities District all as described in the Council's Resolution of Formation (No. 2007-___) and in the Council's Resolution Deeming it Necessary to Incur Bonded Indebtedness (No. 2007-___), both adopted January 30, 2007; and shall the 2006-2007 appropriations limit for the District be established in the amount of five million dollars ($5,000,000)? | YES<br>_____<br><br>NO<br>_____ |

Certification for Special Election Ballot

The undersigned is the above-named Landowner or the authorized representative of the above-named Landowner and is a person legally authorized and entitled to cast this ballot on behalf of the above-named Landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2007.

_____
Signature

_____
Print Name

**EXHIBIT B**

WAIVER AND CONSENT
SHORTENING TIME PERIODS AND WAIVING VARIOUS
REQUIREMENTS FOR CONDUCTING A MAILED-BALLOT ELECTION
AND APPOINTMENT OF REPRESENTATIVE TO ACT FOR PROPERTY OWNER
IN VOTING AND CASTING BALLOT

NATOMAS CENTRAL COMMUNITY FACILITIES DISTRICT NO. 2006-02
CITY OF SACRAMENTO
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA

I [We], _____

_____,

(print name[s])

(referred to in this document collectively as the "Undersigned") declare [check one]:

_____ **The Undersigned are ALL of the owners...**

**OR**

_____ **The Undersigned is the authorized representative of, and in executing this document is acting for, ALL of the owners (and has attached hereto evidence of the Undersigned's authority to act for ALL of the owners in this regard, which owners are listed here:** _____

_____

_____)...

of the real property listed below by Assessor's Parcel Number ("APN"), which is within the Natomas Central Community Facilities District No. 2006-02, City of Sacramento, County of Sacramento, State of California (the "Community Facilities District "). The APN's are:

_____

_____

The Undersigned understands that a special mailed-ballot, landowner election will be held to determine whether the authority to levy an annual special tax on property within the Community Facilities District, including the above-numbered parcels, to finance certain public facilities and certain governmental development fees, and to incur indebtedness to be secured and repaid by the special tax, and to establish an appropriations limit for the Community Facilities District all as set forth in two resolutions to be considered by the City Council of the City of Sacramento on January 30, 2007 (Resolution No. 2007-___ [the Resolution of Formation] and Resolution No. 2007-___ [the Resolution Deeming it Necessary to Incur Bonded Indebtedness]), will be conferred upon that Council. The Undersigned, on behalf of the above-referenced owner, requests that the election be conducted at the earliest possible date. The Undersigned is the

person legally entitled and authorized to cast the ballot attributable to the above-referenced parcels in the landowner, mailed-ballot election.

The Undersigned, on behalf of the above-referenced owners, hereby waives any and all minimum time periods relative to the election pursuant to Government Code Section 53326(a).

The Undersigned, on behalf of the above-referenced owners, hereby waives the preparation and distribution of an impartial analysis of the ballot measure, as well as arguments in favor and against, under the authority of Government Code Section 53327(b).

The Undersigned, on behalf of the above-referenced owners, hereby waives the requirement to publish notice of the election under Government Code Section 53352.

The Undersigned, on behalf of the above-referenced owners, hereby waives the requirements regarding the time to mail ballots to the qualified electors under Elections Code Section 4101, and agrees that either mailed service or personal service of the ballot will be sufficient.

The Undersigned, on behalf of the above-referenced owners, hereby waives the requirements regarding identification envelopes for the return of mailed ballots contained in Government Code Section 53327.5.

The Undersigned, on behalf of the above-referenced owners, hereby waives any and all defects in notice or procedure in the conduct of the election, whether known or unknown (except the right to vote and to have the ballots fairly counted), and states that the election is being expedited, pursuant to this Waiver, Consent, and Appointment, at the particular instance and request of the above-referenced owners.

The Undersigned, on behalf of the above-referenced owners, hereby consents to the levy and collection of the special tax on the above-referenced parcels and hereby waives any and all rights to challenge the inclusion of the above-referenced parcels in the Community Facilities District and any and all other proceedings related thereto.

Finally, the Undersigned, on behalf of the above-referenced owners, hereby authorizes _____ [if the Undersigned will cast the ballot, enter "N/A"] to act in all respects for the above-listed property and for the above-referenced owners in casting the votes and executing the ballot assigned to the above-listed property.

The Undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Appointment and Waiver and Consent is signed by each of the Undersigned on the date following each signature.

Signature:_____ Date:_____

Print Name:_____

Signature:_____ Date:_____

Print Name:_____

Signature:_____ Date:_____

Print Name:_____

Signature:_____ Date:_____

Print Name:_____

Signature:_____ Date:_____

Print Name:_____

Subscribed and sworn to before me this
_____ day of _____, 2006.

_____ [SEAL]

Notary Public, State of California