

RESOLUTION NO. 2005-765

Adopted by the Sacramento City Council

October 25, 2005

RESOLUTION OF INTENTION TO ANNEX TERRITORY TO THE NORTH NATOMAS COMMUNITY FACILITIES DISTRICT NO. 3 AND TO LEVY A SPECIAL TAX WITHIN THE ANNEXED TERRITORY TO FINANCE LANDSCAPING MAINTENANCE SERVICES (ANNEXATION NO. 1)

BACKGROUND:

- A. The City Council (the "Council") of the City of Sacramento (the "City") has previously established the North Natomas Community Facilities District No. 3 (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 property in the District to pay for landscaping maintenance services in North Natomas and related services to be provided within the District, all in accordance with the Act and with title 3, chapter 3.124, of the Sacramento City Code ("Chapter 3.124").
- B. The Council has determined that the establishment of the District 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 Council has also determined that public convenience and necessity require that territory be added to the District.
- C. 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 the Council so finds and determines.

Section 2. It is the intention of the Council, and the Council hereby proposes, to annex territory to the District in accordance with the Act. The boundaries of the territory proposed for annexation are shown on the map entitled "Area Map" attached hereto as Exhibit C. Exhibit C also shows the territory included in the existing District. A map showing the territory proposed to be annexed (the "Boundary Map") is on file in the Office of the City Clerk, is in the form required by section 3110 of the Streets and Highways Code, and is hereby approved. The City Clerk is directed to file a copy of the Boundary Map with the County Recorder of the County of Sacramento within 15 days hereafter, and in no event later than 15 days prior to the hearing, for placement in the

Book of Maps of Assessment and Community Facilities Districts, in accordance with section 3111 of the Streets and Highways Code.

Section 3. The name of the proposed annexation to the District is "North Natomas Community Facilities District No. 3, Annexation No. 1."

Section 4. The District was formed solely to provide landscaping maintenance services in North Natomas and for related purposes, and will not finance capital improvements or issue bonds. The services provided in the existing District and the services to be provided in the territory proposed to be annexed are set forth in Exhibit A, attached hereto and incorporated herein by this reference, all of which are as authorized by the Act and by Chapter 3.124. The District will also finance all costs and expenses normally incidental to the provision of the landscaping maintenance services in North Natomas and related services, including but not limited to those for elections, engineering, contract supervision, planning, legal services, and City administration.

Section 5. Except where funds are otherwise available, a special tax sufficient to pay for the landscaping maintenance services in North Natomas and for related purposes, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the District. In accordance with Chapter 3.124, certain City-owned property within the District will be subject to the lien for the special tax. The 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 a Residential Units assigned to a parcel, at the per annum tax rates specified in Exhibit B, the "Rate and Method of Apportionment of Special Tax," attached hereto and incorporated herein by this reference. The rates shown in Exhibit B are maximum rates. The special tax levied on all parcels may be increased pro rata, but not more than 10%, on account of the default or delinquency of the owner of any parcel. The rates may also be escalated for inflation under Chapter 3.124, as specified in Exhibit B. 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 formulae set forth in Exhibit B. The special tax levied and to be collected hereunder shall be in perpetuity, unless and until the need for the landscaping maintenance services in North Natomas and for related purposes no longer exists.

Section 6. It is the intention of the Council, in accordance with section 53317.3 of the Act, to continue to levy the special tax on property, not otherwise exempt from the tax, that is acquired by a public entity through a negotiated transaction or by gift or devise; provided, however, that the Council may annually determine whether public property shall be subject to this tax or be tax exempt.

Section 7. It is the intention of the Council, in accordance with section 53317.5 of the Act, to treat the obligation to pay 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; provided, however, that the Council may annually determine whether public property shall be subject to this tax or be tax exempt.

Section 8. It is the intention of the Council, under section 53340.1 of the Act, to levy the special tax on the leasehold or possessory interests in property that is owned by a public agency and not otherwise exempt from the special tax, to be payable by the owner of the leasehold or possessory interests in the property.

Section 9. It is the intention of the Council, under section 53325.7 of the Act, to establish an appropriations limit for the District, as defined by subdivision (h) of section 8 of article XIII B of the California Constitution.

Section 10. The Council fixes 2:00 p.m. on November 29, 2005, in the Council Chambers at City Hall, 915 I Street, First Floor, Sacramento, California, as the time and place for a public hearing on the proposed annexation to the District, the proposed levy of special taxes, and all other matters as set forth in this resolution. At the public hearing, any persons interested, including all taxpayers, owners of property within the District, and registered voters residing within the District, may appear and be heard, and the testimony of all interested persons or taxpayers for or against the proposed annexation and the levy of the special tax within the territory to be annexed, or the landscaping maintenance services in North Natomas and related services to be provided, or any other matters set forth herein, will be heard and considered. Any protests to the foregoing may be made orally or in writing by any interested persons or taxpayers, except that protests pertaining to the regularity or sufficiency of the proceedings must be in writing and must clearly set forth the irregularities and defects to which the objection is made. The Council may waive any irregularities in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. All written protests must be filed with the City Clerk on or before the time fixed for the public hearing, and any written protest may be withdrawn in writing at any time before the conclusion of the public hearing. If, at the conclusion of the hearing, the Council determines to proceed with the proposed annexation of territory to the District, then the question of levying a special tax within the area proposed to be annexed will be submitted to the qualified electors of that area in an election under sections 53326, 53339.7, and 53339.8 of the Act, to be held not less than 90 days thereafter, unless appropriate waivers pursuant to section 53326 have been filed with the City Clerk. The special tax may be levied if at least two-thirds of those voting approve the measure.

Section 11. In the opinion of the Council, the public interest will not be served by allowing the owners of property in the District to enter into a contract under section 53329.5, subdivision (a), of the Act to perform the landscaping maintenance services in North Natomas and related services to be financed under the Act and Chapter 3.124.

Section 12. The Council directs Edward Williams, Development Engineering and Finance Manager of the Development Services Department of the City, to prepare the report required by section 53321.5 of the Act and to file the report with the Council at or before the time of the hearing.

Section 13. The City Clerk is directed to publish and mail notice of the hearing in accordance with sections 53322, 53322.4, and 53339.4 of the Act, as follows:

- (a) A notice of public hearing in the form required by the Act shall be published in the Daily Recorder, a newspaper of general circulation published in the area of the District. The publication shall be made in accordance with section 6061 of the Government Code and shall be completed at least seven days prior to the date set for the public hearing.

- (b) A notice of public hearing in the form required by the Act shall be mailed, first-class postage prepaid, to each owner of property within the District and to each registered voter residing within the District. The mailing to property owners shall be made to the property owners at their addresses as shown on the records of the Sacramento County Treasurer-Tax Collector or as otherwise known to the City Clerk. The mailing to registered voters shall be made to the registered voters at their addresses as shown on the records of the Sacramento County Registrar of Voters or as otherwise known to the City Clerk. All mailings shall be completed at least 15 days prior to the date set for such public hearing. The notice of hearing shall include a description of the voting procedures in accordance with section 53322, subdivision (b)(4), of the Act.

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Adopted by the City of Sacramento City Council on October 25, 2005 by the following vote:

- Ayes: Councilmembers Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, and Waters.

- Noes: None

- Abstain: None

- Absent: Councilmember Cohn and Mayor Fargo



Vice-Mayor Ray Tretheway

Attest:

Shirley Concolino

Shirley Concolino, City Clerk

Exhibit A

North Natomas CFD No. 3 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 CFD is to fund the maintenance of parks, landscape corridors, and open space facilities unique to North Natomas or above City standards. Notwithstanding the above funding objectives, the CFD's authorized services include the following:

1. The maintenance of landscaping, irrigation facilities, soundwalls and other appurtenances within or along freeway corridors, along east and west drainage canals, swale, and within and along public rights-of-way for medians and standard-width landscape corridors of four-lane and greater major roads. The maintenance of landscape corridors above standard-width will be authorized for sections of East Commerce Way, Truxel Road, Del Paso Road, and El Centro Road adjacent to residential development.
2. The maintenance of landscaping, recreation facilities, irrigation facilities, lighting and other appurtenances within neighborhood and community parks and designated conjunctive use park land within drainage detention basins.
3. The maintenance of landscaping, irrigation facilities, and other appurtenances within agriculture buffers.
4. The maintenance and repair of off-street bikeways, including bikeway bridges and structures.
5. The maintenance of landscaping, irrigation facilities, and other appurtenances within light rail alignment with an irrevocable offer to dedicate (I.O.D.) prior to construction of light rail facilities.
6. Miscellaneous maintenance and landscape capital improvements, repair and replacement.
7. CFD formation and annual administration costs of the District.
8. Miscellaneous cost related to any of the items described above including planning, engineering, legal and administration.

Exhibit B

City of Sacramento, California
North Natomas
Community Facilities District No. 3

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 the North Natomas Community Facilities District No. 3 (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, as listed in the Resolution forming the CFD.

"**Base Fiscal Year**" means the Fiscal Year beginning July 1, 1998 and ending June 30, 1999.

"CFD" means the North Natomas Community Facilities District No. 3 of the City of Sacramento, California.

"City" means City of Sacramento, California.

"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 which has:

- an approved final small lot map for residential uses permitting up to 2 units per lot,
- an approved special use permit for residential use permitting 3 or more units per lot, or
- an approved special use permit for Non-Residential Development or Sports Complex.

Once classified as developed, no Parcel shall be removed from the developed classification unless the special use permit expires, is revoked, or is otherwise terminated.

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

"Gross Acres" means the entire area of a Parcel prior to dedication of major streets, schools, parks, open space and other public right-of-way.

"Gross Developable Acres" means the area of a Parcel associated with residential and non-residential uses after dedication of major streets, but prior to dedication of minor streets.

"Land Use Category 1" means a Developed Parcel with an approved land use for a single family, detached residential dwelling unit.

"Land Use Category 2" means a Developed Parcel with an approved land use for a duplex (two units per lot) or condominium (more than two attached dwelling units which are owned individually).

"Land Use Category 3" means a Developed Parcel with an approved land use for other than Land Use Category 1 or 2 land uses such as three or more attached residential units owned in common, non-residential uses, or a combination thereof.

"Land Use Category 4" means the City-owned parcels designated in the Community Plan as Sports Complex with Assessor's Parcel Numbers 225-0070-076, 225-0070-059, 225-0070-060, 225-0070-063 and 225-0070-067 and their successors. These Parcels shall be classified as a Tax Exempt Parcel until controlled by a private party through fee ownership, lease, or other similar arrangements. If a land use entitlement is granted for

other than a permitted Sports Complex, parcel(s) receiving such entitlement will revert to Land Use Category 1, 2 or 3.

"Land Use Category 5" means a Large Lot Final Map Parcel.

"Large Lot Final Map Parcel" means a Parcel which has:

- an approved large lot final map, or
- an approved final master parcel map.

"Master Parcel Map" means a map that subdivides large tracts of land into smaller parcels for the purpose of later selling or otherwise transferring the parcels for further subdivision in accordance with City procedures, or for the purpose of securing financing, together with planning and construction of infrastructure elements, but not for the purpose of creating either individual residential lots for sale to end-user homeowners, and not for the purpose of allowing construction or other improvements on non-residential parcels.

"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 relevant acres or units of the 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.

"Net Acre" is the area of a Parcel associated with residential and non-residential uses after dedication of all public uses and rights-of-way.

"Non-Residential Development" means a Taxable Parcel designated for commercial, office, or light industrial as defined in the North Natomas Community Plan.

"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 any Parcel, in its entirety, that is or is intended to be publicly owned in the North Natomas Community Plan as adopted by the City--or as subsequently designated by the City--that is normally exempt from the levy of general ad valorem property taxes under California law, including 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 as described below. Any such Parcel shall be a Tax-Exempt Parcel.

"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%.

"Tax-Exempt Parcel" means a Parcel not subject to the Special Tax. Tax-Exempt Parcels include: (i) Public Parcels (subject to the limitations set forth in Section 4, below) and (ii) Undeveloped Parcels. Certain non-developable privately-owned Parcels may also be exempt from the levy of Special Taxes as determined by the City such as common areas, wetlands, and open space.

"Undeveloped Parcel" means a Parcel which is not a Developed Parcel or a Large Lot Final Map 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 cause:

1. Each Parcel to be classified as a Tax-Exempt Parcel or a Taxable Parcel;
2. Each Taxable Parcel is to be further classified as a Developed Parcel, Large Lot Final Map or Undeveloped Parcel. Once classified as developed, no Parcel shall be removed from the developed classification unless the special use permit expires, is revoked, or is otherwise terminated.
3. Each Developed Parcel will be classified as Land Use Category 1, 2, 3 or 4.

4. Each Large Lot Final Map Parcel will be classified as Land Use Category 5.

B. Assignment of Maximum Annual Special Tax.

Attachment 1 shows the Base Year Maximum Special Tax rates. Each Fiscal Year following the Base Year, the Maximum Special Tax rates shall be increased in accordance with the Tax Escalation Factor.

C. Conversion of a Tax-Exempt Parcel to a Taxable Parcel. If a Tax-Exempt Parcel is not needed for public use and is converted to a taxable use or transferred to a private owner, it shall become subject to the Special Tax. The Maximum Annual Special Tax for such a Parcel shall be assigned according to the 4.A and 4.B above. Conversely, if a privately owned parcel is converted to a public use, it shall become tax-exempt.

5. Calculating Annual Special Taxes

The City shall compute the Annual Costs and determine the Maximum Annual Special Tax for each parcel based on the assignment of the Special Tax in Section 4. The City will then determine the tax levy for each parcel using the following process:

- A. Computes the Annual Cost using the definition in Section 2 for the Fiscal Year.
- B. Calculate the Special Tax for each Taxable Parcel by the following steps:
 - Determine if sufficient special tax revenues are available by taxing each Developed Parcel at 100% of its Maximum Annual Special Tax. If revenues are greater than the Annual Costs, the tax is reduced proportionately against Developed Parcels until the tax levy is set at an amount sufficient to cover Annual Costs.
 - If revenues from taxing Developed Parcels at 100% of their Maximum Annual Special Tax are not sufficient, the City will then proportionately levy the tax on Final Map Parcels up to 100% of their Maximum Annual Special Tax until the tax levy is set at an amount sufficient to cover Annual Costs.
- C. Levy on each Taxable Parcel the amount calculated above.
- D. 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 the Fiscal Year. The Tax Collection Schedule shall not be sent later than the date required by the 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 correct any errors in the determination of the parcels subject to the tax and their Special Tax assignments.

6. Records Maintained for the CFD

As development and subdivision of North Natomas takes place, the City will maintain a file containing records of the following information for each Parcel:

- The current Parcel Number;
- The Parcel acreage (gross, gross developable or net); and
- Number of residential units per parcel.

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

7. 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 will then promptly review the appeal, and if necessary, meet with the applicant. If the City verifies that the tax should be modified or changed, 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.

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

Attachment 1 to RMA Exhibit B

City of Sacramento CFD No. 3 Maximum Special Tax Rates

| Land Use Category/Description | Land Use Category Definition | Base Year (1998-99) Maximum Special Tax Rate [1] | | Fiscal Year 2005-06 Maximum Special Tax Rate | |
|--|--|--|-----------------|--|-----------------|
| <u>Developed Parcels</u> | | | | | |
| Land Use Category 1 Detached Residential Unit | Approved final small lot map | \$52.00 | Unit | \$61.97 | Unit |
| Land Use Category 2 Duplex / Condominium | Approved final small lot map/ Special permit | \$32.00 | Unit | \$38.14 | Unit |
| Land Use Category 3 Other Residential / Nonresidential | Special permit | \$365.00 | Net Acre | \$434.99 | Net Acre |
| Land Use Category 4 [2] Sports Complex | Special permit | \$210.00 | Net Acre | \$250.26 | Net Acre |
| <u>Large Lot Final Map Parcels</u> | | | | | |
| Land Use Category 5 Residential / Nonresidential / Sports Complex [2] | Approved large lot final map/ Approved final master parcel map | \$80.00 | Gross Dev. Acre | \$95.28 | Gross Dev. Acre |
| <u>Undeveloped Parcels</u> | | \$0.00 | | \$0.00 | |

[1] Following the Base Year 1998-99, the Maximum Special Tax Rates will escalate annually based annually based upon the Consumer Price Index (CPI) (prior year annual average, San Francisco, All Urban Consumers (CPI-U), not to exceed 4%.

[2] Each Sports Complex parcel will be tax-exempt until controlled by a private party through fee ownership or lease.

Notes:

Net Acre is the area of the parcel associated with residential and and nonresidential uses after dedication of all right-of-way.

Gross Developable Acre is the area of the parcel designated for residential and taxable non-residential uses after dedication of major streets, but prior to dedication of minor streets.

Gross Acre is the entire area of the parcel prior to dedication of major streets, school, parks and other right-of-way.

EXHIBIT C

Annexation #1 to the North Natomas Community Facilities District No. 3

