

## **RESOLUTION NO. 2011-224**

Adopted by the Sacramento City Council

April 21, 2011

### **INTENTION TO ANNEX TERRITORY TO THE DEL PASO NUEVO LANDSCAPING COMMUNITY FACILITIES DISTRICT NO. 2006-06 AND TO LEVY A SPECIAL TAX WITHIN THE ANNEXED TERRITORY TO FINANCE LANDSCAPING MAINTENANCE SERVICES (ANNEXATION NO. 01)**

#### **BACKGROUND:**

- A. The City Council (the "Council") of the City of Sacramento (the "City") has previously established the Del Paso Nuevo Community Facilities District No. 2006-06 (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 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 A. Exhibit A 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 "Del Paso Nuevo Landscaping Community Facilities District No. 2006-06, Annexation No. 01."
- Section 4. The District was formed solely to provide landscaping maintenance 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 B, 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 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 and related services, 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 Residential Units assigned to a parcel, at the per annum tax rates specified in Exhibit C, the "Rate and Method of Apportionment of Special Tax," attached hereto and incorporated herein by this reference. The rates shown in Exhibit C are maximum rates. The rates 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 landscaping maintenance and related services 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 6:00 p.m. on May 24, 2011, 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 parks maintenance 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 and related services to be financed under the Act and Chapter 3.124.
- Section 12. The Council directs the Supervising Engineer of the Department of Transportation 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 Sacramento Bulletin, 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.

**Table of Contents:**

Exhibit A: Area Map – 1 Page

Exhibit B: List of Authorized Services – 1 Page

Exhibit C: Rate and Method of Apportionment of Special Tax – 4 Pages

Adopted by the City of Sacramento City Council on April 21, 2011 by the following vote:

Ayes: Councilmembers Ashby, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy.

Noes: None.

Abstain: None.

Absent: Councilmember Cohn, and Mayor Johnson.

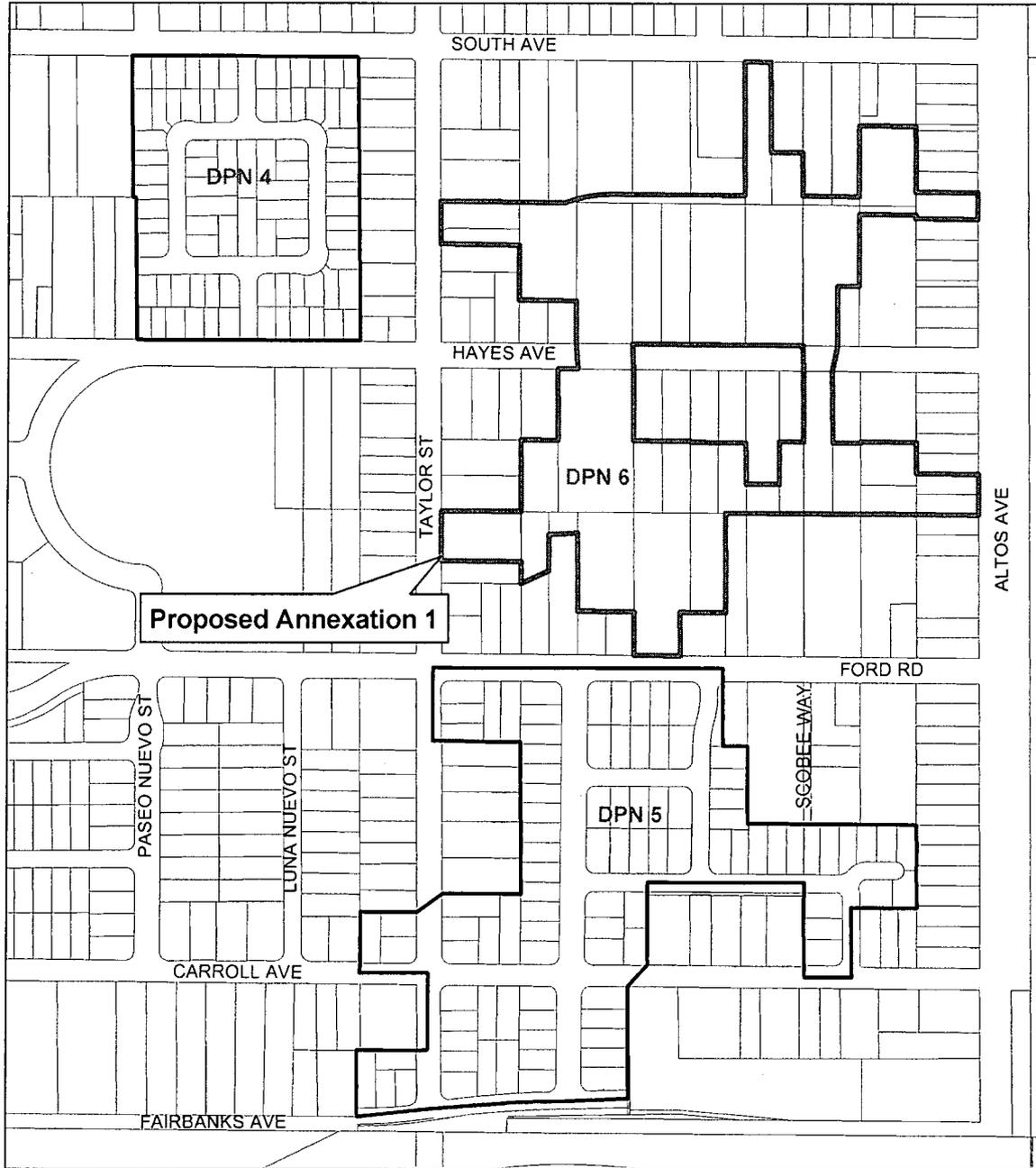
  
Bonnie Pannell, Vice-Mayor

Attest:

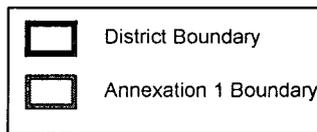
*for*   
Shirley Concolino, City Clerk

**EXHIBIT A  
AREA MAP**

**Del Paso Nuevo Landscaping CFD No. 2006-06  
Annexation 1 Del Paso Nuevo Phase 6**



6.I.S.  
City of  
Sacramento  
Department of Finance  
B Mueller  
03/29/11



## **EXHIBIT B**

City of Sacramento, California  
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 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, 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 C**

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. The Maximum Special Tax rate levied for Fiscal year 2010-11 is \$112.49 per SFD lot.

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.