

RESOLUTION NO. 2010-467

Adopted by the Sacramento City Council

August 5, 2010

ESTABLISHING THE REDDING AVENUE LANDSCAPING COMMUNITY FACILITIES DISTRICT NO. 2010-04; PROVIDING FOR THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE 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 has duly considered the advisability and necessity of establishing a community facilities district and levying a special tax therein to pay for landscape maintenance and related services to be provided within the District, under the Mello-Roos Community Facilities Act of 1982 (the Act) and chapter 3.124 of the Sacramento City Code ("Chapter 3.124").
- B. On June 15, 2010, the City Council adopted Resolution No. 2010-326 (the "Resolution of Intention") declaring its intention to establish boundaries of territory to be designated as the Redding Avenue Landscaping CFD No. 2010-04 (District).
- C. 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 District; and (3) all other matters set forth in the Resolution of Intention.
- D. A report on the proposal to establish the District was prepared by the City's Public Improvement Finance Manager of the Department of Finance 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 (Exhibit D).
- E. In accordance with the Resolution of Intention, a public hearing was scheduled for 6:00 p.m. on Tuesday, July 20, 2010, in the City Council's regular meeting place: City Council Chambers, New City Hall, 915 I Street, first floor, Sacramento, California. For reasons unrelated to the formation of the District, the public hearing was continued to August 5, 2010 and convened at the specified time of 6:00 p.m. in the City Council's regular meeting place: City Council Chambers, New 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 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 the District; the levy of the Special Tax; the extent of the territory; 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 53339.6, 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.

- F. 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 C** to this Resolution); and (2) the establishment of an appropriations limit for the District.

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 recitals set forth above are true.
- 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 C** 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 as set forth in **Exhibit B** 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 boundaries of the District are as set forth in **Exhibit A** to this Resolution, **Exhibit C to the Hearing Report**, and as recorded in the Office of the County Recorder, County of Sacramento on June 21, 2010 in Book 111 of Maps of Assessments and Community Facilities Districts at Page 0017, Document 20100621 0726.
- 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 C** 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 **Friday, August 13, 2010**, 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 XIII B, section 8, subdivision (h) of the California Constitution) in the amount of **\$10,000** 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 10. 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 4:30 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 (X) 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 (X) 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 City Clerk shall commence the canvass of the returns of the special election at **4:30 p.m. on Friday, August 13, 2010**, at the City Clerk's office, Historic 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, August 24, 2010, at 6:00 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 XIII B, 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 C**. 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 Manager, Public Improvement Financing, Finance Department of the City, 915 I Street, 3rd Floor, Sacramento, California 95814 (telephone 916-808-8788) 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 53340.2.

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

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Exhibit B: List of Authorized Services – 1 Page

Exhibit C: Rate and Method of Apportionment of Special Tax – 7 Pages

Attachment 1 to Exhibit C: Maximum Annual Special Tax Rates – 1 Page

Exhibit D: Hearing Report - 25 Pages

Adopted by the City of Sacramento City Council on August 5, 2010 by the following vote:

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

Noes: None.

Abstain: None.

Absent: Mayor Johnson.



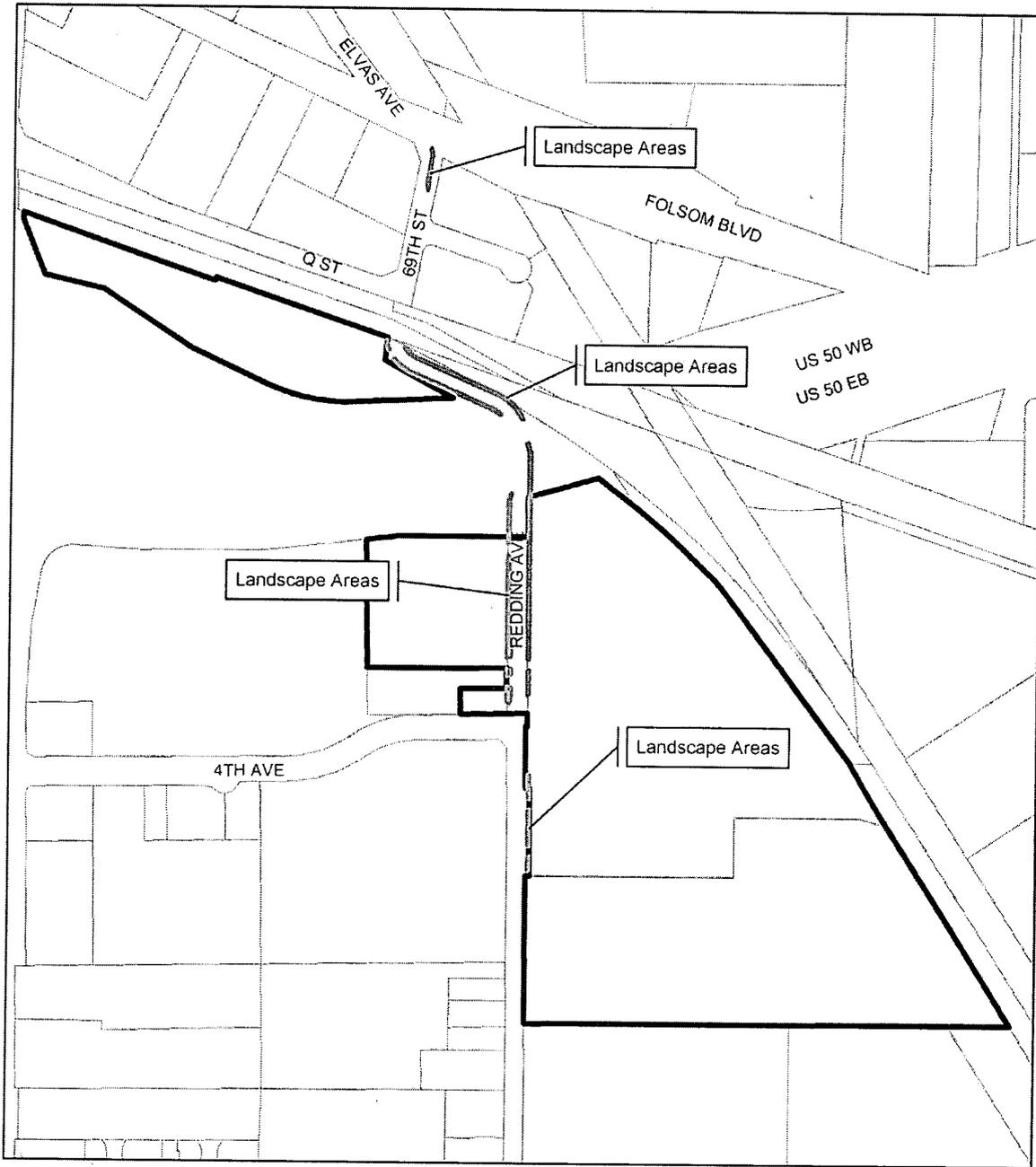
Vice Mayor Robbie Waters

Attest:

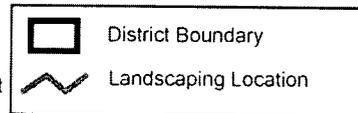
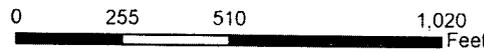


Shirley Concolino, City Clerk

Proposed Redding Avenue Landscaping CFD No. 2010-04



G.I.S.
City of
Sacramento
Department of Finance
E Mueller 5/28/10
Revised 6/10/10 CF



**Redding Avenue Landscaping Community Facilities District No. 2010-04
List of Authorized Services**

The authorized services to be financed with the special tax are set forth below. The special tax may be levied to pay for any authorized services or to accumulate funds for that purpose. The primary function of the District is to fund the maintenance of landscape areas within public rights-of-way.

The District's authorized services consist of 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. Scheduled inspection of maintenance of landscaped areas.
3. Paying utility bills associated with maintenance of landscaped areas.
4. Establishing the District.
5. Collecting and administering the special tax and annually administering the District.
6. Miscellaneous costs related to any of the items described above including planning, engineering, legal, and administration.

CITY OF SACRAMENTO
REDDING AVENUE LANDSCAPING COMMUNITY FACILITIES DISTRICT NO. 2010-04

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A special tax applicable to each assessor's parcel in the City of Sacramento Redding Avenue Landscaping Community Facilities District No. 2010-04 (the District) will be levied and collected according to the tax liability determined by the City Council, through the application of the appropriate amount or rate for each taxable parcel within the District, as described below. All taxable parcels will be taxed for the purposes, to the extent, and in the manner herein provided, including parcels subsequently annexed to the District unless a separate Rate and Method of Apportionment of Special Tax (an RMA) is adopted for the annexation area.

A. DEFINITIONS

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, chapter 2.5 of part 1 of division 2 of title 5 of the Government Code, commencing at section 53311.

“Administrator” means the person or firm designated by the City to administer the Special Tax 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 the District, 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. 2010-04.

“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.

“District” means the City of Sacramento Redding Avenue Landscaping Community Facilities District No. 2010-04.

“City” means the City of Sacramento.

“City Council” means the City Council of the City of Sacramento.

“County” means the County of Sacramento.

“Final Map” means a final map, or portion thereof, recorded pursuant to the Subdivision Map

Act (Government Code section 66410 *et seq.*) that creates individual parcels.

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

“**Improved Linear Footage**” means linear footage by parcel rounded up to the nearest whole foot of landscaped frontage.

“**Maximum Special Tax**” means the maximum Special Tax, determined in accordance with Section C below that can be levied on a parcel in any Fiscal Year.

“**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 pay the cost of providing authorized services.

B. DATA FOR ANNUAL ADMINISTRATION OF SPECIAL TAX

As of July 1 of each Fiscal Year, the Administrator shall (1) identify all parcels within the District, (2) determine the current Assessor’s Parcel number for each parcel, and (3) calculate the Special Tax Requirement for the Fiscal Year for each parcel.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all parcels within the District for Fiscal Year 2010/11 is \$3.1042 per linear improved foot. On July 1, 2011, and each July 1 thereafter, the Maximum Special Tax will be increased (but not decreased) using the prior April’s annual average for the Consumer Price Index – Urban Wage Earners and Clerical Workers (San Francisco / Oakland / San Jose) All Items. The maximum increase in any Fiscal Year may not exceed 4%.

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 is to be levied proportionately on each parcel up to 100% of the Maximum Special Tax for the Fiscal Year until the amount levied is equal to the Special Tax Requirement for the Fiscal Year. The Special Tax is to 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.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City Council, by resolution, may interpret this RMA to clarify any vagueness or ambiguity as it relates to the Special Tax rates, method of apportionment, classification of properties, or any definition applicable to the District.

G. APPEALS

Any taxpayer who contends that the amount of the Special Tax assigned to the taxpayer's parcel is in error may file a notice with the City appealing the levy of the Special Tax. City staff shall then promptly review the appeal and, if necessary, meet with the taxpayer. If City staff verifies that the Special Tax should be modified, then City staff shall recommend to the City Council that the Special Tax levy be corrected and, if applicable, that a refund be granted. The City Council's action on the recommendation will be final.