

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
LEVYING A SPECIAL TAX FOR THE PROPERTY TAX
YEAR 2022-2023 AND FUTURE TAX YEARS WITHIN AND
RELATING TO COMMUNITY FACILITIES DISTRICT NO. 18,
ANNEXATION NO. 002

WHEREAS, this Council of the City of Fresno (Council) on May 25, 2023, adopted Resolution No. 2023 - _____, a resolution of the Council annexing territory to Community Facilities District No. 18 as Annexation No. 002, authorizing the levy of a special tax therein to pay for certain facilities and services for Annexation No. 002, and preliminarily establishing an appropriations limit therefore (Annexation Resolution), pursuant to Article 3 of Chapter 8 of the Municipal Code of the City of Fresno and the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code; hereafter referred to as the Act); and

WHEREAS, by Council Resolution No. 2023-_____, the Council called a special election on the proposition of levying a special tax and establishing an appropriations limit within Annexation No. 002; and

WHEREAS, on May 25, 2023, an election was held within Annexation No. 002 and, as required by City Law, the ballot measure was passed and approved by more than two-thirds of the votes cast.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

1. Pursuant to City Law, and in accordance with the Rate and Method of Apportionment of Special Tax as shown in Exhibit B to the Annexation Resolution, which

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Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: [HT](#)

Ordinance No. _____

is attached hereto for reference purposes, a special tax is hereby authorized and levied on all taxable parcels within Annexation No. 002 for the 2022-2023 fiscal year and for each future fiscal year at the same or at a rate lower than the maximum rate of tax provided in Exhibit B to the Annexation Resolution. The special taxes levied in any fiscal year on any parcel within Annexation No. 002 shall not exceed the maximum special tax specified in Exhibit B of the Annexation Resolution, which is attached hereto for reference purposes.

2. The Finance Director or designee is hereby authorized and directed, with the aid of the appropriate officers and agents of the City of Fresno (City), to determine each fiscal year the Special Tax requirement (as that term is defined in Exhibit B of the Annexation Resolution), to prepare the annual special tax roll in the amount of Special Tax Requirement in accordance with said Exhibit B and, without further action of this Council, to provide all necessary and appropriate information to the County of Fresno (County) Auditor in the form, and within the time, necessary to effect the correct and timely billing and collection of the special tax on the secured property tax roll of the County. The special tax shall be levied and collected in the same manner, shall be subject to the same penalties and the same lien priority, and the same procedure and sale for delinquency, as for ad valorem taxes. Notwithstanding the foregoing, as set forth in the Annexation Resolution and City Law, this Council reserves the right to use any method of collecting the special tax, which the Council, from time to time, may determine to be in the best interests of the City including, without limitation, direct billing by the City to the property owners and supplemental billing. The Finance Director or designee is further authorized and directed to furnish the notices of special tax required by Section

53340.2 of the California Government Code.

3. The appropriate officers and agents of the City are further authorized and directed to adjust the special tax roll before the final posting of the special taxes to the County tax roll each fiscal year, as necessary to achieve a correct match of the special tax levy with the county assessor's parcel numbers finally used by the county in sending out property tax bills.

4. If a court of competent jurisdiction finds any part of this Ordinance to be invalid or the special tax to be inapplicable to or unreasonable for any particular parcel, the balance of this Ordinance and the application of the special tax to the remaining parcels shall not be affected and shall remain in full force and effect.

5. This Ordinance shall take effect and be in force immediately upon the date of final passage, as a tax measure, pursuant to City Charter, Article VI, Section. 610.

Attachment:

Exhibit B – Rate and Method of Apportionment of Special Tax

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Heather Thomas Date
Deputy City Attorney

EXHIBIT B
RATE AND METHOD OF APPORTIONMENT
FOR CITY OF FRESNO
COMMUNITY FACILITIES DISTRICT NO. 18
(PUBLIC SAFETY SERVICES)
Annexation No. 002

A Special Tax shall be levied and collected in City of Fresno Community Facilities District No. 18 (Public Safety Services) ("CFD No. 18") each Fiscal Year, in an amount determined by the application of the procedures below. All Taxable Property (as defined below) in CFD No. 18, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meaning:

"Accessory Dwelling Unit" or "ADU" means an "Accessory Dwelling Unit" as defined in California Government Code Section 65852.2 (j) (1), as may be amended from time to time, that is accessory to a single-unit dwelling. The ADU may be on the same Assessor's Parcel as the single-unit dwelling or on a separate Assessor's Parcel. For purposes of clarification, where an ADU and primary Unit are on the same Assessor's Parcel, the ADU located on such Assessor's Parcel is considered a separate Unit from the primary Unit on such Assessor's Parcel for purposes of the Special Tax. Should an Assessor's Parcel contain only an ADU, such Assessor's Parcel will be taxed as an ADU only.

"Acre or Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map or in the Assessor's Data for each Assessor's Parcel. In the event the Assessor's Parcel Map or Assessor's Data shows no Acreage, the Acreage for any Assessor's Parcel shall be determined by the CFD Administrator based upon the applicable final map, parcel map, condominium plan, or other recorded County parcel map. If the preceding maps are not available, the Acreage of an Assessor's Parcel may be determined utilizing GIS.

"Act" means, collectively, Article 3 of Chapter 8 of the Municipal Code of the City and the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State.

"Administrative Expenses" means the actual or reasonably estimated costs directly related to the administration of CFD No. 18 including, but not limited to, the following: the costs of computing the Annual Special Tax Requirement and of preparing the Special Tax collection schedules; the costs of collecting the Special Tax, including any charges levied by the County Auditor's Office, Tax Collector's Office or Treasurer's Office; the costs of the City or designee in complying with the disclosure requirements of the California Government Code (including the Act),

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including public inquiries regarding the Special Tax; the costs of the City or designee related to an appeal of the Special Tax; and the costs of commencing and pursuing to completion any action arising from any delinquent Special Tax in CFD No. 18. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 18 for any other administrative purposes, including, but not limited to, attorney's fees.

“Annual Services Costs” means the respective annual amounts determined by the CFD Administrator as reasonably needed to fund services authorized to be funded by CFD No. 18 for the applicable yearly period.

“Annual Special Tax Requirement” means that amount with respect to CFD No. 18 determined by the CFD Administrator or designee as required in any Fiscal Year to pay: (1) the Administrative Expenses, (2) the Annual Services Costs, (3) any amount required to establish or replenish any reserve or replacement fund established in connection with CFD No. 18, and (4) an amount equal to reasonably anticipated delinquent Special Tax based on the delinquency rate for any Special Tax levied in the previous Fiscal Year (or as projected by the CFD Administrator for the first Fiscal Year Special Tax levy).

“Assessor’s Data” means Units or other information contained in the records of the County Assessor for each Assessor’s Parcel.

“Assessor’s Parcel” or **“Parcel”** means a lot or parcel shown in an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor’s Parcel Map” means an official map of the Assessor of the County designating parcels by Assessor’s Parcel Number.

“Assessor’s Parcel Number” means, with respect to an Assessor’s Parcel, that number assigned to such Assessment’s Parcel by the County Assessor for purposes of identification.

“CFD Administrator” means an official of the City, or designee thereof, responsible for determining the Annual Special Tax Requirement and providing for the levy and collection of the Special Taxes.

“CFD No. 18” means the City of Fresno Community Facilities District No. 18 (Public Safety Services).

“City” means the City of Fresno, California.

“City Council” means the City Council of the City, acting as the legislative body of CFD No. 18.

“County” means the County of Fresno, California.

“County Assessor” means the County Assessor of the County.

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“Developed Property” means, in any Fiscal Year, all Taxable Property in CFD No. 18 for which a building permit for new construction was issued by the City prior to June 30 of the preceding Fiscal Year.

“Exempt Property” means all Assessors’ Parcels within the boundary of CFD No. 18 which are exempt from the Special Tax pursuant to Section E.

“Final Subdivision Map” means a subdivision of property created by recordation of a final subdivision map, parcel map or lot line adjustment, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) or recordation of a condominium plan pursuant to California Civil Code 4120, that creates individual lots for which residential building permits may be issued without further subdivision of such property.

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

“GIS” means a geographic information system.

“Maximum Special Tax” means the maximum Special Tax authorized to fund the Annual Special Tax Requirement in any Fiscal Year that may apply to Taxable Property as described in Section C.

“Multi-Family Residential Property” means, in any Fiscal Year, all Assessor’s Parcels of Developed Property with two or more Units that share a single Assessor’s Parcel Number, are offered for rent to the general public (or for resident manager purposes), and cannot be purchased by individual homebuyers, according to Assessor’s Data or as otherwise known by the CFD Administrator. Multi-Family Property also means, in any Fiscal Year, all Assessor’s Parcels of Developed Property with one Unit with a single Assessor’s Parcel Number that is a condominium pursuant the definition in Civil Code Section 4125 or a townhome.

“Open Space Property” means property within the boundaries of CFD No. 18 which (i) has been designated with specific boundaries and Acreage on a Final Subdivision Map as open space, (ii) is classified by the County Assessor as open space, (iii) has been irrevocably offered for dedication as open space to the federal government, the State, the County, the City, or any other public agency, or (iv) is encumbered by an easement or other restriction required by the City limiting the use of such property to open space.

“Property Owner’s Association” means any duly constituted property owner’s association. As used in this definition, a Property Owner’s Association includes any home-owner’s association, condominium owner’s association, master or sub-association or non-residential owner’s association.

“Property Owner’s Association Property” means any property within the boundaries of CFD No. 18 which is (a) owned by a Property Owner’s Association or (b) designated with specific boundaries and Acreage on a Final Subdivision Map as property owner association property.

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“Proportionately” means for Taxable Property that the ratio of the Special Tax levy to the Maximum Special Tax is equal for all Assessors’ Parcels of Taxable Property levied within each land use category within CFD No. 18.

“Public Property” means any property within the boundaries of CFD No. 18 which (i) is owned by a public agency, (ii) has been irrevocably offered for dedication to a public agency, or (iii) is designated with specific boundaries and Acreage on a Final Subdivision Map as property which will be owned by a public agency. For purposes of this definition, a public agency includes the federal government, the State, the County, the City, school districts, or any other public agency.

“Single Family Residential Property” means all Assessor’s Parcels Developed Property for which a building permit(s) has been issued for a residential structure intended as a single primary Unit, or as a single primary Unit and an ADU.

“Special Tax(es)” means the amount levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Annual Special Tax Requirement.

“State” means the State of California.

“Tax Zone” means a mutually exclusive geographic area within which the Special Tax may be levied pursuant to this Rate and Method of Apportionment. ***All the Taxable Property within CFD No. 18 at the time of its formation is within Tax Zone No. 1.*** Additional Tax Zones may be created when property is annexed to CFD No. 18, and a separate Maximum Special Tax shall be identified for property within each new Tax Zone at the time of such annexation. The Assessor’s Parcels included within a new Tax Zone when such Parcels are annexed to CFD No. 18 shall be identified by Assessor’s Parcel number in the annexation documents at the time of annexation.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 18 that are not exempt from the Special Tax pursuant to law or Section E below.

“Undeveloped Property” means all of the Assessor’s Parcels of Taxable Property within the boundaries of CFD No. 18 that are not Developed Property.

“Unit” means any individual, townhome, condominium, apartment, including each separate living area within a half-plex, duplex, triplex, fourplex, or other residential structure, including ADUs.

“Welfare Exempt Property” means, in any Fiscal Year, all Parcels within the boundaries of CFD No. 18 that have been granted a welfare exemption by the County under subdivision (g) of Section 214 of the Revenue and Taxation Code.

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B. DETERMINATION OF TAXABLE PARCELS

On, or about, July 1 of each Fiscal Year, the CFD Administrator shall determine the valid Assessor’s Parcel Numbers for all property within CFD No. 18. If any Assessor’s Parcel Numbers are no longer valid, the CFD Administrator shall determine the new Assessor’s Parcel Number or Numbers in effect for the then-current Fiscal Year. To the extent a Parcel or Parcels is/are subdivided, consolidated, or otherwise reconfigured, the Maximum Special Tax shall be assigned to the new Assessor’s Parcels Numbers pursuant to Section C. The CFD Administrator shall also determine: (i) the Tax Zone within which each Parcel is located; (ii) which Parcels are Taxable Property; (iii) the number of Units each Parcel contains; (iv) the property type, i.e., Single Family Residential Property, Multi-Family Residential Property, etc.; and (v) the Annual Special Tax Requirement for the Fiscal Year.

C. MAXIMUM ANNUAL SPECIAL TAX RATES

The Maximum Special Taxes for each Assessor’s Parcel of Taxable Property shall be assigned below:

1. Maximum Special Taxes

The Maximum Special Tax for each Assessor’s Parcel of Taxable Property within Tax Zone No. 1 shall be assigned according to Table 1 below:

**TABLE 1
MAXIMUM SPECIAL TAX RATES
TAX ZONE NO. 1 - FISCAL YEAR 2022-2023**

Land Use Category	Maximum Special Tax	Per
Single Family Residential Property	\$164.00	Unit
Multi-Family Residential Property	\$134.00	Unit
Accessory Dwelling Unit	50% of the applicable Maximum Special Tax Rate for the property type of the primary property land use	Unit

On July 1 of each Fiscal Year, the Maximum Special Taxes for Tax Zone No. 1 shall be adjusted upward annually by 2% or by the rise in the Construction Cost Index (CCI) if it exceeds 2% for the San Francisco Region.

Different Maximum Special Taxes and tax escalation factors may be identified in Tax Zones added to CFD No. 18 as a result of future annexations.

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D. METHOD OF APPORTIONMENT OF THE SPECIAL TAXES

All Taxable Property shall be subject to an annual Special Tax defined as follows. The Special Tax shall be levied each Fiscal Year by the CFD Administrator.

The Annual Special Tax Requirement shall be apportioned to each Parcel within CFD No. 18 by the method shown below.

First: Determine the Annual Special Tax Requirement.

Second: Levy the Special Tax on each Parcel of Developed Property, Proportionately, up to the applicable Maximum Special Tax.

Notwithstanding the foregoing, under no circumstances will the Special Taxes on any Assessor's Parcel of Developed Property be increased by more than 10% as a consequence of delinquency or default by the owner of any other Assessor's Parcel within CFD No. 18.

E. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on Undeveloped Property, Open Space Property, Property Owner's Association Property, Assessor's Parcels with public or utility easements making impractical their utilization for any use other than the purposes set forth in the easement, or Public Property, except as otherwise provided in Sections 53317.3, 53317.5 and 533401 of the Mello-Roos Community Facilities Act of 1982.

Welfare Exempt Property shall be exempt from the Special Tax in each Fiscal Year the property qualifies as Welfare Exempt Property.

F. APPEAL OF SPECIAL TAX LEVY

Any property owner may file a written appeal of the Special Tax with the CFD Administrator claiming that the amount or application of the Special Tax is not correct. The appeal must be filed not later than one calendar year after having paid the Special Tax that is disputed, and the appellant must be current in all payments of the Special Tax. In addition, during the term of the appeal process, all Special Tax levied must be paid on or before the payment date established when the levy was made.

The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination.

If the property owner disagrees with the CFD Administrator's decision relative to the appeal, the owner may then file a written appeal with the City Council whose subsequent decision shall be final and binding on all interested parties. If the decision of the CFD Administrator or subsequent decision by the City Council requires the

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Special Tax to be modified or changed in favor of the property owner, , then an adjustment shall be made to credit the Special Tax in future years.

This procedure shall be exclusive and its exhaustion by any property owner shall be a condition precedent to filing any legal action by such owner.

G. INTERPRETATIONS OF RATE AND METHOD OF APPORTIONMENT

The City Council may, by resolution or ordinance, interpret, clarify and/or revise this Rate and Method of Apportionment to correct any inconsistency, vagueness, or ambiguity as it relates to the Special Taxes, method of apportionment, the classification of Assessor's Parcels, or any definition used herein, as long as such correction does not materially affect the levy and collection of Special Taxes. In addition, the interpretation and application of any section of this document shall be at the CFD Administrator's discretion.

H. MANNER AND DURATION OF SPECIAL TAX

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided that the City may directly bill the Special Tax, may collect the Special Tax at a different time or in a different manner if needed to meet the financial obligations of CFD No. 18.

Special Taxes shall continue to be levied and collected within CFD No. 18, as needed to fund the Annual Special Tax Requirement, in perpetuity.

I. PREPAYMENT OF SPECIAL TAX

The Special Tax may not be prepaid.

J. REPEAL OF SPECIAL TAX

If the levy of the Special Tax is repealed by initiative or any other action participated in by the owners of Assessor's Parcels in CFD No. 18, the City shall cease to levy the Special Tax and shall cease to be obligated to provide the authorized services for which the Special Tax was levied. The obligations to provide the authorized services previously funded by the repealed Special Tax shall become the joint obligations of the property owners of Assessor's Parcels within CFD No. 18.