

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO TO ANNEX TERRITORY TO COMMUNITY FACILITIES
DISTRICT NO. 17 AND AUTHORIZING THE LEVY OF A
SPECIAL TAX FOR ANNEXATION NO. LS003

WHEREAS, on February 9, 2023, the Council of the City of Fresno adopted Council Resolution No. 2023-030 to Annex Final Tract Map No. 6299 to the City of Fresno, Community Facilities District No. 17 (CFD No. 17) and to authorize the levy of Special Taxes, pursuant to the City of Fresno Special Tax Financing Law (City Law), Chapter 8, Division 1, Article 3 of the Fresno Municipal Code; and

WHEREAS, Council Resolution No. 2023-030, incorporating a map of the area proposed for annexation to CFD No. 17 and stating the Services to be provided, the estimated maximum cost of providing such Services, and the Rate and Method of Apportionment of the Special Tax to be levied within Annexation No. LS003 of CFD No. 17 to pay for the Services (as hereafter defined) with respect to Annexation No. LS003 of CFD No. 17, is on file with the City Clerk and provisions thereof are incorporated herein by this reference as if fully set forth herein; and

WHEREAS, on this date, this Council held a noticed public hearing as required by City Law and Council Resolution No. 2023-030 concerning the annexation of territory to CFD No. 17; and

WHEREAS, at said hearing all interested persons desiring to be heard on all matters pertaining to the annexation of territory to CFD No. 17, the Facilities and Services to be provided therein and the levy of said special tax were heard; and

1 of 6

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: *HA*

Resolution No.

WHEREAS, at said hearing evidence was presented to this Council on the proposed annexation before it, including a report by the Public Works Director (District Report) as to the Services to be provided through CFD No. 17 and the costs thereof, a copy of which is on file with the City Clerk; and

WHEREAS, pursuant to Government Code Section 53339.6, the City Clerk or designee did not receive written protests with respect to the proposed annexation to CFD No. 17, the furnishing of specified types of Services or the Rate and Method of Apportionment of the Special Taxes therein, from any of the following (1) at least 50% of the registered voters or six registered voters, whichever is more, residing within the existing community facilities district; (2) at least 50% of the registered voters or six registered voters, whichever is more, residing within the territory proposed for annexation; (3) owners of at least one-half of the area of the land in the territory included in the existing community facilities district and not exempt from the special tax; or (4) owners of at least one-half of the area of land in the territory proposed for annexation and not exempt from the special tax; and

WHEREAS, the special tax proposed to be levied upon the territory, if annexed, to pay for the proposed Services, as set forth in Exhibit A hereto, has not been eliminated by protest of at least fifty percent (50%) or more of the registered voters residing within the territory proposed for annexation to CFD No. 17 or the owners of one-half or more of the area of land within the proposed annexation territory and not exempt from the special tax.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. **Recitals.** The foregoing recitals are true and correct.
2. **No Majority Protest.** The proposed special tax to be levied within the proposed annexation has not been precluded by majority protest pursuant to City Law.
3. **Prior Proceedings.** All prior proceedings taken by this Council in connection with the proposed annexation and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the requirements of City Law. This Council hereby finds and determines that the proposed annexation is in conformity with the goals and policies heretofore adopted by this Council with respect to the formation of CFD No. 17.
4. **Boundaries Described.** The boundaries of the proposed annexation, as set forth in the boundary map of the area proposed for annexation to CFD No. 17 heretofore recorded in Fresno County Recorder's Office in Book 46 at page 88 of Maps of Assessment and Community Facilities Districts, are hereby approved and incorporated herein by reference and shall be the boundaries of Annexation No. LS003.
5. **Services.** The type of public services and incidental expenses proposed to be financed by Annexation No. LS003 of CFD No. 17 and pursuant to City Law shall consist of those items listed as services and incidental expenses on page A-1 of Exhibit A in the District Report on file with the City Clerk (Services). A copy of which is attached as Exhibit A and incorporated herein by this reference.
6. **Special Taxes.** Except to the extent that funds are otherwise available to CFD No. 17 to pay for the Services, a special tax sufficient to pay the costs thereof, secured by a continuing lien against all non-exempt real property in CFD No. 17, including the territory to be annexed, will be levied annually within CFD No. 17, and collected in the

same manner as ordinary ad valorem property taxes or in such other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed Rate and Method of Apportionment of the Special Tax among the parcels of real property within the territory of the proposed annexation, in sufficient detail to allow each landowner within the territory of the proposed annexation to estimate the probable maximum amount such owner will have to pay, are described in the District Report on file with the City Clerk and attached hereto as Exhibit B and incorporated herein by this reference.

7. **Tax Collection Authority.** The Public Works Director of the City of Fresno or designee, 2600 Fresno Street, Fresno, California 93721, telephone number (559) 621-1492, is the officer who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and estimating future special tax levies pursuant to City Law.

8. **Tax Lien.** Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the proposed annexation area, and this lien shall continue in force and effect until the special tax obligation ceases and the lien canceled in accordance with law or until collection of the tax by the City ceases.

9. **Appropriations Limit.** In accordance with City Law, the annual appropriations limit as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the proposed annexation, is hereby preliminary established at \$500,000.00 and said appropriations limit shall be submitted to the voters of the proposed

annexation as hereafter provided. The proposition establishing said annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of City Law.

10. **Election.** Pursuant to the provisions of City Law, the levy of the special tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the proposed annexation at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

11. **Effective Date.** This Resolution shall be effective upon final approval.

- Attachments:
Exhibit A – Description of Services
Exhibit B – Rate and Method of Apportionment

* * * * *

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

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution 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: _____ Date
Deputy

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

BY: _____ Date
Heather Thomas
Deputy City Attorney

EXHIBIT A

City of Fresno

Community Facilities District No. 17 Sewer Lift Station Maintenance District Formation

Description of Services to be financed by Community Facilities District No. 17

The services (Services) that are to be financed by Community Facilities District No. 17 (CFD No. 17) are described below and are permitted by City of Fresno Special Tax Financing Law (Chapter 8, Division 1, Article 3 of the Fresno Municipal Code) and the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 commencing with Section 53311, of Part 1, Division 2, Title 5 of the California Government Code.)

- I. Services may include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing all operational equipment and infrastructure (including reserves for replacement) pertaining to a sewer lift station servicing properties within CFD No. 17.
- II. General maintenance will include, without limitation, repairing and replacing pumps, motors, belts, hardware, etc.

Maintenance costs will also include a proportionate share of all other expenses that the City of Fresno (City) may incur in administering CFD No. 17.

All Services shall be provided by the City, with its own forces or by contract with third parties, or any combination thereof, to be determined entirely by the City.

Nothing in this Exhibit A or any other exhibit or provision of this resolution shall be construed as committing the City or CFD No. 17 to provide all of the authorized Services or to provide for the payment of or reimbursement for all of the authorized incidental expenses. The provision of Services and/or payment or reimbursement of incidental expenses shall be subject to the continued existence of CFD No. 17 and the availability of sufficient proceeds of special taxes within CFD No. 17.

EXHIBIT A

City of Fresno

Community Facilities District No. 17 Sewer Lift-Station No. LS003

Description of Services to be Financed by Community Facilities District No. 17 for Final Tract Map No. 6299

The operations and reserves for the maintenance of certain required improvements (Services) that are to be financed by Community Facilities District No. 17 (CFD No. 17) for Final Tract Map No. 6299 are generally as described below.

The Services to be financed for Final Tract Map No. 6299 by CFD No. 17 shall include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing all operational equipment and infrastructure (including reserves for replacement) pertaining to the sewer lift station servicing Final Tract Map No. 6299 and its corresponding pressure main.

General maintenance will include, without limitation, repairing and replacing pumps, motors, belts, hardware, etc.

The sewer lift station and its maintenance and operation costs have the potential to be shared by other tracts that use this facility and would thereby annex into CFD No. 17.

Maintenance costs will include a proportionate share of all other expenses that the City of Fresno (City) may incur in administering CFD No. 17.

All Services shall be provided by the City, with its own forces or by contract with third parties, or any combination thereof, to be determined entirely by the City.

Nothing in this exhibit or any other exhibit or provision of the Resolution shall be construed as committing the City or CFD No. 17 to provide all of the authorized Services or to provide for the payment of or reimbursement of incidental expenses. The provision of Services and/or payment or reimbursement of incidental expenses shall be subject to the successful formation of CFD No. 17 and the availability of sufficient proceeds of Special Taxes within the District.

EXHIBIT B

City of Fresno

Community Facilities District No. 17 Annexation No. LS003

Rate and Method of Apportionment of Special Tax

ANNUAL MAINTENANCE COST ESTIMATE FOR SEWER LIFT-STATION

The estimate breaks down the costs of providing one-year's Service for FY 2022-2023.

ITEM	DESCRIPTION	ESTIMATED ANNUAL COST
1	Lift Station Operational Costs	\$8,200.00
2	Lift Station Operational Energy Costs	\$2,000.00
3	Reserve for Replacement	\$5,624.00
4	Incidental Expenses	\$2,445.00
Total:		\$18,269.00

Subdivision Appropriation Limit

FINAL TRACT MAP NO.	MAX. SPECIAL TAX PER RESIDENTIAL UNIT	TOTAL TAXABLE UNITS	APPROPRIATION LIMIT	SUBDIVIDER
6299	\$83.80	218	\$500,000.00	KB Homes

EXHIBIT B

City of Fresno

Community Facilities District No. 17 Annexation No. LS003

Rate and Method of Apportionment of Special Tax

A Special Tax applicable to each assessor's parcel in Community Facilities District No. 17 (CFD No. 17) shall be levied and collected according to the tax liability determined by the City Council of the City of Fresno, through the application of the appropriate amount or rate for taxable property, as described below. All of the property in CFD No. 17, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD NO. 17 unless, a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"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 of the County of Fresno designating parcels by assessor's parcel number.

"City" means the City of Fresno.

"City Law" means the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code.

"Commercial/Industrial Subdivision" means subdivisions zoned for commercial or industrial uses.

"Council" means the City Council of the City of Fresno, acting as the legislative body of CFD No. 17.

"Developable Lot" means a lot that is anticipated development of residential or nonresidential uses, and which is not an outlot, remainder parcel or other parcel which is not intended to be developed or which must be further subdivided before being developed.

"Development" means any assessor's parcel within the City of Fresno which is being developed for Industrial, Commercial, or Multi-Family purposes and requires a Building Permit.

EXHIBIT B

"Excluded Parcels" means those assessor's parcels identified as ineligible for inclusion in CFD No. 17 as shown in "Attachment 1" of this Rate and Method of Apportionment of Special Tax.

"Final Map" means a final map, or portion thereof, approved by the Council of the City of Fresno pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates individual developable lots for which building permits may be issued. The term "Final Map" shall not include any assessor's parcel map or subdivision map or portion thereof that does not create individual developable lots for which a building permit may be issued, including assessor's parcels that are designated as remainder parcels.

"Fiscal Year" means the period starting April 1 and ending on the following March 31.

"Incidental Expenses" means the expenses incurred in the proposed legal proceedings for formation of, or annexation into CFD No. 17 and implementation of the authorized Services from time to time, and will be payable directly from the proceeds of the special tax, includable in each annual special tax levy.

"Maximum Special Tax" means the maximum special tax, determined in accordance with Section C, which can be levied in any Fiscal Year.

"Public Property" means any property within the boundaries of CFD No. 17 that is owned by the federal government, the State of California, or other local governments or public agencies.

"Reserve for Replacement" means a reasonable reserve pursuant to Fresno Municipal Code 8-1-303(e) (4), as a service cost or expense and not as payment for public facilities under Government Code Section 53321(d).

"Residential Unit" means a residential dwelling unit and shall include single-family unattached homes, condominiums, town homes, duplex, triplex and fourplex units, and individual apartment units in a multi-family building. For purposes of the levy of special taxes pursuant to Section C below, "Residential Units" shall include dwelling units already built on taxable property in CFD No. 17, as well as dwelling units planned, but not yet built, when the special tax is levied each fiscal year.

"Special Tax" means any special tax to be levied each fiscal year on assessor's parcels of taxable property to fund the Special Tax Requirement as defined below.

"Special Tax Requirement" means the amount necessary in any fiscal year to (i) pay authorized maintenance and improvement expenses, (ii) pay authorized reserve amounts (iii) pay administrative expenses of CFD No. 17, 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.

EXHIBIT B

"Subdivision" means generally improved or unimproved land that is divided for the purpose of sale, lease, or financing in a final map, or portion thereof, approved by the Council pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates individual Developable Lots for which building permits may be issued. This includes Final Tract Maps, Final Parcel Maps, and also includes any development or project created by a document that permits construction of Commercial, Industrial, or Multi-Family improvements by but not limited to Final Tract Maps, Final Parcel Maps, Conditional Use Permits and Site Plans. "Subdivision" includes a condominium project, as defined in Section 4125 of the Civil Code, a community apartment project, as defined in Section 4105 of the Civil Code.

"Taxable Property" means all of the assessor's parcels within the boundaries of CFD No. 17 which are not exempt from the special tax pursuant to law or Section F below.

"Tract" means an area of land within a subdivision identified by a particular tract number on a Final Map approved for the subdivision.

B. CALCULATIONS

COMMERCIAL AND INDUSTRIAL DEVELOPMENTS OR SUBDIVISIONS

On or about April 1 of each fiscal year, the City of Fresno (City) or its designee shall determine how many square feet of taxable area are in each assessor's parcel within each commercial or industrial development or subdivision of CFD No. 17.

For commercial or industrial developments or subdivisions, the area to be taxed is the total area within each assessor's parcel of the subdivision or development not designated as public right-of-way and is not to exceed the Maximum Special Tax identified for the development or subdivision in Section C, Table 1 below.

RESIDENTIAL DEVELOPMENTS OR SUBDIVISIONS

On or about April 1 of each fiscal year, the City or its designee shall determine how many residential units are built or allowed to be built, on assessor's parcels within CFD No. 17.

For parcels of undeveloped property zoned for development of single-family units attached or multi-family units, the number of residential units shall be determined by referencing the condominium plan, apartment plan, site plan or other development plan, or by assigning the maximum allowable units permitted based on the underlying zoning for the parcel. Once a single-family building or multi-family building or buildings have been built on an assessor's parcel, and the special tax levied against the parcel in the next fiscal year shall be calculated by dividing the Special Tax Requirement by the actual number of residential units, not to exceed the Maximum Special Tax per residential unit identified for the final map in Section C, Table 1 below.

EXHIBIT B

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax (MST) applicable to each assessor's parcel in CFD No. 17 shall be specific to each development, subdivision, or portion thereof within CFD No. 17. When additional property is annexed to CFD No. 17, the rate and method adopted for the annexed property shall reflect the MST for the development, subdivision, or portion thereof then annexed.

The MST applicable to each development, subdivision, subdivisions, or portion thereof in CFD No. 17 shall be the rate that is created at the time of CFD No. 17 annexation expressly for the individual development, subdivision, subdivisions, or portion thereof being annexed to CFD No. 17 at that time. Beginning in January of each year, the MST may be adjusted upward annually at the discretion of the City with a limit of 3% plus the rise, if any, in the Construction Cost Index (CCI) for the San Francisco Region for the prior 12-month period (December through December) as published in the Engineering News Record, or published in a comparable index if the Engineering News Record is discontinued or otherwise not available. Each annual adjustment of the MST shall become effective on the subsequent July 1.

Subject to the maximum limit set by the MST, the Special Tax for the commercial, industrial or multi-family developments or subdivision assessor's parcels is calculated by spreading the Special Tax Requirement to the total taxable square footage of the development or subdivision and then apportioned proportionately by area to the individual assessor's parcels within the development or subdivision or by the number of residential units, as applicable.

Subject to the maximum limit set by the MST, the Special Tax for Residential Subdivision parcels is calculated by spreading the Special Tax Requirement to the total number of Residential Units, establishing a unit rate that is apportioned back to the individual parcels.

The Maximum Special Tax for Fiscal Year 2022-2023 for each residential unit in the Sewer Lift-Station No. LS003 boundaries for Final Tract Map No. 6299 is identified in Table 1 below:

EXHIBIT B

Table 1 Maximum Special Tax (Fiscal Year 2022-2023)*	
<i>Final Tract Map Number**</i>	<i>Maximum Special Tax</i>
6299	\$83.80 per Residential Unit
* Beginning in January of each year, the MST may be adjusted upward annually at the discretion of the City with a limit of 3% plus the rise, if any, in the Construction Cost Index (CCI) for the San Francisco Region for the prior 12-month period (December through December) as published in the <u>Engineering News Record</u>, or published in a comparable index if the <u>Engineering News Record</u> is discontinued or otherwise not available. Each annual adjustment of the MST shall become effective on the subsequent July 1. ** A Special Tax shall be levied on all parcels within an identified final map except excluded parcels as identified in Attachment 1.	

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal year 2022-2023, the Special Tax shall be levied on all taxable parcels as follows:

Step 1: Determine the Special Tax Requirement (as defined in Section A above) for the fiscal year in which the Special Tax will be collected;

Step 2: Calculate the total special tax revenues that could be collected from taxable property within CFD NO. 17 based on applying the Maximum Special Tax rates determined pursuant to Section C above to the number of residential units on each parcel of taxable property in CFD No. 17;

If the amount determined in Step 1 is greater than or equal to the amount calculated in Step 2, levy the Maximum Special Tax set forth in Table 3 or 4 above on all parcels of taxable property in CFD No. 17;

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax proportionately against all parcels of taxable property up to 100% of the Maximum Special Tax Requirement for that Fiscal Year.

The Special Tax for CFD No. 17 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 17 may (under the authority of Government code 53340), in any particular case, bill the taxes

EXHIBIT B

directly to the property owner off of the County of Fresno tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on parcels that have been conveyed to a public agency, except as otherwise provided in City Law, and properties receiving a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code. In addition, no Special Tax shall be levied on excluded parcels or parcels that are determined not to be developable lots.

EXHIBIT B

ATTACHMENT 1

City of Fresno

Community Facilities District No. 17
Annexation No. LS003

Excluded Parcels

**THERE ARE NO EXCLUDED PARCELS IN
FINAL TRACT MAP NO. 6299**