

BILL NO.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING AND MODIFYING ORDINANCE 2011-11, AND LEVYING A CHANGED MAXIMUM SPECIAL TAX FOR THE PROPERTY TAX YEAR 2010-2011 AND FUTURE TAX YEARS WITHIN AND RELATING TO COMMUNITY FACILITIES DISTRICT NO. 11, ANNEXATION NO. 37

WHEREAS, on March 31, 2011, the Council of the City of Fresno ("Council") adopted Ordinance No. 2011-53, authorizing the levy of a Maximum Special Tax for the property tax year 2010-2011 and future tax years within and relating to Annexation No. 37 of Community Facilities District No. 11 ("CFD No. 11"); and

WHEREAS, the levy of the Maximum Special Tax is to provide funding for the maintenance of certain public facilities and operations ("Services") for Annexation No. 37 by CFD No. 11; and

WHEREAS, on July 25, 2024, the Council adopted Resolution No. 2024 - _____, a resolution of the Council authorizing the amendment of Annexation No. 37, Final Tract Map No. 6410, of CFD No. 11 to change the types of Services, the rate and method of apportionment of the special tax and the Maximum Special Tax to be levied for Services for Annexation No. 37, therefore ("Authorization Resolution"), pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law") and the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 Part 1 of Division 2 of Title 5, commencing with Section 53311 of the California Government Code ("Mello-Roos"); and

1 of 5

Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:

255359v3



Ordinance No.

WHEREAS, by Resolution No. 2024 - _____ , the Council called a special election on the proposition changing the types of Services, the rate and method of apportionment of the special tax, and the levy of a Maximum Special Tax for Annexation No. 37; and

WHEREAS, on July 25, 2024, an election was held within Annexation No. 37 and, as required by City Law, the ballot measure was passed and approved by more than two-thirds of the votes cast; and

WHEREAS, all necessary procedures required by law have been taken to amend Annexation No. 37 to change the types of Services, the rate and method of apportionment of the special tax, and the Maximum Special Tax to be levied, without limitation, the procedures set forth herein.

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

1. Pursuant to City Law, and in accordance with the Revised Rate and Method of Apportionment of Special Tax as shown in Exhibit B to the Authorization Resolution, a changed Maximum Special Tax is hereby lawfully authorized after receiving an affirmative vote of more than two-thirds of the qualified electors for Annexation No. 37, to be levied on all taxable parcels within Annexation No. 37 for the 2024-2025 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 Authorization Resolution. By a resolution of this Council, the tax rate may be adjusted annually, subject to such maximum rate of tax. The special taxes levied in any fiscal year on any parcel within Annexation No. 37 shall not exceed the Maximum Special Tax specified in Exhibit B to the Authorization Resolution.

2. The Public Works Director or his designee is authorized and directed, with the aid of the appropriate officers and agents of the City of Fresno ("City of Fresno"), to

determine each year, the Special Tax Requirement (as that term is defined in Exhibit B of the Authorization 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 Authorization 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 Public Works Director or his designee is further authorized and directed to furnish the notices of special tax pursuant to Mello-Roos, Section 53340.2.

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 supersedes all prior ordinances in conflict herewith.

6. 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 – Revised 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 _____, 2024.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2024
Mayor Approval/No Return: _____, 2024
Mayor Veto: _____, 2024
Council Override Vote: _____, 2024

TODD STERMER, CMC
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

BY: _____
Brent Richardson Date
Deputy City Attorney

EXHIBIT B

City of Fresno

**Community Facilities District No. 11
Annexation No. 37**

REVISED

Rate and Method of Apportionment of Special Tax

Cost Estimate

The estimate breaks down the costs of providing 1 year's service for FY 2024-2025.

| ITEM | DESCRIPTION | ESTIMATED COST |
|-------------|-----------------------------|-----------------------|
| 1 | Landscape Operational Costs | \$17,716.00 |
| 2 | Other Operational Costs | \$643.00 |
| 3 | Reserve for Replacement | \$27,102.00 |
| 4 | Incidental Expenses | \$1,095.00 |
| | Total | \$46,556.00 |

Subdivision Appropriation Limit

| FINAL TRACT MAP NO. | MAX. SPECIAL TAX PER RESIDENTIAL UNIT | TOTAL TAXABLE UNITS | APPROPRIATION LIMIT | SUBDIVIDER |
|----------------------------|----------------------------------------------|----------------------------|----------------------------|-------------------|
| 6410 | \$637.74 | 73 | \$500,000.00 | DR Horton CA3 Inc |

EXHIBIT B

City of Fresno

Community Facilities District No. 11 Annexation No. 37

Rate and Method of Apportionment of Special Tax

A Special Tax applicable to each assessor's parcel in Community Facilities District No. 11 (CFD No. 11) 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. 11, 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. 11 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.

“Council” means the City Council of the City of Fresno, acting as the legislative body of CFD No. 11.

“Developable Lot” means a lot that is anticipated development of residential or non-residential 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.

“Excluded Parcels” means those assessor's parcels identified as ineligible for inclusion in CFD No. 11 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

EXHIBIT B

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.

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

"Proportionately" means, in any fiscal year, that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all assessor's parcels in CFD No. 11.

"Public Property" means any property within the boundaries of CFD No. 11 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. 11, as well as dwelling units planned, but not yet built, when the special tax is levied each fiscal year.

"Shared Services" means the costs of services are paid equally by the property owners of two or more subdivisions.

"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 administrative expenses of CFD No. 11, and (iii) 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.

"Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "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.

EXHIBIT B

“**Taxable Property**” means all of the assessor’s parcels within the boundaries of CFD No. 11 which are not exempt from the special tax pursuant to law or Section E below.

B. CALCULATION OF RESIDENTIAL UNITS

On April 1 of each fiscal year, the City of Fresno (City) or its designee shall determine how many residential units are built, or allowed to be built, on assessor’s parcels within CFD No. 11. For parcels of undeveloped property zoned for development of single-family units attached, 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 attached building or buildings have been built on an assessor’s parcel, the City or its designee shall determine the actual number of residential units contained within the building or buildings, 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.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax (MST) applicable to each assessor’s parcel in CFD No. 11 shall be specific to each final map within CFD No. 11. When additional property is annexed to CFD No. 11, the rate and method adopted for the annexed property shall reflect the MST for the final map or final maps then annexed. The Maximum Special Tax for Fiscal Year 2024-2025 for a residential unit within Final Tract Map No. 6410 is identified in Table 1 below:

| Table 1 Maximum Special Tax (Fiscal Year 2024-2025)* | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| <i>Final Tract Map Number**</i> | <i>Maximum Special Tax</i> |
| 6410 | \$637.74 per Residential Unit |
| <p>*Beginning in January of each year, the MST will be adjusted upward annually by 2% or by the rise of the Construction Cost Index (CCI), if it exceeds 2%, 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.</p> <p>** A Special Tax shall be levied on all parcels within an identified final map except excluded parcels as identified in Attachment 1.</p> | |

EXHIBIT B

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 2024-2025, 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. 11 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. 11;

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 1 above on all parcels of taxable property in CFD No. 11;

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 for each subdivision as identified in Table 1, until the amount of the Special Tax levy equals the Special Tax Requirement for that fiscal year.

The Special Tax for CFD No. 11 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 11 may (under the authority of Government Code 53340), in any particular case, bill the taxes 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. 11

Annexation No. 37

Excluded Parcels

**THERE ARE NO EXCLUDED PARCELS IN
FINAL TRACT MAP NO. 6410**