

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO ANNEX TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 11 AND AUTHORIZING THE LEVY OF A SPECIAL TAX FOR ANNEXATION NO. 90

WHEREAS, on November 29, 2018, the Council of the City of Fresno ("Council") adopted Council Resolution No. 2018-267 to Annex Final Tract Map No. 6165 to the City of Fresno, Community Facilities District No. 11 ("CFD No. 11") and to Authorize the Levy of Special Taxes, pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law"); and

WHEREAS, Council Resolution No. 2018-267, incorporating a map of the area proposed for annexation to CFD No. 11, and stating the Services (as hereafter defined) 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. 90 of CFD No. 11 to pay for the Services with respect to Annexation No. 90 of CFD No. 11, is on file with the City Clerk of the City of Fresno ("City Clerk"), and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

WHEREAS, on this date, this Council adopted Council Resolution No. 2019 - _____, approving a Modified District Report for Annexation No. 90 and modifying and amending Council Resolution No. 2018-267 to reflect the changes to the number and types of services that results in a increased probable special taxes to be paid by the owner of any lot or parcel within the land area proposed to be annexed; and

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



Resolution No.

WHEREAS, on this date, this Council held a noticed public hearing, as required by City Law and Council Resolution No. 2018-267, concerning the annexation of territory to the CFD No. 11; and

WHEREAS, at the hearing all interested persons desiring to be heard on the annexation of territory to the CFD No. 11, the facilities and services to be provided therein, and the levy of said special tax were heard; and

WHEREAS, at the hearing evidence was presented to this Council on the proposed annexation before it, including a Modified District Report by the Public Works Director ("District Report") as to the Services to be provided through the CFD No. 11 and the costs thereof, and a copy of the Modified District Report is on file with the City Clerk; and

WHEREAS, the City Clerk or designee did not receive written protests with respect to the proposed annexation, the specified types of services to be furnished therein, or the rate and method of apportionment of the special taxes therein, from at least fifty percent (50%) of the registered voters residing within the territory proposed to be annexed, or from property owners not exempt from the special tax and owning at least one-half ($\frac{1}{2}$) of the area of land within the proposed annexation; and

WHEREAS, the special tax proposed to be levied upon the territory, if annexed, to pay for the proposed Services (set forth in page A-1 of Exhibit A hereto), has not been eliminated through protest of at least fifty percent (50%) or more of the registered voters residing within the territory proposed for annexation, or through protests of landowners not exempt from the special tax and owning at least one-half ($\frac{1}{2}$) of the area of land within the proposed annexation.

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.** The Council duly considered all prior proceedings for the proposed annexation and the levy of the special tax therein, and finds and determines that the proceedings are valid and conform to the requirements of City Law. This Council finds and determines that the proposed annexation conforms to the goals and policies that this Council adopted respecting the formation of CFD No. 11.
4. **Boundaries Described.** The boundaries of the proposed annexation, set forth in the map of the area proposed for annexation to CFD No. 11, recorded in the Fresno County Recorder's Office in Book 45 at page 47 of Maps of Assessment and Community Facilities Districts, are approved, incorporated herein by reference, and shall be the boundaries of the Annexation No. 90.
5. **Services.** The types of public services proposed to be financed by Annexation No. 90 of CFD No. 11 and pursuant to City Law are those listed as services on page A-1 of Exhibit A in the District Report on file with the City Clerk (the "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. 11 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. 11, including the territory to be annexed, will be levied annually within CFD No. 11, and collected in the same manner as ordinary ad valorem property taxes or in any other manner as this Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportioning of the special tax among the real property parcels 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 must 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 his 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 non-exempt real property in the proposed annexation area. This lien shall continue in force and effect until the special tax obligation ceases and the lien is canceled in accordance with law or until collection of the tax by the City of Fresno 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 preliminarily 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 to establish 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 take effect upon its adoption.

Attachments:

Exhibit A - Description of Services

Exhibit B - Rate and Method of Apportioning of Special Tax

* * * * *

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

I, YVONNE SPENCE, 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 _____, 2019.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
John Hastrup / Deputy City Attorney

EXHIBIT A
CITY OF FRESNO

Revised

**Description of Services to be Financed by Community Facilities District No. 11
for Annexation No. 90**

1. The operations and reserves for the maintenance of certain required improvements (“Services”) that are to be financed for Final Tract Map No. 6165 of Annexation No. 90 by Community Facilities District No. 11 (“CFD No. 11”) are generally as described below:
 - a. The Services will include all costs (including reserves for replacement) attributable to maintaining, servicing, cleaning, repairing and/or replacing landscaped areas and trees in public street rights-of-way and public landscape easements.
 - b. General maintenance will include, without limitation, repairing and replacing irrigation systems as necessary; staking, pruning, replacing and spraying of trees and shrubs; removing litter, debris, and garbage.
 - c. Services shall include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing all ground level infrastructure (including reserves for replacement) within public easements and open spaces. Such facilities include, without limitation, concrete curbs and gutters, valley gutters, curb ramps and sidewalks, street name signage and all costs attributable to street lighting, and local street paving.

2. The shared costs for the Services provided for Outlot A (Park) of Final Tract Map No. 6165 and Trail Connection will be financed by Final Tract Map No. 6165 and Assessor’s Parcel Number 316-022-62 and 316-022-63 of Annexation No. 90 and are generally as described below:
 - a. The Services will include all costs (including reserves for replacement) attributable to maintaining, servicing, cleaning, repairing and/or replacing landscaped areas, trees, and irrigation systems; including, but not limited to, concrete pads and walkways, basketball court, Storm Tech Drainage System, park amenities and exercise equipment.

Maintenance costs will include a proportionate share of all other expenses that the City of Fresno (“City”) may incur in administering CFD No. 11.

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 this Resolution shall be construed as committing the City or CFD No. 11 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 successful annexation of Annexation No. 90 to CFD No. 11 and the availability of sufficient proceeds of Special Taxes within CFD No. 11.

EXHIBIT A

CITY OF FRESNO

Community Facilities District No. 11 Formation

Description of Services currently financed by Community Facilities District No. 11

The services that are to be financed ("Services") by Community Facilities District No. 11 ("CFD No. 11") are any and all Services defined 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 facilities, including hardscaping, in landscaped areas (may include reserves for replacement) in public street rights-of-way, public landscape easements, public trail areas, parkways, and other similar landscaped areas officially dedicated for public use.
- II. General maintenance will include, without limitation, mowing, edging, fertilizing, seeding, aerating, and watering grass areas; repairing and replacing irrigation systems as necessary; staking, pruning, replacing and spraying of trees and shrubs; repairing and replacing paths, walkways and trails; removing litter, debris, and garbage.
- II. Services may include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing all local ground level street infrastructure (may include reserves for replacement) within local street rights-of-way. Such facilities may include, without limitation, street paving, curbs and gutters, sidewalks, street lighting, hydrants, inlets, street trees and street furniture.
- III. Services may include costs attributable to police, fire, traffic control, street lighting and recreational services.

Maintenance costs will also include a proportionate share of all other expenses that the City of Fresno ("City") may incur in administering the CFD No. 11.

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 this resolution shall be construed as committing the City or CFD No. 11 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. 11 and the availability of sufficient proceeds of special taxes within the CFD No. 11.

EXHIBIT B

CITY OF FRESNO

Community Facilities District No. 11
Annexation No. 90

Rate and Method of Apportionment of Special Tax

1. MODIFIED ANNUAL MAINTENANCE COST ESTIMATE

The estimate breaks down the costs of one-year of Services to be provided by the City of Fresno Community Facilities District No 11 ("CFD No. 11"), commencing with Fiscal Year 2018-2019, for Annexation No. 90. Upon development, Assessor's Parcel Number 316-022-62 and Assessor's Parcel Number 316-022-63 shall share in the cost for all Services for Outlot A.

Table 1: Annexation No. 90 Annual Maintenance Service Cost Estimate

ITEM	DESCRIPTION – ANNUAL MAINTENANCE	ESTIMATED ANNUAL COST
1	<i>T6165 Landscape Operational Costs</i>	<i>\$17,657.00</i>
2	<i>T6165 Other Operational Costs</i>	<i>\$1,228.00</i>
3	<i>T6165 Reserve for Replacement</i>	<i>\$43,491.00</i>
4	<i>T6165 Incidental Expenses</i>	<i>\$3,120.00</i>
	<i>Subtotal Annual Cost = \$65,496.00</i>	
5	<i>Outlot A Park Operational Costs</i>	<i>\$72,573.00</i>
6	<i>Outlot A Park Reserve for Replacement</i>	<i>\$55,550.00</i>
	<i>Subtotal Annual Cost = \$128,123.00</i>	
	<i>Total Estimated Annual Expenses = \$193,619.00</i>	

2. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels within the boundaries of Annexation No. 90 of the City of Fresno Community Facilities District No 11 ("CFD No. 11"), other than Assessor's Parcels classified as Exempt Property as defined herein, and collected each Fiscal Year commencing in Fiscal Year 2018-2019, in an amount determined by the CFD Administrator through the procedures described below. All of the real property within Annexation No. 90, 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 meanings:

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"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part I, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or estimated costs incurred by the City, acting for and on behalf of the CFD as the administrator thereof, to determine, levy and collect the Special Taxes, including salaries of City employees and a proportionate amount of the City's general administrative overhead related thereto, and the fees of consultants and legal counsel providing services related to the formation and administration of the CFD; the costs of collecting installments of the Special Taxes; and any other costs required to form or administer the CFD as determined by the City.

"Annual Maintenance Cost Estimate" means the estimate of annual maintenance services for the improvements identified in Annexation No. 90 of CFD No. 11. Refer to Table 1: which provides a breakdown of costs for Services.

"Assessor's 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.

"Assigned Special Tax" means the annual special tax for Developed Property described in Section 3, Table 2 below.

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

"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.

"Development" means any assessor's parcel within the City of Fresno which is being developed for Single Family Residential, Multi-Family Residential, and/or Non-Residential or Commercial purposes and requires a Tentative Map, Conditional Use Permit or a Site Plan Review.

"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.

"Exempt Property" means all Assessor's Parcels within Annexation No. 90 of CFD No. 11 that are exempt from the Special Taxes pursuant to the City Law or Section 6 herein.

"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

EXHIBIT B

Section 66410 et seq.) that creates individual developable lots for which building permits may be issued without further subdivision. 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 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" refer to Exhibit C, Incidental Expenses, attached hereto and incorporated herein by this reference.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section A below, that may be levied in any Fiscal Year.

"Multi-Family Residential Property" means all Assessor's Parcels which a building permit has been issued for purposes of constructing a residential structure consisting of two or more residential dwelling units that share common walls, including, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartment units.

"Proportionately" means in any Fiscal Year, that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessors' Parcels of Taxable Property within each Land Use Class.

"Public Property" means any property within the boundaries of the CFD that is owned by or dedicated to the federal government, the State of California, the County, the City or any other public agency.

"Reserve for Replacement" means maintaining a reasonable reserve pursuant to the Fresno Municipal Code, Section 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 Property" means all Assessors' Parcels of Developed Property for which a building permit(s) has been issued for purposes of constructing one or more Residential Dwelling Units. Residential Property includes Single Family Residential Property and Multi-Family Residential Property.

"Single Family Residential Property" means all Assessors' Parcels for which a building permit(s) has been issued for purposes of constructing one single-family residential dwelling unit.

"Special Tax" means the Special Tax levied pursuant to the provisions of Sections 3 and 4C below in each Fiscal Year on each Assessor's Parcel of Developed Property and Undeveloped Property to fund the Special Tax Requirement.

"Special Tax Requirement" means the amount necessary in any Fiscal Year to pay the authorized costs for Services provided by CFD No. 11 for Annexation No. 90, (ii) pay Incidental Expenses of Annexation No. 90, (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.

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"State" means the State of California.

"Subdivision" means a division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized tax 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 1351 of the Civil Code, a community apartment project, as defined in Section 1351 of the Civil Code.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of Annexation No. 90 that are not exempt from the Special Tax pursuant to law or as defined below under Section E.

"Undeveloped Property" means, for each Fiscal Year that Assessor's Parcel Number 316-022-62 and/or Assessor's Parcel Number 316-022-63, Parcels B and C of Final Parcel Map No. 2016-05, is determined by the CFD Administrator to be Taxable Property not designated for development.

3. MAXIMUM SPECIAL TAX RATE

The Maximum Special Tax ("MST") applicable to each Assessor's Parcel in Annexation No. 90 shall be specific to the Developed Property and maintenance Services identified within the Annexation No. 90 proposed boundary. The Maximum Special Tax for each Assessor's Parcel designated as Developed Property, in any Fiscal Year, shall be the Assigned Special Tax shown below in Table 2.

Table 2
Assigned Special Tax for Annexation No. 90
Community Facilities District No. 11
Fiscal Year 2018-2019

No.	Description	Total Maximum Special Tax
1	Final Tract Map No. 6165 Improvements	Subtotal = \$65,496.00
2	Outlot A Park and Trail Connection	61.33% of Shared Park Costs = \$78,577.00
TOTAL =		\$144,073.00
ANNUAL COST PER (208) LOT =		\$692.66
3	APN 316-022-62	18.25% of Shared Park Costs = \$23,382.00
4	APN 316-022-63	20.42% of Shared Park Costs = \$26,164.00
Total Maximum Special Tax to be Collected =		\$193,619.00

Notes:

- ANNUAL ESCALATION OF MAXIMUM SPECIAL TAX:** Beginning in January 1st of each year, the MST may be adjusted upward annually by 3% plus the rise, if any, in the Construction Cost Index (CCI) for the San Francisco Region for the Prior 12 month period as published in the Engineering News Record, or

EXHIBIT B

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 date.

2. **UNDEVELOPED PROPERTY:** If Assessor's Parcel Number 316-022-62 or Assessor's Parcel Number 316-022-63 is determined to be Undeveloped Property, for any Fiscal Year, that parcel shall be exempt from the levy of the Special Tax.
3. **SHARED PARK COSTS AND TRAIL CONNECTION:** If Assessor's Parcel Number 316-022-62 or Assessor's Parcel Number 316-022-63 is determined to be Undeveloped Property, then the shared park costs and trail connection required shall be shared between the 208 lots of Final Tract Map No. 6165.

4. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 2018-2019, 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 Annexation No. 90 of CFD No. 11 based on applying the Maximum Special Tax rates determined pursuant to Section 3 above to each parcel of taxable property in Annexation No. 90 of 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 2 above on all parcels of taxable property in Annexation No. 90 of 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 as identified in Table 2, until the amount of the Special Tax levy equals the Special Tax Requirement for that fiscal year.

5. MANNER OF COLLECTION

The annual Special Taxes shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the Special Taxes may be billed and collected at a different time or in a different manner if necessary to meet the financial obligations of Annexation No. 90 of CFD No. 11.

6. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of

EXHIBIT B

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. In addition, no Special Tax shall be levied on excluded parcels (Tax Exempt Property) or parcels that are determined not to be Undeveloped Property.

EXHIBIT D

ATTACHMENT "1"

City of Fresno

Community Facilities District No. 11
Annexation No. 90

Excluded Parcels

**THERE ARE NO EXCLUDED PARCELS WITHIN
THE BOUNDARIES OF ANNEXATION NO. 90**