

BILL NO.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2018-2019 AND FUTURE TAX YEARS WITHIN AND RELATING TO COMMUNITY FACILITIES DISTRICT NO. 11, ANNEXATION NO. 90

WHEREAS, on January 17, 2019, the Council of the City of Fresno ("Council") adopted Council Resolution No. 2019 - _____, a resolution of the Council annexing territory to Community Facilities District No. 11 as Annexation No. 90, authorizing the levy of a special tax therein to pay for certain facilities and services for Annexation No. 90, and preliminarily establishing an appropriations limit therefore ("Annexation 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

WHEREAS, by Council Resolution No. 2019 - _____, the Council called a special election on the proposition on levying a special tax and establishing an appropriations limit within Annexation No. 90; and

WHEREAS, on January 17, 2019, an election was held within Annexation No. 90 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 is attached hereto for reference purposes, a special tax is hereby authorized and levied on all taxable parcels within Annexation No. 90 for the 2018-2019 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. 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. 90 shall not exceed

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Date Adopted:

Date Approved

Effective Date:

City Attorney Approval:



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the maximum special tax specified in Exhibit B of the Annexation Resolution, which is attached hereto for reference purposes.

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"), to determine each 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 Public Works Director or his 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.

* * * * *

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

I, YVONNE SPENCE, 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 _____, 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 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>	
		<hr/> <i>Total Estimated Annual Expenses = \$193,619.00</i> <hr/>

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

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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

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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

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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**