

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, ANNEXING TERRITORY TO
COMMUNITY FACILITIES DISTRICT NO. 9 AND
AUTHORIZING THE LEVY OF A SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 9

ANNEXATION NO. 9

WHEREAS, on November 5, 2015, the Council of the City of Fresno ("Council") adopted Council Resolution No. 2015-198 to Annex the territory associated with Site Plan Review Application No. 2015-064, Assessor's Parcel Number 567-030-7S, to the City of Fresno, Community Facilities District No. 9 ("CFD No. 9") 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. 2015-198, incorporating a map of the area proposed for annexation to CFD No. 9, 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. 9 of CFD No. 9 to finance the Services with respect to Annexation No. 9 of CFD No. 9, 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 held a noticed public hearing, as required by City Law and Council Resolution No. 2015-198, concerning the annexation of territory to CFD No. 9; and



WHEREAS, at the hearing all interested persons desiring to be heard on the annexation of territory to CFD No. 9, the Services to be provided therein and the levy of said special tax were heard and a full fair hearing was held; and

WHEREAS, at the 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. 9 and the costs thereof, and a copy of the 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 types of Services, or the rate and method of apportionment of the special taxes filed by 50 percent (50%) or more of the registered voters residing within the territory proposed to be annexed or the owners of one-half ($\frac{1}{2}$) or more of the area of land within the territory proposed to be annexed and not exempt from the Special Tax; and

WHEREAS, the Special Tax proposed to be levied upon the territory proposed for annexation, to pay for the proposed Services to be financed therein, as set forth in Exhibit A Page A-2 and A-3 hereto, have not been eliminated by protest by fifty percent (50%) or more of the registered voters residing within the territory proposed for annexation or the owners of one-half ($\frac{1}{2}$) or more of the area of land within the proposed annexation 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.** 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 hereby finds and determines that the proposed annexation conforms to the Goals and Policies that this Council adopted respecting the formation of CFD No. 9.

4. **Boundaries Described.** The boundaries of the proposed annexation, set forth in the map of the area proposed for annexation to CFD No. 9, recorded in the Fresno County Recorder's Office in Book 44 at page 50 of Maps of Assessment and Community Facilities Districts, are approved, incorporated herein by reference, and shall be the boundaries of Annexation No. 9.

5. **Services.** The types of Services proposed to be financed by Annexation No. 9 of CFD No. 9 and pursuant to City Law shall consist of those items listed as Services on Exhibit A and Exhibit C in the District Report on file with the City Clerk (the "Services"), which also are attached hereto and incorporated herein by this reference.

6. **Special Taxes.** Except to the extent that funds are otherwise available to CFD No. 9 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. 9, will be levied annually within CFD No. 9, 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 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, 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 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 and Operations to be Financed by Community Facilities District No. 9

Exhibit B - Rate and Method of Apportionment 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 _____, 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Raj Singh Badhesha, Deputy City Attorney

EXHIBIT A

CITY OF FRESNO

Community Facilities District No. 9 Formation

Description of Services currently financed by Community Facilities District No. 9

The services and operations ("Services") that are to be financed by Community Facilities District No. 9 ("CFD No. 9") 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 landscaping facilities (including reserves), including stamped concrete paving in medians and landscaped areas in public street rights-of-way, public trails, and, in instances where a required sound wall abuts a local City street and public landscape easements are officially dedicated for public use.

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; repairing and replacing stamped concrete paving and 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 infrastructures (including reserves) within local street rights-of-way. Such facilities may include, without limitation, street paving, curbs and gutters, sidewalks, street lighting, hydrants, inlets, street trees, street signage and street furniture.

Maintenance costs will also include a proportionate share of all other expenses that the City may incur in administering the CFD No. 9.

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

Nothing in this exhibit or any other exhibit or provision of this Resolution shall be construed as committing the City or CFD No. 9 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. 9 and the availability of sufficient proceeds of special taxes within the District.

EXHIBIT A

CITY OF FRESNO

Community Facilities District No. 9 Annexation No. 9

Description of Services to be Financed by Community Facilities District No. 9 For Annexation No. 9 Site Plan Review Application No. 2015-064

The services and operations described below ("Services") to be financed by Community Facilities District No. 9 ("CFD No. 9") for the development associated with Site Plan Review Application No. 2015-064, Assessor's Parcel Number 567-030-7S, Annexation No. 9 are generally as described below and herewith Exhibit C, page C-3.

Services shall include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing certain ground level infrastructure (including reserves for replacement) within the public easements associated with this development. Such facilities include, without limitation, concrete curbs and gutters, valley gutters, curb ramps and sidewalks; street lighting, and local street paving associated with this development.

Services shall include all costs attributable to street lighting services.

Services may include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing all landscaping facilities (including reserves) in public street rights-of-way.

General maintenance may include, without limitation, repairing and replacing irrigation systems as necessary; staking, pruning, replacing and spraying of trees and shrubs; and removing litter, debris, and garbage.

Maintenance costs will also include a proportionate share of all other expenses that the City may incur in administering the CFD No. 9.

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

Nothing in this exhibit or any other exhibit or provision of this Resolution shall be construed as committing the City or CFD No. 9 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 9 to CFD No. 9 and the availability of sufficient proceeds of Special Taxes within CFD No. 9.

CITY OF
FRESNO
PUBLIC WORKS DEPARTMENT
TRAFFIC AND ENGINEERING SERVICES DIVISION
FEATURES TO BE ADDED BY ANNEXATION NO. 9
COMMUNITY FACILITIES DISTRICT NO.

Site Plan Review Application No. 2015-064



NOT TO SCALE
October 5, 2015



INTERIOR PAVEMENT:
TOTAL AREA = 3,973 SF

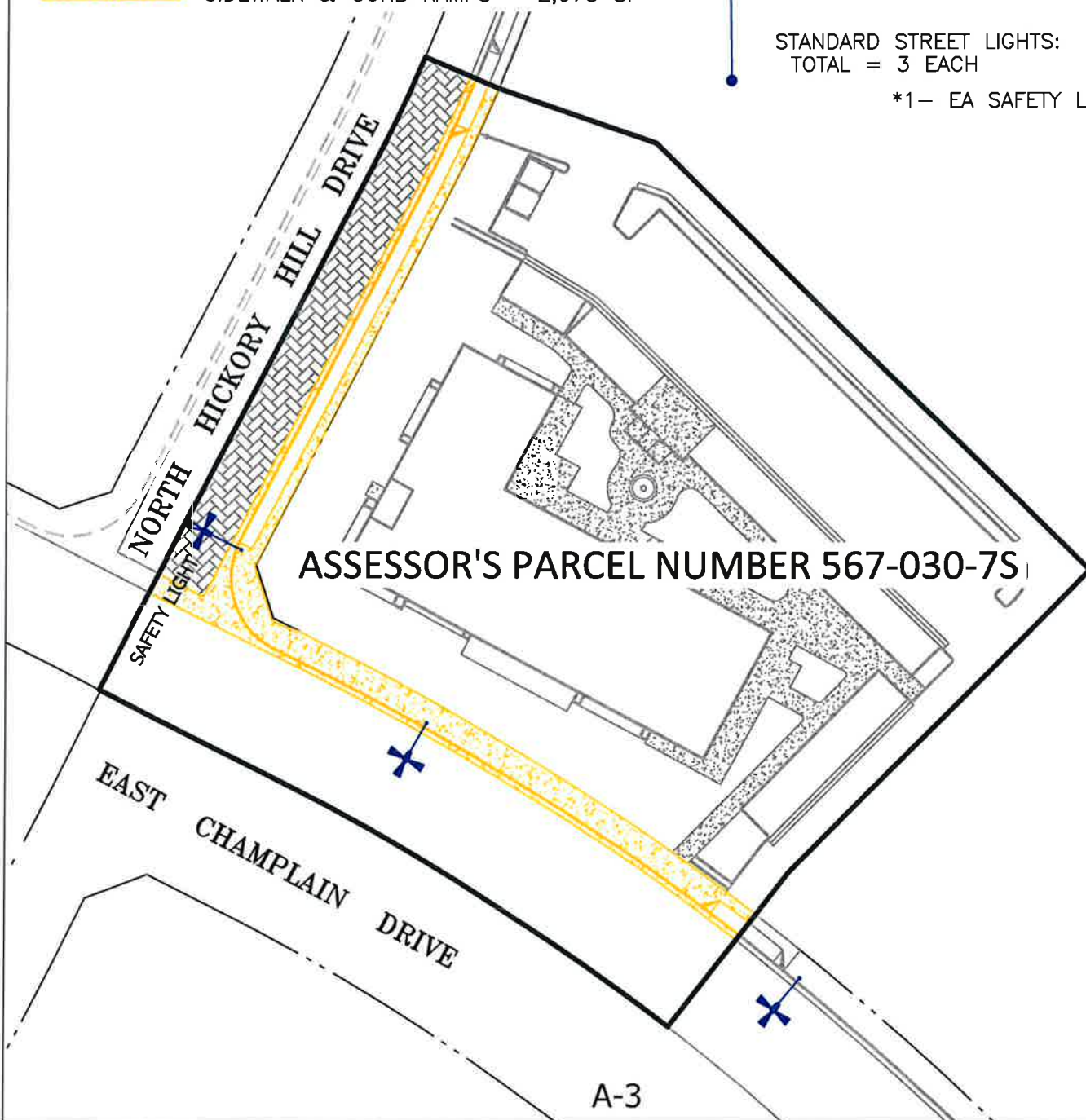


CONCRETE IMPROVEMENTS:
CURB & GUTTER = 443 LF
VALLEY GUTTER = 372 SF
SIDEWALK & CURB RAMPS = 2,975 SF



STANDARD STREET LIGHTS:
TOTAL = 3 EACH

*1- EA SAFETY LIGHT



A-3

EXHIBIT B

CITY OF FRESNO

Community Facilities District No. 9 Annexation No. 9

Rate and Method of Apportionment of Special Tax

Cost Estimate

The estimate breaks down the costs of providing 1 year's Service for FY 2015-2016 for the certain improvements associated with the development of Assessor's Parcel Number 567-030-7S (Site Plan Review Application No. 2015-064).

ITEM	DESCRIPTION	ESTIMATED COST
1	Other Operational Costs	\$213.00
2	Reserve for Replacement	\$836.00
3	Incidental Expenses	\$15.00
Total		<u>\$1,064.00</u>

Subdivision or Development Appropriation Limit

Site Plan Review Application No.	Total Maximum Special Tax for Services	Appropriation Limit	Landowner
2015-064	\$1,064.00	\$500,000.00	VIA Champlain, Inc.

EXHIBIT B

City of Fresno

Community Facilities District No. 9 Annexation No. 9

Rate and Method of Apportionment of Special Tax

A special tax applicable to each assessor's parcel in Community Facilities District No. 9 ("CFD No. 9") 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. 9, 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. 9 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 or Industrial Developments or Subdivisions" means developments or 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. 9.

"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.

"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. 9 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 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.

“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. 9 that is owned by the federal government, 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 Development or Subdivision” means developments or subdivisions zoned for residential multi-family uses.

“Residential Unit” means a multi-family residential dwelling unit and shall include condominiums, town homes, duplex, triplex and fourplex units, and individual apartment units in a multi-family subdivision. For purposes of the levy of special taxes pursuant to Section B below, “Residential Units” shall include dwelling units already built on taxable property in CFD No. 9, 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. 9, 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.

EXHIBIT B

“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 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 CFD No. 9 which are not exempt from the special tax pursuant to law or Section E below.

B. CALCULATIONS

COMMERCIAL/INDUSTRIAL/MULTI-FAMILY DEVELOPMENTS/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 parcels within each commercial/industrial/multi-family development/subdivision of CFD No. 9.

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

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax (“MST”) applicable to each assessor’s parcel in CFD No. 9 shall be specific to each development/subdivision/portion thereof within CFD No. 9. When additional property is annexed into CFD No. 9, the rate and method adopted for the annexed property shall reflect the MST for the development or subdivision or subdivisions or respective portion thereof then annexed.

The MST applicable to each assessor’s parcel in CFD No. 9 shall be the rate that is created at the time of CFD No. 9 annexation expressly for the individual developments or subdivisions or portions thereof being annexed to CFD No. 9 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 development 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

EXHIBIT B

individual assessor's parcels within the development or subdivision or by the number of residential units as applicable.

The total Maximum Special Tax for Fiscal Year 2015-2016 for the development or subdivision is identified in Table 1 below:

Table 1 Maximum Special Tax (Fiscal Year 2015-2016)*	
<i>Assessor's Parcel Numbers**</i>	<i>Total Maximum Special Tax</i>
567-030-7S	\$1,064.00
**A Special Tax shall be levied on all assessor's parcels within an identified development or subdivision except excluded parcels as identified in Attachment 1.	

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 2015-2016, the Special Tax shall be levied on all parcels of taxable property 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. 9 based on applying the Maximum Special Tax rates determined pursuant to Section C above to each parcel of taxable property in CFD No. 9;

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. 9;

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. 9 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 9 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.

EXHIBIT B

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. 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. 9
Annexation 9

Excluded Parcels

**THERE ARE NO EXCLUDED PARCELS
WITHIN THE BOUNDARIES OF ANNEXATION NO. 9**

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, CALLING SPECIAL MAILED-
BALLOT ELECTION

COMMUNITY FACILITIES DISTRICT NO. 9

ANNEXATION NO. 9

WHEREAS, on November 5, 2015, the Council of the City of Fresno ("Council") adopted its Resolution No. 2015-198 to Annex the territory associated with Site Plan Review Application No. 2015-064, Assessor's Parcel Number 567-030-7S, to City of Fresno Community Facilities District No. 9 ("CFD No. 9") and to authorize the levy of special taxes; and

WHEREAS, Resolution 2015-198 identified the Services to be provided by Annexation No. 9 of CFD No. 9 and provided an estimate of the cost of providing those Services; and

WHEREAS, Resolution 2015-198 contemplated imposing a special tax upon those properties within Annexation No. 9 of CFD No. 9 receiving said Services; and

WHEREAS, a report has been filed with the City Clerk of the City of Fresno ("City Clerk") that describes the proposed rate and method or apportionment of the special tax among the parcels of real property proposed to be annexed to CFD No. 9 in sufficient detail to allow all interested parties to estimate the maximum amount each property owner must pay; and

WHEREAS, the levy of said proposed Special Tax shall be subject to the

1 of 7

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



Resolution No.

approval of the qualified electors of the territory proposed to be annexed to CFD No. 9 at a special election; and

WHEREAS, the Public Works Director has filed a Certificate (the "Certificate") in these proceedings providing that fewer than twelve (12) registered voters reside within the boundaries of the territory proposed for annexation to CFD NO. 9.

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

1. The levy of a special tax proposed in Resolution 2015-198 shall be submitted to the voters pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law").

2. The setting of the appropriations limit shall be submitted to the voters pursuant to City Law.

3. The two ballot items described above shall be combined into a single ballot measure pursuant to City Law. The ballot language shall be as shown on the ballot form attached as Exhibit A, which is hereby approved.

4. This Council accepts the Certificate of the Public Works Director filed in these proceedings and, based on the Certificate, finds that fewer than twelve (12) registered voters reside within the boundaries of the territory proposed to be annexed to CFD No. 9. Accordingly, under City Law the voters in this election shall be the landowners owning land within the territory proposed to be annexed to CFD No. 9.

5. The Council further finds that the landowners of record owning property within the territory proposed to be annexed to CFD No. 9 are those set forth in the attachment to the Certificate and that the attachment correctly sets forth how much

property owned by each landowner and the number of votes to which each is entitled.

6. This Council approves the form, attached as Exhibit B, entitled Waiver and Consent From Sole Property Owner Shortening Time Periods and Waiving Various Requirements for Conducting Mailed-Ballot Election in CFD No. 9, Annexation No. 9, City of Fresno, County of Fresno, State of California. This Council finds that the rights, procedures and time periods therein waived are solely for the protection of the voters, may be waived under City Law, and that the waiver constitutes a full and knowing waiver by any voter who has executed the form of these rights, procedures and time periods.

7. Accordingly, this Council calls the special election described herein and sets December 10, 2015, as Election Day. Pursuant to City Law, the election shall be conducted by mailed ballot.

8. The City Clerk or designee is directed to mail or to deliver the ballots, in the form of Exhibit A hereto, to the landowner(s) shown on the attachment to the Certificate. The City Clerk or designee shall fill in the names of the landowners and the number of votes to be cast on each ballot, according to the Certificate, before delivery or mailing.

9. The City Clerk or designee shall accept personal or mail delivery of the ballots at any time up to the hearing on December 10, 2015. Upon receipt of all eligible ballots, however, the City Clerk shall immediately close the election and declare the results to the Council.

Attachments:

- Exhibit A - Special Election Ballot
- Exhibit B - Waiver and Consent From Sole Property Owner

* * * * *

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 _____, 2015.

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Raj Singh Badhesha, Deputy City Attorney

EXHIBIT A

SPECIAL ELECTION BALLOT (Mailed-Ballot Election)

Community Facilities District No. 9 Annexation No. 9

This ballot is for the use of VIA Champlain, Inc., the sole landowner owning land (Assessor's Parcel Number 567-030-7S) within Community Facilities District No. 9, Annexation No. 9, City of Fresno, County of Fresno, State of California.

According to the provisions of the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the City of Fresno Municipal Code, and the resolutions of the City Council of the City of Fresno, the above-named landowner is entitled to cast two (2) votes on this ballot.

In order to be counted, the ballot must be returned prior to the hearing on December 10, 2015, to Yvonne Spence, CMC, City Clerk, City of Fresno, 2600 Fresno Street, Room 2133, Fresno, CA 93721.

Mailing by that date will not be sufficient. **The ballot must be physically received by the City Clerk prior to the deadline in order to be counted.**

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT, OR THE VOTER MAY WRITE NUMBERS IN THE SPACES PROVIDED

BALLOT MEASURE

Shall the City of Fresno (City) be authorized to levy a special tax, and finance the authorized services, and costs and expenses by and through its Community Facilities District No. 9, Annexation No. 9, all as specified in its Council Resolutions No. _____ and No. _____; and shall the appropriations limit for Community Facilities District No. 9 Annexation No. 9 be established in accordance therewith?

Number of Votes
YES

Number of Votes
NO

EXHIBIT A

CERTIFICATION

The undersigned is the authorized representative of the above-named landowner and is the person legally authorized and entitled to cast this ballot on behalf of the above-named landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2015.

Company Name: _____

By: _____

Print Name: _____

Print Title: _____

(Attach Notary Acknowledgment)

EXHIBIT B

**WAIVER AND CONSENT FROM SOLE PROPERTY OWNER
SHORTENING TIME PERIODS AND WAIVING VARIOUS REQUIREMENTS
FOR CONDUCTING MAILED-BALLOT ELECTION**

Community Facilities District No. 9, Annexation No. 9

The undersigned is the person legally entitled and authorized to cast the ballots as the authorized representative of the sole owner of the property (Assessor's Parcel Number 567-030-7S) in this mailed-ballot election to be conducted within Community Facilities District No. 9 Annexation No. 9, to determine, among other things, whether the rate and method of apportionment of the annual special taxes shall be approved.

The undersigned hereby waives any and all minimum time periods relative to the election pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law").

The undersigned hereby waives the preparation and distribution of an impartial analysis of the ballot measure, as well as arguments in favor and against, under the authority of City Law.

The undersigned hereby waives the requirement to publish notice of the election under City Law.

The undersigned hereby waives the requirements regarding the time to mail ballots to the qualified electors under Elections Code Section 4101, and agrees to accept either mailed service or personal service of the ballot.

The undersigned hereby waives the requirements regarding identification envelopes for the return of mailed ballots contained in City Law.

The undersigned hereby waives any and all defects in notice or procedure in the conduct of the election, whether known or unknown (other than the right to have ballots accurately counted), and states that the election is being expedited, pursuant to this waiver and consent, at the particular instance and request of the undersigned.

I declare, under penalty of perjury, under the laws of the State of California, that I am the person legally entitled and authorized to cast the ballot as the authorized representative of the landowner set forth in the first paragraph hereof, and to waive and consent to the above, that the foregoing waivers and consents are voluntarily given and that this declaration is executed on _____, 2015.

Company Name _____

By: _____

Print Name _____

Print Title _____

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA DECLARING ELECTION
RESULTS

COMMUNITY FACILITIES DISTRICT No. 9

ANNEXATION NO. 9

WHEREAS, on December 10, 2015, the Council of the City of Fresno ("Council") adopted Council Resolution No. 2015 - _____ calling a special mailed-ballot election on levying special taxes on land within, and on approving an annual appropriations limit for Annexation No. 9 to Community Facilities District No. 9 ("CFD No. 9"); and

WHEREAS, the Council has received, reviewed and hereby accepts the City of Fresno City Clerk's ("City Clerk") Canvass and Statement of Election Results, dated _____, 2015, a copy of which is attached as Exhibit A;

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

1. The Council finds and declares that: (a) the ballot measure on the levy of taxes and approval of an annual appropriations limit for Annexation No. 9, has been submitted to the qualified electors within the area of Annexation No. 9, pursuant to Council Resolution No. 2015 - _____, and (b) the ballot measure has been passed and approved by more than two-thirds of the votes cast, in accordance with City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno municipal Code ("City Law").

1 of 4

Date Adopted:

Resolution No.

Date Approved:

Effective Date:

City Attorney Approval:



2. The Council declares Annexation No. 9 to be fully formed and the property within Annexation No. 9, to be subject to the levy of the special taxes and the special tax lien described in Council Resolution No. 2015 - _____, annexing the territory associated with Site Plan Review Application No. 2015-064, Assessor's Parcel Number 567-030-7S, as Annexation No. 9, and authorizing the levy of a special tax therein, and Council Resolution No. 2008-351, approving the local goals and policies for Community Facilities District No. 9, as described in the Community Facilities District Report dated as of November 9, 2015, on file with the City Clerk.

3. The Council directs the City Clerk or designee to record a notice of special tax lien in the Office of the County Recorder, pursuant to City Law, no later than 15 days after this resolution is adopted.

Attachment:

Exhibit A - Canvas and Statement of Election Results

* * * * *

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 _____, 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Raj Singh Badhesha / Deputy City Attorney

EXHIBIT A

CANVAS AND STATEMENT OF ELECTION RESULTS

Community Facilities District No. 9

Annexation No. 9

I, YVONNE SPENCE, City Clerk of the City of Fresno, hereby certify:

I have personally received and assembled all ballots eligible to be cast in the special mailed-ballot, landowner election called by the Council of the City of Fresno ("Council") in its Council Resolution No. 2015-_____ on propositions to levy a special tax within and approve an appropriations limit for Community Facilities District No. 9, Annexation No. 9, and held on December 10, 2015. In accordance with my instructions contained in that Resolution, I hereby declare the election closed.

I personally, in the presence of members of City of Fresno staff representing the Public Works Department, as well as the City Clerk's Office, have counted the ballots and canvassed the returns of such election, and hereby certify that the result of that count is as follows and that the following total votes cast for and against such propositions, the total votes and the percentage of "yes" votes cast are true and correct.

Total Votes that could be cast	2
Total Votes Cast "Yes"	2
Total Votes Cast "No"	0
Total Votes Cast	2

The Votes cast "Yes" equal **100%** of the total votes cast.

I make this certification on _____, 2015.

ATTEST:
Yvonne Spence, CMC
City Clerk



By _____
Deputy

BILL NO.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, LEVYING A SPECIAL TAX FOR THE
PROPERTY TAX YEAR 2015-2016 AND FUTURE TAX
YEARS WITHIN AND RELATING TO COMMUNITY
FACILITIES DISTRICT NO. 9, ANNEXATION NO. 9

WHEREAS, on December 10, 2015, the Council of the City of Fresno ("Council") adopted Council Resolution No. 2015 - ____, a resolution of the Council annexing territory to Community Facilities District No. 9, Annexation No. 9, authorizing the levy of a special tax therein to pay for certain facilities and services to Annexation No. 9, 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. 2015 - _____, the Council called a special election on the proposition on levying a special tax and establishing an appropriations limit within Annexation No. 9; and

WHEREAS, on December 10, 2015, an election was held within Annexation No. 9 and, as required by City Law, the ballot measure was passed and approved by more than two-thirds of the votes cast.

THEREFORE, 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, a special tax is hereby authorized and levied on all taxable parcels within Annexation No. 9 for the 2015-2016 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. 9 shall not exceed the maximum special tax specified in Exhibit B to the Annexation Resolution.

1 of 3

Date Adopted:

Resolution No.

Date Approved:

Effective Date:

City Attorney Approval:



2. The Public Works Director or his designee is authorized and directed, with the aid of the appropriate officers and agents of the 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 _____, 2015.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Approval: _____, 2015
Mayor Approval/No Return: _____, 2015
Mayor Veto: _____, 2015
Council Override Vote: _____, 2015

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Raj Singh Badhesha / Deputy