

Regular Council Meeting
October 13, 2022

FRESNO CITY COUNCIL



Supplemental Packet

ITEM(S)

1-P (ID 22-1548)

RESOLUTION - Of Intention to Establish a Community Facilities District (Community Facilities District No. 18 - Public Safety Services) and future annexation area and to Authorize the Levy of a Special Tax; and setting the public hearing...

[TITLE TRUNCATED FOR SUPPLEMENTAL PACKET COVER PAGE]

Contents of Supplement

- Updated Staff Report
- Updated Resolution
- Updated Exhibit "D" - Notice of Public Hearing

Item(s)

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

RECEIVED
2022 OCT 11 P 2:5
CITY OF FRESNO
CITY CLERK'S OFFICE

STAFF REPORT

REPORT TO THE CITY COUNCIL

FROM: SCOTT L. MOZIER, PE, Director
Public Works Department

BY: ANDREW J. BENELLI, PE, City Engineer/Assistant Director
Public Works Department, Traffic Operations and Planning

MICHAEL VARGAS, Engineer I
Public Works Department, Traffic Operations and Planning

SUBJECT

RESOLUTION - Of Intention to Establish a Community Facilities District (Community Facilities District No. 18 – Public Safety Services) and future annexation area and to Authorize the Levy of a Special Tax; and setting the public hearing for Thursday, November 17, 2022 at 10:00am (T-6310, near the northwest corner of Dakota and Polk Avenues; T-6234, southwest corner of Dakota & Hayes Avenues; future annexation area encompasses entire City of Fresno) (Districts 1-7)

RECOMMENDATION

Adopt Resolution of Intention to establish a Community Facilities District (Community Facilities District No. 18 – Public Safety Services) and future annexation area and to Authorize the Levy of a Special Tax.

EXECUTIVE SUMMARY

The landowners have petitioned the City of Fresno (City) to establish Community Facilities District No. 18 – Public Safety Services (CFD No. 18) to provide funding for the Services (as hereafter defined) pertaining to policy and fire safety/protection/suppression services associated with the proposed developments. There are three annual maximum costs for these Services for the Fiscal Year 2022-2023: for a Single Family Residential Property is \$164.00 per unit, for a Multi-Family Residential Property is \$134.00 per unit, and for an Accessory Dwelling Unit is '50% of the applicable Maximum Special Tax Rate for the property type of the primary property land use'. T-6310 (APN 511-011-19) and T-6234 (APNs: 512-141-19, 512-141-13, 512-141-15 and 512-141-44) are located entirely within City limits. The Resolution of Intention begins the CFD formation process, sets the required public hearing for Thursday, November 17, 2022 at 10:00 am, and defines the steps required to establish a new CFD. (See attached Location Map).

BACKGROUND

Under the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code (City Law), the City Council, as the legislative body for the CFDs and any annexations thereto, has the authority to establish a CFD and annex property to a CFD.

The landowners of T-6310 (APN 511-011-19) and T-6234 (APNs: 512-141-19, 512-141-13, 512-141-15 and 512-141-44) have petitioned (including waivers) the City of Fresno to form a CFD to provide the

funding for the Services pertaining to police and fire safety/protection/suppression services associated with the planned developments. (See attached Location Map.)

The attached Resolution initiates the formation process, sets the public hearing on this matter for Thursday, November 17, 2022 at 10:00 am, sets the total Maximum Special Tax for the Public Safety Services to be provided by CFD No. 18 annually for Fiscal Year 2022-2023 at \$164.00 for single family residential, \$134.00 for multi-family residential, and '50% of the applicable Maximum Special Tax Rate for the property type of the primary property land use' for Accessory Dwelling Units; and sets the annual adjustment of the Special Tax to 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.

Formations of community facilities districts are permitted under City Law. The legislative body must follow certain prescribed procedures as outlined below:

- Adoption of a Resolution of Intention to Establish to CFD No. 18
- Required 7-day minimum Notice of Public Hearing
- Public hearing on Annexation and Levy of Special Tax
- Call a Special Mailed-Ballot Election on the proposed Special Tax
- Declare the Results of the Election
- Formal Adoption of Special Tax Levy (if election passes)

The attached Resolution has been approved as to form by the City Attorney's Office.

ENVIRONMENTAL FINDINGS

Pursuant to the definition in California Environmental Quality Act Guidelines Section 15378, this action is not a project.

LOCAL PREFERENCE

Local preference was not implemented, as this item does not include a bid or award of a construction or services contract.

FISCAL IMPACT

No City funds will be involved. All costs for services will be borne by the property owners within the subject tract.

Attachments:

Location Map

Resolution of Intention

RESOLUTION OF INTENTION

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FRESNO, STATE OF CALIFORNIA, DECLARING ITS
INTENTION TO ESTABLISH A COMMUNITY FACILITIES
DISTRICT AND FUTURE ANNEXATION AREA AND TO
AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN

CITY OF FRESNO
COMMUNITY FACILITIES DISTRICT NO. 18
(PUBLIC SAFETY SERVICES)

WHEREAS, under the terms of the City of Fresno Special Tax Financing law (Chapter 8, Division 1, Article 3 of the Fresno Municipal Code), (the “Code”) and the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following, California Government Code; hereafter referred to as the “Act”), the City Council of the City of Fresno (the “City”) may commence proceedings for the establishment of a community facilities district; and

WHEREAS, this City Council has received a Petition (including Waivers) from the landowners requesting that it establish a community facilities district under the Code and the Act to provide for the costs of police and fire safety/protection/suppression services, and this City Council now desires to commence proceedings to establish a community facilities district and future annexation area as described herein; and

WHEREAS, this City Council has previously adopted local goals and policies for the formation of community facilities districts within the City; and

WHEREAS, under the Code and the Act, this City Council is the legislative body for the proposed community facilities district and is empowered with the authority to establish the community facilities district and levy special taxes within the community facilities district; and

1 of 7

Date Adopted:
Date Approved:
Effective Date:
City Attorney Approval: **TWR**

Resolution No. _____

WHEREAS, this City Council now desires to proceed with the actions necessary to consider the establishment of the community facilities district.

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

1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

2. This City Council proposes to conduct proceedings to establish the community facilities district pursuant to the Code and the Act, and hereby determines that public convenience and necessity require the formation of the community facilities district and a future annexation area to fund public services.

3. The name of the proposed community facilities district is City of Fresno, Community Facilities District No. 18 (Public Safety Services) (the "District"). The name proposed for the territory proposed to be annexed into the CFD in the future is "City of Fresno Community Facilities District No. 18 ("Public Safety Services") (Future Annexation Area)" (the "Future Annexation Area").

4. The proposed boundaries of the District and Future Annexation Area are as shown on the map of the District on file with the City Clerk, a copy of which is attached hereto as Exhibit A, which Exhibit is by this reference incorporated herein. The proposed boundaries are hereby preliminarily approved. The City Clerk is hereby directed to record, or cause to be recorded, the map of the boundaries of the District and the Future Annexation Area in the office of the Fresno County Recorder no later than fifteen days after the adoption of this Resolution.

5. The type of services proposed to be funded by the District and Future Annexation Area by proceeds of the special tax shall consist of those services described in Exhibit B hereto, which Exhibit is by this reference incorporated herein (the “Services”).

The City Council hereby determines that the Services are necessary to meet increased demands for such services placed upon local agencies as the result of development occurring within the area of the District and the Future Annexation Area. The Services are in addition to those provided in the territory of the District and the Future Annexation Area as of the date hereof and will not supplant services already available within the territory of the District and the Future Annexation Area as of the date hereof.

6. Except where funds are otherwise available, a special tax sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the District, will be levied annually within the District and collected in the same manner as ordinary ad valorem property taxes or in such other manner as this City Council or its designee shall determine, including direct billing of the affected property owners. The proposed rate and method of apportionment of the special tax among the parcels of real property within the District, in sufficient detail to allow each landowner within the proposed District to estimate the maximum amount such owner will have to pay, is described in Exhibit C attached hereto, which Exhibit is by this reference incorporated herein. The special tax shall be levied perpetually until the collection of the special tax by the City ceases.

The City Council hereby determines that the Special Tax proposed to pay for Services to be supplied within the Future Annexation Area shall be equal to any special tax levied to pay for the same Services in the existing District, except that a higher or lower tax may be levied within the Future Annexation Area to the extent that the actual cost of providing the Services in the Future Annexation Area is higher or lower than the cost of providing those Services in the existing District. In so finding, City Council does not intend to limit its ability to levy a special tax within the Future Annexation Area to provide new or additional services beyond those supplied within the existing District.

7. This City Council finds that the provisions of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to ad valorem property taxes and schools financed by a community facilities district) are inapplicable to the District.

8. The levy of said proposed special tax shall be subject to the approval of the qualified electors of the District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballots among the landowners in the proposed District, with each landowner having one vote for each acre or portion of an acre of land such landowner owns in the District.

A special tax shall be levied in the Future Annexation Area only with the Unanimous Approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, without any requirement for further public hearings or additional proceedings.

9. Except as may otherwise be provided by law or the rate and method of apportionment of the special tax for the District, all lands owned by any public entity,

including the United States, the State of California, and/or the City, or any departments or political subdivisions of any thereof, shall be omitted from the levy of the special tax to be made to cover the costs and expenses of the Services and any expenses of the District.

10. The Director of Finance of the City is hereby directed to study the proposed Services and to make, or cause to be made, and file with the City Clerk a report required by Section 53321.5 of the Act presenting the following:

(a) A brief description of the Services.

(b) An estimate of the fair and reasonable initial annual cost of providing the Services, including the incidental expenses in connection therewith, any City administration costs and all other related costs.

Said report shall be made a part of the record of the public hearing provided for below. The Director of Finance may delegate to consultants the duty to perform the study and prepare the report.

11. Thursday, November 17, 2022, at 10:00 a.m. or as soon thereafter as the matter may be heard in the regular meeting place of this City Council at 2600 Fresno St, Fresno, CA 93721, or virtually as noticed by the City, are hereby appointed and fixed as the time and place when and where this City Council, as legislative body for the District, will conduct a public hearing on the establishment of the District and consider and finally determine whether the public interest, convenience, and necessity require the formation of the District and the levy of said special tax.

12. The City Clerk is hereby directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District.

The publication of said notice shall be completed at least seven (7) days before the date herein set for said hearing. The notice shall be substantially in the form of Exhibit D hereto.

13. This Resolution shall take effect immediately upon its adoption.

* * * * *

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

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2022.

AYES :
NOES :
ABSENT :
ABSTAIN :

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
RINA M. GONZALES
Interim City Attorney

By: _____
Taylor W. Rhoan Date
Deputy City Attorney

Attachments:

Exhibit A: Proposed Boundaries of the District
Exhibit B: Description of Services
Exhibit C: Rate and Method of Apportionment of Special Tax
Exhibit D: Notice of Public Hearing

EXHIBIT D – PUBLIC HEARING NOTICE

EXHIBIT D
NOTICE OF PUBLIC HEARING
CITY OF FRESNO

NOTICE IS HEREBY GIVEN that on **November 17, 2022**, at or after 10:00 A.M. in the City Council Chambers, City Hall, 2600 Fresno St #3620, Fresno, CA, or virtually as noticed by the City on its website and posted City Council Agenda, a Public Hearing will be conducted by the City Council of the City of Fresno at which time and place all persons may attend and be heard upon:

PROJECT: **City of Fresno**
 Community Facilities District No. 18 (Public Safety Services)

DESCRIPTION: **Establish an annual special tax to fund police and fire safety/protection/suppression services within the District, and establish a future annexation area.**

LOCATION: **APN(s): 511-011-19, 512-141-13, 512-141-15, 512-141-19 & 512-141-44**

APPLICANT(S): **BEAL GEORGE J & STERLENE JOY**
 1175 SHAW #104
 CLOVIS CA 93612

LENNAR HOMES OF CALIFORNIA INC
 8080 N PALM #110
 FRESNO CA 93711

FANUCCHI EDWARD L
 7069 N VAN NESS
 FRESNO CA 93711

On October 13, 2022, the City Council of the City of Fresno adopted a Resolution entitled “A Resolution of the City Council of the City of Fresno, State of California, Declaring Its Intention to Establish a Community Facilities District and Future Annexation Area and to Authorize the Levy of Special Taxes Therein” (the “Resolution of Intention”). Reference is hereby made to the Resolution of Intention on file in the office of the City Clerk of the City of Fresno for further particulars.

In the Resolution of Intention, the City Council declared its intention to form the City of Fresno Community Facilities District No. 18 (Public Safety Services) (the “District”) and City of Fresno Community Facilities District No. 18 (Public Safety Services) (Future Annexation Area) (the “Future Annexation Area”) to finance the costs of police and fire safety/protection/suppression services and appurtenant services as further identified in an exhibit to the Resolution of Intention. The proposed boundaries of the District and Future Annexation Area were identified in another exhibit to the Resolution of Intention, and the Resolution of Intention identified a proposed special tax to be levied on real property to be included in the District and Future Annexation Area to pay for the costs of the services.

In the Resolution of Intention, the City Council provided that the levy of the special tax will be subject to a mailed ballot election among the owners of land in the District. The City Council ordered the City’s Director of Finance to prepare a report on the District, and the City Council called for a public hearing on the District and Future Annexation Area.

At the hearing, the testimony of all interested persons or taxpayers for or against the establishment of the District and Future Annexation Area, the extent of the District and Future Annexation Area or the furnishing of specified types of services will be heard. Any person interested may file a protest in writing with the City Clerk. If fifty percent or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be included in the District, or the owners of one-half or more of the area of land in the territory proposed to be included in the District and not exempt from the special tax file written protests against the establishment of the District and the protests are not withdrawn to reduce the value of the protests to less than a majority, the City Council of the City shall take no further action to establish the District or authorize the special taxes for a period of one year from the date of the decision of the City Council, and if the majority protests of the registered voters or the landowners are only against the furnishing of a type or types of services within the District and Future Annexation Area, or against levying a specified special tax, those types of services, or the specified special tax, will be eliminated from the proceedings to form the District and Future Annexation Area.

Supporting documents are available at City Clerk's Office, 2600 Fresno St, Fresno, CA 93721, (559) 621-7650.

Written comments should be directed to the City Council through the City Clerk at 2600 Fresno St, Fresno, CA 93721.

PLEASE NOTE: Any person challenging any of the above actions in Court may be limited to raising only those issues that they or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City of Fresno at, or prior to, the public hearing.

Date: October 11, 2022

Signed:

Todd Stermer
City Clerk