

RESOLUTION NO. \_\_\_\_\_

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

COMMUNITY FACILITIES DISTRICT No. 9

ANNEXATION NO. 39

WHEREAS, on March 21, 2019, the Council of the City of Fresno ("Council") adopted Council Resolution No. 2019 - 049 calling a special mailed-ballot election on levying special taxes on land within, and on approving an annual appropriations limit for Annexation No. 39 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 \_\_\_\_\_, 2019, 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. 39, has been submitted to the qualified electors within the area of Annexation No. 39, pursuant to Council Resolution No. 2019 - \_\_\_\_\_, 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:

Date Approved:

Effective Date:

City Attorney Approval:



Resolution No.

2. The Council declares Annexation No. 39 to be fully formed and the property within Annexation No. 39, to be subject to the levy of the special taxes and the special tax lien described in Council Resolution No. 2019 -\_\_\_\_\_, annexing Assessor's Parcel Number 505-281-21 as Annexation No. 39, 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 April 4, 2019, 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.

\* \* \* \* \*

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

Attachment:

Exhibit A - Canvass and Statement of Election Results

## EXHIBIT A

### CANVASS AND STATEMENT OF ELECTION RESULTS

#### Community Facilities District No. 9

#### Annexation No. 39

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. 2019-\_\_\_\_\_ on propositions to levy a special tax within and approve an appropriations limit for Community Facilities District No. 9, Annexation No. 39, and held on May 2, 2019. 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 | 1 |
| Total Votes Cast "Yes"         | 1 |
| Total Votes Cast "No"          | 0 |
| Total Votes Cast               | 1 |

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

I make this certification on \_\_\_\_\_, 2019.

ATTEST:

Yvonne Spence, MMC CRM  
City Clerk



By \_\_\_\_\_  
Deputy

## EXHIBIT B

### CITY OF FRESNO

#### Community Facilities District No. 9 Annexation No. 39

#### Rate and Method of Apportionment of Special Tax

##### Cost Estimate

The estimate breaks down the costs of providing 1 year's Service for FY 2018-2019.

| ITEM  | DESCRIPTION             | ESTIMATED COST |
|-------|-------------------------|----------------|
| 1     | Other Operational Costs | \$20.00        |
| 2     | Reserve for Replacement | \$123.00       |
| 3     | Incidental Expenses     | \$15.00        |
| Total |                         | \$158.00       |

##### Subdivision or Development Appropriation Limit

| Development Permit No.              | Total Maximum Special Tax for Services | Appropriation Limit | Landowner        |
|-------------------------------------|----------------------------------------|---------------------|------------------|
| P18-002196                          | \$158.00                               | \$500,000.00        | Brighten Academy |
| Assessor's Parcel Number 505-281-21 |                                        |                     |                  |

## EXHIBIT B

### City of Fresno

#### Community Facilities District No. 9 Annexation No. 39

#### 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 AND INDUSTRIAL DEVELOPMENTS OR 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 or industrial development or subdivision of CFD No. 9.

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

#### **RESIDENTIAL SUBDIVISIONS**

On or about April 1 of each fiscal year, the City or its designee shall determine how many residential units are built, or allowed to be built, on assessor’s parcels within CFD No. 9. For parcels of undeveloped property zoned for development of multi-family units, the number of residential units shall be determined by referencing the condominium plan, apartment plan, site plan or other development plan, or by assigning the maximum allowable units permitted based on the underlying zoning for the parcel. Once a multi-family building or buildings have been built on an assessor’s parcel, the City or its designee shall determine the actual number of residential units contained within the building or buildings, and the special tax levied against the parcel in the next fiscal year shall be calculated by dividing the Special Tax Requirement by the actual number of residential units not to exceed the Maximum Special Tax per residential unit identified for the 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, subdivisions, or portion thereof within CFD No. 9. When additional property is annexed into CFD No. 9, the rate and



## EXHIBIT B

method adopted for the annexed property shall reflect the MST for the development, subdivision, subdivisions, or respective portion thereof then annexed.

The MST applicable to each development, subdivision, subdivisions, or portion thereof in CFD No. 9 shall be the rate that is created at the time of CFD No. 9 annexation expressly for the individual development, subdivision, subdivisions, or portion 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 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 2018-2019 for the development or subdivision is identified in Table 1 below:

| <b>Table 1</b><br><b>Maximum Special Tax</b><br><b>(Fiscal Year 2018-2019)*</b>                                                                                  |                                         |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|
| <b><i>Development or Subdivision Number**</i></b>                                                                                                                | <b><i>Total Maximum Special Tax</i></b> |
| P18-002196                                                                                                                                                       | \$158.00                                |
| Assessor's Parcel Number 505-281-21                                                                                                                              |                                         |
| **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 2018-2019, 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;

## EXHIBIT B

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.

### 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 39

Excluded Parcels

**THERE ARE NO EXCLUDED PARCELS  
WITHIN THE BOUNDARIES OF ANNEXATION NO. 39**