

AGENDA ITEM NO.

COUNCIL MEETING January 23, 2007

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

January 23, 2007

FROM: MICHAEL T. KIRN, PE, Assistant Director
Public Works Department

BY: ANN LILLIE, Senior Engineering Technician
Public Works Department

SUBJECT: PUBLIC HEARING REGARDING CITY OF FRESNO COMMUNITY FACILITIES
DISTRICT NO. 2, ANNEXATION NO. 132 (FINAL TRACT MAP NO. 5461)
(LOCATED IN DISTRICT 4)

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATIONS

1. Adopt Resolution Annexing Territory to Community Facilities District No. 2 and Authorizing the Levy of a Special Tax
2. Adopt Resolution Calling Special Mailed-Ballot Election
3. Adopt Resolution Declaring Election Results
4. Adopt Ordinance Levying a Special Tax for the Property Tax Year 2006-2007 and Future Tax Years Within and Relating to Community Facilities District No. 2, Annexation No. 132

EXECUTIVE SUMMARY

On December 12, 2006, the City Council adopted a resolution of intention to annex territory into Community Facilities District No. 2 (CFD No. 2) at the request of the owners of Final Tract Map No. 5461. This is the noticed public hearing to consider annexing Tract 5461 (see location map) into CFD No. 2 to finance (\$441.00/lot annually) maintenance of landscaping located within the street right-of-ways, landscape and trail easements and open spaces associated with the subdivision. If approved, the recommended Resolutions and Ordinance will levy a special tax on the properties in the subject Tract for the maintenance.

KEY OBJECTIVE BALANCE

The annexation balances the three key objectives of Customer and Employee Satisfaction, and Financial Management. The annexation allows for maintenance of landscaping adjacent to the proposed development. The annexation provides emphasis to financial management and customer service. By collecting the special tax, additional revenues are available to provide services that would otherwise not be provided. The City improves its visual corridors along major streets through the recommended action.

BACKGROUND

Final Tract Map No. 5461 (see attached location map) has combined map requirements of maintaining landscaping located within street right-of-ways, landscape and trail easements and open spaces and the developer has petitioned the City to be annexed into CFD No. 2 to comply with these requirements. Pursuant to this petition, the City Council adopted Resolution No. 2006-544 on December 12, 2006, declared its intention to annex the subject Tract into CFD No. 2 and set the public hearing for January

REPORT TO THE CITY COUNCIL

Public Hearing Regarding CFD No. 2, Annexation No. 132

January 23, 2007

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23, 2007 for formal consideration. The Resolution of Intention also directed preparation of an Engineer's Report describing the services and the cost of those services and this report is on file with the City Clerk.

If adopted by the Council, the attached ordinance would levy the proposed maximum special tax of \$441.00 per residential lot for FY06-07. The maximum special tax will be adjusted annually by 3% plus the increase, if any, in the construction cost index for the San Francisco Region.

The levy of the special tax is subject to approval by the qualified electors through a special election. Two additional resolutions are attached for Council consideration pertaining to this special election.

Today's public hearing has been duly noticed and the attached ordinance and resolutions have been approved as to form by the City Attorney's Office.

FISCAL IMPACT

No City General funds will be involved. All costs for the specified maintenance services will be borne by the property owners within the Tract.

DH/MTK/AL/al

c: PW File No. 9955

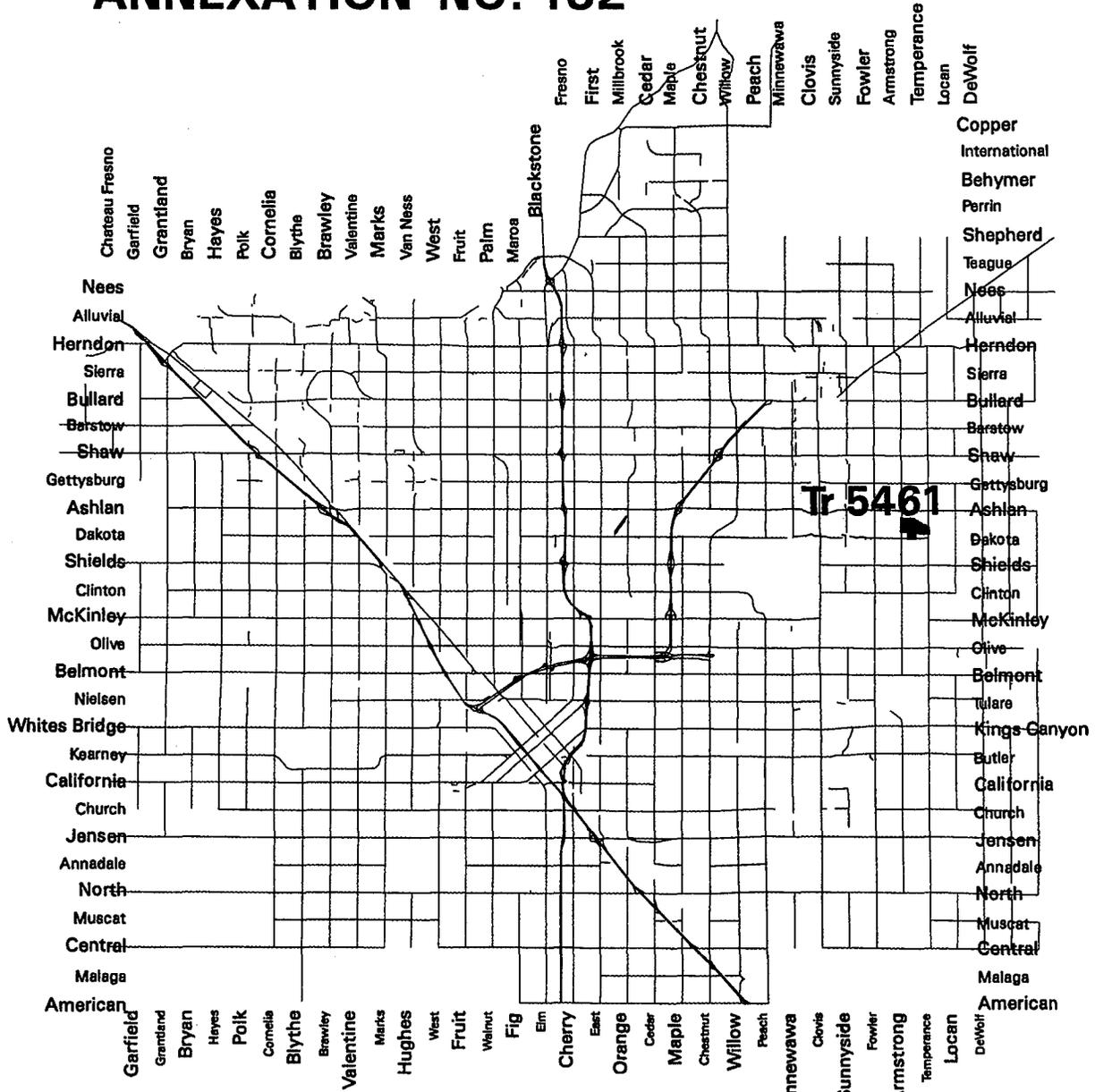
Attachments: 1. Location Map
 2. Feature Map
 3. Resolutions (3)
 4. Ordinance (1)

CFD2Annex132HRG.0123

COMMUNITY FACILITIES DISTRICT NO. 2 LOCATION MAP ANNEXATION NO. 132



December 01, 2006
City of Fresno Public Works

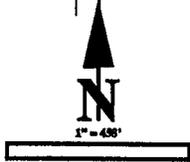
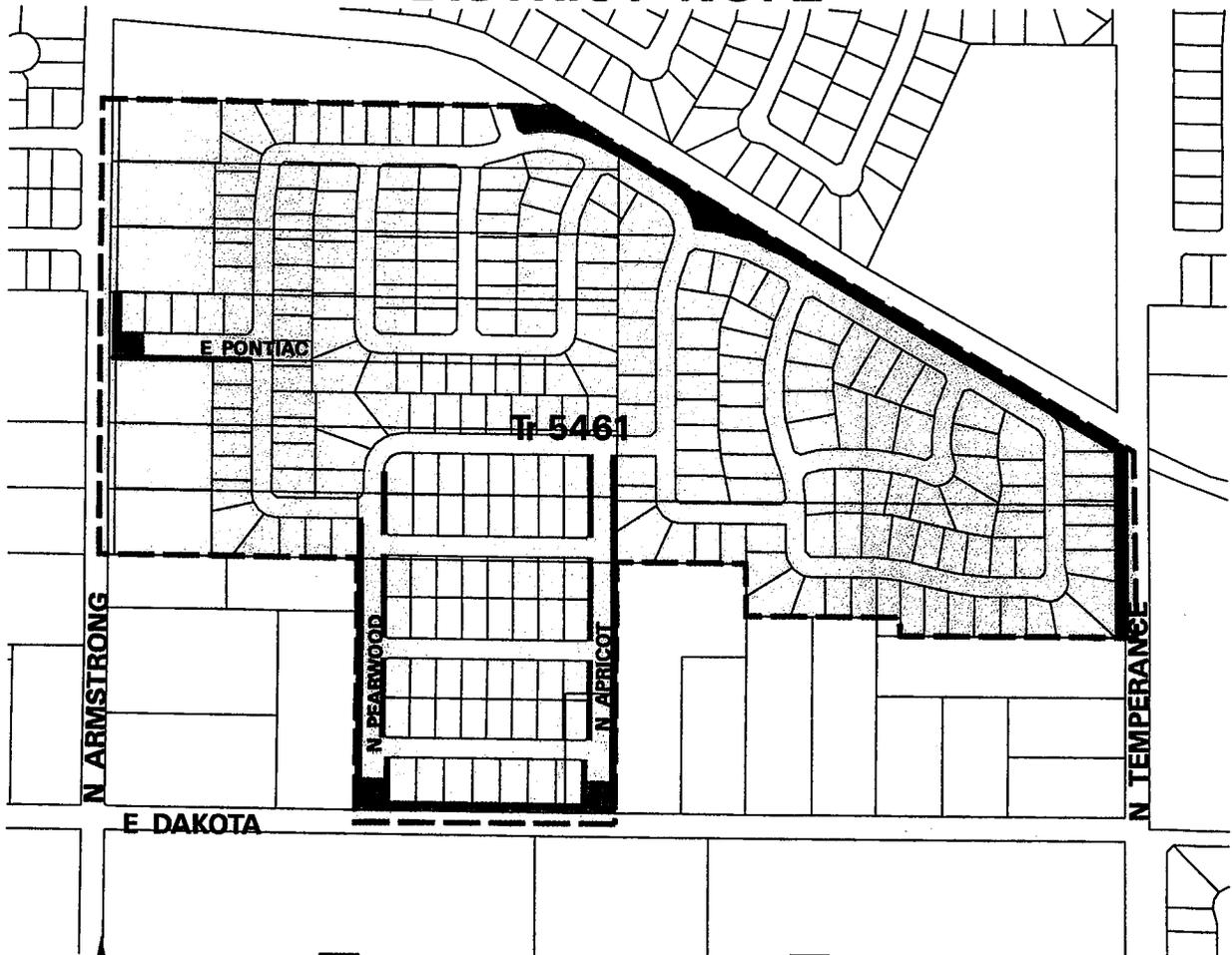


Tr 5461



PUBLIC WORKS DEPARTMENT / Technical Services

**FEATURES TO BE ADDED BY
ANNEXATION NO. 132 AND MAINTAINED BY
COMMUNITY FACILITIES
DISTRICT NO. 2**



December 01, 2006
City of Fresno Public Works



**DISTRICT MAINTAINED
LANDSCAPING**



**TRACT BOUNDARY
LINE**



**DISTRICT MAINTAINED STAMPED
CONCRETE PAVING**

No Phases

TRACT 5461



PUBLIC WORKS DEPT. / Technical Services

RESOLUTION NO. 2007 - _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO
ANNEXING TERRITORY TO COMMUNITY FACILITIES DISTRICT
NO. 2 AND AUTHORIZING THE LEVY OF A SPECIAL TAX

COMMUNITY FACILITIES DISTRICT NO. 2

ANNEXATION NO. 132

WHEREAS, on December 12, 2006, the Council of the City of Fresno adopted its Resolution of Intention to Annex Final Map of Tract No. 5461 to the City of Fresno, Community Facilities District No. 2 (CFD No. 2) and to authorize the levy of special taxes (Resolution of Intention), pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (Act); and

WHEREAS, the Resolution of Intention, incorporating a map of the area proposed for annexation to the CFD No. 2, and stating the Services (as hereafter defined) to be provided, the estimated maximum cost of providing such Services, and the rate and method of apportionment of the special tax to be levied within Annexation No.132 of CFD No. 2 to pay for the Services with respect to Annexation No.132 of CFD No. 2, is on file with the 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 the Act and the Resolution of Intention, concerning the annexation of territory to the CFD No. 2; and

WHEREAS, at the hearing all interested persons desiring to be heard on the annexation of territory to the CFD No. 2, the facilities and services to be provided therein, and the levy of said special tax were heard; and

WHEREAS, at the hearing evidence was presented to this Council on the proposed annexation before it, including a report by the Public Works Director (District Report) as to the services to be provided through the CFD No. 2 and the costs thereof, and a copy of the District Report is on file with the City Clerk; and

WHEREAS, the City Clerk did not receive written protests respecting the proposed annexation, the specified types of services to be furnished therein, or the rate and method of apportionment of the special taxes therein, from at least 50 percent of the registered voters residing within the territory proposed to be annexed, or from property owners (not exempt from the special tax) owning at least one-half the land area proposed to be annexed to the CFD No. 2; and

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

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF FRESNO AS FOLLOWS:

1. Recitals. The foregoing recitals are true and correct.
2. No Majority Protest. The proposed special tax to be levied within the proposed annexation has not been precluded by majority protest pursuant to Section 53339.6 of the Act.

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 with the requirements of the Act. This Council finds and determines that the proposed annexation conforms with the goals and policies that this Council adopted respecting the formation of CFD No. 2.

4. Boundaries Described. The boundaries of the proposed annexation, set forth in the map of the area proposed for annexation to the CFD No. 2, recorded in the Fresno County Recorder's Office in Book 42 at page 35 of Maps of Assessment and Community Facilities Districts, are approved, incorporated herein by reference, and shall be the boundaries of the CFD No. 2.

5. Services. The types of public services proposed to be financed by Annexation No.132 of CFD No. 2 and pursuant to the Act are those listed as services on page A-1 of Exhibit A in the report on file with the City Clerk (the "Services"). A copy of the Exhibit is attached and by this reference incorporated herein.

6. Special Taxes. Except to the extent that funds are otherwise available to the CFD No. 2 to pay for the Services, a special tax sufficient to pay the costs thereof, secured by a continuing lien against all nonexempt real property in the CFD No. 2, including the territory to be annexed, will be levied annually within the CFD No. 2, 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 real property parcels within the territory of the proposed annexation, in sufficient detail to allow each landowner

within the territory of the proposed annexation to estimate the probable maximum amount such owner must pay, are described in the report on file with the City Clerk and on attached Exhibit B that is by this reference incorporated herein.

7. Tax Collection Authority. The Public Works Director of the City of Fresno 2600 Fresno Street, Fresno, California 93721 telephone number (559) 621-8650 is the officer who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and who will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

8. Tax Lien. Upon recording 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 nonexempt 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 ceases.

9. Appropriations Limit. Following Section 53325.7 of the Act, 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 \$200,000.00 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 according to the applicable provisions of Section 53325.7 of the Act.

10. Election. Pursuant to the provisions of the Act, the proposition on levying the special tax and the proposition on establishing the appropriations limit specified above shall

Council Resolution No. 2007 - _____
Annex Territory and Levy Special Tax, CFD No. 2, Annexation No. 132

be submitted to the qualified electors of the proposed annexation at an election the time, place and conditions of which election shall be as specified by a separate resolution of this Council.

11. Effective Date. This Resolution shall take effect upon its adoption.

Attachments:

Exhibit A - Description of Services

Exhibit B - Rate and Method of Apportioning Special Tax

EXHIBIT "A"

CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2 ANNEXATION NO. 132

Description of Services to be Financed by Community Facilities District No. 2 for Annexation No. 132 (Final Tract No.5461)

The services that are to be financed by Community Facilities District No. 2 ("CFD No. 2") in Annexation No. 132 will include all costs of maintaining the landscaped areas in public street rights-of-way, landscape easements, trails, open spaces and other similar landscaped areas 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; 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. 2.

All of the above 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. 2 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 CFD No. 2 and the availability of sufficient proceeds of special taxes within the District.

EXHIBIT "A"

CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2

Description of Services currently financed by Community Facilities District No. 2

The services that are currently financed by Community Facilities District No. 2 ("CFD No. 2:") include costs of maintaining the landscaped areas in public landscape easements, public street rights-of-way (e.g., medians and parkways), public open spaces, public trail areas, and other similar landscaped areas officially dedicated for public use within those subdivisions identified on the boundary map and annexation maps of City of Fresno Community Facilities District No. 2, on file with the City Clerk of the City of Fresno.

Specifically, general maintenance of the above-described landscaped areas includes, without limitation, mowing, edging, fertilizing, seeding, aerating, and watering grass areas; repairing and replacing irrigation systems as necessary; staking, pruning, replacing and spraying trees and shrubs; removing litter, debris, and garbage.

In addition, Services within some tracts in CFD NO. 2, include all costs of cleaning, maintaining, repairing and/or replacing (may include reserves for replacement) certain facilities located within public street rights-of-way, street easements, public landscape easements, public trail areas, parkways, and other similar landscaped areas officially dedicated for public use: entry and exit gates, decorative entry wing walls and pilasters, decorative columns, decorative concrete pavement and tract entry and tract interior street lighting.

Maintenance costs also include a proportionate share all other expenses that the City incurs in administering CFD No. 2.

All of the above 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.

EXHIBIT "B"

CITY OF FRESNO

Community Facilities District No. 2
Annexation No. 132

Cost Estimate

The estimate breaks down the costs of providing 1 year's service for FY 06-07

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>ESTIMATED COST</u>
1	Maintenance	\$ 110,767.00
2	Annual Administrative Costs	
	a. Engineering	2,313.00
	b. Legal Services	<u>257.00</u>
	Total	\$ 113,337.00

Subdivision Appropriations Limit

TRACT	MAX. TAX PER EDU	NUMBER OF LOTS	APPROPRIATIONS LIMIT	Subdivider
5461	\$ 441.00	257	\$ 200,000.00	Dunmore Homes

EXHIBIT "B"

**City of Fresno
Community Facilities District No. 2
Annexation No. 132
Rate and Method of Apportionment of Special Tax**

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 2 (herein "CFD No. 2") 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. 2, 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. 2 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.

"Council" means the City Council of the City of Fresno, acting as the legislative body of CFD No. 2.

"Developable Lot" means, within any Final Map approved in the CFD, a lot that is anticipated for 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.

"Excluded Parcels" means those Assessor's Parcels identified as ineligible for inclusion in the CFD 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, that can be levied in any Fiscal Year.

EXHIBIT "B"

"Proportionately" means, in any Fiscal Year, that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor's Parcels in the CFD.

"Public Property" means any property within the boundaries of the CFD No. 2 that is owned by the federal government, State of California or other local governments or public agencies.

"Residential Unit" means a residential dwelling unit and shall include single family homes, condominiums, town homes, duplex, triplex and fourplex units, and individual apartment units in a multi-family building. For purposes of the levy of Special Taxes pursuant to Section C below, "Residential Units" shall include dwelling units already built on Taxable Property in the CFD, as well as dwelling units planned, but not yet built, when the Special Tax is levied each Fiscal Year.

"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. 2, 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.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2 which are not exempt from the Special Tax pursuant to law or Section E below.

"Tract" means an area of land within a subdivision identified by a particular tract number on a Final Map approved for the subdivision.

B. CALCULATION OF RESIDENTIAL UNITS

On 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 the CFD. For Parcels of undeveloped property zoned for development of single family attached or 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 single family attached or 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 multiplying the actual number of Residential Units by the Maximum Special Tax per Residential Unit identified for the Tract in Section C, Table 1 below.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax applicable to each Assessor's Parcel in CFD No. 2 shall be specific to each Tract within the CFD. When additional property is annexed into CFD No. 2, the rate and method adopted for the annexed property shall reflect the Maximum Special Tax for the Tract or Tracts then annexed. The Maximum Special Tax for Fiscal Year 2006-2007 for a Residential Unit within Tract 5461 is identified in Table 1 below:

EXHIBIT "B"

Table 1 Maximum Special Tax (Fiscal Year 2006-2007)*	
Tract Number**	Maximum Special Tax
5461	\$ 441.00 per Residential Unit

* Beginning in January 2007 the Maximum Special Tax shall be adjusted upward annually by 3 percent plus any increase in the construction cost index for the San Francisco Region for the prior 12-month period 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 Maximum Special Tax shall become effective on the subsequent July 1.

** A Special Tax shall be levied on all parcels within an identified Tract except Excluded parcels as identified in Attachment 1.

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 2006-2007, 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 the CFD based on applying the Maximum Special Tax rates determined pursuant to Section C above to the number of Residential Units on each Parcel of Taxable Property in the CFD;

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 the CFD.

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 Tract 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. 2 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 2 may (under the authority of government Code Section 53340), in any particular case, bill the taxes directly to the property owner off the County 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 Sections 53317.3 and 53317.5 of the Act. In addition, no Special Tax shall be levied on Excluded Parcels or Parcels that are determined not to be Developable Lots.

ATTACHMENT "1"

City of Fresno
Community Facilities District No. 2
Annexation No.132
Excluded Parcels within Each Tract

THERE ARE NO EXCLUDED PARCELS IN ANNEXATION NO. 132

RESOLUTION NO. 2007 - _____

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

COMMUNITY FACILITIES DISTRICT NO. 2

ANNEXATION NO. 132

WHEREAS, on December 12, 2006, the Council of the City of Fresno adopted its Resolution of Intention to Annex the Final Map of Tract No. 5461 to City of Fresno Community Facilities District No. 2 (CFD No. 2) and to authorize the levy of special taxes. (Resolution of Intention); and

WHEREAS, the Resolution of Intention identified the services to be provided by Annexation No. 132 of CFD No. 2 and provided an estimate of the cost of providing those services; and

WHEREAS, the Resolution of Intention contemplated the imposing a special tax upon those properties within Annexation No. 132 of CFD No. 2 receiving said services; and

WHEREAS, a report has been filed with the City Clerk of the City of Fresno that describes the proposed rate and method or apportionment of the special tax among the parcels of real property proposed to be annexed to the CFD No. 2 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 approval of the qualified electors of the territory proposed to be annexed to the CFD No. 2 at a special election.

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

Council Resolution No. 2007 - _____
Resolution Calling for Special Mailed Ballot Election, CFD No. 2, Annexation No. 132

1. The levy of a special tax proposed in the Annexation Resolution shall be submitted to the voters pursuant to Government Code Section 53326.
2. The setting of the appropriations limit shall be submitted to the voters pursuant to Government Code Section 53325.7.
3. The two ballot items described above shall be combined into a single ballot measure pursuant to Government Code Section 53353.5. The ballot language shall be as shown on the ballot form attached as Exhibit "A," which ballot form 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 12 registered voters reside within the boundaries of the territory proposed to be annexed to the CFD No. 2. Accordingly, under Government Code Section 53326(b) the voters in this election shall be the landowners owning land within the territory proposed to be annexed to the CFD No. 2.
5. The Council further finds that the landowners of record owning property within the territory proposed to be annexed to the CFD No. 2 are those set forth in the attachment to the Certificate of the Public Works Director 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 Shortening Time Periods and Waiving Various Requirements for Conducting Mailed-Ballot Election in the CFD No. 2, Annexation No. 132, 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 Government Code Section

53326(a) and 53327(b), 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 January 23, 2007 as election day. Pursuant to Government Code Section 53326(d), the election shall be conducted by mailed ballot.

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

9. The City Clerk shall accept personal or mail delivery of the ballots at any time up to the hearing on January 23, 2007. Upon receipt of all eligible ballots, however, the City Clerk shall immediately close the election and declare the results to the City Council.

Attachments:

Exhibit A - Special Election Ballot

Exhibit B - Waiver and Consent From Sole Property Owner

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the _____ day of _____, 2007.

AYES:

NOES:

ABSTAIN:

ABSENT:

REBECCA E. KLISCH
City Clerk

BY: _____

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Deputy

EXHIBIT "A"

SPECIAL ELECTION BALLOT

(Mailed-Ballot Election)

Community Facilities District No. 2

Annexation No. 132

This ballot is for the use of [landowner], the sole landowner owning land (Tract____) within Community Facilities District No. 2, Annexation No. 132, City of Fresno, County of Fresno, State of California.

According to the provisions of the Mello-Roos Community Facilities Act of 1982, and the resolutions of the City Council of the City of Fresno, the above-named landowner is entitled to cast _____ (____) votes on this ballot.

In order to be counted, the ballot must be returned prior to the hearing on January 23, 2007, to Rebecca E. Klisch, 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 Council of Fresno (the "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. 2, Annexation No. 132, all as specified in its Resolutions No. _____ and No. _____; and shall the appropriations limit for Community Facilities District No. 2 Annexation No. 132 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 _____, 2007.

Company Name

By _____

Print Name

Print Title

EXHIBIT "B"

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

Community Facilities District No. 2

Annexation No. 132

The undersigned is the person legally entitled and authorized to cast the ballots as the authorized representative of the sole owner of the property (Tract(s)) in this mailed-ballot election to be conducted within Community Facilities District No. 2 Annexation No. 132, 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 Government Code Section 53326(a).

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 Government Code Section 53327(b).

The undersigned hereby waives the requirement to publish notice of the election under Government Code Section 53352.

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 Government Code Section 53327.5.

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 _____, 2007.

Company Name

By _____

Print Name

Print Title

RESOLUTION NO. 2007 - _____

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

COMMUNITY FACILITIES DISTRICT NO. 2
ANNEXATION NO. 132

WHEREAS, on January 23, 2007, the Council of the City of Fresno adopted Resolution No. 2007 - _____ calling a special mailed-ballot election on levying special taxes on land within, and on approving an annual appropriations limit for, Annexation No. 132 to Community Facilities District No. 2 ("Annexation No. 132"); and

WHEREAS, the Council has received, reviewed and hereby accepts the City Clerk's Canvass and Statement of Results of Election, dated January 23, 2007, 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. 132, has been submitted to the qualified electors within the area of Annexation No. 132, pursuant to Council Resolution No. 2007 - _____, and (b) the ballot measure has been passed and approved by more than two-thirds of the votes cast, in accordance with Government Code Sections 53326, 53327, 53327.5 and 53328(a).

2. The Council declares Annexation No. 132, to be fully formed and the property within Annexation No. 132, to be subject to the levy of the special taxes and the special tax lien described in Council Resolution No. 2007 - _____, annexing Final Tract No. 5461 as Annexation No. 132, and authorizing the levy of a special tax therein, Council Resolution No. 97-126, approving local goals and policies for Community Facilities Districts; and described in the Community Facilities District Report dated as of December 19, 2006 on file with the City Clerk.

EXHIBIT "A"

CANVAS AND STATEMENT OF ELECTION RESULTS

Community Facilities District No. 2

Annexation No. 132

I, REBECCA E. KLISCH, 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 City Council in its Resolution No. 2007-_____ on propositions to levy a special tax within and approve an appropriations limit for Community Facilities District No. 2, Annexation No. 132, and held on January 23, 2007. In accordance with my instructions contained in that Resolution, I hereby declare the election closed.

I personally, in the presence of members of City 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	50
Total Votes Cast "Yes"	50
Total Votes Cast "No"	0
Total Votes Cast	50

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

I make this certification on _____, 2007.

CITY OF FRESNO

By _____
Rebecca E. Klisch
City Clerk

ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY _____ SECONDED BY _____

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR
2006-2007 AND FUTURE TAX YEARS WITHIN AND RELATING
TO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION
NO. 132 CITY OF FRESNO, CALIFORNIA

WHEREAS, on January 23, 2007, the Council adopted Council Resolution No. 2007 - _____, a resolution of the Council of the City of Fresno annexing territory to Community Facilities District No. 2 (Annexation No. 132), authorizing the levy of a special tax therein to pay for certain facilities and services to Annexation No. 132, and preliminarily establishing an appropriations limit therefor (Annexation Resolution), pursuant to the Mello-Roos Community Facilities Act of 1982 (Act); and

WHEREAS, by Council Resolution No. 2007 - _____, the Council called a special election on the proposition on levying a special tax and establishing an appropriations limit within Annexation No. 132; and

WHEREAS, on January 23, 2007, an election was held within Annexation No. 132 and, as required by the Act to pass, more than two-thirds of the votes cast, approved the propositions.

THEREFORE, THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

1. Pursuant to Government Code Sections 53328 and 53340, 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. 132 for the 2006-2007 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. 132 shall not exceed the maximum tax specified in Exhibit "B" to the Annexation Resolution.

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 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 Government Code Section 53340, 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 Government Code Section 53340.2.

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 Fresno 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 Section 610.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the ____ day of _____, 2007.

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor Approval: _____, 2007

Mayor Approval/No Return: _____, 2007

Mayor Veto: _____, 2007

Council Override Vote: _____, 2007

REBECCA E. KLISCH
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____

BY: _____
Deputy

MK/AL/al