



**REPORT TO THE CITY COUNCIL**

June 12, 2007

FROM: MICHAEL T. KIRN, PE, City Engineer  
Public Works Department *M.T. Kirn*

BY: JOE PAFF, Senior Engineering Technician  
Public Works Department *JRP*

AGENDA ITEM NO.

COUNCIL MEETING June 12, 2007

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

SUBJECT: RESOLUTION OF CONSIDERATION TO CHANGE THE RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX AND TO ESTABLISH A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 81, FINAL TRACT NO. 5258 AND ANNEXATION NO. 82, FINAL TRACT NO. 5295 OF CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2 (District 5)

**RECOMMENDATION**

Adopt Resolution of Consideration to change the Rate and Method of Apportionment of the Special Tax and to establish a new Maximum Special Tax for Annexation No. 81, Final Tract No. 5258 and Annexation No, 82, Final Tract No. 5295 of City of Fresno Community Facilities District No. 2 ("CFD2")

**EXECUTIVE SUMMARY**

The Council approved Maximum Special Taxes (Tax) for FT5258 and FT5295 are currently \$1,422.97 per lot per year. These Tracts were the first two Final Tracts of a large project consisting of six Final Tracts. Upon annexation of five of the six Final Tracts to Community Facilities District No. 2 ("CFD2"), staff has determined the total Tax requirement for the total project is \$1,060.17 per lot annually. The developer has requested we adjust the Taxes for FT5258 and FT5295 to \$1,060.17 to make the Tax for all lots within the project the same. Public Works supports this request. To accomplish this requires a Change of Services be adopted by Council. Adoption of the Resolution of Consideration begins this process, sets the required public hearing for June 17, 2007 and defines the steps required to complete the process.

**BACKGROUND**

In 2004, the developer of approved Tentative Tracts Nos. 5258 and 5295 elected to place the maintenance of the public landscaping, trail, pedestrian gates and entry treatments into Community Facilities District No. 2. The two tentative maps had originally been planned as a single map and the developer requested, and DPW agreed, that the City treat the two maps as one large project for CFD purposes. The project consists of six final tracts, five (FT5258, FT5295, FT5442, FT5445 and FT5446) of which have been annexed into CFD2 and one (FT5781) that is being prepared for annexation.

When the project's first two final tracts (FT5258, Annexation No. 81 and FT5295, Annexation No. 82) were simultaneously annexed into CFD2 the features to be maintained by these tracts included the complete trail and a major portion of McMillin Avenue. As in all multiple tract projects, the first tract or tracts into the CFD must be assigned a Maximum Special Tax ("Tax") that will support all of the features to be installed by those specific tracts. As more of the project's final tracts are annexed into CFD2 the costs are spread to more lots and the required Tax for each lot is reduced. FT5258 and FT5295 are currently assigned a Tax of \$1,422.97 per lot per year. With the annexation of the remaining four subdivisions, the Tax requirement for FT5258 and FT5295 has been reduced.

**REPORT TO THE CITY COUNCIL**

Resolution of Consideration to Revise Tax Rates for Tracts No. 5258 and 5295 of CFD No. 2

May 17, 2007

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The current rate required for the entire project to be self sufficient is \$1,061.17. The rates for the annual adjustments are already the City standard of 3% plus the increase, if any, in the Construction Cost Index for the San Francisco area as published annually in the Engineering News Record.

The developer, who still owns over 25% of the property within FT5258 and ft5295, has petitioned the City to adjust the Tax to the total project rate which will result in lowering the Tax for these two final tracts. Public Works supports this request. This will require Council completion of a Change of Service. The developer has deposited \$8,000.00 to cover the costs of this action.

The Change of Service process to alter the types of services or the Maximum Special Tax financed by community facilities districts as permitted under the Mello-Roos Community Facilities Act of 1982 is virtually the same as the process used for annexations to existing community facilities districts. The legislative body must follow certain prescribed procedures as outlined below:

- adoption of a Resolution of Consideration to alter the services or service rates to be financed by the District
- required 7-day minimum notice of public hearing
- public hearing on the proposed change in services
- special election on the proposed change in services
- formal adoption of Resolution of Change (if election passes)

The attached resolution initiates the annexation process and sets the public hearing on this matter for 10:15 a.m., July 17, 2007.

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

**FISCAL IMPACT**

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

MTK/JRP/jrp

Attachments: Location Map  
Project Map  
Resolution

# LOCATION MAP

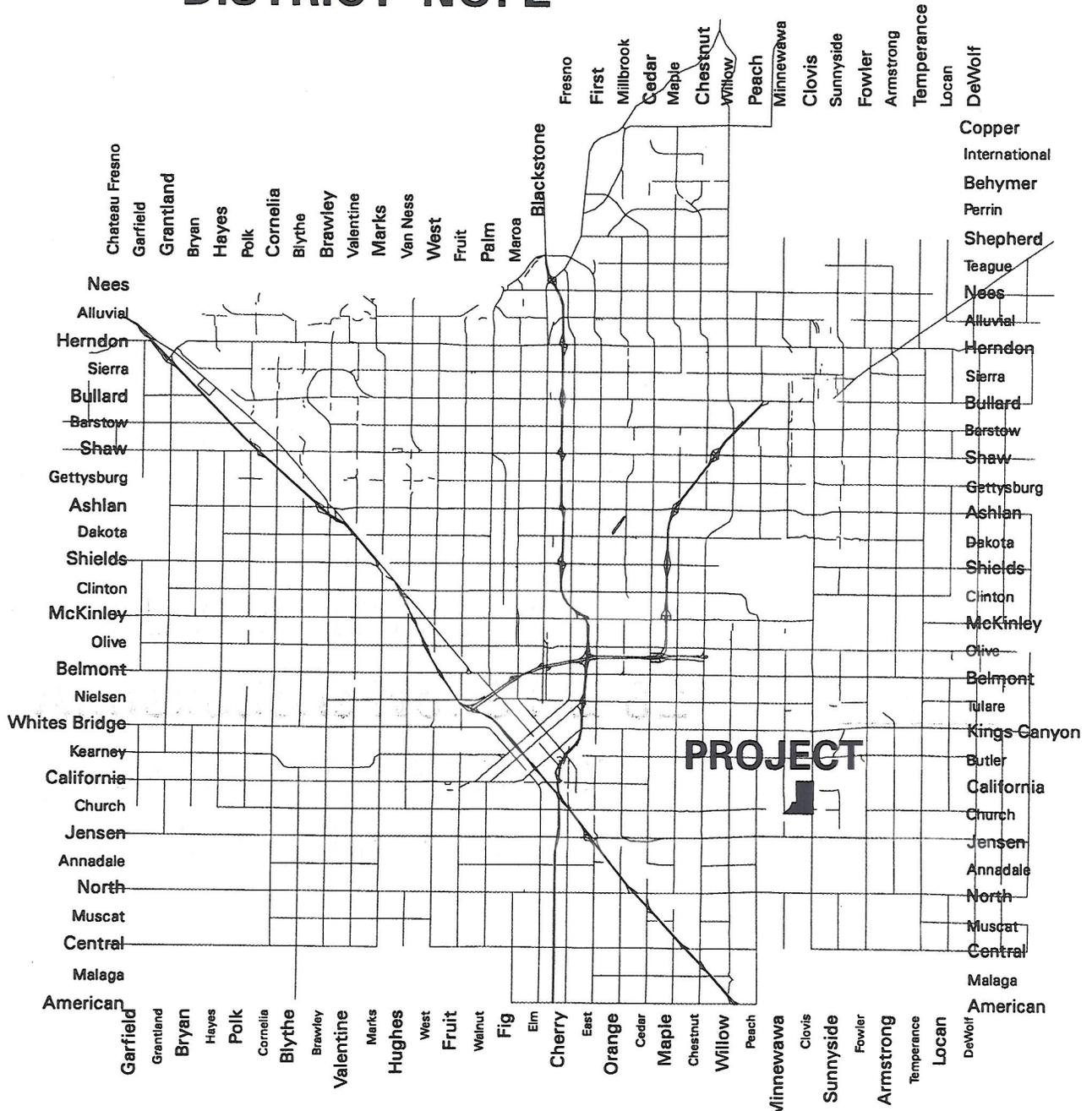
## Annexations No. 81 & 82

### COMMUNITY FACILITIES

### DISTRICT NO. 2



June 05, 2007  
City of Fresno Public Works



**PUBLIC WORKS DEPARTMENT / Technical Services**

# FEATURES TO BE MAINTAINED BY COMMUNITY FACILITIES DISTRICT NO. 2 TENTATIVE TRACTS NO. 5258 & 5295



June 05, 2007  
City of Fresno Public Works



- DISTRICT MAINTAINED LANDSCAPING
- TRAIL ACCESS GATE
- ENTRY FEATURES

I = 5258, II = 5295, III = 5442, IV = 5445, V = 5446 VI = 5781 (F)

Landscaped Area: 356,271 sf

Lots in Tract: 352

**PUBLIC WORKS DEPT. / Technical Services**



RESOLUTION NO. 2007 -

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO OF CONSIDERATION TO CHANGE THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX, AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 81, FINAL TRACT NO. 5258 AND ANNEXATION NO. 82, FINAL TRACT NO. 5295 OF COMMUNITY FACILITIES DISTRICT NO. 2

WHEREAS, the City is a charter city and municipal corporation duly created and existing under the Constitution and laws of the State of California; and

WHEREAS, under the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code (the "Act"), this Council is the legislative body for the community facilities district with the authority to establish a community facilities district, to annex property to the district, and to change the rate and method of apportioning the special tax, and establish a new maximum special tax within the district; and

WHEREAS, on July 22, 1997 the Council of the City of Fresno adopted its resolution establishing the City of Fresno Community Facilities District No. 2 (CFD No. 2); and

WHEREAS, on November 30, 2004 the Council of the City of Fresno adopted its resolutions annexing Final Tract No. 5258, Annexation No. 81 and Final Tract No. 5295, Annexation No. 82 to the CFD No. 2, and authorizing the levy of a special tax (the "Annex-Levy Resolution"); and

WHEREAS, on June 25, 2005 the Council of the City of Fresno adopted its resolutions raising the Maximum Special Taxes for Annexation No. 81 (FT5258) and Annexation 82 (FT5295) to match current City costs; and

WHEREAS, the Resolutions of Intention for Annexation No. 81 and Annexation No. 82 recited that they were part of a larger area represented by Vesting Tentative Maps No.

5258 and No. 5295 ("Tentative Maps"), and would share certain specified features in common with all areas within the Tentative Maps; and that other Final Tracts may be annexed to CFD No. 2 that are within the Tentative Maps, and the taxable property within Annexation 81 and Annexation 82 and the taxable property within the other annexed Final Tracts under those Tentative Maps would share equally the costs of services provided by CFD No. 2 to maintain or replace shared specified features within such annexed territory; and

WHEREAS, the types of services, as shown in attached Exhibit A, to be provided for Final Tract No. 5258, Annexation No. 81 and Final Tract No. 5295, Annexation No. 82 remain unchanged; and

WHEREAS, the Amended Levy Resolution, pursuant to Exhibit B thereto (a copy of which is attached hereto as Exhibit B), established a rate and method for determining, the Maximum Special Tax (MST), and annual increases thereto, and established the MST for the public services to be provided; and

WHEREAS, the City's costs, that are the bases for establishing the rate and method and the MST, have been spread to a larger number of parcels causing the City's cost requirement for Final Tracts No. 5258 and 5295 to be reduced; and

WHEREAS, Section 53331 of the Act provides that legislative body may determine that public convenience and necessity require a change to the services and or rate or method of apportioning the special tax, resulting in a change to the calculation of the Maximum Special Tax, and proposing a new tax by adopting a resolution of consideration to alter the rate or method of apportioning a special tax; and

WHEREAS, the proposed change to the rate and method of apportioning the special tax for Final Tract No. 5258, Annexation 81 and Final Tract No. 5295,

Annexation 82 within CFD No. 2 are listed on attached Exhibit "C".

NOW, THEREFORE, THE COUNCIL OF THE CITY OF FRESNO  
RESOLVES AS FOLLOWS:

1. **Recitals.** The foregoing recitals are true and correct.
2. **Change of Special Tax and Estimated Annual Increases.** The proposed change to the rate and method of apportioning the special tax and the calculating of the annual increases thereto that are applicable to Final Tract No. 5258, Annexation 81 and Final Tract No. 5295, Annexation 82 and within CFD No. 2 are listed on attached Exhibit "C," attached and by this reference incorporated herein.
3. **District Report.** The Director of the Public Works Department, as the officer in charge and control of the Services for CFD No. 2, or his designee, is directed to file with the Clerk a report describing the changes to the rate and method of apportioning the special tax for services in Final Tract 5258, Annexation 81 and in Final Tract 5295, Annexation 82 within CFD No. 2, and estimating the fair and reasonable costs of the services, including the cost of acquiring lands, rights-of-way and easements, any physical services required in conjunction therewith and incidental expenses in connection therewith. The Report shall be made a part of the record of the public hearing specified below.
4. Tuesday, July 17, 2007 at 10:15 a.m., in the regular meeting place of this Council, City Council Chambers, 2600 Fresno Street, Fresno, California, be, and the same are appointed and fixed as the time and place when and where this Council, as the legislative body for CFD No. 2, will conduct a public hearing on altering the rate and method for the special tax and calculating the MST for services to Final Tract No. 5258,

Annexation 81 and Final Tract No. 5295, Annexation 82 , within CFD No. 2, and consider and finally determine whether the public interest, convenience and necessity require the alteration.

5. The City Clerk is directed to cause notice of said public hearing to be given by publication once in a newspaper published in the area of CFD No. 2. The publication of said notice shall be completed at least seven days before the date herein set for said hearing. Said notice shall be in the form specified in Government Code Sections 53335, 53339.5, and 53322.

**Attachments:**

- Exhibit A:** Description of Services for Final Tract No. 5258 and Final Tract No. 5295 in Community Facilities District No. 2.
- Exhibit B:** Existing Rate and Method of Apportioning Special Tax for Final Tract No. 5258 and Final Tract No. 5295.
- Exhibit C:** Revised Rate and Method of Apportioning Special Tax for Final Tract No. 5258 and Final Tract No. 5295.



## **EXHIBIT "A"**

### **CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2 ANNEXATION NO. 81 AND ANNEXATION NO. 82**

#### **Description of Services to be Financed by Community Facilities District No. 2 for Annexation No. 81 (Final Tract No. 5258) and Annexation No. 82 (Final Tract No. 5295)**

The services that are to be financed by Community Facilities District No. 2 ("CFD No. 2"), Annexation No. 81 and Annexation No. 82, shall include all 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.

Specifically, maintenance will consist of, but not be limited to, mowing, edging, fertilizing, seeding, aerating, and watering grass areas; repair and replacement of irrigation systems as necessary; staking, pruning, replacing and spraying of trees and shrubs; removal of litter, debris, and garbage.

Services shall also include all attributable costs of cleaning, maintaining, repairing and/or replacing (may include reserves for replacement) of the pedestrian gates in the public street right-of-way and the entry pilasters within the public landscape easements.

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.

## 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

### Existing Rates of Services

Community Facilities District No. 2  
Annexation No. 81 and Annexation No. 82

### Cost Estimate

The estimate breaks down the costs of providing 1 year's service for FY 05-06

ITEM	DESCRIPTION	5258 ESTIMATED COST	5295 ESTIMATED COST
1	Maintenance Services	\$ 117,564.00	\$ 25,452.00
2	Annual Administrative Costs		
	a. Engineering	873.00	189.00
	b. Legal Services	<u>97.00</u>	<u>21.00</u>
	Total	\$ 118,534.00	\$ 25,662.00

### Subdivision Appropriations Limit

TRACT	MAX. TAX PER EDU	NUMBER OF LOTS	TOTAL TAXES	Subdivider
5258	\$1,222.00	97	\$118,534.00	McMillin Sunnyside Ranch, LLC
5295	\$1,222.00	21	\$25,662.00	McMillin Sunnyside Ranch, LLC

## EXHIBIT "B"

**City of Fresno  
Community Facilities District No. 2  
Annexation No. 81 and Annexation No. 82  
Rate and Method of Apportionment of Special Tax**

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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,

## EXHIBIT "B"

that can be levied in any Fiscal Year.

**"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 2005 -2006 for a Residential Unit within Tracts 5258 and 5295 is identified in Table 1 below:

## EXHIBIT "B"

<b>Table 1 Maximum Special Tax (Fiscal Year 2005-2006)*</b>	
<b>Tract Number**</b>	<b>Maximum Special Tax</b>
5258	\$ 1,222.00 per Residential Unit
5295	\$ 1,222.00 per Residential Unit

\* Beginning in January 2006 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 2005-2006, 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. 81 and Annexation No. 82  
Excluded Parcels within Each Tract

**THERE ARE NO EXCLUDED PARCELS IN ANNEXATION NO. 81 AND  
ANNEXATION NO. 82**

# EXHIBIT "C"

## CITY OF FRESNO

### Revised Rates of Services

Community Facilities District No. 2  
Annexation No. 81 and Annexation No. 82

### Cost Estimate

The estimate breaks down the costs of providing 1 year's service for FY 07-08

ITEM	DESCRIPTION	5258 ESTIMATED COST	5295 ESTIMATED COST
1	Maintenance Services	\$ 102,448.49	\$ 22,179.57
2	Annual Administrative Costs		
	a. Engineering	437.00	95.00
	b. Legal Services	<u>48.00</u>	<u>10.00</u>
	Total	\$ 102,933.49	\$ 22,284.57

### Subdivision Appropriations Limit

TRACT	MAX. TAX PER EDU	NUMBER OF LOTS	TOTAL TAXES	Subdivider
5258	\$1,061.17	97	\$500,000.00	McMillin Sunnyside Ranch, LLC
5295	\$1,061.17	21	\$500,000.00	McMillin Sunnyside Ranch, LLC

# EXHIBIT “C”

**City of Fresno  
Community Facilities District No. 2  
Annexation No. 81 and Annexation No. 82  
Rate and Method of Apportionment of Special Tax**

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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,

## EXHIBIT "C"

that can be levied in any Fiscal Year.

**"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 2007-2008 for a Residential Unit within Tracts 5258 and 5295 is identified in Table 1 below:

## EXHIBIT "C"

<b>Table 1 Maximum Special Tax (Fiscal Year 2007-2008)*</b>	
<b><i>Tract Number**</i></b>	<b><i>Maximum Special Tax (Revised)</i></b>
5258	\$ 1,061.17 per Residential Unit
5295	\$ 1,061.17 per Residential Unit

\* Beginning in January 2008 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 2007-2008, 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. 81 and Annexation No. 82  
Excluded Parcels within Each Tract

**THERE ARE NO EXCLUDED PARCELS IN ANNEXATION NO. 81 AND  
ANNEXATION NO. 82**