City of FRESNO

REPORT TO THE CITY COUNCIL

February 27, 2007

AGENDA ITEM NO.	
COUNCIL MEETING	February 27, 2007
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

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

BY: ANN LILLIE, Senior Engineering Technician
Public Works Department

SUBJECT: RESOLUTION OF INTENTION TO ANNEX FINAL TRACT NO. 5232 AS ANNEXATION NO. 14 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11 (LOCATED IN DISTRICT 5)

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATION

Adopt Resolution of Intention to annex Final Tract No. 5232 to City of Fresno Community Facilities District No. 11

EXECUTIVE SUMMARY

The developer of Final Tract Map No. 5232 (see attached maps), part of a larger area represented by Vesting Tentative Tract No. 5232, has requested annexation into Community Facilities District No. 11 to finance ($875.00/lot annually) for the maintenance of landscaping and irrigation systems, local curbs, gutters, valley gutters, and sidewalks, decorative street lights, local street signs, flashing pedestrian beacons and entry treatments which are associated with the subdivision. The Resolution of Intention begins the process, sets the required public hearing for March 13, 2007 at 10:00 am, and defines the steps required to complete the annexation.

KEY OBJECTIVE BALANCE

The annexation balances the three key objectives of Customer and Employee Satisfaction, and Financial Management. The annexation addresses customer satisfaction by allowing for maintenance of features associated with the proposed development. By collecting the special tax, additional services are financed that would otherwise not be provided, which results in good financial management.

BACKGROUND

On November 11, 2005, the City Council adopted Resolution No. 2005-490 forming Community Facilities District No. 11 (CFD No. 11) to fund public maintenance of landscaping, open spaces, local streets, local street lights and street furniture, curbs, gutters, sidewalks, street trees and other public facilities and services as defined by the City of Fresno Special Tax Financing Law, Chapter 2 of the Fresno Municipal Code (City Law).

The developer of Final Tract Map No. 5232 (see attached maps), part of a larger area represented by Vesting Tentative Tract No. 5232, has petitioned the City to be annexed into a CFD No. 11 to finance the

maintenance of landscaping and irrigation systems, local curbs, gutters, valley gutters, and sidewalks, decorative street lights, local street signs, flashing pedestrian beacons and entry treatments.

The attached resolution initiates the annexation process, sets the public hearing on this matter for March 13, 2007 at 10:00 am, sets the Maximum Special Tax at $859.00 per residential lot per year for FY06-07 and sets the annual adjustment of the special tax at +3% plus the increase, if any, in the construction cost index for the San Francisco Region.

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

- adoption of a Resolution of Intention to annex to the District
- required 7-day minimum notice of public hearing
- public hearing on District formation
- special election on the proposed special tax
- formal adoption of special tax levy (if election passes)

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.

DH/MTK/AL/al

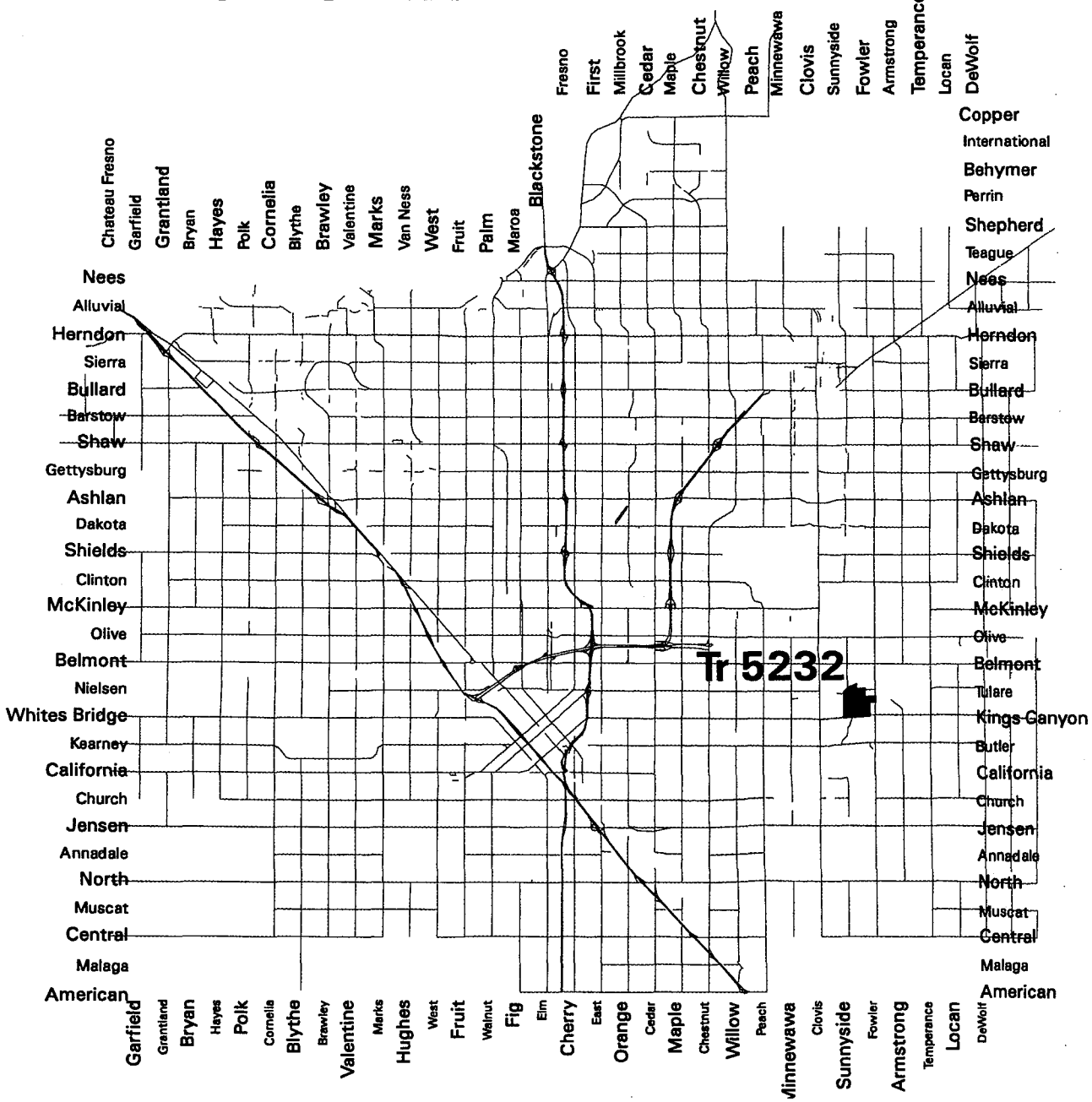
Attachments: Location Map
Feature Map
Resolution
COF Special Tax Financing Law

LOCATION MAP
Annexation No. 14
COMMUNITY FACILITIES DISTRICT NO. 11

N

1" = 2.90 MILES

February 09,2007
City of Fresno Public Works



City of FRESNO

PUBLIC WORKS DEPARTMENT / Technical Services

J. Pelf File: /cfd11/loc/loc.aml

FEATURES TO BE ADDED BY ANNEXATION NO. 14 AND MAINTAINED BY

COMMUNITY FACILITIES DISTRICT NO. 11

N

1" = 776'

February 12, 2007
City of Fresno Public Works

DISTRICT MAINTAINED LANDSCAPING

TRACT BOUNDARY LINE

DISTRICT MAINTAINED CROSSWALK LIGHTING

DISTRICT MAINTAINED STREET LIGHTS, STREET SIGNS, CURBS, GUTTERS, VALLEY GUTTERS, SIDEWALKS, AND STAMPED CONCRETE PAVING LOCATED WITHIN THIS AREA

No Phases

TRACT 5232

City of FRESNO

PUBLIC WORKS DEPT. / Technical Services

J. PAFF FILE: ../CFD11/TR/T5232/TR.AML

RESOLUTION NO. 2007 - ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO OF INTENTION TO ANNEX TRACT NO. 5232 AS ANNEXATION NO. 14 TO THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11 AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES

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 City of Fresno Special Tax Financing Law, Chapter 22 of the Fresno Municipal Code (City Law), this Council, as the legislative body for the community facilities district and any annexation thereto, has the authority to establish a community facilities district and annex property to the district; and

WHEREAS, November 11, 2005 the Council of the City of Fresno ("Council") adopted a resolution establishing the City of Fresno Community Facilities District No. 11 (CFD No. 11); and

WHEREAS, the boundaries of CFD No. 11 are shown on the Boundary Map of City of Fresno Community Facilities District No. 11, recorded November 8, 2005, at Book 41, Page 61 of Assessment and Community Facilities Districts in the Office of the Recorder, County of Fresno, California, a copy of which is on file in the Office of the City Clerk; and

WHEREAS, the landowner of Tract No. 5232 has formally petitioned the City to annex Tract No. 5232 to the CFD No. 11, and the area proposed for annexation to CFD No. 11 is shown on Exhibit "A", attached and incorporated herein by reference; and

WHEREAS, the types of public services provided in the existing CFD No. 11 (the "Services") are specified on Page B-2 of attached Exhibit "B", which is incorporated herein by reference; and

WHEREAS, the types of public services to be provided to Annexation No. 11 (Tract No. 5232) are specified on Page B-1 of Exhibit "B"; and

WHEREAS, CFD No. 11 and Annexation No. 14 will share costs proportionately for Services provided by the City; and

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

1. **Recitals.** The forgoing recitals are true and correct.

2. **Proposed Annexation No. 1 Boundaries.** The proposed boundaries of Annexation No. 14 are as shown on the map (copy attached as Exhibit A) on file with the City Clerk. The boundaries, shown in Annexation Map No. 14, for the territory proposed to be annexed, are preliminarily approved. The Clerk is directed to record Annexation Map No. 14, or cause it to be recorded, in the Office of the Recorder, Fresno County, California within ten days after the adoption date of this Resolution.

3. **Services.** The Services proposed to be financed in Annexation No. 14 (Tract No. 5232) are listed in Exhibit "B", Page B-1, attached hereto.

4. **Special Taxes.** Except to the extent that funds are otherwise available to the CFD No. 11 to pay for the Services in Annexation No. 14 (Tract No. 5232), a special tax (Special Tax) sufficient to pay the costs thereof, secured by recording a continuing lien against all nonexempt real property in Annexation No. 14, will be levied annually within Annexation No. 14, 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 effected property owners. The proposed rate and method of apportionment of the Special Tax among the real property parcels

within Annexation No. 14, in sufficient detail for each landowner within Annexation No. 14 to estimate the maximum amount each owner will have to pay, are described in attached Exhibit "C", which is by the reference incorporated herein.

5. **District Annexation Report.** The Director of Public Works Department, as the officer having charge and control of the Services in and for CFD No. 11, or his designee, is directed to study the proposed Services and to make, or cause to be made, and filed with the Clerk a report (District Report, CFD NO. 11, Annexation No. 14) in writing presenting the following:

a. A description of the Services by type required to adequately meet the needs of CFD No. 11, Annexation No. 14.

b. An estimate of the fair and reasonable cost of the Services including the cost of acquiring land, rights-of-way and easements, costs of any physical services required in conjunction therewith, and incidental expenses in connection therewith.

c. Describe any plan for services that will be provided in common with the existing district and/or any territory that may be annexed.

d. If the Special Tax levied within the territory proposed to be annexed is higher or lower than the existing CFD No. 11, identify the extent and reasons why the costs to provide Services in that territory are higher or lower than those provided in the existing CFD No. 11. Specify any alteration in the special tax rate levied within the existing community facilities district because of the proposed annexation.

The CFD No. 11, Annexation No. 14 Report shall be made a part of the record of the public hearing specified below.

6. The propositions to set the appropriations limit and to approve the levy of the special tax shall be combined into a single ballot and submitted to the voters pursuant to City Law.

7. Tuesday, March 13, 2007 at 10:00 a.m., is fixed as the date and time, in the City Council Chambers, 2600 Fresno Street, Fresno, California, this Council, that this legislative body for CFD No. 11, will conduct a public hearing on the annexation of Tract No. 5232 and will consider and finally determine whether the public interest, convenience and necessity require the annexation and the levy of the Special Tax.

8. The City Clerk is directed to cause notice of the public hearing to be given by publication once in a newspaper of general circulation published in the area of CFD No. 11. The publication shall be complete at least seven days before the hearing date set herein. The notice shall be in the form specified by City Law.

Attachments:

Exhibit A: Annexation Map No. 14
Exhibit B: Description of Services
Exhibit C: Rate and Method of Apportionment of Special Tax

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:

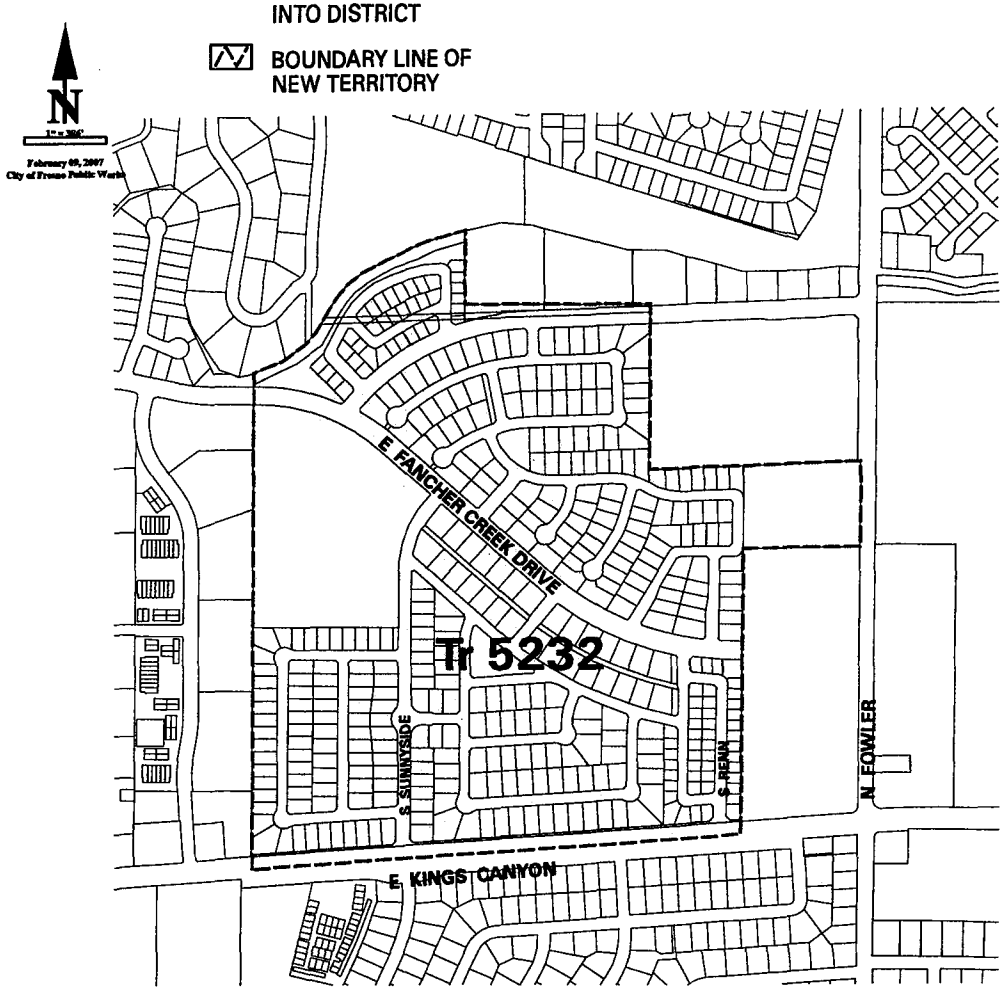
REBECCA E. KLISCH
City Clerk

BY: _____

APPROVED AS TO FORM:
City Attorney's Office

BY: _____
Deputy

EXHIBIT 'A'



REFERENCE: BOUNDARY MAP OF CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11, RECORDED NOVEMBER 8, 2005 AT BOOK 41, PAGE 61 OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE RECORDER IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

DOC. NO. _____

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF FRESNO THIS _____ DAY OF _____, 2007.

REBECCA E. KLISCH
CITY CLERK OF THE CITY OF FRESNO

BY: _____

I HEREBY CERTIFY THAT THE WITHIN ANNEXATION MAP NO. 14 OF THE COMMUNITY FACILITIES DISTRICT NO. 11, CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA WAS ADOPTED BY THE COUNCIL OF THE CITY OF FRESNO BY RESOLUTION NO. 2007 - _____ ON _____, 2007.

REBECCA E. KLISCH
CITY CLERK OF THE CITY OF FRESNO

BY: _____

THIS ANNEXATION MAP NO. 14 OF CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11, WAS FILED THIS _____ DAY OF _____, 2007 AT THE HOUR OF _____ O'CLOCK ____ M AT BOOK 42, PAGE _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA.

ROBERT C. WERNER
COUNTY RECORDER OF THE COUNTY OF FRESNO

BY: _____

NOTE: FOR PARCEL DIMENSIONS, SEE ASSESSOR'S MAP BOOK PAGES

ACCT NO. _____ FILE NO. 10770 W.O. NO. 300 REF. & REV.	CITY OF FRESNO - Department of Public Works		
	ANNEXATION MAP NO. 14 OF COMMUNITY FACILITIES DISTRICT NO. 11 OF CITY OF FRESNO, FRESNO COUNTY, CALIFORNIA	CONSTR. ENG.: _____ OFFICE ENG.: _____ CITY ENGINEER: _____ DR. BY: J. PAFF CH. BY: _____ DATE: 2/8/07 NOT TO SCALE	SHEET NO. 1 OF 1 SHEETS 1-P-1139

J. Paff File: ..cfd11/annx014/a1.aml

CFD11 14 A1

EXHIBIT "B"

CITY OF FRESNO

Community Facilities District No. 11
Annexation No. 14

Description of Services to be Financed by Community Facilities District No. 11 for Annexation No. 14 (Final Tract No. 5232)

The Services that are to be financed for Annexation No. 14 (Final Tract No. 5232) by Community Facilities District No. 11 ("CFD No. 11") will include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing landscaped areas (may include reserves for replacement) in public street right-of-ways (includes parkways and median islands, public landscape and trail easements, public 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.

Services shall include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing certain facilities (may include reserves for replacement) within public street rights-of-way, landscape easements and open spaces. Such facilities include, without limitation, curbs, gutters, valley gutters, sidewalks, street lighting, flashing beacons and entry features.

Services shall include all costs attributable to street lighting services.

Maintenance costs will include a proportionate share of all other expenses that the City may incur in administering the CFD No. 11.

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

Nothing in this Exhibit or any other exhibit or provision of the Resolution shall be construed as committing the City or CFD No. 11 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 formation of CFD No. 11 and the availability of sufficient proceeds of special taxes within the district.

EXHIBIT "B"

CITY OF FRESNO

Community Facilities District No. 11
Formation

Description of Services currently financed by Community Facilities District No. 11

The services that are currently financed by Community Facilities District No. 11 ("CFD No. 11") include costs of maintaining landscaped areas, including reserves for replacement, in public street rights-of-way, public landscape easements and public open spaces officially dedicated for public use.

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 of trees and shrubs; removing litter, debris, and garbage.

In addition, services include all costs of cleaning, maintaining, services, repairing and/or replacing certain facilities (including reserves for replacement) within street rights-of-way and easements dedicated for public use. Such facilities include, without limitation, curbs, gutters, inlets, sidewalks, street lighting, hydrants, street trees, street furniture, entry features and park amenities.

Services shall include costs attributable to street lighting services.

Maintenance costs include a proportionate share of all other expenses that the City incurs in administering the CFD No. 11.

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. 11 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 formation of CFD No. 11 and the availability of sufficient proceeds of special taxes within the District.

EXHIBIT "C"

CITY OF FRESNO

Community Facilities District No. 11
Annexation No. 14

Rate and Method of Apportionment of Special Tax

Cost Estimate

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

ITEM	DESCRIPTION	ESTIMATED COST
1	Landscape Maintenance	$ 297,464.00
2	Feature Maintenance	51,912.00
3	Contract Management	9,064.00
Annual Administrative Costs	a. Engineering	1,854.00
	b. Legal	206.00
	Total	$ 360,500.00

Subdivision Appropriation Limit

TRACT	MAX. TAX PER EDU	NUMBER OF LOTS	APPROPRIATION LIMIT	Subdivider
5232	$875.00	412	$500,000.00	Centex Homes

EXHIBIT "C"

City of Fresno

Community Facilities District No. 11
Annexation No. 14

Rate and Method of Apportionment of Special Tax

A special tax applicable to each Assessor's Parcel in Community Facilities District No. 11 (herein "CFD No. 11" 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. 11, 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. 11 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 22 of the Fresno Municipal Code.

"Council" means the City Council of the City of Fresno, acting as the legislative body of CFD No. 11.

"Developable Lot" means, within any Final Map approved in the CFD, 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.

"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.

EXHIBIT "C"

"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.

"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. 11 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.

"Shared Services" means the costs of services are paid equally by the property owners of two or more subdivision.

"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. 11, 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. 11 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 tan 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.

EXHIBIT "C"

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax applicable to each Assessor's Parcel in CFD No. 11 shall be specific to each tract within the CFD. When additional property is annexed into CFD No. 11, 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 5232 is identified in Table 1 below:

Table 1
Maximum Special Tax
(Fiscal Year 2006-2007)*

*Tract Number***	*Maximum Special Tax*
5232	$ 875.00 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. 11 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 11 may (under the authority of the City Law), 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 City Law. 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. 11
Annexation No. 14

Excluded Parcels within Each Tract

THERE ARE NO EXCLUDED PARCELS IN FINAL TRACT MAP NO. 5232

Municipal Code of the City of Fresno

Chapter 22: Special Tax Financing Law

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

Sec. 22-101. Authority.

Sec. 22-102. Title.

Sec. 22-103. Definitions.

Sec. 22-104. Nonexclusivity.

Sec. 22-105. Conflict of Law.

Sec. 22-106. Nature of Districts.

Sec. 22-107. Construction

SECTION 22-101. AUTHORITY. The city is a municipal corporation, organized and existing under its Charter and the State constitution, with the power to make and enforce all laws and regulations respecting municipal affairs, subject only to any restrictions and limitations provided in the Charter and in the State constitution. The Council finds and declares that providing for special tax districts, to finance certain facilities and services, is necessary, essential, a public purpose, and a municipal affair of the city. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-102. TITLE. This chapter may be cited as the City of Fresno Special Tax Financing Law. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-103. DEFINITIONS. Unless the context otherwise requires, the following definitions shall govern the construction of this chapter.

(a) "District" means any special tax district formed pursuant to this chapter.

(b) "Facilities" means any or all facilities that a district may finance, purchase, construct, expand, improve, or rehabilitate pursuant to Government Code Section 53313.5.

(c) "Mello-Roos Act" means the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311, of Part 1 of Division 2 of Title 5 of the Government Code, as amended from time to time.) Government Code Sections referenced in this chapter shall mean that Section as amended from time to time.

(d) "Private residential purposes," when considering property use, shall not include property used primarily for hotel or residential purposes. Such property shall be deemed used for commercial and nonresidential use.

(e) "Services" means any or all of the following:

(1) Maintaining, servicing, or replacing (aa) any street, highway, road, alley, lane, boulevard, pedestrian mall, parkway, bike path, trail, easement or other way dedicated to public use or used by the public and (bb) all appurtenances and improvements therein including, but not limited to, medians, street signs, other signage, street lights, traffic signals, hydrants, soundwalls, drains, tunnels, sewers, curbs, gutters, sidewalks, conduits, culverts, and channels for drainage purposes, with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connection sewers, ditches, drains, conduits, channels, landscaping, and hardscaping.

(2) Maintaining or servicing any lakes, streams, rivers, creeks, channels, or other bodies of water and the streambeds, riverbeds, creekbeds, channelbeds or lakebeds, or replacing infrastructure necessary to maintaining or servicing any of the foregoing.

(3) Maintaining, servicing, or replacing any landscaping, hardscaping, lighting or signage next to any right-of-way or other way dedicated to public use or used by the public and described in (1), above, or next to any canal, basin, or ditch.

(4) Establishing and maintaining a reasonable reserve for replacement under (1) through (3), above. The reserve for replacement shall be a service cost or expense and shall not be deemed payment for public facilities under Government Code Section 53321(d) when the property subject to the special tax is used for private residential purposes.

(5) Maintaining health and safety services including, without limitation, police, fire, traffic signal control, and recreational services.

(6) Maintaining, caring for, or preserving any facilities defined in this chapter. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-104. NONEXCLUSIVITY. The procedures provided in this chapter are not exclusive, but are alternative to any other procedures provided in this Code or under State Law. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-105. CONFLICT OF LAW. This chapter is to be read and construed with the incorporated Mello-Roos Act. In any conflict between this chapter and the provisions of the Mello-Roos Act, this chapter shall govern. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-106. NATURE OF DISTRICTS. Districts created pursuant to this chapter shall be deemed financing districts and not separate governmental agencies distinct from the city. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-107. CONSTRUCTION. This chapter shall be liberally construed. (Added Ord. 2004-103, § 1, eff. 11-15-04).

ARTICLE 2: TAX DISTRICT FORMATION AND PROCEDURES

Sec. 22-201. Incorporation of the Mello-Roos Act.

Sec. 22-202. Adopting Goals and Policies.

Sec. 22-203. Authorized Services.

Sec. 22-204. Hearing, Continuances.

Sec. 22-205. Refunding Bonds, Use of Savings.

Sec. 22-206. Extraterritorial Jurisdiction.

Sec. 22-207. Lease of Facilities.

Sec. 22-208. Compliance with Chapter.

Sec. 22-209. Services Existing Before District Formation.

Sec. 22-210. Public Agency as Qualified Elector.

Sec. 22-211. Special Tax Levy Election.

Sec. 22-212. Joint Community Facilities Agreement or Joint Exercise of Powers Agreement.

SECTION 22-201. INCORPORATION OF THE MELLO-ROOS ACT. The Mello-Roos Act is incorporated in and made a part of this chapter. Except as otherwise provided by this chapter, the mode and manner for financing facilities, for levying and collecting special taxes, and for issuing bonds shall be as prescribed in the Mello-Roos Act. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-202. ADOPTING GOALS AND POLICIES. The city may initiate proceedings to establish a district or to annex territory to a district pursuant to this chapter without first considering and adopting goals and policies. Establishing goals and policies as provided in Government Code Section 53312.7, concerning the adoption of local goals and policies, shall be permissive and not mandatory to initiating proceedings pursuant to this chapter. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-203. AUTHORIZED SERVICES. A district special tax, whether approved by vote of landowners or registered voters, may finance services specified in the Mello-Roos Act or services as defined in this chapter. Services financed may supplant services already available in the territory when the district is created or when the territory is annexed to a district.

SECTION 22-204. HEARING, CONTINUANCES. The hearing on the proposed formation of a district as required by subdivision (e) of Government Code Section 53321, and the hearing on a proposed annexation to an existing district as required by subdivision (f) of Government Code Section 53339.3, shall be held not less than 10 or more than 60 days after the date that the Council adopts the resolution of intention to establish the district, or to annex territory, and may be continued from time to time without further notice, but shall be completed within one year of the original hearing date. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-205. REFUNDING BONDS, USE OF SAVINGS. The city may use any savings, from issuing refunding bonds, within the district in any manner that Council determines to be in the interests of the district and consistent with the purposes for imposing the special tax. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-206. EXTRATERRITORIAL JURISDICTION. Any district may be created pursuant to this chapter within the territorial jurisdiction of the city or, upon compliance with the procedures set forth in Streets and Highways Code Sections 5115 through 5118, may extend beyond the territorial limits of the city. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-207. LEASE OF FACILITIES. Notwithstanding Government Code Section 53313.5, the city may lease out facilities financed pursuant to this chapter if the Council determines that it is in the best interest of the city to do so. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-208. COMPLIANCE WITH CHAPTER. Any proceedings taken, special tax levied, or bonds issued pursuant to this chapter shall not be held invalid for failure to comply with the provisions of this chapter provided such failure is not a constitutional defect. (Added Ord. 2004-103, § 1, eff. 11-15-04)

SECTION 22-209. SERVICES EXISTING BEFORE DISTRICT FORMATION. Notwithstanding Government Code Section 53313, a special tax imposed pursuant to this chapter may finance any facilities or services authorized in this chapter, which were being provided in the territory of the district before the district was created or the territory annexed. The special tax imposed may finance facilities or services that are in addition to existing facilities or services, or that supplant existing facilities or services. (Added Ord. 2004-103, § 1, eff. 11-15-04)

SECTION 22-210. PUBLIC AGENCY AS QUALIFIED ELECTOR. A public agency shall be a qualified elector and entitled to vote in any election in which landowners are the electors. (Added Ord. 2004-103, § 1, eff. 11-15-04)

SECTION 22-211. SPECIAL TAX LEVY ELECTION. The Council shall submit the levy of any special taxes to the qualified electors of the proposed district or to the qualified electors of the territory to be annexed to the district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least thirty days, but no more than one eighty days following the adoption of the resolution calling the election. (Added Ord. 2004-103, § 1, eff. 11-15-04)

SECTION 22-212. JOINT COMMUNITY FACILITIES AGREEMENT OR JOINT EXERCISE OF POWERS AGREEMENT. Notwithstanding Government Code Section 53316.2 (b), the city, at any time, may enter a joint community facilities agreement with any local agency or public agency, or a joint exercise of powers agreement with any local agency. (Added Ord. 2004-103, § 1, eff. 11-15-04).

Municipal Code of the City of Fresno

Chapter 22: Special Tax Financing Law

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

Sec. 22-101. Authority.

Sec. 22-102. Title.

Sec. 22-103. Definitions.

Sec. 22-104. Nonexclusivity.

Sec. 22-105. Conflict of Law.

Sec. 22-106. Nature of Districts.

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SECTION 22-101. AUTHORITY. The city is a municipal corporation, organized and existing under its Charter and the State constitution, with the power to make and enforce all laws and regulations respecting municipal affairs, subject only to any restrictions and limitations provided in the Charter and in the State constitution. The Council finds and declares that providing for special tax districts, to finance certain facilities and services, is necessary, essential, a public purpose, and a municipal affair of the city. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-102. TITLE. This chapter may be cited as the City of Fresno Special Tax Financing Law. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-103. DEFINITIONS. Unless the context otherwise requires, the following definitions shall govern the construction of this chapter.

(a) "District" means any special tax district formed pursuant to this chapter.

(b) "Facilities" means any or all facilities that a district may finance, purchase, construct, expand, improve, or rehabilitate pursuant to Government Code Section 53313.5.

(c) "Mello-Roos Act" means the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311, of Part 1 of Division 2 of Title 5 of the Government Code, as amended from time to time.) Government Code Sections referenced in this chapter shall mean that Section as amended from time to time.

(d) "Private residential purposes," when considering property use, shall not include property used primarily for hotel or residential purposes. Such property shall be deemed used for commercial and nonresidential use.

(e) "Services" means any or all of the following:

(1) Maintaining, servicing, or replacing (aa) any street, highway, road, alley, lane, boulevard, pedestrian mall, parkway, bike path, trail, easement or other way dedicated to public use or used by the public and (bb) all appurtenances and improvements therein including, but not limited to, medians, street signs, other signage, street lights, traffic signals, hydrants, soundwalls, drains, tunnels, sewers, curbs, gutters, sidewalks, conduits, culverts, and channels for drainage purposes, with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connection sewers, ditches, drains, conduits, channels, landscaping, and hardscaping.

(2) Maintaining or servicing any lakes, streams, rivers, creeks, channels, or other bodies of water and the streambeds, riverbeds, creekbeds, channelbeds or lakebeds, or replacing infrastructure necessary to maintaining or servicing any of the foregoing.

(3) Maintaining, servicing, or replacing any landscaping, hardscaping, lighting or signage next to any right-of-way or other way dedicated to public use or used by the public and described in (1), above, or next to any canal, basin, or ditch.

(4) Establishing and maintaining a reasonable reserve for replacement under (1) through (3), above. The reserve for replacement shall be a service cost or expense and shall not be deemed payment for public facilities under Government Code Section 53321(d) when the property subject to the special tax is used for private residential purposes.

(5) Maintaining health and safety services including, without limitation, police, fire, traffic signal control, and recreational services.

(6) Maintaining, caring for, or preserving any facilities defined in this chapter. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-104. NONEXCLUSIVITY. The procedures provided in this chapter are not exclusive, but are alternative to any other procedures provided in this Code or under State Law. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-105. CONFLICT OF LAW. This chapter is to be read and construed with the incorporated Mello-Roos Act. In any conflict between this chapter and the provisions of the Mello-Roos Act, this chapter shall govern. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-106. NATURE OF DISTRICTS. Districts created pursuant to this chapter shall be deemed financing districts and not separate governmental agencies distinct from the city. (Added Ord. 2004-103, § 1, eff. 11-15-04).

SECTION 22-107. CONSTRUCTION. This chapter shall be liberally construed. (Added Ord. 2004-103, § 1, eff. 11-15-04).

ARTICLE 2: TAX DISTRICT FORMATION AND PROCEDURES

Sec. 22-201. Incorporation of the Mello-Roos Act.

Sec. 22-202. Adopting Goals and Policies.

Sec. 22-203. Authorized Services.

Sec. 22-204. Hearing, Continuances.

Sec. 22-205. Refunding Bonds, Use of Savings.

Sec. 22-206. Extraterritorial Jurisdiction.

Sec. 22-207. Lease of Facilities.

Sec. 22-208. Compliance with Chapter.

Sec. 22-209. Services Existing Before District Formation.

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