



**REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO. 1 E  
COUNCIL MEETING March 17, 2009

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

March 17, 2009

FROM: PATRICK N. WIEMILLER, Director *P.N.W.*  
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director *S.L.M.*  
Public Works Department, Engineering Division

HILARY KIMBER, Parks Supervisor II *H.K.*  
Public Works Department, Engineering Division

SUBJECT: ADOPT A RESOLUTION OF CONSIDERATION TO CHANGE THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 24, FINAL TRACT NO. 5603 OF THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 11, AND SETTING THE HEARING FOR APRIL 21, 2009, AT 10:00 A.M. (PROPERTY LOCATED IN DISTRICT 3)

**RECOMMENDATION**

It is recommended that the City Council:

Adopt the attached Resolution of Consideration to change the rate and method of apportioning the special tax and establishing a new maximum special tax for the City of Fresno Community Facilities District No. 11 for Annexation No. 24, and setting the hearing thereon for April 21, 2009, at 10:00 a.m.

**EXECUTIVE SUMMARY**

The developer of Final Tract Map No. 5603, Annexation No. 24 to Community Facilities District No. 11 (CFD 11) has petitioned the City to add additional area to be maintained by CFD 11 within Final Tract No. 5603 (see location map). The additional services will change the Maximum Special Tax from \$282.00 per lot to \$846.00 per lot annually. The Resolution of Consideration begins the process, sets the required public hearing for April 21, 2009, and defines the steps required to complete the alteration of services.

**BACKGROUND**

On December 11, 2007, the City Council adopted Resolution No. 2007-411 annexing Final Tract 5603 (see location and feature map) into the City of Fresno Community Facilities District No. 11 (CFD 11) and levying a Special Tax. On February 5, 2009, City Staff received a petition from the landowner requesting that additional area of maintenance services be provided by CFD 11 for Final Tract 5603. The additional services requested are:

- A – Weed Control of a 7,250 square foot temporary ponding basin (formerly Lot # 9).

The additional area will raise the Maximum Special Tax from \$282.00 per lot per year to \$846.00 per lot per year. The additional maintenance will be performed by the City of Fresno, Public Works Department.

REPORT TO THE CITY COUNCIL

Resolution of Consideration to Alter Maximum Special Tax for Annexation No. 24

March 17, 2009

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The process to alter the special tax financed by community facilities districts is virtually the same as used for the annexation to existing community facilities districts as permitted under the Mello-Roos Community Facility Act of 1982. The legislative body must follow certain prescribed procedures as outlined below:

- adoption of a Resolution of Consideration to alter the special tax for services 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 change of services process and sets the public hearing on this matter for 10:00 a.m. on April 21, 2009.

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 District.

PW/SLM/HK/hck

CFD11consider24ROC.0224

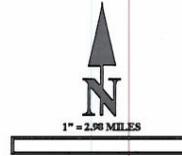
Attachments: Location Map  
Feature Map  
Resolution

# LOCATION MAP

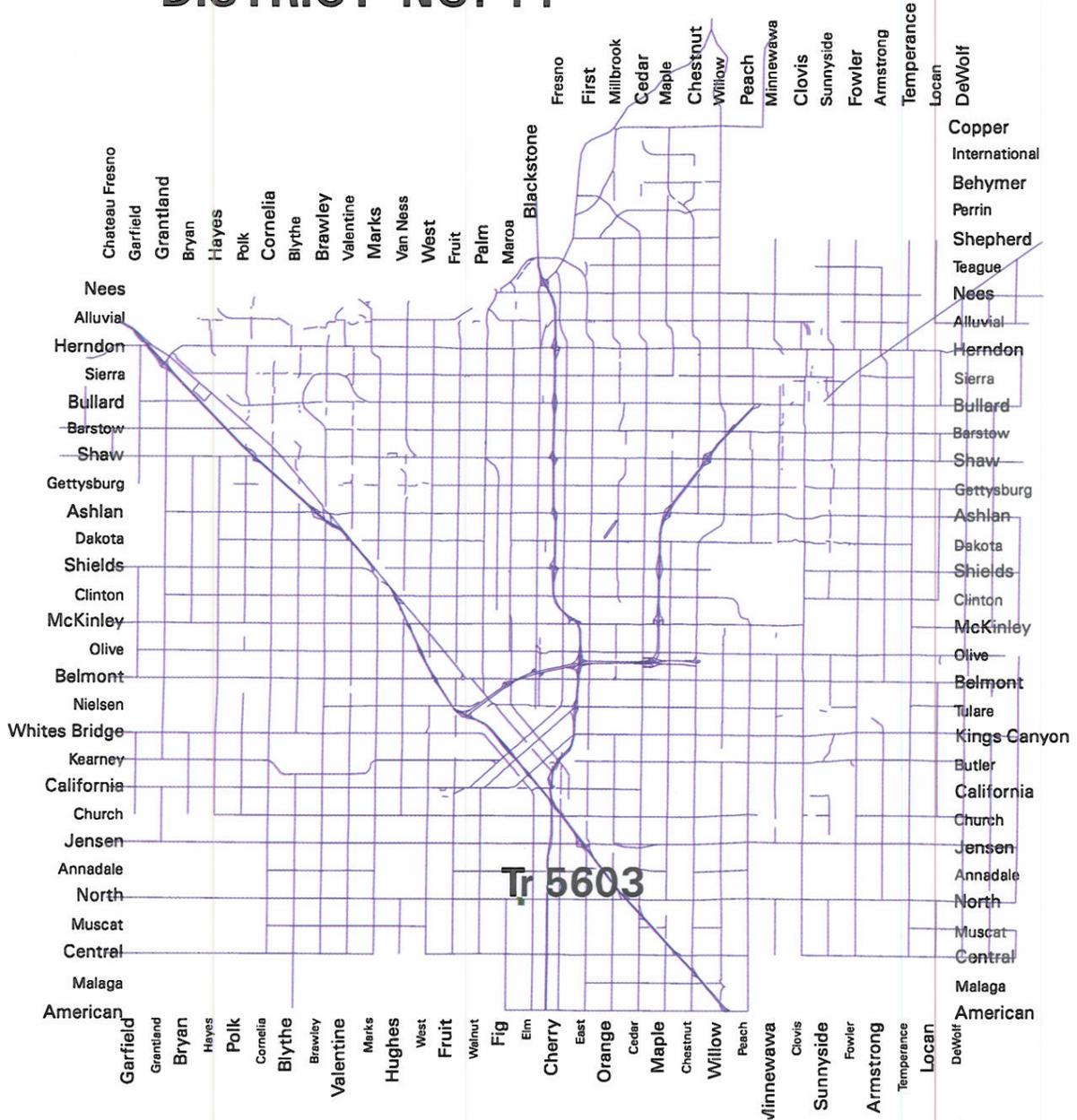
## Annexation No. 24

### COMMUNITY FACILITIES

### DISTRICT NO. 11

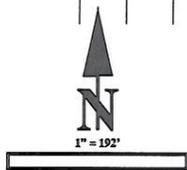
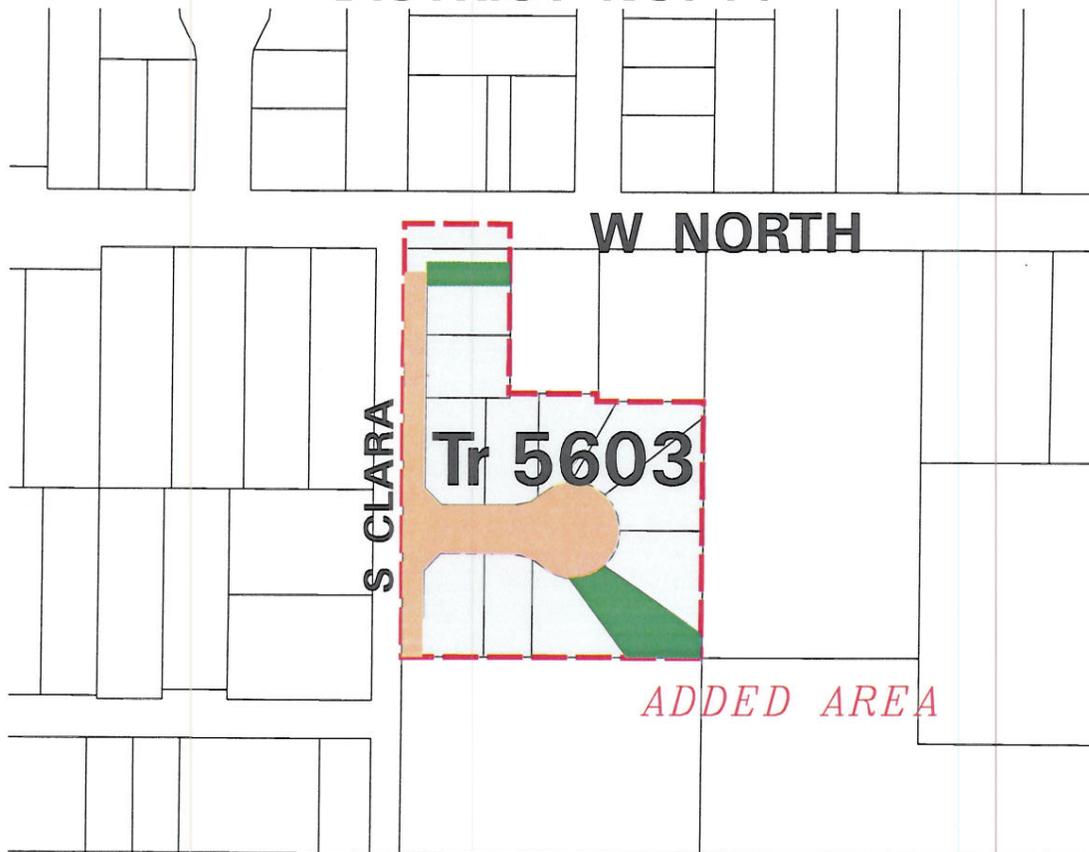


October 03, 2007  
City of Fresno Public Works



**PUBLIC WORKS DEPARTMENT / Technical Services**

**FEATURES TO BE ADDED BY  
ANNEXATION NO. 24 AND MAINTAINED BY  
COMMUNITY FACILITIES  
DISTRICT NO. 11**



February 17, 2009  
City of Fresno Public Works

-  DISTRICT MAINTAINED LANDSCAPING
-  TRACT BOUNDARY LINE
-  DISTRICT MAINTAINED CURBS, GUTTERS, VALLEY GUTTERS, SIDEWALKS, STREET LIGHTS AND STREET SIGNS

No Phases

**TRACT 5603**



**PUBLIC WORKS DEPT. / Technical Services**

RESOLUTION NO. 2009 - \_\_\_\_\_

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. 24, FINAL TRACT NO. 5603 OF  
COMMUNITY FACILITIES DISTRICT NO. 11

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 (City Law), Chapter 8, Division 1, Article 3 of the Fresno Municipal Code, 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 November 15, 2005, the City Council adopted its resolution establishing the City of Fresno Community Facilities District No. 11 (CFD No. 11); and

WHEREAS, on December 11, 2007 the Council of the City of Fresno adopted its resolution annexing Final Tract No. 5603 as Annexation No. 24 to the CFD No. 11, and authorizing the levy of a special tax (Annex-Levy Resolution); and

WHEREAS, the Annex-Levy Resolution established specific public services to be provided pursuant to the provisions of City Law for Final Tract No. 5603 of Annexation No. 24 as shown in Exhibit "A", and those services remain unchanged; and

WHEREAS, the Annex-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 establishing the initial MST for the public services to be provided; and

WHEREAS, the area to be maintained by CFD11 has increased, causing a change to the established rate and method and an increase to the MST; and

WHEREAS, City Law provides that the legislative body may determine that public convenience and necessity require a change to the rate or method of apportioning the special tax, resulting in a change to the calculation of the MST, 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 changes to the rate and method of apportioning the special tax for Final Tract No. 5603, Annexation No. 24, within CFD No. 11 are listed on attached Exhibit "C".

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. Change of Special Tax. The proposed change to the rate and method of apportioning the special tax applicable to Final Tract No. 5603, Annexation No. 24, within CFD No. 11 are listed on attached Exhibit "C", attached and by this reference incorporated herein.
3. District Report. The Director of Public Works Department, as the officer in charge and control of the Services for CFD No. 11, 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 No. 5603, Annexation No. 24, within CFD No. 11, 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, April 21, 2009 at 10:00 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. 11, 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. 5603, Annexation No. 24, within CFD No. 11, and consider and finally determine whether the public interest, convenience and necessity require the alteration.

5. The City Clerk/delegee thereof 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. 11. 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. 5603 in Community Facilities District No. 11
- Exhibit B: Existing Rate and Method of Apportioning of Special Tax for Final Tract No. 5603
- Exhibit C: Revised Rate and Method of Apportioning of Special Tax for Final Tract No. 5603

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 \_\_\_\_\_, 2009.

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

REBECCA E. KLISCH  
City Clerk

BY: \_\_\_\_\_

APPROVED AS TO FORM:  
CITY ATTORNEY'S OFFICE

BY:           R          2-27-09            
Robert R. Coyle  
Senior Deputy City Attorney

# **EXHIBIT "A"**

## **CITY OF FRESNO**

### **Community Facilities District No. 11 And Annexation No. 24**

#### **Description of Services to be Financed by Community Facilities District No. 11 for Annexation No. 24 (Final Tract No. 5603)**

The Services that are to be financed for Annexation No. 24 (Final Tract No. 5603) 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), public landscape and trail easements, public open spaces and other similar landscaped areas officially dedicated for public use.

General maintenance will include, without limitation, watering, 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, local street concrete curbs, gutters, valley gutters, sidewalks, street signs and street lighting associated with the subdivision.

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 "A"

## CITY OF FRESNO

### Community Facilities District No. 11 Formation

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

The services (the "Services") that are to be financed by Community Facilities District No. 11 ("CFD No. 11") are any and all Services defined by City of Fresno Special Tax Financing Law (Chapter 22 of the Fresno Municipal Code) and the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 commencing with Section 53311, of Part 1, Division 2, Title 5 of the California Government Code.)

- I. Services may include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing all facilities, including hardscaping, in landscaped areas (may include reserves for replacement) in public street rights-of-way, public landscape easements, public trail areas, parkways, 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; repairing and replacing paths, walkways and trails; removing litter, debris, and garbage.

- II. Services may include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing all local ground level street infrastructure (may include reserves for replacement) within local street rights-of-way. Such facilities may include, without limitation, street paving, curbs and gutters, sidewalks, street lighting, hydrants, inlets, street trees and street furniture.
- III. Services may include costs attributable to police, fire, traffic control, street lighting and recreational services.

Maintenance costs will also 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 A 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 "B"**

**CITY OF FRESNO**

**Community Facilities District No. 11  
Annexation No. 24**

**EXISTING**

**Rate and Method of Apportionment of Special Tax**

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**Cost Estimate**

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

<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>ESTIMATED COST</u></b>
1	Landscape Maintenance	\$2,255.28
2	Feature Maintenance	\$1,064.76
Annual	a. Engineering	\$54.00
Administrative	b. Legal	\$6.00
Costs		
	Total	<hr/> \$3,380.04

**Subdivision Appropriation Limit**

TRACT	MAX. TAX PER EDU	NUMBER OF LOTS	APPROPRIATION LIMIT	SUBDIVIDER
5603	\$282.00	12	\$500,000.00	Fresno West Coalition

# EXHIBIT "B"

## City of Fresno

### Community Facilities District No. 11 Annexation No. 24

#### 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 8 Articles 53 and 54 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 "B"

**"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 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.

## EXHIBIT "B"

### 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 2007-2008 for a Residential Unit within Tract 5603 is identified in Table 1 below:

<b>Table 1 Maximum Special Tax (Fiscal Year 2007-2008)*</b>	
<b>Tract Number**</b>	<b>Maximum Special Tax</b>
5603	\$ 282.00 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. 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 24

Excluded Parcels within Each Tract

**THERE ARE NO EXCLUDED PARCELS IN FINAL TRACT MAP NO. 5603**

**EXHIBIT "C"**

**CITY OF FRESNO**

**Revised Rates of Services**

**Community Facilities District No. 11  
Alteration of Services for Annexation No. 24**

**Rate and Method of Apportionment of Special Tax**

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**Cost Estimate**

The estimate breaks down the costs of providing 1 year's service for FY 08-09

<b>ITEM</b>	<b>DESCRIPTION</b>	<b>ESTIMATED COST</b>
1	Landscape Maintenance	\$8,183.56
2	Feature Maintenance	\$1,067.44
3	Annual Administrative Costs	
	a. Engineering	\$50.00
	b. Legal	\$5.00
	<b>Total</b>	<b>\$ 9,306.00</b>

**Subdivision Appropriation Limit**

<b>TRACT</b>	<b>MAX. TAX PER EDU</b>	<b>NUMBER OF LOTS</b>	<b>APPROPRIATION LIMIT</b>	<b>Subdivider</b>
5603	\$846.00	11	\$500,000.00	Habitat for Humanity

# EXHIBIT "C"

## City of Fresno

### Community Facilities District No. 11 Alteration of Services for Annexation No. 24

#### 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. 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 8, Article 3, Division 1 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 Assessors' 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 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.

## 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 2008-2009 for a Residential Unit within Tract 5603 is identified in Table 1 below:

<b>Table 1 Maximum Special Tax (Fiscal Year 2008-2009)*</b>	
<b><i>Tract Number**</i></b>	<b><i>Maximum Special Tax (Revised)</i></b>
5603	\$ 846.00 per Residential Unit

\* Beginning in January 2009 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 2008-2009, 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. 24

Excluded Parcels within Each Tract

**THERE ARE NO EXCLUDED PARCELS IN FINAL TRACT MAP NO. 5603**