



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO:	1A
COUNCIL MEETING	04/11/13
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

April 11, 2013

FROM: PATRICK N. WIEMILLER, Director of Public Works
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director
Public Works Department, Traffic and Engineering Services Division

^{AL}
ANN LILLIE, Senior Engineering Technician
Public Works Department, Traffic and Engineering Services Division

SUBJECT: RESOLUTION OF INTENTION TO ANNEX FINAL PARCEL MAP NO. 2008-13, ANNEXATION NO. 3, TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 9 (LOCATED IN COUNCIL DISTRICT 2) (SOUTHWEST CORNER OF WEST HERNDON AVENUE AND NORTH RIVERSIDE DRIVE)

RECOMMENDATION

Adopt Resolution of Intention to annex Final Parcel Map No. 2008-13 to the City of Fresno Community Facilities District No. 9 ("CFD No. 9").

EXECUTIVE SUMMARY

The landowners have petitioned the City of Fresno ("City") to have Final Parcel Map No. 2008-13 annexed to CFD No. 9 to provide funding for the operation and reserves for maintenance ("Services") pertaining to the landscaping, irrigation systems, trees and hardscaping in the median islands and the street lights within West Herndon Avenue and North Riverside Drive rights-of-way; street paving; concrete curbs and gutters, valley gutter, curb ramp and sidewalks, street signage and street lighting, and storm drain facilities within North Weber Avenue rights-of-way as associated with Final Parcel Map No. 2008-13. Two traffic signals located in North Riverside Drive entrances are also included for Services as associated with Final Parcel Map No. 2008-13. The cost for the Services for these improvements is **\$0.01861501/square foot (totaling \$36,091.83) annually**. Final Parcel Map No. 2008-13 is located entirely in the Fresno City Limits. The Resolution of Intention begins the process, sets the required public hearing for **May 2, 2013 at 10:00 a.m.**, and defines the steps required to complete the annexation. (See attached location map.)

BACKGROUND

On December 16, 2008, the Council of the City of Fresno ("City") adopted Resolution No. 2008-351 forming CFD No. 9 to provide funding for the Services for public improvements/areas that may benefit not only a particular subdivision, but also the City and the public at large, that serve a public purpose, and that are constructed or installed on public property or dedicated rights-of-way or easements. CFD No. 9 is to provide Services for certain regulatory required public improvements located within and adjacent to public streets on the perimeter of commercial, industrial and multi-family subdivisions as described and permitted by the City of Fresno Special Tax Financing law, Chapter 8, Division 1, Article 3 of the Fresno Municipal

REPORT TO THE CITY COUNCIL

Resolution of Intention for Annexation No. 3 to Community Facilities District No. 9

April 11, 2013

Page 2

Code ("City Law") 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).

New commercial, industrial and multi-family subdivisions have different needs and standards than those of a standard single-family residential subdivision. Commercial, industrial and multi-family subdivisions are traditionally self-maintained with different proprietary requirements for landscaping, signage and general designs. CFD No. 9 is designed to accommodate these requirements by providing funding for Services for certain required public improvements along the perimeters of these subdivisions.

The landowners have petitioned the City to have Final Parcel Map No. 2008-13 annexed into CFD No. 9 to provide funding for the operation and reserves for maintenance ("Services") pertaining to the landscaping, irrigation systems, trees and hardscaping in the median islands and the street lights within West Herndon Avenue and North Riverside Drive rights-of-way; street paving; concrete curbs and gutters, valley gutter, curb ramp and sidewalks, street signage and street lighting, and storm drain facilities within North Weber Avenue rights-of-way as associated with Final Parcel Map No. 2008-13. Two traffic signals located in North Riverside Drive entrances are also included for Services as associated with Final Parcel Map No. 2008-13.

(See attached location map.)

The attached Resolution initiates the annexation process, sets the public hearing on this matter for **May 2, 2013 at 10:00 a.m.**, sets the Maximum Special Tax at **\$0.01861501/square foot (totaling \$36,091.83)**, to be apportioned annually for Fiscal Year 2012-13 and sets the annual adjustment of the maximum 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 CFD No. 9
- Required 7-day minimum Notice of Public Hearing
- Public hearing on Annexation and Levy of Special Tax
- Call a Special Mailed-Ballot Election on the proposed Special Tax
- Declare the Results of the Election
- 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 and Operations will be borne by the landowner as set by Exhibit D of the Resolution of Intention attached herein.

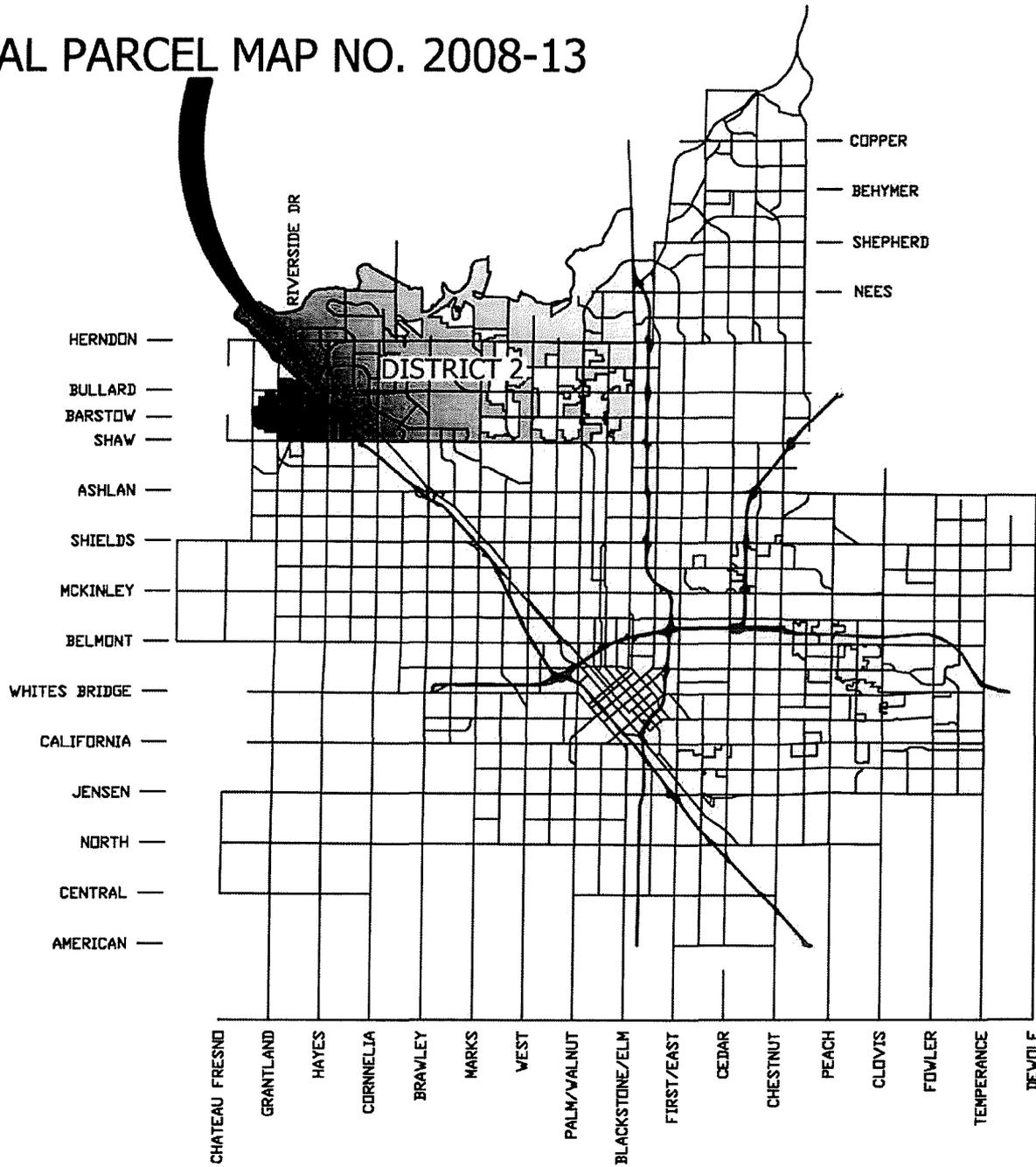
Attachments: Location Map
 Resolution

CITY OF
FRESNO
 PUBLIC WORKS DEPARTMENT
 TRAFFIC AND ENGINEERING SERVICES DIVISION



NOT TO SCALE
 March 8, 2013

FINAL PARCEL MAP NO. 2008-13



LOCATION MAP
 ANNEXATION NO. 3
 COMMUNITY FACILITIES DISTRICT NO. 9

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RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO,
CALIFORNIA, OF THE INTENTION TO ANNEX FINAL PARCEL
MAP NO. 2008-13 AS ANNEXATION NO. 3 TO THE CITY OF
FRESNO COMMUNITY FACILITIES DISTRICT NO. 9 AND TO
AUTHORIZE THE LEVY OF SPECIAL TAXES

WHEREAS, the City of Fresno ("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 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law"), the Council of the City of Fresno ("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 community facilities district; and

WHEREAS, on December 16, 2008 the Council adopted Resolution No. 2008-351 establishing the City of Fresno Community Facilities District No. 9 ("CFD No. 9"); and

WHEREAS, the original boundaries of CFD No. 9 are as shown on the Boundary Map of City of Fresno Community Facilities District No. 9, recorded December 4, 2008, at Book 42, Page 100 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 of the City of Fresno ("City Clerk"); and

WHEREAS, the territory encompassing the existing CFD No. 9 is shown on Exhibit A, attached and incorporated herein by reference; and

WHEREAS, the landowners of Final Parcel Map No. 2008-13 ("P2008-13") have formally petitioned the City to annex P2008-13 to CFD No. 9, and the area proposed for annexation to CFD No. 9 is shown on Exhibit B, attached and incorporated herein by reference; and

WHEREAS, the types of services and operations provided in the existing CFD No. 9 ("Services") are specified on page C-1 of attached Exhibit C, which is incorporated herein by reference; and

Date Adopted:
Date Approved:
Effective Date:

City Attorney Approval: 

Resolution of Intention to Annex Final
Parcel Map No. 2008-13, Annexation
No. 3, to CFD No. 9

Resolution No.

WHEREAS, the types of Services to be provided to Annexation No. 3 are specified on pages C-2 and C-3 of attached Exhibit B; and

WHEREAS, CFD No. 9 and Annexation No. 3 will share costs proportionately for Services provided by the City; and

WHEREAS, Annexation 3, FPM 2008-13 is located entirely within the limits of the City of Fresno; and

WHEREAS, Annexation No. 3, P2008-13, is Phase I of a larger area represented by Vesting Parcel Map No. 2008-13 ("VPM 2008-13"), and will share Services in common with all areas within P2008-13 and VPM 2008-13; and

WHEREAS, other areas within the P2008-13 and VPM 2008-13, concurrently with being developed, have been or may be annexed to CFD No. 9, and the taxable property within Annexation No. 3 and the taxable property within the other annexed developments within the P2008-13 and VPM 2008-13 will share the costs of Services provided by CFD No. 9.

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. 3 Boundaries.** The proposed boundaries of Annexation No. 3 are as shown on the map (copy attached as Exhibit B) on file in the Office of the City Clerk of the City of Fresno ("City Clerk"). The boundaries, shown in Annexation Map No. 3, for the territory proposed to be annexed, are preliminarily approved. The City Clerk is directed to record Annexation Map No. 3, 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. 3 are listed in Exhibit C, at pages C-2 and C-3, which is attached to and made part of this resolution.
4. **Special Taxes.** Except to the extent that funds are otherwise available to CFD No. 9 to pay for the Services in Annexation No. 3, a special tax sufficient to pay the costs ("Special

Tax”) thereof, secured by recording a continuing lien against all nonexempt real property in Annexation No. 3, will be levied annually within Annexation No. 3, 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. 3, in sufficient detail for each landowner within Annexation No. 3 to estimate the maximum amount each owner will have to pay, are described in Exhibit D, which is attached to and made part of this resolution.

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. 9, or his designee, is directed to study the proposed Services and to make, or cause to be made, and filed with the City Clerk a report of the study for Annexation No. 3 in writing (“District Report”) presenting the following:

a. A description of the Services required to adequately meet the needs of CFD No. 9, Annexation No. 3.

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. 9, 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. 9. Specify any alteration in the Special Tax rate levied within the existing community facilities district because of the proposed annexation.

e. The District Report shall be made a part of the record of the public hearing specified below.

6. **Single Ballot.** 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. **Annexation Hearing.** Thursday, May 2, 2013 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. 9, will conduct a public hearing on the annexation of P2008-13 and will consider and finally determine whether the public interest, convenience and necessity require the annexation and the levy of the Special Tax.

8. **Public Notice.** 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. 9. The publication shall be complete at least seven days before the hearing date set herein. The notice shall be in the form specified by Sections 53339.4 and 53322 of Chapter 2.5 of the California Government Code.

Attachments:

- Exhibit A: Existing CFD No. 9 Territories
- Exhibit B: Annexation Map No. 3
- Exhibit C: Description of Services
- Exhibit D: Rate and Method of Apportionment of Special Tax

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2013.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2013
Mayor Approval/No Return: _____, 2013
Mayor Veto: _____, 2013
Council Override Vote: _____, 2013

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____ Date: _____
Raj Singh Badhesha, Deputy

CITY OF FRESNO MAINTENANCE CFD9 ANNEXATION

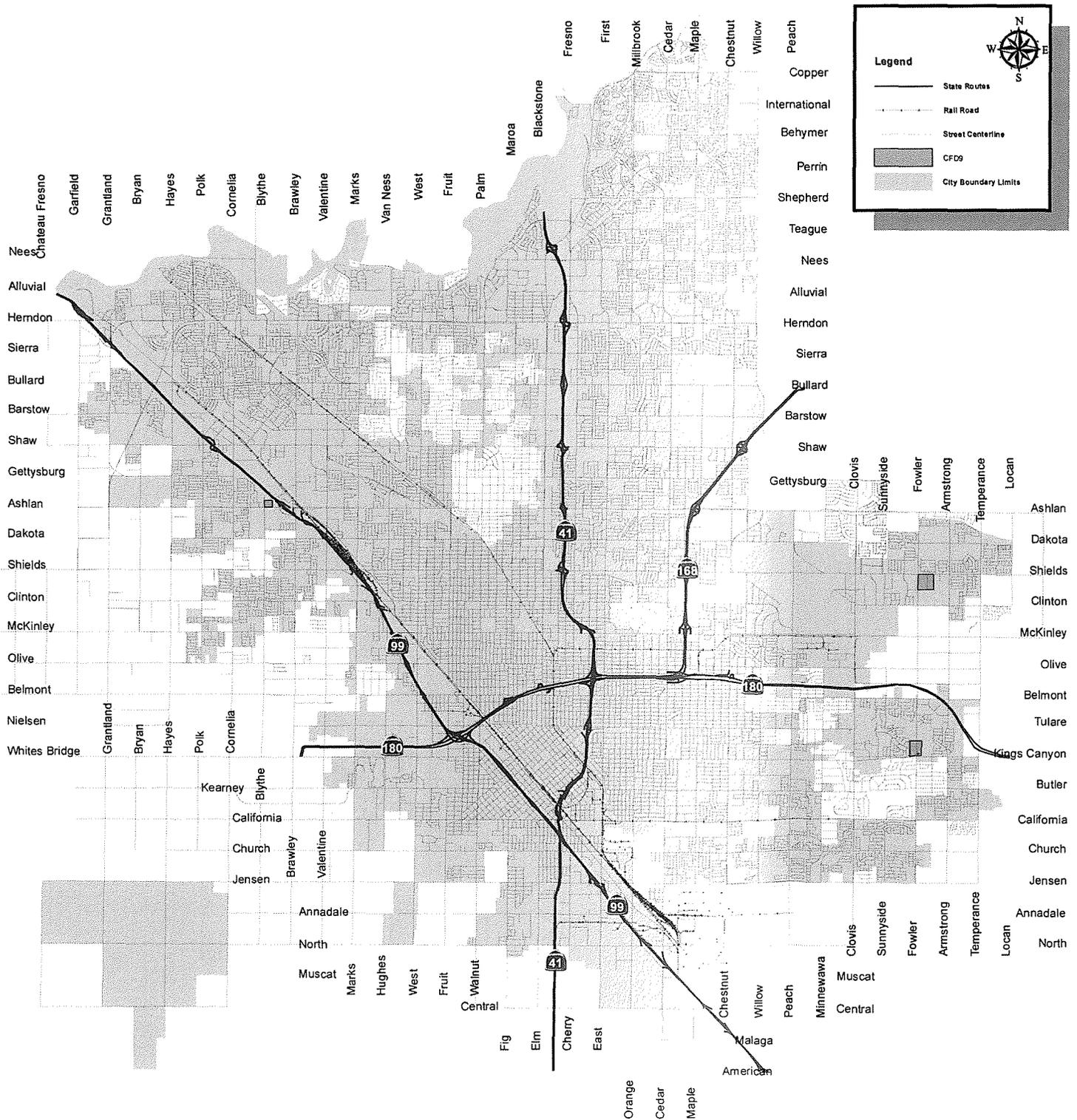
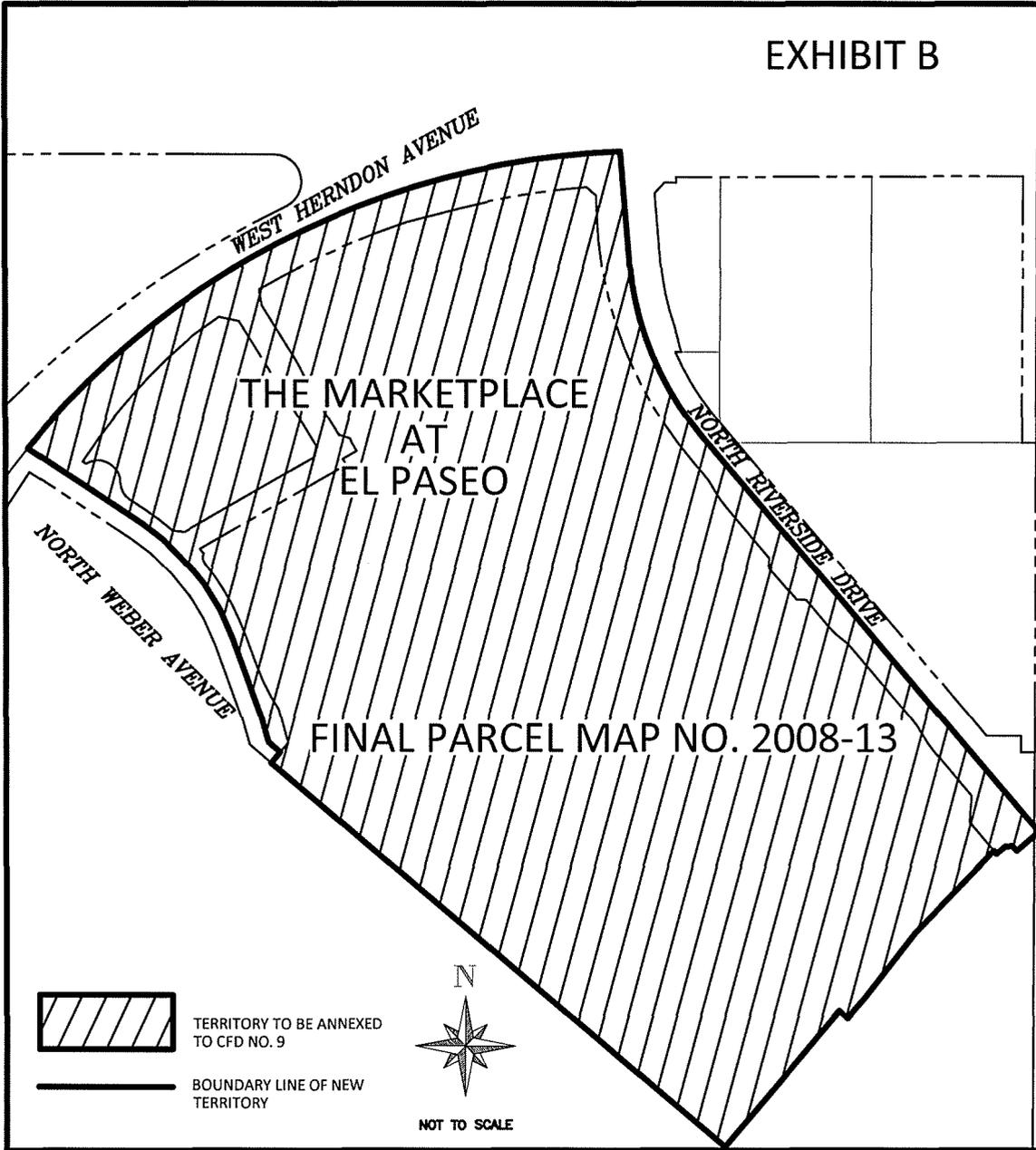


Exhibit A

EXHIBIT B



DOC. _____

ATTEST:

YVONNE SPENCE, CMC
CITY CLERK OF THE CITY OF FRESNO



BY: _____
DEPUTY

I HEREBY CERTIFY THAT THE ANNEXATION MAP NO. 3 OF THE COMMUNITY FACILITIES DISTRICT NO. 9, CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA WAS ADOPTED BY THE COUNCIL OF THE CITY OF FRESNO BY RESOLUTION NO. 2013-____ ON _____, 2013.

ATTEST:

YVONNE SPENCE, CMC
CITY CLERK OF THE CITY OF FRESNO



BY: _____
DEPUTY

THIS ANNEXATION MAP NO. 3 OF THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 9, WAS FILED THIS ____ DAY OF _____, 2013 AT THE HOUR OF ____ O'CLOCK ____ M AT BOOK 43, PAGE OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

PAUL DICTOS, C.P.A.
COUNTY RECORDER OF THE COUNTY OF FRESNO

BY: _____

REFERENCE: BOUNDARY MAP OF CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 9, RECORDED DECEMBER 4, 2008 AT BOOK 42, PAGE 100 OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS IN THE OFFICE OF THE RECORDER IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

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

CITY OF FRESNO - Public Works Department													
ANNEXATION MAP NO. 3 OF COMMUNITY FACILITIES DISTRICT NO. 9 OF THE CITY OF FRESNO, FRESNO COUNTY, CALIFORNIA	<table border="1"> <tr> <td>COMM. ENGR.</td> <td>OFFICE ENGR.</td> </tr> <tr> <td>CITY ENGR.</td> <td></td> </tr> <tr> <td>DR. ENR.</td> <td>SHEET NO. <u>1</u></td> </tr> <tr> <td>CIV. ENR.</td> <td>OF <u>1</u> SHEETS</td> </tr> <tr> <td>ENR.</td> <td></td> </tr> <tr> <td>ROAD.</td> <td></td> </tr> </table>	COMM. ENGR.	OFFICE ENGR.	CITY ENGR.		DR. ENR.	SHEET NO. <u>1</u>	CIV. ENR.	OF <u>1</u> SHEETS	ENR.		ROAD.	
COMM. ENGR.	OFFICE ENGR.												
CITY ENGR.													
DR. ENR.	SHEET NO. <u>1</u>												
CIV. ENR.	OF <u>1</u> SHEETS												
ENR.													
ROAD.													

EXHIBIT C

CITY OF FRESNO

Community Facilities District No. 9 Formation

Description of Services currently financed by Community Facilities District No. 9

The services and operations ("Services") that are to be financed by Community Facilities District No. 9 ("CFD No. 9") are described below and are permitted by City of Fresno Special Tax Financing Law (Chapter 8, Division 1, Article 3 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 landscaping facilities (including reserves), including stamped concrete paving in medians and landscaped areas in public street rights-of-way, public trails, and, in instances where a required sound wall abuts a local City street and public landscape easements are 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; repairing and replacing stamped concrete paving and 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 infrastructures (including reserves) within local street rights-of-way. Such facilities may include, without limitation, street paving, curbs and gutters, sidewalks, street lighting, hydrants, inlets, street trees, street signage and street furniture.

Maintenance costs will also include a proportionate share of all other expenses that the City may incur in administering the CFD No. 9.

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 this Resolution shall be construed as committing the City or CFD No. 9 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 continued existence of CFD No. 9 and the availability of sufficient proceeds of special taxes within the District.

EXHIBIT C

CITY OF FRESNO

Community Facilities District No. 9 Annexation No. 3

Description of Services and Operations to be Financed by Community Facilities District No. 9 For Annexation No. 3 (Final Parcel Map No. 2008-13)

The services and operations described below ("Services") to be financed by Community Facilities District No. 9 ("CFD No. 9") for Final Parcel Map No. 2008-13 ("P2008-13"), Annexation No. 3 are generally as described below and herewith Exhibit C, page C-3.

The Services that are to be financed will include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing all landscaping facilities within the median islands (including reserves), including median stamped concrete edging and cap and trees, in West Herndon Avenue and North Riverside Drive as associated with Final Parcel Map No. 2008-13.

General maintenance will include, without limitation, repairing and replacing irrigation systems as necessary; fertilizing, staking, pruning, replacing and spraying of trees and shrubs; repairing and replacing stamped concrete edging and cap; and removing litter, debris, and garbage.

Services may include all costs attributable to cleaning, maintaining, servicing, repairing and/or replacing all local ground level street infrastructure (including reserves) within local street rights-of-way. Such facilities include, without limitation, street paving, curbs and gutters, valley gutter, curb ramp, sidewalks and street lighting in North Weber Avenue as associated with Final Parcel Map No. 2008-13.

Services shall include all costs attributable to street lighting services.

Services shall include all costs attributable to two traffic signal services located at the private entrances on North Riverside Drive.

Services shall include all costs attributable to storm drain facilities located in North Weber Avenue.

Maintenance costs will also include a proportionate share of all other expenses that the City may incur in administering the CFD No. 9.

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 this Resolution shall be construed as committing the City or CFD No. 9 to provide all of the authorized Services or to provide for the payment of or reimbursement for all of the authorized incidental expenses. The provision of Services and/or payment or reimbursement of incidental expenses shall be subject to the successful annexation of Annexation 3 to CFD No. 9 and the availability of sufficient proceeds of Special Taxes within CFD No. 9.

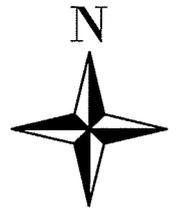
CITY OF



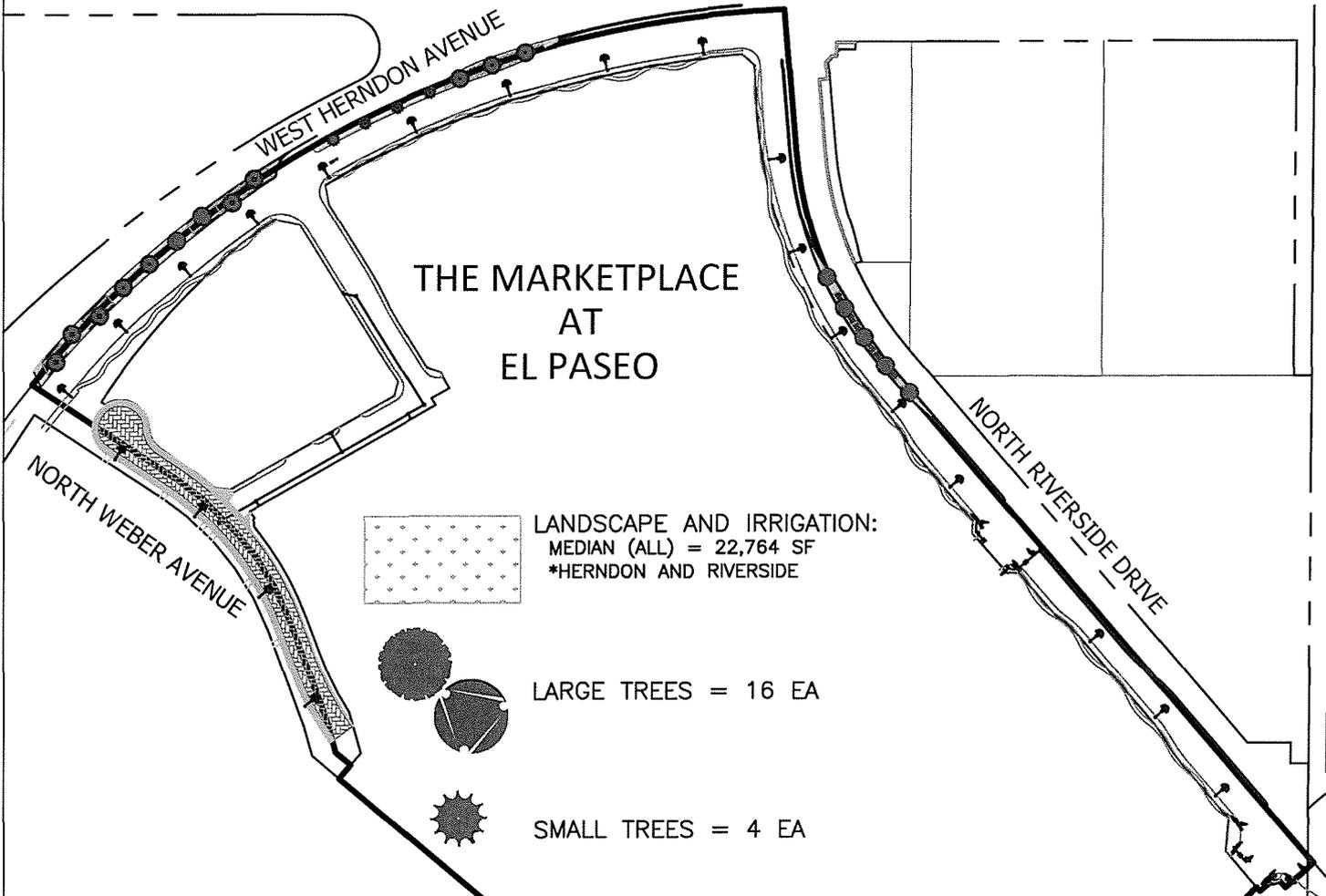
PUBLIC WORKS DEPARTMENT

TRAFFIC AND ENGINEERING SERVICES DIVISION

FEATURES TO BE ADDED BY FINAL PARCEL MAP NO. 2008-13,
ANNEXATION NO. 3 COMMUNITY FACILITIES DISTRICT NO. 9



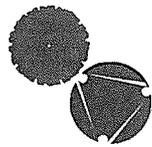
NOT TO SCALE
March 18, 2013



THE MARKETPLACE AT EL PASEO



LANDSCAPE AND IRRIGATION:
MEDIAN (ALL) = 22,764 SF
*HERNDON AND RIVERSIDE



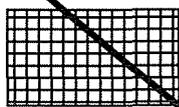
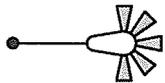
LARGE TREES = 16 EA



SMALL TREES = 4 EA

STREET LIGHTS:

70W = 20 EACH
150W = 1 EACH

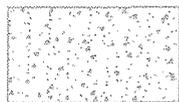


STAMPED CONCRETE:

1/2 MEDIAN CAP = 2,409 SF
1/2 MEDIAN EDGE = 1,353 SF



LOCAL INDUSTRIAL PAVEMENT:
TOTAL AREA = 26,956 SF

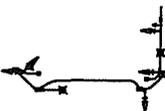


CONCRETE IMPROVEMENTS:

CURB & GUTTER = 1,335 LF
VALLEY GUTTER = 801 SF
SIDEWALKS = 6,848 SF
CURB RAMP = 317 LF

TRAFFIC SIGNALS (2 EA):

150W = 4/SIGNAL (8 TOTAL)



WEBER STORM DRAIN FACILITIES:

30" RCP PIPE = 621 LF
FMFCD TYPE A CASE I MANHOLE = 6 EA
INLET = 2 EA
12" LATERAL PIPE = 30 LF

EXHIBIT D

CITY OF FRESNO

Community Facilities District No. 9 Annexation No. 3

Rate and Method of Apportionment of Special Tax

Cost Estimate

The estimate breaks down the costs of providing 1 year's Service for FY 2012-2013

ITEM	DESCRIPTION	ESTIMATED COST
1	Landscape Operational Costs	\$ 14,341.32
2	Other Operational Costs	\$ 5,216.27
3	Reserve for Replacement	\$ 16,309.23
4	Incidental Expenses	\$ 225.00
	Total	\$ 36,091.83

Subdivision Appropriation Limit

FINAL PARCEL MAP NO.	MAX. SPECIAL TAX PER SQUARE FOOT (SF)	TOTAL TAXABLE SF	APPROPRIATION LIMIT	SUBDIVIDER
2008-13	\$ 0.01861501	1,938,856	\$500,000.00	Rich Development Company, LLC

EXHIBIT D

City of Fresno

Community Facilities District No. 9 Annexation No. 3

Rate and Method of Apportionment of Special Tax

A special tax applicable to each assessor's parcel in Community Facilities District No. 9 ("CFD No. 9") shall be levied and collected according to the tax liability determined by the City Council of the City of Fresno, through the application of the appropriate amount or rate for taxable property, as described below. All of the property in CFD No. 9, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 9 unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown on an assessor's parcel map with an assigned assessor's parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of Fresno designating parcels by assessor's parcel number.

"City" means the City of Fresno.

"City Law" means the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code.

"Commercial/Industrial Subdivisions" means subdivisions zoned for commercial or industrial uses.

"Council" means the City Council of the City of Fresno, acting as the legislative body of CFD No. 9.

"Developable Lot" means a lot that is anticipated development of residential or non-residential uses, and which is not an outlot, remainder parcel or other parcel which is not intended to be developed or which must be further subdivided before being developed.

"Excluded Parcels" means those assessor's parcels identified as ineligible for inclusion in CFD No. 9 as shown in "Attachment 1" of this Rate and Method of Apportionment of Special Tax.

"Final Map" means a final map, or portion thereof, approved by the Council pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates individual developable lots for which building permits may be issued. The term "Final Map" shall not include any assessor's parcel map or subdivision map or portion thereof, that does not create individual developable lots for which a building permit may be issued, including assessor's parcels that are designated as remainder parcels.

EXHIBIT D

“Fiscal Year” means the period starting April 1 and ending on the following March 31.

“Maximum Special Tax” means the maximum special tax, determined in accordance with Section C, which can be levied in any Fiscal Year.

“Public Property” means any property within the boundaries of CFD No. 9 that is owned by the federal government, State of California or other local governments or public agencies.

“Reserve for Replacement” means a reasonable reserve pursuant to Fresno Municipal Code 8-1-303(e) (4), as a Service cost or expense and not as payment for public facilities under Government Code Section 53321(d).

“Shared Services” means the costs of services are paid equally by the property owners of two or more subdivisions.

“Special Tax” means any special tax to be levied each fiscal year on assessor’s parcels of taxable property to fund the Special Tax Requirement as defined below.

“Special Tax Requirement” means the amount necessary in any fiscal year to (i) pay authorized maintenance and improvement expenses, (ii) pay administrative expenses of CFD No. 9, and (iii) cure any delinquencies in the payment of special taxes levied in prior fiscal years or (based on delinquencies in the payment of special taxes which have already taken place) are expected to occur in the fiscal year in which the tax will be collected.

“Subdivision” means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease, or financing whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. “Subdivision” includes a condominium project, as defined in Section 1351 of the Civil Code, a community apartment project, as defined in Section 1351 of the Civil Code.

“Taxable Property” means all of the assessor’s parcels within the boundaries of CFD No. 9 which are not exempt from the special tax pursuant to law or Section E below.

B. CALCULATIONS

COMMERCIAL/INDUSTRIAL SUBDIVISIONS

On April 1 of each fiscal year, the City of Fresno (“City”) or its designee shall determine how many square feet of taxable area are on assessor’s parcels within each commercial or industrial subdivision of CFD No. 9.

For commercial and industrial subdivisions, the area to be taxed is the total area within the subdivision not designated as public right-of-way and is not to exceed the Maximum Special Tax per square foot identified for the subdivision in Section C, Table 1 below.

EXHIBIT D

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax (“MST”) applicable to each assessor’s parcel in CFD No. 9 shall be specific to each subdivision/portion thereof within CFD No. 9. When additional property is annexed into CFD No. 9, the rate and method adopted for the annexed property shall reflect the MST for the subdivision or subdivisions or respective portion thereof then annexed.

The MST applicable to each assessor’s parcel in CFD No. 9 shall be the rate that is created at the time of CFD No. 9 annexation expressly for the individual subdivisions/portions thereof being annexed to CFD No. 9 at that time. Beginning in January of each year, the MST shall be adjusted upward annually by 3% plus the rise, if any, in the Construction Cost Index (CCI) for the San Francisco Region for the prior 12-month period (December through December) as published in the Engineering News Record, or published in a comparable index if the Engineering News Record is discontinued or otherwise not available. Each annual adjustment of the MST shall become effective on the subsequent July 1.

Subject to the maximum limit set by the MST, the Special Tax for commercial and industrial subdivision parcels is calculated by spreading the Special Tax Requirement to the total taxable square footage of the subdivision, apportioned back to the individual parcels.

The Maximum Special Tax for Fiscal Year 2012-2013 per square foot within Final Parcel Map No. 2008-13 is identified in Table 1 below:

Table 1 Maximum Special Tax (Fiscal Year 2012-2013)*	
<i>Commercial Final Parcel Map Number**</i>	<i>Maximum Special Tax</i>
2008-13	\$ 0.01861501 per Square Foot

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

The estimated Special Taxes for the parcels within Final Parcel Map No. 2008-13 for **Fiscal Year 2012-2013** are:

Tract XXXX	SQ FT**	MAXIMUM TAX PER SQ FT	ASSIGNED TAX
Lot 1	125,452.8	\$0.01861501	\$2,335.31
Lot 2	42,253.2	\$0.01861501	\$786.54
Lot 3	81,021.6	\$0.01861501	\$1,508.22
Lot 4	71,874.0	\$0.01861501	\$1,337.94
Lot 5	71,874.0	\$0.01861501	\$1,337.94
Lot 6	31,363.2	\$0.01861501	\$583.83
Lot 7	485,694.0	\$0.01861501	\$9,041.20
Lot 8	48,351.6	\$0.01861501	\$900.07
Lot 9	48,351.6	\$0.01861501	\$900.07
Lot 10	45,302.4	\$0.01861501	\$843.30
Lot 11	356,756.4	\$0.01861501	\$6,641.02

EXHIBIT D

Lot 12	103,672.8	\$0.01861501	\$1,929.87
Lot 13	125,452.8	\$0.01861501	\$2,335.31
Lot 14	225,205.2	\$0.01861501	\$4,192.20
Lot 15	76,230.0	\$0.01861501	\$1,405.13
Total=	1,938,856	Annual Tax =	\$36,091.83

**Lot Areas supplied by Applicant's Engineer

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 2012-2013, 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 CFD No. 9 based on applying the Maximum Special Tax rates determined pursuant to Section C above to each parcel of taxable property in CFD No. 9;

If the amount determined in Step 1 is greater than or equal to the amount calculated in Step 2, levy the Maximum Special Tax set forth in Table 1 above on all parcels of taxable property in CFD No. 9;

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax proportionately against all parcels of taxable property up to 100% of the Maximum Special Tax for each subdivision as identified in Table 1, until the amount of the Special Tax levy equals the Special Tax Requirement for that fiscal year.

The Special Tax for CFD No. 9 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that CFD No. 9 may (under the authority of Government Code 53340), in any particular case, bill the taxes directly to the property owner off of the County of Fresno tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on parcels that have been conveyed to a public agency, except as otherwise provided in City Law. In addition, no Special Tax shall be levied on excluded parcels or parcels that are determined not to be developable lots.

EXHIBIT D

ATTACHMENT "1"

City of Fresno

Community Facilities District No. 9
Annexation 3

Excluded Parcels

**THERE ARE NO EXCLUDED PARCELS IN
FINAL PARCEL MAP NO. 2008-13**