

RESOLUTION NO. 2012-22



A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO OF INTENTION TO ANNEX FINAL PARCEL MAP NO. 2010-09 AS ANNEXATION NO. 2 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 district; and

WHEREAS, December 16, 2008 the Council adopted a resolution establishing the City of Fresno Community Facilities District No. 9 (CFD No. 9); and

WHEREAS, the boundaries of CFD No. 9 are 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; and

WHEREAS, the landowner(s) of Final Parcel Map No. 2010-09 (PM 2010-09) have formally petitioned the City to annex PM 2010-09 into CFD No. 9, and the area proposed for annexation into CFD No. 9 is shown on Exhibit A, attached and incorporated herein by reference; and

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

WHEREAS, the types of Services to be provided to Annexation No. 2 (PM 2010-09) are specified on pages B-2 and B-3 of Exhibit B; and

WHEREAS, CFD No. 9 and Annexation No. 2 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.

Adopted _____
Approved _____
Effective _____

2012-22



2. **Proposed Annexation No. 2 Boundaries.** The proposed boundaries of Annexation No. 2 are as shown on the map (copy attached as Exhibit A) on file with the City Clerk of the City of Fresno (City Clerk). The boundaries, shown in Annexation Map No. 2, for the territory proposed to be annexed, are preliminarily approved. The City Clerk is directed to record Annexation Map No. 2, 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. 2 are listed in Exhibit B, at pages B-2 and B-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. 2, 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. 2, will be levied annually within Annexation No. 2, and collected in the same manner as ordinary ad valorem property taxes, or in any other manner as this Council or its designee shall determine, including direct billing of the effected property owners. The proposed Rate and Method of Apportionment of the Special Tax among the real property parcels within Annexation No. 2, in sufficient detail for each landowner within Annexation No. 2 to estimate the maximum amount each owner will have to pay, are described in attached Exhibit C, 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. 2 in writing (District Report) presenting the following:

- a. A description of the services by type required to adequately meet the needs of CFD No. 9, Annexation No. 2.



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. **Formation Hearing.** Thursday, March 8, 2012 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 PM 2010-09 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 City Law.



Attachments:

- Exhibit A: Annexation Map No. 2
- 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, YVONNE SPENCE, CMC, 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 16th day of February, 2012.

AYES: Baines, Borgeas, Brand, Quintero, Westerlund, Xiong, Olivier

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:
YVONNE SPENCE, CMC
City Clerk

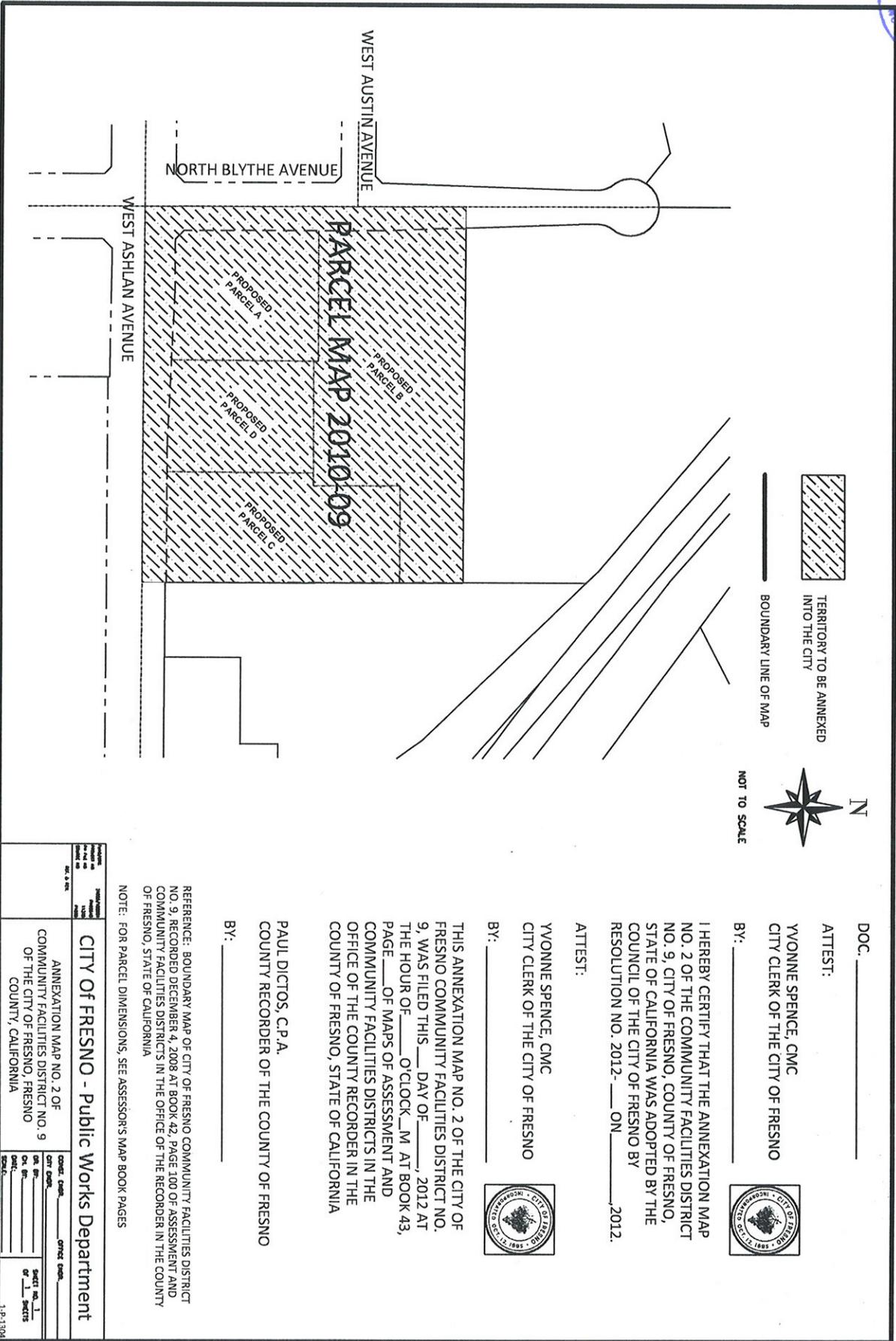
BY: *Yvonne Spence*
Deputy

APPROVED AS TO FORM:
City Attorney's Office

BY: *Mark Gleason*
Mark Gleason, Deputy



EXHIBIT A



DOC. _____

ATTEST:

YVONNE SPENCE, CMC
CITY CLERK OF THE CITY OF FRESNO

BY: _____



I HEREBY CERTIFY THAT THE ANNEXATION MAP NO. 2 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. 2012-____ ON _____, 2012.

ATTEST:

YVONNE SPENCE, CMC
CITY CLERK OF THE CITY OF FRESNO

BY: _____



THIS ANNEXATION MAP NO. 2 OF THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 9, WAS FILED THIS ____ DAY OF _____, 2012 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

<p>CITY OF FRESNO - Public Works Department</p> <p>ANNEXATION MAP NO. 2 OF COMMUNITY FACILITIES DISTRICT NO. 9 OF THE CITY OF FRESNO, FRESNO COUNTY, CALIFORNIA</p>	<p>DATE: _____</p> <p>BY: _____</p> <p>OFFICE: _____</p>	<p>SHEET NO. 1</p> <p>OF 1 SHEETS</p> <p>1.6.1.104</p>
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EXHIBIT B

CITY OF FRESNO

Community Facilities District No. 9 Formation

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

The services (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 infrastructure (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 B 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 formation of CFD No. 9 and the availability of sufficient proceeds of special taxes within the District.



EXHIBIT B

CITY OF FRESNO

Community Facilities District No. 9 Annexation No. 2

Description of Services to be Financed by Community Facilities District No. 9 for Annexation No. 2 (Final Parcel Map No. 2010-09)

The services described below (Services) to be financed by Community Facilities District No. 9 (CFD No. 9) for Final Parcel Map No. 2010-09 are generally as to the features located on the map attached hereto as page B-3.

The Services that are to be financed for Final Parcel Map No. 2010-09 by CFD No. 9 will include all costs attributable to maintaining, servicing, cleaning, repairing and/or replacing one-half of the median landscaping facilities (including reserves) in the major street public rights-of-way.

General maintenance will include, without limitation, repairing and replacing irrigation systems as necessary; staking, pruning, replacing and spraying of trees and shrubs; 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 may include, without limitation, street paving, valley gutter, curbs and gutters, sidewalks, median curb, street lighting and street trees.

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

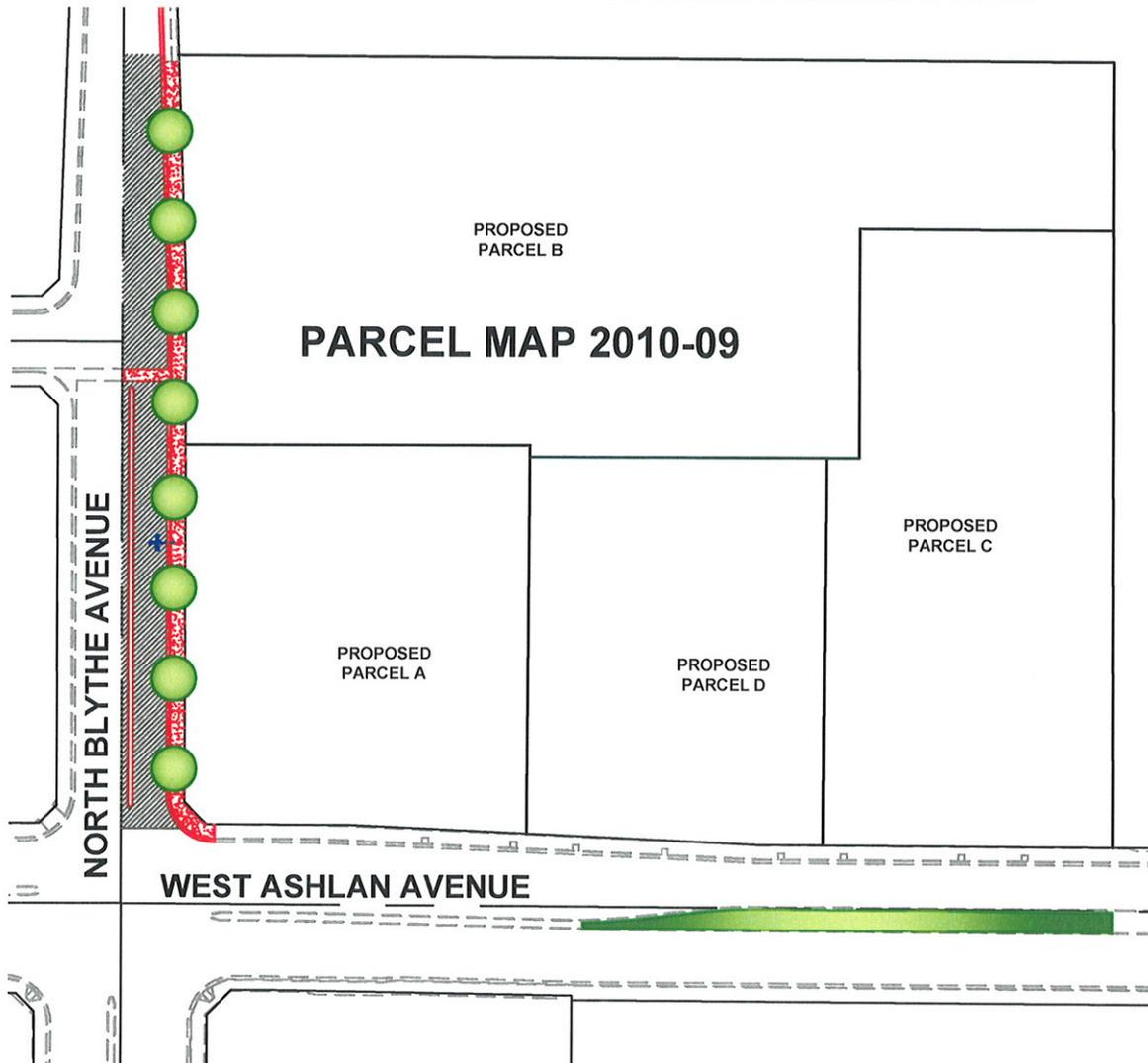
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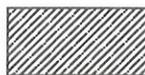
CITY OF
FRESNO
 PUBLIC WORKS DEPARTMENT
 TRAFFIC AND ENGINEERING SERVICES DIVISION



NOT TO SCALE
 February 2, 2012



FEATURES TO BE ADDED BY
 ANNEXATION NO. 2
 COMMUNITY FACILITIES DISTRICT NO. 9



PAVING



CONCRETE: VALLEY GUTTER, MEDIAN CURB, CURB & GUTTER, SIDEWALK AND CURB RAMP



STREET TREES



STREET LIGHT



HALF ASHLAN MEDIAN LANDSCAPING

EXHIBIT C



CITY OF FRESNO

Community Facilities District No. 9 Annexation No. 2

Rate and Method of Apportionment of Special Tax

Cost Estimate

The estimate breaks down the costs of providing 1 year's service for FY 2011-2012

ITEM	DESCRIPTION	ESTIMATED COST
1	Landscape Operational Costs	\$ 1,399.23
2	Other Operational Costs	\$ 43.45
3	Reserve for Replacement	\$ 2,306.75
	Total	\$ 3,749.43

Subdivision Appropriation Limit

FINAL PARCEL MAP NO.	MAX. TAX PER SQUARE FOOT (SF)	TOTAL TAXABLE SF	APPROPRIATION LIMIT	SUBDIVIDER
2010-09	\$ 0.01170058	320,448	\$500,000.00	Paintbrush, LLC

EXHIBIT C



City of Fresno

Community Facilities District No. 9 Annexation No. 2

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, within any final map approved in CFD No. 9, 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



EXHIBIT C

individual developable lots for which a building permit may be issued, including assessor's parcels that are designated as remainder parcels.

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

"Maximum Special Tax" means the maximum special tax, determined in accordance with Section C, 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 generally improved or unimproved land that is divided for the purpose of sale, lease, or financing in 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. This includes final tract maps, final parcel maps, and also includes any development or project created by a document that permits construction of commercial, industrial or multi-family improvements by but not limited to final tract maps, final parcel maps, conditional use permits and site plans.

"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.

"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 SQUARE FOOTAGE (COMMERCIAL/INDUSTRIAL SUBDIVISIONS)

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



EXHIBIT C

For commercial and industrial subdivisions, the area to be taxed is the total area within the subdivision not designated as street right-of-way.

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 of Apportionment of Special Tax 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 district annexation expressly for the individual subdivisions/portions thereof going into the district 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.

Table 1	
Maximum Special Tax	
(Fiscal Year 2011-2012)*	
Commercial/Industrial Map Number**	Maximum Special Tax per Sq. Ft.
2010-09	\$ 0.01170058

** 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. 2010-09 for **Fiscal Year 2011-2012** are:

PARCEL	SQ FT**	MAXIMUM TAX PER SQ FT	ASSIGNED TAX
A	58,009	\$ 0.01170058	\$ 678.74
B	136,731	\$ 0.01170058	\$ 1,599.83
C	75,443	\$ 0.01170058	\$ 882.73



EXHIBIT C

D	50,265	\$ 0.01170058	\$ 588.13
Total SQ FT =	320,448		
		Total Annual Special Tax =	\$ 3,749.43

**Parcel areas supplied by Applicant's Engineer

D. METHOD OF LEVY AND COLLECTION OF THE SPECIAL TAX

Commencing with Fiscal Year 2011-2012, 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 final tract map 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 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 C

ATTACHMENT "1"

City of Fresno

Community Facilities District No. 9
Annexation 2

Excluded Parcels within Each Tract

THERE ARE NO EXCLUDED PARCELS IN FINAL PARCEL MAP NO. 2010-09