RESOLUTION NO. 2011 - 99

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO
CALLING SPECIAL MAILED-BALLOT ELECTION

COMMUNITY FACILITIES DISTRICT NO. 11

ANNEXATION NO. 42

WHEREAS, on April 28, 2011, the Council of the City of Fresno adopted its Resolution of Intention to Annex the Final Map of Tract No. 5977 to City of Fresno Community Facilities District No. 11 (CFD No. 11) and to authorize the levy of special taxes. (Resolution of Intention); and

WHEREAS, the Resolution of Intention identified the services to be provided by Annexation No. 42 of CFD No. 11 and provided an estimate of the cost of providing those services; and

WHEREAS, the Resolution of Intention contemplated the imposing a special tax upon those properties within Annexation No. 42 of CFD No. 11 receiving said services; and

WHEREAS, a report has been filed with the City Clerk of the City of Fresno that describes the proposed rate and method or apportionment of the special tax among the parcels of real property proposed to be annexed to the CFD No. 11 in sufficient detail to allow all interested parties to estimate the maximum amount each property owner must pay; and

WHEREAS, the levy of said proposed special tax shall be subject to the approval of the qualified electors of the territory proposed to be annexed to the CFD No. 11 at a special election.

Adopted _____
Approved 5-26-11
Effective _____

2011-99

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. The levy of a special tax proposed in the Annexation Resolution shall be submitted to the voters pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code (City Law).

2. The setting of the appropriations limit shall be submitted to the voters pursuant to City Law.

3. The two ballot items described above shall be combined into a single ballot measure pursuant to City Law. The ballot language shall be as shown on the ballot form attached as Exhibit A, which ballot form is hereby approved.

4. This Council accepts the Certificate of the Public Works Director filed in these proceedings and, based on the Certificate, finds that fewer than twelve (12) registered voters reside within the boundaries of the territory proposed to be annexed to the CFD No. 11. Accordingly, under City Law the voters in this election shall be the landowners owning land within the territory proposed to be annexed to the CFD No. 11.

5. The Council further finds that the landowners of record owning property within the territory proposed to be annexed to the CFD No. 11 are those set forth in the attachment to the Certificate of the Public Works Director and that the attachment correctly sets forth how much property owned by each landowner and the number of votes to which each is entitled.

6. This Council approves the form, attached as Exhibit B, entitled Waiver and Consent From Sole Property Owner Shortening Time Periods and Waiving Various Requirements for Conducting Mailed- Ballot Election in the CFD No. 11, Annexation No. 42, City of Fresno, County of Fresno, State of California. This Council finds that the rights, procedures and time periods therein waived are solely for the protection of the voters, may be

waived under City Law, and that the waiver constitutes a full and knowing waiver by any voter who has executed the form of these rights, procedures and time periods.

7. Accordingly, this Council calls the special election described herein and sets May 26, 2011 as election day. Pursuant to City Law, the election shall be conducted by mailed ballot.

8. The City Clerk is directed to mail or to deliver the ballots, in the form of Exhibit A hereto, to the landowners shown on the attachment to the Certificate of the Public Works Director. The City Clerk shall fill in the names of the landowners and the number of votes to be cast on each ballot, according to the Certificate of the Public Works Director, before delivery or mailing.

10. The City Clerk shall accept personal or mail delivery of the ballots at any time up to the hearing on May 26, 2011. Upon receipt of all eligible ballots, however, the City Clerk shall immediately close the election and declare the results to the City Council.

Attachments:

Exhibit A - Special Election Ballot
Exhibit B - Waiver and Consent from Sole Property Owner

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 26th day of May, 2011.

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

NOES: None

ABSTAIN: None

ABSENT: Borgeas

REBECCA E. KLISCH
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: _____
Mark Gleason, Deputy

EXHIBIT "A"

SPECIAL ELECTION BALLOT

(Mailed-Ballot Election)

Community Facilities District No. 11

Annexation No. 42

This ballot is for the use of the BN Hudson Ranch L.P., the sole landowner owning land (Tract 5977) within Community Facilities District No. 11, Annexation No. 42, City of Fresno, County of Fresno, State of California.

According to the provisions of the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the City of Fresno Municipal Code, and the resolutions of the City Council of the City of Fresno, the above-named landowner is entitled to cast eleven (11) votes on this ballot.

In order to be counted, the ballot must be returned prior to the hearing on May 26, 2011, to Rebecca E. Klisch, City Clerk, City of Fresno, 2600 Fresno Street, Room 2133, Fresno, CA 93721.

Mailing by that date will not be sufficient. **The ballot must be physically <u>received</u> by the City Clerk prior to the deadline in order to be counted.**

AN "X" OR OTHER MARK WILL CAST ALL VOTES ASSIGNED TO THIS BALLOT, OR THE VOTER MAY WRITE NUMBERS IN THE SPACES PROVIDED

BALLOT MEASURE

Shall the City of Fresno (the "City") be authorized to levy a special tax, and finance the authorized services, and costs and expenses by and through its Community Facilities District No. 11, Annexation No. 42, all as specified in its Resolutions No. _____ and No. _____; and shall the appropriations limit for Community Facilities District No. 11 Annexation No. 42 be established in accordance therewith?	Number of Votes YES _____ Number of Votes NO _____

EXHIBIT "A"

CERTIFICATION

The undersigned is the authorized representative of the above-named landowner and is the person legally authorized and entitled to cast this ballot on behalf of the above-named landowner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 2011.

_____
Company Name

By: _____

_____
Print Name

_____
Print Title

EXHIBIT "B"

WAIVER AND CONSENT FROM SOLE PROPERTY OWNER SHORTENING TIME PERIODS AND WAIVING VARIOUS REQUIREMENTS FOR CONDUCTING MAILED-BALLOT ELECTION

Community Facilities District No. 11

Annexation No. 42

The undersigned is the person legally entitled and authorized to cast the ballots as the authorized representative of the sole owner of the property (Tract 5977) in this mailed-ballot election to be conducted within Community Facilities District No. 11 Annexation No. 42, to determine, among other things, whether the rate and method of apportionment of the annual special taxes shall be approved.

The undersigned hereby waives any and all minimum time periods relative to the election pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law".)

The undersigned hereby waives the preparation and distribution of an impartial analysis of the ballot measure, as well as arguments in favor and against, under the authority of City Law.

The undersigned hereby waives the requirement to publish notice of the election under City Law.

The undersigned hereby waives the requirements regarding the time to mail ballots to the qualified electors under Elections Code Section 4101, and agrees to accept either mailed service or personal service of the ballot.

The undersigned hereby waives the requirements regarding identification envelopes for the return of mailed ballots contained in City Law.

The undersigned hereby waives any and all defects in notice or procedure in the conduct of the election, whether known or unknown (other than the right to have ballots accurately counted), and states that the election is being expedited, pursuant to this waiver and consent, at the particular instance and request of the undersigned.

I declare, under penalty of perjury, under the laws of the State of California, that I am the person legally entitled and authorized to cast the ballot as the authorized representative of the landowner set forth in the first paragraph hereof, and to waive and consent to the above, that the foregoing waivers and consents are voluntarily given and that this declaration is executed on _____, 2011.

_____
Company Name

By: _____

_____
Print Name

_____
Print Title