

**RESOLUTION NO. 17-417**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO CALLING A SPECIAL ELECTION FOR A VOTE OF THE QUALIFIED ELECTORS WITHIN A PROPOSED ANNEXATION TERRITORY OF COMMUNITY FACILITIES DISTRICT NO. 2006-01 (POLICE PROTECTION SERVICES) OF THE COUNTY OF FRESNO, FOR THE COMBINED PROPOSITIONS OF LEVYING A SPECIAL TAX TO FINANCE CERTAIN SERVICES, AND INCLUDING SUCH ANNEXATION TERRITORY IN THE DISTRICT FOR PURPOSES OF THE INITIAL APPROPRIATIONS LIMIT OF THE DISTRICT**

**WHEREAS**, in connection with the existing Community Facilities District No. 2006-01 (Police Protection Services) of the County of Fresno (the "District"), on August 8, 2017, the Board of Supervisors of the County of Fresno (this "Board") adopted its Resolution No. 17-385 (the "Resolution of Intention"), Resolution of the Board of Supervisors of the County of Fresno, California, Declaring its Intention to Annex Territory to Community Facilities District No. 2006-01 (Police Protection Services) of the County of Fresno, to Authorize the Levy of a Special Tax Therein to Finance Certain Services, and to Include Such Annexation Territory in the District for Purposes of the Appropriations Limit of the District, pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the Mello-Roos Community Facilities Act of 1982 (collectively, the "Act"); and

**WHEREAS**, the Resolution of Intention, declaring the intention of this Board to annex the proposed Annexation Territory to the District pursuant to the Act, describing and designating and the proposed territory of the Annexation Territory, incorporating a map describing the proposed exterior boundaries of the proposed Annexation Territory, stating the name of the District, stating the type of Services to be provided in the proposed Annexation Territory, stating that any or all of the Services to be provided in the proposed Annexation Territory may be of the same type of police protection services provided by the County of Fresno ("County") within the District, stating the plan for sharing the Services in the District and the proposed Annexation Territory, stating the estimated cost of providing the Services in the proposed Annexation Territory, stating that the Special Tax proposed to pay for Services to be provided in the proposed Annexation Territory is equal to the special tax levied to pay for the same type of police protection services in the District, stating that the Special Tax secured by recordation of a continuing lien against all non-exempt real property in the proposed Annexation Territory will be levied annually within the boundaries of the proposed Annexation Territory to pay for the Services, and stating the proposed rates and method of apportionment of the Special Tax among the parcels in the proposed Annexation Territory in sufficient detail to allow each landowner, or resident, within the proposed Annexation Territory to estimate the maximum amount that he or she shall be required to pay annually, and setting the noticed Public Hearing thereon by this Board and providing for the voting procedures of the question of such Special Tax and the of the Appropriations Limit, is on file with the Clerk to this Board (and available for public inspection during the normal office hours of the Clerk to this Board), and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

**WHEREAS**, notwithstanding anything stated to the contrary in this Resolution, this Board acknowledges that the Special Tax provides only partial funding for the Services to be provided within the District, including the proposed Annexation Territory; and

**WHEREAS**, within at least 15 days following the date of this Board's adoption of the Resolution of Intention, and at least 15 days prior to the Public Hearing by this Board, a map of the proposed boundaries of the Annexation Territory, entitled "Annexation Map No. 9A of Community Facilities District No. 2006-01 (Police Protection Services), County of Fresno, California" (the "Boundary Map") was recorded pursuant to Section 3111 of the California Streets and Highways Code in the Office of the County Recorder of the County of Fresno, State of California, on August 10, 2017, in Book 45 of Maps of Assessment and Community Facilities Districts, at Page(s) 1, as Instrument No. 2017-0099475, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference; and

**WHEREAS**, as directed by the Resolution of Intention, a notice of the Public Hearing by this Board was to be published as required by Section 53339.4 of the Act, and notice of the Public Hearing by this Board also was to be mailed or caused to be mailed by the Clerk to this Board to each original landowner identified herein within the territory of the proposed Annexation Territory, as permitted by Section 53339.4 of the Act; and

**WHEREAS**, at the time, date and place set for the Public Hearing by this Board in the Resolution of Intention which is Tuesday, September 12, 2017 at 9:00 A.M., or as soon as possible thereafter, in the Fresno County Hall of Records, 2281 Tulare Street, 3<sup>rd</sup> Floor, Fresno, California, 93721, this Board convened and held the Public Hearing as required by the Act and by the Resolution of Intention relative to the proposed annexation of the proposed Annexation Territory to the District, the proposed Special Tax Rate and Method of Apportionment of the Special Tax within the proposed Annexation Territory (a copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference), the proposed levy of the Special Tax within the proposed Annexation Territory, the provision of the proposed Services within the proposed Annexation Territory, the vote of the levy of the Special Tax and of the Appropriations Limit relative to the proposed Annexation Territory, and all other matters set forth in the Resolution of Intention; and

**WHEREAS**, at the Public Hearing, the testimony and evidence of all persons desiring to be heard on all matters pertaining to the proposed annexation of the proposed Annexation Territory to the District, the proposed Special Tax Rate and Method of Apportionment of the Special Tax within the proposed Annexation Territory, the proposed levy of the Special Tax within the proposed Annexation Territory, the provision of the proposed Services within the proposed Annexation Territory, the vote of the levy of the Special Tax and of the Appropriations Limit relative to the proposed Annexation Territory and Special Tax, and all other matters set forth in the Resolution of Intention, including all interested persons, landowners or taxpayers for or against such matters, were heard and considered, and a full and fair hearing was held thereon; and

**WHEREAS**, at the Public Hearing, testimony and evidence was presented to this Board on all such matters before it, and this Board, at the conclusion of the Public Hearing, was fully advised as to all such matters; and

**WHEREAS**, at the conclusion of the Public Hearing, written protests against the proposed annexation of the Annexation Territory to the District, the furnishing of Services within the proposed Annexation Territory, the levying of the Special Tax within the proposed Annexation Territory, or any other matters set forth in the Resolution of Intention have not been filed with the Clerk to this Board by (i) the owners of one - half or more of the area of land in the territory proposed to be annexed to the District and not exempt from the special tax, or (ii) the owners of one - half or more of the area of land in the territory of the District and not exempt from the special tax or 6 or more registered voters of the District constituting at least 50 percent

of such registered voters, or (iii) 50 percent or more of the registered voters residing within the Annexation Territory, or all three; and

**WHEREAS**, on the basis of all of the foregoing, this Board has determined at this time to call an election, to submit to the qualified electors of the proposed Annexation Territory (i) the levy of the Special Tax therein (as such Special Tax is more particularly described in Exhibit "B" to the Resolution of Intention and this Resolution), and (ii) whether the initial annual appropriations limit of the District, as defined in Article XIII B, Section 8(h) of the California Constitution (the "Appropriations Limit"), as provided in Section 53325.7 of the Act, should include the proposed Annexation Territory, and that such election shall be held as a special election, either by mailed ballot to qualified electors, or by ballot which is personally served by the Clerk to this Board on qualified electors on the same date of, and, as far as is practical, immediately after the conclusion of the Public Hearing; and

**WHEREAS**, on August 10, 2017 and September 8, 2017 the Fresno County Registrar of Voters certified that there were less than 12 persons registered to vote within the proposed Annexation Territory as of such dates, which dates are within the 90 day period preceding the close of the Public Hearing; accordingly, based on such information, and such other additional and updating information obtained by the County, there are and have been less than 12 registered voters residing in the proposed Annexation Territory during each of the 90 days preceding the close of the Public Hearing, and therefore, the only qualified electors in the proposed Annexation Territory are the landowners; and

**WHEREAS**, this Board has approved and authorized on behalf of the County the execution of certain separate Agreements ("Agreements") entered into by and between the County and the landowners listed below ("Landowners") for certain territory in the unincorporated areas of the County (such Landowners' lands are the "Project Territory"):

1. JPJ Incorporated, a California Corporation, for Tract No. 4968 situated in the Millerton Specific Plan area, Tract 4870, and adjacent territory; and

**WHEREAS**, the Agreements have been and are on file with the Clerk to this Board at the time that this Board considered and adopted the Resolution of Intention and this Resolution, and the Agreements have been executed by the Landowners and the Agreements are available for public inspection during the normal office hours of the Clerk to this Board; and

**WHEREAS**, the Agreements concern the subject of this Resolution; and

**WHEREAS**, under the Agreements, each of the Landowners, as the sole owner of certain land located in the unincorporated area of the County has separately petitioned and requested this Board to institute proceedings for and to annex all of the territory of the Project Territory described in their Agreement to the District in order to provide for ongoing financing for the continual provision of certain police protection services, as further described herein, within such Project Territory; and

**WHEREAS**, under the Agreements, each of the Landowners, respectively, consents to the shortening of election time requirements, and waives, among other things, any requirements for notice, impartial analysis and arguments and rebuttals in connection with such special election; and

**WHEREAS**, the Clerk to this Board and the Landowners have concurred in the election date herein set forth for the special election herein called.

**NOW THEREFORE, BE IT RESOLVED, ORDERED AND FOUND** by this Board as follows:

1. **Recitals.** This Board finds that all of the foregoing recitals are true and correct.
2. **Defined terms.** All capitalized terms in this Resolution shall have the definition given to them in the Resolution of Intention, unless otherwise defined herein.
3. **No majority protest.** Section 53339.6 of the Act provides, in relevant part that,
  - (i) if 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the District, or if 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the territory proposed for annexation,
  - or
  - (ii) if the owners of one-half or more of the area of land in the territory included in the District, or if the owners of one-half or more of the area of land in the territory proposed to be annexed,

file written protests against the proposed annexation of territory to the District, and protests are not withdrawn so as to reduce the protests to less than a majority (in either such case, a "Majority Protest"), then no further proceedings shall be undertaken for a period of one year from the date of decision of the legislative body (*i.e.*, this Board) on the issues discussed at the Public Hearing.

Under those provisions, there is no majority protest and all protests to the proposed annexation of the proposed Annexation Territory to the District, the proposed Special Tax Rate and Method of Apportionment of the Special Tax within the proposed Annexation Territory, the proposed levy of the Special Tax within the proposed Annexation Territory, the provision of the proposed services within the proposed Annexation Territory, the vote of the levy of the Special Tax and of the Appropriations Limit relative to the proposed Annexation Territory and Special Tax, and all other matters set forth in the Resolution of Intention, are hereby overruled. Accordingly, this Board finds that the proposed annexation of the proposed Annexation Territory to the District has not been precluded by Majority Protest pursuant to Section 53339.6 of the Act.

4. **Finding of public interest, convenience and necessity.** This Board has considered and hereby finally determines and finds that the public interest, convenience and necessity require the annexation of the proposed Annexation Territory to the District, the annual levy of the Special Tax within the proposed Annexation Territory, and every other matter set forth in the Resolution of Intention.

5. **Special election; Voting procedures.** The description of the proposed voting procedures, as set forth in the Resolution of Intention, shall be the voting procedure to be used in these proceedings, and as set forth in further detail, below.

This Board finds that there are and have been less than 12 registered voters residing in the proposed Annexation Territory for each of the 90 days preceding the close of the Public Hearing referenced herein which heretofore has been conducted and concluded by this Board for the purposes of such proceeding; accordingly, and pursuant to Section 53326 of the Act, for the purposes of these proceedings, the only qualified electors in the proposed Annexation Territory are the landowners whose lands within the proposed Annexation Territory are not exempt from the Special Tax, or their authorized representatives, and the landowner election procedures in Section 53326 of the Act shall apply to the special election of the levy of the Special Tax.

The vote of the combined propositions, below, shall be by the landowners (or their respective authorized representatives acting on their behalf and in their places) who are the owners of record at the close of the Public Hearing of the lands in the proposed Annexation Territory that is not exempt from the Special Tax, with such landowner (or their respective authorized representatives acting on their behalf and in their places) having one vote for each acre or portion of an acre of such land that each such landowner owns within the proposed Annexation Territory.

This Board determines and finds that each of the Landowners is a qualified elector of the proposed Annexation Territory for purposes of the special election.

For purposes of the voting procedures, and based on information provided to the County, this Board finds that the total number of acres of the Project Territory or proposed Annexation Territory, for which there may be a vote, as provided herein, is as follows:

Project Territory:

1. JPJ Incorporated, a California Corporation, for Tract No. 4968; Total: 20.35 acres

Annexation Territory:

Total: 20.35 acres

**6. Special election; Calling for special election.** This Board finds that the Clerk to this Board, or his or her designee, as the designated Elections Official for the special election, as provided below, received the appropriate waivers of time limits and of other requirements pertaining to the conduct of the special election by each of the Landowners, as the sole owners of each of the Project Territories, and therefore collectively, all of the land within the proposed Annexation Territory (and therefore, unanimously given by all of the owners of land within the proposed Annexation Territory) prior to the conduct of the special election, and as further stated in this Section 6, below. Such waivers, including, but not limited to, shortening of election time requirements, and waivers of any requirements for notice, impartial analysis and arguments and rebuttals in connection with such special election, are evidenced and set forth in detail in the Agreement, a copy of which is on file with the Clerk to this Board.

Pursuant to the Act, the questions of (i) the levy of the Special Tax within the proposed Annexation Territory, and (ii) whether the initial annual appropriations limit of the District, as defined in Article XIII B, Section 8(h) of the California Constitution (the "Appropriations Limit"), as provided in Section 53325.7 of the Act, should include the proposed Annexation Territory, at a special election, the time, place and conditions of which are specified as follows:

(a) Questions submitted; call for special election. Pursuant to Section 53339.7 of the Act, this Board hereby calls a special election and submits the questions of levying the Special Tax, and including the proposed Annexation Territory in the District for purposes of the Appropriations Limit, to the qualified electors within the territory of the proposed Annexation Territory, as hereinafter provided, in accordance with and subject to the Act, the terms of which shall, except as waived as herein provided, be applicable to such election.

Pursuant to Section 53353.5 of the Act, this Board is authorized to, and will, combine the propositions (also called the "questions," above) relating to levying the Special Tax, and including the proposed Annexation Territory in the District for purposes of the Appropriations Limit, under the Act, into one ballot proposition. This Board confirms that this Board previously has specified, and the necessary number of qualified electors of the District have approved, and therefore established an initial amount of such Appropriations Limit (of the District) in the amount of \$201,000,000 commencing fiscal year 2006-07. This Board finds that, at the time of the special election, the then-current amount of the Appropriations Limit of the District is \$309,103,914.

(b) Date, time and place of special election. The special election shall be held, as far as is practical, immediately after the conclusion of the Public Hearing, and determination by this Board that there is no Majority Protest, which is Tuesday, September 12, 2017, at 9:00 A.M., or as soon as possible thereafter, in the Fresno County Hall of Records, 2281 Tulare Street, 3<sup>rd</sup> Floor, Fresno, California 93721, provided that the Clerk to this Board shall have received the voted ballot from the Landowners at such time of the special election. If the Landowners are available to participate in the special election at such time, the Landowners shall be required to return their voted ballot to the Clerk to this Board by 5:00 p.m. (or later time ordered by this Board) on Tuesday, September 12, 2017. If each of such voted ballots have been received by the Clerk to this Board by such time (and this Board shall still be convened at such time), the results thereof shall be canvassed by this Board at such time, or earlier if the Elections Official has closed the election as provided by Section 53326(d) of the Act, and at such meeting of this Board. If any or all of the Landowners are not available to participate in the special election at such time, or if the voted ballots have not been received by the Clerk to this Board by such time (or this Board desires to adjourn before such time), then such special election and the canvass thereof by this Board shall be held at a time, place and date further specified by order of this Board when such ballots first can be provided to the Landowners, and there is the opportunity for the voted ballots to be received, which may be to a continued later time on the same date and place of the such Public Hearing, or such continued later time, date and place ordered by this Board.

(c) Elections Official. This Board hereby designates the Clerk to this Board, or his or her designee, as the Elections Official under the Act, to conduct the special election, and to receive the ballots until the close of the special election. The shortening of the time of the special election as herein provided is concurred in by the Clerk to this Board, as evidenced by the Clerk to this Board's certificate to such effect, a copy of which is on file with the Clerk to this Board. It is hereby acknowledged that the Clerk to this Board has on file in his or her office the Resolution of Intention, this Resolution, and the Boundary Map, which shall be certified to have sufficient description, scale and clarity, and assessor's parcel numbers, and other information to determine that the Landowners are the only qualified electors of the proposed Annexation Territory.

(d) Ballot. This Board hereby approves the form of the ballot, setting forth the issues presented, and to be used for the special election of the Special Tax levy, in Exhibit "C" to this Resolution, which is attached hereto and incorporated herein by this reference. The Clerk to this

Board is hereby authorized and directed to cause the ballots, in substantially the form of Exhibit "C" to this Resolution, to be personally served upon the Landowners as the only qualified electors of the proposed Annexation Territory as provided herein. The ballot for the special election shall be distributed by the Clerk to this Board prior to the special election by personal service upon the Landowners, or to their respective authorized representative, all as provided in Section 53326 of the Act, provided however, if such personal service cannot be completed on Tuesday, September 12, 2017, then the ballot shall be mailed by first class mail, postage prepaid, or personally served upon the Landowners or to their respective authorized representatives. The ballots shall indicate the number of votes to be voted by the Landowners. The ballots shall be accompanied by supplies and instructions necessary for the use and return of the ballot. The envelope to be used by the Landowners to return their respective ballot shall be enclosed with the ballot, have the return postage prepaid (if the ballots have been mailed by the Clerk to this Board), and contain the following:

- (i) The name and address of the Landowner;
- (ii) A declaration, under penalty of perjury, stating that the voter is the owner of record or authorized representative of the Landowner and is the person whose name appears on the envelope;
- (iii) The printed name, signature and address of the voter;
- (iv) The date of signing and place of execution of the declaration pursuant to clause (ii), immediately above; and
- (v) A notice that the envelope contains an official ballot, which executed ballot, is to remain sealed when delivered to the County.

(e) Waivers. This Board finds that the provisions of Section 53326 of the Act requiring a minimum of ninety (90) days following the adoption by this Board of a resolution of formation for the District (or, in this context, following the adoption of this Resolution) to elapse before the special election are for the protection of the qualified electors of the proposed Annexation Territory. This Board further finds that there are on file with the Clerk to this Board written waivers executed by each of the Landowners as the only qualified electors of the proposed Annexation Territory allowing for a shortening of the time for the special election to expedite the process of the annexation of the proposed Annexation Territory to the District, and waiving any requirements for notice, impartial analysis and arguments and rebuttals in connection with such special election, among other things, all as set forth and evidenced in the Agreements. Accordingly, this Board finds and determines that the qualified electors of the proposed Annexation Territory have been fully apprised of and have agreed to the shortened time for the conduct of the special election as provided herein and waiver of analysis and arguments, and thereby have been fully protected in these proceedings. This Board also finds and determines that the Clerk to this Board has concurred in the shortened time for the conduct of the special election as provided herein. The requirements of notice of the special election, impartial analysis and arguments and rebuttals with respect to the ballot measure, and time limits for the conduct of the special election, are hereby waived, as provided in Section 53327 of the Act.

(f) Conducting the special election. The special election shall be conducted by the Clerk to this Board in the manner required by this Resolution, the Act and applicable laws. The Clerk to this Board shall have available the ballot that may be marked at the office of Clerk to this Board, or at this Board's meeting place, on the special election day by the Landowners, as

the qualified electors. Once the Landowners, who constitute all of the qualified electors, have voted, the Clerk to this Board may close the special election. The Clerk to this Board, or his or her designees, shall count the votes. The Clerk to this Board may be assisted by any consultants to the County, and County Counsel, and his or her designee, in connection with the special election.

(g) Canvass of votes. The Clerk to this Board shall commence the canvass of the returns of the special election as soon as the special election is closed. At the conclusion of the canvass, the Clerk to this Board shall declare the results of the special election to this Board.

(h) Declaration of results of vote. This Board shall declare the results of the special election following the completion of the canvass of the return and shall adopt a resolution declaring the results of the special election as ascertained by the canvass of the return.

(i) Result of vote. The proposition to include the proposed Annexation Territory in the Appropriations Limit of the District shall become effective commencing immediately if (i) approved by the qualified electors voting thereon, and (ii) this Board annexes the proposed Annexation Territory to the District pursuant to Section 53339.8 of the Act. The Appropriations Limit for the District (including the proposed Annexation Territory) may be adjusted in later years under applicable provisions of the Act and the California Constitution If (i) at least two-thirds of the votes cast upon the proposition of levying the Special Tax are cast in favor of levying the Special Tax, as determined by this Board after the canvass of the return of the special election, and (ii) this Board annexes the proposed Annexation Territory to the District pursuant to Section 53339.8 of the Act, then this Board annually may levy the Special Tax within the territory of the proposed Annexation Territory, commencing County fiscal year 2017-18, in the amount and for the purposes as specified in the Resolution of Intention. The Special Tax may be annually levied only at the rates and may be apportioned only in the manner specified in the Resolution of Intention, subject to the Act, except that the Special Tax may be levied at lower rates, all as provided in the proposed Special Tax Rate and Method of Apportionment of the Special Tax, Exhibit "B" to the Resolution of Intention and this Resolution.

**7. Prior proceedings valid.** This Board hereby finds and determines that it took all of the foregoing actions, and made all of the foregoing findings, in full compliance with the law, including, without limitation, the Act and any other statute referred to herein. All prior proceedings taken with respect to this Resolution were duly considered, and were valid and in conformity with the requirements of the Act, any other statute referred to herein. All findings of this Board pursuant to this Resolution are and shall be final and conclusive.

**8. Certified copy.** The Clerk to this Board, or his or her designee, as the designated Elections Official, shall, within three business days after the adoption of this Resolution, obtain a certified copy thereof.

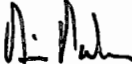
**9. Effective date.** This Resolution shall take effect upon its adoption.

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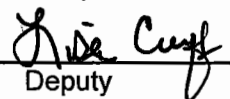


**THE FOREGOING** was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 12th day of September, 2017, to-wit:

AYES: Supervisors Borgeas, Magsig, Mendes, Pacheco, Quintero  
NOES: None  
ABSENT: None

  
\_\_\_\_\_  
BRIAN PACHECO, CHAIRMAN  
Board of Supervisors

ATTEST:  
BERNICE E. SEIDEL, Clerk  
Board of Supervisors

By  \_\_\_\_\_  
Deputy

AGENDA # 16  
RESOLUTION # 17 - 417

ANNEXATION MAP NO. 9A OF COMMUNITY FACILITIES DISTRICT NO. 2006-01  
(POLICE PROTECTION SERVICES), COUNTY OF FRESNO, STATE OF CALIFORNIA  
N  
IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA

LEGEND

SITE 1

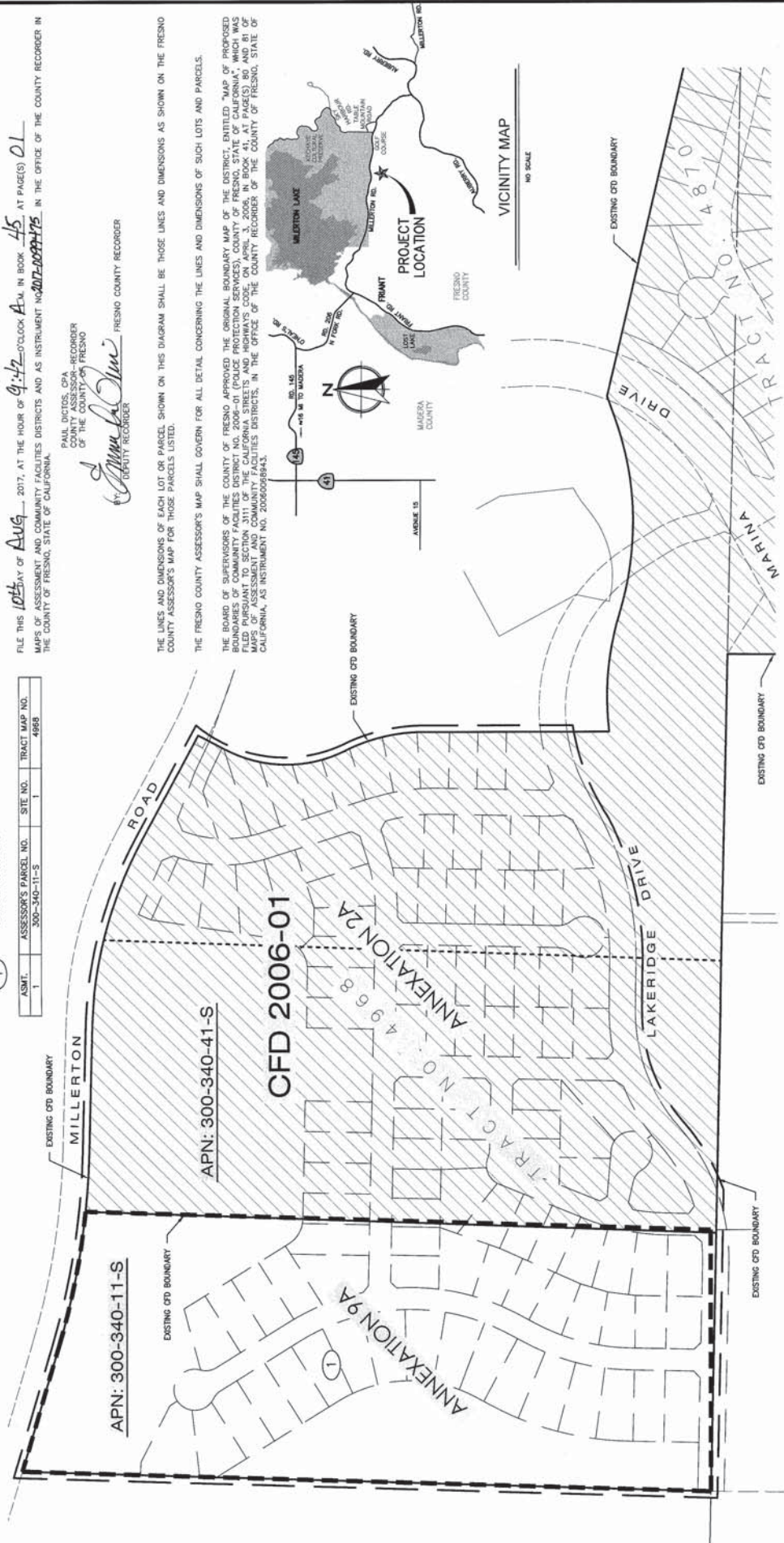
Jose Cuy, Deputy  
CLERK TO THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO

PAUL DICTOS, CPA  
COUNTY ASSESSOR-RECORDER  
OF THE COUNTY OF FRESNO

BY: Anna La Du FR  
DEPUTY RECORDER

THE FRESNO COUNTY ASSESSOR'S MAP SHALL GOVERN FOR ALL DETAIL CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS AND PARCELS.

THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO APPROVED THE ORIGINAL BOUNDARY MAP OF THE DISTRICT, ENTITLED "MAP OF PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2006-01 (POLICE PROTECTION SERVICES), COUNTY OF FRESNO, STATE OF CALIFORNIA," WHICH WAS FILED PURSUANT TO SECTION 3111 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE, ON APRIL 3, 2006, IN BOOK 41, AT PAGE(S) 80 AND 81 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AS INSTRUMENT NO. 20060058943.



## EXHIBIT B

### COMMUNITY FACILITIES DISTRICT NO. 2006-01

#### (POLICE PROTECTION SERVICES) OF THE COUNTY OF FRESNO

#### SPECIAL TAX RATE AND METHOD OF APPORTIONMENT

#### (Commencing as of Fiscal Year 2017-18)

A Special Tax of Community Facilities District No. 2006-01 (Police Protection Services) of the County of Fresno ("CFD") shall be levied on all Assessor's Parcels in the CFD and collected each Fiscal Year commencing in the Base Year in an amount determined by the County through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property in the CFD, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

This Special Tax Rate and Method of Apportionment uses the Special Tax Rate and Method of Apportionment for the original CFD. Any differences between the text of this Special Tax Rate and Method of Apportionment, and the text of the Special Tax Rate and Method of Apportionment for the original CFD, are updated provisions herein (e.g., definition of Base Year, and the Maximum Special Tax Rates Per Unit commencing as of the Base Year (which are subject to increases in subsequent Fiscal Years, as provided herein)) that would conform this Special Tax Rate and Method of Apportionment to the Special Tax Rate and Method of Apportionment for the original CFD.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended from time to time following the establishment of the CFD, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State.

**"Administrative Expenses"** means all actual and/or estimated costs and expenses directly incurred by the County as administrator of the CFD to determine, levy and collect the Special Taxes, including, but not limited to, the portion of salaries, wages and benefits of County officers and employees related to the determination, levy and collection of the Special Taxes, and all fees and

expenses of consultants, agents, third-party administrator(s) designated by the CFD Administrator, and legal counsel, related to the determination, levy and collection of the Special Taxes, and all costs and expenses of collecting installments of the Special Taxes upon the general tax rolls or by any other manner of collections as set forth in Section F, below, and preparing required reports, and conducting audits, if deemed necessary by the County; and any other costs and expenses directly incurred, which are required to administer the CFD as determined by the County. On each July 1 following the Base Year, all of the foregoing costs and expenses automatically shall be increased for each Fiscal Year in accordance with the Annual Escalation Factor, provided however, on each July 1 for each third subsequent Fiscal Year, commencing with Fiscal Year 2017-18, the Annual Escalation Factor shall be reduced by an Escalation Factor Adjustment, if any. Notwithstanding anything contained in this definition of Administrative Expenses, the amount of Administrative Expenses in any Fiscal Year that may be included in the Special Tax Requirement for that Fiscal Year shall not exceed ten percent (10%) of the Special Tax Requirement for that Fiscal Year.

**"Annual Escalation Factor"** means the sum: of (i) the annual increase in the Consumer Price Index ("CPI") for Urban Wage Earners and Clerical Workers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area as reflected in the then-current April update; and (ii) three percent (3%) of the then-current Police Protection Services Costs. The annual CPI used shall be as determined by the United States Department of Labor, Bureau of Labor Statistics, and may be obtained through the California Division of Labor Statistics and Research (<http://www.dir.ca.gov/oprl/CAPriceIndex.htm>, as of June 19, 2017). If the foregoing index is not available, the County Board shall select, and thereby shall be authorized to use, a comparable index.

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

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

**"Base Year"** means the Fiscal Year ending June 30, 2018.

**"CFD Administrator"** means an official of the County, or his or her designee (including, but not limited to, County officer(s), employee(s) and third-party administrator(s)), responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

**"CFD"** means Community Facilities District No. 2006-01 (Police Protection Services) of the County of Fresno.

**"County"** means the County of Fresno, California.

**"County Board"** means the Board of Supervisors of the County, acting as the legislative body of the CFD.

**"Developed Property"** means all Taxable Property within the boundaries of the CFD for which a permit for occupancy of a residential unit has been issued (i) anytime on or prior to January 1, 2017 for the Base Year, and (ii) anytime after January 1<sup>st</sup> and prior to May 1<sup>st</sup> (e.g., for the Base Year, this would be January 1, 2017 and May 1, 2017) preceding each Fiscal Year in which the Special Tax is being levied. Once a Taxable Property has been designated as Developed Property, it shall retain such status permanently (provided however, if the Land Use Class(es) for any Developed Property subsequently changes, the Land Use Class(es) for such Developed Property automatically shall change accordingly pursuant to the rate and method of apportionment of the Special Tax, as provided herein), and shall be subject to the Special Tax each Fiscal Year as provided herein, unless such Taxable Property subsequently shall become and retain such status as Tax-Exempt Property. There shall not be any proration or reduction of the Special Tax levy for any Taxable Property, or refund of the Special Tax for any Taxable Property, for any Fiscal Year in which any such Taxable Property becomes Tax-Exempt Property.

**"Escalation Factor Adjustment"** means the calculation based on the following formula: (1) calculate the annual increases of all of the applicable costs and expenses for each of the prior two Fiscal Years plus the reasonably estimated increase of the applicable costs and expenses for the then-current Fiscal Year; (2) calculate the percentage of each of such increases of all of the applicable costs and expenses in each of such Fiscal Years over each of the prior Fiscal Years (collectively, the "Cumulative Increase"); (3) calculate the sum of the Annual Escalation Factors for the prior two Fiscal Years plus the Annual Escalation Factor for the then-current Fiscal Year (collectively, the "Cumulative Annual Escalation Factor"); (3) if the Cumulative Increase is less than Cumulative Annual Escalation Factor, then the difference thereof shall be the amount of the Escalation Factor Adjustment; (4) if the Cumulative Increase is equal to or greater than the Cumulative Annual Escalation Factor, then the amount of the Escalation Factor Adjustment shall be zero.

**"Fiscal Year"** means the period starting July 1 and ending on the following June 30.

**"Land Use Class"** means any of the classes listed in Table 1 of Section C, below.

**"Maximum Special Tax"** means the maximum Special Tax, determined in accordance with Section C, below, that may be levied in the CFD in any Fiscal Year on any Assessor's Parcel.

**"Multi-Family Property"** means all Assessor's Parcels of Developed Property within the boundaries of the CFD for which a building permit has been issued for purposes of constructing a residential structure consisting of two or more residential units that share common walls, including, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartment units.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property within the boundaries of the CFD for which a building permit has been issued for a non-residential use and does not contain any residential units as defined under Residential Property or Multi-Family Property.

**"Property Owner Association Property"** means any property within the boundaries of the CFD that is owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to, a property owner association, including any master or sub-association.

**"Proportionately"** means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels within each Land Use Class.

**"Public Property"** means any property within the boundaries of the CFD that is, at the time of the establishment of the CFD, and as determined by the CFD Administrator, expected to be used for rights-of-way, parks, schools or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State, the County or any other public agency, provided however, that any property leased (or property in which there is a grant of a possessory interest) by a public agency to a private entity or person and subject to taxation under section 53340.1 of the Act, and any property described in section 53317.3 or 53317.5 of the Act, shall not be considered Public Property but shall be classified and taxed in accordance with its use. Once an Assessor's Parcel has been designated as Public Property, it shall retain such status permanently, unless such Public Property subsequently shall become Taxable Property.

**"Police Protection Services Costs"** means the actual and/or estimated costs and expenses of the County Sheriff's Office to provide police protection services within the CFD, including, but not limited to, (i) all salaries, wages and benefits of all County sworn officers providing police protection services within the CFD, (ii) all related equipment, vehicles, and supplies for all such services, and (iii) all County overhead costs associated with providing or paying for all such services (and all such related costs and expenses) within the CFD. The Special Tax provides only partial funding for Police Protection Services Costs within the CFD. On each July 1 following the Base Year, all of the foregoing costs and expenses automatically shall be increased for each Fiscal Year in accordance with the Annual Escalation Factor, provided however, on each July 1 for each third subsequent Fiscal Year, commencing with Fiscal Year 2017-18, the Annual Escalation Factor shall be reduced by an Escalation Factor Adjustment, if any.

**"Residential Property"** means all Assessor's Parcels of Developed Property within the boundaries of the CFD for which a building permit has been issued for purposes of constructing one residential unit.

**"Special Tax"** means the Special Tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property within the boundaries of the CFD to



fund the Special Tax Requirement, and shall include Special Taxes levied or to be levied under Sections C and D, below.

**"Special Tax Requirement"** means that amount required in any Fiscal Year for the CFD to: (a) (i) pay for Police Protection Services Costs; and (ii) pay reasonable Administrative Expenses; less (b) a credit for funds available, if any, to reduce the annual Special Tax levy, as determined by the CFD Administrator.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or as defined below.

**"Tax-Exempt Property"** means an Assessor's Parcel within the boundaries of the CFD not subject to the Special Tax. Tax-Exempt Property only includes: (i) Public Property, (ii) Non-Residential Property, and (iii) Property Owner Association Property.

**"Undeveloped Unit"** means a building or structure for which a building permit has been issued, and either (i) such building or structure has a value of less than 50% of the value of either (x) the existing residential unit on Residential Property, or (y) the lowest valued existing unit (as calculated as a proportionate percentage of the total building value) on Multi-Family Property, (ii) such building or structure consists of less than 500 square feet, or (iii) notwithstanding the definitions of Multi-Family Property and Residential Property, such building permit has been issued for the reconstruction of a residential unit as a result of extraordinary damage or destruction to such residential unit, such as fire, flood or earthquake, and either (x) there has not yet been issued by the appropriate building official a permit for occupancy of such residential unit by May 1<sup>st</sup> preceding the applicable Fiscal Year in which the Special Tax is being levied, or (y) the appropriate building official has not determined that such residential unit has been occupied by a person as his or her dwelling as of May 1<sup>st</sup> preceding the applicable Fiscal Year in which the Special Tax is being levied. Any determination of the nature or status of such buildings, structures, or residential units, or their values, sizes, and uses shall be made by the CFD Administrator or his or her designee.

**"Unit"** means any residence in which a person or persons may live, and is not considered to be for commercial or industrial use.

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year using the definitions above, all Taxable Property within the boundaries of the CFD shall be classified as Developed Property. Developed Property shall be further assigned to a Land Use Class as specified in Table 1 of Section C, below, and shall be subject to Special Taxes pursuant to Sections C and D below.

## **C. MAXIMUM SPECIAL TAX RATES**

### **1. Developed Property**

**TABLE 1**

**Maximum Special Tax Rates for Developed Property  
(Commencing as of the Base Year,  
and subject to increases in subsequent Fiscal Years,  
as provided herein)**

**Community Facilities District No. 2006-01  
(Police Protection Services)  
Of the County Of Fresno**

<b>Land Use Class</b>	<b>Description</b>	<b>Maximum Special Tax Rate Per Unit</b>
1	Residential Property	\$691.27 per Unit
2	Multi-Family Property	\$519.99 per Unit

On each July 1 following the Base Year, the Maximum Special Tax Rates automatically shall be increased for each Fiscal Year in accordance with the Annual Escalation Factor, provided however, on each July 1 for each third subsequent Fiscal Year, commencing with Fiscal Year 2017-18, the Annual Escalation Factor shall reduced by an Escalation Factor Adjustment, if any.

### **2. Multiple Land Use Classes**

In some instances, an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax levies that can be imposed on all Land Use Classes located on that Assessor's Parcel.

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### **3. Undeveloped Units and Tax-Exempt Property**

No Special Tax shall be levied on Undeveloped Units or Tax-Exempt Property.

## **D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing with the Base Year, and for each following Fiscal Year, the CFD Administrator shall calculate the Special Tax Requirement based on the Special Tax Rate and Method of Apportionment of the CFD and levy the Special Tax until the amount of the Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied in the amount of the Special Tax Requirement each Fiscal Year on each Assessor's Parcel of Developed Property Proportionately, but not more than 100% of the applicable Maximum Special Tax.

## **E. APPEALS**

Any taxpayer who believes that the amount of the Special Tax assigned to his or her lot or parcel is in error may file a written notice with the CFD Administrator appealing the levy of the Special Tax, provided that the taxpayer has fully paid his or her Special Tax for such Parcel on or before the payment date established for such Special Tax. Such notice is required to be filed with the CFD Administrator during the Fiscal Year that the error is believed to have occurred. The notice must specify the Parcel, the amount of the levy of the Special Tax, and reason(s) why the taxpayer claims that the amount of the Special Tax is in error.

The CFD Administrator or his or her designee will then promptly review the appeal and, if necessary, meet with the taxpayer. If the CFD Administrator or his or her designee agrees with the taxpayer that the amount of the Special Tax for such Parcel should be changed, the Special Tax levy for such Parcel shall be corrected accordingly and, if applicable in any case, a refund of such erroneous amount collected shall be granted.

If the CFD Administrator or his or her designee disagrees with the taxpayer, and the taxpayer is dissatisfied with such determination, the taxpayer shall have thirty (30) calendar days, from the date that he or she receives notice of such determination in which to appeal to the County Board by filing a written notice of appeal with the Clerk to the County Board, provided that the taxpayer is current in his or her payment of Special Taxes for such Parcel. The notice of appeal must specify the Parcel, the amount of the levy of the Special Tax, the reason(s) why the taxpayer disagrees with the CFD Administrator's determination, and why the taxpayer claims that the amount of the Special Tax is in error.

The County Board will hear the taxpayer's appeal, and make a determination whether to affirm, modify or reverse the determination of the CFD Administrator

or his or her designee. If the County Board agrees with the taxpayer that the amount of the Special Tax for such Parcel should be changed, the Special Tax levy for such Parcel shall be corrected accordingly and, if applicable in any case, a refund of such erroneous amount collected shall be granted. Any such determination of the County Board shall be provided to the taxpayer, and shall be final and conclusive.

Any filing by a taxpayer of any notice of appeal with the CFD Administrator, or any appeal with the Clerk to the County Board shall be deemed to be made when such notice of appeal is delivered to CFD Administrator, or when such appeal is delivered to the Clerk to the County Board.

#### **F. MANNER OF COLLECTION**

The Special Tax levied pursuant to section D, above, shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes; provided, however, the CFD Administrator may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD or as otherwise determined appropriate by the CFD Administrator.

#### **G. TERM OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity or until such time as the County Board terminates the Special Tax.

-END-

**EXHIBIT C**  
**OFFICIAL BALLOT**  
**SPECIAL TAX ELECTION**  
**Annexation Territory No. 9A of**  
**Community Facilities District No. 2006-01**  
**(Police Protection Services) of the County of Fresno**

**Number of votes entitled to cast: 20.35**

**INSTRUCTIONS TO VOTERS:** This ballot is for a special landowner election. To vote on the measure, mark an (X) in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and therefore making the ballot void. If you wrongly mark, tear or deface this ballot, return it to the Clerk to the Board of Supervisors of the County of Fresno at the address below to obtain another ballot.

**MEASURE SUBMITTED TO VOTE OF LANDOWNER VOTERS**

<b>Ballot Measure:</b> Shall the County of Fresno (the "County") be authorized to levy a special tax at the rates and apportioned as described in Exhibit "B" to the "Resolution Calling a Landowner Special Election" adopted by the Board of Supervisors of the County on September 12, 2017, which resolution is incorporated herein by this reference, annually to finance the cost of certain police protection services to be provided by the Sheriff of the County within proposed Annexation Territory No. 9A (the proposed "Annexation Territory") of Community Facilities District No. 2006-01 (Police Protection Services) of the County (the "District"), including the cost of administering the District, commencing County fiscal year 2017-18, and shall the annual appropriations limit of the District (currently in the amount of \$309,103,914 and subject to adjustment), as set forth in the "Resolution Calling a Landowner Special Election," include the proposed Annexation Territory?	YES <input type="checkbox"/>  NO <input type="checkbox"/>
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**NOTE:** You must return this voted ballot SEALED in the enclosed *Identification Envelope for Return of Voted Ballot* to the Clerk to the Board of Supervisors, in person, to her office, at the Fresno County Hall of Records, 2281 Tulare Street, 3<sup>rd</sup> Floor, Fresno, California, 93721 no later than 5:00 P.M. September 12, 2017 (or such later time specified by order of the Board of Supervisors).

Name of Landowner: JPJ Incorporated, a California Corporation

Address of Landowner: C/O Mr. John A. Bonadelle, President, 7030 N. Fruit AVE., Suite 101, Fresno, CA. 93711

**If a representative of Landowner, PRINT the NAME and TITLE/RELATIONSHIP to Landowner:**

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I declare, under penalty of perjury, that the above voter is the owner of record of land (or legally authorized representative of the Landowner) entitled to vote herein and is the person whose name appears on the *Identification Envelope for Return of Voted Ballot* with this ballot. I also confirm that, prior to voting, I have received a copy of the above "Resolution Calling a Landowner Special Election," entitled "Resolution of the Board of Supervisors of the County of Fresno Calling a Special Election for a Vote of the Qualified Electors Within a Proposed Annexation Territory of Community Facilities District No. 2006-01 (Police Protection Services) of the County of Fresno, for the Combined Propositions of Levying a Special Tax to Finance Certain Services, and Including Such Annexation Territory in the District for Purposes of the Appropriations Limit of the District."

Signed: \_\_\_\_\_

PrintName: \_\_\_\_\_

Date: \_\_\_\_\_

Place of signing: \_\_\_\_\_

Address of voter (if different from above): \_\_\_\_\_