RESOLUTION NO. 2016-184

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

COMMUNITY FACILITIES DISTRICT NO. 11

ANNEXATION NO. 70

WHEREAS, on August 25, 2016, the Council of the City of Fresno ("Council") adopted Resolution No. 2016-151 amending Annexation No. 70, Final Tract Map No. 6067, of the City of Fresno Community Facilities District No. 11 ("CFD No. 11") to change the types of Services and the rate and method of apportionment of the special tax, and establish a new Maximum Special Tax, pursuant to the City of Fresno Special Tax Financing Law, Chapter 8, Division 1, Article 3, of the Fresno Municipal Code ("City Law") and the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 Part 1 of Division 2 of Title 5, commencing with Section 53311 of the California Government Code ("Mello-Roos"); and

WHEREAS, Resolution 2016-151 proposed changes to the types of Services and the rate and method of apportionment of the special tax, and a new Maximum Special Tax to be levied on territory within Annexation No. 70 to fund certain facilities and services ("Services") by CFD No. 11 and provided an estimate reflective of the change in the annual costs of providing those Services; and

WHEREAS, Resolution 2016-151 contemplated the imposing of a new Maximum Special Tax upon those properties within Annexation No. 70 of CFD No. 11 receiving

Date Adopted: 09/22/2016
Date Approved: 10/03/2016
Effective Date: 10/03/2016

said Services; and

WHEREAS, an amended written report has been filed with the City Clerk of the City of Fresno ("City Clerk") that describes the proposed changes to the types of Services and rate and method of apportionment of the special tax to be levied among the parcels of real property within Annexation No. 70 of 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 new Maximum Special Tax shall be subject to the approval of the qualified electors to amend Annexation No. 70 of CFD No. 11 at a special election.

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

1. The changed types of Services and rate and method of apportionment of the special tax and the levy of a new Maximum Special Tax proposed in Resolution No. 2016-151 shall be submitted to the voters pursuant to Mello-Roos, Sections 53326, 53338, and 53339.7.

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

3. The 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. The Council finds that there are fewer than twelve (12) registered voters residing within the boundaries of Annexation No. 70 of CFD No. 11 for these

proceedings based on the Certificate of the Public Works Director ("Certificate") on file in the City Clerk's Office. Accordingly, under City Law the voters in this election shall be the landowners owning land within Annexation No. 70 of CFD No. 11.

5. The Council finds that the landowners of record owning property within Annexation No. 70 of CFD No. 11 are those set forth in the attachment to the Certificate 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 CFD No. 11, Annexation No. 70, 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 Section 53326 of Mello-Roos, 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 September 22, 2016 as Election Day. Pursuant to City Law, the election shall be conducted by mailed ballot.

8. The City Clerk or designee 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. The City Clerk or designee shall fill in the names of the landowners and the number of votes to be cast on each ballot, according to the Certificate, before delivery or mailing.

9. The City Clerk or designee shall accept personal or mail delivery of the ballots at any time up to the hearing on September 22, 2016. Upon receipt of all eligible ballots, however, the City Clerk or designee shall immediately close the election and declare the results to the Council.

* * * * * * * * * * * * * * *

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 22nd day of September, 2016.

AYES: Brand, Brandau, Olivier, Quintero, Caprioglio
NOES: None
ABSENT: Baines, Soria
ABSTAIN: None

Mayor Approval: N/A, 2016
Mayor Approval/No Return: October 3rd, 2016
Mayor Veto: N/A, 2016
Council Override Vote: N/A, 2016

YVONNE SPENCE, CMC
City Clerk

BY: Yvonne Spence
Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY: 10.7.16
Raj Singh Badhesha Date
Deputy

Attachment:
Exhibit A - Special Election Ballot
Exhibit B - Waiver and Consent From Sole Property Owner

September 23, 2016

Council Adoption: 9/22/2016
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ASHLEY SWEARENGIN

RECEIVED

FROM: YVONNE SPENCE, CMC
City Clerk

2016 OCT 4 AM 8 12

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

CITY CLERK, FRESNO CA

At the Council meeting of 9/22/16, Council adopted the attached Resolution No. 2016-184, entitled, **RESOLUTION – Calling Special Mailed-Ballot Election.** Item No. 10:05 A.M #2, ID#16-1059, by the following vote:

Ayes	:	Brand, Brandau, Caprioglio, Olivier, Quintero
Noes	:	None
Absent	:	Baines, Soria
Recused	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before October 3, 2016. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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APPROVED/NO RETURN: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

_____

_____ Date: _____
Ashley Swearengin, Mayor

COUNCIL OVERRIDE ACTION: Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	:

EXHIBIT A

SPECIAL ELECTION BALLOT

(Mailed-Ballot Election)

Community Facilities District No. 11

Annexation No. 70

This ballot is for the use of the Lennar Fresno, Inc., the sole landowner owning land (Final Tract Map No. 6067) within Community Facilities District No. 11, Annexation No. 70, 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 seventeen (17) votes on this ballot.

In order to be counted, the ballot must be returned prior to the hearing on September 22, 2016, at 10:05 a.m., to Yvonne Spence, CMC, 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 received 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 be authorized to amend Annexation No. 70 to change the types of Service and the rate and method of apportionment of the Special Tax and levy a new Maximum Special Tax to finance the authorized services, and costs and expenses by and through its Community Facilities District No. 11, all as specified in its Council Resolutions No. _____ and No. _____; 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 _____, 2016.

Company Name_____

By: _____

Print Name _____

Print Title _____

(Attach Notary Acknowledgment)

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. 70

The undersigned is the person legally entitled and authorized to cast the ballots as the authorized representative of the sole owner of the property (Final Tract Map No. 6067) in this mailed-ballot election to be conducted within Community Facilities District No. 11 Annexation No. 70, to determine, among other things, whether the revisions of 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 _____, 2016.

Company Name _____

By: _____

Print Name _____

Print Title _____