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**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY, CALIFORNIA  
AND RECORD OF ACTION**

November 30, 2004

**FROM:** THOMAS L. SUTTON, Director  
Special Districts Department

**SUBJECT:** CONDUCT A PUBLIC HEARING TO CONSIDER ANNEXATION TO COMMUNITY FACILITIES DISTRICT 2002-02 (CENTRAL VALLEY FIRE PROTECTION DISTRICT--FIRE PROTECTION SERVICES)

**RECOMMENDATION:** Acting as the governing body of Community Facilities District 2002-02 (Central Valley Fire Protection District – Fire Protection Services), conduct a public hearing to consider the annexation of Assessor Parcel Number 0234-011-12 into Community Facilities District No. 2002-02 and adopt the following:

- 1) **Resolution No. 2004-403** declaring the Board's intention to annex parcel 0234-011-12 into Community Facilities District 2002-02.
- 2) **Resolution No. 2004-404** calling for a special mailed ballot election.
- 3) **Resolution No. 2004-405** declaring the results of the special mailed ballot election.

**BACKGROUND INFORMATION:** Pursuant to the Mello-Roos Community Facilities Act of 1982, the above actions are required to authorize proceedings to annex property into Community Facilities District 2002-02.

CSHV Calabash, LLC is developing a 529,000 square foot industrial building within the Kaiser Commerce Center. As a condition of County Planning, the developer is required to annex their 26.5 acres of unincorporated property in the County into Community Facilities District 2002-02. Community Facilities District 2002-02 was formed on August 6, 2002. This District was formed as a way of providing a financing mechanism to provide fire protection services from Central Valley Fire Protection District to the Kaiser Commerce Center project located on the old Kaiser Steel site and to the unincorporated areas around this site. As authorized by the formation of Community Facilities District 2002-02, all new development within it's boundaries will be levied an annual special tax in the amount of \$565 per developed acre to assist with the cost of providing fire protection services to this area.

Approval of this action will adopt the various required Resolutions annexing parcel 0234-011-12 into Community Facilities District 2002-02.

**REVIEW AND APPROVAL BY OTHERS:** This item has been reviewed by County Counsel (Michelle Blakemore 387-5445) on November 15, 2004, and the County Administrative Office (Wayne Thies, Administrative Analyst 387-5409) on November 17, 2004.

**FINANCIAL IMPACT:** This item has no financial impact to the District or the County General Fund. All cost associated with the annexation have been paid by the developer. Beginning fiscal year 2005-06, the property will be levied an annual tax of \$565 per developed acre for fire protections services.

**SUPERVISORIAL DISTRICT(S):** 2<sup>nd</sup>.

**PRESENTER:** Thomas L. Sutton, 387-5967.

cc – w/resolution:  
SDD - Sutton  
CC - Blakemore  
CAO - Thies  
ED/PSG - Kanold  
File - SDD

mo

Record of Action of the Board of Supervisors

**Resolution Nos. As Listed**

**APPROVED BOARD OF SUPERVISORS  
COUNTY OF SAN BERNARDINO**

MOTION	<u>  AYE  </u>	<u>  MOVE  </u>	<u>  AYE  </u>	<u>  AYE  </u>	<u>  SECOND  </u>
	1	2	3	4	5

J. RENEE BASTIAN, CLERK OF THE BOARD

BY 

DATED: November 30, 2004

ITEM 062

RESOLUTION NO. 2004-403

RESOLUTION OF INTENTION  
TO ANNEX PROPERTY TO  
COMMUNITY FACILITIES DISTRICT

Community Facilities District No. 2002-2  
(Central Valley FPD - Fire Protection Services)

WHEREAS, in response to a petition (the "Petition") submitted by CSHV Calabash, LLC (the "Owner"), as the sole owner of the privately-owned real property shown on an exhibit map attached to the Petition (the "Subject Property"), this Board proposes to annex the Subject Property to the existing community facilities district known as "Community Facilities District No. 2002-2 (Central Valley FPD – Fire Protection Services), County of San Bernardino, State of California" ("CFD No. 2002-2") as authorized by Article 3.5 of the Mello-Roos Community Facilities Act of 1982 (the "Act"); and

WHEREAS, the boundaries of CFD No. 2002-2 are set forth in the boundary map for CFD No. 2002-2, recorded on August 20, 2002, in Book 74 of Maps of Assessment and Community Facilities Districts, page 81, official records of the San Bernardino County Recorder; and

WHEREAS, the boundaries of the Subject Property are shown on a map entitled "Annexation Map No. 1" which is on file with the Clerk of this Board (the "Clerk"); and

WHEREAS, Sections 53339.2 and 53339.3 of the Act provides that legal proceedings for the annexation of property to a community facilities district pursuant to the Act shall be instituted by the adoption of a resolution of this Board declaring its intention as provided hereafter in this resolution;

NOW THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of San Bernardino as follows:

1. This Board hereby finds and determines that public convenience and necessity require that the Subject Property be annexed to the existing territory of CFD No. 2002-2.

2. The types of services proposed to be provided within the Subject Property are the same as for the existing area of CFD No. 2002-2, namely fire protection services.

3. The plan for providing fire protection services within the existing area and the Subject Property shall be the plan presently in existence, as the same may be revised from time to time by the County of San Bernardino (the "County") or any agency of the County through which the County provides fire protection services.

4. Except where funds are otherwise available, a special tax will be annually levied on the Subject Property. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property included in the Subject Property, and this lien shall continue in force and effect in perpetuity or until the levy and collection of the special tax obligation by the County ceases. The rate and method of apportionment of the special tax shall be as previously established for CFD No. 2002-2.

5. On the basis of the written consent and waiver form submitted to and on file with the Clerk of this Board by the Owner, as the landowner of 100% of the Subject Property, this Board hereby sets this same date, as soon as the matter may be heard following adoption of this resolution, in the Board Chambers on the First Floor of the County Government Center, 385 North Arrowhead Avenue, San Bernardino, California, as the time and place for the public hearing on the proposed annexation. At the hearing, testimony of all interested persons and

taxpayers for or against the proposed annexation will be heard and protests will be considered from both registered voters, if any, residing within CFD No. 2002-2 and persons owning real property within CFD No. 2002-2. As provided by the Act, written protests by a majority of the registered voters, if any, but including a minimum of six registered voters, or by the owners of a majority in area of the land within either the existing CFD No. 2002-2 or the proposed annexation area will constitute a “majority protest” and will require the suspension of proceedings for at least one year. Written protests must be filed with the Clerk at or before the time fixed for the hearing.

6. It is anticipated that the special tax will be billed as a separate line item on the regular property tax bill of the County of San Bernardino. However, this Board reserves the right, under Section 53340, to utilize any method of collecting the special tax which it shall, from time to time, determine to be in the best interests of the County, including, but not limited to, direct billing by the County to the property owners and supplemental billing.

7. On the basis of the information set forth in that certain certificate entitled “Certificate re Registered Voters and Landowners,” on file with the Clerk of this Board, in the event that an election is held in these proceedings, it is the intention of this Board that the elector will be the Owner, as the sole landowner within the area of the Subject Property in accordance with Section 53339.7 of the Act.

8. This Board ratifies the publication by the Clerk of a notice of hearing, containing the matters specified by Section 53322 of the Act, one time in a newspaper in general circulation in the area of CFD No. 2002-2, said publication having occurred no later than seven days prior to the date of the public hearing.

\* \* \* \*

PASSED AND ADOPTED by the Board of Supervisors of the County of San Bernardino, State of California, by the following vote:

AYES: Board Members: Postmus, Biane, Aguiar, Young, Hansberger

NOES: Board Members : None

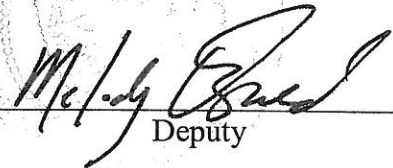
ABSENT: Board Members: None

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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN BERNARDINO)

I, J. RENEE BASTIAN, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify the foregoing to be a full, true, and correct copy of the record of action taken by said Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of November 30, 2004, Item 62, mo.

J. RENEE BASTIAN  
Clerk of the Board

By:   
Deputy

RESOLUTION NO. 2004-404

RESOLUTION CALLING SPECIAL MAILED-BALLOT ELECTION  
RESPECTING PROPOSED ANNEXATION

Community Facilities District No. 2002-2  
(Central Valley FPD - Fire Protection Services)

WHEREAS, reference is made to the Resolution of Intention to Annex Property to Community Facilities District (the "Resolution of Intention"), adopted by this Board of Supervisors (this "Board") adopted on this same date, for the description of the petition received from CSHV Calabash, LLC (the "Owner"), as the sole owner of certain real property (the "Subject Property") which the Owner is requesting be annexed to the existing Community Facilities District No. 2002-2 (Central Valley FPD – Fire Protection Services) ("CFD No. 2002-2"); and

WHEREAS, this Board scheduled this same date as the date for the public hearing with respect to the proposed annexation of the Subject Property (the "Proposed Annexation"); and

WHEREAS, on this same date, at the time set for the public hearing by the Resolution of Intention, this Board conducted the public hearing, and at the close of the public hearing this Board determined that a majority protest under Section 53324 of the Government Code was not made at the hearing; and

WHEREAS, in order to proceed with the Proposed Annexation, as provided by the Resolution of Intention, the matter must be submitted to an election of the qualified electors in the territory of the Subject Property, as provided in the form of special election ballot attached hereto as Exhibit A and by this reference incorporated herein; and

WHEREAS, a Certificate Re Registered Voters and Landowners (the "Certificate") has been filed with the Clerk of this Board (the "Clerk"), certifying that at no time during the ninety days preceding the close of the protest hearing on this date, were there ever any persons registered to vote within the territory of the Subject Property, with the result that, pursuant to Section 53326 of the Government Code, the qualified electors for the proposed special election shall be the Owner;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of San Bernardino as follows:

1. This Board finds and determines that the foregoing recitals are true and correct.

2. This Board accepts the Certificate heretofore filed in these proceedings and finds, in accordance therewith, that there presently are, and at all times during the ninety days just past there have been no registered voters residing within the boundaries of the Subject Property. Accordingly, under Section 53326 of the Government Code, the qualified electors for the proposed special election shall be the Owner.

3. This Board further finds and determines that the Owner is the sole landowner of record of the Subject Property and that the Certificate correctly sets forth the amount of property owned by the Owner, the number of votes to which the Owner is entitled pursuant to said Section 53326 being said number of acres rounded up to the nearest whole integer.

4. This Board further finds and determines that an authorized representative of the Owner has filed with the Clerk (a) the special election ballot pertaining to the Subject

Property and (b) a waiver and consent, by which the time limits and related requirements respecting preparation and distribution of election materials are waived.

5. Pursuant to Sections 53326 and 53351 of the Government Code, this Board hereby calls an election, to be held and conducted forthwith upon adoption of this resolution, and sets this same date as the election date. Pursuant to Section 53326 of the Government Code, the election shall be conducted by mailed ballot; provided that personal service of the ballot is permitted under the terms of the waiver and consent on file with the Clerk and shall therefore be permitted and ratified. The action of the Clerk in having made personal service of the ballot, in the form of Exhibit A, to the Owner is hereby ratified.

6. The measure to be submitted to the qualified electors of the Subject Property shall be as set forth in Exhibit A.

7. The Clerk, having received the only eligible ballot prior to adoption of this resolution, shall immediately close the election and declare the results to this Board.

8. This resolution shall take effect from and after its adoption.



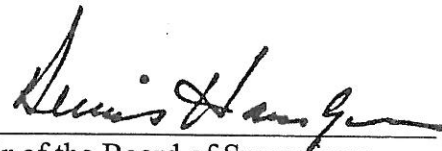
PASSED AND ADOPTED by the Board of Supervisors of the County of San Bernardino, State of California, at a regular meeting of said Board held on the 30<sup>th</sup> day of November, 2004, by the following vote of said Board:

AYES: Board Members: Postmus, Biane, Aguiar, Young, Hansberger

NOES: Board Members: None

ABSENT: Board Members: None

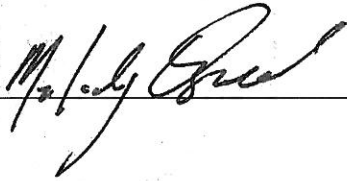
ABSTAINING: Board Members: None



Chair of the Board of Supervisors

ATTEST:  
Clerk of the Board of Supervisors

By: \_\_\_\_\_



RESOLUTION NO. 2004-405

RESOLUTION DECLARING ELECTION RESULTS  
AND ORDERING ANNEXATION

Community Facilities District No. 2002-2  
(Central Valley FPD - Fire Protection Services)

WHEREAS, on this date, at the time set for the public hearing in the matter of annexing certain prescribed land (the "Subject Property") to Community Facilities District No. 2002-2 (Central Valley FPD - Fire Protection Services) ("CFD No. 2002-2") by its Resolution of Intention to Annex Property to Community Facilities District, this Board of Supervisors (this "Board") conducted the public hearing, and at the close of the public hearing, this Board determined that a majority protest under Section 53339.6 of the Government Code was not made at the hearing; and

WHEREAS, at the conclusion of the public hearing, this Board adopted its Resolution Calling Special Mailed-Ballot Election pursuant to Section 53339.7 of the Government Code; and

WHEREAS, by said resolution calling the election, the two questions of annexing the Subject Property and levying a special tax as previously authorized for property within CFD No. 2002-2 were combined into a single ballot measure pursuant to Section 53353.5 of the Government Code, as provided in the form of special election ballot attached thereto as Exhibit A; and

WHEREAS, a Certificate of Clerk re Receipt of Property Owner Waiver and Consent Form and Ballot and Declaring Election Results, dated this same date (the "Clerk's Certificate"), executed by the Clerk of this Board (the "Clerk"), has been filed with this Board, certifying that a completed ballot has been returned to the Clerk for the sole landowner-voter eligible to cast a

ballot in said special, with all votes cast as “Yes” votes in favor of the ballot measure, and further certifying on said basis that the special mailed-ballot election was closed; and

WHEREAS, this Board has received, reviewed and hereby accepts the Clerk’s Certificate and wishes by this resolution to declare the results of the special mailed-ballot election;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of San Bernardino as follows:

1. This Board finds and determines that the foregoing recitals are true and correct.

2. This Board hereby finds and determines and declares that the ballot measure submitted to the qualified elector of CFD No. 2002-2 has been passed and approved by that qualified elector in accordance with Sections 53339.8 and 53355 of the Government Code, and the Subject Property is hereby declared annexed to CFD No. 2002-2 and made subject to the special tax of CFD No. 2002-2 in accordance with the rate and method of apportionment of special tax previously approved for CFD No. 2002-2.

3. This Board hereby authorizes and directs the Clerk to cause the following:

a. the recordation with the San Bernardino County Recorder (the “County Recorder”) of the map entitled “Annexation Map No. 1 to County of San Bernardino Community Facilities District No. 2002-2 (Central Valley FPD – Fire Protection Services), which map is on file with the Clerk; and

b. the preparation and recordation with the County Recorder of a notice of special tax lien in accordance with the provisions of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code. Said notice shall be recorded in said County Recorder’s office within fifteen days of today’s date.

4. This resolution shall take effect from and after its adoption.

\* \* \* \*

PASSED AND ADOPTED by the Board of Supervisors of the County of San Bernardino, State of California, by the following vote:

AYES: Board Members: Postmus, Biane, Aguiar, Young, Hansberger

NOES: Board Members: None

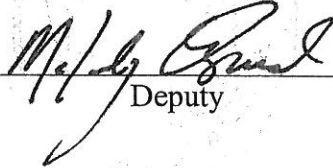
ABSENT: Board Members: None

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STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN BERNARDINO) ss.

I, J. RENEE BASTIAN, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify the foregoing to be a full, true, and correct copy of the record of action taken by said Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of November 30, 2004, Item 62, mo.

J. RENEE BASTIAN  
Clerk of the Board

By:   
Deputy



**LARRY WALKER**  
Auditor/Controller – Recorder

P Counter

RECORDING REQUESTED BY AND  
WHEN RECORDED, PLEASE RETURN TO:

Dena M. Smith  
Clerk of the Board of Supervisors  
County of San Bernardino  
385 North Arrowhead Avenue, 2nd Floor  
San Bernardino, CA 92415-0130

Doc#: 2007-0604678



Titles: 1 Pages: 2

Fees	0.00
Taxes	0.00
Other	0.00
PAID	\$0.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**CORRECTION TO NOTICE OF SPECIAL TAX LIEN (ANNEXATION)**

COMMUNITY FACILITIES DISTRICT NO. 2002-2  
(CENTRAL VALLEY FPD- FIRE PROTECTION SERVICES)  
COUNTY OF SAN BERNARDINO

Annexation No. 1

Pursuant to the requirements of Section 3117.5 of the Streets and Highways Code and Section 53339.8 of the Government Code, the undersigned, as the Clerk of the Board of Supervisors of the County of San Bernardino (the "County"), hereby gives notice of the following correction with respect to the instrument identified in paragraph (c) below as the "Annexation Notice" and pertaining to the County of San Bernardino Community Facilities District No. 2002-2 (Central Valley FPD – Fire Protection Services) ("CFD No. 2002-2"):

(a) The original Notice of Special Tax Lien respecting CFD No. 2002-2 (the "Original Notice"), prepared in accordance with Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, was recorded in the office of the County Recorder of the County of San Bernardino (the "County Recorder") on August 20, 2002, as Document No. 2002-0435816. Reference is hereby made to the provisions of and the exhibits to the Original Notice, including without limitation the provisions of the rate and method of apportionment of special tax (the "RMA") which is attached to the Original Notice as Exhibit B. The recordation of the Original Notice established a lien on the parcels originally included in CFD No. 2002-2 to secure payment of the special tax levied on such parcels for CFD NO. 2002-2 to finance a portion of the cost of fire protection services and the administrative expenses to be incurred by the County in the course of administering CFD No. 2002-2.

(b) Thereafter, by virtue of annexation proceedings taken pursuant to Sections 53339 and following of the Government Code (said proceedings being referred to as "Annexation No. 1"), a parcel of land described as APN 0234-011-12 (the "Annexed Parcel") was annexed to CFD No. 2002-2.

(c) Following completion of the proceedings for Annexation No. 1, a "Notice of Special Tax Lien (Annexation)" (the "Annexation Notice") was recorded on August 10, 2006, in the County Recorder's office as Document No. 2006-0546554. The purpose of the Annexation Notice was to extend the lien of the special tax of CFD No. 2002-2 to the Annexed Parcel.

(d) The Annexation Notice requires correction in two respects, as follows:

(i) First, in the first paragraph of the Annexation Notice, blanks were included in the text which were intended to be completed by inserting the recording information for the annexation map pertaining to Annexation No. 1 (the "Annexation Map No. 1"), but the information was not in fact inserted; and

(ii) Second, in the third paragraph of the Annexation Notice, the statement is made that the RMA is attached thereto as Exhibit B, but in fact the RMA was not attached.

(e) The purpose of this correction is to confirm the following:

(i) Annexation Map No. 1 was recorded on January 5, 2005, in Book 77 of Maps of Assessment and Community Facilities Districts, at page 74 and as Instrument No. 2005-0009209; and

(ii) The Annexation Notice should have referred to the RMA by cross-reference to the Original Notice, all of the terms and provisions of which, including the RMA, apply with full force and effect to the Annexed Parcel.

In all respects other than the omission of the recording information for Annexation Map No. 1 and the erroneous reference to the RMA as being attached as an exhibit when in fact it was not, the provisions of the Annexation Notice are correct and shall remain in full force and effect, and the lien of the special tax established on the Annexed Parcel by virtue of the recordation of the Annexation Notice shall remain in full force and effect.

For further information concerning the current and estimated future special tax liability of owners or purchasers of real property within CFD No. 2002-2 and subject to this special tax lien, interested persons should contact the Special Districts Department, 157 West Fifth Street, Second Floor, San Bernardino, CA 92415, telephone (909) 387-5950.

DATED: November 30, 2004

DENA M. SMITH  
Clerk of the Board of Supervisors

By: 



**LARRY WALKER**  
Auditor/Controller - Recorder

12:26 PM  
NC

P Counter

**RECORDING REQUESTED BY AND  
WHEN RECORDED, PLEASE RETURN TO:**

Dena M. Smith  
Clerk of the Board of Supervisors  
County of San Bernardino  
385 North Arrowhead Avenue, 2nd Floor  
San Bernardino, CA 92415-0130

Doc#: 2006-0546554



Titles: 1 Pages: 4

Fees	0.00
Taxes	0.00
Other	0.00
PAID	00.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF SPECIAL TAX LIEN (ANNEXATION)**

COMMUNITY FACILITIES DISTRICT NO. 2002-2  
(CENTRAL VALLEY FPD- FIRE PROTECTION SERVICES)  
COUNTY OF SAN BERNARDINO

**(ANNEXATION NO. 1)**

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned, as the Clerk of the Board of Supervisors of the County of San Bernardino (the "County"), hereby gives notice that certain territory was annexed a to Community Facilities District No. 2002-2 (Central Valley FPD – Fire Protection Services), County of San Bernardino ("CFD No. 2002-2") (as more particularly set forth in that certain map entitled "Annexation Map No. 1 of Community Facilities District No. 2002-2 (Central Valley FPD – Fire Protection Services), County of San Bernardino" recorded on \_\_\_\_\_, 2006, with the County Recorder of San Bernardino County in Book \_\_\_\_ of Maps of Assessment and Community Facilities Districts at Page \_\_\_\_), and the names of the owners and the assessor's tax parcel numbers of the real property annexed to the CFD No. 2002-2 and not exempt from the special tax, as of the date of recording this notice, are as set forth in Exhibit A attached hereto and made a part hereof.

The special tax is authorized to be levied within the territory annexed to CFD No. 2002-2, and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax for CFD No. 2002-2 is shown on Exhibit B attached hereto (consisting of pages 1-5, inclusive). The conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled and the procedures for calculating the amount required for prepayment of the special tax are set forth in Section H of Exhibit B.

Notice is further given that upon the recording of this notice in the office of the San Bernardino County Recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within the territory annexed to CFD No. 2002-2 in accordance with Section 3115.5 of the Streets and Highways Code.

For further information concerning the current and estimated future special tax liability of owners or purchasers of real property within the territory annexed to CFD No. 2002-2 and subject to this special tax lien, interested persons should contact the Special Districts Department, 157 West Fifth Street, Second Floor, San Bernardino, CA 92415, telephone (909) 387-5940.

DATED: August 10, 2006

Dena M. Smith  
Clerk of the Board of Supervisors

By: 



**EXHIBIT A**

**List of Parcels Subject to the Special Tax**

The following is the list of parcels, which, as of the date of recordation of this Notice of Special Tax Lien (Annexation) , are subject to the special tax obligation of CFD No. 2002-2. This list is subject to modification without recordation of any further instrument, in accordance with the terms and conditions of the Rate and Method of Apportionment, attached to this Notice of Special Tax Lien as Exhibit B.

The general location and exterior boundary of the listed parcels annexed to CFD No. 2002-2 by Annexation #1 are shown on the Annexation Map referred to above on page 1 of this Notice of Special Tax Lien.

<u>Parcel Description</u>	<u>Owner</u>
APN 0234-011-12	CSHV Calabash, LLC

**EXHIBIT B**

**Rate and Method of Apportionment of the Special Tax**