

10/05/23

TO: CITY COUNCIL OF THE CITY OF MERCED

FROM: Fortis General Construction, Inc., a California Corporation

**PETITION, CONSENT TO ANNEX AND WAIVER OF VARIOUS
PUBLIC HEARING AND ELECTION REQUIREMENTS FOR
ANNEXATION PROCEEDINGS**

**COMMUNITY FACILITY DISTRICT 2003-2 (SERVICES)
OF THE CITY OF MERCED
ANNEXATION NO. 26
(Improvement Area No. 51)**

The undersigned landowner does hereby certify under penalty of perjury that the following statements are all true and correct:

1. As of the date hereof, Fortis General Construction, Inc., a California Corporation (the “Developers”), are the owners of certain property located in the City of Merced (the “City”) described on Exhibit “A” attached hereto (the “Property”).

2. The Developers, in fulfillment of the conditions of approval relating to the Property, hereby petitions and requests the City Council of the City of Merced (the “City Council”) to initiate proceedings to include the Property in Annexation No. 26 to the Community Facilities District No. 2003-2 of the City of Merced (the “CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), of Part 1 of Division 2 of Title 5 of the California Government Code (the “Act”) for the provision of services as set forth below for development of the Property; and

3. The City requires that new development provide for the funding of certain public services and maintenance, including but not limited to, public safety services, landscape maintenance, park and parkway maintenance, and flood control services (the “Services”), through the formation of or annexation to a community facilities district or otherwise provide alternate funding mechanism, sufficient to support the provision of the Services to the development on the Property.

4. The undersigned is authorized to represent the Developers and is its designated representative to petition and give the consent and waiver contained herein to the CFD, with respect to the inclusion of the Property within the CFD, to be annexed under the provisions of Act.

5. The undersigned hereby certifies the Property consists of approximately 10 acres of land. To the undersigned's best knowledge no registered voters reside within the Property, and there will be none during the 90-day period preceding the public hearing to be conducted by the City Council pursuant to Government Code Section 53339.3.

6. The Developers has had an opportunity to consult with legal counsel with respect to the matters contained herein and is fully and completely informed of and understands the matters contained herein.

7. The Developers hereby requests that the District conduct an annexation proceeding as soon as possible notwithstanding Section 53321 of the Act, hereby waives the requirement of Section 53321 of the Act requiring at least 30 days between adoption of the resolution of intention to annex and the public hearing, hereby consents to the legislative body of the District setting the public hearing for approximately 13 days from the adoption of the resolution of intention to annex, and hereby indemnifies the District and its officers, agents, successors and assigns from and against all claims, losses and damages, including legal fees and expenses, arising out of or due to Section 53321 of the Act.

8. The Developers acknowledges that the City has represented that the Developers will receive relevant information and prior notice of the hearing to be scheduled by the City Council regarding the proposed annexation of the Property to the CFD and the imposition of the special tax.

9. The Developers understands that a special mailed-ballot, landowner election will be held to determine whether the Property will be annexed to the CFD, and further understands that if the Property is annexed, authority will be conferred on CFD to levy an annual special tax on the Property to finance certain public services, including, but not limited to, public safety services, landscape maintenance, park and parkway maintenance, and flood control services. The undersigned, on behalf of the Developers, requests that the election be conducted at the earliest possible date. The undersigned is the person legally entitled and authorized to execute this Consent and Waiver with respect to the Property in connection with the landowner, mailed-ballot election on the annexation.

10. In accordance with the provisions of the Act, and specifically Sections 53339.7, 53326(a) and 53327(b) thereof allowing certain time and conduct requirements relative to a special landowner election to be waived with the unanimous consent of all the landowners to be included in Annexation No. 26 to the CFD and concurrence of the election official conducting the election, the undersigned on behalf of the Developers (i) expressly consents to the conduct of the special election at the earliest possible time following the adoption by the City Council of a resolution calling the election, and (ii) expressly waives any requirement to have the special election conducted within the time periods specified in Section 53326 of the Act or in the California Elections Code.

11. The undersigned waives any requirement for the mailing of the ballot for the special election and expressly agree that said election may be conducted by mailed or hand-delivered ballot to be returned as quickly as possible to the designated election official, being the office of the City Clerk of the City and the undersigned request that the results of said election be canvassed and reported to the City Clerk at the same meeting of the City as the public hearing on the annexation to the CFD or the next available meeting.

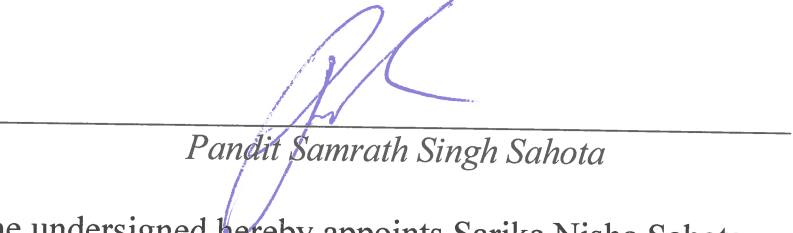
12. The undersigned expressly waives all applicable waiting periods for the election and waives the requirement for analysis and arguments relating to the special election, as set forth in Section 53327 of the Act, and consents to not having such materials provided to the landowner in the ballot packet, and expressly waives any requirements as to the form of the ballot.

13. The undersigned expressly waives all notice requirements relating to hearings and special elections, whether by posting, publishing or mailing, and whether such requirements are found in the Municipal Code, California Elections Code, the California Government Code or other laws or procedures, including but not limited to any notice provided for by compliance with the provisions of Section 4101 of the California Elections Code.

14. The undersigned hereby consents to and expressly waives any and all claims based on any irregularity, error, mistake or departure from the provisions of the Act or other laws of the State and any and all laws and requirements incorporated therein, and no step or action in any proceeding relative to the CFD or the special election therein shall be invalidated or affected by any such irregularity, error, mistake or departure.


15. The undersigned, on behalf of the Developers, hereby consents to the levy and collection of the special tax on the Property and hereby waives any and all rights to challenge the inclusion of the Property in the CFD and any and all other proceedings related thereto.

16. The undersigned hereby appoints Pandit Samrath Singh Sahota, as the authorized representative for Fortis General Construction, Inc., to vote in the election referred to herein and certifies that his or her true and exact signature is set forth below:



Pandit Samrath Singh Sahota

17. The undersigned hereby appoints Sarika Nisha Sahota, as the authorized representative for Fortis General Construction, Inc., to vote in the election referred to herein and certifies that his or her true and exact signature is set forth below:



Sarika Nisha Sahota

IN WITNESS WHEREOF, I hereunto set my hand this ____ day of _____, 2023.

DEVELOPER:

FORTIS GENERAL CONSTRUCTION, INC.

By: 
Pandit Samrath Singh Sahota

Title: President

TAX PAYER ID: 81-1367210


ADDRESS: 25455 Prado de los Peros
Calabasas CA 91302

TELEPHONE: 213 800-0860

EMAIL: SAHOTA03@hotmail.com

DEVELOPER:

FORTIS GENERAL CONSTRUCTION, INC.

By: 
Sarika Nisha Sahota

Title: Chief Financial Officer

TAX PAYER ID: 81-1367210

ADDRESS: 25455 Prado de los Peros
Calabasas CA 91302

TELEPHONE: 213 500-0860

EMAIL: SAHOTA03@hotmail.com

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MERCED
THIS _____ DAY OF _____, 2024.

City Clerk

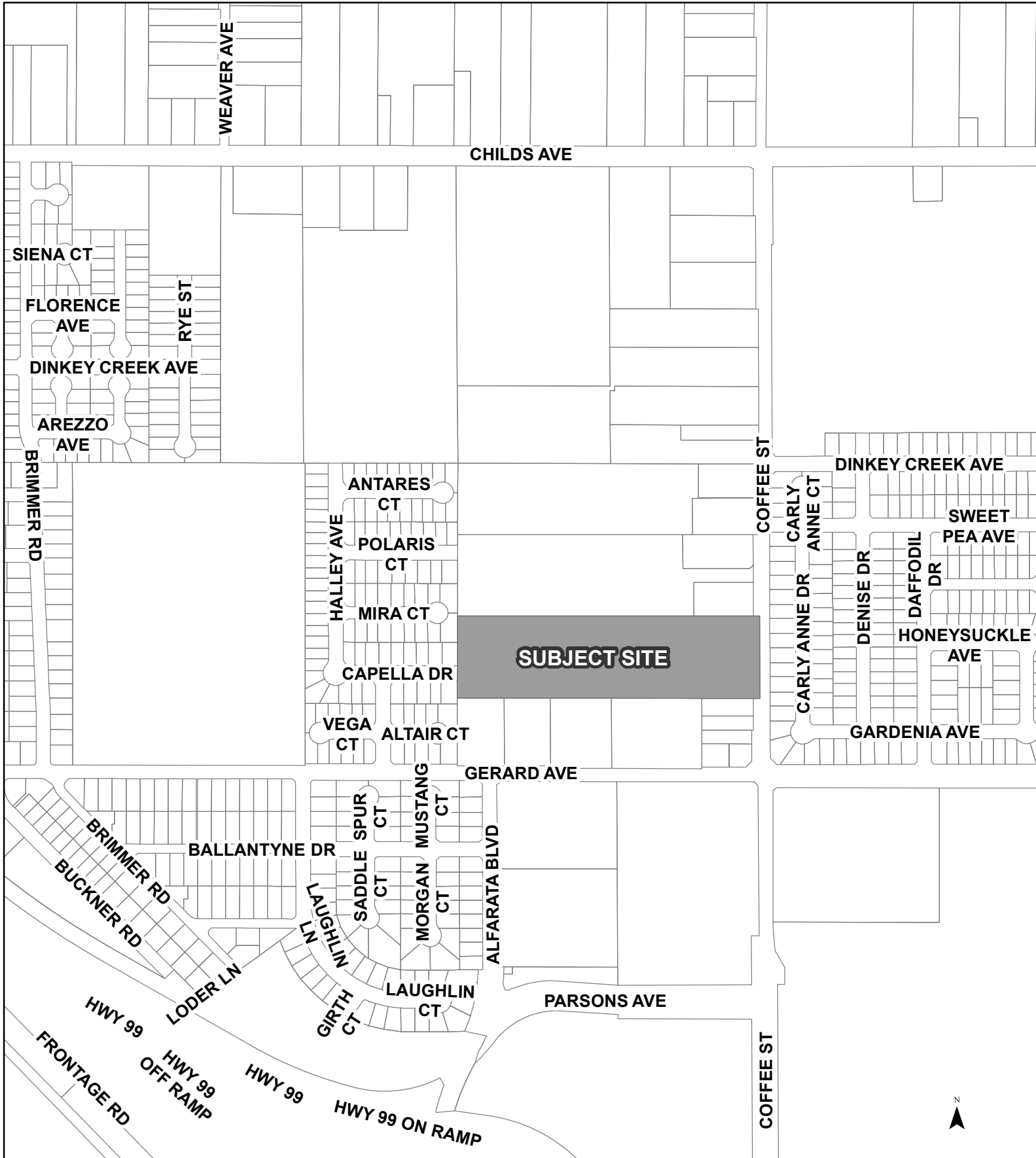
Exhibit B
Legal Description

All that portion of Lots 1263 and 165, according to map entitled, "Merced Colony," recorded February 3, 1910, in Volume 4 of Official Plats, Page 24, Merced County Records, described as follows, to wit:

The north one-half of Lot 165 and all that portion of Lot 163 lying south of the westerly projection of the north line of said Lot 165 to its point of intersection with the west line of said Lot 163.

Excepting therefrom the south 5 acres of Lot 163, the south line of Said 5 acres being the center line of the Avenue Shown as Lot J on said Map of Merced Colony.

APN: 061-261-026



Disclaimer: This document was prepared for general inquiries only. The City of Merced is not liable for errors or omissions that might occur. Official information concerning specific parcels should be obtained from recorded or adopted City documents.

CFD Annexation #26
Capella Terrace Subdivision

EXHIBIT B

