

TO: CITY COUNCIL OF THE CITY OF MERCED

FROM: CEB Holdings, LLC, a California Limited Liability Company

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

**COMMUNITY FACILITY DISTRICT 2003-2 (SERVICES)  
OF THE CITY OF MERCED  
ANNEXATION NO. 22  
(Improvement Area No. 48)**

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, CEB Holdings, LLC, a California Limited Liability Company (the “Owner”), is the owner of certain property located in the City of Merced (the “City”) described on Exhibit “A” attached hereto (the “Property”).

2. Owner, in fulfillment of the conditions of approval relating to the Property including COA 6 (attached to Planning Commission Reso. No. 2871) and Section 24 and Exhibit D-1, Section 8 of the Pre-Annexation and Development Agreement dated April 17, 2006 (“PADA”), 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. 22 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. The City requires that new development of the Property provide for the funding of certain public services and maintenance consisting of the annual operating costs for public safety (police and fire) services, public landscaping, street trees, street lights, park and open space, and storm drainage services (collectively, the “Services”), through the annexation to a community facilities district, sufficient to support the provision of the Services to the development on the Property.

3. The undersigned is authorized to represent Owner 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.

4. The undersigned hereby certifies the Property consists of approximately 39.35 acres of land. To the undersigned's actual 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.

5. Owner 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.

6. Owner hereby requests that the City Council 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 City Council, which is serving as the legislative body of the District, setting the public hearing for 14 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.

7. On or about November 29, 2022, the Owner and the appropriate officers thereof were made aware of the proposed January 17, 2023 public hearing to be held regarding the proposed annexation of the Property to the CFD and the imposition of the special tax. Owner acknowledges that it anticipates receiving adequate notice of the hearing to be scheduled by the City Council. Owner and the appropriate officers thereof have received necessary and relevant information regarding the CFD and the imposition of the special tax and the City has made available to Owner sufficient opportunity to obtain such information.

8. Owner 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 the Services. The undersigned, on behalf of Owner, 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.

9. 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. 22 to the CFD and concurrence of the election official conducting the election, the undersigned on behalf of Owner (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.

10. The undersigned waives any requirement for the mailing of the ballot for the special election and expressly agrees 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.

11. 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 Owner in the ballot packet, and expressly waives any requirements as to the form of the ballot.

12. 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.

13. 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.

14. The undersigned, on behalf of Owner, 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.

15. The undersigned hereby appoints Laura Erickson, as its authorized representative to vote in the election referred to herein and certifies that his or her true and exact signature is set forth below:

  
[signature]

IN WITNESS WHEREOF, I hereunto set my hand this 15 day of December, 2022.

OWNER:

CEB Holdings, LLC, a California Limited Liability Company

By: Carol Bright Tonger

Title: Manager

TAX PAYER ID: 46-0553378

ADDRESS: 1620 N. Carpenter Rd.

Building B

Modesto, CA 95351

TELEPHONE: 209-526-9242

EMAIL: lerickson@bright-humas.com

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MERCED  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
City Clerk

See Attached Notarial Certificate

## EXHIBIT A

All that certain real property in the City of Merced, County of Merced, State of California, described below:

Parcels 2 and 3 as shown on that certain map entitled "Parcel Map for Benber Property," recorded in Book 97, Page 17 of Merced County Records.

Also known as Assessor's Parcel Numbers (APN's):

060-030-037 and 060-030-038

CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Stanislaus }

On 12/15/2022 before me, Rebecca L. DeWitt, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Carol Bright Tougas
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rebecca DeWitt
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Petition, Consent to Annex and Waiver of Election
Document Date: 12/15/2022 Number of Pages:
Signer(s) Other Than Named Above: NA

Capacity(ies) Claimed by Signer(s)
Signer's Name: Carol Bright Tougas
Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other: Manager
Signer is Representing: CEB Holdings LLC
Signer is Representing: