

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA FORMING AND ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 19M (FREEWAY COMMERCIAL 2), AND AUTHORIZING SUBMITTAL OF THE LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF SUCH COMMUNITY FACILITIES DISTRICT

WHEREAS, the City Council of the City of Chula Vista, California (the “City Council”), has previously declared its intention to form a community facilities district and ordered the preparation of a community facilities district report relating to the initiation of proceedings to create such community facilities district pursuant to the terms and provisions of the “Mello-Roos Community Facilities Act of 1982”, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the “Act”) and the City of Chula Vista Community Facilities District Ordinance enacted pursuant to the powers reserved by the City of Chula Vista under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California (the “Ordinance”) (the Act and the Ordinance may be referred to collectively as the “Community Facilities District Law”). This community facilities district shall hereinafter be referred to as Community Facilities District No. 19M (Freeway Commercial 2) (“CFD No. 19M”); and,

WHEREAS, notice of a public hearing relating to the establishment of the CFD No. 19M, the extent of CFD No. 19M, the financing of certain types of services and all other related matters has been given, and a community facilities district report (the “CFD No. 19M Report”), as ordered by this City Council, has been presented to this City Council and has been made a part of the record of the hearing to establish CFD No. 19M; and,

WHEREAS, all communications relating to the establishment of CFD No. 19M, the proposed services and the rate and method of apportionment of the special tax proposed to be levied within CFD No. 19M have been presented, and it has further been determined that a majority protest as defined by law has not been received against these proceedings or the levy of the special tax within CFD No. 19M; and

WHEREAS, inasmuch as there have been less than twelve (12) registered voters residing within the territory of CFD No. 19M for at least the preceding ninety (90) days, the authorization to levy special taxes within CFD No. 19M shall be submitted to the landowners of CFD No. 19M, such landowners being the qualified electors as authorized by law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. Recitals. The above recitals are all true and correct.

SECTION 2. Determinations. It is hereby determined by this City Council that:

- A. All prior proceedings pertaining to the formation of CFD No. 19M were valid and taken in conformity with the requirements of the law, and specifically the provisions of the Community Facilities District Law, and that this finding and

determination is made pursuant to the provisions of Government Code Section 53325.1.

- B. The written protests received, if any, do not represent a majority protest as defined by the applicable provisions of the Community Facilities District Law and, therefore, the special tax proposed to be levied within CFD No. 19M has not been precluded by majority protest pursuant to Section 53324 of the Government Code of the State of California.
- C. CFD No. 19M as proposed conforms with the City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts (the "Goals and Policies"), as amended.
- D. Less than twelve (12) registered voters have resided within the territory of CFD No. 19M for each of the ninety (90) days preceding the close of the public hearing, therefore, pursuant to the Act the qualified electors of CFD No. 19M shall be the landowners of CFD No. 19M as such term is defined in Government Code Section 53317(f) and each such landowner who is the owner of record as of the close of the public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that she or he owns within CFD No. 19M.
- E. The time limit specified by the Community Facilities District Law for conducting an election to submit the levy of the special taxes to the qualified electors of CFD No. 19M and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of CFD No. 19M.
- F. The City Clerk, acting as the election official, has consented to conducting any required election on a date which is less than 125 days following the adoption of any resolution forming and establishing CFD No. 19M.

SECTION 3. Community Facilities District Report. The CFD No. 19M Report, as now submitted by NBS, Special Tax Consultant, shall stand as the report required pursuant to Government Code Section 53321.5 for all future proceedings and all terms and contents are approved as set forth therein.

SECTION 4. Name of District. The City Council does hereby establish and declare the formation of CFD No. 19M known and designated as "Community Facilities District No. 19M (Freeway Commercial 2)."

SECTION 5. Boundaries of CFD No. 19M. The boundaries of CFD No. 19M are generally described as follows:

All property within the boundaries of Community Facilities District No. 19M (Freeway Commercial 2), as shown on a boundary map as previously approved by this legislative body, such map designated "Proposed Boundaries of Community Facilities District No. 19M (Freeway Commercial 2), City of Chula Vista, County

of San Diego, State of California,” a copy of which is on file in the Office of the City Clerk. The boundary map of the proposed District was filed on April 18, 2017 pursuant to Sections 3111 and 3113 of the Streets and Highways Code of the State of California in the Office of the County Recorder of the County of San Diego (the “County”), at Page 55 of Book 46 of the Book of Maps of Assessment and Community Facilities Districts of the County as Document Number 2017-7000138.

**SECTION 6. Description of Services.** It is the intention of this City Council to finance certain services (the “Services”) that are in addition to those provided in or required for the territory within CFD No. 19M and will not be replacing services already available. A general description of the services to be provided is provided in Exhibit “A” attached hereto.

**SECTION 7. Special Tax.** Except where funds are otherwise available special taxes sufficient to pay for the Services, to establish or replenish a reserve fund, the replacement costs of park or other public improvements within the District and related incidental expenses authorized by the Community Facilities District Law, secured by recordation of a continuing lien against all non-exempt real property in CFD No. 19M, are hereby authorized, subject to voter approval, to be levied annually within the boundaries of CFD No. 19M. For further particulars as to the rate and method of apportionment of the special taxes proposed to be levied within CFD No. 19M, reference is made to the attached and incorporated Exhibit “B,” which sets forth in sufficient detail the rate and method of apportionment to allow each landowner or resident within CFD No. 19M to clearly estimate the maximum amount that such person will have to pay for such services.

The special taxes herein authorized shall be collected in the same manner as ad valorem property taxes and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency, as applicable for ad valorem taxes; however, as applicable, this legislative body may, by resolution, establish and adopt an alternate or supplemental procedure as necessary. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer of the City of Chula Vista, acting for and on behalf of CFD No. 19M.

Upon recordation of a Notice of Special Tax Lien pursuant to Section 3114.5 of the Streets and Highways Code of the State of California, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in CFD No. 19M and this lien shall continue in force and effect until the lien canceled in accordance with law or until collection of the tax by the legislative body ceases. The special tax obligation for any parcel may not be prepaid.

**SECTION 8. Special Tax Accountability Measures.** Pursuant to and in compliance with the provisions of Government Code Section 50075.1, this City Council hereby establishes the following accountability measures pertaining to the levy by CFD No. 19M of the special taxes described in Section 7 above:

- A. Each such special tax shall be levied for the specific purposes set forth in Section 7. above.

- B. The proceeds of the levy of each such special tax shall be applied only to the specific applicable purposes set forth in Section 7. above.
- C. CFD No. 19M shall establish a separate account into which the proceeds of each such special tax shall be deposited.
- D. The City Manager or his or her designee, acting for and on behalf of CFD No. 19M, shall annually file a report with the City Council as required pursuant to Government Code Section 50075.3.

SECTION 9. Preparation of Annual Tax Roll. The name, address and telephone number of the office, department or bureau which will be responsible for preparing annually a current roll of special tax levy obligations by Assessor's parcel number and which shall be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Government Code of the State of California, are as follows:

Engineering Department  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 92010  
(619) 691-5021

SECTION 10. Election. This legislative body herewith submits the levy of the special taxes to the qualified electors of CFD No. 19M, such electors being the landowners within CFD No. 19M, with each landowner having one (1) vote for each acre or portion thereof of land which he or she owns within CFD No. 19M.

This legislative body hereby further directs that a separate ballot proposition relating to the levy of the above referenced special taxes within CFD No. 19M be combined and consolidated with the proposition set forth in Section 11 below relating to the establishment of an appropriations limit for CFD No. 19M.

The proposition related to the levy of the special taxes, together with a proposition to establish an appropriations limit for CFD No. 19M, shall be submitted to the qualified electors of CFD No. 19M at a special election to be held on (a) May 16, 2017, immediately following the adoption of this resolution or (b) such other date as the qualified electors and the City Clerk may mutually agree and such election shall be a special election to be conducted by the City Clerk (hereinafter referred to as the "Election Official"). If either or both of the propositions for the levy of the special taxes receive the approval of more than two-thirds (2/3rds) of the votes cast on the proposition, the special tax thereby approved may be levied as provided for in this Resolution.

SECTION 11. Ballot Proposals. The ballot proposals to be submitted to the qualified electors of CFD No. 19M at the election shall generally be as follows:

## PROPOSITION A

Shall Community Facilities District No. 19M (Freeway Commercial 2), subject to the accountability measures required pursuant to Government Code Section 50075.1, levy a special tax throughout Community Facilities District No. 19M (Freeway Commercial 2) pursuant to the rate and method of apportionment attached as Exhibit A to this ballot for the purposes of financing the services described in Exhibit B to this ballot?

## PROPOSITION B

Shall Community Facilities District No. 19M (Freeway Commercial 2) establish an Article XIII B appropriations limit equal to \$600,000?

SECTION 12. Vote. The appropriate mark placed in the voting square after the word “YES” shall be counted in favor of the adoption of the proposition, and the appropriate mark placed in the voting square after the word “NO” in the manner as authorized, shall be counted against the adoption of such proposition.

SECTION 13. Election Procedure. The Election Official is hereby authorized to take any and all steps necessary for holding the above election. The Election Official shall perform and render all services and proceedings incidental to and connected with the conduct of the election, including but not limited to, the following:

1. Prepare and furnish the necessary election supplies for the conduct of the election.
2. Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms.
3. Furnish official ballots for the qualified electors of CFD No. 19M.
4. Cause the official ballots to be presented to the qualified electors, as required by law.
5. Receive the returns of the election and supplies.
6. Sort and assemble the election material and supplies in preparation for the canvassing of the returns.
7. Canvass the returns of the election.
8. Furnish a tabulation of the number of votes given in the election.
9. Conduct and handle all other matters relating to the proceedings and conduct of the election in the manner and form as required by law.

SECTION 14. Effective Date. This Resolution shall become effective immediately upon its adoption.

PREPARED BY:

APPROVED AS TO FORM BY:

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Kelly G. Broughton, FASLA  
Director of Development Services

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Glen R. Googins  
City Attorney

## EXHIBIT "A"

### DESCRIPTION OF SERVICES

The types of services (the "Services") to be funded by special taxes levied within the District shall include maintenance, servicing and replacement of (a) landscaping, including, but not limited to, trees, shrubs, grass, other ornamental vegetation located in or on slopes, parkways and medians; (b) facilities that are directly related to storm water conveyance, including, but not limited to pipes and drainage inlets, the Poggi Canyon channel and detention basin or parks; (c) walls and fencing; and (d) parks (together, the "Improvements" as specified in the list of public facilities below), property owned by the City of Chula Vista ("City") or property over which the City has an easement authorizing the City to maintain such landscaping, facilities, walls and fencing and trails.

For purposes of this description of the Services to be funded by the levy of special taxes within the District, "maintenance" includes, but is not limited to, the furnishing of services and materials for the ordinary and usual maintenance, operation, and servicing of any of the Improvements, including:

- (a) Repair, removal, or replacement of all facilities.
- (b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- (c) The removal of trimmings, rubbish, debris, silt, and other solid waste.
- (d) The cleaning, sandblasting, and painting of walls and other Improvement Areas to remove or cover graffiti.
- (e) The elimination, control, and removal of rodents and vermin.
- (f) The maintenance and cleaning of drainage and other storm water control facilities required to provide storm water quality control.

"service" or "servicing" means the furnishing of:

- (a) Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or operation of any other Improvements.
- (b) Water for the irrigation of any landscaping or the operation or maintenance of any other Improvements.

For purposes of this description of the Services to be funded by the levy of special taxes within the District, "administrative expenses" means the actual or estimated costs incurred by the City, acting for and on behalf of the District as the administrator thereof, to determine, levy and collect the special taxes within the District, including salaries of City employees and a proportionate amount of the City's general administrative overhead related thereto, and the fees of consultants

and legal counsel providing services related to the administration of the District; the costs of collecting installments of the special taxes levied within the District; and any other costs required to administer the District as determined by the City.

**List of Public Facilities to be Maintained  
Community Facilities District No. 19M  
(Freeway Commercial 2)**

**I. LANDSCAPE MAINTENANCE**

Planted Area – Town Center Drive Parkways & Medians

Trees

Shrubs and Groundcover

Median Maintenance Hardscape

6' Entry Monument Wall

Street Pole Lighting

Graffiti Abatement for 6' Entry Monument Wall

Irrigation Water Cost

Planted Area – FC – 2 Centerpark Road

Trees

Palms

Shrubs and Groundcover

Irrigation Water Cost

**II. TOWN CENTER PARK MAINTENANCE**

Planted Area

Trees

Approved Palms

Planting Material

Sod/Turf

Irrigation Water Cost

Flatwork/Walls

Seating Wall – Amphitheater Area

Seating Wall – Picnic and Hillside Area

Entry Monument Walls

Graffiti Abatement – Walls & Flatwork

Enriched Concrete – Plaza/Picnic Area

Concrete Walk

Site Amenities, Features

Splash Pad with Water Jets and Equipment

Bike Racks

Trash Receptacles

Benches

Boulder Field Play Area

Graffiti Abatement – Boulders

Stair System Hillside Concrete

Stair and Bridge Handrail System



## **II. TOWN CENTER PARK MAINTENANCE (Continued)**

Hillside Artificial Turf Slide Area

Tree Grates – 5” x 5’ Cast Iron

Pole Lights

Moveable Furniture Secured with Cable

Dog Waste Bag Dispenser/Collection/Disposal

### **Services**

Trash Collection & Disposal

Utilities (Gas & Electric)

### **Structures**

Restroom and Storage Building

Trellis-Wood

Bridge-Wood

## **III. STORM WATER MAINTENANCE**

### **Infrastructure**

Catch Basins and Outlets

Public Works Staff-Clean & Flush Catch Basins

Machine Clean Pipe

CCTV Inspection

### **Poggi Channel/Detention Basin**

Channel

Detention Basin

## **IV. CFD IRRIGATION CONTROLLERS**

Cell Phone Service

Controller Maintenance Cost

Water Meter Fees

Irrigation Parts

Irrigation Maintenance Cost

**EXHIBIT “B”**

**RATE AND METHOD OF APPORTIONMENT FOR  
CITY OF CHULA VISTA  
COMMUNITY FACILITIES DISTRICT NO. 19M  
(FREEWAY COMMERCIAL 2)**