

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA APPROVING A DEVELOPMENT IMPACT  
FEE CREDIT ACCOUNTING AGREEMENT WITH BALDWIN  
& SONS, LLC RELATING TO THE CONSTRUCTION OF A  
PORTION OF HERITAGE ROAD

WHEREAS, as a condition of development, Baldwin & Sons, LLC (Developer) is obligated to construct a portion of Heritage Road as required in the “Supplemental Subdivision Improvement Agreement for the Otay Ranch Village 2 & Portions of Village 4 ‘A’ Map,” which was recorded May 26, 2006 as Document No. 2006-0375301 of Official Records of the San Diego County Recorder (the “2006 SSIA”); and

WHEREAS, as a condition of development, Developer is obligated to enter into an agreement to design, construct, and secure full street improvements for a portion of Heritage Road as required by Mitigation Measure 5.10-6 in the “Final Second Tier Environmental Impact Report for Otay Ranch Villages Two, Three, and a Portion of Village Four Sectional Planning Area Plan,” dated May 5, 2006 as Second Tier EIR 02-02/SCH No. 2003091012; and

WHEREAS, Developer agreed to construct half the width (two, striped one-way lanes) of Heritage Road from Santa Victoria Road to Main Street as required in the “Development Agreement for Otay Ranch Village of Montecito Sectional Planning Area Plan (Otay Ranch Village 2),” which was recorded December 10, 2014 as Document No. 2014-0543535 of Official Records of the San Diego County Recorder (the “Development Agreement”); and

WHEREAS, Developer further agreed to build a segment of Heritage Road as given in the “Supplemental Subdivision Improvement Agreement for the Otay Ranch Village 2 South ‘A’ Map” which was recorded June 22, 2016 as Document No. 2016-0309513 of Official Records of the San Diego County Recorder (the “2016 SSIA”); and

WHEREAS, Chapter 3.54 of the Chula Vista Municipal Code (CVMC) governs City’s Transportation Development Impact Fee (TDIF) and CVMC §3.54.040 sets forth the process whereby a developer may post a bond to construct a TDIF road and receive a fifty (50) percent TDIF credit to use for the payment of TDIF building permit fees; and

WHEREAS, Developer posted two bonds to construct Heritage Road from Santa Liza Road to Main Street in the amount of \$12,108,846 and received fifty (50) percent TDIF credit (\$6,054,423) based on the estimated cost of grading and constructing said segment of Heritage Road; and

WHEREAS, Developer posted a bond and solicited bids to construct half of the width of Heritage Road from Olympic Parkway to Santa Victoria Road and received seventy-five (75) percent TDIF credit based on the apparent low bid cost of constructing said segment of Heritage Road (additional credit award of \$81,057.89, resulting in a total credit award of \$652,442.21 for Heritage Road North Phase 1); and

WHEREAS, the owner of Otay Ranch Village 3 has subsequently agreed to build a portion of the same segment of Heritage Road, northward from Main Street and adjacent to Otay Ranch Village 3 resulting in duplicate bonding for this portion of Heritage Road, and as a result, the fifty (50) percent TDIF credit the Developer has received for said segment is more than the Developer is entitled to, necessitating a reduction in the previously awarded TDIF credit by the “Existing TDIF Deficit” amount; and

WHEREAS the Developer will be eligible for a one hundred (100) percent TDIF credit for constructing the segment of Heritage Road not constructed by the owner of Otay Ranch Village 3 upon completion of construction and such credit will be in an amount less than or equal to the “Anticipated TDIF Eligible Cost”; and

WHEREAS, the City and Developer wish to enter into an agreement (Agreement) that establishes a process by which the progress of constructing the project, thereby earning TDIF credits, can be tracked against the allocation of TDIF credits for the issuance of building permits in Otay Ranch Village 2 so that the use of TDIF Credits is not greater than the “Anticipated TDIF Eligible Cost” (Agreement Exhibit “B” Table 1).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, that it hereby approves the Development Impact Fee Credit Accounting Agreement Relating to the Construction of a Portion of Heritage Road, between the City and Baldwin & Sons, LLC in the form presented, with such minor modifications as may be required or approved by the City Attorney, a copy of which shall be kept on file in the Office of the City Clerk, and authorizes and directs the Mayor to execute the same.

Presented 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