

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, MAKING CERTAIN DETERMINATIONS, CALLING A SPECIAL MAIL BALLOT ELECTION AND SUBMITTING TO THE QUALIFIED ELECTORS OF SUCH DISTRICT A PROPOSITION TO AUTHORIZE CHANGES TO THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES AUTHORIZED TO BE LEVIED THEREIN AND EXPAND TERRITORY WHEREIN IMPROVEMENTS MAY BE LOCATED AND SERVICES MAY BE PROVIDED

WHEREAS, the City Council (City Council) of the City of Chula Vista (the “City”), has previously initiated proceedings, held a public hearing, formed the Bayfront Project Special Tax Financing District (the “District”) by the adoption of Resolution No. 2019-220 on November 19, 2019 (Resolution No. 2019-220), conducted an election and received a favorable vote from the qualified electors of the District, authorizing the levy of special taxes in the District, all as authorized pursuant to Chapter 3.61 of the Chula Vista Municipal Code (Chapter 3.61); and

WHEREAS, City and the San Diego Unified Port District (the “Port District”) entered into that certain Joint Community Facilities Agreement (Chula Vista Bayfront Project Special Tax Financing District), as amended and restated by the Amended and Restated Joint Community Facilities Agreement as set forth in Exhibit A attached hereto and incorporated herein by this reference (the “Amended and Restated JCFA”) to set forth the essential terms for the allocation and payment of special tax revenues generated from the District; and

WHEREAS, the qualified electors of the District, voting in a special mail ballot election held on February 18, 2020, approved Proposition A which authorized the District to levy special taxes at rates not to exceed 5% of Rent annually charged on Hotel Property and Campsite Property (as such terms are defined Resolution No. 2019-220) within the District pursuant to a rate and method of apportionment of such special taxes (the rate and method of apportionment of special taxes approved shall be referred to as the “Existing RMA”); and

WHEREAS, Resolution No. 2019-220 set forth a limitation on territory wherein the Improvements (as defined in Resolution No. 2019-220) could be located and wherein the Services (as defined in Resolution No. 2019-220) could be provided; and

WHEREAS, on February 16, 2021, the City Council, acting as the legislative body of the District, adopted its Resolution No. 2021-[\_\_\_] (the “Resolution of Consideration”) declaring its intent to consider changes to the District (the “Change Proceedings”) to: (1) modify the Existing RMA, so that the rate and method of apportionment of special taxes authorized to be levied within the District shall read as set forth in Exhibit B attached hereto and incorporated herein by this reference (the “Amended RMA”) and (2) expand the territory wherein the Improvements may be located and the Services may be provided, so that the Improvements shall be located, and the Services shall be provided, within or outside of the CVBMP (as defined in the Amended and

Restated JCFA) territory, subject to the priorities established in the Amended and Restated JCFA; and

WHEREAS, the Resolution of Consideration set a public hearing to be held on April 13, 2021 (the “Public Hearing”) and notice of the Public Hearing has been given in the form and manner required by Chapter 3.61; and

WHEREAS, pursuant to the Resolution of Consideration, the City Council directed that a report (the “Amended Report”) be filed, at or before the time of the Public Hearing to reflect the Amended RMA and the expansion of territory where the Improvements shall be located and the Services shall be provided and that the Amended Report shall be made a part of the record of the Public Hearing; and

WHEREAS, the Amended Report was timely filed with the City Council; and

WHEREAS, at the time and place for the Public Hearing, the City Council opened and held the Public Hearing and all persons interested, including, but not limited to, all taxpayers and property owners within the District were given an opportunity to appear and be heard and to present any matters relating to the Amended RMA and the expansion of territory wherein the Improvements may be located and the Services shall be provided, in accordance with the current format of City Council meetings pursuant to the Governor of the State of California’s Executive Order N-29-20; and

WHEREAS, all communications relating to the Amended RMA and the expansion of territory wherein the Improvements may be located and the Services shall be provided have been presented, and it has further been determined by this City Council that a majority protest as specified by Chapter 3.61 has not been received against the Amended RMA or the expansion of territory wherein the Improvements may be located and the Services may be provided; and

WHEREAS, pursuant to Chapter 3.61 it is necessary that the City Council submit to the qualified electors of the District a proposition (the “Proposition”) to authorize the Amended RMA and to expand territory wherein Improvements may be located and Services may be provided; and

WHEREAS, Chapter 3.61 provides that the election called for the purpose of submitting the Proposition to the qualified electors of the District must be held at least 90 days, but not more than 180 days following the Public Hearing; and

WHEREAS, the City Council, acting as the legislative body of the District, desires to call a special mail ballot election (the “Election”) to be held on July 13, 2021 (the “Election Date”) for the purpose of submitting the Proposition to the qualified electors; and

WHEREAS, Chapter 3.61 provides that if the Election is to be held less than 125 days following the Public Hearing, the concurrence of the official conducting the election shall be required; and

WHEREAS, the City Clerk, as the official designated pursuant to Chapter 3.61 as the official to conduct the Election (the “Election Official”), has concurred with the shortening of time for conducting the Election to the Election Date.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, AS FOLLOWS:

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

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

- A. All prior proceedings pertaining to the Change Proceedings were valid and taken in conformity with the requirements of the law, and specifically the provisions of Chapter 3.61, and that this finding and determination is made pursuant to the provisions of Chapter 3.61.
- B. The written protests received, if any, do not represent a majority protest as defined by the applicable provisions of Chapter 3.61 and as applied to the District, the Amended RMA or the expansion of territory where in the Improvements may be located and the Services may be provided have not been precluded by majority protest pursuant to Chapter 3.61.
- C. The Change Proceedings conform to the provisions of Chapter 3.61.
- D. The Registrar of Voters of the County of San Diego has certified that no person is registered to vote within the territory of the District.
- E. The Amended Report, as submitted by Willdan Financial Services, special tax consultant, shall be made a part of the record of the Public Hearing.

SECTION 3. Findings and Declaration. The City Council hereby specifically finds and declares that the vote in the Election called by this Resolution shall be by the Landowners (as such term is defined in Chapter 3.61) as the qualified electors of the District pursuant to Chapter 3.61 and the applicable provisions of the Elections Code of the State of California (the “Elections Code”). Each Landowner, or the authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land owned within the District.

SECTION 4. Call of Election. The City Council hereby calls and schedules the Election on the Proposition to be held on the Election Date.

SECTION 5. Proposition. If the Proposition receives the approval of two-thirds (2/3) or more of the votes cast the changes shall be implemented by the City Council, acting as the legislative body of the District, in a resolution of change, determining that such changes are lawfully authorized, as provided by Chapter 3.61.

SECTION 6. The Proposition. The Proposition to be submitted to the qualified electors at the election shall generally be as follows:

PROPOSITION A

Shall the measure to amend the Bayfront Project Special Tax Financing District to: (a) increase the maximum special tax levy rate to 5.5% until June 30, 2060, with downward adjustments thereafter, raising an estimated \$33,000,000 annually; (b) extend the term of the authorization to levy the special tax until June 30, 2086; (c) expand the territory wherein improvements may be located and services provided; and (d) make minor procedural changes, all as set forth in Resolution No. ---- accompanying this ballot, be approved?

Yes \_\_\_\_\_

No \_\_\_\_\_

SECTION 7. Vote. The appropriate mark placed on the line following the word “YES” shall be counted in favor of the adoption of the Proposition, and the appropriate mark placed on the line following the word “NO” in the manner as authorized, shall be counted against the adoption of the Proposition.

SECTION 8. Election Procedure. The Election Official is hereby authorized to take any and all steps necessary for holding the Election. The Election Official shall perform and render, or cause to be performed and rendered, all services and proceedings incidental to and connected with the conduct of the Election, which services shall include, but not be limited to, the following activities as are appropriate to the Election:

- A. Prepare and furnish to the election officers necessary election supplies for the conduct of the Election.
- B. Print the requisite number of official ballots, tally sheets and other necessary forms.
- C. Furnish and address official ballots for the qualified electors.

- D. Deliver the official ballots to the qualified electors or their authorized representatives, as required by law.
- E. Receive the returns of the Election materials and supplies.
- F. Sort and assemble the Election materials and supplies in preparation for the canvassing of the returns.
- G. Canvass the returns of the Election.
- H. Furnish a tabulation of the number of votes given in the Election.
- I. 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 9. Arguments and Impartial Analysis.

- A. The City Council authorizes (i) any member(s) of the City Council and (ii) any Landowner eligible to vote on the Proposition, and/or an organization or association meeting the requirements of Elections Code Section 9287(b), to file written arguments in favor of or against the Proposition set forth in Section 6 of this Resolution, and may change the argument until and including April 27, 2021, after which no arguments for or against the Proposition may be submitted to the Election Official. Arguments in favor of or against the Proposition shall each not exceed 300 words in length. Each argument shall be filed with the Election Official, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The author(s) of an argument may allow additional persons to sign the argument at the discretion of the author(s). The additional signers are not required to meet the qualifications specified in Elections Code Section 9282.
- B. The Election Official shall comply with all provisions of law establishing priority of arguments for printing and distribution to the voters, and shall take all necessary actions to cause the selected arguments to be printed and distributed to the voters.
- C. Pursuant to Section 9280 of the Elections Code, the City Council directs the Election Official to transmit a copy of the Proposition to the City Attorney. The City Attorney shall prepare an impartial analysis of the Proposition, not to exceed 500 words in length, showing the effect of the Proposition on the existing law and the operation of the Proposition. The City Attorney shall transmit such impartial analysis to the Election Official, who shall cause the analysis to be published in

the voter information guide along with the Proposition as provided by law. The impartial analysis shall be filed by the deadline set for filing of arguments as set forth in subsection (A) above. The impartial analysis shall include a statement indicating whether the Proposition was placed on the ballot by a petition signed by the requisite number of voters or by the City Council.

- D. The provisions of this Section 9 herein shall apply only to the Election and shall then be repealed.

SECTION 10. Rebuttals.

- A. Pursuant to Section 9285 of the Elections Code, when the Election Official has selected the arguments for and against the Proposition which will be printed and distributed to the voters, the Election Official shall send copies of the argument in favor of the measures to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the Election Official not later than May 7, 2021. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.
- B. The provisions of this Section 10 herein shall apply only to the Election and shall then be repealed.

SECTION 11. Public Examination. Pursuant to Elections Code Section 9295, the Proposition, the impartial analysis, the arguments for and against and the rebuttal arguments, if any, will be available for public examination for no fewer than ten (10) calendar days immediately following the filing deadline for those materials. The Election Official shall post notice in the Election Official's office of the specific dates that the examination period will run.

SECTION 12. Additional Election Provisions. The Election shall be subject to the following additional provisions:

- A. For the Proposition set forth in Section 6, each Landowner who is the owner of record as of the close of the Public Hearing or any subsequent owner if the City Clerk is informed, by reliable evidence, of a change in ownership after that time and at least 24 hours before the deadline to submit ballots, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that such Landowner owns within the District.
- B. The Election shall be conducted by mailed ballot, there shall be no polling places for the Election, and 12:00 p.m. on the Election Date is set as the deadline for ballots to be received by the Election Official.

- C. The Election Official is authorized and directed to publish the notice of the Election, following the adoption of this Resolution, in the Star News.
- D. All ballots shall be mailed by the Election Official to the Landowners no sooner than June 14, 2021 and all voted ballots are required to be received by the Election Official not later than 12:00 p.m. on the Election Date in order to be counted.
- E. The Election shall be held and conducted, and the votes canvassed and the returns made, and the results determined, as provided herein, and in all particulars not prescribed in this Resolution, the Election shall be held and conducted and the votes received and canvassed in the manner provided by law for holding special elections consistent with Chapter 3.61.
- F. The Election Official shall commence the canvass of the returns of the Election as soon as possible following the deadline for ballots to be received and shall report the returns to the City Council at its next regularly scheduled meeting following the conclusion of the canvass.
- G. Upon receipt of the report of the returns, the City Council may, by resolution, declare the results of the Election.

PRESENTED BY

APPROVED AS TO FORM BY

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Tiffany Allen  
Director of Developmental Services

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Glen R. Googins  
City Attorney

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