

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA APPROVING A REIMBURSEMENT  
AGREEMENT BETWEEN THE CITY AND CHULA VISTA  
BAYFRONT RV LLC TO CONSTRUCT SPECIFIED  
BAYFRONT DEVELOPMENT IMPACT FEE AND SEWER  
IMPROVEMENTS AND APPROPRIATING FUNDS  
THEREFOR (4/5 VOTE REQUIRED)

WHEREAS, Sun Chula Vista Bayfront RV LLC (“Developer”) is negotiating and anticipates securing lease rights (the “Lease”) to certain real property held by the San Diego Unified Port District (the “District”) for the development of two hundred and forty-seven (247) recreational vehicle stalls, together with related amenities, to be located in the Chula Vista Bayfront Master Plan Area (the “Private Improvements”); and

WHEREAS, as part of the consideration for the District to enter into the Lease, Developer agreed to develop and maintain certain real property located adjacent to the Private Improvements; and

WHEREAS, Developer and District have negotiated and anticipate entering into a Development and Maintenance Agreement (the “Development and Maintenance Agreement”); and

WHEREAS, Section 4 of the Development and Maintenance Agreement provides that the Developer shall construct certain roadway improvements, consisting of E Street from Bay Boulevard to F Street, F Street from Bay Boulevard to E Street, and F Street from E Street to Gunpowder Point Drive (together the “Project Improvements” or “Project”); and

WHEREAS, pursuant to Chula Vista Municipal Code (“CVMC”) Section 3.54.010 (Transportation Development Impact Fees – General Intent), the City Council of the City of Chula Vista has determined that (i) new development will create adverse impacts on the City’s existing public facilities, which must be mitigated by the financing and construction of certain transportation facilities that are the subject of CVMC Chapter 3.54; and (ii) a reasonable means of financing the impacted transportation facilities is to charge a fee on all developments located within the following subareas of the City of Chula Vista: the Eastern Area, the Western Area, and the Bayfront Area, as defined in CVMC Section 3.54.020 (Transportation Development Impact Fees – Definitions); and

WHEREAS, pursuant to CVMC Section 3.54.140 (Transportation Development Impact Fees – Developer Construction of Facilities), developers may construct or finance Transportation Facilities, subject to the provisions of CVMC Chapter 3.54 and CVMC Section 2.56.160(H); and

WHEREAS, CVMC Section 3.54.150 (Transportation Development Impact Fees – Procedure for Issuance of Credits or Tender of Reimbursement Offer) establishes certain terms

and conditions for the award of credit or the tender of a reimbursement offer for developer construction of transportation facilities; and

WHEREAS, the Private Improvements are located in the Bayfront Area and will be subject to payment of the Bayfront Transportation Development Impact Fee (BFDIF) to the City upon building permit issuance; and

WHEREAS, certain portions of the Project Improvements are transportation facilities of the BFDIF, as identified in CVMC Section 3.54.030 (the “Developer’s BFDIF Improvements”); and

WHEREAS, pursuant to CVMC Section 3.54.110 (Transportation Development Impact Fees – Authority for Accounting and Expenditures), all BFDIF funds collected shall be deposited into a Bayfront Transportation Development Impact Fee fund (the “BFDIF Fund”); and

WHEREAS, CVMC Section 3.54.080 (Transportation Development Impact Fees – Purpose and Use of Fee) provides that fees collected pursuant to CVMC Chapter 3.54 shall be used by the City for the following purposes, in such order and at such time as determined by the City Council: (i) to pay for such of the Transportation Facilities that the City Council determines shall be constructed, installed or purchased at that time, or to reimburse the City for Transportation Facilities funded by the City from other sources; (ii) to reimburse developers who have been required or permitted by CVMC Section 3.54.140 to construct, install or purchase approved Transportation Facilities identified in the Engineer’s Reports, in such amounts as the City Council deems appropriate; and (iii) to pay for costs associated with the administration of the fees; and

WHEREAS, Developer’s BFDIF Improvements are eligible for a combination of credits against Developer’s future BFDIF obligation and cash reimbursements from the BFDIF Fund; and

WHEREAS, upon contract award for Developer’s BFDIF Improvements, Developer will be eligible for credits against a future BFDIF obligation pursuant to CVMC Section 3.54.150 (Transportation Development Impact Fees – Procedure for Issuance of Credits or Tender of Reimbursement Offer) in an amount not to exceed Developer’s BFDIF obligation for the Private Improvements, estimated to total approximately \$1.3 million (“Developer’s BFDIF Credits”); and

WHEREAS, in the future, the City will have sufficient funds in the BFDIF Fund to reimburse Developer for the design and construction of Developer’s BFDIF Improvements, less Developer’s BFDIF Credits (the “Developer’s BFDIF Reimbursement”); and

WHEREAS, pursuant to CVMC Section 13.14.030.B (Connection to Public Sewer – Fee), any person desiring to connect, directly or indirectly, any parcel or any building thereon to any public sewer which has been constructed at no cost to the parcel to be connected shall pay the one-time required fee for sewer connection to the City, with all revenue derived from such fees to be deposited into the Sewer Income Fund; and

WHEREAS, pursuant to CVMC Chapter 3.16 (Sewer Income Fund), all revenues collected under CVMC Section 13.14.030.B shall be deposited into the “Sewer Income Fund” and may be

used, in the discretion of the City Council (as defined below) and pursuant to a written contract, to reimburse any person who has constructed sewer facilities to the extent, as determined by the City Council, that such sewer facilities have benefited other properties; and

WHEREAS, certain in-road sewer facilities are included in the Project Improvements (the “Developer’s Sewer Improvements”); and

WHEREAS, construction of the Developer’s Sewer Improvements will provide a public benefit to other property owners within the Chula Vista Bayfront Master Plan area; and

WHEREAS, the Developer’s Sewer Improvements are estimated to total \$390,000 and are eligible for reimbursement from the Sewer Income Fund; and

WHEREAS, the City has sufficient funds in the Sewer Income Fund to reimburse Developer for the design and construction of Developer’s Sewer Improvements; and

WHEREAS, certain portions of the Project Improvements are neither transportation facilities of the BFDIF, nor eligible for reimbursement from the Sewer Income Fund (the “Developer’s Public Improvement Contribution”); and

WHEREAS, Developer desires to enter into a Reimbursement Agreement with the City in the form presented in Exhibit 1 to this resolution, so that it may obtain reimbursement for the eligible costs of designing and constructing the Project Improvements, excluding Developer’s Public Improvement Contribution; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista, that it approves the Reimbursement Agreement, between the City and Chula Vista Bayfront RV LLC to Construct Specified Bayfront Development Impact Fee and Sewer Improvements, 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 City Manager to execute same.

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista, that approval of the Reimbursement Agreement shall be contingent upon the Developer and the District executing the Lease.

BE IT FURTHER RESOLVED by the City Council of the City of Chula Vista, that it appropriates funds from the Sewer Income Fund to reimburse Developer pursuant to the Reimbursement Agreement between the City and Chula Vista Bayfront RV LLC to Construct Specified Bayfront Development Impact Fee and Sewer Improvements.

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