

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), MAKING CERTAIN DETERMINATIONS AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS OF CERTAIN TERRITORY PROPOSED TO BE ANNEXED TO COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT) AND IMPROVEMENT AREA "C" THERETO

WHEREAS, the CITY COUNCIL of the CITY OF CHULA VISTA, CALIFORNIA, ("City Council"), formed a Community Facilities District and designated certain improvement areas therein 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"). The Community Facilities District has been designated as COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT) (the "District") and the Improvement Areas were designated as IMPROVEMENT AREA "A," IMPROVEMENT AREA "B" and IMPROVEMENT AREA "C" of such District; and,

WHEREAS, the City Council, at the request of the owner of that property located in Otay Ranch Village 8 West, initiated proceedings pursuant to the Community Facilities District Law to annex such territory to the District and Improvement Area "C" thereto; and,

WHEREAS, notice of a public hearing relating to the annexation of such territory to the District and Improvement Area "C," the extent of the territory to be annexed, the furnishing of certain public services and all other related matters has been given; and,

WHEREAS, the territory proposed to be annexed is known and designated as COMMUNITY FACILITIES DISTRICT NO. 97-2 (PRESERVE MAINTENANCE DISTRICT), IMPROVEMENT AREA "C," ANNEXATION NO. 9 (the "Territory"); and,

WHEREAS, it has now been determined that written protests have not been received by 50% or more of the registered voters residing either within the Territory or Improvement Area "C" and/or property owners representing more than one-half (1/2) or more of the area of land within the Territory or within Improvement Area "C"; and,

WHEREAS, inasmuch as there have been less than twelve (12) persons registered to vote within the Territory for each of the 90 preceding days, this legislative body desires to submit the levy of the required special tax to the landowners of the Territory, 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 determined by this City Council that:

- (a) all proceedings prior hereto were valid and taken in conformity with the requirements of law, and specifically the provisions of the Community Facilities District Law, and this finding is made pursuant to the provisions and authorization of Section 53325.1 of the Government Code of the State of California;
- (b) the annexation of the Territory to Improvement Area “C” as proposed conforms with the City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts;
- (c) less than twelve (12) registered voters have resided within the Territory for each of the ninety (90) days preceding the close of the public hearing and, consequently, the qualified electors shall be the landowners of the Territory and each 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 the Territory;
- (d) 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 the Territory and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of the Territory;
- (e) 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 annexing the Territory to the District; and
- (f) the public services described in Section 4 herein proposed to be financed from the proceeds of special taxes to be levied within the Territory are necessary to meet increased demands placed upon the City as a result of development and/or rehabilitation occurring in the Territory.

SECTION 3. Boundaries of the Territory The boundaries and parcels of land the Territory and in which the public services are to be provided and on which special taxes will be levied in order to pay the costs and expenses for such public services are generally described as follows:

All that Territory proposed to be annexed to the District and Improvement Area “C” thereto, as such property is shown on a

map as previously approved by this legislative body, such map entitled "Annexation Map No. 9 City of Chula Vista Community Facilities District No. 97-2 (Preserve Maintenance District), Improvement Area 'C', City Of Chula Vista, County Of San Diego, State Of California" (the "Annexation Map"), a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection.

SECTION 4. Description Of Services The services that are authorized to be financed from the proceeds of special taxes levied within Improvement Area "C" are certain services which are in addition to those services that were provided in or required for Improvement Area "C" prior to the formation of the District and the designation of Improvement Area "C" and did not replace services already available in the District or Improvement Area "C" at the time of formation of the District and the designation of Improvement Area "C". A general description of the services authorized to be financed by the District within Improvement Area "C" is as follows:

The monitoring, maintenance, operation and management of public property in which the City has a property interest and which conforms to the requirements of the Ordinance or private property within the Otay Ranch Preserve which is required by the Preserve Owner/Manager to be maintained as open space or for habitat maintenance or both. Such property may be located outside the boundaries of the District and outside the jurisdictional boundaries of the City of Chula Vista. Such services shall not include the maintenance, operation and/or management of any property owned, maintained, operated and/or managed by the federal and/or state government as open space, habitat maintenance and/or for any other purpose.

The District shall finance all direct, administrative and incidental annual costs and expenses necessary to provide such monitoring, maintenance, operation and management of such public property.

The same types of services which are authorized to be financed by the District from the proceeds of special taxes levied within Improvement Area "C" are the types of services to be financed from the proceeds of special taxes levied within the Territory. If and to the extent possible such services shall be provided in common with Improvement Area "C" and the Territory.

SECTION 5. Special Tax Except where funds are otherwise available, a special tax sufficient to pay for such services 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 the Territory, will be levied annually within the boundaries of such Territory. For further particulars as to the rate and method of apportionment of the proposed special tax, reference is made to the attached and incorporated Exhibit "A" (the "Improvement Area 'C' Rate and Method"), which sets forth in sufficient detail the method of apportionment to allow each

landowner or resident within the proposed Territory to clearly estimate the maximum amount that such person will have to pay.

The special tax proposed to be levied within the Territory shall be equal to the special tax levied to pay for the same services in Improvement Area “C,” except that a higher or lower special tax may be levied within the Territory to the extent that the actual cost of providing the services in the Territory is higher or lower than the cost of providing those services in Improvement Area “C.” Notwithstanding the foregoing, the special tax may not be levied at a rate which is higher than the maximum special tax authorized to be levied pursuant to the Improvement Area “C” Rate and Method.

The special taxes herein authorized, to the extent possible, 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. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer.

The maximum special tax rate in Improvement Area “C” shall not be increased as a result of the annexation of the Territory to Improvement Area “C.”

SECTION 6. Election The proposition related to the levy of the special tax shall be submitted to the qualified electors of the Territory, such electors being the landowners, with each landowner having one (1) vote for each acre or portion thereof of land which he or she owns within such annexed territory. The special election shall be held on July 22, 2014 immediately following the adoption of this Resolution, and such election shall be a special election to be conducted by the City Clerk (hereinafter “Election Official”). If the proposition for the levy of the special tax receives the approval of more than two-thirds (2/3) of the votes cast on the proposition, the special tax may be levied as provided for in this Resolution.

SECTION 7. Ballot The ballot proposal to be submitted to the qualified voters at the election shall generally be as follows:

PROPOSITION A

**CITY OF CHULA VISTA
COMMUNITY FACILITIES DISTRICT NO. 97-2,
IMPROVEMENT AREA “C” ANNEXATION NO. 9**

AUTHORIZATION FOR SPECIAL TAX LEVY

Shall Community Facilities District No. 97-2 (Preserve Maintenance District) of the City of Chula Vista be authorized to levy special taxes within the territory identified as Annexation No. 9 to Improvement Area “C” of such District pursuant to the rate and method of apportionment of special taxes (the “Improvement Area “C” Rate and Method”) attached to this ballot to finance the authorized services and administrative expenses and to fund and replenish a reserve fund, all as provided for in the Improvement Area “C” Rate and Method?

SECTION 8. Vote The appropriate mark placed in box adjacent to the word “YES” shall be counted in favor of the adoption of the proposition, and the appropriate mark placed in the box adjacent to the word “NO” in the manner as authorized, shall be counted against the adoption of such proposition.

SECTION 9. Election Procedure This City Council hereby authorizes the Election Official to take any and all steps necessary for the holding of such election and ratifies any such steps previously taken by such Election Official which were necessary for the holding of such election. Such Election Official shall perform and render all services and proceedings incidental to and connected with the conduct of such election, and such services shall include, but not be limited to the following:

- (a) Prepare and furnish to the election officers necessary election supplies for the conduct of the election.
- (b) Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms.
- (c) Furnish and address official ballots for the qualified electors of the Territory.
- (d) Cause the official ballots to be mailed and/or delivered, as required by law.
- (e) Receive the returns of the election.
- (f) Sort and assemble the election material 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) Make all arrangements and take the necessary steps to pay all costs of the election incurred as a result of services performed for the District and pay costs and expenses of all election officials.

- (j) Conduct and handle all other matters relating to the proceedings and conduct of the election in the manner and form as required by law.

PREPARED BY:

APPROVED AS TO FORM BY:

Kelly Broughton
Director of Developmental Services

Glen R. Googins
City Attorney

(Reviewed by Warren Diven, Best, Best & Krieger)

**CITY OF CHULA VISTA
ANNEXATION NO. 9 TO COMMUNITY FACILITIES DISTRICT NO. 97-2
(PRESERVE MAINTENANCE DISTRICT)
IMPROVEMENT AREA "C"**

EXHIBIT "A"

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX