

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 18M (OTAY RANCH VILLAGE 3) CLARIFYING AMBIGUITIES IN THE RATE AND METHOD OF APPORTIONMENT FOR SUCH COMMUNITY FACILITIES DISTRICT, MAKING CERTAIN DETERMINATIONS REGARDING THE ADMINISTRATION OF SUCH SPECIAL TAX, AND APPROPRIATING FUNDS THEREFOR

WHEREAS, the City Council (the “City Council”) of the City of Chula Vista, California (the “City”), has previously undertaken proceedings to form Community Facilities District No 18M (Otay Ranch Village 3) (the “District”) and designated territory proposed to be authorized to be annexed to the District in the future pursuant to the 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 to finance certain authorized services (the “Services”); and

WHEREAS, the qualified electors of the District, voting in a special election held on November 8, 2016, approved the authorization to levy special taxes within the District pursuant to a rate and method of apportionment of such special taxes for the District (the “RMA”) attached as Exhibit D to the community facilities district report (the “CFD Report”) submitted to the City Council on November 8, 2016 pursuant to Section 53321.5 of the Act and attached hereto as Exhibit A; and

WHEREAS, subsequent to the formation of the District and such election, HomeFed Corporation (“HomeFed”), the owner of a mixed use/community purpose facility site within the District consisting of Assessor Parcel Numbers 644-061-08-00 and 644-061-09-00 (the “Affected Lots”), has consulted with the CFD Administrator (as defined in the RMA) and filed a written notice of appeal with the City Council (the “Appeal”) pursuant to Section G of the RMA regarding the City’s determination of the amount of the special tax that will apply to the Affected Lots under the RMA in Fiscal Year 2019-20 and thereafter; and

WHEREAS, the District was formed to provide the Services according to a budget with allocations for various anticipated land uses classes within the District, such allocation was demonstrated in Exhibit C (“Exhibit C”) of the CFD Report; and

WHEREAS, the Appeal requested that the special tax applicable to the Affected Lots in Fiscal Year 2019-20 and thereafter be determined based upon only designating the Affected Lots only as Multi Family Property, rather than as Multi-Family Property and Non-Residential Property (as defined in the RMA); and

WHEREAS, Exhibit C shows the intent to levy the special tax on the Affected Lots only as Multi-Family Property, but Section B of the RMA creates an ambiguity because of language regarding the application of special taxes for property with more than one Land Use Class (as defined in the RMA); and

WHEREAS, Section G of the RMA provides that the City Council shall interpret the RMA for purposes of clarifying any ambiguities and make determinations relative to the administration of the special tax and any landowner appeals and the City Council desires to clarify the ambiguity in the RMA and make determination relative to the administration of the special tax on the Affected Lots.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 18M (OTAY RANCH VILLAGE 3), AS FOLLOWS:

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

SECTION 2. Clarifying Ambiguities in the RMA. The City Council hereby clarifies that special tax applicable to the Affected Lots for Fiscal Year 2019-20 and thereafter shall be determined based upon designating the Affected Lots as Multi Family Property and should exclude designating the Affected Lots as Non-Residential Property.

SECTION 3. Making Determinations Regarding the Appeal. The City Council hereby determines that the District shall refund HomeFed the amount of the overpayment of special taxes in Fiscal Year 2019-20 as the result of the levy on the Affected Lots as Non-Residential Property.

SECTION 4. Appropriating Funds. The City Council hereby appropriates \$64,997.94 from the available fund balance of CFD No. 18M and authorizes refund of same to HomeFed.

Presented by

Approved as to form by

Kelly G. Broughton, FASLA
Director of Developmental Services

Glen R. Googins
City Attorney