

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA ADDING
CHAPTERS 3.60 AND 3.61 TO THE CHULA VISTA
MUNICIPAL CODE RELATING TO COMMUNITY
FACILITIES DISTRICTS GENERALLY AND THE
BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT

WHEREAS, the City of Chula Vista (the “City”) is a municipal corporation and charter city duly organized and existing under a freeholder’s charter pursuant to which the City has the right and power to make and enforce all laws and regulations with respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5, and 7 of Article XI of the Constitution of the State of California (the “Constitution”) and the Charter of the City (the “Charter”); and

WHEREAS, the Mello-Roos Community Facilities Act of 1982, as amended (the “Mello-Roos Act”), provides the City with an alternative method of financing certain public capital facilities and services, especially in developing areas and areas undergoing rehabilitation; and

WHEREAS, on April 28, 1998, the City Council adopted Ordinance 2730, enacting the City of Chula Vista Community Facilities District Ordinance (the “CFD Ordinance”); and

WHEREAS, the CFD Ordinance authorizes community facilities districts to finance habitat maintenance and the monitoring of biological resources and certain maintenance services authorized to be financed through the Landscape and Lighting Act of 1972, but not expressly authorized in the Mello-Roos Act; and

WHEREAS, the City Council desires to authorize additional services and facilities to be financed in community facilities districts, including public shuttle operations; promotion of public events and tourism within districts; security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services within districts supplemental to those normally provided by the City; parking improvements; energy efficiency, water conservation, and renewable energy improvements; ecological and sustainability educational improvements; and convention center facilities; and

WHEREAS, the City Council also desires to establish a procedure for financing certain public capital facilities and services through the establishment of the Bayfront Project Special Tax Financing District; and

WHEREAS, the City Council of the City, acting under and pursuant to the powers reserved to the City under Sections 3, 5, and 7 of the Constitution and the Charter, finds that the public interest and necessity require the enactment of this ordinance to authorize, and establish the authorization and procedure for, the formation of community facilities districts by the City to

finance such additional public services and facilities not authorized by the Mello-Roos Act as the City Council may deem necessary.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Chapter 3.60 is hereby added to the Chula Vista Municipal Code to read as follows:

Chapter 3.60
Community Facilities Districts - General

Sections:

- 3.60.010** **Short title.**
- 3.60.020** **General intent.**
- 3.60.030** **Definitions.**
- 3.60.040** **Authority and procedure.**
- 3.60.050** **Nonexclusivity.**
- 3.60.060** **Amendments to Mello-Roos Act.**

3.60.010 Short title.

This chapter shall be known as and may be cited as the “City of Chula Vista Community Facilities District Ordinance.”

3.60.020 General intent.

The City Council intends to permit the financing of public services and facilities pursuant to the authorization and procedure set forth in this chapter, as well as by any other method permitted by law. This chapter is enacted pursuant to the powers reserved to the City under Sections 3, 5, and 7 of Article XI of the California Constitution and the City Charter.

3.60.030 Definitions.

“Improvements” means improvements, as defined in Streets and Highways Code Section 22525 and pedestrian bridges.

“Maintenance” means maintenance, as defined in Streets and Highways Code Section 22531.

“Mello-Roos Act” means the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311 of Part 1, Article 2, Title 5 of the California Government Code), as amended from time to time.

“Servicing” means servicing, as defined in Streets and Highways Code Section 22538.

3.60.040 Authority and procedure.

Whenever the public interest and necessity so require, the City Council of the City may, acting under and pursuant to this chapter, establish a community facilities district as provided for in the Mello-Roos Act, as modified herein. Except as otherwise provided in this chapter, the provisions of the Mello-Roos Act, now in effect or as such act may be amended from time to time, are hereby incorporated in this chapter by this reference and made a part hereof.

3.60.050 Nonexclusivity.

The provisions of this chapter are not exclusive. The power and authority conferred upon the City Council by the provisions of this chapter are in addition to and supplemental to the powers conferred by the Charter, any other ordinance of the City, or law. Additionally, the City Council may elect to follow the procedures now or hereafter provided by general law, including without limitation, the Mello-Roos Act; provided, however, that whenever the City is acting pursuant to this chapter the provisions of this chapter shall be controlling to the extent that they are in conflict with any of the provisions of such general law, including the Mello-Roos Act.

3.60.060 Amendments to Mello-Roos Act.

- A. The services authorized to be financed pursuant to Government Code Section 53313 are hereby amended to add and include:
1. The maintenance, operation and management of public property in which the City of Chula Vista has a property interest in or private property that is required to be dedicated or maintained as open space or for habitat preservation or both. Such property may be located outside the boundaries of the applicable community facilities district and outside the jurisdictional boundaries of the City. Such maintenance, operation and management shall mean the furnishing of services and materials for the ordinary and usual maintenance, operation and management of any open space or habitat area as may be required by the City or other public agency charged with the responsibility to maintain, operate, or manage any such area. Such services may include but shall not be limited to the following:
 - a. Repair, removal or replacement of any improvement, structure or facility necessary or convenient to the maintenance, operation or management of the open space or habitat area; and
 - b. Providing for the life, growth, health, and beauty of habitat, including the cultivation, irrigation, trimming, spraying, fertilizing, or treating of disease or injury; and
 - c. The removal of trimmings, rubbish, debris, and other solid waste; and

- d. The operation and management of open space and natural habitat, including biological monitoring and evaluation of collected data; and
 - e. The conduct of biological activities necessary to sustain the species being protected; and
 - f. The operation and maintenance of pedestrian bridges and community gardens within or appurtenant to such open space or habitat area(s).
2. The Maintenance and/or Servicing of Improvements.
 3. Public shuttle operations.
 4. Promotion of public events and tourism; provided, however, the special tax financing any such promotion shall not be apportioned in any tax year on any property in residential use in such tax year, as determined by the City Council, in its capacity as the legislative body of the community facilities district authorized to finance such promotion.
 5. Security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the City.
 6. Life-cycle replacement costs for maintained and/or operated facilities.
- B. The facilities authorized to be financed pursuant to Government Code Section 53313 are hereby amended to add and include:
1. Parking improvements.
 2. Energy efficiency, water conservation, and renewable energy improvements.
 3. Ecological and sustainability educational improvements.
- C. Any community facilities district established for one or more of the purposes authorized in Government Code Section 53313 or in section A above may establish maintenance or service zones or areas within such district to facilitate the provision and administration of such services.
- D. At the time a community facilities district is formed to provide any of the services authorized pursuant to section A above or territory is annexed to an existing community facilities district which was formed to provide any of the services authorized pursuant to section A above, the owner or developer of the property within such newly formed community facilities district or the territory annexed to an existing community facilities district shall be responsible for providing such

services or causing such services to be provided for a minimum period of one year from the date of formation of such community facilities district or the date of annexation of such territory to an existing community facilities district, respectively, or if required by the City Manager, until such later time as the open space or habitat area and/or the improvements which are to be financed from special taxes to be levied within such newly formed community facilities district or such territory annexed to an existing community facilities district are accepted by the City Manager or his or her designee.

- E. For each community facilities district formed to provide any of the maintenance and services authorized pursuant to section A above, there shall be established and maintained an annual operating reserve fund in an amount not to exceed one hundred percent (100%) of the annual maintenance, operations and management budget for each such community facilities district for any fiscal year. The rate and method of apportionment of the special tax for any such community facilities district shall provide that the special tax may be levied on all taxable property within the community facilities district prior to the acceptance by the City or other public entity for operation, maintenance and management of the open space or habitat areas and/or improvements to be operated, maintained and managed from the proceeds of the special taxes in order to initially fund the operating reserve fund at an amount equal to one hundred percent (100%) of the estimated annual maintenance, operations and management budget for the first fiscal year following acceptance of such areas or improvements. If the areas and/or improvements are to be accepted incrementally, the operating reserve fund shall be initially funded incrementally in an amount equal to one hundred percent (100%) of the estimated annual maintenance, operations and management budget for the first fiscal year following acceptance of such increment of the areas and/or improvements. A precondition to the acceptance of any open space or habitat area and/or improvements by the City or another public entity for operation, maintenance and management shall be that the operating reserve fund for such area or improvements must have been funded at an amount equal to one hundred percent (100%) of the annual budget for the operation, maintenance, and management of such area and/or improvements for the fiscal year following the acceptance thereof (the "Reserve Fund Requirement"). The rate and method of apportionment of the special tax shall further provide that following acceptance of the areas and/or improvements, or any increment thereof, the proceeds of the annual special tax levy may be used to replenish the operating reserve fund to the Reserve Fund Requirement provided that the annual special tax levy shall not exceed the authorized maximum special tax for such fiscal year. Such operating reserve shall be maintained for and may be used to provide necessary operating revenue for the first six (6) months of each fiscal year.

Section II. Chapter 3.61 is hereby added to the Chula Vista Municipal Code to read as follows:

Chapter 3.61
Bayfront Project Special Tax Financing District Procedural Ordinance

Sections:

- 3.61.010** **Short title.**
- 3.61.020** **Purpose and intent.**
- 3.61.030** **Definitions.**
- 3.61.040** **Special tax proceedings.**
- 3.61.050** **Nonexclusivity.**
- 3.61.060** **Construction.**
- 3.61.070** **Incorporation of the Mello-Roos Community Facilities Act of 1982 and portions of the California Streets and Highways Code.**
- 3.61.080** **Authorized expenditures.**
- 3.61.090** **Hearing – Continuances.**
- 3.61.100** **Election; Voter qualifications; Ballots.**
- 3.61.110** **Notice of special tax lien.**
- 3.61.120** **Application of special tax.**
- 3.61.130** **Special tax collected with transient occupancy tax.**
- 3.61.140** **Optional collection of delinquent special taxes on secured property tax roll.**
- 3.61.150** **Compliance with this Chapter.**

3.61.010 Short title.

This chapter shall be known as and may be cited as the “Bayfront Project Special Tax Financing District Procedural Ordinance.”

3.61.020 Purpose and intent.

The purpose of this Chapter is to establish a procedure for financing certain public and private improvements and maintenance and services to serve the Chula Vista Bayfront Project through the establishment of a Bayfront Project Special Tax Financing District, the levy and collection of special taxes within such district and the issuance of bonds secured by such special taxes for the purpose of financing convention center facilities and certain other public improvements.

The City Council intends to permit the financing of public services and public and private improvements pursuant to the authorization and procedure set forth in this Chapter, as well as by any other method permitted by law. This Chapter is enacted pursuant to the powers reserved to the City under Sections 3, 5, and 7 of Article XI of the California Constitution and the City Charter.

3.61.030 Definitions.

Terms defined in the Mello-Roos Act but not defined in this Chapter shall have the meaning given such terms in the Mello-Roos Act. For purposes of this Chapter the following definitions shall apply and to the extent the same term is defined in the Mello-Roos Act the following definition shall apply to such term:

“Campsite” shall have the meaning given such term in CVMC 3.40.020.

“Chapter” shall, when referred to in the Mello-Roos Act or herein, mean this Chapter 3.61 of the CVMC.

“Community facilities district” shall, when used in the Mello-Roos Act or herein, mean the District.

“Convention Center Facility” means any building, improvement to real property, equipment or personal property (in each case having an expected useful life of five years or longer) that comprises any portion of a convention center or conference center, and the construction, acquisition, rehabilitation, replacement or upgrade thereto, whether publicly or privately owned.

“District” shall mean the Bayfront Project Special Tax Financing District established pursuant to this Chapter.

“Hotel” shall have the meaning given such term in CVMC 3.40.020.

“Landowner” shall, for the purposes of this Chapter, have the meaning given such term in Section 53317(f) of the Mello-Roos Act; provided, however, the City of Chula Vista shall be the Landowner of all land within the District owned by the City in its capacity as a charter city or as the successor agency to the Redevelopment Agency of the City of Chula Vista and the Port District shall be the Landowner of all land within the District owned by such district.

“Mello-Roos Act” shall have the meaning given such term in CVMC 3.60.030.

“Occupancy” shall have the meaning given such term in CVMC 3.40.020.

“Operator” shall have the meaning given such term in CVMC 3.40.020.

“Port District” shall mean the San Diego Unified Port District.

“Rent” shall have the meaning given such term in CVMC 3.40.020.

“Services” shall include those services specified in CVMC 3.60.060.

“Transient” shall have the meaning given such term in CVMC 3.40.020.

3.61.040 Special tax proceedings.

Proceedings for the formation of a Bayfront Project Special Tax Financing District for the purposes set forth in section 3.61.020 may be conducted pursuant to this Chapter whether or not provided by state law.

3.61.050 Nonexclusivity.

This Chapter is not, in any way, exclusive. The power and authority conferred upon the City Council by the provisions of this Chapter are in addition to and supplemental to the powers conferred by the Charter, any other ordinance of the City, or law, including the Mello-Roos Act. Additionally, the City Council may elect to follow the procedures now or hereafter provided by general law, including without limitation, the Mello-Roos Act; provided, however, that whenever the City is acting pursuant to this Chapter the provisions of this Chapter shall be controlling to the extent that they are in conflict with any of the provisions of such general law, including the Mello-Roos Act.

3.61.060 Construction.

This Chapter is to be liberally construed.

3.61.070 Incorporation of the Mello-Roos Community Facilities Act of 1982 and portions of the California Streets and Highways Code.

- A. Except as otherwise provided in this Chapter, the Mello-Roos Act and those sections of the California Streets and Highways Code and any amendments thereto, referred to in the Mello-Roos Act, are incorporated in and made a part of this Chapter.
- B. Except as otherwise provided by this Chapter, the mode and manner for making improvements, for levying and collecting special taxes and for issuing bonds shall be as prescribed in the Mello-Roos Act. In any conflict between the provisions of the Mello-Roos Act or the referenced portions of the California Streets and Highways Code, the provisions of this Chapter shall prevail.
- C. The provisions of Sections 53312.7, 53312.8, 53313.6, 53313.7, 53313.9, 53317(b), 53319(d), 53321(b) and (f), 53325.6 (and the reference to 53325.6 contained in Section 53331), 53329, 53329.5, 53340(d) and (f)(C), 53340.1(b), 53345.8, 53352, 53362.5, and 53365 of the Mello-Roos Act are not incorporated into this Chapter and shall have no application to proceedings conducted pursuant to this Chapter.
- D. The provisions of Section 53313.51 of the Mello-Roos Act notwithstanding, whenever the City is a party to construction contracts, the City may use normal public works contracting procedures even if they do not involve or require the identification of “discrete portions or phases” of the facilities to be constructed.

- E. For purposes of this Chapter, clause (n) of Section 53313.5 of the Mello-Roos Act is amended to read as follows:

“(n) In addition to any other facilities that may be financed pursuant to Section 53313.5, the District may finance the acquisition, construction, reconstruction, replacement, rehabilitation, expansion, upgrade and maintenance of any Convention Center Facility as defined in CVMC 3.61.030.”

- F. For purposes of this Chapter, the provisions of Section 53314.3 of the Mello-Roos Act are amended to read as follows (deletions are shown in strike-through text):

“In the first fiscal year in which a special tax or charge is levied for any facility or for any services in a community facilities district or a zone within a community facilities district, the legislative body shall include in the levy a sum sufficient to repay to the legislative body the amounts transferred to that district or zone pursuant to Section 53314. The amounts borrowed, with interest, shall be retransferred to the proper fund or funds from the first available receipts from the special levy in that district or zone.

Notwithstanding the above provisions, the legislative body may, by a resolution adopted no later than the time of the first levy, extend the repayment of the transferred funds over a period of time ~~not to exceed three consecutive years~~, in which event the levy and each subsequent levy shall include a sum sufficient to repay the amount specified by the legislative body for the year of the levy.”

- G. For purposes of this Chapter, the provisions of Section 53314.5 of the Mello-Roos Act are amended to read as follows (deletions are shown in strike-through text):

“Pursuant to a resolution adopted by the legislative body, the legislative body may appropriate any of its available moneys to a ~~revolving~~ fund to be used for the acquisition of real or personal property, engineering services, or the construction of structures or improvements needed in whole or in part to provide one or more of the facilities of a community facilities district. The ~~revolving~~ fund shall be reimbursed from tax revenues or other moneys available from the facilities district, and no sums shall be disbursed from the fund until the legislative body has, by resolution, established the method by, and term ~~not exceeding five years~~ within, which the community facilities district is to reimburse the funds. The district shall reimburse the fund for any amount disbursed to the area ~~within five years after such disbursement~~, together with interest as the current rate per annum received on similar types of investments by the legislative body as determined by the local agency’s treasurer.”

- H. For purposes of this Chapter, the provisions of Section 53314.6 of the Mello-Roos Act are amended to read as follows (deletions are shown in strike-through text):

“(a) In connection with the financing of services and facilities pursuant to subdivision (f) of Section 53313 and subdivision (k) of Section 53313.5, the legislative body may establish a ~~revolving~~ fund to be kept in the

treasury of the district. Except as provided in subdivision (b), moneys in the revolving fund shall be expended solely for the payment of costs with respect to those services and facilities. The revolving fund may be funded from time to time with moneys derived from the following:

- (1) Proceeds from the sale of bonds issued pursuant to Article 5 (commencing with Section 53345), notwithstanding any limitation contained in Section 53345.3.
- (2) Any taxes or charges authorized under this Chapter.
- (3) Any other lawful source.

(b) Subject to the provisions of any resolution, trust agreement or indenture providing for the issuance of district bonds for the purposes set forth in subdivision (k) of Section 53313.5, the legislative body may withdraw money from the revolving fund whenever and to the extent that it finds that the amount of money therein exceeds the amount necessary to accomplish the purposes for which the fund was established. Any moneys withdrawn from the revolving fund shall be used to redeem bonds of the district issued for the purposes set forth in subdivision (k) of Section 53313.5 or shall be paid to taxpayers in the district in amounts that the legislative body determines.”

I. For purposes of this Chapter, the provisions of Section 53314.9 of the Mello-Roos Act are amended to read as follows (deletions are shown in strike-through text):

"(a) Notwithstanding Section 53313.5, at any time either before or after the formation of the district, the legislative body may accept advances of funds or work in-kind from any source, including, but not limited to, private person or private entities and may provide, by resolution, for the use of those funds or that work in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a district. The legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds or work in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work in-kind, as determined by the legislative body, with or without interest, under the following conditions:

- ~~(1) — The proposal to repay the funds or the value of cost of the work in-kind, whichever is less, is included both in the resolution of intention to establish a district adopted pursuant to Section 53321 and in the resolution of formation to establish the district adopted pursuant to Section 53325.1, or in the resolution of consideration to alter the types of public facilities and services provided within an established district adopted pursuant to Section 53334.~~

~~(2) Any proposed special tax or change in a special tax is approved by the qualified electors of the district pursuant to this chapter. Any agreement shall specify that if the qualified electors of the district do not approve the proposed special tax or change in a special tax, the local agency shall return any funds which have not been committed for any authorized purposes by the time of the election to the person or entity advancing the funds.~~

~~(3)~~ (1) Any work in-kind accepted pursuant to this section shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority of, the local-agency.

(b) The agreement shall not constitute a debt or liability of the local agency.”

J. For purposes of this Chapter, the provisions of clause (a) of Section 53321 of the Mello-Roos Act are amended to read as follows (deletions are shown in strike-through text):

"(a) State that a community facilities district is proposed to be established under the terms of this chapter and describe the boundaries of the territory proposed for inclusion in the district, which may be accomplished by reference to a map on file in the office of the clerk, showing the proposed community facilities district. ~~The boundaries of the territory proposed for inclusion in the district shall include the entirety of any parcel subject to taxation by the proposed district.~~”

K. For purposes of this Chapter, the provisions of Section 53324 of the Mello-Roos Act are amended to read as follows (additions are shown in italics text and deletions are shown in strike-through text):

"(a) If 50 percent or more of ~~the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the district,~~ or the owners of one-half or more of the area of the land in the territory proposed to be included in the district and not exempt from the special tax, file written protests against the establishment of the district, and protests are not withdrawn so as to reduce the value of the protests to less than a majority, ~~such no further~~ proceedings to create the specified community facilities district or to authorize the specified special tax shall be ~~abandoned taken for a period of one year from the date of the decision of the legislative body.~~ *Notwithstanding the abandonment of the proceedings to create such specified community facilities district or to authorize such special tax pursuant to this Section 53324(a), new proceedings to create such specified community facilities district or to authorize such special tax may be initiated at any time thereafter.*

If the majority protests of ~~the registered voters or of the~~ landowners are only against the furnishing of a specified type or types of facilities or services within the district, or against levying a specified special tax, those types of facilities or services or the specified special tax shall be eliminated from the resolution of formation. *Notwithstanding the elimination of such types of facilities or services or such specified special tax from the resolution of formation, new proceedings to authorize the furnishing of such types of facilities or services within the district or to authorize the levy of such specified special tax may be initiated pursuant to Article 3 of the Mello-Roos Act, as amended by this Chapter 3.61, at any time thereafter.*

~~(b) This section does not apply to the formation of a district pursuant to Section 53328.1.”~~

- L. For purposes of this Chapter, the provisions of Section 53337 of the Mello-Roos Act are amended to read as follows (additions are shown in italics text and deletions are shown in strike-through text):

~~“If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the district, or the owners of one-half or more of the area of the land in the territory included in the district and not exempt from the special tax file written protests against changing the public facilities or services financed by the district, those changes in the facilities or services shall be eliminated from the resolution ordering changes in the types of public facilities or services to be financed and the changes shall not be included in a resolution for a period of one year from the date of the decision of the legislative body on the hearing.~~ *Notwithstanding the elimination of such changes in the public facilities and services from the resolution ordering changes in the types of public facilities and services to be financed, new proceedings to consider ordering such changes in the types of public facilities and services may be initiated at any time thereafter.*

~~If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the district, or the owners of one-half or more of the area of the land in the territory included in the district and not exempt from the special tax file written protests against the levying of any additional special taxes within the district, or against a proposed alteration to an existing special tax within the district, those changes shall be eliminated from the resolution and the changes shall not be included in a resolution for a period of one year from the date of the decision of the legislative body on the hearing.~~ *Notwithstanding the elimination of such changes from the resolution, new proceedings to consider the levying of such additional special taxes or such alteration to such existing special tax may be initiated at any time thereafter.”*

- M. For purposes of this Chapter, the provisions of Section 53339.6 of the Mello-Roos Act are amended to read as follows (additions are shown in italics text and deletions are shown in strike-through text):

~~“If 50 percent or more of the registered voters, or six registered voters, whichever is more, residing within the existing community facilities district, or if 50 percent or more of the registered voters or six registered voters, whichever is more, residing within the territory proposed for annexation or proposed to be annexed in the future, or if the owners of one-half or more of the area of land in the territory included in the existing district and not exempt from special tax, or if the owners of one-half or more of the area of land in the territory proposed to be annexed or proposed to be annexed in the future and not exempt from the special tax, file written protests against the proposed annexation of territory to the existing community facilities district or the proposed addition of territory to the existing community facilities district in the future, and protests are not withdrawn so as to reduce the protests to less than a majority, *the no further* proceedings to annex the same territory, or to authorize the same territory to be annexed in the future, shall be *abandoned* ~~undertaken for a period of one year from the date of decision of the legislative body on the issues discussed at the hearing.~~”~~

- N. For purposes of this Chapter, the provisions of Section 53345.3 are amended to read as follows (additions are shown in *italics* text and deletions are shown in strike-through text):

“The amount of the proposed bonded indebtedness may include all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the proposed debt is to be incurred, including, but not limited to, the estimated costs of construction or acquisition of buildings, or both; acquisition of land, rights-of-way, water, sewer, or other capacity or connection fees; ~~lease payments for school facilities~~, satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time the bonds are issued pursuant to this chapter; architectural, engineering, inspection, legal, fiscal, and financial consultant fees; bond and other reserve funds; discount fees; interest on any bonds of the district estimated to be due and payable within ~~two years~~ *such period of time* of issuance of the bonds *as shall be established by the City Council*; election costs; and all costs of issuance of the bonds, including, but not limited to, fees for bond counsel, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit, and other credit enhancement costs, and printing costs. Bonds may not be issued pursuant to this chapter to fund any of the services specified in Section 53313; however, bonds may be issued to fund capital facilities to be used in providing these services.”

- O. For purposes of this Chapter, the provisions of Section 53359.5(b)(13) of the Mello-Roos Act shall apply only to special taxes levied on the property tax rolls pursuant to CVMC 3.61.140. For all other special taxes, instead of the information required by Section 53359.5(b)(13), the City shall include in the report the same information with respect to the special taxes that it normally collects and reports regarding the City’s transient occupancy taxes.

3.61.080 Authorized expenditures.

- A. Revenues from any special tax imposed under this Chapter may be spent on the following: debt service; lease payments; cost of issuance of securities issued for the purpose of financing or refinancing the Convention Center Facility and any other facilities authorized to be financed by the District; replenishment or funding of reserve funds established in connection with the issuance of debt (as defined in the Mello-Roos Act), administrative costs of the District; prepayment of such securities; direct costs of acquisition, planning, engineering, design, site preparation, and construction of the Convention Center Facility and any other facilities authorized to be financed by the District; ongoing capital repairs and maintenance of the Convention Center Facility and any other facilities authorized to be financed by the District; the costs of providing services and maintenance as authorized by the District and all incidental and administrative costs authorized by the Mello-Roos Act or the District. Revenues from any such special tax received by the District in any fiscal year may, to the extent necessary, be accumulated and applied to the payment of authorized expenditures incurred in a future fiscal year.

3.61.090 Hearing – Continuances.

All hearings called for under the Mello-Roos Act shall be required by this Chapter, except that they may be continued from time to time without further notice, but shall be completed within two years of the original hearing date. For purposes of this Chapter, the mailing of notices as provided in Sections 53322.4 and 53346 and any other similar provisions of the Mello-Roos Act shall be made to the Landowners of properties that would not be exempt from the special tax if the proposed special tax were being currently levied as proposed in the resolution of intention.

3.61.100 Election; Voter qualifications; Ballots.

All election procedures set forth in the Mello-Roos Act shall apply to this Chapter, with the following exceptions:

- A. The qualified electors shall in all cases be the Landowners.
- B. The City Clerk shall in all cases be the election official.
- C. The Landowner-voters shall be those meeting the definition of Landowner as defined in CVMC 3.61.030 as of the close of the public hearing pertaining to the establishment of the District unless the City Clerk is informed, by reliable evidence, of a change in ownership after that time and prior to the election. In that event, the City Clerk shall, at the request of the new Landowner submitted with such evidence no later than 24 hours before the deadline for returning ballots, prepare a new ballot and deliver it to the new Landowner. The City Clerk shall also, in that event, accept and include in the canvass of the election the ballot submitted by the new Landowner rather than the ballot prepared for the former Landowner.

- D. Since the Landowner-voters are entitled to a secret ballot, and since ballots are required to contain the names of each Landowner and the number of votes each Landowner is entitled to cast, the City Clerk shall protect the confidentiality of the ballots. No person, other than those among the staff and consultants of the City who require access for the purposes of counting and canvassing the ballots, may have access to the ballots at any time, unless by order of a court of competent jurisdiction.

3.61.110 Notice of special tax lien.

- A. For purposes of this Chapter, and to conform the language of the form of the notice of special tax lien contained in Section 3114.5 of the California Streets and Highways Code, the County Recorder shall index the notice of liens in the names of the property owners within the District whose properties are not exempt from the special tax.
- B. Whenever a parcel of property in the District begins to be used as a Hotel or a Campsite, either for the first time or for a period of time when it was not so used, that property shall thereupon become subject to the special tax. The City Clerk shall prepare an amended notice of special tax lien, or an amendment to the notice of special tax lien, that applies to and describes the new Hotel or Campsite property, as applicable, in accordance with the California Streets and Highways Code. The City Clerk shall arrange for recording of the document with the county recorder as provided in the California Streets and Highways Code.

3.61.120 Application of special tax.

Any special tax imposed pursuant to this Chapter shall be levied, in any year, only on property located within the District for the use of such property during such year as a Hotel or Campsite (or, as the case may be, levied on the leasehold or other possessory interest in a parcel which is owned by a public agency and being used as a Hotel or Campsite).

3.61.130 Special tax collected with transient occupancy tax.

All special taxes imposed pursuant to this Chapter shall be due and remitted with the Operator's payment of the transient occupancy taxes as set forth in chapter 3.40 of the CVMC. In the event that the Landowner is not the Operator, the Landowner shall cause the Operator to remit the special taxes imposed pursuant to this Chapter with the Operator's payment of the transient occupancy tax. Unlike chapter 3.40, however, the special tax is not imposed on the Transient but is imposed on the real property containing the Hotel or Campsite or, as the case may be, on the leasehold or other possessory interest containing the Hotel or Campsite if the parcel or parcels containing the Hotel or Campsite are owned by a public agency. The Operator may, but is not required to, add the special tax to, and collect it with, the Rent. Subject to and as modified by the foregoing, the provisions of sections 3.40.040, 3.40.050, 3.40.070, 3.40.080, 3.40.090, 3.40.100, 3.40.110, 3.40.120, and 3.40.130 shall apply to any special tax levied pursuant to this

Chapter. Despite the method of collection and administration, the special tax is distinct from the City's transient occupancy tax and may be enforced, in the event of nonpayment, as provided in the Mello-Roos Act, including through a judicial foreclosure.

3.61.140 Optional collection of delinquent special taxes on secured property tax roll.

Any special taxes delinquent as of July 1 of any fiscal year, together with any penalties and interest accrued as of that date, may, at the option of the City Council, be placed on the secured property tax roll in that fiscal year and be levied on the parcel for which such special taxes are delinquent, where it shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for ad valorem taxes.

3.61.150 Compliance with this Chapter.

Any proceedings taken, special tax levied or bonds issued pursuant to this Chapter shall not be held invalid for failure to comply with the provisions of this Chapter provided such failure is not a constitutional defect.

Section III. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section IV. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section V. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section VI. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Kelly G. Broughton, FASLA
Director of Development Services

Glen R. Googins
City Attorney