

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 16-I (MILLENNIA) AND DESIGNATE TWO IMPROVEMENT AREAS THEREIN TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE THE ACQUISITION OR CONSTRUCTION OF CERTAIN PUBLIC FACILITIES

WHEREAS, the CITY COUNCIL of the CITY OF CHULA VISTA, CALIFORNIA (the “City Council”), at this time desires to initiate proceedings to create a Community Facilities District 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”). This Community Facilities District shall hereinafter be referred to as Community Facilities District No. 16-I (Millenia) (the “District”); and,

WHEREAS, this City Council desires to proceed to adopt its Resolution of Intention to initiate the proceedings to consider the establishment of such District, to set forth the proposed boundaries for such District, to indicate the public facilities proposed to be financed by such District, to indicate the proposed rate and apportionment of a special tax sufficient to finance the acquisition or construction of such facilities and the administration of the District and any indebtedness incurred by the District, to set a time and place for a public hearing relating to the establishment of such District; and

WHEREAS, the Community Facilities District Law provides that the City Council may initiate proceedings to establish a community facilities district only if it has first considered and adopted local goals and policies concerning the use of the Community Facilities District Law; and

WHEREAS, this City Council has adopted local goals and policies as required pursuant to the Community Facilities District Law; and

WHEREAS, the Community Facilities District Law permits the City Council to designate a portion or portions of the proposed District as one or more improvement areas for the purpose of financing of, or contributing to the financing of, specified public facilities; and

WHEREAS, this City Council desires to designate two improvement areas within the proposed District for the purpose of contributing to the financing of the public facilities specified herein.

NOW, THEREFORE, IT IS HEREBY RESOLVED:

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

SECTION 2. Initiation of Proceedings. These proceedings are initiated by this City Council pursuant to the authorization of the Community Facilities District Law.

SECTION 3. Boundaries of District and the Improvement Areas. It is the intention of this City Council to establish the boundaries of the proposed District and the proposed improvement areas therein. A description of the proposed boundaries of the territory to be included in the District including the properties and parcels of land proposed to be located in each improvement area subject to the levy of a special tax by the District for each such improvement are is as follows:

All that property as shown on a map as previously approved by this City Council, such map entitled “Proposed Boundaries of Community Facilities District No. 16-I (Millenia), City of Chula Vista, County of San Diego, State of California”, a copy of which is on file in the Office of the City Clerk and shall remain open for public inspection.

SECTION 4. Name of District and Improvement Areas. The name of the proposed District shall be Community Facilities District No. 16-I (Millenia). The improvement areas proposed to be designated within the District shall be known as “Improvement Area No. 1” and “Improvement Area No. 2” (individually, an “Improvement Area” or collectively, the “Improvement Areas”)

SECTION 5. Description of Facilities. It is the intention of this City Council to finance the acquisition or construction of certain facilities authorized to be acquired pursuant to the provisions of the Community Facilities District Law. A general description of the facilities proposed to be authorized to be acquired or constructed is set forth in Exhibit A attached hereto and incorporated herein by this reference (the “Facilities”).

The Facilities are facilities which this legislative body is authorized by law to contribute revenue to or to construct, own or operate. It is hereby further determined that the proposed Facilities are necessary to meet increased demands and needs placed upon the City as a result of development within the District.

The cost of acquiring or constructing the Facilities includes Incidental Expenses as such term is defined in Government Code Section 53317(e) and may include, but not be limited to, the costs of planning and designing the facilities; all costs associated with the establishment of the District, the issuance and administration of bonds to be issued for the District, including the payment of any rebate obligation due and owing to the federal government, the determination of the amount of any special taxes to be levied, the costs of collecting any special taxes, and costs otherwise incurred in order to carry out the authorized purposes of the District, together with any

other expenses incidental to the acquisition, construction, completion and inspection of the Facilities.

SECTION 6. Special Tax. It is hereby further proposed that, except where funds are otherwise available, a special tax sufficient to pay for the acquisition or construction of the Facilities 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 each Improvement Area of the District, will be levied annually within the boundaries of each such Improvement Area. Under no circumstances will the special tax levied in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the same Improvement Area by more than 10 percent (10%) above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For further particulars as to the rate and method of apportionment of the proposed special tax for each Improvement Area (each, a “Rate and Method of Apportionment”) reference is made to the attached and incorporated Exhibit B, which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within each Improvement Area to clearly estimate the maximum amount that such person will have to pay. Each Rate and Method of Apportionment also sets forth the tax year after which no further special tax shall be levied or collected against any parcel used for private residential purposes within the applicable Improvement Area. A parcel shall be considered “used for private residential purposes” not later than the date on which an occupancy permit or the equivalent for private residential use is issued for such parcel.

The special taxes herein proposed, to the extent possible, shall be collected in the same manner as ad valorem property taxes or in such other manner at this City Council shall determine, including without limitation, direct billing of the affected property owners, 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 of the City of Chula Vista (the “City”), acting for and on behalf of the District.

The special tax obligation for any parcel may be prepaid and permanently satisfied in whole or in part pursuant to the provisions therefor contained in the applicable Rate and Method of Apportionment.

SECTION 7. Public Hearing. NOTICE IS GIVEN THAT ON SEPTEMBER 13, 2016, AT THE HOUR OF 5:00 O’CLOCK P.M., IN THE REGULAR MEETING PLACE OF THE CITY COUNCIL BEING THE COUNCIL CHAMBERS, CITY HALL, LOCATED AT 276 FOURTH STREET, CHULA VISTA, CALIFORNIA, A PUBLIC HEARING WILL BE HELD WHERE THIS CITY COUNCIL WILL CONSIDER THE ESTABLISHMENT OF THE PROPOSED DISTRICT, THE DESIGNATION OF THE IMPROVEMENT AREAS, THE RATE AND METHOD OF APPORTIONMENT OF THE SPECIAL TAX PROPOSED TO BE LEVIED WITHIN EACH IMPROVEMENT AREA, AND ALL OTHER MATTERS AS SET FORTH IN THIS RESOLUTION OF INTENTION. AT THE ABOVE-MENTIONED TIME AND PLACE FOR PUBLIC HEARING ANY PERSONS INTERESTED, INCLUDING

TAXPAYERS AND PROPERTY OWNERS MAY APPEAR AND BE HEARD. THE TESTIMONY OF ALL INTERESTED PERSONS FOR OR AGAINST THE ESTABLISHMENT OF THE DISTRICT, THE EXTENT OF THE DISTRICT, THE DESIGNATION OF THE IMPROVEMENT AREAS OR THE FINANCING OF THE FACILITIES, WILL BE HEARD AND CONSIDERED. ANY PROTESTS MAY BE MADE ORALLY OR IN WRITING, HOWEVER, ANY PROTESTS PERTAINING TO THE REGULARITY OR SUFFICIENCY OF THE PROCEEDINGS SHALL BE IN WRITING AND CLEARLY SET FORTH THE IRREGULARITIES AND DEFECTS TO WHICH THE OBJECTION IS MADE. ALL WRITTEN PROTESTS SHALL BE FILED WITH THE CITY CLERK OF THE CITY ON OR BEFORE THE TIME FIXED FOR THE PUBLIC HEARING. WRITTEN PROTESTS MAY BE WITHDRAWN IN WRITING AT ANY TIME BEFORE THE CONCLUSION OF THE PUBLIC HEARING.

IF A WRITTEN MAJORITY PROTEST AGAINST THE ESTABLISHMENT OF THE DISTRICT IS FILED, THE PROCEEDINGS SHALL BE ABANDONED. IF SUCH MAJORITY PROTEST IS LIMITED TO CERTAIN FACILITIES OR PORTIONS OF THE SPECIAL TAX, THOSE FACILITIES OR THAT PORTION OF THE SPECIAL TAX SHALL BE ELIMINATED BY THE CITY COUNCIL.

SECTION 8. Report. The officers of the City who will be responsible for providing one or more of the proposed types of the Facilities to be provided within and financed by the proposed District, if it is established, shall study the District, and, at or before the time of the public hearing, file a report with the City Council containing a brief description of the Facilities by type which will in their opinion be required to adequately meet the needs of the District, and their estimate of the fair and reasonable cost of providing those Facilities, and the incidental expenses to be incurred in connection therewith. Such report shall include a description and an estimate of the cost of the Facilities which are proposed to be financed with the proceeds of the special taxes and sale of the bonds of the District. Such report shall be made a part of the record of the public hearing to be held pursuant to Section 7 hereof.

SECTION 9. Election. If, following the public hearing described in Section 7, the City Council determines to establish the District and to designate the Improvement Areas and proposes to levy a special tax within each of the Improvement Areas, the City Council shall then submit the levy of the special taxes to the qualified electors of each Improvement Area pursuant to Government Code Section 53326 through 53327.5 and the applicable provisions of the California Elections Code. If at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within an Improvement Area for each of the ninety (90) days preceding the close of the public hearing, the vote shall be by registered voters of such Improvement Area, with each voter having one (1) vote. Otherwise, the vote shall be by the landowners of each Improvement Area who were the owners of record at the close of the subject hearing, with each such landowner or the authorized representative thereof, having one (1) vote for each acre or portion of an acre of land owned within such Improvement Area.

SECTION 10. Notice. Notice of the time and place of the public hearing shall be given by the City Clerk by causing the publication of a Notice of Public Hearing in the legally

designated newspaper of general circulation, such publication pursuant to Section 6061 of the Government Code, with such publication to be completed at least seven (7) days prior to the date set for the public hearing.

The City Clerk shall also cause notice to be given by first-class mail to each registered voter, if any, and to each landowner as defined in the Community Facilities District Law within the proposed boundaries of the District. Such notice shall be mailed at least 15 days before the public hearing and shall contain the same information as is required to be contained in the notice published pursuant to the preceding paragraph.

SECTION 11. Reservation of Rights to Authorize Tender of Bonds The City Council reserves to itself, in its capacity as the legislative body of the District if formed, the right and authority to allow any interested owner of property within the District, subject to the provisions of Government Code Section 53344.1 and to such conditions as this City Council may impose, and any applicable prepayment penalties as may be described in the bond indenture or comparable instrument or document, to tender to the Treasurer, acting for and on behalf of the District, in full payment or part payment of any installment of the special taxes or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

SECTION 12. Advances Of Funds Or Work-In-Kind. At any time either before or after the formation of the District, the City Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons 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 City in creating the District. The City 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 so 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 City Council. The City has entered into a Community Facilities District Advance Deposit and Reimbursement Agreement with SLF IV – Millenia, LLC (the “Company”) to provide for such advances for the payment of all initial consulting and administration costs and expenses related to the proceedings to consider the formation of the District and to subsequently authorize, issue and sell bonds for the District. Such advances are subject to reimbursement pursuant to the terms of such agreement. No such agreement shall constitute a debt or liability of the City.

In addition, it is proposed that the City enter into an agreement with the Company pursuant to which the Company shall construct and install all or a portion of the Facilities and the District shall repay the funds expended by the Company for such purpose or value or cost of the work in-kind, whichever is less.

PREPARED BY:

Kelly G. Broughton, FASLA
Director of Developmental Services

APPROVED AS TO FORM BY:

Glen R. Googins
City Attorney

EXHIBIT A

DESCRIPTION OF PUBLIC FACILITIES

The types of facilities eligible to be financed by the District are street (both on-site grid streets and boundary arterials) and bridge improvements, including grading, paving, curbs and gutters, sidewalks, trails, medians, traffic signalization and signage, street lights, utilities, storm water drainage, detention and treatment, and landscaping and irrigation related thereto, sewer collection and conveyance facilities, off site storm detention and treatment facilities, park and recreation facilities (including land and improvements), fire facilities and equipment, library facilities and equipment, transit facilities, fiber optic telecommunication system facilities, general governmental office, administrative and meeting facilities, bus and rapid transit facilities and land, rights of way and easements necessary for any of such facilities. Notwithstanding the foregoing, only equipment with a useful life of five (5) years or more will be eligible to be financed.

EXHIBIT B

RATE AND METHOD OF APPORTION OF SPECIAL TAXES
FOR IMPROVEMENT AREA NO. 1
AND
IMPROVEMENT AREA NO. 2

[attach a copy of the Rate and Method for the District]

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