

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA,
ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT
SPECIAL TAX FINANCING DISTRICT, DEEMING IT NECESSARY TO
INCUR A BONDED INDEBTEDNESS OF SUCH DISTRICT

WHEREAS, the City Council (the “City Council”) of the City of Chula Vista (the “City”), previously adopted its Resolution No. 2019-168 on September 10, 2019 (the “Resolution of Intention”) and proposed to establish the Bayfront Project Special Tax Financing District (the “District”) under and pursuant to the terms and provisions Chapter 3.61 of the Chula Vista Municipal Code (“Chapter 3.61”) and to levy a special tax therein to finance the purchase, construction, expansion, improvement, rehabilitation, replacement and upgrade, including ongoing capital repairs of certain public and private improvements located only (a) within the Chula Vista Bayfront Master Plan (the “CVBMP”); or (b) outside the CVBMP territory but required by mitigation measures specified within the Project EIR (as such term is defined in the Joint Community Facilities Agreement [Chula Vista Bayfront Project Special Tax Financing District]) and for which the San Diego Unified Port District or the City are responsible, as described in Exhibit “A,” attached hereto and incorporated herein by this reference (the “Improvements”); and

WHEREAS, the Resolution of Intention fixed the time and place for a public hearing to be held where the City Council will consider the establishment of the District, the rate and method of apportionment of the Special Tax (as defined in the Resolution of Intention) proposed to be levied within the District, the extent of the District, the financing of certain types of public and private improvements, maintenance and services and all other related matters (the “Establishment Public Hearing”); and

WHEREAS, the City Council also adopted its Resolution No. 2019-169 (the “Original Resolution Declaring Necessity to Incur Bonded Indebtedness”) on September 10, 2019, declaring that the public convenience and necessity requires that a bonded indebtedness be incurred by the District in an amount not to exceed \$125,000,000 to contribute to the financing of the Improvements; and

WHEREAS, the Resolution Declaring Necessity to Incur Bonded Indebtedness fixed the time and place for a public hearing to be held on the intention of the City Council to incur a bonded indebtedness of the District to contribute to the financing of the Improvements, such indebtedness to be secured by all or a portion of the levy of special taxes within the District (the “Indebtedness Public Hearing” and, together with the Establishment Public Hearing, the “Public Hearings”); and

WHEREAS, pursuant to the Resolution of Intention and the Original Resolution Declaring Necessity to Incur Bonded Indebtedness, the Public Hearings were set by the City Council for Tuesday, October 15, 2019, at the hour of 5:00 p.m., or as soon thereafter as the City Council might reach the matters, in the Council Chambers, City Hall, 276 Fourth Avenue, Chula Vista, California; and

WHEREAS, there are on file with the City Clerk, separate proofs of publication of the Notice of Public Hearing regarding the establishment of the District and the necessity to incur bonded indebtedness of the District (the “Notice of Public Hearing”) in the Star News and a Certificate of Mailing of Notice of Public Hearings (the “Certificate of Mailing”) showing mailed notice of the Public Hearings to each property owner within the District; and

WHEREAS, at the time and place specified for the Public Hearings, the City Council consolidated and opened the Public Hearings and approved a motion to continue the Public Hearings to November 5, 2019, at the hour of 5:00 p.m., or as soon thereafter as the City Council might reach the matters, in the Council Chambers, City Hall, 276 Fourth Avenue, Chula Vista, California; and

WHEREAS, on November 5, 2019 at the time and place specified for the continued Public Hearings, the City Council reopened the consolidated Public Hearings and approved a motion to continue the Public Hearings to November 19, 2019, at the hour of 5:00 p.m., or as soon thereafter as the City Council might reach the matters, in the City Council Chambers, City Hall, 276 Fourth Avenue, Chula Vista, California; and

WHEREAS, subsequent to the adoption of the Original Resolution Declaring Necessity to Incur Bonded Indebtedness, there was additional analysis of the reasonably foreseeable revenues to be generated by the District and on November 12, 2019, the City Council adopted Resolution No. 2019-___ (the “Amended Resolution Declaring Necessity to Incur Bonded Indebtedness” and, together with the Original Resolution Declaring Necessity to Incur Bonded Indebtedness, the “Resolution Declaring Necessity to Incur Bonded Indebtedness”) to increase the amount of authorized bonded indebtedness of the District to \$175,000,000 and notice of such proposed increase was published in the Star News on November 8, 2019 (the “Amended Notice of Public Hearing”); and

WHEREAS, at the time and place specified for the continued Public Hearings, the City Council reopened and conducted the Public Hearings, all persons interested, including, but not limited to, all taxpayers and property owners within the District were given an opportunity to appear and be heard, and to present any matters relating to the necessity for incurring bonded indebtedness of the District to contribute to the financing of the Improvements; and the testimony of all interested persons and all taxpayers and property owners for or against the authorization to issue bonds of the District or any other matters in the Resolution Declaring Necessity to Incur Bonded Indebtedness was heard and considered by the City Council; and

WHEREAS, the City Council has adopted on this date Resolution No. ____ establishing the District (the “Resolution of Formation”) which sets forth the Special Tax to be authorized to be levied within the District and the Improvements and Services that may be financed with the proceeds of such Special Tax; and

WHEREAS, at this time the City Council, acting as the legislative body of the District, desires to proceed to make the determination of necessity to incur a bonded indebtedness for the District, to declare the purposes for such debt, and to authorize the submittal of a proposition to the qualified electors of the District, being the landowners of the District, all as authorized and required by Chapter 3.61.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, AS FOLLOWS:

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

SECTION 2. Authority. This Resolution is adopted pursuant to the provisions of Chapter 3.61.

SECTION 3. Findings and Declarations. The City Council hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to municipal affairs of the City and that the statements, findings, and determinations of the City Council set forth above are true and correct.

SECTION 4. Notice of the Indebtedness Public Hearing. The City Council accepts the proof of the Notice of Public Hearing, the Amended Notice of Public Hearing and the Certificate of Mailing and finds, based thereon, that the proper notice of the Indebtedness Public Hearing has been given in accordance with Chapter 3.61 and that the Indebtedness Public Hearing was conducted with proper and legal notice in all respects.

SECTION 5. Necessity for Bonded Indebtedness. The City Council hereby expressly deems that the public convenience and necessity require that a bonded indebtedness of the District be incurred as authorized under the terms and provisions of Chapter 3.61 to contribute to the financing of the Improvements.

SECTION 6. Purpose for Bonded Indebtedness. The specific purpose for the proposed bonded indebtedness is to contribute to the cost of financing of the Improvements.

The cost of financing the Improvements may include, but not be limited to, all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the bonded indebtedness is proposed to be incurred, including but not limited to, the estimated costs of the purchase, construction, expansion, improvement, rehabilitation, including ongoing capital repairs, and inspection of the Improvements; satisfaction of contractual obligations relating to expenses or the advancement of funds for expenses existing at the time the bonds are issued pursuant to Chapter 3.61; architectural, engineering, inspection, legal, fiscal, and financial consultant fees; bond and other reserve funds; discount fees; interest on any bonds as authorized pursuant to Chapter 3.61; election costs; all costs associated with the establishment of the District; all costs associated with the issuance of the bonds, including, but not limited to, fees of bond counsel, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit, and other credit enhancement costs, and printing costs; costs of the 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 cost of collecting any Special Taxes; Incidental Expenses (as such term is defined in Government Code Section 53317(e)) and costs otherwise incurred in order to carry out the authorized purposes of the District.

SECTION 7. Territory to Pay for Bonded Indebtedness.

This City Council determines that the property subject to the levy of the Special Tax within the District will pay for the bonded indebtedness of the District. A general description of the District is as follows:

All that property as shown on a map as previously approved by this City Council, such map entitled “Map of Proposed Boundaries of the Bayfront Project Special Tax Financing District, 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. The boundary map of the District has been filed pursuant to Sections 3111 and 3113 of the Streets and Highways Code of the State of California in the Office of the County Recorder of the County of San Diego, at Page 38-44 of Book 48 of the Book of Maps of Assessment and Community Facilities Districts for such County.

SECTION 8. Bond Authorization. The amount of the bonded indebtedness of the District may include all costs and estimated costs incidental to, or connected with, the accomplishment of the purpose for which the indebtedness is proposed to be incurred as authorized pursuant to Chapter 3.61, including all costs described in Section 6 above. The amount of the indebtedness proposed to be authorized shall not exceed \$175,000,000.

SECTION 9. Bond Term and Interest Rate. This City Council hereby further determines that the maximum term of bonds and/or any series shall not exceed forty (40) years, and such bonds may be issued in differing series, at differing times. The maximum rate of interest to be paid on such bonds may not exceed the greater of either twelve percent (12%) per annum or the maximum rate permitted by law at the time of sale of any of such bonds. The bonds, except where other funds are made available, shall be paid exclusively from the annual levy of the Special Tax within the District, and are not secured by any other taxing power or funds of the District or the City. The bonded indebtedness may be in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private borrowing or individuals, or long-term contracts as permitted by Chapter 3.61.

SECTION 10. Accountability Measures. Pursuant to and in compliance with the provisions of Article 1.5 (commencing with Section 53410) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, this City Council hereby establishes the following accountability measures pertaining to any bonded indebtedness incurred by or on behalf of the District:

- A. Such bonded indebtedness shall be incurred for the applicable specific purposes set forth in the Section 6.
- B. The proceeds of any such bonded indebtedness shall be applied only to the applicable specific purposes identified in Section 6.
- C. The document or documents establishing the terms and conditions for the issuance of any such bonded indebtedness shall provide for the creation of an account into which the proceeds of such indebtedness shall be deposited.

- D. The City Manager or his or her designee, acting for and on behalf of the District, shall annually file a report with this City Council, as the legislative body of the District, as required by Government Code Section 53411.

SECTION 11. Election. The proposition related to the incurring of the bonded indebtedness for the District (the “Bond Indebtedness Proposition”) shall be submitted to the appropriate qualified voters of the District, together with ballot propositions to authorize the levy of Special Taxes within the District and to establish an appropriations limit for the District, at a special election to be held on February 18, 2020, and such election shall be a mail ballot special election to be conducted by the City Clerk (the “Election Official”). The mail ballots are required to be received in the office of the Election Official by the hour of 12:00 p.m. on February 18, 2020, at which time the election shall be closed.

If the Bond Indebtedness Proposition receives the approval of two-thirds or more of the votes cast within the District, with votes allocated pursuant to Chapter 3.61, the bonds of the District may be issued and sold for the purposes authorized.

PREPARED BY:

APPROVED AS TO FORM BY:

Kelly G. Broughton FASLA
Director of Developmental Services

Glen R. Googins
City Attorney

EXHIBIT A

DESCRIPTION OF THE AUTHORIZED IMPROVEMENTS

1. Convention Center Facility (as defined in Chula Vista Municipal Code Chapter 3.61);
2. Street improvements, including grading, paving, curbs, gutters, sidewalks, street signalization, signage, street lights, furnishings, and parkway and median landscaping related thereto;
3. Gateway signage;
4. Pedestrian and bicycle paths;
5. Storm drains and other water quality devices to ensure regional permit compliance;
6. Public utilities (including but not limited to water, reclaimed water, sewer, electric, gas, and telephone);
7. Public parks, open space and recreation facilities;
8. Fire protection and emergency response facilities;
9. Parking improvements;
10. Museums and cultural facilities;
11. Ecological and sustainability educational improvements;
12. Energy efficiency, water conservation, and renewable energy improvements;
13. Land, rights-of-way and easements necessary for any facilities to be financed by the District; and
14. Equipment, apparatus, facilities or fixtures with an expected useful life of 5 years or longer necessary for any of the foregoing or necessary to provide any of the services described in authorized by the resolution forming the District.