

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA
FORMING AND ESTABLISHING THE BAYFRONT PROJECT SPECIAL TAX
FINANCING DISTRICT AND AUTHORIZING SUBMITTAL OF THE LEVY OF
SPECIAL TAX WITHIN THE BAYFRONT PROJECT SPECIAL TAX
FINANCING DISTRICT TO THE QUALIFIED ELECTORS OF SUCH DISTRICT

WHEREAS, the City of Chula Vista, California (the “City”) is a municipal corporation and charter city duly organized and existing under a 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 and the Charter of the City; and

WHEREAS, Chapter 3.61 of the Chula Vista Municipal Code (“Chapter 3.61”) was enacted for the purpose of establishing a procedure for financing certain public and private improvements and maintenance and services to serve the Chula Vista Bayfront Project through the establishment of the Bayfront Project Special Tax Financing District (the “District”), the levy and collection of special taxes within the District and the issuance of bonds of the District secured by such special taxes for the purpose of financing a Convention Center Facility (as defined in Chapter 3.61) and certain other public and/or private improvements; and

WHEREAS, the City Council of the City (the “City Council”) duly adopted its Resolution No. 2019-168 on September 10, 2019 (the “Resolution of Intention”) wherein the City Council declared its intention and initiated proceedings to consider the establishment of the District, to set forth the proposed boundaries for the District, to indicate the Improvements (as defined herein below) and the Services (as defined herein below) proposed to be financed by the District, to indicate the proposed rate and apportionment of a special tax sufficient to finance the purchase, construction, expansion, improvement, rehabilitation, replacement and upgrade, including ongoing capital repairs, of the Improvements and the Services, and the administration of the District and to repay any indebtedness incurred by the District, and to set a time and place for a public hearing relating to the establishment of the District (the “Establishment Public Hearing”); and

WHEREAS, pursuant to the Resolution of Intention, the City Council directed that a report (the “Report”) be filed, at or before the time of the Establishment Public Hearing, with the City Council containing a brief description of the Improvements and Services by type which will be required to adequately meet the needs of the District, an estimate of the cost of providing such Improvements and Services and, with regard to those Improvements proposed to be acquired upon the completion thereof and those Incidental Expenses (as such term is defined in Government Code Section 53317(e)) proposed to be paid for, an estimate of the fair and reasonable cost of such Improvements and Incidental Expenses; and

WHEREAS, such Report was timely filed with the City Council; and

WHEREAS, the City Council also adopted its Resolution No. 2019-169 (“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 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, at the time and place specified for the continued Public Hearings, the City Council reopened and held the consolidated Public Hearings, and 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 establishment of the District, the rate and method of apportionment of the special tax proposed to be levied within the District, the extent of the District, the financing of the Improvements and the Services and all other related matters, and the Report and such testimony was heard and considered by this City Council; and

WHEREAS, there has been presented to the City Council the form of an agreement entitled Joint Community Facilities Agreement (Chula Vista Bayfront Project Special Tax Financing District) (the “JCFA”) by and between the City and the San Diego Port District (the “Port District”) pursuant to Government Code Section 53316.2 to set forth the essential terms for the allocation and payment of the Special Tax Revenues (as such term is defined in the JCFA) for the development, operation, maintenance and servicing of various improvements located only (a) within the Chula Vista Bayfront Master Plan (the “CVBMP”) territory; or (b) outside the CVBMP territory but

required by mitigation measures specified within the Project EIR (as such term is defined in the JCFA) and for which the Port District or City are responsible; and

WHEREAS, prior to the adoption of this Resolution, the City Council did, by the adoption of Resolution No. 2019-___, approve the JCFA and determine that the JCFA will be beneficial to the residents and tenants of, and visitors to, the territory within boundaries of the District; and

WHEREAS, the City Council desires to amend the Resolution of Intention to change the term of the Special Tax (as defined in Section 8 hereinbelow) to limit such term to read as set forth in paragraph “J. Term of the Special Tax” of the Rate and Method of Apportionment of Special Taxes in Exhibit C attached hereto (the “Rate and Method of Apportionment”); and

WHEREAS, all communications relating to the establishment of the District, the financing of the Improvements and Services and the levy of the Special Tax pursuant to the Rate and Method of Apportionment have been presented, and it has further been determined by this City Council that a majority protest as specified by Chapter 3.61 has not been received against the establishment of the District, the furnishing of any of the Improvements or Services or the levy of the Special Tax pursuant to the Rate and Method of Apportionment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHULA VISTA, AS FOLLOWS:

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

SECTION 2. Determinations. It is hereby determined by this City Council that:

- A. All prior proceedings pertaining to the formation of the District were valid and taken in conformity with the requirements of the law, and specifically the provisions of the Chapter 3.61, and that this finding and determination is made pursuant to the provisions of Chapter 3.61.
- B. The change in the term of the Special Tax to read as set forth in the Rate and Method of Apportionment shall not increase the maximum Special Tax or the probable Special Tax to be paid by any Operator (as such term is defined in the Rate and Method).
- B. The written protests received, if any, do not represent a majority protest as defined by the applicable provisions of Chapter 3.61 and as applied to the District, the Improvements or the Services or the levy of the Special Tax pursuant to the Rate and Method of Apportionment and, therefore, the establishment of the District, the furnishing of the Improvements and Services and the Special Tax proposed to be levied within the District have not been precluded by majority protest pursuant Chapter 3.61.
- C. The District, as proposed, conforms to the provisions of Chapter 3.61.

- D. The Registrar of Voters of the County of San Diego has certified that no person is registered to vote within the territory proposed to be included in the District.
- E. Pursuant to Chapter 3.61 the qualified electors of the District shall be the Landowners of the District as such term is defined in Chapter 3.61 and each such Landowner who is the owner of record as of the close of the Establishment Public Hearing or any subsequent owner if the City Clerk is informed, by reliable evidence, of a change in ownership after that time and at least 24 hours before the deadline to submit ballots, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that such Landowner owns within the District.
- F. 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 forming and establishing the District.

SECTION 3. Report. The Report, as now submitted by Willdan Financial Services, special tax consultant, shall stand as the report as required pursuant to Chapter 3.61 for all future proceedings and all terms and contents are approved as set forth therein. The Report shall be made a part of the record of the Establishment Public Hearing.

SECTION 4. Name of District. The City Council does hereby establish and declare the formation of the District known and designated as the “Bayfront Project Special Tax Financing District.”

SECTION 5. Boundaries of the District. The boundaries of the District are generally described 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 proposed 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 6. Description of the Improvements. The District is authorized to finance the purchase, construction, expansion, improvement, rehabilitation, replacement and upgrade, including ongoing capital repairs, of certain public and private improvements pursuant to the provisions of Chapter 3.61 and any other method permitted by law. The improvements shall be located only (a) within the CVBMP territory; or (b) outside the CVBMP territory but required by mitigation measures specified within the Project EIR (as such term is defined in the JCFA) and for which the Port District or City are responsible. A general description of such improvements is set forth in Exhibit “A,” attached hereto and incorporated herein by this reference (the “Improvements”).

All such Improvements shall have an estimated useful life of five years or longer. The Improvements are facilities that the City and/or the Port District are authorized by law to construct, own, or operate, or to which they may contribute revenue.

The cost of the Improvements includes Incidental Expenses and may include, but not be limited to, the cost of planning, designing and engineering the Improvements; all costs associated with the establishment of the District, the issuance and administration of bonds to be issued by 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; and costs otherwise incurred in order to carry out the authorized purposes of the District, together with any other expenses incidental to the purchase, construction, expansion, improvement, rehabilitation, replacement and upgrade, including ongoing capital repairs of the Improvements, as set forth in Section 3.61.080 of Chapter 3.61.

SECTION 7. Description of Services. The District is authorized to finance maintenance and services authorized to be financed pursuant to the provisions of Chapter 3.61. A general description of the maintenance and services authorized to be financed is set forth in Exhibit “B,” attached hereto and incorporated herein by this reference (the “Services”). The Services shall be provided only in the territory located within the CVBMP. The Services shall include, but not be limited to, the provision of all labor, material, administration, personnel, equipment and utilities necessary to maintain such improvements.

The City Council finds that the Services are necessary to meet increased demands placed upon the City and/or the Port District, as applicable, as a result of development occurring within the boundaries of the District and the Services will not supplant services already available within the boundaries of the District.

SECTION 8. Special Tax. Except where funds are otherwise available, a special tax sufficient to pay for costs of the Improvements as specified in Section 6 above and the Services as specified in Section 7 above (the “Special Tax” or “Special Taxes”), will be levied pursuant to the provisions of Chapter 3.61 in the method described in the Rate and Method of Apportionment set forth in Exhibit “C”, attached hereto and incorporated herein by this reference. The revenues derived from the levy of the Special Taxes shall be allocated and utilized pursuant to the priorities established in the JCFA and/or any Implementation Agreement (as defined in the JCFA).

For further particulars as to the Rate and Method of Apportionment reference is made to the attached and incorporated Exhibit “C,” which sets forth in sufficient detail the rate and method of apportionment to allow each Landowner or Operator (as such terms are defined in Chapter 3.61) within the District to estimate the maximum amount that such Landowner or Operator will have to pay.

The Special Taxes will be due and remitted with the Operator’s payment of transient occupancy taxes as set forth in Chapter 3.40 of the Chula Vista Municipal Code (“Chapter 3.40”). If a Landowner is not an Operator, the Landowner shall cause the Operator to remit the Special Taxes imposed with the Operator’s payment of transient occupancy tax and any Special Taxes shall only be levied on and constitute a lien against the Operator’s leasehold or possessory interest in such

Assessor's Parcel of Public Property, all as contemplated in Section 53340.1 of the Act, as modified by Chapter 3.61 and shall not be an obligation for which the Landowner of such Assessor's Parcel of Public Property is billed or responsible. Such Landowner obligation may be met by including a requirement to remit the Special Taxes in a lease or other real property instrument for a Campsite Property or Hotel Property (each as defined in the Rate and Method of Apportionment) and enforcing such requirement, as provided for in the real property instrument. However, the Special Tax is not imposed on the Transient (as defined in Chapter 3.40), but on the parcel or leasehold or possessory interest in a parcel containing a Hotel or Campsite (as such terms are defined in Chapter 3.61). The Operator may, but is not required to, pass the Special Tax through to the Transients and collect it with Rent (as defined in Chapter 3.40). Despite the method of collection and administration, the Special Tax is distinct from the City's transient occupancy tax and, subject to the Rate and Method of Apportionment, may be enforced, in the event of nonpayment, as provided in the Mello-Roos Community Facilities Act of 1982, including through a judicial foreclosure; however, the City Council reserves the right to utilize any other lawful means of billing, collecting, and enforcing the Special Taxes, including billing on the secured property tax roll, direct and supplemental billing, any other legal authority to collect delinquent Special Taxes, penalties and interest and when lawfully available, judicial foreclosure of the lien of the Special Taxes.

Subject to the Rate and Method of Apportionment, 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, acting as the legislative body of the District, be placed on the secured property tax roll in that fiscal year and be levied on the parcel or leasehold or possessory interest in the parcel, as applicable, 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.

The Special Taxes are imposed by the District and not the City. The Special Tax shall be levied by the District, in any year, only on a parcel or a leasehold or a possessory interest in a parcel within the District for the use of such property during such year as Hotel Property or Campsite Property.

SECTION 9. Special Taxes Accountability Measures. Pursuant to and in compliance with the provisions of Government Code Section 50075.1, this City Council hereby establishes the following accountability measures pertaining to the levy by the District of the Special Taxes described in Section 8 above:

- A. Each Special Tax shall be levied for the specific purposes set forth in Section 8 above.
- B. The proceeds of the levy of each such Special Tax shall be applied only to the specific applicable purposes set forth in Sections 6, 7 and 8 above.
- C. The District shall establish a separate account into which the proceeds of each such Special Tax 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 the City Council as required pursuant to Government Code Section 50075.3.

SECTION 10. Preparation of Annual Tax Roll. If there is an annual tax roll prepared for the District, the name, address and telephone number of the office, department or bureau which will be responsible for preparing the annual current roll of Special Tax levy obligations for the District and which shall be responsible for estimating future Special Tax levies pursuant to Chapter 3.61, are as follows:

Finance Department
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 92010
(619) 691-5250

SECTION 11. Substitution Improvements. The description of the Improvements, as set forth in Exhibit A hereto, is general in its nature. The final nature and location of the Improvements will be determined upon the preparation of final plans and specifications therefor. Such final plans may show substitutes in lieu of, or modification to, the above described types of facilities and any such substitution shall not be a change or modification in the proceedings as long as the facilities provide a service substantially similar to that as set forth in this Resolution.

SECTION 12. Election. This City Council herewith submits the levy of the special tax to the qualified electors of the District as specified in Section 2E above, such electors being the Landowners in the District, with each Landowner having one (1) voter for each acre or portion thereof of land which he or she owns within the District.

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 Exhibit B.

EXHIBIT B

DESCRIPTION OF THE AUTHORIZED SERVICES

Authorized Services shall include the operation, maintenance, servicing, and replacement of the authorized Improvements (see Exhibit A), together with the following additional Services:

1. Landscaping, including, but not limited to trees, shrubs, grass, other ornamental vegetation located in or on slopes, parkways and medians;
2. Facilities that are directly related to storm water conveyance, including, but not limited to pipes and drainage inlets, detention basins, linear bioretention, and parks;
3. Walls and fencing;
4. Parks, including landscaping, facilities, walls, fencing, lighting, and trails;
5. Streetscape improvements, including lighting, furnishings and appurtenances;
6. Parking improvements;
7. Transportation services;
8. Promotion of public events and tourism;
9. Security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the City or other service provider; and
10. Repair of the authorized Improvements.

For purposes of this description of the Services to be funded by the levy of Special Taxes within the District, "maintenance" includes, but is not limited to, the furnishing of services and materials for the ordinary and usual maintenance, operation, management and servicing of any of the authorized Improvements, including:

1. Repair, removal, or replacement of the authorized Improvements;
2. Providing for the life, growth, health, and beauty of habitat, including the cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury;
3. The removal of trimmings, rubbish, debris, silt, and other solid waste;
4. The cleaning, sandblasting, and painting of walls and other facilities to remove or cover graffiti;
5. The elimination, control, and removal of rodents and vermin;

6. The operation and management of open space and natural habitat, including biological monitoring and evaluation of collected data;
7. The conduct of biological activities necessary to sustain the species being protected;
8. The operation and maintenance of pedestrian bridges and community gardens within or appurtenant to such open space or habitat area(s); and
9. The maintenance and cleaning of drainage and other storm water control facilities required to provide storm water quality control.

“Service” or “servicing” means the furnishing of:

1. Electric current or energy, gas, or other illuminating agent for any public lighting facilities or for the lighting or other operation of any other Improvements; and
2. Water for the irrigation of any landscaping or the operation or maintenance of any other Improvements.

EXHIBIT C

**RATE AND METHOD OF
APPORTIONMENT OF SPECIAL TAX**

BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT

The Special Tax authorized by the Bayfront Project Special Tax Financing District (the “District”) shall be levied on all Taxable Property and collected within the District as provided herein commencing in Fiscal Year 2020-2021, in an amount determined by the City Council of the City of Chula Vista, acting as the legislative body of the District, through the application of the rate and method of apportionment of the Special Tax set forth below. All of the real property within the District, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“**Act**” means the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5, Part 1, Division 2 of Title 5 of the Government Code of the State of California.

“**Assessor’s Parcel**” means a lot or parcel designated on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number within the boundaries of the District.

“**Assessor’s Parcel Map**” means an official map of the Assessor of the County designating parcels by Assessor’s Parcel number.

“**Bond Documents**” means any indenture of trust, bond indenture, fiscal agent agreement, trust agreement, resolution or other instrument setting forth the terms of any Bonds, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“**Bonds**” means any binding obligation to repay a sum of money, including obligations in the form of bonds, notes, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts, or any refunding thereof, to which the Special Tax has been pledged.

“**Boundary Map**” means the “Map of Proposed Boundaries of the Bayfront Project Special Tax Financing District, City of Chula Vista, County of San Diego, State of California,” filed September 12, 2019 in Book 48 of Maps of Assessments and Community Facilities Districts in the office of the County Recorder.

“**Calendar Year**” means the period commencing January 1 of any year and ending the following December 31.

“**Campsite**” shall have the meaning given such term in Chapter 3.61.

“**Campsite Property**” means an Assessor’s Parcel of Taxable Property which consists of any Campsite or Campsites.

“**Chapter 3.61**” means Chapter 3.61 of the Chula Vista Municipal Code.

“**City**” means the City of Chula Vista.

“City Council” means the City Council of the City, acting as the legislative body of the District, or its designee.

“City Manager” means the City Manager of the City.

“County” means the County of San Diego.

“Director of Finance” means the Director of Finance of the City.

“District” means the Bayfront Project Special Tax Financing District established by the City pursuant to Chapter 3.61.

“Exempt Property” means all Assessor’s Parcels within the District which are exempt from the Special Tax pursuant to law or Section F herein.

“Fiscal Year” means the period commencing on July 1 of any year and ending the following June 30.

“Hotel” shall have the meaning given such term in Chapter 3.61.

“Hotel Property” means an Assessor’s Parcel of Taxable Property which consists of any Hotel or Hotels.

“Landowner” shall have the meaning given such term in Chapter 3.61.

“Maximum Annual Special Tax Rate” shall, for any Fiscal Year, not exceed five percent (5%) of all Rent charged during such Fiscal Year for the privilege of Occupancy by Transients of the Campsite(s) or Hotel(s), as applicable, located on each Assessor’s Parcel of Campsite Property or Hotel Property.

“Occupancy” shall have the meaning given such term in Chapter 3.61.

“Operator” shall have the meaning given such term in Chapter 3.61.

“Port District” means the San Diego Unified Port District.

“Public Property” means any property within the boundaries of the District that is owned or held in trust by or irrevocably dedicated to the City, the federal government, the State of California, the County, the Port District, or any other public agency.

“Rent” shall have the meaning given such term in Chapter 3.61.

“Resolution of Formation” means the resolution adopted by the City Council pursuant to Chapter 3.61 establishing the District.

“Special Tax” means the special tax authorized by the District to be levied by the City Council pursuant to Chapter 3.61.

“Taxable Property” means all Assessor’s Parcels that are not exempt from the Special Tax pursuant to law or this Rate and Method of Apportionment of Special Tax.

“Transient” shall have the meaning given such term in Chapter 3.61.

B. CLASSIFICATION OF ASSESSOR’S PARCELS

Each Fiscal Year, beginning with Fiscal Year 2020-2021, each Assessor’s Parcel shall be classified as Taxable Property or Exempt Property. In addition, each Assessor’s Parcel of Taxable Property shall be further classified as Campsite Property or Hotel Property. Commencing with Fiscal Year 2020-2021, all Campsite Property and Hotel Property shall be subject to the levy of the Special Tax pursuant to Section C below.

C. SPECIAL TAX

For each Fiscal Year commencing Fiscal Year 2020-2021, the City Council shall, by resolution adopted on or before May 31st preceding such Fiscal Year, levy the Special Tax on each Assessor's Parcel classified as Campsite Property or Hotel Property at a rate not to exceed the Maximum Annual Special Tax Rate. For each succeeding Fiscal Year, the Special Tax shall be levied at the same rate as the rate levied in the preceding Fiscal Year unless the City Council shall, by resolution adopted by May 31st of the preceding Fiscal Year, levy the Special Tax at a different rate than the rate levied in the preceding Fiscal Year not to exceed the Maximum Annual Special Tax Rate.

The Special Tax associated with Rent that is charged for Occupancy by Transients shall be considered levied at the same time the Transient ceases such Occupancy. If a Public Property is classified as Campsite Property or Hotel Property due to the grant of a lease or other possessory interest in such Assessor's Parcel of Public Property to the Operator of a Campsite or Hotel thereon, the Special Tax shall only be levied during such time that such grant of lease or possessory interest is effective and shall cease upon the termination or expiration of such grant of lease or possessory interest.

D. MANNER OF COLLECTION

The Special Tax shall be due and remitted pursuant to the provisions of Section 3.61.120 of Chapter 3.61.

E. PREPAYMENT OF THE SPECIAL TAXES

The Special Tax may not be prepaid.

F. EXEMPTIONS

Assessor's Parcels not classified as Campsite Property or Hotel Property shall be exempt from the levy of the Special Tax.

G. FAILURE TO SUBMIT SPECIAL TAX

If the Operator of any Campsite or Hotel located on an Assessor's Parcel of Campsite Property or Hotel Property, or the Landowner of an Assessor's Parcel of Campsite Property or Hotel Property that is not Public Property, fails or refuses to pay the Special Tax levied on such Assessor's Parcel when due, the Director of Finance shall proceed in such manner as deemed best to obtain facts and information on which to base his/her estimate of such Special Tax. As soon as the Director of Finance has acquired such facts and information upon which to base such Special Tax for such Campsite Property or Hotel Property, the Director of Finance shall proceed to determine the amount of such Special Tax due plus any penalties thereon, as described below ("Determination of Special Tax Due"). In the case that such determination is made, the Director of Finance shall give a Determination of Special Tax Due by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to such Operator or such Landowner, as applicable, at its last known address. Such Operator or such Landowner, as applicable, may file an appeal as provided in Section J herein.

The Special Tax on any Campsite Property or Hotel Property which is not paid within the time required shall be subject to the same penalties applicable to the transient occupancy tax in subsections A and B of Section 3.40.080 of the Chula Vista Municipal Code. For any Special Taxes and penalties that remain outstanding as of July 1 of each Fiscal Year, the City Council may direct the Director of Finance to cause the submission of any of the delinquent Special Taxes and penalties to the County for inclusion on the property tax bill for such Assessor's Parcel(s) in accordance with Section 3.61.130 of Chapter 3.61; provided, however, that any delinquent Special Taxes and penalties with respect to any Assessor's Parcel of Public Property that is

classified as Campsite Property or Hotel Property due to the grant of a lease or other possessory interest in such Assessor's Parcel of Public Property to the Operator of a Campsite or Hotel thereon shall only be levied on and constitute a lien against the Operator's leasehold or possessory interest in such Assessor's Parcel of Public Property, all as contemplated by Section 53340.1 of the Act, as modified by Chapter 3.61, and shall not be an obligation for which the Landowner of such Assessor's Parcel of Public Property is billed or responsible.

H. MAINTENANCE OF RECORDS; SPECIAL TAX AUDIT

It shall be the duty of the Operator of any Campsite or Hotel located on any Assessor's Parcel classified as Campsite Property or Hotel Property that is subject to the Special Tax to keep and preserve, for a period of three years, all records as may be deemed necessary by the Director of Finance (and that will, at a minimum, include a record of all Rents collected) to determine the Special Taxes levied upon such Campsite Property or Hotel Property by the City Council. The Director of Finance shall have the right to inspect such records at all reasonable times.

I. APPEAL

Any Operator of a Campsite or Hotel located on any Campsite Property or Hotel Property or any Landowner of any Campsite Property or Hotel Property claiming that the amount or application of the Special Tax reflected in any Determination of Special Tax Due on such Campsite Property or Hotel Property is not correct, may appeal such Determination of Special Tax Due by filing a notice of appeal with the City Clerk within fifteen (15) calendar days of the serving or mailing of such Determination of Special Tax Due. If such appeal is made by an Operator that is not also the Landowner of such property, then the Operator shall also provide a copy of such notice of appeal to the Landowner at the same time the Operator files the notice of appeal with the City Clerk. Upon receipt of any such notice, the City Clerk shall forward a copy of such notice to the City Manager who shall establish as part of the proceedings and administration of the District a special three-member Appeal Committee. The Appeal Committee may establish such procedures as it deems necessary to undertake the review of any such appeal. The Appeal Committee shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any appeals by Landowners, or Operators, as herein specified. The decision of the Appeal Committee shall be final, conclusive, binding as to all persons and shall be served upon the Operator or Landowner in writing at the last known address of such Operator or Landowner. Any amount found due shall be immediately due and payable upon service of the Appeal Committee findings. If the Appeal Committee decision requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the Operator or Landowner, a cash refund shall not be made, but a credit shall be given against the future Special Taxes on that Assessor's Parcel.

J. TERM OF THE SPECIAL TAXES

The Special Tax shall be levied as long as necessary to pay for authorized expenditures as specified in Section 3.61.080 of Chapter 3.61 for a period not to exceed the longer of: (a) forty years from the first day of the month immediately following the effective date of the ordinance enacted by the City Council providing for the levy of the Special Tax; or (b) the date on which all indebtedness of the Chula Vista Bayfront Facilities Financing Authority, with respect to which District Special Tax revenues have been pledged, has been paid in full.