

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA
DECLARING ITS INTENTION TO ESTABLISH THE BAYFRONT PROJECT
SPECIAL TAX FINANCING DISTRICT AND TO AUTHORIZE THE LEVY
OF A SPECIAL TAX THEREIN TO FINANCE PUBLIC AND PRIVATE
IMPROVEMENTS, AND MAINTENANCE AND SERVICES

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, Bayfront Project Special Tax Financing District Procedural Ordinance 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, this City Council desires to proceed to adopt its resolution of intention to initiate the proceedings to consider the establishment of the District, to set forth the proposed boundaries for the District, to indicate the public and private improvements and maintenance and services proposed to be financed by the District, to indicate the proposed rate and apportionment of a special tax sufficient to finance the acquisition or construction of such facilities, the provision of public services, and the administration of the District and any indebtedness incurred by the District, and to set a time and place for a public hearing relating to the establishment of the District; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chula Vista:

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

SECTION 2. Findings and Declaration. The City Council hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to the municipal affairs of the City and that the consideration of the formation of the District will provide significant economic benefits to the City and to the residents of the City, and will result in significant public benefits.

SECTION 3. Initiation of Proceedings. The proceedings are initiated by this City Council pursuant to the provisions of Chapter 3.61.

SECTION 4. Boundaries of the District. It is the intention of the City Council to establish boundaries of the proposed District. 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 subject to the levy of a special tax by the District are 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 and shall remain open for public inspection.

SECTION 5. Name of District. The intention of the City Council is and the City Council hereby proposes, to establish a special tax financing district under and pursuant to Chapter 3.61, to be known as the "Bayfront Project Special Tax Financing District."

SECTION 6. Description of the Improvements. It is the intention of this City Council to authorize the District 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. A general description of such improvements is set forth in Exhibit "A," attached hereto and incorporated herein by this reference (the "Improvements").

All of the Improvements have an estimated useful life of five years or longer. The Improvements are facilities that the City and/or the San Diego Unified 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 (as such term is defined in Government Code Section 53317(e)) and may include, but not be limited to, the cost of planning, design and engineering the facilities; 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. It is the intention of this City Council 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 proposed to be authorized to be financed is set forth in Exhibit "B," attached hereto and incorporated herein by this reference (the "Services"). 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 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. It is hereby further proposed that, except where funds are otherwise available, a special tax sufficient to pay for the Improvements, related Incidental Expenses, and the Services (the “Special Tax” or “Special Taxes”), will be levied pursuant to the provisions of Chapter 3.61. For further particulars as to the rate and method of apportionment of the proposed Special Taxes for the District (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 clearly estimate the maximum amount that such Landowner or Operator will have to pay.

It is the intention of the City Council that the proposed 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. Unlike Chapter 3.40, however, the Special Tax is not imposed on the Transient (as defined in Chapter 3.40), but on the parcel 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 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.

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 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 possessory interest in a parcel within the District for the use of such property during such year as a Hotel or Campsite.

SECTION 9. Public Hearing. NOTICE IS GIVEN THAT on October 15, 2019, 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 Avenue, Chula Vista, California, a public hearing will be held where this City Council will consider the establishment of the District, the rate and method of apportionment of the Special Taxes proposed to be levied within the District, 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 financing of the Improvements, or the financing of the Services, will be heard and considered. 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. Any written protest not personally presented by the author of such protest at the public hearing shall be filed with the City Clerk of the City (the "City Clerk") at 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 as determined pursuant to Chapter 3.61 is filed against the establishment of the District, the proceedings shall be abandoned. Notwithstanding the abandonment of the proceedings, new proceedings to create the District or to authorize the Special Taxes may be initiated at any time thereafter. If such majority protest is limited to certain Improvements, certain Services, or portions of the Special Tax, those Improvements, Services, or that portion of the Special Tax shall be eliminated from the resolution of formation. Notwithstanding the elimination of such types of Improvements or Services or such specified Special Tax from the resolution of intention, new proceedings to authorize the furnishing of such types of Improvements or Services within the District or to authorize the levy of such specified Special Tax may be initiated at any time thereafter.

The public hearing may be continued from time to time without further notice, but shall be completed within two years of the original hearing date.

SECTION 10. Report. The officers of the City who will be responsible for providing one or more of the proposed types of the Improvements and Services 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 Improvements and Services by type which will in their opinion be required to adequately meet the needs of the District and their estimate of the cost of providing those Improvements and Services. For those Improvements proposed to be acquired upon the completion thereof and those Incidental Expenses proposed to be paid for, such report shall contain an estimate of the fair and reasonable cost of such Improvements and such Incidental Expenses. Such report shall be made a part of the record of the public hearing to be held pursuant to Section 9 hereof.

SECTION 11. Election. If, following the public hearing described in Section 9, the City Council determines to establish the District and proposes to levy the Special Taxes within the District, the City Council shall then submit the levy of the Special Taxes to the Landowners (as such term is defined in Chapter 3.61) as the qualified electors of the District pursuant to Chapter 3.61 and the applicable provisions of the California Elections Code. Each Landowner, or the authorized representative thereof, shall have one (1) vote for each acre or portion of an acre of land owned within the District.

SECTION 12. 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 Landowner of property within 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 13. 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 of the City, 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 14. 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. 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 one or more agreements pursuant to which RIDA Chula Vista, LLC, or an affiliate, designee, successor or assignee thereof, shall construct and install all or a portion of the Improvements and the District shall repay the funds expended by RIDA Chula Vista, LLC, or an affiliate, designee, successor or assignee thereof, for such purpose or value or cost of the work in-kind, whichever is less.

Presented 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:

10. 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
11. 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 TAXES