

RESOLUTION NO. \_\_\_\_\_

RESOLUTION FORMING AND ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 16-I (MILLENNIA), DESIGNATING TWO IMPROVEMENT AREAS THEREIN AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES WITHIN EACH IMPROVEMENT AREA OF SUCH COMMUNITY FACILITIES DISTRICT TO THE QUALIFIED ELECTORS OF EACH IMPROVEMENT AREA

WHEREAS, the CITY COUNCIL of the CITY OF CHULA VISTA, CALIFORNIA (the “City Council”), has previously declared its intention to form a community facilities district and designate two improvement areas therein and ordered the preparation of a Community Facilities District Report relating to the initiation of proceedings to create such community facilities district and designate such improvement areas 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 the improvement areas shall hereinafter be referred to as “Improvement Area No. 1” and “Improvement Area No. 2” and collectively, the “Improvement Areas”; and,

WHEREAS, notice of a public hearing relating to the establishment of the District, the extent of the District, the designation of the Improvement Areas, the financing of certain types of public facilities and all other related matters has been given, and a Community Facilities District Report, as ordered by this City Council, has been presented to this City Council and has been made a part of the record of the hearing to establish such District and designate the Improvement Areas; and,

WHEREAS, all communications relating to the establishment of the District, the designation of the Improvement Areas, the financing of certain types of public facilities and the rate and method of apportionment of special tax proposed to be levied within each Improvement Area within the District have been presented, and it has further been determined that a majority protest as defined by law has not been received against these proceedings or the levy of the special tax within either of the Improvement Areas; and,

WHEREAS, inasmuch as there have been less than twelve (12) registered voters residing within the territory of each Improvement Area for at least the preceding ninety (90) days, the authorization to levy special taxes within each such Improvement Area shall be submitted to the landowners of such Improvement Area, such landowners being the qualified electors as authorized by law.

NOW, THEREFORE, BE IT RESOLVED 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 and the designation of the Improvement Areas therein were valid and taken in conformity with the requirements of the law, and specifically the provisions of the Community Facilities District Law, and that this finding and determination is made pursuant to the provisions of Government Code Section 53325.1.
- B. The written protests received, if any, do not represent a majority protest as defined by the applicable provisions of the Community Facilities District Law and as applied to the District and the Improvement Areas and, therefore, the special tax proposed to be levied within each of the Improvement Areas of the District has not been precluded by majority protest pursuant to Section 53324 of the Government Code of the State of California.
- C. The District, as proposed, conforms to the City of Chula Vista Statement of Goals and Policies Regarding the Establishment of Community Facilities Districts (the "Goals and Policies"), as amended, with the exception of certain exemptions to the Goals and Policies provided for in the terms and conditions of the "Financing Plan" contained within that certain Development Agreement pertaining to the Millenia project by and between the City and McMillin Otay Ranch LLC, predecessor in interest to SLF IV-Millenia, LLC, the current owner of the property within the District.
- D. Less than twelve (12) registered voters have resided within the territory of each of the Improvement Areas of the District for each of the ninety (90) days preceding the close of the public hearing, therefore, pursuant to the Act the qualified electors of each Improvement Area shall be the landowners of each such Improvement Area as such term is defined in Government Code Section 53317(f) and each such landowner who is the owner of record as of the close of the public hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that she or he owns within such Improvement Area.
- E. The time limit specified by the Community Facilities District Law for conducting an election to submit the levy of the special taxes to the qualified electors of each of the Improvement Areas and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified electors of each such Improvement Area.

- 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. Community Facilities District Report. The CFD Report for the District (the “Report”), as now submitted by Willdan Financial Services, Special Tax Consultant, shall stand as the report as required pursuant to Government Code Section 53321.5 for all future proceedings and all terms and contents are approved as set forth therein.

SECTION 4. Name of District and Designation of the Improvement Areas. The City Council does hereby establish and declare the formation of the District known and designated as “Community Facilities District No. 16-I (Millenia)” and the designation of the Improvement Areas as “Improvement Area No. 1” and “Improvement Area No. 2.”

SECTION 5. Boundaries of the District and the Improvement Areas. The boundaries of the District and the Improvement Areas are generally described as follows:

All property within the boundaries of Community Facilities District No. 16-I (Millenia) and the Improvement Areas, as shown on a boundary map as previously approved by this legislative body, such map designated by the name of this District, a copy of which is on file in the Office of the City Clerk. The boundary map of the proposed District and the Improvement Areas 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 \_\_ of Book \_\_ of the Book of Maps of Assessment and Community Facilities Districts for such County.

SECTION 6. Description of types of facilities authorized to be financed. A general description of the types of public facilities proposed to be financed under these proceedings, are generally described in Exhibit A attached hereto and incorporated herein by this reference.

The types of facilities as above-described are facilities which the City Council is authorized by law to contribute revenue to or to construct, own or operate. It is hereby further determined that the proposed types of facilities are necessary to meet increased demands placed upon the City as a result of development occurring within the District, and the costs and expenses charged to this District represent the fair share costs of the facilities attributable to this District.

For a full and complete description of such types of facilities, reference is made to the Report, a copy of which is on file in the Office of the City Clerk. In addition to financing the above described types of facilities, the financing of those incidental expenses described in the Report are also approved and authorized.

SECTION 7. Special Tax. Except where funds are otherwise available a separate special tax, secured by recordation of a continuing lien against all non-exempt real property within each

Improvement Area, is hereby authorized, subject to voter approval, to be levied within the boundaries of each such Improvement Area. For particulars as to the rate and method of apportionment of the special tax proposed to be levied within each Improvement Area, reference is made to the attached and incorporated Exhibit "B" (each, a "Rate and Method of Apportionment"), which sets forth in sufficient detail the method of apportionment of the special tax to allow each landowner or resident within each such Improvement Area to estimate the maximum amount that such person will have to pay. Such special tax shall be utilized to pay directly for the previously described types of facilities, to pay debt service on bonds issued by the District for the related Improvement Area to assist in financing such types of facilities, to replenish any reserve fund established for such bonds, and to pay the costs of administering the bonds, the related Improvement Area and the District.

The special taxes herein authorized, to the extent possible, shall be collected in the same manner as ad valorem property taxes and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency as applicable for ad valorem taxes; provided, however, the District may utilize a direct billing procedure for any special taxes that cannot be collected on the County tax roll or may, by resolution, elect to collect the special taxes at a different time or in a different manner if necessary to meet its financial obligations.

Under no circumstances will the special tax to be levied against any parcel within an Improvement Area used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within such Improvement Area by more than 10 percent.

This legislative body further authorizes that special taxes may be prepaid and satisfied by payment of the prepayment amount calculated pursuant to the related Rate and Method of Apportionment.

Upon recordation of a Notice of Special Tax Lien related to an Improvement Area pursuant to Section 3114.5 of the Streets and Highways Code of the State of California against the property within such Improvement Area, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in such Improvement Area and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the legislative body ceases.

**SECTION 8. Special tax 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 7 above:

- A. Each special tax shall be levied for the specific purposes set forth in Section 7. above.
- B. The proceeds of the levy of each such special tax shall be applied only to the specific applicable purposes set forth in Section 7. 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 9. Preparation of annual tax roll. The name, address and telephone number of the office, department or bureau which will be responsible for preparing annually a current roll of special tax levy obligations for each Improvement Area by Assessor's parcel number and which shall be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Government Code of the State of California, are as follows:

Engineering Department  
City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA 92010  
(619) 691-5021

SECTION 10. Substitution facilities. The description of the types of public facilities, as set forth in Exhibit A hereto, is general in its nature. The final nature and location of such facilities 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 11. Acquisition/Financing Agreement. There has been presented to the City Council the form of an Acquisition/Financing Agreement by and between the City and SLF IV-Millenia, LLC, a Delaware limited liability company (the "Developer"), to establish the terms and conditions pursuant to which the facilities to be constructed by the Developer may, upon the completion of the construction thereof, be acquired by the City and the District through financing provided by the District at prices determined pursuant to and in accordance with the provisions of such agreement and the District may issue bonds secured by the levy of special taxes within each of the Improvement Areas. The City Manager is hereby authorized to execute such agreement for and on behalf of the City and the District with such changes thereto as such officer, following consultation with the City Attorney and Best Best & Krieger LLP, deem to be in the best interests of the City and the District.

SECTION 12. Election. This City Council herewith submits the levy of the special tax within each Improvement Area to the qualified electors of such Improvement Area, 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 such Improvement Area.

PREPARED BY:

APPROVED AS TO FORM BY:

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Kelly G. Broughton FASLA  
Director of Developmental Services

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Glen R. Googins  
City Attorney

## EXHIBIT A

### DESCRIPTION OF TYPES OF 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 APPORTIONMENT OF SPECIAL TAX COMMUNITY FACILITIES DISTRICT NO. 16-I (MILLENNIA) IMPROVEMENT AREA NO. 1**

A Special Tax shall be levied on all Taxable Property within the boundaries of Improvement Area No. 1 of Community Facilities District No. 16-I (Millenia) of the City of Chula Vista (“IA1”) and collected each Fiscal Year commencing in Fiscal Year 2016-17, in an amount determined by the CFD Administrator through the application of the procedures described below. All of the real property within IA1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

#### **1. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

“**Acre**” or “**Acreage**” means the land area of an Assessor’s Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map. An Acre means 43,560 square feet of land. If the preceding maps for a land area are not available, the Acreage of such land area shall be determined by the City Engineer.

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

“**Administrative Expense Requirement**” means an annual amount equal to \$75,000, or such lesser amount as may be designated by written instruction from an authorized representative of the City to the Fiscal Agent, to be allocated as the first priority of Special Taxes received each Fiscal Year for the payment of Administrative Expenses.

“**Administrative Expenses**” means the following actual or reasonably estimated costs related to the administration of IA1 including, but not limited to: the costs of preparing and computing the Annual Special Tax (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Fiscal Agent; the costs of the Fiscal Agent (including its legal counsel) in the discharge of the duties required of it under the Fiscal Agent Agreement; the costs to the City, CFD No. 16-I, or any designee thereof complying with arbitrage rebate requirements, including without limitation rebate liability costs and periodic rebate calculations; the costs to the City, CFD No. 16-I, or any designee thereof complying with disclosure or reporting requirements of the City or CFD No. 16-I, associated with applicable federal and State laws; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the City, CFD No. 16-I, or any designee thereof related to an appeal of the Special Tax; and the City’s annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 16-I for any other administrative purposes of CFD



No. 16-I, including attorney's fees and other costs related to commencing and pursuing any foreclosure of delinquent Special Taxes.

**“Annual Special Tax”** means the Special Tax actually levied in any Fiscal Year on any Assessor's Parcel.

**“Assessor”** means the Assessor of the County of San Diego.

**“Assessor's Parcel”** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

**“Assessor's Parcel Map”** means an official map of the Assessor designating parcels by Assessor's Parcel Number.

**“Assessor's Parcel Number”** means the number assigned to an Assessor's Parcel by the County for purposes of identification.

**“Assigned Special Tax”** means the Special Tax of that name described in Section 3.A below.

**“Backup Special Tax”** means the Special Tax of that name described in Section 3.B below.

**“Bonds”** means any bonds or other debt of CFD No. 16-I issued or incurred for IA1, whether in one or more series, secured by the levy of Special Taxes.

**“Building Permit”** means a building permit for construction of a Residential Unit or non-residential structure within IA1 issued by the City.

**“Building Square Footage”** means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, or similar area. The determination of Building Square Footage shall be made by the CFD Administrator by reference to the Building Permit(s) issued for such Assessor's Parcel and/or by reference to appropriate records kept by the City. Building Square Footage for a Residential Unit will be based on the Building Permit(s) issued for such Residential Unit prior to it being classified as Occupied Residential Property, and shall not change as a result of additions or modifications made to such Residential Unit after such classification as Occupied Residential Property.

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

**“CFD Administrator”** means an authorized representative of the City, or designee thereof, responsible for determining the Special Tax Requirement, for preparing the Annual Special Tax roll and/or calculating the Backup Special Tax.

**“CFD No. 16-I”** means the Community Facilities District No. 16-I (Millenia) of the City of Chula Vista.

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

“**City Council**” means the City Council of the City acting as the legislative body of CFD No. 16-I under the Act.

“**Condominium**” means a unit, whether attached or detached, meeting the statutory definition of a condominium contained in the California Civil Code Section 4285.

“**County**” means the County of San Diego, California.

“**Debt Service**” means for each Fiscal Year, the total amount of principal and interest payable on any Outstanding Bonds during the Calendar Year commencing on January 1 of such Fiscal Year.

“**Developed Property**” means for each Fiscal Year, all Taxable Property, exclusive of Provisional Property, for which a Building Permit was issued prior to March 1 of the previous Fiscal Year. An Assessor’s Parcel classified as Developed Property but for which the Building Permit that caused such Assessor’s Parcel to be classified as Developed Property has been cancelled and/or voided prior to the Fiscal Year for which Special Taxes are being levied shall be reclassified as Undeveloped Property, provided that the levy of the Annual Special Tax after such reclassification shall not be less than 1.1 times the annual Debt Service less Administrative Expenses on all Outstanding Bonds. If Bonds have not been issued, an Assessor’s Parcel classified as Developed Property for which such a Building Permit has been cancelled and/or voided shall be reclassified as Undeveloped Property.

“**Development Agreement**” means that certain Development Agreement by and between the City of Chula Vista and McMillin Otay Ranch LLC adopted October 6, 2009 and recorded with the County of San Diego’s Recorder’s office on October 27, 2009 as Document Number 2009-0595116, as may be amended and/or supplemented from time to time.

“**Exempt Property**” means for each Fiscal Year, all Assessor’s Parcels designated as being exempt from Special Taxes pursuant to Section 5 below.

“**Final Map**” means a subdivision of property by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code 4285 that creates individual lots for which Building Permits may be issued without further subdivision.

“**Fiscal Year**” means the period starting on July 1 and ending the following June 30.

“**Fiscal Agent**” means the fiscal agent, trustee, or paying agent under the Fiscal Agent Agreement.

“**Fiscal Agent Agreement**” means the fiscal agent agreement, indenture, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

“**IA1**” means Improvement Area No. 1 of CFD No. 16-I.

“**Land Use Class**” means any of the classes listed in Table 1, 2, or 3 under Section 3A below.

*Note: Land Uses Class is not in reference to a property’s zoning designation.*

“**Lot(s)**” means an individual legal lot created by a Final Map for which a building permit for residential construction has been or could be issued. Notwithstanding the foregoing, in the case of an individual legal lot created by such a Final Map upon which Condominiums are entitled to be developed, the number of Lots allocable to such legal lot for purposes of calculating the Backup Special Tax applicable to such Final Map shall equal the number of Condominiums which are permitted to be constructed on such legal lot as shown on such Final Map.

“**Master Developer**” means SLF IV-Millenia, LLC or its successors or assignees with as defined in the Development Agreement.

“**Maximum Special Tax**” means for each Assessor’s Parcel, the maximum Special Tax, determined in accordance with Sections 3.C and 3.D below, which may be levied in a given Fiscal Year on such Assessor’s Parcel of Taxable Property.

“**Non-Residential Property**” means all Assessor’s Parcels of Developed Property for which a Building Permit has been issued for the purpose of constructing one or more non-residential units or structures.

“**Occupied Residential Property**” means all Assessor Parcels of Residential Property for which title is held by an end user (homeowner).

“**Outstanding Bonds**” means all Bonds which are deemed to be outstanding under the Fiscal Agent Agreement.

“**Prepayment Amount**” means the amount required to prepay the Special Tax Obligation in full for an Assessor’s Parcel as described in Section 8.A below.

“**Property Owner Association Property**” means any Assessor’s Parcel within the boundaries of IA1 owned in fee by a property owner association, including any master or sub-association.

“**Proportionately**” or “**Proportionate**” means for Developed Property, that the ratio of the actual Special Tax levy to the applicable Assigned Special Tax or Backup Special Tax is equal for all Assessor’s Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property. “**Proportionately**” may similarly be applied to other categories of Taxable Property as listed in Section 3 below.

“**Provisional Property**” means all Assessor’s Parcels of Public Property, Property Owner Association Property or property that would otherwise be classified as Exempt Property pursuant to the provisions of Section 5, but cannot be classified as Exempt Property because to do so would

reduce the Acreage of all Taxable Property below the required minimum Acreage as set forth in Section 5.

**“Public Property”** means any property within the boundaries of IA1, which is owned by, or irrevocably offered for dedication to the federal government, the State of California, the County, the City or any other public agency; provided however that any property owned by a public agency and leased to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified in accordance with its use.

**“Residential Property”** means all Assessor’s Parcels of Developed Property for which a Building Permit has been issued for the purpose of constructing one or more Residential Units.

**“Residential Unit”** means each separate residential dwelling unit that comprises an independent facility capable of conveyance or rental, separate from adjacent residential dwelling units.

**“Special Tax”** means any special tax levied within IA1 pursuant to the Act and this Rate and Method of Apportionment of Special Tax.

**“Special Tax Obligation”** means the total obligation of an Assessor’s Parcel of Taxable Property to pay the Special Tax for the remaining life of IA1.

**“Special Tax Requirement”** means that amount required in any Fiscal Year to: (i) pay regularly scheduled Debt Service on all Outstanding Bonds; (ii) pay periodic costs on the Outstanding Bonds, including but not limited to, credit enhancement and rebate payments on the Outstanding Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) accumulate funds to pay directly for acquisition or construction of facilities provided that the inclusion of such amount does not cause an increase in the Special Tax to be levied on Undeveloped Property; and (vi) pay for reasonably anticipated delinquent Special Taxes based on (a) the average delinquency rate for special taxes levied in the previous Fiscal Year in all community facilities districts within the portion of the City commonly known as Otay Ranch for the first Fiscal Year in which Special Taxes are levied and (b) the delinquency rate for Special Taxes levied in the previous Fiscal Year within IA1 for all subsequent Fiscal Years in which Special Taxes are levied; less (vii) a credit for funds available to reduce the Annual Special Tax levy, as determined by the CFD Administrator pursuant to the Fiscal Agent Agreement.

**“State”** means the State of California.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD, which are not exempt from the levy of the Special Tax pursuant to law or Section 5 below.

**“Undeveloped Property”** means, for each Fiscal Year, all Taxable Property not classified as Developed Property or Provisional Property.

**“Zone A”** means the specific geographic area designated as such within IA1 and as depicted in Exhibit A attached hereto.

“**Zone B**” means the specific geographic area designated as such within IA1 and as depicted in Exhibit A attached hereto.

“**Zone C**” means the specific geographic area designated as such within IA1 and as depicted in Exhibit A attached hereto.

## **2. LAND USE CLASSIFICATION**

Each Fiscal Year, beginning with Fiscal Year 2016-17, each Assessor’s Parcel within IA1 shall be classified as Taxable Property or Exempt Property. In addition, all Taxable Property shall further be classified as Developed Property, Undeveloped Property or Provisional Property, and all such Taxable Property shall be subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment of Special Tax determined pursuant to Sections 3 and 4 below. Furthermore, each Assessor’s Parcel of Developed Property shall be classified according to its applicable Land Use Class based on its Building Square Footage.

For Assessor’s Parcels of Non-Residential Property developed with Condominiums (e.g., office or industrial condos), the Acreage applicable to each such Condominium for purposes of levying Special Taxes shall be computed from the Acreage of the legal lot created by the Final Map upon which such Condominiums are entitled to be developed, with the Acreage of such lot allocated to each Condominium on a pro-rata basis using the building square footage of such Condominium relative to the total building square footage of all Condominiums entitled to be developed on such lot. The determination of building square footage for each non-residential Condominium shall be made by reference to the applicable Building Permit, and to the extent a Building Permit has not been issued for all Condominiums to be located on the applicable legal lot, the building square footage attributable to any such Condominiums shall be determined from the recorded condominium plan, or applicable site plan, plot plan, or other appropriate records kept by the City as reasonably determined by the CFD Administrator. In the event the City takes ownership of a Condominium within IA1 and such property in all other respects meets the definition of Public Property as set forth in Section 1, such property shall be exempt from Special Taxes pursuant to Section 5.

## **3. SPECIAL TAX RATES**

### **A. Assigned Special Tax for Developed Property**

The Assigned Special Tax applicable to an Assessor’s Parcel classified as Developed Property commencing Fiscal Year 2016-17 shall be determined pursuant to Table 1, 2, or 3 below, as applicable.

**Table 1**  
**Assigned Special Tax Rates for**  
**Developed Property within Zone A**

| <b>Land Use Class</b> | <b>Land Use Type</b>     | <b>Building Square Footage</b> | <b>Assigned Special Tax</b>  |
|-----------------------|--------------------------|--------------------------------|------------------------------|
| <b>1</b>              | Residential Property     | < 1,500                        | \$1,352 per Residential Unit |
| <b>2</b>              | Residential Property     | 1,500 – 2,200                  | \$1,661 per Residential Unit |
| <b>3</b>              | Residential Property     | > 2,200                        | \$1,799 per Residential Unit |
| <b>4</b>              | Non-Residential Property | N/A                            | \$6,000 per Acre             |

**Table 2**  
**Assigned Special Tax Rates for**  
**Developed Property within Zone B**

| <b>Land Use Class</b> | <b>Land Use Type</b>     | <b>Building Square Footage</b> | <b>Assigned Special Tax</b>  |
|-----------------------|--------------------------|--------------------------------|------------------------------|
| <b>1</b>              | Residential Property     | < 1,500                        | \$1,350 per Residential Unit |
| <b>2</b>              | Residential Property     | 1,500 – 2,200                  | \$1,451 per Residential Unit |
| <b>3</b>              | Residential Property     | > 2,200                        | \$1,649 per Residential Unit |
| <b>4</b>              | Non-Residential Property | N/A                            | \$6,000 per Acre             |

**Table 3**  
**Assigned Special Tax Rates for**  
**Developed Property within Zone C**

| <b>Land Use Class</b> | <b>Land Use Type</b>     | <b>Building Square Footage</b> | <b>Assigned Special Tax</b>  |
|-----------------------|--------------------------|--------------------------------|------------------------------|
| <b>1</b>              | Residential Property     | < 1,500                        | \$1,350 per Residential Unit |
| <b>2</b>              | Residential Property     | 1,500 – 2,200                  | \$1,451 per Residential Unit |
| <b>3</b>              | Residential Property     | > 2,200                        | \$1,649 per Residential Unit |
| <b>4</b>              | Non-Residential Property | N/A                            | \$6,000 per Acre             |

On each July 1, commencing July 1, 2017, the Assigned Special Tax for Developed Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

**B. Backup Special Tax for Developed Property**

When a Final Map or a condominium plan is recorded within Zone A, Zone B, or Zone C the Backup Special Tax for Assessor’s Parcels of Developed Property classified as Residential Property shall be determined as follows:

For each Assessor’s Parcel of Residential Property or for each Assessor’s Parcel of Undeveloped Property to be classified as Residential Property upon its development within the Final Map area, the Backup Special Tax for Fiscal Year 2016-17 shall be the rate per Lot calculated according to the following formula:

$$\text{B} = \frac{\text{Zone A} \\ \$27,502 \times \text{A}}{\text{L}}$$

$$\text{B} = \frac{\text{Zone B} \\ \$29,057 \times \text{A}}{\text{L}}$$

$$\text{B} = \frac{\text{Zone C} \\ \$6,316 \times \text{A}}{\text{L}}$$

The terms have the following meanings:

B = Backup Special Tax per Lot

A = Acreage classified or to be classified as Residential Property in such Final Map. The land area applicable to a Condominium shall be computed from the Acreage of the Lot on which the Condominium is located, with the Acreage for such Lot allocated equally among all of the Condominiums located or to be located on such Lot.

L = For a Final Map, the number of Lots which are classified or to be classified as Residential Property.

For each Assessor's Parcel of Developed Property classified as Non-Residential Property or for each Assessor's Parcel of Undeveloped Property to be classified as Non-Residential Property within the Final Map area, the Backup Special Tax for Fiscal Year 2016-17 shall be determined by multiplying \$27,502 for Zone A, \$29,057 for Zone B and \$6,316 for Zone C by the total Acreage of any such Assessor's Parcel.

Notwithstanding the foregoing, if Assessor's Parcels of Residential Property, Non-Residential Property or Undeveloped Property for which the Backup Special Tax has been determined are subsequently changed or modified by recordation of a new or amended Final Map, then the Backup Special Tax applicable to such Assessor's Parcels shall be recalculated to equal the total amount of Backup Special Tax that would have been generated if such change did not take place.



On each July 1, commencing July 1, 2017, the Backup Special Tax applicable to each Assessor's Parcel of Taxable Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

### **C. Maximum Special Tax for Developed Property**

Each Fiscal Year, the Maximum Special Tax for an Assessor's Parcel of Developed Property shall be the greater of the applicable Assigned Special Tax or Backup Special Tax.

### **D. Maximum Special Tax for Provisional Property and Undeveloped Property**

The Maximum Special Tax for Provisional Property and Undeveloped Property commencing in Fiscal Year 2016-17 shall be \$27,502 per Acre for Zone A, \$29,057 per Acre for Zone B, and \$6,316 per Acre for Zone C.

On each July 1, commencing July 1, 2017, the Maximum Special Tax for Provisional Property and Undeveloped Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

### **E. Multiple Land Use Classes**

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax that may be levied on such an Assessor's Parcel shall only be levied on the Residential Property Land Use Class located on such Assessor's Parcel.

### **F. Administrative Special Tax Reduction**

Prior to the issuance of Bonds, the Assigned Special Tax, Backup Special Tax, and Maximum Special Tax (collectively the "Special Tax Rates") on Taxable Property may be reduced in accordance with, and subject to the conditions set forth in this paragraph. Upon the City's receipt of a written request from Master Developer and the CFD Administrator, the Special Tax Rates on Taxable Property may be reduced to a level which will provide not less than the sum of estimated Administrative Expense Requirement and one hundred ten percent (110%) of the estimated debt service with respect to the amount of Bonds requested to be issued in such written request. If it is reasonably determined by the CFD Administrator that the total effective tax rate on Residential Property, as determined in accordance with the Development Agreement, exceeds the maximum level allowed in the Development Agreement, the Special Tax Rates may be reduced to the amount necessary to satisfy the maximum allowable effective tax rate requirement on Residential Property with the written consent of Master Developer, which consent shall not be unreasonably withheld, and the CFD Administrator. It shall not be required that reductions among each "Building Square Footage" range of Residential Property be proportional. Additionally, the "CFD Public Facilities Costs" amount in Section 8 shall be reduced commensurate with any reductions to the Special Tax Rates pursuant to this paragraph, as reasonably determined by the CFD

Administrator. A certificate in substantially the form attached hereto as Exhibit “B” shall be used for purposes of evidencing the required written consent and effectuating the reduction to the Special Tax Rates. The reductions permitted pursuant to this paragraph shall be reflected in an amended Notice of Special Tax Lien which the City shall cause to be recorded.

#### **4. METHOD OF APPORTIONMENT**

For each Fiscal Year, commencing Fiscal Year 2016-17, the CFD Administrator shall levy the Special Tax on all Taxable Property in accordance with the following steps:

**Step 1:** The Special Tax shall be levied Proportionately on each Assessor’s Parcel of Developed Property at up to 100% of the applicable Assigned Special Tax to satisfy the Special Tax Requirement;

**Step 2:** If additional monies are needed to satisfy the Special Tax Requirement after Step 1 has been completed, the Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for Undeveloped Property;

**Step 3:** If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the Special Tax amount determined in Step 1 shall be increased Proportionately on each Assessor’s Parcel of Developed Property up to 100% of the Maximum Special Tax for Developed Property.

**Step 4:** If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor’s Parcel of Provisional Property up to 100% of the Maximum Special Tax for Provisional Property;

Notwithstanding the above, under no circumstances will the Special Tax levied in any Fiscal Year against any Assessor’s Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of a delinquency or default in the payment of the Special Tax applicable to any other Assessor’s Parcel within IA1 by more than ten percent (10%) above what would have been levied in the absence of such delinquencies or defaults.

#### **5. EXEMPTIONS**

The CFD Administrator shall classify as Exempt Property (i) Assessor’s Parcels of Public Property, (ii) Assessor’s Parcels of Property Owner Association Property, (iii) Assessor’s Parcels which are used as places of worship and are exempt from ad valorem property taxes because they are owned by a religious organization, and (iv) Assessor’s Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, provided that no such classification would reduce the sum of all Taxable Property in IA1 to less than 9.53 Acres for Zone A, 12.67 Acres for Zone B, or 17.09 Acres for Zone C. Assessor’s Parcels which cannot be classified as Exempt Property because such classification would reduce the sum of all Taxable

Property in IA1 to less than 9.53 Acres for Zone A, 12.67 Acres for Zone B, or 17.09 Acres for Zone C, shall be classified as Provisional Property and will continue to be subject to the IA1 Special Taxes accordingly. Tax exempt status for the purpose of this paragraph will be assigned by the CFD Administrator in the chronological order in which property becomes eligible for classification as Exempt Property.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in the first paragraph of Section 5 above that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be deemed to be Taxable Property.

## **6. APPEALS**

Any landowner who pays the Special Tax and claims the amount of the Special Tax levied on his or her Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error not later than thirty-six (36) months after first having paid the first installment of the Special Tax that is disputed. If following such consultation the CFD Administrator determines that an error has occurred, then the CFD Administrator shall take any of the following actions, in order of priority, in order to correct the error:

- (i) Amend the Special Tax levy on the landowner's Assessor's Parcel(s) for the current Fiscal Year prior to the payment date,
- (ii) Require the CFD to reimburse the landowner for the amount of the overpayment to the extent of available CFD funds, or
- (iii) Grant a credit against, eliminate or reduce the future Special Taxes on the landowner's Assessor's Parcel(s) in the amount of the overpayment.

If following such consultation and action by the CFD Administrator the landowner believes such error still exists, such person may file a written notice of appeal with the City Council. Upon the receipt of such notice, the City Council or designee may establish such procedures as deemed necessary to undertake the review of any such appeal. If the City Council or designee determines an error still exists, the CFD Administrator shall take any of the actions described as (i), (ii) and (iii) above, in order of priority, in order to correct the error.

The City Council or designee thereof shall interpret this Rate and Method of Apportionment of Special Tax for purposes of clarifying any ambiguities and make determinations relative to the administration of the Special Tax and any landowner appeals. The decision of the City Council or designee shall be final and binding as to all persons.

## **7. COLLECTION OF SPECIAL TAXES**

Collection of the Annual Special Tax shall be made by the County in the same manner as ordinary ad valorem property taxes are collected and the Annual Special Tax shall be subject to the same penalties and the same lien priority in the case of delinquency as ad valorem taxes; provided,

however, that the City Council may provide for (i) other means of collecting the Special Tax, including direct billings thereof to the property owners; and (ii) judicial foreclosure of delinquent Annual Special Taxes.

## **8. PREPAYMENT OF SPECIAL TAX OBLIGATION**

### **A. Prepayment in Full**

Property owners may prepay and permanently satisfy the Special Tax Obligation by a cash settlement with the City as permitted under Government Code Section 53344. The following definitions apply to this Section 8:

**“CFD Public Facilities Costs”** means \$12,550,000 or such lower number as (i) shall be determined by the CFD Administrator as sufficient to acquire or construct the facilities to be financed under the Act and financing program for IA1, or (ii) shall be determined by the City Council concurrently with a covenant that it will not issue any more Bonds (except refunding bonds).

**“Construction Fund”** means the fund (regardless of its name) established pursuant to the Fiscal Agent Agreement to hold funds, which are currently available for expenditure to acquire or construct the facilities or pay fees authorized to be funded by CFD No. 16-I for IA1.

**“Future Facilities Costs”** means the CFD Public Facilities Costs minus (i) costs previously paid from the Construction Fund to acquire or construct the facilities, (ii) monies currently on deposit in the Construction Fund, and (iii) monies currently on deposit in an escrow or other designated fund that are expected to be available to finance CFD Public Facilities Costs.

**“Outstanding Bonds”** means all Previously Issued Bonds, which remain outstanding as of the first interest and/or principal payment date following the current Fiscal Year excluding Bonds to be redeemed at a later date with proceeds of prior Special Tax prepayments.

**“Previously Issued Bonds”** means all Bonds that have been issued prior to the date of prepayment.

The Special Tax Obligation applicable to an Assessor’s Parcel of Developed Property, or Undeveloped Property for which a Building Permit has been issued may be prepaid and the obligation to pay the Special Tax for such Assessor’s Parcel permanently satisfied as described herein, provided that a prepayment may be made with respect to a particular Assessor’s Parcel only if there are no delinquent Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. An owner of an Assessor’s Parcel eligible to prepay the Special Tax Obligation shall provide the CFD Administrator with written notice of intent to prepay, and designate or identify the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the Prepayment Amount for such Assessor’s Parcel within thirty (30) days of the request, and

may charge a reasonable fee for providing this service. Prepayment must be made at least 60 days prior to any redemption date for the Bonds to be redeemed with the proceeds of such prepaid Special Taxes, unless a shorter period is acceptable to the Fiscal Agent and the City.

The Prepayment Amount (defined below) shall be calculated for each applicable Assessor's Parcel or group of Assessor's Parcels as summarized below (capitalized terms as defined below):

Bond Redemption Amount  
plus Redemption Premium  
plus Future Facilities Prepayment Amount  
plus Defeasance Amount  
plus Prepayment Administrative Fees and Expenses  
less Reserve Fund Credit  
less Capitalized Interest Credit  
Total: equals Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount (defined in Step 14 below) shall be calculated as follows:

**Step No.:**

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For Assessor's Parcels of Developed Property, determine the Maximum Special Tax. For Assessor's Parcels of Undeveloped Property for which a Building Permit has been issued, compute the Maximum Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the Building Permit which has already been issued for that Assessor's Parcel.
3. Divide the Maximum Special Tax computed pursuant to paragraph 2 by the total expected Maximum Special Tax revenue for IA1 assuming all Building Permits have been issued (build-out) within IA1, excluding any Assessor's Parcels for which the Special Tax Obligation has been previously prepaid.
4. Multiply the quotient computed pursuant to paragraph 3 by the Outstanding Bonds and round that number up to the nearest \$5,000 increment to compute the amount of Outstanding Bonds to be retired and prepaid for all applicable Assessor's Parcels (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (expressed as a percentage), if any, on the

Outstanding Bonds to be redeemed at the first available call date (the “Redemption Premium”).

6. Compute the Future Facilities Costs.
7. Multiply the quotient computed pursuant to paragraph 3 by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the “Future Facilities Prepayment Amount”).
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the expected redemption date for the Outstanding Bonds which, depending on the Fiscal Agent Agreement, may be as early as the next interest payment date.
9. Compute the amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Prepayment Amount and the Prepayment Administrative Fees from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
10. Subtract the amount computed in paragraph 9 from the amount computed in paragraph 8 (the “Defeasance Amount”).
11. Calculate the administrative fees and expenses of CFD No. 16-I for IA1, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming the Outstanding Bonds to be redeemed with the prepayment, and the costs of recording any notices to evidence the prepayment and the redemption (the “Prepayment Administrative Fees”).
12. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Fiscal Agent Agreement) on the prepayment calculation date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “Reserve Fund Credit”). No Reserve Fund Credit shall be granted if, after the Prepayment Amount is calculated, reserve funds are below 100% of the reserve requirement after taking into account such prepayment.
13. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the quotient computed pursuant to paragraph 3 by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the “Capitalized Interest Credit”).

14. The amount to prepay the Special Tax Obligation is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 10, and 11, less the amounts computed pursuant to paragraphs 12 and 13 (the “Prepayment Amount”).
15. From the Prepayment Amount, the sum of the amounts computed pursuant to paragraphs 4, 5, and 10, less the amounts computed pursuant to paragraphs 12 and 13 shall be deposited into the appropriate fund as established under the Fiscal Agent Agreement and be used to retire Outstanding Bonds or make Debt Service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 11 shall be retained by CFD No. 16-I.

The Prepayment Amount may be sufficient to redeem an amount other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the appropriate fund established under the Fiscal Agent Agreement to redeem Bonds to be used with the next prepayment of Bonds.

The CFD Administrator will confirm that all previously levied Special Taxes have been paid in full. With respect to any Assessor's Parcel for which the Special Tax Obligation is prepaid in full, once the CFD Administrator has confirmed that all previously levied Special Taxes have been paid, the City Council shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of the Special Tax Obligation and the release of the Special Tax lien on such Assessor’s Parcel, and the obligation of the owner of such Assessor's Parcel to pay the Special Tax shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the aggregate amount of Maximum Special Taxes less the Administrative Expense Requirement that may be levied on Taxable Property, respectively, after the proposed prepayment is at least 1.1 times the Debt Service on all Outstanding Bonds in each Fiscal Year.

**B. Partial Prepayment**

The Special Tax on an Assessor’s Parcel of Developed Property or Undeveloped Property for which a Building Permit has been issued may be partially prepaid. The amount of the prepayment shall be calculated as in Section 8.A.; except that a partial prepayment shall be calculated according to the following formula:

$$PP = (PE-A) \times F+A$$

These terms have the following meaning:

PP = the partial prepayment

PE = the Prepayment Amount calculated according to Section 8.A

F = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax Obligation

A = the Prepayment Administrative Fees and Expenses from Section 8.A

The owner of any Assessor's Parcel who desires such partial prepayment shall notify the CFD Administrator of (i) such owner's intent to partially prepay the Special Tax Obligation, (ii) the percentage by which the Special Tax Obligation shall be prepaid, and (iii) the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax Obligation for an Assessor's Parcel within sixty (60) days of the request and may charge a reasonable fee for providing this service.

With respect to any Assessor's Parcel that is partially prepaid, the City shall (i) distribute the funds remitted to it according to Section 8.A., and (ii) indicate in the records of CFD No. 16-I for IA1 that there has been a partial prepayment of the Special Tax Obligation and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (1.00 - F) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel.

Notwithstanding the foregoing, no partial prepayment shall be allowed unless the aggregate amount of Maximum Special Taxes less the Administrative Expense Requirement that may be levied on Taxable Property, respectively, after the proposed partial prepayment is at least 1.1 times the Debt Service on all Outstanding Bonds in each Fiscal Year.

## **9. TERM OF SPECIAL TAX**

The Special Tax shall be levied as long as necessary to meet the Special Tax Requirement for a period not to exceed forty (40) Fiscal Years commencing with Fiscal Year 2016-17.



**EXHIBIT A**

*[Attach CFD Boundary Map]*

**EXHIBIT B**

**CITY OF CHULA VISTA AND CFD NO. 16-I CERTIFICATE**

1. Pursuant to Section 3F of the Rate and Method of Apportionment of Special Tax (the “RMA”), the City of Chula Vista (the “City”) and Community Facilities District No. 16-I of the City of Chula Vista (“CFD No. 16-I”) hereby agree to a reduction in the Special Tax for Developed Property, Undeveloped Property, and/or Provisional Property:
  - (a) The information in the RMA relating to the Special Tax for Developed Property, Undeveloped Property, and Provisional Property shall be modified as follows:

*[insert Table 1, 2, and/or 3 showing revised Assigned Special Tax rates for Developed Property, insert revised Backup Special Tax rates for Developed Property by Zone, and insert change to Maximum Special Tax rates for Undeveloped Property and Provisional Property by Zone]*
  - (b) The CFD Public Facilities Costs in Section 8 shall be changed to \$\_\_\_\_\_.
2. Special Tax rates for Taxable Property may only be modified prior to the issuance of Bonds.
3. Upon execution of the Certificate by the City and CFD No. 16-I the City shall cause an amended Notice of Special Tax Lien for IA1 to be recorded reflecting the modifications set forth herein.

By execution hereof, the undersigned acknowledges, on behalf of the City of Chula Vista and CFD No. 16-I, receipt of this Certificate and modification of the RMA as set forth in this Certificate.

CITY OF CHULA VISTA

By: \_\_\_\_\_  
CFD Administrator

Date: \_\_\_\_\_

COMMUNITY FACILITIES DISTRICT NO. 16-I  
OF THE CITY OF CHULA VISTA

By: \_\_\_\_\_

Date: \_\_\_\_\_

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX  
COMMUNITY FACILITIES DISTRICT NO. 16-I (MILLENNIA)  
IMPROVEMENT AREA NO. 2**

A Special Tax shall be levied on all Taxable Property within the boundaries of Improvement Area No. 1 of Community Facilities District No. 16-I (Millenia) of the City of Chula Vista (“IA2”) and collected each Fiscal Year commencing in Fiscal Year 2016-17, in an amount determined by the CFD Administrator through the application of the procedures described below. All of the real property within IA2, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent, and in the manner herein provided.

**1. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

“**Acre**” or “**Acreage**” means the land area of an Assessor’s Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map. An Acre means 43,560 square feet of land. If the preceding maps for a land area are not available, the Acreage of such land area shall be determined by the City Engineer.

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

“**Administrative Expense Requirement**” means an annual amount equal to \$75,000, or such lesser amount as may be designated by written instruction from an authorized representative of the City to the Fiscal Agent, to be allocated as the first priority of Special Taxes received each Fiscal Year for the payment of Administrative Expenses.

“**Administrative Expenses**” means the following actual or reasonably estimated costs related to the administration of IA2 including, but not limited to: the costs of preparing and computing the Annual Special Tax (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Fiscal Agent; the costs of the Fiscal Agent (including its legal counsel) in the discharge of the duties required of it under the Fiscal Agent Agreement; the costs to the City, CFD No. 16-I, or any designee thereof complying with arbitrage rebate requirements, including without limitation rebate liability costs and periodic rebate calculations; the costs to the City, CFD No. 16-I, or any designee thereof complying with disclosure or reporting requirements of the City or CFD No. 16-I, associated with applicable federal and State laws; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs to the City, CFD No. 16-I, or any designee thereof related to an appeal of the Special Tax; and the City’s annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 16-I for any other administrative purposes of CFD No. 16-I, including attorney’s fees and other costs related to commencing and pursuing any foreclosure of delinquent Special Taxes.

**“Annual Special Tax”** means the Special Tax actually levied in any Fiscal Year on any Assessor’s Parcel.

**“Assessor”** means the Assessor of the County of San Diego.

**“Assessor's Parcel”** means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

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

**“Assessor's Parcel Number”** means the number assigned to an Assessor's Parcel by the County for purposes of identification.

**“Assigned Special Tax”** means the Special Tax of that name described in Section 3.A below.

**“Backup Special Tax”** means the Special Tax of that name described in Section 3.B below.

**“Bonds”** means any bonds or other debt of CFD No. 16-I issued or incurred for IA2, whether in one or more series, secured by the levy of Special Taxes.

**“Building Permit”** means a building permit for construction of a Residential Unit or non-residential structure within IA2 issued by the City.

**“Building Square Footage”** means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, or similar area. The determination of Building Square Footage shall be made by the CFD Administrator by reference to the Building Permit(s) issued for such Assessor’s Parcel and/or by reference to appropriate records kept by the City. Building Square Footage for a Residential Unit will be based on the Building Permit(s) issued for such Residential Unit prior to it being classified as Occupied Residential Property, and shall not change as a result of additions or modifications made to such Residential Unit after such classification as Occupied Residential Property.

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

**“CFD Administrator”** means an authorized representative of the City, or designee thereof, responsible for determining the Special Tax Requirement, for preparing the Annual Special Tax roll and/or calculating the Backup Special Tax.

**“CFD No. 16-I”** means the Community Facilities District No. 16-I (Millenia) of the City of Chula Vista.

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

**“City Council”** means the City Council of the City acting as the legislative body of CFD No. 16-I under the Act.

**“Condominium”** means a unit, whether attached or detached, meeting the statutory definition of a condominium contained in the California Civil Code Section 4285.

**“County”** means the County of San Diego, California.

**“Debt Service”** means for each Fiscal Year, the total amount of principal and interest payable on any Outstanding Bonds during the Calendar Year commencing on January 1 of such Fiscal Year.

**“Developed Property”** means for each Fiscal Year, all Taxable Property, exclusive of Provisional Property, for which a Building Permit was issued prior to March 1 of the previous Fiscal Year. An Assessor’s Parcel classified as Developed Property but for which the Building Permit that caused such Assessor’s Parcel to be classified as Developed Property has been cancelled and/or voided prior to the Fiscal Year for which Special Taxes are being levied shall be reclassified as Undeveloped Property, provided that the levy of the Annual Special Tax after such reclassification shall not be less than 1.1 times the annual Debt Service less Administrative Expenses on all Outstanding Bonds. If Bonds have not been issued, an Assessor’s Parcel classified as Developed Property for which such a Building Permit has been cancelled and/or voided shall be reclassified as Undeveloped Property.

**“Development Agreement”** means that certain Development Agreement by and between the City of Chula Vista and McMillin Otay Ranch LLC adopted October 6, 2009 and recorded with the County of San Diego’s Recorder’s office on October 27, 2009 as Document Number 2009-0595116, as may be amended and/or supplemented from time to time.

**“Exempt Property”** means for each Fiscal Year, all Assessor’s Parcels designated as being exempt from Special Taxes pursuant to Section 5 below.

**“Final Map”** means a subdivision of property by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a condominium plan pursuant to California Civil Code 4285 that creates individual lots for which Building Permits may be issued without further subdivision.

**“Fiscal Year”** means the period starting on July 1 and ending the following June 30.

**“Fiscal Agent”** means the fiscal agent, trustee, or paying agent under the Fiscal Agent Agreement.

**“Fiscal Agent Agreement”** means the fiscal agent agreement, indenture, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**“IA2”** means Improvement Area No. 2 of CFD No. 16-I.

**“Land Use Class”** means any of the classes listed in Table 1 or 2 under Section 3A below.

*Note: Land Uses Class is not in reference to a property's zoning designation.*

**“Lot(s)”** means an individual legal lot created by a Final Map for which a building permit for residential construction has been or could be issued. Notwithstanding the foregoing, in the case of an individual legal lot created by such a Final Map upon which Condominiums are entitled to be developed, the number of Lots allocable to such legal lot for purposes of calculating the Backup Special Tax applicable to such Final Map shall equal the number of Condominiums which are permitted to be constructed on such legal lot as shown on such Final Map.

**“Master Developer”** means SLF IV-Millenia, LLC or its successors or assignees as defined in the Development Agreement.

**“Maximum Special Tax”** means for each Assessor's Parcel, the maximum Special Tax, determined in accordance with Sections 3.C and 3.D below, which may be levied in a given Fiscal Year on such Assessor's Parcel of Taxable Property.

**“Non-Residential Property”** means all Assessor's Parcels of Developed Property for which a Building Permit has been issued for the purpose of constructing one or more non-residential units or structures.

**“Occupied Residential Property”** means all Assessor Parcels of Residential Property for which title is held by an end user (homeowner).

**“Outstanding Bonds”** means all Bonds which are deemed to be outstanding under the Fiscal Agent Agreement.

**“Prepayment Amount”** means the amount required to prepay the Special Tax Obligation in full for an Assessor's Parcel as described in Section 8.A below.

**“Property Owner Association Property”** means any Assessor's Parcel within the boundaries of IA2 owned in fee by a property owner association, including any master or sub-association.

**“Proportionately”** or **“Proportionate”** means for Developed Property, that the ratio of the actual Special Tax levy to the applicable Assigned Special Tax or Backup Special Tax is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property. **“Proportionately”** may similarly be applied to other categories of Taxable Property as listed in Section 3 below.

**“Provisional Property”** means all Assessor's Parcels of Public Property, Property Owner Association Property or property that would otherwise be classified as Exempt Property pursuant to the provisions of Section 5, but cannot be classified as Exempt Property because to do so would reduce the Acreage of all Taxable Property below the required minimum Acreage as set forth in Section 5.

**“Public Property”** means any property within the boundaries of IA2, which is owned by, or irrevocably offered for dedication to the federal government, the State of California, the County, the City or any other public agency; provided however that any property owned by a public agency and leased to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified in accordance with its use.

**“Residential Property”** means all Assessor’s Parcels of Developed Property for which a Building Permit has been issued for the purpose of constructing one or more Residential Units.

**“Residential Unit”** means each separate residential dwelling unit that comprises an independent facility capable of conveyance or rental, separate from adjacent residential dwelling units.

**“Special Tax”** means any special tax levied within IA2 pursuant to the Act and this Rate and Method of Apportionment of Special Tax.

**“Special Tax Obligation”** means the total obligation of an Assessor’s Parcel of Taxable Property to pay the Special Tax for the remaining life of IA2.

**“Special Tax Requirement”** means that amount required in any Fiscal Year to: (i) pay regularly scheduled Debt Service on all Outstanding Bonds; (ii) pay periodic costs on the Outstanding Bonds, including but not limited to, credit enhancement and rebate payments on the Outstanding Bonds; (iii) pay Administrative Expenses; (iv) pay any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) accumulate funds to pay directly for acquisition or construction of facilities provided that the inclusion of such amount does not cause an increase in the Special Tax to be levied on Undeveloped Property; and (vi) pay for reasonably anticipated delinquent Special Taxes based on (a) the average delinquency rate for special taxes levied in the previous Fiscal Year in all community facilities districts within the portion of the City commonly known as Otay Ranch for the first Fiscal Year in which Special Taxes are levied and (b) the delinquency rate for Special Taxes levied in the previous Fiscal Year within IA2 for all subsequent Fiscal Years in which Special Taxes are levied; less (vii) a credit for funds available to reduce the Annual Special Tax levy, as determined by the CFD Administrator pursuant to the Fiscal Agent Agreement.

**“State”** means the State of California.

**“Taxable Property”** means all of the Assessor’s Parcels within the boundaries of CFD, which are not exempt from the levy of the Special Tax pursuant to law or Section 5 below.

**“Undeveloped Property”** means, for each Fiscal Year, all Taxable Property not classified as Developed Property or Provisional Property.

**“Zone A”** means the specific geographic area designated as such within IA2 and as depicted in Exhibit A attached hereto.

**“Zone B”** means the specific geographic area designated as such within IA2 and as depicted in Exhibit A attached hereto.

## **2. LAND USE CLASSIFICATION**

Each Fiscal Year, beginning with Fiscal Year 2016-17, each Assessor's Parcel within IA2 shall be classified as Taxable Property or Exempt Property. In addition, all Taxable Property shall further be classified as Developed Property, Undeveloped Property or Provisional Property, and all such Taxable Property shall be subject to the levy of Special Taxes in accordance with this Rate and Method of Apportionment of Special Tax determined pursuant to Sections 3 and 4 below. Furthermore, each Assessor's Parcel of Developed Property shall be classified according to its applicable Land Use Class based on its Building Square Footage.

For Assessor's Parcels of Non-Residential Property developed with Condominiums (e.g., office or industrial condos), the Acreage applicable to each such Condominium for purposes of levying Special Taxes shall be computed from the Acreage of the legal lot created by the Final Map upon which such Condominiums are entitled to be developed, with the Acreage of such lot allocated to each Condominium on a pro-rata basis using the building square footage of such Condominium relative to the total building square footage of all Condominiums entitled to be developed on such lot. The determination of building square footage for each non-residential Condominium shall be made by reference to the applicable Building Permit, and to the extent a Building Permit has not been issued for all Condominiums to be located on the applicable legal lot, the building square footage attributable to any such Condominiums shall be determined from the recorded condominium plan, or applicable site plan, plot plan, or other appropriate records kept by the City as reasonably determined by the CFD Administrator. In the event the City takes ownership of a Condominium within IA2 and such property in all other respects meets the definition of Public Property as set forth in Section 1, such property shall be exempt from Special Taxes pursuant to Section 5.

## **3. SPECIAL TAX RATES**

### **A. Assigned Special Tax for Developed Property**

The Assigned Special Tax applicable to an Assessor's Parcel classified as Developed Property commencing Fiscal Year 2016-17 shall be determined pursuant to Table 1 or 2 below, as applicable.



**Table 1  
Assigned Special Tax Rates for  
Developed Property within Zone A**

| <b>Land Use Class</b> | <b>Land Use Type</b>     | <b>Building Square Footage</b> | <b>Assigned Special Tax</b>  |
|-----------------------|--------------------------|--------------------------------|------------------------------|
| <b>1</b>              | Residential Property     | ≤ 1,450                        | \$1,360 per Residential Unit |
| <b>2</b>              | Residential Property     | >1,450                         | \$1,628 per Residential Unit |
| <b>3</b>              | Non-Residential Property | N/A                            | \$6,000 per Acre             |

**Table 2  
Assigned Special Tax Rates for  
Developed Property within Zone B**

| <b>Land Use Class</b> | <b>Land Use Type</b>     | <b>Building Square Footage</b> | <b>Assigned Special Tax</b>  |
|-----------------------|--------------------------|--------------------------------|------------------------------|
| <b>1</b>              | Residential Property     | ≤ 1,450                        | \$1,360 per Residential Unit |
| <b>2</b>              | Residential Property     | >1,450                         | \$1,628 per Residential Unit |
| <b>3</b>              | Non-Residential Property | N/A                            | \$6,000 per Acre             |

On each July 1, commencing July 1, 2017, the Assigned Special Tax for Developed Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

**B. Backup Special Tax for Developed Property**

When a Final Map or a condominium plan is recorded within Zone A or Zone B the Backup Special Tax for Assessor’s Parcels of Developed Property classified as Residential Property shall be determined as follows:

For each Assessor’s Parcel of Residential Property or for each Assessor’s Parcel of Undeveloped Property to be classified as Residential Property upon its development within

the Final Map area, the Backup Special Tax for Fiscal Year 2016-17 shall be the rate per Lot calculated according to the following formula:

$$B = \frac{\frac{\text{Zone A}}{\$46,358 \times A}}{L}$$

$$B = \frac{\frac{\text{Zone B}}{\$6,316 \times A}}{L}$$

The terms have the following meanings:

B = Backup Special Tax per Lot

A = Acreage classified or to be classified as Residential Property in such Final Map. The land area applicable to a Condominium shall be computed from the Acreage of the Lot on which the Condominium is located, with the Acreage for such Lot allocated equally among all of the Condominiums located or to be located on such Lot.

L = For a Final Map, the number of Lots which are classified or to be classified as Residential Property.

For each Assessor’s Parcel of Developed Property classified as Non-Residential Property or for each Assessor’s Parcel of Undeveloped Property to be classified as Non-Residential Property within the Final Map area, the Backup Special Tax for Fiscal Year 2016-17 shall be determined by multiplying \$46,358 for Zone A and \$6,316 for Zone B by the total Acreage of any such Assessor’s Parcel.

Notwithstanding the foregoing, if Assessor’s Parcels of Residential Property, Non-Residential Property or Undeveloped Property for which the Backup Special Tax has been determined are subsequently changed or modified by recordation of a new or amended Final Map, then the Backup Special Tax applicable to such Assessor’s Parcels shall be recalculated to equal the total amount of Backup Special Tax that would have been generated if such change did not take place.

On each July 1, commencing July 1, 2017, the Backup Special Tax applicable to each Assessor’s Parcel of Taxable Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

**C. Maximum Special Tax for Developed Property**

Each Fiscal Year, the Maximum Special Tax for an Assessor's Parcel of Developed Property shall be the greater of the applicable Assigned Special Tax or Backup Special Tax.

**D. Maximum Special Tax for Provisional Property and Undeveloped Property**

The Maximum Special Tax for Provisional Property and Undeveloped Property commencing in Fiscal Year 2016-17 shall be \$46,358 per Acre for Zone A and \$6,316 per Acre for Zone B.

On each July 1, commencing July 1, 2017, the Maximum Special Tax for Provisional Property and Undeveloped Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

**E. Multiple Land Use Classes**

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. The Maximum Special Tax that may be levied on such an Assessor's Parcel shall only be levied on the Residential Property Land Use Class located on such Assessor's Parcel.

**F. Administrative Special Tax Reduction**

Prior to the issuance of Bonds, the Assigned Special Tax, Backup Special Tax, and Maximum Special Tax (collectively the "Special Tax Rates") on Taxable Property may be reduced in accordance with, and subject to the conditions set forth in this paragraph. Upon the City's receipt of a written request from Master Developer and the CFD Administrator, the Special Tax Rates on Taxable Property may be reduced to a level which will provide not less than the sum of estimated Administrative Expense Requirement and one hundred ten percent (110%) of the estimated debt service with respect to the amount of Bonds requested to be issued in such written request. If it is reasonably determined by the CFD Administrator that the total effective tax rate on Residential Property, as determined in accordance with the Development Agreement, exceeds the maximum level allowed in the Development Agreement, the Special Tax Rates may be reduced to the amount necessary to satisfy the maximum allowable effective tax rate requirement on Residential Property with the written consent of Master Developer, which consent shall not be unreasonably withheld, and the CFD Administrator. It shall not be required that reductions among each "Building Square Footage" range of Residential Property be proportional. Additionally, the "CFD Public Facilities Costs" amount in Section 8 shall be reduced commensurate with any reductions to the Special Tax Rates pursuant to this paragraph, as reasonably determined by the CFD Administrator. A certificate in substantially the form attached hereto as Exhibit "B" shall be used for purposes of evidencing the required written consent and effectuating the reduction to the Special Tax Rates. The reductions permitted pursuant to this paragraph shall be reflected in an amended Notice of Special Tax Lien which the City shall cause to be recorded.

#### **4. METHOD OF APPORTIONMENT**

For each Fiscal Year, commencing Fiscal Year 2016-17, the CFD Administrator shall levy the Special Tax on all Taxable Property in accordance with the following steps:

**Step 1:** The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property at up to 100% of the applicable Assigned Special Tax to satisfy the Special Tax Requirement;

**Step 2:** If additional monies are needed to satisfy the Special Tax Requirement after Step 1 has been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax for Undeveloped Property;

**Step 3:** If additional monies are needed to satisfy the Special Tax Requirement after the first two steps have been completed, then the Special Tax amount determined in Step 1 shall be increased Proportionately on each Assessor's Parcel of Developed Property up to 100% of the Maximum Special Tax for Developed Property.

**Step 4:** If additional monies are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax shall be levied Proportionately on each Assessor's Parcel of Provisional Property up to 100% of the Maximum Special Tax for Provisional Property;

Notwithstanding the above, under no circumstances will the Special Tax levied in any Fiscal Year against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued be increased as a result of a delinquency or default in the payment of the Special Tax applicable to any other Assessor's Parcel within IA2 by more than ten percent (10%) above what would have been levied in the absence of such delinquencies or defaults.

#### **5. EXEMPTIONS**

The CFD Administrator shall classify as Exempt Property (i) Assessor's Parcels of Public Property, (ii) Assessor's Parcels of Property Owner Association Property, (iii) Assessor's Parcels which are used as places of worship and are exempt from ad valorem property taxes because they are owned by a religious organization, and (iv) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, provided that no such classification would reduce the sum of all Taxable Property in IA2 to less than 14.89 Acres for Zone A or 7.92 Acres for Zone B. Assessor's Parcels which cannot be classified as Exempt Property because such classification would reduce the sum of all Taxable Property in IA2 to less than 14.89 Acres for Zone A or 7.92 Acres for Zone B shall be classified as Provisional Property and will continue to be subject to the IA2 Special Taxes accordingly. Tax exempt status for the purpose of this paragraph will be assigned by the CFD Administrator in the chronological order in which property becomes eligible for classification as Exempt Property.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth in the first paragraph of Section 5 above that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be deemed to be Taxable Property.

## **6. APPEALS**

Any landowner who pays the Special Tax and claims the amount of the Special Tax levied on his or her Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error not later than thirty-six (36) months after first having paid the first installment of the Special Tax that is disputed. If following such consultation the CFD Administrator determines that an error has occurred, then the CFD Administrator shall take any of the following actions, in order of priority, in order to correct the error:

- (iv) Amend the Special Tax levy on the landowner's Assessor's Parcel(s) for the current Fiscal Year prior to the payment date,
- (v) Require the CFD to reimburse the landowner for the amount of the overpayment to the extent of available CFD funds, or
- (vi) Grant a credit against, eliminate or reduce the future Special Taxes on the landowner's Assessor's Parcel(s) in the amount of the overpayment.

If following such consultation and action by the CFD Administrator the landowner believes such error still exists, such person may file a written notice of appeal with the City Council. Upon the receipt of such notice, the City Council or designee may establish such procedures as deemed necessary to undertake the review of any such appeal. If the City Council or designee determines an error still exists, the CFD Administrator shall take any of the actions described as (i), (ii) and (iii) above, in order of priority, in order to correct the error.

The City Council or designee thereof shall interpret this Rate and Method of Apportionment of Special Tax for purposes of clarifying any ambiguities and make determinations relative to the administration of the Special Tax and any landowner appeals. The decision of the City Council or designee shall be final and binding as to all persons.

## **7. COLLECTION OF SPECIAL TAXES**

Collection of the Annual Special Tax shall be made by the County in the same manner as ordinary ad valorem property taxes are collected and the Annual Special Tax shall be subject to the same penalties and the same lien priority in the case of delinquency as ad valorem taxes; provided, however, that the City Council may provide for (i) other means of collecting the Special Tax, including direct billings thereof to the property owners; and (ii) judicial foreclosure of delinquent Annual Special Taxes.

## **8. PREPAYMENT OF SPECIAL TAX OBLIGATION**

### **C. Prepayment in Full**

Property owners may prepay and permanently satisfy the Special Tax Obligation by a cash settlement with the City as permitted under Government Code Section 53344. The following definitions apply to this Section 8:

**“CFD Public Facilities Costs”** means \$12,900,000 or such lower number as (i) shall be determined by the CFD Administrator as sufficient to acquire or construct the facilities to be financed under the Act and financing program for IA2, or (ii) shall be determined by the City Council concurrently with a covenant that it will not issue any more Bonds (except refunding bonds).

**“Construction Fund”** means the fund (regardless of its name) established pursuant to the Fiscal Agent Agreement to hold funds, which are currently available for expenditure to acquire or construct the facilities or pay fees authorized to be funded by CFD No. 16-I for IA2.

**“Future Facilities Costs”** means the CFD Public Facilities Costs minus (i) costs previously paid from the Construction Fund to acquire or construct the facilities, (ii) monies currently on deposit in the Construction Fund, and (iii) monies currently on deposit in an escrow or other designated fund that are expected to be available to finance CFD Public Facilities Costs.

**“Outstanding Bonds”** means all Previously Issued Bonds, which remain outstanding as of the first interest and/or principal payment date following the current Fiscal Year excluding Bonds to be redeemed at a later date with proceeds of prior Special Tax prepayments.

**“Previously Issued Bonds”** means all Bonds that have been issued prior to the date of prepayment.

The Special Tax Obligation applicable to an Assessor’s Parcel of Developed Property, or Undeveloped Property for which a Building Permit has been issued may be prepaid and the obligation to pay the Special Tax for such Assessor’s Parcel permanently satisfied as described herein, provided that a prepayment may be made with respect to a particular Assessor’s Parcel only if there are no delinquent Special Taxes with respect to such Assessor’s Parcel at the time of prepayment. An owner of an Assessor’s Parcel eligible to prepay the Special Tax Obligation shall provide the CFD Administrator with written notice of intent to prepay, and designate or identify the company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the Prepayment Amount for such Assessor’s Parcel within thirty (30) days of the request, and may charge a reasonable fee for providing this service. Prepayment must be made at least 60 days prior to any redemption date for the Bonds to be redeemed with the proceeds of such prepaid Special Taxes, unless a shorter period is acceptable to the Fiscal Agent and the City.

The Prepayment Amount (defined below) shall be calculated for each applicable Assessor's Parcel or group of Assessor's Parcels as summarized below (capitalized terms as defined below):

Bond Redemption Amount  
plus Redemption Premium  
plus Future Facilities Prepayment Amount  
plus Defeasance Amount  
plus Prepayment Administrative Fees and Expenses  
less Reserve Fund Credit  
less Capitalized Interest Credit  
Total: equals Prepayment Amount

As of the proposed date of prepayment, the Prepayment Amount (defined in Step 14 below) shall be calculated as follows:

**Step No.:**

16. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
17. For Assessor's Parcels of Developed Property, determine the Maximum Special Tax. For Assessor's Parcels of Undeveloped Property for which a Building Permit has been issued, compute the Maximum Special Tax for that Assessor's Parcel as though it was already designated as Developed Property, based upon the Building Permit which has already been issued for that Assessor's Parcel.
18. Divide the Maximum Special Tax computed pursuant to paragraph 2 by the total expected Maximum Special Tax revenue for IA2 assuming all Building Permits have been issued (build-out) within IA2, excluding any Assessor's Parcels for which the Special Tax Obligation has been previously prepaid.
19. Multiply the quotient computed pursuant to paragraph 3 by the Outstanding Bonds and round that number up to the nearest \$5,000 increment to compute the amount of Outstanding Bonds to be retired and prepaid for all applicable Assessor's Parcels (the "Bond Redemption Amount").
20. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (expressed as a percentage), if any, on the Outstanding Bonds to be redeemed at the first available call date (the "Redemption Premium").
21. Compute the Future Facilities Costs.

22. Multiply the quotient computed pursuant to paragraph 3 by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the “Future Facilities Prepayment Amount”).
23. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the expected redemption date for the Outstanding Bonds which, depending on the Fiscal Agent Agreement, may be as early as the next interest payment date.
24. Compute the amount the CFD Administrator reasonably expects to derive from the reinvestment of the Prepayment Amount less the Future Facilities Prepayment Amount and the Prepayment Administrative Fees from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the prepayment.
25. Subtract the amount computed in paragraph 9 from the amount computed in paragraph 8 (the “Defeasance Amount”).
26. Calculate the administrative fees and expenses of CFD No. 16-I for IA2, including the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming the Outstanding Bonds to be redeemed with the prepayment, and the costs of recording any notices to evidence the prepayment and the redemption (the “Prepayment Administrative Fees”).
27. If reserve funds for the Outstanding Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Fiscal Agent Agreement) on the prepayment calculation date, a reserve fund credit shall be calculated as a reduction in the applicable reserve fund for the Outstanding Bonds to be redeemed pursuant to the prepayment (the “Reserve Fund Credit”). No Reserve Fund Credit shall be granted if, after the Prepayment Amount is calculated, reserve funds are below 100% of the reserve requirement after taking into account such prepayment.
28. If any capitalized interest for the Outstanding Bonds will not have been expended at the time of the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the quotient computed pursuant to paragraph 3 by the expected balance in the capitalized interest fund after such first interest and/or principal payment (the “Capitalized Interest Credit”).
29. The amount to prepay the Special Tax Obligation is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 10, and 11, less the amounts computed pursuant to paragraphs 12 and 13 (the “Prepayment Amount”).



30. From the Prepayment Amount, the sum of the amounts computed pursuant to paragraphs 4, 5, and 10, less the amounts computed pursuant to paragraphs 12 and 13 shall be deposited into the appropriate fund as established under the Fiscal Agent Agreement and be used to retire Outstanding Bonds or make Debt Service payments. The amount computed pursuant to paragraph 7 shall be deposited into the Construction Fund. The amount computed pursuant to paragraph 11 shall be retained by CFD No. 16-I.

The Prepayment Amount may be sufficient to redeem an amount other than a \$5,000 increment of Bonds. In such cases, the increment above \$5,000 or integral multiple thereof will be retained in the appropriate fund established under the Fiscal Agent Agreement to redeem Bonds to be used with the next prepayment of Bonds.

The CFD Administrator will confirm that all previously levied Special Taxes have been paid in full. With respect to any Assessor's Parcel for which the Special Tax Obligation is prepaid in full, once the CFD Administrator has confirmed that all previously levied Special Taxes have been paid, the City Council shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of the Special Tax Obligation and the release of the Special Tax lien on such Assessor's Parcel, and the obligation of the owner of such Assessor's Parcel to pay the Special Tax shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the aggregate amount of Maximum Special Taxes less the Administrative Expense Requirement that may be levied on Taxable Property, respectively, after the proposed prepayment is at least 1.1 times the Debt Service on all Outstanding Bonds in each Fiscal Year.

#### **D. Partial Prepayment**

The Special Tax on an Assessor's Parcel of Developed Property or Undeveloped Property for which a Building Permit has been issued may be partially prepaid. The amount of the prepayment shall be calculated as in Section 8.A.; except that a partial prepayment shall be calculated according to the following formula:

$$PP = (PE - A) \times F + A$$

These terms have the following meaning:

PP = the partial prepayment

PE = the Prepayment Amount calculated according to Section 8.A

F = the percentage by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax Obligation

A = the Prepayment Administrative Fees and Expenses from Section 8.A

The owner of any Assessor's Parcel who desires such partial prepayment shall notify the CFD Administrator of (i) such owner's intent to partially prepay the Special Tax Obligation, (ii) the percentage by which the Special Tax Obligation shall be prepaid, and (iii) the

company or agency that will be acting as the escrow agent, if any. The CFD Administrator shall provide the owner with a statement of the amount required for the partial prepayment of the Special Tax Obligation for an Assessor's Parcel within sixty (60) days of the request and may charge a reasonable fee for providing this service.

With respect to any Assessor's Parcel that is partially prepaid, the City shall (i) distribute the funds remitted to it according to Section 8.A., and (ii) indicate in the records of CFD No. 16-I for IA2 that there has been a partial prepayment of the Special Tax Obligation and that a portion of the Special Tax with respect to such Assessor's Parcel, equal to the outstanding percentage (1.00 - F) of the Maximum Special Tax, shall continue to be levied on such Assessor's Parcel.

Notwithstanding the foregoing, no partial prepayment shall be allowed unless the aggregate amount of Maximum Special Taxes less the Administrative Expense Requirement that may be levied on Taxable Property, respectively, after the proposed partial prepayment is at least 1.1 times the Debt Service on all Outstanding Bonds in each Fiscal Year.

## **9. TERM OF SPECIAL TAX**

The Special Tax shall be levied as long as necessary to meet the Special Tax Requirement for a period not to exceed forty (40) Fiscal Years commencing with Fiscal Year 2016-17.

**EXHIBIT A**

*[Attach CFD Boundary Map]*

**EXHIBIT B**

**CITY OF CHULA VISTA AND CFD NO. 16-I CERTIFICATE**

1. Pursuant to Section 3F of the Rate and Method of Apportionment of Special Tax (the "RMA"), the City of Chula Vista (the "City") and Community Facilities District No. 16-I of the City of Chula Vista ("CFD No. 16-I") hereby agree to a reduction in the Special Tax for Developed Property, Undeveloped Property, and/or Provisional Property:

- (c) The information in the RMA relating to the Special Tax for Developed Property, Undeveloped Property, and Provisional Property shall be modified as follows:

*[insert Table 1 and/or 2 showing revised Assigned Special Tax rates for Developed Property, insert revised Backup Special Tax rates for Developed Property by Zone, and insert change to Maximum Special Tax rates for Undeveloped Property and Provisional Property by Zone]*

- (d) The CFD Public Facilities Costs in Section 8 shall be changed to \$\_\_\_\_\_.

- 4. Special Tax rates for Taxable Property may only be modified prior to the issuance of Bonds.
- 5. Upon execution of the Certificate by the City and CFD No. 16-I the City shall cause an amended Notice of Special Tax Lien for IA2 to be recorded reflecting the modifications set forth herein.

By execution hereof, the undersigned acknowledges, on behalf of the City of Chula Vista and CFD No. 16-I, receipt of this Certificate and modification of the RMA as set forth in this Certificate.

CITY OF CHULA VISTA

By: \_\_\_\_\_  
CFD Administrator

Date: \_\_\_\_\_

COMMUNITY FACILITIES DISTRICT NO. 16-I  
OF THE CITY OF CHULA VISTA

By: \_\_\_\_\_

Date: \_\_\_\_\_