

ORDINANCE NO. 3509

ORDINANCE OF THE CITY OF CHULA VISTA ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, AMENDING ORDINANCE NO. 3481 AND AUTHORIZING THE LEVY OF A SPECIAL TAX IN SUCH DISTRICT PURSUANT TO AN AMENDED RATE AND METHOD OF APPORTIONMENT THEREOF

WHEREAS, the City Council (the “City Council”) of the City of Chula Vista (the “City”), has previously initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors authorizing the levy of special taxes in the Bayfront Project Special Tax Financing District (the “District”), all as authorized pursuant to Chapter 3.61 of the Chula Vista Municipal Code (Chapter 3.61); and

WHEREAS, the City Council, acting as the legislative body of the District, previously enacted Ordinance No. 3481 to authorize the levy of special taxes within the District pursuant to a rate and method of apportionment of special taxes; and

WHEREAS, the City Council has subsequently initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors of the District authorizing the levy of special taxes therein pursuant to an amended rate and method of apportionment thereof (the “Amended Rate and Method”), a copy of which is attached as Exhibit A hereto and incorporated herein by this reference; and

WHEREAS, it is necessary for the City Council to enact an ordinance to amend Ordinance No. 3481 to enable the District to levy special taxes within the District pursuant to the Amended Rate and Method.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHULA VISTA, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF THE BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT, DOES ORDAIN AS FOLLOWS:

SECTION 1. This City Council does, by the passage of this ordinance, authorize the levy of special taxes on taxable properties located in the District pursuant to the Amended Rate and Method.

SECTION 2. This City Council, acting as the legislative body of the District, is hereby further authorized, by resolution, to annually determine the special tax to be levied within the District for the then current tax year or future tax years; provided, however, the special tax to be levied shall not exceed the maximum special tax authorized to be levied pursuant to the Amended Rate and Method.

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SECTION 3. The Special Taxes will be due and remitted with the Operator's payment of transient occupancy taxes as set forth in Chapter 3.40 of the Chula Vista Municipal Code (Chapter 3.40). If a Landowner is not an Operator, the Landowner shall cause the Operator to remit the Special Taxes imposed with the Operator's payment of transient occupancy tax. Such Landowner obligation may be met by including a requirement to remit the Special Taxes in a lease or other real property instrument for a Campsite Property or Hotel Property (each as defined in the Amended Rate and Method) and enforcing such requirement, as provided for in the real property instrument. However, the Special Tax is not imposed on the Transient (as defined in Chapter 3.40), but on the parcel or possessory interest in a parcel containing a Hotel or Campsite as such terms are defined in Chapter 3.6 1). The Operator may, but is not required to, pass the Special Tax through to the Transients and collect it with Rent (as defined in Chapter 3.40). Despite the method of collection and administration, the Special Tax is distinct from the City's transient occupancy tax and, subject to the Amended Rate and Method, may be enforced, in the event of nonpayment, as provided in the Mello-Roos Community Facilities Act of 1982, including through a judicial foreclosure; however, the City Council reserves the right to utilize any other lawful means of billing, collecting, and enforcing the Special Taxes, including billing on the secured property tax roll, direct and supplemental billing, any other legal authority to collect delinquent Special Taxes, penalties and interest and when lawfully available, judicial foreclosure of the lien of the Special Taxes.

Subject to the Amended Rate and Method, any Special Taxes delinquent as of July 1 of any Fiscal Year, together with any penalties and interest accrued as of that date, may, at the option of the City Council, acting as the legislative body of the District, be placed on the secured property tax roll in that Fiscal Year and be levied on the parcel for which such Special Taxes are delinquent, where it shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for ad valorem taxes.

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

SECTION 4. This Ordinance shall be effective upon its adoption, pursuant to Section 312(d)(3) of the Charter of the City of Chula Vista (the "City Charter"). Within fifteen (15) days after its adoption, the City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in the City pursuant to Section 312(b) of the City Charter.

[SIGNATURES ON THE FOLLOWING PAGE]

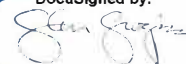
Presented by

Approved as to form by

DocuSigned by:

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Tiffany Allen
Director of Development Services

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Glen R. Googins
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 27th day of July 2021, by the following vote:

AYES: Councilmembers: Cardenas, Galvez, McCann, and Casillas Salas

NAYS: Councilmembers: None


ABSENT: Councilmembers: Padilla

DocuSigned by:

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Mary Casillas Salas, Mayor

ATTEST:

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Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3509 had its first reading at a regular meeting held on the 13th day of July 2021, and its second reading and adoption at a regular meeting of said City Council held on the 27th day of July 2021; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

8/5/2021

Dated

DocuSigned by:

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Kerry K. Bigelow, MMC, City Clerk

AMENDED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

BAYFRONT PROJECT SPECIAL TAX FINANCING DISTRICT

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

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

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

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

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

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

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

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

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

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

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

“City” means the City of Chula Vista.

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

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

“County” means the County of San Diego.

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

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

“Effective Date” means the first day of the month immediately following the effective date of the ordinance enacted by the City Council providing for the levy of the Special Tax pursuant to the Amended RMA.

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

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

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

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

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

“Maximum Special Tax Rate” means the maximum rate of the Special Tax determined in accordance with Section C below, which may be levied for the privilege of Occupancy by Transients of the Campsite(s) or Hotel(s), as applicable, located on each Assessor’s Parcel of Campsite Property or Hotel Property.

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

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

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

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

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

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

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

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

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

B. CLASSIFICATION OF ASSESSOR'S PARCELS

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

C. SPECIAL TAX

The Maximum Special Tax Rate of the Special Tax authorized to be levied on each Assessor's Parcel classified as Campsite Property or Hotel Property shall be determined pursuant to Table 1 below. The City Council may, by resolution, levy the Special Tax at a rate less than the Maximum Special Tax Rate, such rate to become effective no sooner than the first day of the first month at least sixty (60) days following the effective date of such resolution. Should the City Council adopt a resolution levying the Special Tax at a rate less than the Maximum Special Tax Rate, such rate shall remain in effect until the City Council adopts a different Special Tax rate by resolution, subject always to the limitations of the Maximum Special Tax Rate.

Table 1

Period Beginning	Period Ending	Maximum Special Tax Rate
July 1, 2020	One day prior to Effective Date	5.0% of Rent
Effective Date	June 30, 2060	5.5% of Rent
July 1, 2060	June 30, 2075	2.5% of Rent
July 1, 2075	June 30, 2086	1.0% of Rent

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

D. MANNER OF COLLECTION

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

E. PREPAYMENT OF THE SPECIAL TAXES

The Special Tax may not be prepaid.

F. EXEMPTIONS

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

G. FAILURE TO SUBMIT SPECIAL TAX

If the Operator of any Campsite or Hotel located on an Assessor's Parcel of Campsite Property or Hotel

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

The Special Tax on any Campsite Property or Hotel Property which is not paid within the time required shall be subject to the same penalties applicable to the transient occupancy tax in subsections A and B of Section 3.40.080 of the Chula Vista Municipal Code. For any Special Taxes and penalties that remain outstanding as of July 1 of each Fiscal Year, the City Council may direct the Director of Finance to cause the submission of any of the delinquent Special Taxes and penalties to the County for inclusion on the property tax bill for such Assessor's Parcel(s) in accordance with Section 3.61.130 of Chapter 3.61; provided, however, that any delinquent Special Taxes and penalties with respect to any Assessor's Parcel of Public Property that is classified as Campsite Property or Hotel Property due to the grant of a lease or other possessory interest in such Assessor's Parcel of Public Property to the Operator of a Campsite or Hotel thereon shall only be levied on and constitute a lien against the Operator's leasehold or possessory interest in such Assessor's Parcel of Public Property, all as contemplated by Section 53340.1 of the Act, as modified by Chapter 3.61, and shall not be an obligation for which the Landowner of such Assessor's Parcel of Public Property is billed or responsible.

H. MAINTENANCE OF RECORDS; SPECIAL TAX AUDIT

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

I. APPEAL

Any Operator of a Campsite or Hotel located on any Campsite Property or Hotel Property or any Landowner of any Campsite Property or Hotel Property claiming that the amount or application of the Special Tax reflected in any Determination of Special Tax Due on such Campsite Property or Hotel Property is not correct, may appeal such Determination of Special Tax Due by filing a notice of appeal with the City Clerk within fifteen (15) calendar days of the serving or mailing of such Determination of Special Tax Due. If such appeal is made by an Operator that is not also the Landowner of such property, then the Operator shall also provide a copy of such notice of appeal to the Landowner at the same time the Operator files the notice of appeal with the City Clerk. Upon receipt of any such notice, the City Clerk shall forward a copy of such notice to the City Manager who shall establish as part of the proceedings and administration of the District a special three-member Appeal Committee. The Appeal Committee may establish such procedures as it deems necessary to undertake the review of any such appeal. The Appeal Committee shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any appeals by Landowners, or Operators, as

herein specified. The decision of the Appeal Committee shall be final, conclusive, binding as to all persons and shall be served upon the Operator or Landowner in writing at the last known address of such Operator or Landowner. Any amount found due shall be immediately due and payable upon service of the Appeal Committee findings. If the Appeal Committee decision requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the Operator or Landowner, a cash refund shall not be made, but a credit shall be given against the future Special Taxes on that Assessor's Parcel.

J. TERM OF THE SPECIAL TAXES

The Special Tax shall be levied as long as necessary to pay for authorized expenditures as specified in Section 3.61.080 of Chapter 3.61 but to no later than June 30, 2086.