

**CONSENT AND WAIVER TO SHORTENING OF TIME  
FOR CONDUCTING A SPECIAL ELECTION IN  
PROPERTY PROPOSED TO BE ANNEXED TO  
COMMUNITY FACILITIES DISTRICT NO. 17-I  
(WESTERN CHULA VISTA DIF FINANCING PROGRAM)  
AND APPOINTMENT OF AUTHORIZED REPRESENTATIVES**

**ANNEXATION NO. 20\_\_\_ - \_\_\_\_\_**

TO: CITY COUNCIL  
CITY OF CHULA VISTA  
COMMUNITY FACILITIES DISTRICT NO. 17-I  
(WESTERN CHULA VISTA DIF FINANCING PROGRAM)

THE UNDERSIGNED DOES HEREBY CERTIFY UNDER PENALTY OF PERJURY  
AS FOLLOWS:

1. The undersigned is the owner, or the duly authorized representative of such owner, of the real property described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), and, in such capacity, possesses all legal authority necessary to execute this Consent and Waiver for and on behalf of the owner of the Property (the "Owner") in connection with the annexation of the Property to CFD No. 17-I (as defined below).
2. The Owner is aware of and understands the following:
  - A. The City Council of the City of Chula Vista (the "City Council") has formed the City of Chula Vista Community Facilities District No. 17-I (Western Chula Vista DIF Financing Program) ("CFD No. 17-I") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Mello-Roos Act"), as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "State"), and the City of Chula Vista Community Facilities District Ordinance enacted pursuant to the powers reserved by the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State (the "CFD Ordinance" and, together with the Mello Roos Act, the "CFD Law"), for the purpose of financing, at the voluntary request of the owners of multi-family, commercial or industrial properties located in that portion of the City as shown on that certain map entitled Future Annexation Area, Community Facilities District No. 17-I (Western Chula Vista DIF Financing Program), City of Chula Vista, County of San Diego as recorded on February 18, 2016, in Book 45 of Maps of Assessment and Community Facilities Districts, at Page 26, and as Instrument No. 2016-7000074, in the office of the County Recorder for the County of San Diego, State of California (such properties to be referred to herein as "Western Chula Vista"), the DIF Obligations (as defined below) imposed on such properties and thereby

enabling the owners of such properties to pay the DIF Obligations through the levy of special taxes on such properties.

- B. The special tax is proposed to be levied on the Property upon the annexation thereof to CFD No. 17-I (the "Special Tax") pursuant to the Act and the Rate and Method of apportionment of the Special Tax (the "Rate and Method"), a copy of which is attached as Exhibit "B" hereto and incorporated herein by this reference. The Special Tax is authorized to be levied to fund the Special Tax Obligation as such term is defined in the Rate and Method for the purpose financing the payment of development impact fees as set forth in Exhibit "C" attached hereto and incorporated herein by this reference (the "DIF Obligations") the proceeds of which will pay for public facilities necessary to meet the increased demand for such public facilities resulting from new within the boundaries of CFD No. 17-I and the Property.
- C. Pursuant to Article 3.5 of the Act, the City Council has also undertaken proceedings and authorized the future annexation of certain territory, including the Property, to CFD No. 17-I, upon the unanimous approval of the owner or owners of each parcel or parcels at the time that such parcel or parcels are annexed, without additional public hearings.
- D. The Act further requires, as a prerequisite to the annexation of the Property to CFD No. 17-I or the levy of the Special Tax within the Property, that the City Council must submit the question of whether or not to levy such Special Tax within the Property to the qualified elector or qualified electors of the Property at a special election. The Act further provides that 2/3's of the qualified electors must vote in favor of the levy of the Special Taxes.
- E. The Act provides that the qualified elector or qualified electors of the Property shall be the voters registered to vote within Property if at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the Property for each of the ninety (90) days preceding the date of the election at which the question of levying the Special Taxes is submitted to such qualified electors (the "Election Date"). Otherwise, the Act provides that the vote shall be by the landowners of the Property with each such landowner who is the owner of record on the date on which the election date is established, or the authorized representative of such owner, having one vote for each acre or portion of an acre of land that such landowner owns within the Property.
- F. The provisions of the Act require that such special election be held at least ninety (90), but not more than one hundred eighty days (180), days following the date on which the election date is established; provided, however, any such special election time limit specified by the Act or requirement pertaining to the conduct of such a special election may be waived with the unanimous consent of the qualified elector or qualified electors of the Property and the concurrence of the official conducting the election. As is stated below, it is proposed that the special

election shall be held on **[insert election date]** or such other date upon which all of the qualified electors of the Property and the official conducting the election may concur.

3. The Owner consents to and expressly approves the annexation of the Property to CFD No. 17-I and the authorization for the levy of the Special Tax within the Property without further public hearing conducted pursuant to the provisions of the Act. The Owner waives any right which the Owner may have to make any protest or complaint or undertake any legal action challenging the validity of the proceedings of the City Council to authorize the future annexation of the Property to CFD No. 17-I or any necessity, requirement, right or entitlement for further public hearing pertaining to the annexation of the Property to CFD No. 17-I and the levy of the Special Tax within the Property.

4. Owner certifies that there have been no persons residing within the Property for each of the ninety (90) days preceding the date of this Consent and Waiver.

5. Owner desires that the special election be held on **[insert election date]** or such other date as the Owner and the City Clerk, acting as the official conducting the election (the "City Clerk"), may mutually agree.

6. Owner knowingly and voluntarily consents to the following:

- A. To the conduct of the special election on **[insert election date]** or such other date as the Owner and the City Clerk may mutually agree.
- B. Owner expressly waives any right which Owner may have to have the special election conducted within the time periods specified in Government Code Section 53326.
- C. Owner waives any requirement for the mailing of the election ballot.
- D. Owner further waives any right or entitlement which Owner may have to have the ballot for such election accompanied by arguments for or against the ballot measure and the impartial analysis as otherwise required by Government Code Section 53327.
- E. Owner waives any protest, complaint or legal action of any nature whatsoever pertaining to the procedures to be undertaken for the conduct of such election, including but not limited to, the shortening of all time periods pertaining to the special election, including but not limited to, the time for holding the special election and the necessity and requirement for any newspaper publication of the notice of such special election and the lack of arguments and impartial analysis.

PROPERTY OWNER APPOINTMENT OF AUTHORIZED REPRESENTATIVES

The Owner hereby appoints the following persons, alternatively, as the Owner's authorized representative to vote in the subject special election, and the Owner certifies that the true and exact signature of each alternative representative is set forth below:

\_\_\_\_\_  
Signature of Representative (Type or Print Name of Representative)

\_\_\_\_\_  
Signature of Representative (Type or Print Name of Representative)

**[Remainder of this page intentionally left blank.]**

THIS CONSENT AND WAIVER AND APPOINTMENT OF AUTHORIZED REPRESENTATIVES was executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in \_\_\_\_\_, \_\_\_\_\_ (City/Unincorporated Area) (State).

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Type or Print Name of Signor

If the person executing this document is not the Owner of the Property for which this document is being submitted but is signing for and on behalf of such Owner, fill in the name of the Owner of the Property on the line provided below:

\_\_\_\_\_  
(Type or print name of the Owner)

**[Remainder of this page intentionally left blank.]**

**EXHIBIT A**

**DESCRIPTION OF PROPERTY**

The Property is identified and described as:

***[insert description of property subject to annexation]***

**EXHIBIT "B"**  
**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**  
**COMMUNITY FACILITIES DISTRICT NO. 17-I**  
**(WESTERN CHULA VISTA DIF FINANCING PROGRAM)**

*[insert copy of the Rate and Method of apportionment]*

## **EXHIBIT "C"**

### **DESCRIPTION OF DEVELOPMENT IMPACT FEES**

It is the intention of the City Council to finance the payment of the development impact fees imposed by the City in connection with the approval of a development project to be developed on property located within territory to be annexed to Community Facilities District No. 17-I (Western Chula Vista DIF Financing Program) (the "District"). Such fees may include: (i) the Public Facilities Development Impact Fee pursuant to Chula Vista Municipal Cod

- ("CVMC") section 3.50, et seq. ("PFDIF");
- (ii) the Western Transportation Development Impact Fee pursuant to CVMC section 3.55, et seq. ("TDIF");
- and (iii) the Park Development Fee pursuant to CVMC section 17.10, et seq. ("PAD" and together with the PFDIF and TDIF, the "DIFs" and the obligation to pay the DIFs, the "DIF Obligation").

The proceeds of the payment of the DIF Obligations will pay for facilities which this legislative body is authorized by law to contribute revenue to or to construct, own, or operate (the "DIF Facilities"). It is hereby further determined that the DIF Facilities are necessary to meet increased demands and needs placed upon the City as a result of development within the District.

The cost of the payment of DIF Obligations includes certain Incidental Expenses as such term is defined in Government Code Section 53317(e) and may include, but not be limited to, all costs associated with the establishment of the District; the costs of collecting any special taxes; and costs otherwise incurred in order to carry out the authorized purposes of the District.