

ATTACHMENT B – Flood Control District Service Tax Joint Agreement Resolution

Resolution No.: 24-_____

Meeting Date:

A RESOLUTION OF THE SAN DIEGO COUNTY FLOOD CONTROL DISTRICT BOARD OF DIRECTORS AUTHORIZING AND EMBODYING A JOINT AGREEMENT TO FUND SERVICES WITH THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY AND AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT PROCEEDINGS TO FORM COMMUNITY FACILITIES DISTRICTS FROM TIME TO TIME TO FUND PUBLIC SERVICES NECESSARY TO SERVE NEW DEVELOPMENT; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority (the “Authority”) is a joint exercise of powers authority, lawfully formed and operating within the State pursuant to an agreement (the “Joint Powers Agreement”) entered into as of June 1, 1988 under the authority of Title 1, Division 7, Chapter 5 (commencing with Section 6500) of the California Government Code (the “JPA Law”), the members of which include numerous cities, counties and local agencies in the State of California, including the County of San Diego (the “County”), the county in which the San Diego County Flood Control District’s (“District”) jurisdictional boundaries lie; and

WHEREAS, the Joint Powers Agreement authorizes the Authority to undertake financing programs under any applicable provisions of State law to promote economic development, the stimulation of economic activity, and the increase of the tax base within the jurisdictional boundaries of its members (such members, the “Program Participants”); and

WHEREAS, the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 (beginning with Section 53311) of the Government Code of the State (the “Mello-Roos Act”) permits the levy and collection of special taxes on property to fund public services; and

WHEREAS, the Mello-Roos Act permits two or more local agencies to enter into a joint community facilities agreement to exercise any power authorized by the Mello-Roos Act; and

WHEREAS, the District has previously adopted its Resolution No. 19-158 to finance public capital improvements and development fees necessitated by new development through a program of the Authority known as the Statewide Community Infrastructure Program (“SCIP”) pursuant to a joint community facilities agreement with the Authority; and

WHEREAS, the District now desires to enter into a joint community facilities agreement with the Authority to assist from time to time with the funding of public services (the “Services”) necessitated by new development; and

WHEREAS, the District will not be responsible for the conduct of any proceedings; the levy or collection of special taxes or any required remedial action in the case of delinquencies in such special tax payments; and

NOW, THEREFORE, IT IS HEREBY RESOLVED by the San Diego County Flood Control District Board of Directors as follows:

Section 1. This resolution shall constitute full “local approval,” under Section 9 of the Joint Powers Agreement, and under the Authority’s Local Goals and Policies (defined below), for the Authority to undertake and conduct proceedings in accordance herewith and under the Mello Roos Act to form community facilities districts (“CFDs”) from time to time with boundaries that shall be coterminous with the District’s official boundaries of record at the time of such proceedings or any portion thereof (the “Proposed Boundaries”); provided that the legal owners of such property at the time of formation of the respective CFDs execute a written consent to the levy of special tax. Each CFD may provide for areas for future annexation or for separate improvement areas, as determined in the discretion of the Authority. Any CFD formed pursuant to Resolution No. 19-158 may also fund Services if said CFD also complies with the provisions hereof. The Authority shall implement the applicable goals and policies of the District into the formation of the CFD as further specified in Section 4 below.

Section 2. This resolution sets forth the terms of a “joint community facilities agreement” (as defined in Section 53316.2 of the Mello Roos Act) between the District and the Authority. Adoption by the Commission of the Authority of each Resolution of Intention to form a CFD under the Mello-Roos Act to finance Services shall constitute acceptance of the terms hereof by the Authority with respect to such CFD. This Resolution and the Authority’s Resolution of Intention for the respective CFDs shall together embody a separate and independent joint community facilities agreement, or a joint agreement to fund services, for each CFD formed by the Authority (the “Joint Agreement”).

Section 3. The District Board of Directors finds and determines that this resolution and the Joint Agreement are beneficial to the residents/customers of the District and are in the best interests of the residents of the District, and of the future residents of the area within the proposed CFDs.

Section 4. The Authority has adopted Local Goals and Policies as required by Section 53312.7 of the Mello-Roos Act. The District approves the use of those Local Goals and Policies in connection with the formation of CFDs. The District hereby agrees that the Authority may act in lieu of the District under those Local Goals and Policies in forming and administering the CFDs, provided that the following policies shall apply to any CFD:

- (1) The total of the following burdens, when taken in the aggregate, at the time of adoption of the special tax, may not exceed 1.86% of the estimated sales price of the subject properties to an end user within the CFD:
 - A. Ad valorem property taxes levied by the County.
 - B. Voter approved ad valorem taxes levied by the County in addition to the ad valorem property taxes described above.

C. Special taxes levied by any existing community facilities district for the payment of bonded indebtedness or ongoing services.

D. Assessments levied for any assessment district or maintenance district for the payment of bonded indebtedness or services.

E. The assigned special tax for the proposed CFD.

F. The maximum special tax shall include the reasonable and necessary annual administrative costs to administer the CFD.

(2) The assigned special tax for any parcel within the CFD may escalate annually, but not by more than six percent (6%) per year.

Section 5. Pursuant to the Mello-Roos Act and this resolution, the Authority may conduct proceedings under the Mello-Roos Act to form the CFDs and to have such CFDs authorize the funding of any or all the Services set forth on Exhibit A, attached hereto. The appropriate officials and staff of the District are hereby authorized and directed to cooperate with the Authority and the Authority's special tax consultant and other consultants to calculate the appropriate level of the special tax to fund the Services for each CFD in connection with initial formation and in connection with the annual levy. At the time of formation of each CFD, the District shall certify to the Authority in connection with each new CFD that the Services to be funded thereby are necessary to meet increased demands placed upon the Local Agency as a result of new development occurring or expected to occur within the District, such Services are in addition to those provided in the territory of the CFD prior to the date of creation of the CFD and such Services shall not supplant services already available within that territory when the CFD is created.

Section 6. The Authority shall administer the CFDs, including employing and paying all consultants, annually levying the special tax, and complying with all State and Federal requirements appertaining to the proceedings. The Authority shall establish and maintain a separate special fund for the purpose of collecting and accounting for the special tax levied in each CFD. The Authority will promptly transmit all special tax collections to the District upon receipt, provided that the Authority may pay its own reasonable administrative costs incurred in the administration of the CFDs. The District agrees to apply such special tax revenues only for Services authorized by the applicable CFD and for its own administrative costs as permitted by the Act.

Section 7. Reserved.

Section 8. The appropriate officials and staff of the District are hereby authorized and directed to make applications available to all property owners whose plans for new development within the District necessitate new or increased levels of Services. The appropriate officials and staff of the District are hereby authorized and directed to execute and deliver such certificates, requisitions, agreements and related documents, as are reasonably required by the Authority to

evidence compliance with the requirements of federal and state law in connection with the formation of CFDs.

Section 9. This Resolution shall take effect immediately upon its adoption.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

By: _____

Claudia G. Silva, County Counsel

Emily Helms, Senior Deputy County Counsel

EXHIBIT A TO THE RESOLUTION

ELIGIBLE SERVICES

Services to be funded, in whole or in part, by any CFD formed by the Authority for District Services shall include all direct and incidental costs related to providing for the funding of public safety services, including, but not limited to, police and fire safety, emergency response, and similar services, as well as the funding of services for the maintenance of public improvements. The CFDs may fund services relating to obtaining, constructing, furnishing, operating and maintaining equipment, apparatus or facilities related to providing the services and/or equipment, apparatus, facilities or fixtures in areas to be maintained, paying the salaries and benefits of personnel necessary or convenient to provide the services, payment of insurance costs and other related expenses and the provision of reserves for repairs and replacements and for the future provisions of services. The Services may be provided by the District directly with its own employees or by contract with third parties, or any combination thereof.

Services to be financed by a CFD shall be limited to Services that are in addition to those provided in the territory of the CFD prior to the date of creation of the CFD and shall not supplant services already available within that territory when the CFD is created.