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## BOARD OF DIRECTORS

**Eric Dill,**

Chairperson,

San Dieguito Union High

School District

**Doug Rafner,**

Vice Chairperson,

Del Mar Union School

District

**Terry Decker,**

Director,

Solana Beach School

District

**Mark Risco,**

Executive Director and

Board Secretary

# North City West School Facilities Financing Authority Special Meeting of the Board of Directors

January 19, 2016 309 North Rios Avenue Solana Beach, CA 92075

2:30 p.m.

Phone: (858) 792-6937; Fax: (858) 792-8270

## Welcome...

### PUBLIC COMMENTS

With the exception of personnel items, individuals wishing to address the Board concerning an agenda item (or on other topics pertaining to JPA/CFD jurisdiction) are invited to do so at this time.

In the interest of time, **public presentations are limited to five (5) minutes per person, per topic.** If you wish to speak, please complete a card (located at the sign-in desk); and present it to the Board chairperson before commencement of the meeting. When the chairperson invites you to speak, please state your name, address and/or organization before making your presentation.

**Please note:** The law does not permit complaints and/or charges against an employee or staff member in an open Board of Directors' meeting.

In accordance with the Brown Act, there shall be no action taken for an item that has not been scheduled on a published agenda. Instead, the Board may:

- 1) Acknowledge receipt of the information,
- 2) Refer to staff for further study, or
- 3) Defer the matter to a future agenda.

We appreciate your cooperation.

### PUBLIC INSPECTION OF DOCUMENTS

In compliance with *Government Code 54957.5*, agenda related documents distributed to the Board less than 72 hours prior to meetings are available for inspection at North City West School Facilities Financing Authority executive offices located at 27368 Via Industria, Suite 110, Temecula, California.

### AMERICANS WITH DISABILITIES ACT

In compliance with the *Americans with Disabilities Act*, please contact the director at (858) 792-6937 by **noon**, the day before the Board meeting, to arrange reasonable accessibility for meeting participation.

Please set cellular phones and pagers to **silent mode**, and engage in conversations outside the meeting room.

# North City West School Facilities Financing Authority

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## Directors:

Eric Dill, Chairperson, San Dieguito Union High School District  
Doug Rafner, Vice Chairperson, Del Mar Union School District  
Terry Decker, Director, Solana Beach School District  
Mark Risco, Executive Director and Board Secretary

## AGENDA

### Special Meeting

January 19, 2016

2:30 p.m.

### Items

1. CALL TO ORDER, ROLL CALL
2. PLEDGE OF ALLEGIANCE
3. APPROVAL OF AGENDA
4. PUBLIC COMMENTS

In accordance with the Brown Act, unless an item has been placed on the published agenda, there shall be no action taken. The Board may 1) acknowledge receipt of the information, 2) refer to staff for further study, or 3) refer the matter to the next agenda.

### 5. APPROVE RESOLUTIONS RELATING TO FORMATION OF NEW CFD

- A. **RESOLUTION 2016-01:** RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY, CALIFORNIA, ADOPTING A STATEMENT OF LOCAL GOALS AND POLICIES CONCERNING THE USE OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AS AMENDED
- B. **RESOLUTION 2016-02:** RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY, CALIFORNIA, ADOPTING A BOUNDARY MAP SHOWING TERRITORY PROPOSED TO BE INCLUDED IN COMMUNITY FACILITIES DISTRICT NO. 3
- C. **RESOLUTION 2016-03:** RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY, CALIFORNIA, DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 3 AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE CERTAIN SCHOOL FACILITIES

### 6. ADJOURNMENT OF SPECIAL MEETING

The next scheduled Regular Board Meeting will be held on March 10, 2016 at the Solana Beach District Office. The District Office is located at 309 North Rios Avenue, Solana Beach, CA. 92075

**RESOLUTION NO. 2016-01**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY, CALIFORNIA, ADOPTING A STATEMENT OF LOCAL GOALS AND POLICIES CONCERNING THE USE OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982, AS AMENDED**

**WHEREAS**, the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"), being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California, now provides that a local government, including the North City West School Facilities Financing Authority (the "Authority"), may initiate proceedings to establish a community facilities district pursuant to the Act only if the legislative body thereof has first considered and adopted local goals and policies concerning the use of the Act; and,

**WHEREAS**, the Board of Directors now desires to state its goals and policies concerning the use of the Act.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the North City West School Facilities Financing Authority, as follows:

**Section 1.** The above recitals are all true and correct.

**Section 2.** The "North City West School Facilities Financing Authority Statement of Goals and Policies Regarding the Use of the Mello-Roos Community Facilities Act of 1982" (the "Goals and Policies") attached as Exhibit "A" hereto and incorporated herein by this reference are hereby adopted. A copy of the Goals and Policies shall be kept on file in the Office of the Secretary.

**Section 3.** This resolution shall become effective upon its adoption.

**ADOPTED** by the Board of Directors of the North City West School Facilities Financing Authority, California, at a Special Meeting thereof held this 19th day of January, 2016.

**AYES:**

**NOES:**

**ABSENT:**

**APPROVED**

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**ERIC DILL, CHAIRPERSON**

**ATTEST**

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**MARK RISCO, SECRETARY**

**EXHIBIT A**

**NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY**

**STATEMENT OF GOALS AND POLICIES  
REGARDING THE USE OF  
THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

**North City West School Facilities Financing Authority**

**STATEMENT OF GOALS AND POLICIES  
REGARDING THE USE OF  
THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982**

**Section 1. Purpose and Scope**

This document sets forth the goals and policies of the North City West School Facilities Financing Authority (the "Authority") concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act") (Section 53311 and following of the California Government Code) with respect to the establishment of community facilities districts by the Authority. It has been prepared pursuant to the requirements of Section 53312.7 of the Act.

The purpose of this Statement of Goals and Policies is to provide the Authority staff, the residents and the owners of property located within the boundaries of the Authority with guidance in the application for and consideration of the establishment of community facilities districts within the Authority for the purpose of financing or assisting in financing the acquisition or construction of public facilities needed by the Authority to benefit and serve new or existing residents ("Public Facilities"), the provision of public services to benefit and serve schools of the member school districts, students attending such schools, parents of such students, staff of such schools and residents of the Authority utilizing such schools ("Services"), or a combination thereof. The underlying principles behind this policy are the protection of the public interest, assuring fairness in the application of special taxes to current and future property owners, assuring full disclosure of the existence of any special tax liens, insuring the creditworthiness of any community facilities district special tax bonds, protecting the Authority's credit rating and financial position and assuring that applicants for all community facilities district proceedings other than District initiated proceedings pay all costs associated with the formation of any community facilities district unless the Board of Directors of the Authority (the "Authority Board") determines that the payment of such costs or a portion thereof would be in the best interests of the Authority.

The scope of this policy is limited to the proposed formation of community facilities districts for the limited purpose of financing or assisting in financing the acquisition or construction of Public Facilities and/or the provision of Services.

Any policy or goal stated herein may be supplemented or amended or deviated from upon a determination by the Authority Board that such supplement, amendment or deviation is necessary or desirable. Any policy or goal stated herein shall be deemed amended or supplemented in the event, and as of the date, if ever, that such amendment or supplement is required to ensure compliance with the Act or any other laws of the State of California or federal laws of the United States of America.

**Section 2. Fundamental Policy**

It is the policy of the Authority that, except as specifically limited by these goals and policies, the Authority Board may exercise all rights, powers, and authorities granted to it by the Act. The silence of these goals and policies with respect to any matter shall not be interpreted as creating any policy with regard to that matter. Any inconsistency between these goals and policies and the Act, as amended, shall be resolved in favor of the Act.

**Section 3. Authorized Public Facilities and Services**

Public Facilities eligible to be financed by a community facilities district are limited to Public Facilities to be owned by the member school districts comprising the Authority and such facilities must have a useful life of five (5) years or more. The services eligible to be financed by a community facilities district are limited to those authorized by Section 53313 of the Act that would serve or benefit schools and school facilities of the member school districts, students attending such schools, parents of such students, staff of such schools and residents of the Authority utilizing such schools.

**Section 4. Financing Priorities**

The sole priority of the Authority's use of the Act is to finance Public Facilities and Services. The Authority shall prioritize the financing of Authority-owned facilities and the funding of Authority services. The financing of facilities to be owned and operated by other public agencies through a Joint Community Facilities Agreement shall be evaluated on a case by case basis.

**Section 5. Special Tax Requirements**

**a. Reasonable Basis of Apportionment.**

Special taxes must be allocated and apportioned on a reasonable basis to all categories and classes of property (other than exempt property) within each community facilities district. Exemptions from the special tax shall be given to parcels which are statutorily exempt from such taxes and may be given to parcels that are held by property owner's associations, are used for a public purpose such as permanent open space or wetlands, or are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easement.

**b. Equity of Tax Allocation Formulas.**

It is a goal of the Authority that any special tax levied pursuant to the Act be allocated equitably against all similar parcels within any community facilities district. Towards this end, the Authority will engage a qualified special tax consultant to assist in the development of the rate and method of apportionment for any special tax proposed in connection with a community facilities district.

**c. Rate and Method of Apportionment of Special Taxes.**

The rate and method of apportionment of the special tax for any community facilities district (each, a "Rate and Method") shall adhere to the following requirements:

1. The Rate and Method must be structured so as to produce special tax revenues sufficient to (a) pay directly the costs of Public Facilities eligible to be financed by the community facilities district, (b) pay scheduled debt service on all bonds, if any, issued for the community facilities district, (c) pay the annual cost of authorized Services, if applicable, (d) pay an amount equal to any anticipated shortfall in special tax revenues due to delinquencies or projected delinquencies in the payment of special taxes, (e) fund any amounts required to establish or replenish any reserve fund established for such bonds, (f) pay the costs of formation of the Authority or reimburse the Authority for the costs of formation of the community facilities district previously paid out of Authority funds, and (g) pay reasonable and necessary annual administrative expenses of the community facilities district. Additionally, the Rate and Method may be structured so as to produce amounts sufficient to fund (a) the accumulation of funds reasonably required for the payment of future debt service on bonds, (b) remarketing, credit enhancement or liquidity fees, and (c) any other costs or payments permitted by law. The special tax revenues necessary to fund all required expenses or deposits for a community facilities district may be referred to as the "Special Tax Requirement."

2. In any case, if bonds secured by the special taxes of a community facilities district are to be issued, the Rate and Method must be structured such that the projected maximum special tax that could be levied in any Fiscal Year would produce special tax revenues at least equal to (a) 110% of projected annual debt service on all bonds for the calendar year commencing in such Fiscal Year, plus (b) projected administrative expenses of the community facilities district for the calendar year commencing in such Fiscal Year.

3. An option to permit the prepayment, in whole or in part, of the special tax obligation for an individual parcel for any special tax authorized to finance Public Facilities shall be included in the Rate and Method for any such special tax. Such prepayment shall be permitted only if (a) the payment of all special taxes for such a parcel is current and (b) following such prepayment, the projected maximum special taxes that could be levied in any Fiscal Year on all remaining taxable property within the community facilities district will produce the special tax revenues required in paragraph 2 above or to pay directly for the Public Facilities. However, neither the Authority nor the community facilities



district shall be obligated to pay for the cost of determining the prepayment amount, which is to be paid by the applicant.

The prepayment, in whole or in part, of the special tax obligation for any special tax authorized to be levied to finance Services shall not be permitted.

4. At its discretion, the Authority may permit annual escalation of the maximum special tax authorized to be levied on parcels within a community facilities district established for the purpose of financing Public Facilities. Such escalation shall not exceed two (2) percent.

Notwithstanding the foregoing, the Authority will permit annual escalation of the maximum special tax authorized to be levied on parcels within a community facilities district established for the purpose of financing Services. Such escalation shall be determined by the application of that index determined in the sole discretion of the Authority to most accurately reflect the projected increase in the cost of the financing such Services.

5. The Rate and Method of a special tax authorized to finance Public Facilities shall specify a Fiscal Year beyond which the special tax may not be levied on any developed residential parcel. In most cases, the final Fiscal Year in which special taxes shall be authorized to be levied by a community facilities district on such developed residential parcels will be ten (10) years after the stated maturity of any bonds issued for such community facilities district. Such a special tax will cease to be levied upon the earlier of such final Fiscal Year or the Fiscal Year following the Fiscal Year during which all bonds issued for the applicable community facilities district and the Authority's administrative costs have been paid.

A special tax authorized to pay for Services shall have no termination date unless established by the Authority Board.

**Section 6. Credit Quality Requirements for Special Tax bonds**

**a. Terms and Conditions of Special Tax bonds.**

All terms and conditions of any bonds issued by the Authority for any community facilities district, including, without limitation, the sizing, timing, term, interest rates, discount, redemption features, flow of funds, investment provisions and foreclosure covenants, shall be established by the Authority. Each bond issue shall be structured to avoid negatively impacting the Authority's access to the municipal bond market. Unless otherwise approved by the Authority Council, the following shall serve as minimum bond requirements:

1. A reserve fund shall be established for each bond issue to be funded out of the bond proceeds in an amount equal to 10% of the original proceeds of such bonds or such lesser amount as may be required by federal tax law.

2. Interest shall be capitalized for a bond issue only so long as necessary to place the special tax installments on the assessment roll; however, interest may be capitalized for a longer term to be established in the sole discretion of the Authority Board on a case-by-case basis, not to exceed an aggregate of 24 months.

3. In instances where multiple series of bonds are to be issued for a community facilities district, the Authority shall determine what Public Facilities shall be financed from the proceeds of each series of such bonds.

4. The term of any bond issue shall not exceed 30 years.

5. The Authority shall not be required or expected to make any payment of the bonds out of its general funds or other available funds. The sole source of revenue for the payment of the bonds issued for any community facilities district shall be the special taxes authorized to be levied within such community facilities district, including prepayments of such special taxes, capitalized interest, if any, moneys on deposit in the reserve fund established for such bonds, and such other funds as may be pledged to the payment of such bonds pursuant to the fiscal agent agreement or other document providing for the issuance of such bonds as approved by the Authority Council.

#### **Section 7. Minimum Value-to-Debt Ratio**

The Authority shall comply with the provisions of Section 53345.8 of the Act or any other applicable provisions of the Act pertaining to the Minimum Value-to-Debt Ratio applicable to the issuance of the bonds of any community facilities district. For purposes of this section, "Minimum Value-to-Debt Ratio" means the aggregate full cash value of all of the properties within a community facilities district that are subject to the levy of special taxes by such community facilities district to pay debt service on the proposed issuance of bonds for such community facilities district will be at least three times the sum of (a) the proposed principal amount of such bonds and (b) the principal amount of all other bonds outstanding that are secured by a special tax levied on the taxable property within the community facilities district, other than the special tax authorized to be levied by the community facilities district or a special assessment levied on taxable property within the community facilities district.

#### **Section 8. Responsible Department**

The Authority's Executive Director, who is located at 27368 Via Industria, Suite 200, Temecula, CA 92590 and whose telephone number is 951-587-5000, is designated as the official of the Authority who will serve as the administrator of any CFD Administrator and who is responsible for: (i) preparing the annual roll of the special tax levy with respect to any community facilities district; (ii) providing information to interested persons regarding the current and estimated future tax liability of owners or purchasers of real property subject to the special tax lien; and (iii) furnishing notices of special tax as required by Section 53340.2 of the Act.

Subject to the policies of the Authority, and as permitted by applicable law, the Authority may obtain the assistance of a qualified consultant to perform any of the duties set forth above.

## **Section 9. Transparency and Notification**

The Authority will take the following steps to ensure that prospective property purchasers are fully informed about their taxpaying obligations imposed under the Act:

a. The Authority will conduct all proceedings required by the Act in the manner required by the Ralph M. Brown Act (Section 54950 and following of the California Government Code);

b. The Authority will cause a map of the boundaries of any proposed community facilities district to be recorded, pursuant to Section 3111 of the California Streets and Highways Code, in the Office of the Recorder of San Diego County within 15 days following the adoption of a resolution of intention to form that community facilities district, pursuant to Section 53321 of the Act;

c. The Authority will give notice, pursuant to the Act, prior to holding any public hearing on the establishment of a community facilities district;

d. The Authority will record a notice of special tax lien, in the form specified by Section 3114.5 of the California Streets and Highways Code, within 15 days of the Authority Council' determination that the requisite number of voters are in favor of the levy of a special tax in connection with a community facilities district. Such notice will include, among other information:

1. A description of the rate, method of apportionment, and manner of collection of the authorized special tax;

2. Information about the conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled;

3. The name(s) of the owner(s) and the assessor's tax parcel number(s) of the real property included within this community facilities district and not exempt from the special tax; and

4. The name, address and telephone number of the CFD Administrator, so they may contact the CFD Administrator to obtain further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to the special tax lien.

e. The Authority will, through the CFD Administrator, furnish a notice of any individual requesting the notice or any owner of property subject to a special tax, in the

form set forth in Section 53340.2(c) of the Act to a special tax levied by the local agency within five working days of a request for such notice. The Authority Board may establish a reasonable fee for this service.

**Section 10. Appraisal.**

The definitions, standards and assumptions to be used in appraisals required in connection with the Authority's use of the Act for community facilities districts are as set forth in the Appraisal Standards for Land Secured Financings published by the California Debt Advisory Commission and originally dated May 1994 and modified July 2004 (the "CDIAC Guidelines").

Notwithstanding the foregoing, if there is a conflict between the definitions, standards or assumptions in the CDIAC Guidelines and the corresponding definitions, standards or assumptions in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation ("USPAP"), USPAP shall govern.

**Section 11. Interpretation.**

The Authority Board is empowered to interpret these Goals and Policies. A finding by the Authority Board that a community facilities district conforms to the provisions of these Goals and Policies shall be conclusive evidence of such conformity.

**RESOLUTION NO. 2016-02**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY, CALIFORNIA, ADOPTING A BOUNDARY MAP SHOWING TERRITORY PROPOSED TO BE INCLUDED IN COMMUNITY FACILITIES DISTRICT NO. 3**

**WHEREAS**, the North City West School Facilities Financing Authority (the "Authority") desires to initiate proceedings to create a community facilities district 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; and

**WHEREAS**, such community facilities district shall hereinafter be designated as North City West School Facilities Financing Authority Community Facilities District No. 3 ("CFD No. 3"); and

**WHEREAS**, there has been submitted a map showing the boundaries of the territory proposed to be included in CFD No. 3, including properties and parcels of land proposed to be subject to the levy of a special tax by CFD No. 3.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the North City West School Facilities Financing Authority, California, as follows:

**Section 1.** The above recitals are all true and correct.

**Section 2.** The map showing the property proposed to be included in CFD No. 3 and to be subject to the special tax to be levied is hereby approved and adopted. Said map is designated as "Map of Proposed Boundaries of North City West School Facilities Financing Authority Community Facilities District No. 3, County of San Diego, State of California" (the "CFD No. 3 Boundary Map") and is on file in the Office of the Secretary.

**Section 3.** A certificate shall be endorsed on the original and on at least one (1) copy of the CFD No. 3 Boundary Map, evidencing the date and adoption of this resolution, and within fifteen days after the adoption of the resolution fixing the time and place of the hearing on the formation of CFD No. 3, a copy of said map shall be filed with the correct and proper endorsements thereon with the County Recorder, all in the manner and form provided for in Section 3111 of the Streets and Highways Code of the State California.

[Remainder of this page intentionally left blank.]

**Section 4.** This resolution shall become effective upon its adoption.

**ADOPTED** by the Board of Directors of the North City West School Facilities Financing Authority, California, at a Special Meeting thereof held this 19th day of January, 2016, by the following roll call vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

**APPROVED**

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**ERIC DILL, CHAIRPERSON**

**ATTEST**

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**MARK RISCO, SECRETARY**

**EXHIBIT A**

**MAP OF PROPOSED BOUNDARIES OF  
NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY  
COMMUNITY FACILITIES DISTRICT NO. 3,  
COUNTY OF SAN DIEGO, STATE OF CALIFORNIA**

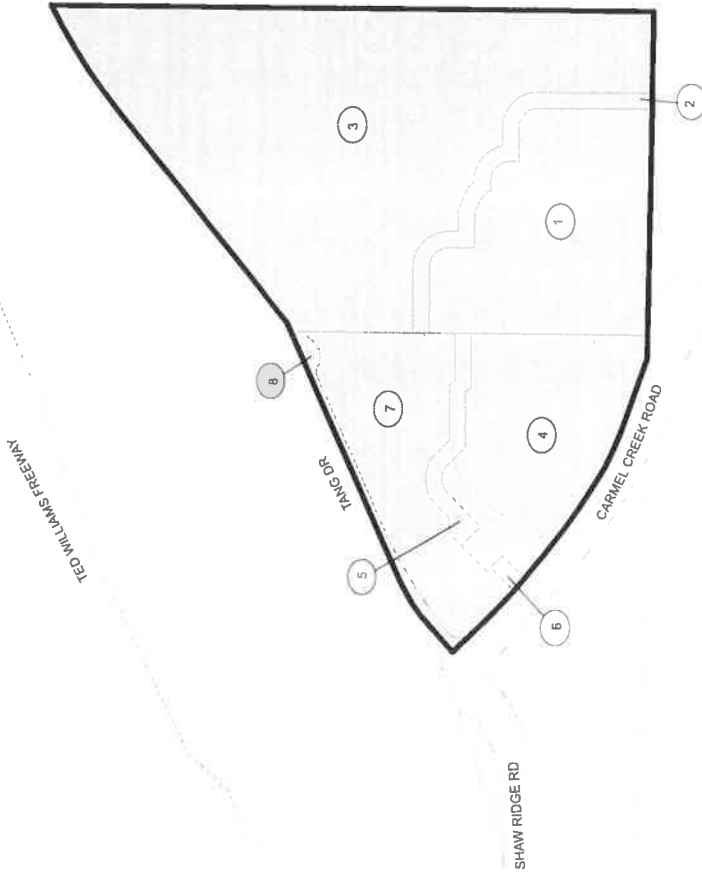
# MAP OF PROPOSED BOUNDARIES OF NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 3

COUNTY OF SAN DIEGO  
STATE OF CALIFORNIA



### Legend

- 1 MAP REFERENCE NUMBER
- DISTRICT PARCELS
- DISTRICT BOUNDARY



FILED IN THE OFFICE OF THE SECRETARY OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 3 IS A TRUE AND CORRECT COPY OF THE MAP AS WAS APPROVED BY THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY AT A REGULAR MEETING THEREOF, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ BY ITS RESOLUTION \_\_\_\_\_.

SECRETARY OF THE BOARD OF DIRECTORS  
NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_ AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, INSTRUMENT NO. \_\_\_\_\_ AT THE COUNTY FACILITIES DISTRICTS AND AS INSTRUMENT AT THE REQUEST OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

BY DEPUTY  
COUNTY RECORDER/CLERK  
COUNTY OF SAN DIEGO

THE LINES AND DIMENSIONS OF EACH LOT OR PARCEL ENCOMPASSED BY THIS MAP SHALL BE THOSE LINES AND DIMENSIONS AS SHOWN ON THE SAN DIEGO COUNTY ASSESSOR'S MAPS.

THE SAN DIEGO COUNTY ASSESSOR'S MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH LOTS OR PARCELS.

MAP REFERENCE NUMBER	ASSESSOR'S PARCEL NUMBER
1	307-790-01-00
2	307-790-02-00
3	307-790-03-00
4	307-790-04-00
5	307-790-05-00
6	307-790-06-00
7	307-790-07-00
8	307-790-08-00



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**RESOLUTION NO. 2016-03**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY, CALIFORNIA, DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 3 AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE CERTAIN SCHOOL FACILITIES**

**WHEREAS**, the North City West School Facilities Financing Authority (the "Authority") and MKSRV Solana Carmel Creek LLC ("MKSRV") entered into that certain Mitigation Agreement & Limited Release effective June 12, 2015 (the "Mitigation Agreement") as the final agreement between the Authority and MKSRV regarding the amount of school facility or development impact mitigation necessary to mitigate the impacts of students generated from the proposed 181 multi-family residential units to be constructed on those parcels identified as APNs 307-023-38 and 307-023-40 (the "Project"); and

**WHEREAS**, the purpose of the Mitigation Agreement is to establish a method of funding the school facilities needed to house potential students generated by the Project; and

**WHEREAS**, the Mitigation Agreement requires the Authority to create a community facilities district as the method of funding such school facilities; and

**WHEREAS**, at this time desires to initiate proceedings to create such community facilities district 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") for the purpose of financing such school facilities to house the students generated by the Project; and

**WHEREAS**, this community facilities district shall hereinafter be referred to as North City West School Facilities Financing Authority Community Facilities District No. 3 ("CFD No. 3"); and

**WHEREAS**, the Act provides that this Board of Directors (the "Board") may initiate proceedings to establish a community facilities district only if it has first considered and adopted local goals and policies concerning the use of the Act; and

**WHEREAS**, this Board has adopted local goals and policies as required pursuant to the Act; and

**WHEREAS**, this Board now desires to proceed to adopt its resolution of intention to initiate proceedings for the establishment of CFD No. 3, to set forth the boundaries for CFD No. 3, to indicate the type of school facilities to be financed by CFD No. 3, to indicate the rate and apportionment of special tax sufficient to finance such school facilities and to set a time and place for a public hearing relating to the establishment of CFD No. 3; and

**WHEREAS**, a map of CFD No. 3 (the "Boundary Map") has been submitted to the Board showing the boundaries of the territory proposed for inclusion in CFD No. 3 including properties and parcels of land proposed to be subject to the levy of the special tax by CFD No. 3 and such map has been adopted by resolution of the Board.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the North City West School Facilities Financing Authority, California, as follows:

**Section 1. Recitals.** The above recitals are all true and correct.

**Section 2. Initiation of Proceedings.** These proceedings are initiated by this Board pursuant to the authorization of Section 53318 of the Government Code of the State of California and the other provisions of the Act.

**Section 3. Boundaries of CFD No. 3.** It is the intention of this Board to establish CFD No. 3 pursuant to the provisions of the Act, and to determine the boundaries and parcels included in the Project on which the special tax may be levied to finance the School Facilities (defined in Section 5 below). A description of the boundaries of the territory proposed for inclusion in CFD No. 3 including properties and parcels of land proposed to be subject to the levy of the special tax by CFD No. 3 is as follows:

All that property as shown on the Boundary Map as previously approved by this Board, such map designated as "Map of Proposed Boundaries of North City West School Facilities Financing Authority Community Facilities District No. 3, County of San Diego, State of California" a copy of which is on file in the Office of the Board Secretary and shall remain open for public inspection.

**Section 4. Name of the Community Facilities District.** The name of the community facilities district proposed to be established shall be known and designated as "North City West School Facilities Financing Authority Community Facilities District No. 3."

**Section 5. Descriptions of the School Facilities.** It is the intention of this Board to finance the purchase, construction, expansion, improvement, or rehabilitation of certain types of school facilities. A general description of the types of school facilities (collectively, the "School Facilities") that may be financed is as follows:

The acquisition, planning, construction and/or financing of those school facilities, including classrooms, multi-purpose, administration and auxiliary space at each school, central support and administrative facilities, interim housing, transportation and special education facilities, together with furniture, equipment and technology, needed by the school district in order to serve directly or indirectly the student population to be generated as a result of the development of the property within CFD No. 3, together with all land or interests in land required for the construction of such facilities and all land or interests in land required to be provided such school districts as mitigation of

environmental impacts associated with the development of such School Facilities. The School Facilities shall also include the attributable costs of engineering, design, planning, materials testing, coordination, construction staking and construction.

The Board finds that the School Facilities are necessary to meet increased demands placed upon the Authority as a result of new development occurring within the boundaries of the proposed CFD No. 3.

**Section 6. Special Tax.** It is hereby further proposed that, except where funds are otherwise available, a special tax sufficient to finance the School Facilities (the "Special Tax") and related incidental expenses authorized by the Act, secured by recordation of a continuing lien against all non-exempt real property in CFD No. 3, will be levied within the boundaries of CFD No. 3 and will be due and payable pursuant to the rate and method of apportionment of the proposed Special Tax (the "Rate and Method"), a copy of which is attached as Exhibit A hereto and incorporated herein by this reference. For particulars as to the levy of the Special Tax reference is made to the Rate and Method which sets forth in sufficient detail the rate and method of apportionment of the Special Tax to allow each landowner or resident within proposed CFD No. 3 to clearly estimate the maximum amount of Special Tax that such person will have to pay for the School Facilities. Under no circumstances will the Special Tax be increased as a consequence of delinquency or default in the payment of the Special Tax by the owner of any other parcel or parcels used for private residential purposes within CFD No. 3 by more than 10 percent.

The Special Tax herein authorized, to the extent possible, shall be collected in the same manner as ad valorem property taxes or in such other manner as this Board or its designee shall determine, including direct billing of the affected property owners. Such Special Tax shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency as applicable for ad valorem taxes. Any Special Tax that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Authority.

Pursuant to Government Code Section 53340 and except as provided in Government Code Section 53317.3, properties of entities of the state, federal, and local governments shall be exempt from the levy of the Special Tax.

**Section 7. Public Hearing.** NOTICE IS GIVEN THAT ON MARCH 10, 2016 AT 2:30 PM IN THE REGULAR MEETING PLACE OF THE BOARD BEING 309 NORTH RIOS AVENUE, SOLANA BEACH CALIFORNIA, CALIFORNIA, A PUBLIC HEARING WILL BE HELD WHERE THIS BOARD WILL CONSIDER THE ESTABLISHMENT OF THE PROPOSED CFD NO. 3, THE PROPOSED METHOD AND APPORTIONMENT OF THE SPECIAL TAX, AND ALL OTHER MATTERS AS SET FORTH IN THIS RESOLUTION OF INTENTION. AT THE ABOVE-MENTIONED TIME AND PLACE FOR PUBLIC HEARING ANY INTERESTED PERSONS, INCLUDING TAXPAYERS AND PROPERTY OWNERS MAY APPEAR AND BE HEARD. THE TESTIMONY OF ALL INTERESTED PERSONS FOR OR AGAINST THE ESTABLISHMENT OF CFD NO. 3, THE EXTENT OF CFD NO. 3, OR THE

FINANCING OF SCHOOL FACILITIES, WILL BE HEARD AND CONSIDERED. ANY PROTESTS MAY BE MADE ORALLY OR IN WRITING. HOWEVER, ANY PROTESTS PERTAINING TO THE REGULARITY OR SUFFICIENCY OF THE PROCEEDINGS SHALL BE IN WRITING AND CLEARLY SET FORTH THE IRREGULARITIES AND DEFECTS TO WHICH THE OBJECTION IS MADE. ALL WRITTEN PROTESTS SHALL BE FILED WITH THE BOARD SECRETARY ON OR BEFORE THE TIME FIXED FOR THE PUBLIC HEARING. WRITTEN PROTESTS MAY BE WITHDRAWN IN WRITING AT ANY TIME BEFORE THE CONCLUSION OF THE PUBLIC HEARING.

IF A WRITTEN MAJORITY PROTEST AGAINST THE ESTABLISHMENT OF CFD NO. 3 IS FILED, THE PROCEEDINGS SHALL BE ABANDONED. IF SUCH MAJORITY PROTEST IS LIMITED TO CERTAIN SCHOOL FACILITIES, THOSE SCHOOL FACILITIES SHALL BE ELIMINATED BY THE BOARD.

**Section 8. Election.** If, following the public hearing described in the section above, the Board determines to establish CFD No. 3 and proposes to levy the Special Tax within CFD No. 3, the Board shall then submit the levy of the Special Tax to the qualified electors of CFD No. 3. If at least twelve (12) persons, who need not necessarily be the same 12 persons, have been registered to vote within CFD No. 3 for each of the ninety (90) days preceding the close of the public hearing, the vote shall be by registered voters of CFD No. 3, with each voter having one (1) vote. Otherwise, the vote shall be by the landowners of CFD No. 3 who were the owners of record at the close of the subject hearing, with each landowner or the authorized representative thereof, having one (1) vote for each acre or portion of an acre of land owned within CFD No. 3.

A successful election relating to the Special Tax authorization shall, as applicable, establish the appropriations limit as authorized by Article XIII B of the California Constitution as it is applicable to CFD No. 3.

**Section 9. Notice of Public Hearing.** Notice of the time and place of the public hearing shall be given by the Board Secretary by causing the publication of a Notice of Public Hearing in the legally designated newspaper of general circulation, such publication pursuant to Section 6061 of the Government Code, with such publication to be completed at least seven (7) days prior to the date set for the public hearing.

**Section 10. Report.** The Executive Director, as the officer of the Authority who will be responsible for providing the School Facilities to be provided within and financed by CFD No. 3, if established, shall study or cause CFD No. 3 to be studied, and, at or before the time of the public hearing as described in Section 7 and file a report or cause a report to be filed with the Board, consistent with the terms of the Mitigation Agreement, containing a brief description of the School Facilities which will in his opinion be required to adequately meet the needs of CFD No. 3. Such report shall be made a part of the record of the hearing to be held pursuant to Section 7 hereof.

**Section 11. Advances of Funds or Work In-Kind.** At any time either before or after the formation of CFD No. 3, the Board may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the Authority in creating CFD No. 3. The Authority may enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds so advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the Board. No such agreement shall constitute a debt or liability of the Authority.

**Section 12. Effective Date.** This resolution shall become effective upon its adoption.

**ADOPTED** by the Board of Directors of the North City West School Facilities Financing Authority, California, at a Special Meeting thereof held this 19th day of January, 2016, by the following roll call vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

**APPROVED**

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**ERIC DILL, CHAIRPERSON**

**ATTEST**

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**MARK RISCO, SECRETARY**

**EXHIBIT A**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR  
NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY  
COMMUNITY FACILITIES DISTRICT NO. 3**

# RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

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## NORTH CITY WEST SCHOOL FACILITIES FINANCING AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 3

A One-Time Special Tax shall be levied once on Assessor's Parcels within the boundaries of Community Facilities District No. 3 of the North City West School Facilities Financing Authority ("CFD No. 3") and collected at the time and in an amount determined by the CFD Administrator through the application of the procedures described below. All of the real property within CFD No. 3, unless exempted by law or by the provisions hereof, shall be subject to the tax for the purposes, to the extent, and in the manner herein provided.

### 1. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**"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.

**"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.

**"Board"** means the Board of Directors of the District serving as the legislative body of CFD No. 3 under the Act.

**"Building Permit"** means a building permit for construction of one or more Residential Units within CFD No. 3 issued by the City.

**"Certificate of Occupancy"** means a permanent certificate issued by the City, or other applicable government entity, that authorizes the actual occupancy of a Residential Unit for habitation by one or more residents.

**"CFD Administrator"** means an authorized representative of the District, or designee thereof, responsible for determining the One-Time Special Tax.

**"CFD No. 3"** means the Community Facilities District No. 3 of the North City West School Facilities Financing Authority.

**"City"** means the City of San Diego, California.

**"County"** means the County of San Diego, California.

**"District"** means the North City West School Facilities Financing Authority, California.



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

“**Mitigation Agreement**” means the Mitigation Agreement and Limited Release entered into between MKSRV Solana Carmel Creek LLC, a Delaware limited liability company and the District on June 12, 2015 and any amendments to that agreement.

“**One-Time Special Tax**” means the single payment special tax to be collected from an Assessor’s Parcel of Taxable Property prior to the issuance of a Certificate of Occupancy, pursuant to Section 3 below.

“**Residential Property**” means all Assessor’s Parcels zoned 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 CFD No. 3 pursuant to the Act, the Mitigation Agreement and this Rate and Method of Apportionment of Special Tax.

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

### **3. ONE-TIME SPECIAL TAX**

The One-Time Special Tax shall be equal to \$2,000,000 and shall be collected once.

### **4. COLLECTION OF SPECIAL TAXES**

The One-Time Special Tax shall be paid to the District once and in full prior to the issuance of the first Certificate of Occupancy for one or more Residential Units within CFD No. 3. The One-Time Special Tax will be paid by the owner(s) of such Assessor’s Parcel within CFD No. 3 at the earlier of the time of the issuance of a Certificate of Occupancy or June 12, 2018.

If a Certificate of Occupancy has not been issued prior to June 12, 2018, one or more active Building Permits have been issued within CFD No. 3, and the CFD Administrator has determined that Residential Units are actively being developed within the boundaries of CFD No. 3, then the One-Time Special Tax shall be paid in full to the District on June 12, 2018 by the owners of Residential Property within CFD No. 3. The total One-Time Special Tax collected will be equal to \$2,000,000 and will be apportioned to the Assessor’s Parcels of Residential Property based on the number of Residential Units authorized by the Building Permits that have been issued within CFD No. 3.

Any portion of the One-Time Special Tax that is not collected at that time may be levied on such Assessor’s Parcel in the same manner as ordinary *ad valorem* property taxes in any following Fiscal Year.

### **5. 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 twelve (12) 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 may amend the amount of the Special Tax levied on such Assessor’s Parcel. 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 District Board. Upon the receipt of such notice, the District Board or designee may establish such procedures as deemed necessary to undertake the review of any such appeal.

The District Board 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 District Board or designee shall be final and binding as to all persons.