

UNANIMOUS APPROVAL

Community Facilities District No. 2020-1 of the City of Escondido (Services)

_____, 2022

Community Facilities District No. 2020-1
of the City of Escondido (Services)
201 North Broadway
Escondido, CA 92025
Attention: City Manager

The City of Escondido (the “City”) has formed Community Facilities District No. 2020-1 of the City of Escondido (Services) (the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the “Act”). The purpose of the District is to finance (1) certain services caused by development within the District (collectively, the “Services”) described in Attachment “B” to Resolution No. 2020-24 of the City Council of the City adopted April 8, 2020 (the “Resolution of Intention,” attached hereto as Exhibit 2 and incorporated herein by this reference) and (2) “Incidental Expenses” as said term is defined in Attachment “C” to the Resolution of Intention (Rate and Method of Apportionment of Special Taxes).

The undersigned property Owner (the “Owner”) hereby states and certifies under penalty of perjury as follows:

1. This Unanimous Approval is submitted by the Owner who is the record owner of fee title to the real property and improvements thereon as described in Exhibit 1, attached hereto and incorporated herein by this reference (collectively, the “Annexation Territory”). The Owner has provided the District valid and current evidence of its ownership of fee title to the Annexation Territory and possesses all legal authority necessary to execute this Unanimous Approval.

2. There are no registered voters residing within the Annexation Territory and have been none during the 90-day period preceding December 7, 2022.

3. This Unanimous Approval constitutes the unanimous approval of the Owners in favor of the following within the meaning of Sections 53329.6, 53339.2 and 53339.3 of the Act:

(a) Annexation. The annexation of the Annexation Territory to the District for the purpose of financing the Services and Incidental Expenses set forth in Attachment “B” to the Resolution of Intention (Exhibit 2 hereto).

(b) Special Tax. The levy of special taxes in the Annexation Territory to finance the Services and the Incidental Expenses in accordance with the Rate and Method of Apportionment of Special Taxes described within Attachment “C” to the Resolution of Intention (Exhibit 2 hereto) and this Unanimous Approval (the “Special Tax”).

4. Pursuant to Section 53329.6 of the Act, this Unanimous Approval constitutes the vote of the qualified elector in favor of the matters addressed in this Section 3 for purposes of the California Constitution, including but not limited to Articles XIII A and XIII C.

5. The Owner hereby acknowledges that no further hearings or procedures are required with respect to the approval of the matters set forth in Section 3 above.

6. The Owner understands and hereby unanimously approves that the Special Tax is authorized to be levied on the Annexation Territory annexed to the District, and the lien is a continuing lien that shall secure each annual levy of the Special Taxes and that shall continue in force and effect until the Special Tax obligation is canceled in accordance with law or until the Special Tax ceases to be levied and a Notice of Cessation of Special Tax is recorded in accordance with Section 53330.5 of the Government Code.

7. The Owner hereby waives any and all requirements with respect to the approval of the matters set forth in this Unanimous Approval, including without limitation the preparation of an impartial analysis, arguments, or rebuttals concerning elections as provided for by Sections 9160 to 9167, inclusive, and Section 9190 of the Elections Code, and preparation of a tax rate statement as provided in Section 9401 of the Elections Code and any further notices of such approvals as may be required pursuant to the Elections Code or the Government Code. Having been fully advised with respect to the approval process set forth herein, the Owner waives compliance with any and all provisions of the Elections Code and Government Code, and with any other time limits or requirements pertaining to this Unanimous Approval.

8. The Owner hereby represents that compliance with any additional procedural requirements for the Unanimous Approval provided for herein, including the receipt of any arguments for or against such approval and impartial analyses and the time limitations that may apply in connection with scheduling, mailing, and publishing notices, are unnecessary in light of the fact that the undersigned has received sufficient information regarding the imposition of the Special Tax as set forth in Resolution No. 2020-44 of the City Council of the City adopted May 13, 2020 (the "Resolution of Formation") to allow it to properly complete this Unanimous Approval. The Owner further waives its right to make any protest or complaint or undertake any legal action challenging the validity of this Unanimous Approval and any proceedings taken in connection therewith or the levy of the Special Tax to finance the costs of the Services for the benefit of the Annexation Territory.

9. The Owner hereby authorizes the District to execute and cause to be recorded in the Office of the County Recorder of the County of San Diego a Notice of Special Tax Lien in accordance with Streets and Highways Code section 3117.5, which shall give notice that a lien to secure payment of the Special Tax is imposed by the District. The Owner further represents that there is no currently pending transfer of the Annexation Territory, or anticipated transfer of the Annexation Territory, that will affect the ability to record a Notice of Special Tax Lien or complete any other procedural steps described in this Unanimous Approval.

10. The Owner hereby warrants to the District that the presentation of this Unanimous Approval, any vote, consent, or waiver contained herein, and any other action mandated by the City for the annexation of the Annexation Territory to the District, shall not constitute or be construed as an event of default or delinquency under any existing or proposed financing document entered into or to be entered into by the Owner for the Annexation Territory, including without limitation any "due-on-encumbrance" clause under any existing security instrument secured by the Annexation Territory.

11. The Owner hereby agrees to comply with Section 53341.5 of the Government Code with respect to disclosures about the Special Tax to prospective purchasers of the Annexation Territory or any part of it.

12. The Owner hereby further agrees to execute any additional or supplemental agreements that may be reasonably required by the District to provide for any of the actions and conditions described in this Unanimous Approval.

13. The Owner hereby represents that (i) the signature page of this Unanimous Approval identifies all persons and entities holding title to the Annexation Territory, and (ii) no consent or approval of any third party is required for the Owner's execution of this Unanimous Approval except for any such consent or approval that the Owner has already obtained.


14. This Unanimous Approval shall be effective upon its execution and delivery.

I certify under the penalty of perjury under the laws of the State of California that the foregoing Unanimous Approval is true and correct; I have the authority to execute this Unanimous Approval as, or on behalf of, the Owner; and this Unanimous Approval is hereby executed this 4th day of November 2022 in Carlsbad, California.

CWC ESCONDIDO 113, LLC,
a Delaware limited liability company

By: CWC ESCON 113 MGMT LP, a California limited
partnership
Its: Managing Member

By: CWC ESCON MGMT LLC, a California limited liability
company
Its: General Partner

By: 

Robert H. Thorne,
Chief Executive Officer

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA]

COUNTY OF San Diego]

On November 4, 2022, before me,
M.K. Stuckey, a Notary Public, personally appeared
Robert A. Thorne, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: M.K. Stuckey (Seal)



EXHIBIT 1

ANNEXATION TERRITORY

Real property in the City of Escondido, County of San Diego, State of California, described as follows:

Assessor's Parcel Nos. (as set forth in the County of Escondido Assessor's Fiscal Year 2022-23 Roll):

238-130-35

238-130-36

Unanimous Approval of Landowner to Annex into CFD No. 2020-1