

RESOLUTION NO. 2022-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2022-1 OF THE CITY OF ESCONDIDO (ECLIPSE/MOUNTAIN HOUSE), AND FUTURE ANNEXATION AREA, AUTHORIZING THE LEVY OF A SPECIAL TAX THEREIN, CALLING AN ELECTION AND APPROVING AND AUTHORIZING CERTAIN ACTION RELATED THERETO

WHEREAS, the City Council (“City Council”) of the City of Escondido (“City”) has heretofore adopted Resolution No. 2022-02 stating its intention to form Community Facilities District No. 2022-1 of the City of Escondido (Eclipse/Mountain House) (“Community Facilities District No. 2022-1” or the “District”) and to designate certain parcels as territory proposed for future annexation into the District (the “Future Annexation Area”), pursuant to 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 (the “Act”); and

WHEREAS, a copy of Resolution No. 2022-02 setting forth a description of the proposed boundaries of Community Facilities District No. 2022-1 and the Future Annexation Area, the facilities and incidental expenses to be financed by the District and the Future Annexation Area, and the rate and method of apportionment of the special tax proposed to be levied within the District and the Future Annexation Area is on file with the City Clerk; and

WHEREAS, notice was published and mailed to all landowners of the land proposed to be included within the District as required by law relative to the intention of this City Council to form proposed Community Facilities District No. 2022-1 and the Future Annexation Area and to levy a special tax (the

“Special Tax”) and to incur bonded indebtedness in the amount of up to \$6,000,000 therein to finance the facilities and incidental expenses described in Resolution No. 2022-02; and

WHEREAS, on March 2, 2022, this City Council conducted a noticed public hearing as required by law relative to the proposed formation of Community Facilities District No. 2022-1 and the Future Annexation Area, the levy of the Special Tax therein and the issuance of bonded indebtedness by the District; and

WHEREAS, at the March 2, 2022 public hearing there was filed with this City Council a report containing a description of the facilities necessary to meet the needs of the District and the Future Annexation Area and an estimate of the cost of such facilities as required by Section 53321.5 of the Act (the “CFD Report”); and

WHEREAS, at the March 2, 2022 public hearing all persons desiring to be heard on all matters pertaining to the formation of Community Facilities District No. 2022-1 and the Future Annexation Area, the levy of the Special Tax and the issuance of bonded indebtedness were heard and full and fair hearings were held; and

WHEREAS, following the public hearing, this City Council has determined to authorize the formation of the District and the Future Annexation Area to finance the types of facilities (the “Facilities”) and the incidental expenses (the “Incidental Expenses”) set forth in Exhibit “A” hereto, which are described in more detail in the CFD Report; and

WHEREAS, at the public hearing evidence was presented to this City Council on the matters before it, and the proposed Special Tax to be levied within the District was not precluded by a majority protest of the type described in Section 53324 of the Act, and this City Council at the conclusion of the hearing

was fully advised as to all matters relating to the formation of the District and the Future Annexation Area, the levy of the Special Tax and the issuance of bonded indebtedness by the District; and

WHEREAS, this City Council has determined, based on a Certificate of Registrar of Voters of the County of San Diego on file in the office of the City Clerk, that no registered voters have been residing in the proposed boundaries of Community Facilities District No. 2022-1 for each of the 90 days prior to March 2, 2022 and that the qualified electors in Community Facilities District No. 2022-1 are the landowners within the District; and

WHEREAS, on the basis of all of the foregoing, this City Council has determined to proceed with the establishment of Community Facilities District No. 2022-1 and the Future Annexation Area and to Call an election therein to authorize (i) the levy of Special Tax pursuant to the rate and method of apportionment of the special tax, as set forth in Attachment C to Resolution No. 2022-02 (the "Rate and Method"), (ii) the issuance of bonds to finance the Facilities and Incidental Expenses, and (iii) the establishment of an appropriations limit for Community Facilities District No. 2022-1;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California :

1. That the above recitations are true.
2. That a community facilities district to be designated "Community Facilities District No. 2022-1 of the City of Escondido (Eclipse/Mountain House)" is hereby established pursuant to the Act. The future annexation area designated as "Community Facilities District No. 2022-1 of the City of Escondido (Eclipse/Mountain House) (Future Annexation Area)" is hereby established pursuant to the Act. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the District and the Future Annexation Area were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

3. That the boundaries of Community Facilities District No. 2022-1 are established as shown on the map designated “Boundary Map of Community Facilities District No. 2022-1 (Eclipse/Mountain House) City of Escondido, County of San Diego, State of California”, which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County Book of Maps of Assessment and Community Facilities Districts in the Assessor-County Clerk-Recorder’s office of the County of San Diego in Book No. 49 Page Nos. 89-90 on February 1, 2022 as Instrument No. 2022-7000033.

Parcels within the Future Annexation Area shall be annexed to the District and subjected to the special tax of the District only with the unanimous approval of the owner or owners of the parcel or parcels at the time of annexation or in compliance with other procedures established by the Act. The City Council hereby determines that any property for which the owner or owners execute a Unanimous Approval shall be added to the District and the City Clerk shall record an amendment to the notice of special tax lien for the District pursuant to Section 3117.5 of the Streets & Highways Code.

4. That the types of Facilities and Incidental Expenses authorized to be provided for Community Facilities District No. 2022-1, and, when it has been annexed to the District, the Future Annexation Area, are those set forth in Exhibit “A” attached hereto. The estimated cost of the Facilities and Incidental Expenses to be financed is set forth in the CFD Report, which estimates may change as the Facilities are designed and bid for construction and acquisition, as applicable.

The City is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The City Council finds and determines that the proposed Facilities are necessary to meet the increased demand that will be placed upon local agencies and public infrastructure as a result of new development within the District and that the Facilities to be financed benefit residents of the City and the future residents of the District and the Future Annexation Area.

5. That except where funds are otherwise available, it is the intention of this City Council, subject to the approval of the eligible voters of the District, to levy annually a Special Tax at the rates set forth in the Rate and Method on all non-exempt property within the District sufficient to pay for (i) the Facilities; (ii) the Incidental Expenses; and (iii) the principal and interest and other periodic costs on the bonds proposed to be issued to finance the Facilities and Incidental Expenses, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees and other expenses of the type permitted by Section 53345.3 of the Act. The District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the creation of the District and the Future Annexation Area, the issuance of bonds, the levying and collecting of the Special Tax, the completion and inspection of the Facilities and the annual administration of the bonds and the District and the Future Annexation Area. The Rate and Method is described in detail in Attachment C to Resolution No. 2022-02 and incorporated herein by this reference, and the City Council hereby finds that the Rate and Method contains sufficient detail to allow each landowner within the District to estimate the maximum amount of Special Taxes that may be levied against each parcel. As described in greater detail in the CFD Report, which is incorporated by reference herein, the Special Tax is based on the expected demand that each parcel of real property within Community Facilities District No. 2022-1 will place on the Facilities and on the benefit that each parcel will derive from the right to access the Facilities and, accordingly, is hereby determined to be reasonable. The Special Tax shall be levied on each assessor's parcel in accordance with the Rate and Method provided, however, that the Special Tax shall not be levied on any taxable parcel beyond 50 years after such parcel was classified as Developed Property in accordance with the Rate and Method. The Special Tax is apportioned to each parcel on the foregoing bases pursuant to Section 53325.3 of the Act and such Special Tax is not on or based upon the ownership of real property or the assessed value of real property.

If Special Taxes of the District are levied against any parcel used for private residential purposes, (i) the maximum Special Tax rate shall be specified as a dollar amount which shall be calculated and established not later than the date on which the parcel is first subject to the Special Tax because of its use for private residential purposes and shall not be increased over time except as authorized under the Rate and Method, (ii) the Special Tax shall not be levied on any taxable parcel beyond 50 years after such parcel was classified as Developed Property in accordance with the Rate and Method, and (iii) under no circumstances will the Special Tax levied against any such parcel used for private residential uses be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the District by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults.

The City Manager of the City of Escondido, will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

6. That in the event that a portion of the property within Community Facilities District No. 2022-1 shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified in the Rate and Method, or in the event of delinquencies in the payment of Special Taxes levied, the City Council shall, on behalf of Community Facilities District No. 2022-1, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within Community Facilities District No. 2022-1 which is not exempt or delinquent in order to yield the required debt service payments on any outstanding bonds of the District, or to prevent the District from defaulting on any of its other obligations or liabilities; provided, however, under no circumstances will the Special Tax levied against any parcel used for private residential uses be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the District by more than ten percent

above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. The amount of the Special Tax will be set in accordance with the Rate and Method. The obligation to pay Special Taxes may be prepaid only as set forth in Section G of the Rate and Method.

7. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all non-exempt real property in the District and this lien shall continue in force and effect until the Special Tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the Special Tax by the District ceases.

8. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within Community Facilities District No. 2022-1, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within Community Facilities District No. 2022-1 and will be benefited by the Facilities proposed to be provided within Community Facilities District No. 2022-1.

9. It is hereby further determined that there is no ad valorem property tax currently being levied on property within proposed Community Facilities District No. 2022-1 for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of Community Facilities District No. 2022-1 as are proposed to be provided by the Facilities to be financed by Community Facilities District No. 2022-1.

10. Written protests against the establishment of the District or the Future Annexation Area have not been filed by one-half or more of the registered voters within the boundaries of the District or

the Future Annexation Area or by the property owners of one-half (1/2) or more of the area of land within the District or the Future Annexation Area. The City Council hereby finds that the proposed Special Tax has not been precluded by a majority protest pursuant to Section 53324 of the Act.

11. An election is hereby called for Community Facilities District No. 2022-1 on the propositions of levying the special tax on the property within Community Facilities District No. 2022-1 and establishing an appropriations limit for Community Facilities District No. 2022-1 pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness for Community Facilities District No. 2022-1, pursuant to Section 53351 of the Act. The propositions to be placed on the ballot for the District are attached hereto as Exhibit "B".

12. The date of the election within Community Facilities District No. 2022-1 shall be March 2, 2022, or such later date as is consented to by the City Clerk and the landowners within Community Facilities District No. 2022-1. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the election shall be conducted in accordance with the provisions of law regulating elections of the City of Escondido insofar as such provisions are determined by the City Clerk to be applicable.

It is hereby found that there are not more than twelve registered voters within the territory of Community Facilities District No. 2022-1, and, pursuant to Section 53326 of the Act, each landowner who is the owner of record on the date hereof, or the authorized representative thereof, shall have one vote for each acre or portion thereof that he, she or it owns within Community Facilities District No. 2022-1. The voters shall be the landowners of record within Community Facilities District No. 2022-1 as of March 2, 2022.

13. The preparation of the CFD Report is hereby ratified. The CFD Report, as submitted, is hereby approved and was made a part of the record of the public hearing regarding the formation of Community Facilities District No. 2022-1 and the Future Annexation Area. The CFD Report is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

14. This Resolution shall be effective upon its adoption.

ATTACHMENT A

Types of Facilities To Be Financed By Community Facilities District No. 2022-1

The proposed types of public facilities and expenses to be financed by the District include:

The construction, purchase, modification, expansion, rehabilitation and/or improvement of (i) water and wastewater, drainage, park, local and regional traffic, and other public facilities of the City, including the foregoing public facilities which are included in the City's fee programs with respect to such facilities and authorized to be financed under the Mello-Roos Community Facilities Act of 1982, as amended (the "City Facilities"), and all appurtenances and appurtenant work in connection with the foregoing City Facilities, and to finance the incidental expenses to be incurred, including:

a. Engineering, planning, designing, materials testing, coordination, construction staking, construction management and supervision for such City Facilities, and the cost of engineering, planning and designing the City Facilities;

b. All costs, including costs of the property owners petitioning to form the District, associated with the creation of the District, the issuance of the bonds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the District; and

c. Any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the City Facilities.

Capitalized terms used and not defined herein shall have the meaning set forth in the Rate and Method of Apportionment of Special Taxes for the District.

ATTACHMENT B

BALLOT PROPOSITIONS

**COMMUNITY FACILITIES DISTRICT NO. 2022-1
OF THE CITY OF ESCONDIDO (ECLIPSE/MOUNTAIN HOUSE)**

SPECIAL TAX AND SPECIAL BOND ELECTION

March 2, 2022

PROPOSITION A: Shall Community Facilities District No. 2022-1 of the City of Escondido (Eclipse/Mountain House) (the "District") incur an indebtedness and issue bonds in the maximum principal amount of \$6,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Incidental Expenses described in Resolution No. 2022-02 of the City Council of the City of Escondido?

YES _____

NO _____

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Resolution No. 2022-02 of the City Council of the City of Escondido be levied to pay for the Facilities, Incidental Expenses and other purposes described in Resolution No. 2022-02, including the payment of the principal of and interest on bonds issued to finance the Facilities and Incidental Expenses?

YES _____

NO _____

PROPOSITION C: For each year commencing with Fiscal Year 2022-23, shall the appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for Community Facilities District No. 2022-1 be an amount equal to \$6,000,000?

YES _____

NO _____