

FIRE PREVENTION REPORT

DATE: June 12, 2024

TO: Board of Directors

FROM: Jon Newman, Fire Marshal

SUBJECT: CFD 2022-1, Annexation 3 through approval of Resolution 24-22, Resolution 24-23, and

First Reading of Ordinance 24-03

BACKGROUND

The Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 and following) ("Act") contains the statutory framework pursuant to which the San Miguel Consolidated Fire Protection District ("District") or any other local agency may form a Community Facilities District ("CFD") for the purpose of financing the provision of certain authorized public services or maintenance. A CFD may finance services or maintenance through the levy of special taxes within the geographic boundaries of the CFD. The District previously adopted its Local Goals and Policies relating to the formation of CFDs. On July 14, 2021, the District adopted its Policy No. 9.7, requiring new development to offset the negative fiscal impacts of such development on the District, including through forming or annexing into an existing CFD. The District retained NBS Government Finance Group ("NSB") as its special tax consultant to study the negative fiscal impact of new development on the provision of services by the District. NBS prepared a Fiscal Impact Analysis setting forth their results, which has been reviewed by the Board in prior meetings.

On September 14, 2022, the District received their first petition for a CFD and on October 12, 2022, approved Ordinance 2022-2 Levying Special Taxes Within San Miguel Consolidated Fire Protection District. Annexation 1 was approved May 10, 2023.

DISCUSSION

The District has received a petition from INLAND VALLEY INVESTMENTS, LLC (the "Owner"), relating to Parcel 483-101-08-00 located off of Victor Avenue. The Owner is the owner of Assessor Parcel Numbers 483-101-08-00 ("Property"), requesting the annexation into the Community Facilities District No. 2022-1 ("CFD 2022-1"), encompassing the Property, to finance the following public services:

- a) Fire protection and suppression services, and ambulance and paramedic services; and
- b) The administrative and incidental expenses to be incurred by the District, which include the direct and indirect expenses incurred in carrying out its duties with respect to CFD 2022-1 (including, but not limited to, the levy and collection of the special taxes), including the fees and expenses of attorneys, any fees of the County of San Diego related to CFD 2022-1 or the collection of special taxes, an allocable share of the salaries of the District staff directly related thereto, and a proportionate amount of the District's general administrative overhead related thereto, any amounts paid by the District from its general fund with respect to CFD 2022-1 or the services authorized to be financed by CFD 2022-1, and expenses incurred by the District in undertaking action to pursue payment of special taxes which are delinquent, and all other costs and expenses of the District related to CFD 2022-1.

A public hearing on the annexation of territory into CFD No. 2022-1 shall be held at 5:30 p.m. on June 12, 2024, or as soon thereafter as the Board may consider the matter, in the Board Room, located at 2850 Via Orange Way, Spring Valley, CA 91978.

This project will be for fourteen (14) detached apartments. The County of San Diego is aware of the process and holding the owner's grading plans until the CFD is approved.

FISCAL IMPACT

None, as the costs for the formation of CFD 2022-1 are paid through a deposit provided by the Developer and ongoing administrative costs are paid for through the levy of special taxes within CFD 2022-1.

ATTACHMENTS

- Attachment A Resolution 24-22 (Call for Election, Annexation 3)
 - Exhibit A Official Ballot
- Attachment B Resolution 24-23 (Results of Election, Annexation 3)
 - Exhibit A Certificate of Election Official and Statement of Votes Cast
- Attachment C Ordinance 24-03

RECOMMENDATION

Adopt Resolution 24-22 and 24-23, and complete the First Reading of Ordinance 24-03.

Resolution 24-22

Resolution of the Board of Directors of the San Miguel Consolidated Fire Protection District Calling a Special Landowner Election for San Miguel Consolidated Fire Protection District Community Facilities District 2022-1 (Annexation 3)

WHEREAS, the Board of Directors (the "Board") of the San Miguel Consolidated Fire Protection District (the "District") has heretofore conducted proceedings for the establishment of and has established the San Miguel Consolidated Fire Protection District, Community Facilities District No. 2022-1, County of San Diego, State of California ("CFD No. 2022-1") for the purpose of levying special taxes on parcels of taxable property therein for the purpose of providing certain services which are necessary to meet increased demands placed upon the District as a result of the development of said real property; and

WHEREAS, the Board is authorized by Article 3.5 (commencing with Section 53339) of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982," (the "Act") to annex territory to CFD No. 2022-1 by complying with the procedures set forth in said Article 3.5; and

WHEREAS, on May 8, 2024, the Board adopted Resolution No. 24-15, a resolution of intention to annex territory to CFD No. 2022-1 pursuant to Section 53339.2 of the Act, determining that the public convenience and necessity require that certain property, consisting of approximately 0.18 acres, known as Annexation No. 3 be annexed to CFD No. 2022-1 and containing all of the matters prescribed by Section 53339.3 of the Act, and fixing 5:30 p.m. on June 12, 2024, in the in the Board Chambers, located at 2850 Via Orange Way, Spring Valley, CA 91978, as the time and place for a hearing upon said resolution; and

WHEREAS, pursuant to said resolution, the Board Clerk has published and mailed notice of the time and place of said hearing as required by Section 53339.4 of the Act; and

WHEREAS, on June 12, 2024, at the time and place of said hearing, the Board afforded all interested persons for or against the annexation of said property to CFD No. 2022-1 an opportunity to present testimony and to protest against the proposed annexation of said property to CFD No. 2022-1, and no protests, either oral or in writing, were received; and

WHEREAS, pursuant to Section 53339.7 of the Act, the Board may now submit the question of levying a special tax within the territory proposed to be annexed to CFD No. 2022-1 to the qualified electors within that territory.

NOW, THEREFORE, BE IT RESOLVED that the Board of the San Miguel Consolidated Fire Protection District, California, hereby:

Section 1.

Findings. The Board finds that: (i) the foregoing recitals are correct; (ii) less than twelve (12) persons have been registered to vote within the territory proposed to be annexed to CFD No. 2022-1 during the ninety (90) days preceding the close of the public hearing on June 12, 2024; (iii) pursuant to Section 53326 of the California Government Code, as a result of the findings set forth in clause (ii) above, the vote in the special election called by this resolution shall be by the landowners of the territory proposed to be annexed to CFD No. 2022-1 whose property would be subject to the special taxes if they were levied at the time of the election, and each landowner shall have one (1) vote for each acre, or portion thereof, which he or she owns within the said territory, which would be subject to the proposed special taxes if they were levied at the time of the election; (iv) pursuant to said Section 53326, the special election must be held at least ninety (90) days, but not more than one hundred eighty (180) days following the date of the adoption of this resolution, unless such time periods are waived with the unanimous waiver of the qualified electors. All of the qualified electors in the territory to be annexed waived the time limits and election formalities of the special election.

Section 2.

<u>Call of Election.</u> The Board hereby calls and schedules a special election for June 12, 2024, on the proposition with respect to the annual levy of special taxes within the territory proposed to be annexed to CFD No. 2022-1 for paying the cost of the services to be provided within and for the benefit of the territory proposed to be annexed to CFD No. 2022-1.

Section 3.

<u>Propositions.</u> The propositions to be submitted to the voters of CFD No. 2022-1 at such special election shall be as follows:

PROPOSITION A

Shall the San Miguel Consolidated Fire Protection District Community Facilities District No. 2022-1 ("CFD No. 2022-1"), County of San Diego, State of California, subject to accountability measures set forth in California Government Code Section 50075.1, levy special taxes throughout Annexation No. 3 to such community facilities district pursuant to the method of apportioning the special tax set forth in Attachment A to this Official Ballot for the purpose of financing public services, including but not limited to the services set forth in Attachment B to this Official Ballot to meet the increased demand for such services resulting from new development within Annexation No. 3 thereto and the cost of administering the levy and collection of the special taxes and CFD No. 2022-1? Section 4. Conduct of Election. Except as otherwise provided in Section 5 hereof, said election shall be conducted by the Board Clerk of the District pursuant to the California Elections Code governing mail ballot elections, and in particular, the provisions of Division 4 (commencing with Section 4000) of said Code, insofar as they may be applicable.

Section 5.

<u>Election Procedures.</u> The procedures to be followed in conducting the special election on the levy of Special Taxes to pay the annual costs of the Services to the qualified electors of the territory to be annexed to CFD No. 2022-1 (the "Special Election") shall be as follows:

- a) Pursuant to said Section 53326 of the California Government Code, ballots for the special election shall be distributed to the qualified electors by the Board Clerk by mail with return postage prepaid, or by personal service.
- b) Pursuant to applicable sections of the California Elections Code governing the conduct of mail ballot elections, and specifically Division 4 (commencing with Section 4000) of the California Elections Code with respect to elections conducted by mail, the Board Clerk shall mail or deliver to each qualified elector an official ballot in the form attached hereto as Exhibit "A," and shall also mail or deliver to all such qualified electors a ballot pamphlet and instructions to voter, including a sample ballot identical in form to the official ballot but identified as a sample ballot, a return identification envelope with prepaid postage thereon addressed to the Board Clerk for the return of voted official ballots, and a copy of Resolution No. 24-15; provided, however, that such statement, analysis and arguments may be waived with the unanimous consent of all the landowners.
- c) The official ballot to be mailed or delivered by the Board Clerk to each landowner-voter shall have printed or typed thereon the name of the landowner-voter and the number of votes to be voted by the landowner-voter and shall have appended to it a certification to be signed by the person voting the official ballot which shall certify that the person signing the certification is the person who voted the official ballot, and if the landowner-voter is other than a natural person, that he or she is an officer of or other person affiliated with the landowner-voter entitled to vote such official ballot, that he or she has been authorized to vote such official ballot on behalf of the landowner-voter, that in voting such official ballot it was his or her intent, as well as the intent of the landowner-voter, to vote all votes to which the landowner-voter is entitled based on its land ownership on the propositions set forth in the official ballot as marked thereon in the voting square opposite each such proposition, and further certifying as to the acreage of the landowner-voter's land ownership within the territory proposed to be annexed to CFD No. 2022-1.
- d) The return identification envelope mailed or delivered by the Board Clerk to each landowner-voter shall have printed or typed thereon the following: (i) the name of the landowner, (ii) the address of the landowner, (iii) a declaration under penalty of perjury stating that the voter is the landowner or the authorized representative of the landowner entitled to vote the enclosed ballot and is the person whose name appears on the identification envelope, (iv) the printed name and signature of the voter, (v) the address of the voter, (vi) the date of signing and place of

- execution of said declaration, and (vii) a notice that the envelope contains an official ballot and is to be opened only by the Board Clerk.
- e) The instruction to voter form to be mailed or delivered by the Board Clerk to the landowner-voters shall inform them that the official ballots shall be returned to the Board Clerk properly voted as provided thereon and with the certification appended thereto properly completed and signed in the sealed return identification envelope with the certification thereon completed and signed and all other information to be inserted thereon properly inserted by 5:30 p.m. on June 12, 2024.
- f) Upon receipt of the return identification envelopes, which are returned prior to the voting deadline on the date of the election, the Board Clerk shall canvass the votes cast in the special election, and shall file a statement with the Board as to the results of such canvass and the election on each proposition set forth in the official ballot.

Section 6.

<u>Effective Date.</u> This Resolution shall take effect immediately from and after the date of its passage and adoption.

BE IT FURTHER RESOLVED AND ORDERED The Board Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the Board of the San Miguel Consolidated Fire Protection District this 12th day of June 2024, by the following vote:

Shayna Rians, Board Clerk	Jesse A. Robles, Board President
ATTEST	
A.T.T.C.T	
ABSTAIN:	
ABSENT:	
NOES:	
AYES:	

EXHIBIT "A"

OFFICIAL BALLOT

SPECIAL ELECTION

NUMBER OF VOTES ENTITLED TO BE CAST: 1

SAN MIGUEL CONSOLIDATED FIRE PROTECTION DISTRICT, COMMUNITY FACILITIES DISTRICT NO. 2022-1, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA (ANNEXATION NO. 3)

JUNE 12, 2024

OFFICIAL BALLOT

To vote on any measure, mark a cross (+) in the voting square before the word "YES" or before the word "NO." If you tear or deface this ballot, call Leah Harris, Administrative Officer/Finance Officer at (619) 670-0500 for assistance.

PROPOSITION A

Shall the San Miguel Consolidated Fire Protection District Community Facilities District No. 2022-1 ("CFD No. 2022-1"), County of San Diego, State of California, subject to accountability measures set forth in California Government Code Section 50075.1, levy special taxes throughout Annexation No. 3 to such community facilities district pursuant to the method of apportioning the special tax set forth in Attachment A to this Official Ballot for the purpose of financing public services, including but not limited to the services set forth in Attachment B to this Official Ballot to meet the increased demand for such services resulting from new development within Annexation No. 3 thereto and the cost of administering the levy and collection of the special taxes and CFD No. 2022-1?

administ	ering the levy and collection of the s
	YES
	NO

Resolution 24-23

Resolution of the Board of Directors of the
San Miguel Consolidated Fire Protection District
Declaring Results of Special Landowner Election and Directing Recording of
Notice of Special Tax Lien for San Miguel Consolidated Fire Protection District
Community Facilities District 2022-1, Annexation 3

WHEREAS, the Board of Directors (the "Board") of the San Miguel Consolidated Fire Protection District (the "District") has heretofore conducted proceedings for the annexation of approximately 1.05 acres of land to the San Miguel Consolidated Fire Protection District, Community Facilities District No. 2022-1, County of San Diego, State of California ("CFD No. 2022-1") including conducting a public hearing pursuant to Section 53339.5 of the Government Code; and

WHEREAS, at the conclusion of said public hearing, the Board adopted a resolution calling a special election for June 12, 2024, and submitting to the qualified electors of the territory to be annexed, known as Annexation No. 3 to CFD No. 2022-1 the question of levying special taxes within that territory to pay the costs of certain services and the costs associated with the determination of the amount of and levy and collection of special taxes, which will be levied to provide the services and costs otherwise incurred in order to carry out the authorized purposes of CFD No. 2022-1 (the "Election Resolution").

WHEREAS, the Board has received a statement from the Board Clerk, who pursuant to the Election Resolution was authorized to conduct such special election and act as the election official therefor, with respect to the canvass of the ballots returned in and the results of said special election, certifying that at least two-thirds of the votes cast upon the proposition submitted to the qualified electors in said special election were in favor of such proposition.

NOW, THEREFORE, BE IT RESOLVED that the Board of the San Miguel Consolidated Fire Protection District, California, hereby:

Section 1.

Recitals. The above recitals are all true and correct.

Section 2.

<u>Findings</u>. The Board finds that: (i) there are no registered voters residing within the territory proposed to be annexed to CFD No. 2022-1 ("Annexation No. 3") at the time of the close of the public hearing on June 12, 2024, and pursuant to Section 53326 of the Government Code, the vote in said special election was, therefore, to be by the landowners owning land within Annexation No. 3, with each landowner having one vote for each acre or portion thereof of land that he or she owned within Annexation No. 3; (ii) pursuant to said Section 53326 and the Election Resolution, the Board Clerk caused to be delivered an official ballot for the special election to the owner of the land within Annexation No. 3, with return postage prepaid; (iii) said special election has been properly conducted in accordance

with all statutory requirements and the provisions of the Election Resolution; (iv) pursuant to said Section 53326, INLAND VALLEY INVESTMENTS LLC, the owner of all the land within Annexation No. 3, was entitled to two (2) votes; (v) said landowner returned its ballot to the Board Clerk prior to the time set by the Board Clerk for the close of the election on June 12, 2024; (vi) the ballot returned to the Board Clerk by said landowner voted all votes of said landowner in favor of the proposition set forth therein; (vii) at least two-thirds of the votes cast in such special election on said proposition were in favor thereof, and pursuant to Sections 53328 and 53329 of the Government Code, said proposition carried; (viii) pursuant to Section 53339.8 of the Government Code, the Board is authorized to determine that Annexation No. 3 to be annexed has been added to and become a part of CFD No. 2022-1 with full legal effect; and (ix) the Board is also authorized, pursuant to said Section 53339.8, to annually levy special taxes within Annexation No. 3 to pay the costs of the services to be provided by CFD No. 2022-1.

Section 3.

<u>Declaration of Results</u>. At least two-thirds of the votes voted in the special election on the proposition of the annual levy of special taxes within Annexation No. 3 to pay the costs of the services to be provided by CFD No. 2022-1 were voted in favor thereof, and such proposition carried.

Section 4.

Annexation. Annexation No. 3 is annexed and added to and is a part of CFD No. 2022-1 with full legal effect, and the Board shall annually levy special taxes within Annexation No. 3 at the rates as specified in Resolution No. 24-15 adopted by the Board on May 8, 2024, to pay costs of certain services to be provided by CFD No. 2022-1. The boundaries of Annexation No. 3 are shown on the map entitled, "Annexation Map No. 3 of Community Facilities District No. 2022-1, San Miguel Consolidated Fire Protection District, County of San Diego, State of California," which was recorded on May 9, 2024, in the office of the County Recorder of the County of San Diego as Instrument No. 2024-7000218.

Section 5.

<u>Notice</u>. Pursuant to Section 53339.8 of the Government Code and Section 3117.5 of the Streets and Highways Code, the Board Clerk shall cause to be filed with the County Recorder of the County of San Diego an amendment of the notice of special tax lien and a map of the amended boundaries of CFD No. 2022-1 including Annexation No. 3.

Section 6.

<u>Entry of the Election Results in the Minutes</u>. The Board Clerk is hereby directed, pursuant to the provisions of the Elections Code of the State of California, to enter in the minutes the results of the election as set forth in said Certificate of Election Official.

Section 7.

<u>Effective Date</u>. This Resolution shall take effect immediately from and after the date of its passage and adoption.

PASSED AND ADOPTED by the Board of the San Miguel Consolidated Fire Protection District this 12 th day of June 2024, by the following vote:
AYES:
NOES:
ABSENT:
ABSTAIN:
ATTEST

Jesse A. Robles, Board President

BE IT FURTHER RESOLVED AND ORDERED The Board Clerk shall certify the passage and

adoption of this resolution and enter it into the book of original resolutions.

Shayna Rians, Board Clerk

EXHIBIT "A" CERTIFICATE OF ELECTION OFFICIAL AND STATEMENT OF VOTES CAST

STATE OF CALIFORNIA

PROTECTION DISTRICT

Ordinance 24-03

Ordinance of the Board of Directors of the
San Miguel Consolidated Fire Protection District
Authorizing the Levy of Special Taxes in a Community Facilities District,
Including Certain Annexation Territory Identified as Annexation 3,
into San Miguel Consolidated Fire Protection District
Community Facilities District 2022-1

WHEREAS, the Board of Directors (the "Board") of the San Miguel Consolidated Fire Protection District (the "District") has established the San Miguel Consolidated Fire Protection District, Community Facilities District No. 2022-1, County of San Diego, State of California ("CFD No. 2022-1") for the purpose of levying special taxes on parcels of taxable property therein for the purpose of providing certain services, which are necessary to meet increased demands placed upon the District as a result of the development of said real property; and

WHEREAS, the rate and method of apportionment of special tax for CFD No. 2022-1 is set forth in Exhibit "C" to the Board Resolution No. 24-15, which was adopted on May 8, 2024 (the "Resolution of Intention"); and

WHEREAS, the District has conducted proceedings to annex territory into CFD No. 2022-1 and, with respect to the proceedings, following an election of the qualified electors in the territory proposed for annexation (the "Annexation No. 3"), the Board, on June 12, 2024, adopted a resolution which declared the results of the special election and determined that the territory proposed to be annexed is added to and part of CFD No. 2022-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of the San Miguel Consolidated Fire Protection District, California, acting in its capacity as the legislative body of the San Miguel Consolidated Fire Protection District, Community Facilities District No. 2022-1, County of San Diego, State of California, does hereby:

Section 1.

The foregoing recitals are true and correct.

Section 2.

By the passage of this Ordinance, the Board hereby authorizes and levies the special tax within CFD No. 2022-1, including the Annexation Territory, pursuant to Article 3.5 (commencing with Section 53339) of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982," (the "Act"), at the rate and in accordance with the rate and method of apportionment of special tax set forth in the Resolution of Intention, which rate and method is by this reference incorporated herein. The special tax has previously been levied in the original territory of CFD No. 2022-1 pursuant to Ordinance No. 2022-2 passed and

adopted by the Board on October 12, 2022, and the special tax is hereby levied commencing in Fiscal Year 2023-24 in CFD No. 2022-1, including Annexation No. 3, and in each fiscal year thereafter to pay for the services for CFD No. 2022-1 and the costs of administering the District.

Section 3.

The General Manager of the District or designee or employee or consultant of the District is hereby authorized and directed each fiscal year to determine the specific special tax to be levied for the next ensuing fiscal year for each parcel of real property within CFD No. 2022-1, including Annexation No. 3, in the manner and as provided in the Resolution of Intention.

Section 4.

Exemptions from the levy of the special tax shall be as provided in the Resolution of Intention and the applicable provisions of the Act. In no event shall the special tax be levied on any parcel within CFD No. 2022-1 in excess of the maximum special tax specified in the Resolution of Intention.

Section 5.

All of the collections of the special tax shall be used as provided in the Act and in the Resolution of Intention, including, but not limited to, the payment of the costs of the services, the payment of the costs of the District in administering CFD No. 2022-1, and the costs of collecting and administering the special tax.

Section 6.

The special tax shall be collected in the same manner and at the same time as ordinary ad valorem taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that CFD No. 2022-1 may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. The General Manager of the District, or his or her designee, is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the County of San Diego in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured property tax roll of the County of San Diego for Fiscal Year 2023-24 and for each fiscal year thereafter until no longer required to pay for the Services or until otherwise terminated by the District.

Section 7.

If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within CFD No. 2022-1, including Annexation No. 3, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within CFD No. 2022-1, including Annexation No. 3, shall not be affected.

Section 8.

This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the Board Clerk shall cause this Ordinance, or a summary of it, to be published in a newspaper of general circulation in the District.

PASSED AND ADOPTED this 10 st day of July	2024, by the following vote:
AYES:	
NOES:	
ABSTAIN:	
ABSENT:	
ATTEST	
Shayna Rians, Board Clerk	Jesse A. Robles, Board President
San Miguel Consolidated Fire Protection District I	as duly introduced at a regular public meeting of the Board, held on June 12, 2024, and was duly adopted, egular meeting of the San Miguel Consolidated Fire
Board Clerk	
San Miguel Consolidated Fire Protection Distric	ct