



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA AUTHORIZING THE COUNTY TO JOIN THE STATEWIDE COMMUNITY INFRASTRUCTURE PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT SPECIAL ASSESSMENT PROCEEDINGS AND LEVY ASSESSMENTS AND SPECIAL TAXES AND TO FORM ASSESSMENT DISTRICTS AND COMMUNITY FACILITIES DISTRICTS WITHIN THE TERRITORY OF THE COUNTY OF NEVADA; EMBODYING A JOINT COMMUNITY FACILITIES AGREEMENT SETTING FORTH THE TERMS AND CONDITIONS OF COMMUNITY FACILITIES DISTRICT FINANCINGS; APPROVING FORM OF ACQUISITION AGREEMENT FOR USE WHEN APPLICABLE; AND AUTHORIZING RELATED ACTIONS

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

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

WHEREAS, as one of the Programs under the Joint Powers Agreement, the Authority has established the Statewide Community Infrastructure Program (“SCIP”) to allow the financing of certain public capital improvements to be constructed by or on behalf of property owners for acquisition by the County or another public County (the “Improvements”) and improvements eligible for funding from certain development impact fees, capacity fees and/or other development related charges (the “Fees”) levied in accordance with the Mitigation Fee Act (California Government Code sections 66000 and following) and other authority providing for the levy of fees on new development to pay for public capital improvements (collectively, the “Fee Act”) through the levy of special assessments pursuant to the Municipal Improvement Act of 1913 (Streets and Highways Code sections 10000 and following) (the “1913 Act”) and the issuance of improvement bonds (the “Improvement Bonds”) under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (the “1915 Act”) upon the security of the unpaid special assessments; and

WHEREAS, the “Mello-Roos Community Facilities Act of 1982,” being Chapter 2.5, Part 1, Division 2, Title 5 (beginning with Section 53311) of the Government Code of the State of

California (the “Mello-Roos Act”) is an applicable provision of State law available to, among other things, finance public improvements and public services (“Services”) necessary to meet increased demands placed upon local agencies as a result of development; and

WHEREAS, the Authority also uses SCIP to allow the financing of Fees and Improvements through the levy of special taxes and the issuance of special tax bonds (the “Special Tax Bonds” and, together with the Improvement Bonds, the “Local Obligations”) under the Mello-Roos Act upon the security of the special taxes and to allow the financing of Services through the levy of special taxes under the Mello Roos Act; and

WHEREAS, the County desires to allow the owners of property being developed within its jurisdiction (“Participating Developers”) to participate in SCIP and to allow the Authority to conduct proceedings and to form community facilities districts (“CFDs”) and to issue Local Obligations under the Mello-Roos Act, as well as to conduct assessment proceedings to form assessment districts (“Assessment Districts”) under the 1913 Act and to issue Local Obligations under the 1915 Act, to finance Fees levied on such properties and Improvements, provided that such Participating Developers voluntarily agree to participate and consent to the levy of the assessments or special taxes, as applicable; and

WHEREAS, the County desires to allow the Participating Developers to participate in SCIP and to allow the Authority to conduct proceedings and to form CFDs to levy special taxes to finance Services, provided that such Participating Developers voluntarily agree to participate and consent to the levy of such special taxes and that such CFDs are not pooled together with projects in other jurisdictions; and

WHEREAS, from time to time when eligible property owners within the jurisdiction of the County elect to be Participating Developers, the Authority will conduct proceedings under the 1913 Act and the Mello-Roos Act and issue Local Obligations under the 1915 Act and the Mello-Roos Act to finance Fees and Improvements and, at the conclusion of such proceedings, will levy assessments or special taxes, as applicable on such property within the territory of the County; and

WHEREAS, both the Authority and the County are “local agencies” under the Mello-Roos Act; and

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

WHEREAS, the County desires to enter into such an agreement with the Authority to authorize the Authority to form CFDs from time to time within the territorial limits of the County to finance Fees, Improvements and Services necessitated by new development; and

WHEREAS, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by the Authority in connection with assessment proceedings (the “ROI”), a copy of which is attached hereto as Exhibit A, and the territory within which assessments may be levied for SCIP (provided that each Participating Developer consents to such assessment) shall be coterminous with the County’s official boundaries of record at the time of adoption of such ROI, and reference is hereby made to such boundaries for the plat or map required to be included in this Resolution pursuant to Section 10104 of the Streets and Highways Code; and

WHEREAS, there has also been presented to this meeting a proposed form of Acquisition Agreement (the “Acquisition Agreement”), a copy of which is attached hereto as Exhibit B, to be approved as to form for use with respect to any Improvements to be constructed and installed by a

Participating Developer and for which the Participating Developer requests acquisition financing as part of its SCIP application; and

WHEREAS, the County will not be responsible for the conduct of any proceedings; the levy or collection of assessments or special taxes or any required remedial action in the case of delinquencies in such assessment or special tax payments; or the issuance, sale or administration of the Local Obligations or any other bonds issued in connection with SCIP; and

WHEREAS, the Authority periodically issues Local Obligations on behalf of the local County participants in SCIP to provide financing for the Fees and Improvements; and

WHEREAS, where the Authority determines a project is eligible for a SCIP pooled issuance, the Authority issues revenue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985, consisting of Article 4 (commencing with Section 6584) of Chapter 5, Division 7, Title 1 of the California Government Code (the "Marks-Roos Act") concurrently with the issuance of Local Obligations, the proceeds of which are used to purchase the Local Obligations; and

WHEREAS, pursuant to Government Code section 6586.5, notice was published at least five days prior to the adoption of this Resolution at a public hearing, which was duly conducted by this Board of Supervisors concerning the significant public benefits of SCIP and the financing of the Improvements and the public capital improvements to be paid for with the proceeds of the Fees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada, State of California as follows:

Section 1. This Resolution shall constitute full "local approval," under Section 9 of the Joint Powers Agreement, for the issuance of bonds by the Authority in accordance herewith.

Section 2. County hereby consents to the conduct of proceedings by the Authority under the Mello Roos Act to form CFDs with boundaries that shall be coterminous with the County's official boundaries of record at the time of such proceedings or any portion thereof (the "Proposed Boundaries"), and to authorize a special tax and to issue bonds with respect thereto; provided that the Participating Developers, who shall be the legal owners of such property at the time of formation of the CFD, execute a written consent to the levy of special tax in connection with SCIP by the Authority and execute a ballot in favor of the formation of such CFD and the Mello-Roos Act.

Section 3. The County hereby consents to the conduct of special assessment proceedings by the Authority in connection with SCIP pursuant to the 1913 Act and the issuance of Local Obligations under the 1915 Act on any property within the Proposed Boundaries; provided, that:

(1) Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI; and

(2) The Participating Developers, who shall be the legal owners of such property at the time of the formation of the Assessment District, execute a written consent to the levy of assessments in connection with SCIP by the Authority and execute an assessment ballot in favor of such assessment in compliance with the requirements of Section 4 of Article XIID of the State Constitution.

Section 4. This Resolution sets forth the terms of a “joint community facilities agreement” (as defined in Section 53316.2 of the Mello Roos Act) between the County and the Authority. Adoption by the Commission of the Authority of each Resolution of Intention to form a CFD under the Mello-Roos Act to finance County Improvements, County Fees or County Services shall constitute acceptance of the terms hereof by the Authority with respect to such CFD. This Resolution and the Authority’s Resolution of Intention for the respective CFDs shall together embody a separate and independent joint community facilities agreement, or a joint agreement to fund services, for each CFD formed by the Authority (the “Joint Agreement”).

Section 5. The Board of Supervisors hereby finds and determines that this Resolution and the Joint Agreement are beneficial to the residents/customers of the County and are in the best interests of the residents of the County, and of the future residents of the area within the proposed CFDs and Assessment Districts. The County hereby finds and declares that the issuance of revenue bonds by the Authority to purchase Local Obligations in connection with SCIP will provide significant public benefits, including without limitation, savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs, and the more efficient delivery of local County services to residential and commercial development within the County.

Section 6. The Authority has adopted Local Goals and Policies as required by Section 53312.7 of the Mello-Roos Act. The County approves the use of those Local Goals and Policies in connection with the formation of CFDs. The County hereby agrees that the Authority may act in lieu of the County under those Local Goals and Policies in forming and administering the CFDs.

Section 7. The Authority has prepared and will update from time to time the “SCIP Manual of Procedures” (the “Manual”), and the County will handle Fee revenues and funds for Improvements for properties participating in SCIP in accordance with the procedures set forth in the Manual.

Section 8. Pursuant to the Mello-Roos Act and this Resolution, the Authority may conduct proceedings under the Mello-Roos Act to form the CFDs and to have such CFDs authorize the financing of (i) any or all of the facilities and Fees set forth on Exhibit C, attached hereto and (ii) any or all the Services set forth on Exhibit D, attached hereto. All of the facilities, whether to be financed directly or through Fees, shall be facilities that have an expected useful life of five years or longer and are facilities that the County or other local public agencies, as the case may be, are authorized by law to construct, own or operate, or to which they may contribute revenue. The appropriate officials and staff of the County are hereby authorized and directed to cooperate with the Authority and the Authority’s special tax consultant and other consultants to calculate the appropriate level of the special tax to fund the Services for each CFD in connection with initial formation and in connection with the annual levy. Exhibit C and Exhibit D may be modified from time to time by written agreement between an authorized representative of the Authority and of the County. The facilities are referred to herein as the “Improvements,” and the Improvements to be owned by the County are referred to as the “County Improvements.” The Fees paid or to be paid to the County are referred to as the “County Fees”. The Services funded are referred to as the “County Services”. The financing of the County Services shall only be authorized for stand-alone development projects and Local Obligations may not be issued to fund Services.

Section 9. For Improvements, Fees or Services to be owned, used or provided by another local County (a “Third Party Local County”), the Authority will separately identify them in its proceedings and will enter into a joint community facilities agreement with such Third Party Local County as required by the Mello-Roos Act. Each joint community facilities agreement with each Third Party Local County will contain a provision that the Third Party Local County

will provide indemnification to the County to the same extent that the County provides indemnification to the Third Party Local County under the terms of this Resolution.

Section 10. The County acknowledges that Improvements and Fees will be funded through a CFD only if they are necessary to meet increased demands placed upon the County as a result of development occurring or expected to occur within the proposed CFD and Services will be funded through a CFD only if they are in addition to those provided in the territory of the CFD before the CFD was created and will not supplant existing services. In connection with the formation of each CFD, as may be required by the Authority's procedures, the County shall certify that such requirements are satisfied in form and substance satisfactory to the Authority.

Section 11. The Authority shall promptly transfer special tax collections for County Services, after payment of its own reasonable administrative costs incurred in the administration of the CFDs, to the County. The Authority will apply the other special tax collections initially as required by the documents under which any Local Obligations are issued; and thereafter, to the extent not provided in the Local Obligations documents, may pay its own reasonable administrative costs. The Authority will remit any special tax revenues from any particular CFD remaining after the final retirement of all related Local Obligations to the County and to the other local agencies in the proportions specified in the Authority's proceedings. The County will apply any such special tax revenues it receives for authorized County Improvements, County Fees and/or County Services, as applicable, and its own administrative costs only as permitted by respective CFD proceedings and by the Mello-Roos Act. The joint community facilities agreements with each Third Party Local County must require the Third Party Local County to apply the special tax revenues they receive for their authorized Improvements, Fees and/or Services under the CFDs and for their own related administrative costs only as permitted by the Mello-Roos Act.

Section 12. The Authority will administer the CFDs, including employing and paying all consultants, annually levying the special tax and all aspects of paying and administering the Local Obligations, and complying with all State and Federal requirements appertaining to the proceedings, including the requirements of the United States Internal Revenue Code. The County will cooperate fully with the Authority in respect of the requirements of the Internal Revenue Code and to the extent information is required of the County to enable the Authority to perform its disclosure and continuing disclosure obligations with respect to the Local Obligations and any revenue bonds, although the County will not participate in nor be considered to be a participant in the proceedings respecting the CFDs (other than as a party to the agreement embodied by this Resolution) nor will the County be or be considered to be an issuer of the Local Obligations nor any revenue bonds. The Authority is required to obtain a provision equivalent to this paragraph in all joint community facilities agreements with each Third Party Local County.

Section 13. In the event the Authority completes issuance and sale of Local Obligations, and Local Obligation proceeds become available to finance the Improvements, the Authority shall establish and maintain a special fund for each development project (the "Acquisition and Construction Fund"). The portion of Local Obligation proceeds which is intended to be utilized to finance the Improvements and Fees shall be deposited in the Acquisition and Construction Fund. The Acquisition and Construction Fund will be available both for County Improvements and County Fees and for the Improvements and Fees pertaining to each Third Party Local County. Subaccounts shall be created as necessary.

Section 14. As respects the Authority and each Third Party Local County, the County agrees to fully administer, and to take full governmental responsibility for, the construction or acquisition of the County Improvements and for the administration and expenditure of the County Fees, as applicable, including but not limited to environmental review, approval of plans and

specifications, bid requirements, performance and payment bond requirements, insurance requirements, contract and construction administration, staking, inspection, acquisition of necessary property interests in real or personal property, the holding back and administration of retention payments, punch list administration, and the Authority and each Third Party Local County shall have no responsibility in that regard. The County reserves the right, as respects each Participating Developer, to require the Participating Developer to contract with the County to assume any portion or all of this responsibility. The Authority is required to obtain provisions equivalent to this paragraph in the joint community facilities agreement with each Third Party Local County.

Section 15. The County agrees to indemnify and to hold the Authority, its other members, and its other members' officers, agents and employees, and each Third Party Local County and their officers, agents and employees (collectively, the "Indemnified Parties") harmless from any and all claims, suits and damages (including costs and reasonable attorneys' fees) arising out of the design, engineering, construction and installation of the County Improvements and the improvements to be financed or acquired with the County Fees. The County reserves the right, as respects each Participating Developer, to require the Participating Developer to assume by contract with the County any portion or all of this responsibility. The Authority is required to obtain a provision equivalent to this paragraph in all joint community facilities agreements with each Third Party Local County naming the County and its officers, agents and employees as Indemnified Parties with respect to each Third Party Local County's respective Improvements and the improvements to be constructed or acquired with each Third Party Local County's Fees.

Adoption by the Commission of the Authority of each Resolution of Intention to form a CFD or an Assessment District shall constitute agreement by the Authority to indemnify and to hold the County, its officers, agents and employees harmless from any and all claims, suits and damages arising out of the formation or administration of such CFD or Assessment District or the issuance of bonds therefor except to the extent such claims, suits and damages are caused by the negligence or willful misconduct of such indemnified parties.

Section 16. As respects the Authority and each Third Party Local County, the County agrees – once the County Improvements are constructed according to the approved plans and specifications, and the County and the Participating Developer have put in place their agreed arrangements for the funding of maintenance of the County Improvements – to accept ownership of the County Improvements, to take maintenance responsibility for the County Improvements, and to indemnify and hold harmless the Indemnified Parties to the extent provided in the preceding paragraph from any and all claims, etc., arising out of the use and maintenance of the County Improvements. The County reserves the right, as respects the Participating Developer, to require the Participating Developer by contract with the County to assume any portion or all of this responsibility. The Authority is required to obtain a provision equivalent to this paragraph in all joint community facilities agreements with each Third Party Local County naming the County and its officers, agents and employees as Indemnified Parties.

Section 17. The County acknowledges the requirement of the Mello-Roos Act that if the County Improvements are not completed prior to the adoption by the Commission of the Authority of the Resolution of Formation of the CFD for each respective development project, the County Improvements must be constructed as if they had been constructed under the direction and supervision, or under the authority of, the County. The County acknowledges that this means all County Improvements must be constructed under contracts that require the payment of prevailing wages as required by Section 1720 and following the Labor Code of the State of California. The Authority makes no representation that this requirement is the only applicable legal requirement

in this regard. The County reserves the right, as respects the Participating Developer, to assign appropriate responsibility for compliance with this paragraph to the Participating Developer.

Section 18. The form of the Acquisition Agreement attached hereto as Exhibit B is hereby approved, and the Chair or Vice Chair of the Board or such officer's designee (each, an "Authorized Officer") is authorized to execute, and deliver to the Participating Developer, the Acquisition Agreement on behalf of the County in substantially that form, with such changes as shall be approved by the Authorized Officer after consultation with the County Attorney and the Authority's bond counsel, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 19. After completion of the County Improvements and appropriate arrangements for the maintenance of the County Improvements, or any discrete portion thereof as provided in Section 53313.51 of the Mello-Roos Act and in the Acquisition Agreement, to the satisfaction of the County, and in conjunction with the County's acceptance thereof, acquisition of the County Improvements shall be undertaken as provided in the Acquisition Agreement.

Section 20. The County hereby consents to the formation of the CFDs in accordance with this Resolution and consents to the assumption of jurisdiction by the Authority for the proceedings respecting the CFDs with the understanding that the Authority will hereafter take each and every step required for or suitable for consummation of the proceedings, the levy, collection and enforcement of the special tax, and the issuance, sale, delivery and administration of the Local Obligations, all at no cost to the County and without binding or obligating the County's general fund or taxing authority.

Section 21. The terms of the Agreement embodied by this Resolution may be amended by a writing duly authorized, executed and delivered by the County and the Authority, except that no amendment may be made after the issuance of the Local Obligations by the Authority that would be detrimental to the interests of the bondholders without complying with all of the bondholder consent provisions for the amendment of the bond resolutions, bond indentures or like instruments governing the issuance, delivery and administration of all outstanding Local Obligations.

Section 22. Except to the extent of the indemnifications extended to each Third Party Local County in the Agreement embodied by this Resolution, and the County's agreement to take responsibility for and ownership of the County Improvements, no person or entity, including the Participating Developer, shall be deemed to be a third party beneficiary of this Resolution, and nothing in this Resolution (either express or implied) is intended to confer upon any person or entity other than the Authority and the County (and their respective successors and assigns) any rights, remedies, obligations or liabilities under or by reason of this Resolution.

Section 23. The County shall be identified as a third-party beneficiary of all joint community facilities agreements between the Authority and each Third Party Local County to the extent of the indemnification provisions and the provisions whereby each Third Party Local County agrees to take responsibility for and ownership of their Improvements.

Section 24. The appropriate officials and staff of the County are hereby authorized and directed to make SCIP applications available to all property owners who are subject to Fees for new development within the County and/or who are conditioned to install Improvements and/or whose plans for new development within the County necessitate new or increased levels of Services and to inform such owners of their option to participate in SCIP; provided, that the Authority shall be responsible for providing such applications and related materials at its own expense. The County shall designate appropriate staff who shall be responsible for coordination

with the Authority, and shall provide the appropriate contact information to the Authority from time to time.

Section 25. The appropriate officials and staff of the County are hereby authorized and directed to execute and deliver such closing certificates, requisitions, agreements and related documents, including but not limited to such documents as may be required by bond counsel in connection with the participation in SCIP of any districts, authorities or other third-party entities entitled to own Improvements and/or to levy and collect Fees on new development to pay for public capital improvements within the jurisdiction of the County, as are reasonably required by the Authority in accordance with the Manual to implement SCIP and to evidence compliance with the requirements of federal and state law in connection with the issuance by the Authority of the Local Obligations and any other bonds for SCIP.

Section 26. This Resolution shall take effect immediately upon its adoption. The Clerk of the Board of the County of Nevada is hereby authorized and directed to transmit a certified copy of this Resolution to the Secretary of the Authority. This Resolution shall remain in force with respect to any Assessment District and CFD formed until all Local Obligations have been retired and the authority to levy the special tax conferred by any CFD proceedings and to levy the assessment conferred by any assessment proceedings has ended or is otherwise terminated; and

BE IT FURTHER RESOLVED, that the Board of Supervisors, County of Nevada hereby authorizes participation in the Statewide Community Infrastructure Program, and authorizes the Chair of the Board of Supervisors to execute any necessary documents to facilitate participation in SCIP; and that the Board of Supervisors hereby authorizes CSCDA to accept applications from property owners within the County's jurisdiction, to conduct assessment proceedings, and to levy assessments on such property pursuant to the Mello-Roos Community Facilities Act of 1982 or the Municipal Improvement Act of 1913, as applicable.