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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

In re DIABLO GRANDE COMMUNITY FACILITIES DISTRICT NO. 1, Debtor.	Case No. 25-26635-A-9 DCN BWS-001 **DEBTOR'S RESPONSE TO KOSHI PADNANI'S OBJECTION TO DEBTOR'S CHAPTER 9 PETITION** Date: November 18, 2026 Time: 9:30 A.M. Ctrm: Dept. A, Ctrm 11 2500 Tulare Street, Fresno California

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I. INTRODUCTION

Diablo Grande Community Facilities District No. 1 (the "**Debtor**" or "**CFD**"), hereby responds to Bondholder Koshi Padnani's Objection To Diablo Grande Community Facilities District No. 1's Chapter 9 Petition [Dkt. 137] (the "**Objection**") and requests that the Court overrule the Objection and grant the Debtor's Chapter 9 Petition (the "**Petition**") and enter an Order For Relief in this case. The Response is supported by the within Memorandum of Points and Authorities, and the concurrently filed Declaration of Mark Kovich In Support, Exhibits To Debtor's Response To Koshi Padnani's Objection To Debtor's Chapter 9 Petition, and Objections To Evidence, and the Court's file in this bankruptcy proceeding.

II. STATEMENT OF JURISDICTION

1. The Court has jurisdiction over the Petition and the Objection pursuant to 28 U.S.C. § 1334(b), and 11 U.S.C. §921. The Petition is a core proceeding under 28 U.S.C. § 157(b)(1) and (2)(A).

2. The Debtor consents to the limited relief requested in the Petition without prejudice to the rights of the Debtor pursuant to Section 904 of the Bankruptcy Code, and except as to the limited relief requested in the Petition, nothing herein is intended as or shall be deemed to constitute the Debtor's consent pursuant to Section 904 of the Bankruptcy Code to this Court's interference with (1) any of the political or governmental powers of the Debtor, (2) any of the property or revenues of the Debtor, or (3) the Debtor's use or enjoyment of any income-producing property.

III. DEBTOR'S OBJECTION TO THE PADNANI OBJECTION IS UNTIMELY AND INSUFFICIENT

3. The deadline for filing an objection to the Petition was duly set and noticed for April 3, 2026. Padnani did not file an objection to the Petition until September 15, 2026 [Dkt. 97], with duplicate versions later filed on October 9, 2026 [Dkt. 122], October 17, 2026 [Dkt 134], and October 22, 2026 [Dkt. 137]. As best Debtor's counsel can determine, the version of the Objection filed at Dkt. 137 is the most complete and intelligible. Padnani has concurrently filed a

Motion To Extend Time to file her Objection [Dkt. 138], which the Debtor is also opposing. In the event the Motion To Extend Time is denied, then the Objection must be denied as late.

4. Next, the Objection is wholly insufficient on its merits. The Objection lacks any evidence in support as required by LBR 9014-1(f)(1)(B), and the factual contentions stated in the Objection lack evidentiary support. The Debtor has concurrently filed Objections To Evidence regarding the Objection.

5. Therefore, the Court should reject the Padnani Objection for these defects at the threshold and move forward with entering the Order For Relief. In the event the Court desires more information in support of the Petition, the Debtor provides the following sections in support of the Petition and the entry of an Order For Relief.

IV. PROCEDURAL POSTURE OF THE CASE

A. Bankruptcy Filing and Deadline To File An Objection To Petition

6. The Bankruptcy Case was commenced by the filing of the Debtor's Bankruptcy Petition on November 25, 2025 (the "**Petition**") [25-26635 Dkt. 1], after the Debtor's governing authority, the Board of the Western Hills Water District (the "**Board**"), declared a fiscal emergency of the Debtor [25-26635 Dkt. 4]. *See* the concurrently filed and served Declaration of Mark Kovich In Support Of Debtor's Response To Koshi Padnani's Objection To Debtor's Chapter 9 Petition ("**Kovich Declaration**"), ¶27.

7. On February 4, 2026, the Bankruptcy Court approved the form of Notice of Commencement of Chapter 9 Bankruptcy Case and set April 3, 2026, as the deadline for filing objections to the Chapter 9 Petition [25-26635 Dkt. 23]. Kovich Declaration, ¶4.

8. On March 12, 2026, the Debtor submitted its evidence proving service and publication of the Notice of Commencement of Chapter 9 Bankruptcy Case in accordance with the Court's February 4, 2026 Order [25-26635 Dkt. 28, 29, 30, 31, 32, 33]. Kovich Declaration, ¶5.

9. Pursuant to the Court's Order [25-26635 Dkt. 23], objections to the Chapter 9 petition were due not later than April 3, 2026. This deadline was duly noticed as part of the Notice of Commencement of Chapter 9 Case. On April 3, 2026, the County of Stanislaus,

California (the "**County**") filed an Objection to the Chapter 9 Petition (the "**Objection**") [25-26635 Dkt. 43]. No other creditor or interested party filed an objection. Kovich Declaration, ¶6.

10. On August 19, 2026, the Debtor and the County filed a Joint Report For Status Conference [25-26635 Dkt. 81] which reported to the Court that they had reached an Agreement for the County to withdraw its Objection subject to the terms of the Settlement Agreement. Kovich Declaration, ¶7.

11. On October 7, 2026, the County and Debtor filed a Stipulation To Withdraw Objection To Chapter 9 Petition And Dismiss Contested Matter Per FRBP 7041 And FRCP 41(a)(1)(a)(ii) [25-26635 Dkt. 121]. Consequently, the only timely objection to the Chapter 9 Petition has been withdrawn.

B. Padnani's Late Objection

12. On August 26, 2026, at the hearing on the Status Conference following the Debtor and County reaching a settlement on the County's Objection, Padnani appeared *in pro per* and announced that she objected to the Petition as well. During the hearing, after the Court acknowledged the settlement, the following colloquy ensued:

> Court: Ms. Padnani, did you have something you wanted to say?
>
> Padnani: Yes, I was under the assumption that even I have filed an objection to this discharge or the Chapter 9 bankruptcy, and hopefully you will take that into consideration because I don't have a lawyer and I don't know all the legal aspects, but I do know that it's not right that fraud has been committed and some evidence must have been gathered during the discovery process by Mr. Cruse and that is why he's getting the settlement. But I will do an objection to the discharge or the bankruptcy by filing an adversary complaint if they are allowed this bankruptcy by Chapter 9 because otherwise they can resolve this dispute by settling with me the monies they owe me which is $26,000.

Court Docket 86, Hearing Recording at timestamp 1:14—2:22. The Court is requested take judicial notice of this recording of the hearing pursuant to FRE 201.

13. At the August 26, 2026 hearing, the Court went on to clarify that Ms. Padnani had filed a proof of claim and not an objection. However, it is apparent from Ms. Padnani's initial admissions quoted above that (1) she had made a mistake of law in thinking her proof of claim was an objection to the Petition, (2) that she thinks the only reason the Debtor settled with the County is to hide some evidence of fraud uncovered by the County, and (3) that the Debtor can

avoid having to address her dispute if the Debtor will agree to pay her the $26,000 she claims is owed to her. Those "reasons" for not filing a timely objection are insufficient as a matter of law and were expressed before she learned the requirements for a legally recognized basis for an extension of time. Padnani's purported health justifications for not being able to file a timely objection smack of simple malingering and are not supported by relevant or admissible evidence as elaborated in the Debtor's concurrently filed Opposition to Padnani's Motion For Extension of Time To File Objection To Chapter 9 Petition [Dkt. 138]. Consequently, the Debtor requests that the Objection be ruled untimely and dismissed.

C. The Arguments in Padnani's Objection Either Fail Or Are Irrelevant

14. First, the Objection claims without any reference to legal authorities, that the Debtor is not a municipality and is therefore ineligible for Chapter 9. In response, the Debtor refers the Court to Sections VI.A.-C. of this brief.

15. Next, the Objection has headings that say "The CFD did not engage in good faith negotiations." However, there is no discussion of this alleged deficiency in the body of the Objection. Nonetheless, on the issue of the impracticability of pre-filing negotiations, the Debtor refers the Court to Section VI.F. of this brief.

16. Next, the Objection claims without citation to legal authority or admissible evidence of property value, that the Debtor was not insolvent because it owns real property that is worth more than its debts. This is an incorrect basis to determine whether a municipality is insolvent for purposes of bankruptcy. In response, the Debtor refers the Court to Section VI.D. of this brief.

17. Next, the fact that the Debtor has not paid bondholders such as Padnani according the schedule for payments is not a legally valid reason to dismiss the Petition. If every debtor was subject to having its petition dismissed for this reason, there would never be another bankruptcy case. Consequently, all references in the Objection to payments not being made to bondholders are irrelevant as to whether or not the Petition should be granted and an Order For Relief be entered.

18. The Debtor finds the Objection to be generally unintelligible, conclusory, and without legal or evidentiary support. Padnani has chosen to proceed *in pro per* in this matter, but that does not excuse her from the obligation to present her contentions in a comprehensible manner, with clear citations to legal authority, and with proper evidentiary support. Wang v. Paul Misano, 157 F.Supp.3d 306, 317 (S.D.N.Y. 2016); Birl v. Estelle, 660 F.2d 592 (5th Cir. 1981). The Objection and Padnani's other filings wholly fail to meet these requirements.

V. FACTUAL BACKGROUND

A. Formation of the CFD and Issuance of Bonds

19. The Diablo Grande Specific Plan was originally proposed to the County in 1990 by Diablo Grande Limited Partners. which was the original developer for the Diablo Grande Project. In 1992, the developer, the Stanislaus Local Agency Formation Commission (LAFCO), and Stanislaus County formed Western Hills Water District ("**WHWD**") and in 1993, the Diablo Grande Specific Plan and an original EIR was adopted by the Stanislaus County Board of Supervisors. Kovich Declaration, ¶8.

20. After the Diablo Grande Project was approved in October of 1993, two Phase 1 golf courses and a clubhouse were constructed. In addition, the project entry road was constructed along with the pump stations and water lines to serve the Diablo Grande Project. Diablo Grande Limited Partners, which held control of the WHWD as the sole landowner, caused WHWD to form the Diablo Grande Community Facilities District No. 1. Kovich Declaration, ¶9.

21. On September 28, 2000, after a public hearing, the Board of Directors of the Western Hills Water District ("WHWD") adopted Resolution No. 2000-06 forming the Diablo Grande Community Facilities District No. 1 (the "**Debtor**" or "**CFD**") under the terms of the Mello-Roos Act, for the purpose of financing the Facilities for the Project. A true and correct copy of WHWD Resolution No. 2000-06 is provided in Exhibits In Support of this Response as Exhibit 1. Kovich Decl., ¶10.

22. Between 2001 and 2005, four series of Mello-Roos Bonds were issued through the CFD for the purpose of financing costs of acquiring and constructing certain public infrastructure improvements. The total amount of these bond series was $57,000,000. Kovich Declaration, ¶11.

23. Between 2004 and 2008, 425 homes were constructed out of a total of 735 final mapped residential lots. Kovich Declaration, ¶12.

24. In 2008, Diablo Grande Limited Partnership filed bankruptcy in the Eastern District of California [Case no. 08-90365] and the Diablo Grande Project, including control of WHWD, was acquired by World International, LLC in 2008. Kovich Declaration, ¶13.

B. Refinancing of the Bonds

25. In 2014 and 2015, World International, LLC caused the 2001-2005 Mello-Roos bonds to be refinanced with new issuances totaling $45,765,000. Kovich Declaration, ¶14.

26. In May 2017, the County Board of Supervisors approved an Amendment to the Diablo Grande Specific Plan sought by World International, LLC that increased the density of the development so that more homes could be constructed, at the expense of one of the two golf courses in the original plan. Kovich Declaration, ¶15.

C. Defaults of Original Developers

27. Up until 2017, first Diablo Grande Limited Partners, and then World International, LLC, had paid the annual regular and special taxes secured by the properties they still owned, as well as the Homeowners Association ("**HOA**") fees due on some lots. However, in the fall of 2017, World International, LLC stopped any further tax or HOA payments. Additionally, in 2019, the subsidy needed to ensure WHWD's obligations under its water contract with Kern County Water Agency, and which Diablo Grande Limited Partners, and then World International, LLC, had provided, ended. Kovich Declaration, ¶16.

28. In 2020, World International, LLC entered into a purchase agreement whereby it sold the Diablo Grande Project to Angel's Crossing, LLC. Immediately thereafter, the WHWD board (whose members at that time were appointed by World International, LLC) voted to enter into an Assignment, Assumption, and Release Agreement (the "**AA&R**") with World International, LLC and Angel's Crossing, LLC whereby Angel's Crossing, LLC agreed to assume all of the outstanding liabilities of World International, LLC and World International, LLC was released from them. These liabilities included $515,601 in unpaid water charges, 12 months' worth of WHWD operations costs, and $8,742,326 of unpaid Mello-Roos (CFD) special tax

obligations. The $8,742,326 of unpaid Mello-Roos (CFD) special tax obligations meant that as of 2020, the means to pay the bondholders was already impaired in the same amount. Kovich Declaration, ¶17.

29. Once in control, Angel's Crossing, LLC did nothing to address the problems and delinquencies faced by the community. Fortunately, in November 2020, the Stanislaus Board of Supervisors appointed Julie Davis, a Diablo Grande homeowner/resident to fill a vacancy on the WHWD board, creating a majority of homeowner/residents on that board. Then, in May 2021, the registered voters within WHWD, i.e., the residents, petitioned for and prevailed in having the WHWD board changed from being appointed according to landownership to being elected by the registered voters within the district. Kovich Declaration, ¶18.

D. Judicial Foreclosure Actions

30. To enforce the lien for Mello-Roos taxes when they are not being paid, the enforcing agency must remove the Mello-Roos taxes from the secured tax roll and sue the property owner in a judicial foreclosure action. This is what was done to enforce the Mello-Roos taxes that were unpaid by World International, LLC and Angel's Crossing, LLC. Kovich Declaration, ¶19.

31. In June 2021, the WHWD board determined that Angel's Crossing, LLC had abandoned the community and was not paying the ad valorem and special taxes owed on the undeveloped properties it still owned. Therefore, the WHWD board, as the governing authority for the CFD, commenced judicial foreclosures against Angel's Crossing, LLC for the unpaid special taxes in an effort to collect them. In November 2022, the first judicial foreclosure judgment was entered against Angel's Crossing, LLC. Angel's Crossing, LLC appealed the judgment and in August 2023, the appeal was dismissed. The Sheriff's auction to enforce the judgment took place the same month. Angel's Crossing, LLC filed bankruptcy in the Eastern District of California [Case No. 23-22593] in an attempt to stop the Sheriffs' auction, but its bankruptcy was dismissed in September 2023. Kovich Declaration, ¶20.

32. Multiple judicial foreclosure actions were prosecuted against Angel's Crossing, LLC resulting in judgments, and thereafter, Sheriff's auctions. At the Sheriff's auctions, Western

Hills Water District, on behalf of the Debtor, credit bid the amount of the judgments, which were all based on the unpaid Mello-Roos special taxes. **There were no other bids.** The CFD special tax revenues are pledged to the CFD's bondholders. This means that the Debtor's debt to the bondholders is secured by the special tax revenues, subject to administrative costs. When those special taxes were not paid and went into default, the unpaid special taxes were converted to ownership of the undeveloped properties through the judicial foreclosure process. However, bondholders' interest therein remains, as it does in the special tax revenues that are collected, subject to administrative costs. Kovich Declaration, ¶21.

E. Threatened Tax Sales By Stanislaus County

33. Post-foreclosure, the Subject Parcels are owned by the Debtor for the benefit of the bondholders, but the ad valorem tax debt against the Subject Parcels on the secured tax roll remains. Therefore, the previous ad valorem taxes against the Subject Parcels are now senior to the interests of the Debtor (the owner). Kovich Declaration, ¶22.

34. In February 2025, the Stanislaus County Treasurer-Tax Collector first asked the Board of Supervisors to authorize taking some of the Diablo Grande Project properties to tax auction in May 2025. The Board approved the request, but the CFD objected and requested that the properties be removed from the sale because: (1) the properties were owned by the CFD, a governmental entity; and (2) the amount of the delinquent taxes listed against the properties was incorrect as it included special taxes that had been removed from the tax roll in conjunction with the judicial foreclosure actions. Following discussions with members of the WHWD board, attorneys for the CFD, and County Counsel, the County Treasurer-Tax Collector elected to not go forward with any tax auctions in May 2025. Kovich Declaration, ¶23.

35. In October 2025, the Treasurer-Tax Collector again put taking the CFD properties to tax auction on the Board of Supervisors agenda for its November 4, 2025 meeting. Twelve members of the Diablo Grande community attended the Supervisors' meeting on November 4, 2025 and pleaded for the properties to be left off the auction block to give the community the time needed to get the properties sold to a responsible developer rather than carved up piecemeal to speculators. The Board of Supervisors elected to postpone the matter in order to consult with

County Counsel. Provided concurrently as Exhibit 3 is a true and correct copy of the Board of Supervisors of the County of Stanislaus Board Action Summary for Resolution 2025-0585 dated November 4, 2025. Kovich Declaration, ¶24. Alternatively, the Court is requested to take judicial notice of Exhibit 3 pursuant to FRE 201.

F. The Chapter 9 Petition

36. If the Subject Parcels are sold at a County tax auction, the equity in the properties, which belongs to the bondholders, will be lost. Therefore, to preserve the Subject Parcels and keep them from being sold by the County, the Debtor filed the Chapter 9 Petition on November 25, 2025, and has subsequently entered into a Settlement Agreement with the County. Kovich Declaration, ¶25.

37. As of November 25, 2025, negotiation with the County had failed and negotiation with the bondholders was both impracticable and meaningless since it was not the bondholders who were the threat to the Subject Parcels. The CFD had been negotiating with the County but had not been able to reach an agreement that would give the CFD time to sell the Subject Parcels before the County would conduct a tax sale of the Subject Parcels. Negotiation with the bondholders was impracticable because the process to engage with them could not reasonably be completed before the County would have been conducting its tax sale of the Subject Parcels, and nothing that could have been attained in such negotiations would have enabled the CFD to stop the County going to tax sale. Kovich Declaration, ¶26.

G. Declaration of Fiscal Emergency

38. On November 25, 2025, the governing board of the Debtor declared a fiscal emergency and directed the filing of the Chapter 9 Petition for the Debtor. The reasons for filing the bankruptcy as a fiscal emergency were the following:

a. In 2023, over 91 real property parcels (the "**Subject Parcels**") had been acquired through judicial foreclosures on behalf of the CFD and title to these properties had been transferred by the Stanislaus County Sheriff in Sheriff's Deeds with the following grants: "Western Hills Water District, on behalf of Community Facilities District No. 1." The judicial foreclosures enforced the lien for unpaid special taxes assessed against the

Subject Parcels for the benefit of the CFD and the holders of the CFD's Mello-Roos bonds. The costs of prosecuting the judicial foreclosures was borne by the CFD as an administrative expense. Western Hills Water District ("**WHWD**") did not hold and continues to hold no monetary or beneficial interest in the Subject Parcels. Consequently, as of November 25, 2025, the CFD was the beneficial owner of the Subject Parcels and they constituted property of the CFD.

b. As of November 25, 2025, the ad-valorem property taxes on the Subject Parcels had been declared delinquent by the Stanislaus County Treasurer-Tax Collector (the "**TTC**") due to unpaid property taxes from tax year 2018-2019 and thereafter. In the TTC's report to the Stanislaus County Board of Supervisors (the "**BOS**") for the BOS' 11/4/25 Board Meeting, in which the TTC requested authority pursuant to California Revenue and Tax Code ("RTC") §3694 to conduct a tax sale of the Subject Parcels, the TTC stated that the total amount due against the Subject Parcels, including fees, for unpaid property taxes was $1,921,296.94. *See,* Exhibit 3 (Board of Supervisors of the County of Stanislaus Board Action Summary for Resolution 2025-0585 dated November 4, 2025).

c. As of November 25, 2025, the HOA had notified the CFD that unpaid and presently due HOA fees, secured by a lien against the Subject Parcels, totaled approximately $385,000.

d. As of November 25, 2025, the CFD had last made a payment to its bondholders on 3/1/24 and had missed 3 scheduled payments. The outstanding debt to the CFD's bondholders totaled approximately $38 million.

e. As of November 25, 2025, the CFD had insufficient funds to pay the $1,921,296.94 in delinquent taxes due on the Subject Parcels so as to prevent the loss of the Subject Parcels at a tax sale, and also to satisfy the HOA fees then due and secured by the Subject Parcels in the approximate amount of $385,000.

f. As of November 25, 2025, the CFD had approximately $760,000, in available funds.

g. The CFD's financial state as of November 25, 2025, meant that the CFD would not be able to satisfy the delinquent property taxes and prevent the TTC from scheduling and conducting a delinquent tax sale of the Subject Parcels in February 2026.

h. The residents within the CFD's jurisdiction were well-aware that in order to attract a qualified developer to complete the long-stalled Diablo Grande development, the Subject Parcels needed to be available for transfer as a complete package. The delinquent tax sale of the Subject Parcels advocated for by the TTC would result in the Subject Parcels being acquired by random buyers in a piecemeal fashion, rather than being acquired by a developer in their entirety.

i. Loss of the ability to attract a qualified developer would mean the 595 residents would continue to bear the costs to maintain a water and sewer system designed for 5,500 residents, causing continuing financial hardship and risking the loss of water service altogether. It was known to the community that the water system for the CFD residents costs about $200,000 a month to run and with only 500 paying customers, that comes down to $400 a month per customer just to keep things running. However, if the community could be developed as planned with 5,500 homes and as many paying customers, the residents' bills could be as low as $85 a month and still ensure a reliable and well-maintained water system.

Kovich Declaration, ¶27.

39. The Debtor's intent for a Plan of Adjustment is 1) to sell the Subject Parcels to one or more developers in order to generate proceeds for the benefit of bondholders, and return the properties to tax-paying status, and 2) to adjust the Debtor's obligations to its creditors as may be necessary to accomplish such a sale. Kovich Declaration, ¶28.

VI. DISCUSSION

A. The Debtor Is Eligible Under Chapter 9 Of The Bankruptcy Code

To be eligible for relief under chapter 9, a petitioner must meet certain criteria. The Court construes these criteria "broadly to provide access to relief in furtherance of the Code's underlying

policies." In re City of Vallejo, 408 B.R. 280, 289 (B.A.P. 9th Cir. 2009) (quoting In re Valley Health Sys., 38 B.R. 156, 163 (Bankr. C.D. Cal. 2008

As provided in 11 U.S.C. section 109(c), an entity is eligible to be a debtor under chapter 9 if it:

> (1) is a municipality;
>
> (2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;
>
> (3) is insolvent;
>
> (4) desires to effect a plan to adjust such debts; and
>
> (5)(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;
>
> (B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;
>
> (C) is unable to negotiate with creditors because such negotiation is impracticable; or
>
> (D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of title 11.

The CFD bears the burden of satisfying each criterion of 11 U.S.C. § 109(c). Vallejo, 408 B.R. at 289. As detailed below, the CFD has carried its burden and is eligible to be a debtor under chapter 9 of the Bankruptcy Code.

B. The CFD is a Municipality

The petitioner under chapter 9 must be a municipality. *See* 11 U.S.C. § 109(c)(1). Section 101(40) of the Bankruptcy Code defines a municipality as a "political subdivision or public agency or instrumentality of a State." 11 U.S.C. § 101(40). The CFD is a communities facilities district, "a legally constituted governmental entity" created by a special act of the California

legislature. *See* definition in Cal. Gov't Code § 53317(b) ("Community facilities district" means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing facilities and services.). Specifically, the Mello-Roos Act (Cal Gov't Code §§ 53311-53368.3) enables any county, city, special district, school district, or joint powers authority to establish a community facilities district to finance needed improvements and services.

On September 28, 2000, after a public hearing, the Board of Directors of the Western Hills Water District ("WHWD") adopted Resolution No. 2000-06 forming the Diablo Grande Community Facilities District No. 1 under the terms of the Mello-Roos Act, for the purpose of financing the Facilities for the Project. A true and correct copy of WHWD Resolution No. 2000-06 is provided in Exhibits In Support of this Response as Exhibit 1. Kovich Decl., ¶10. Accordingly, the Debtor is a legally constituted governmental entity as defined in section 53317(b) of the Government Code and is a municipality within the meaning of Section 109(c)(1) of the Bankruptcy Code. Precedent for a community facilities district to be a debtor under Chapter 9 can be found in the case of Community Facilities District No. 1990-1 (Wildwood Estates), Nevada County, California, United States Bankruptcy Court for the Eastern District of California, Case No. 15-23888 (the "Wildwood Estates Bankruptcy"), at 15-23888 Dkt. 61. A true and correct copy of the Order For Relief entered in the Wildwood Estates bankruptcy case [15-23888 Dkt. 61] is provided in Exhibits In Support of this Response as Exhibit 2, and this Court is requested to take judicial notice thereof pursuant to FRE 201.

C. The CFD is Authorized by California Law to Bring its Petition

A chapter 9 petitioner must be specifically authorized under state law to be a debtor under chapter 9 of the Bankruptcy Code. *See* 11 U.S.C. § 109(c)(2). Until 2012, California provided its municipalities "the broadest possible" access to bankruptcy court, permitting cities to "file a petition and exercise powers pursuant to applicable federal bankruptcy law" without first satisfying any separate state law requirements. *See* In re City of Vallejo, CA, 432 B.R. 262, 268 (E.D. Cal. 2010) (quoting Law Revision Commission Comments to Government Code section 53760). AB 506 amended this historically broad grant and now requires that municipalities, prior

to filing, either participate in a "neutral evaluation process" or utilize the emergency off-ramp. *See* Cal. Gov't Code § 53760 (2012).

In this case, the Debtor was specifically authorized in its capacity as a municipality to be a debtor under chapter 9 by the laws of the State of California. Cal. Gov't. Code § 53760(b). As required by sections 53760(b) and 53760.5 of the Government Code the Board of Directors of the Western Hills Water District, as the governing authority of the Debtor, declared a fiscal emergency on November 25, 2025, and adopted its Resolution 2025-13 by a majority vote finding that: (a) the CFD was or would be unable to pay its obligations within the next 60 days; (b) the financial state of the CFD jeopardized the health, safety, or well-being of the residents within the CFD absent the protections of Chapter 9 of the Bankruptcy Code; and (c) it was in the best interests of the CFD to authorize the filing of a petition for protection under Chapter 9 of the Bankruptcy Code. Cal. Gov't Code §§ 53760(b), 53760.5. A true and correct copy of Resolution 2025-13 is attached to the Statement of Qualifications filed in this bankruptcy case on November 25, 2025 [25-26635, Dkt. 4.]

Resolution 2025-13 states in pertinent part as follows [25-26635, Dkt. 4, p. 3.]:

> WHEREAS, the Governing Board of the Western Hills Water District (the "Board") is the governing authority for Diablo Grande Community Facilities District No. 1 (the "CFD").
>
> WHEREAS, on November 25, 2025, the Board held a duly noticed public hearing on the fiscal condition of the CFD to take public comment.
>
> WHEREAS, the Board finds that the financial state of the CFD jeopardizes the health, safety, or well-being of the residents within the jurisdiction of the CFD.
>
> WHEREAS, the Board finds that the CFD is presently unable to pay its obligations.
>
> WHEREAS, given the CFD's fiscal emergency and the impact on the CFD's residents, the Board finds that it is in the best interests of the CFD to authorize Mark Kovich, as Designee, and attorneys of Burke, Williams & Sorensen, LLP, as counsel for the CFD, to file a petition for protection under Chapter 9 of the United States Bankruptcy Code (Title 11 U.S.C.) and to execute whatever documents are required to commence and prosecute the CFD's bankruptcy case.

The findings in Resolution 2025-13 are supported by the facts set forth in Section V.G., above, at paragraph 38a-i. Kovich Decl., ¶27. Therefore, the Debtor satisfied the requirements of Cal. Gov't Code §§ 53760(b), 53760.5, and thereby satisfied the requirements of 11 U.S.C. § 109(c)(2).

D. The CFD is Insolvent Under Section 109(c)(3)

1. The Legal Tests for Insolvency

A municipality is considered insolvent when it is "(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or (ii) unable to pay its debts as they become due." Vallejo, 408 B.R. at 289; *see* 11 U.S.C. § 101(32)(C)(i) and (ii).

Insolvency is determined based on the debtor's financial condition as of the date the petition is filed. "The day on which the municipality filed its bankruptcy petition (petition date) is the relevant time for assessing insolvency." In re San Benito Health Care Dist., No. 24-CV-02266-JD, 2025 WL 885510, at *1 (N.D. Cal. Mar. 21, 2025); In re City of Bridgeport, 129 B.R. 332, 337 (Bankr. D. Conn. 1991)(insolvency is primarily evaluated under a cash flow analysis, as opposed to a balance sheet or budget deficit analysis).

Current insolvency arises when the municipality is generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute. *See* 11 U.S.C. § 101(32)(C)(i); *see also* San Benito Health Care Dist., 2025 WL 885510 at *1. It has been held "that 'due' means 'presently, unconditionally owing *and presently enforceable*.'" In re Ravenna Metro. Dist., 522 B.R. 656, 668 (Bankr. D. Colo. 2014).

Prospective insolvency occurs when the municipality is unable to pay its debts as they become due. *See* 11 U.S.C. § 101(32)(C)(ii); *see also* San Benito Health Care Dist., 2025 WL 885510 at *1. "This is a cash flow, not a budget deficit, analysis." In re Pierce Cnty. Hous. Auth., 414 B.R. 702, 711 (Bankr. W.D. Wash. 2009). "Inability to pay under this test 'depends upon the inescapable quality of the obligation and the certainty that it cannot be met. Mere possibility or even speculative probability is not enough.'" Ravenna Metro. Dist., 522 B.R. at 677. "The maturity of the debt must be 'imminent' and the inability to pay it must be 'certain.'" *Id.*

2. On the Petition Date, The County Taxes Were Debts Against The Debtor's Property And Were Presently Due

On November 25, 2025, the Debtor was unable to pay the delinquent *ad valorem* property taxes secured by the Subject Parcels.

California Revenue and Taxation Code §2187 provides that every tax, penalty, or interest, including redemption penalty or interest, on real property ***is a lien against the property assessed***. California's property tax delinquent penalties are subject to statutory liens. In re Cnty. of Orange, 262 F.3d 1014, 1018 (9th Cir. 2001)(Federal Deposit Insurance Corporation held liable for penalties that arose before its appointment as a receiver).

Pursuant to 11 U.S.C. §101(37) (emphasis added): The term "lien" means charge against or interest in property ***to secure payment of a debt*** or performance of an obligation.

Pursuant to 11 U.S.C. §101(12) (emphasis added): The term "debt" means ***liability on a claim***.

Pursuant to 11 U.S.C. §101(5) (emphasis added): The term "claim" means - -

(A) ***right to payment***, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or

(B) right to an equitable remedy for breach of performance if such breach gives rise to right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

Pursuant to 11 U.S.C. §102(2), whenever the phrase "claim against the debtor" is used in the Bankruptcy Code, it is deemed to include the phrase "claim against property of the debtor."

In the case of In re Brawders, 325 B.R. 405, n. 9 (B.A.P. 9th Cir. 2005) the court stated at footnote 9 the following: "Section 102(2) provides that ' "claim against the debtor" includes claim against property of the debtor [.]' 11 U.S.C. §102(2). Therefore, although Ventura's ad valorem taxes are not Debtors' personal liability, they are still a claim against the bankruptcy estate."

The United States Supreme Court in the case of Johnson v. Home State Bank, 501 U.S. 78, 87, 111 S. Ct. 2150, 2155, 115 L. Ed. 2d 66 (1991) held that a mortgage surviving a discharge of a debtor's personal liability was a "claim" subject to inclusion in approved chapter 13 reorganization. The Court stated: "we understand Congress' intent to be that § 102(2) extend to all interests having the relevant attributes of nonrecourse obligations regardless of how these interests come into existence." Id.

The Debtor is, and was on the date of the Petition, the owner of the Subject Parcels which are encumbered by statutory liens in favor of County of Stanislaus. Those liens are a charge against the Subject Parcels to secure the payment of a debt, and therefore, are claims against property of the Debtor. Consequently, the County's delinquent property tax claims against the Subject Parcels constituted debts of the CFD that were presently due.

3. On the Petition Date, the CFD was Insolvent

On November 25, 2025, the CFD had insufficient funds to pay the $1,921,296.94 in delinquent taxes due on the Subject Parcels, and also to satisfy the HOA fees then due and secured by the Subject Parcels in the approximate amount of $385,000. Kovich Declaration, ¶27c.

On November 25, 2025, the CFD had approximately $760,000, in available funds. Kovich Declaration, ¶27f.

Consequently, on November 25, 2025, the CFD was insolvent and met the requirements of section 109(c)(3) of the Bankruptcy Code.

E. The CFD Desires to Effect a Plan to Adjust Its Debts

Section 109(c)(4) of the Bankruptcy Code requires that a municipality desire to effect a plan to adjust its debts. The Debtor's intent for a Plan of Adjustment is 1) to sell the Subject Parcels to one or more developers in order to generate proceeds for the benefit of bondholders, and return the properties to tax-paying status, and 2) to adjust the Debtor's obligations to its creditors as may be necessary to accomplish such a sale. Kovich Declaration, ¶28.

F. The CFD Has Met the Requirements of Section 109(c)(5)

Under section 109(c)(5)(C) of the Bankruptcy Code, the Debtor can satisfy the requirements of Section 109(c)(5), if it was unable to negotiate with creditors because such negotiation was impracticable.

In this case, negotiation with the County had failed and negotiation with the bondholders was both impracticable and meaningless since it was not the bondholders who were the threat to the Subject parcels. The Debtor had been negotiating with the County but had not been able to reach an agreement that would give the Debtor time to sell the Subject Parcels before the County would conduct a tax sale of the Subject Parcels. Negotiation with the bondholders was impracticable because the process to engage with them could not reasonably be completed before the County would have been conducting its tax sale of the Subject Parcels, and nothing that could have been attained in such negotiations would have enabled the Debtor to stop the County going to tax sale. Kovich Declaration, ¶26.

G. The CFD Filed Its Petition in Good Faith

The CFD "file[d] the petition in good faith," as required by Bankruptcy Code section 921(c). Courts and commentators have looked at a number of factors to determine whether the debtor acted in good faith. In re New York City Off-Track Betting Corp., 427 B.R. 256, 278 (Bankr. S.D.N.Y. 2010). These include: (i) the debtor's subjective beliefs; (ii) whether the debtor's financial problems fall within the situations contemplated by chapter 9; (iii) whether the debtor filed its chapter 9 petition for reasons consistent with the purposes of chapter 9; (iv) the extent of the debtor's prepetition negotiations, if practicable; (v) the extent that alternatives to chapter 9 were considered; and (vi) the scope and nature of the debtor's financial problems. In re Pierce County Housing Authority 414 B.R. 702, 714 (Bankr. W.D. Wash. 2009).

Each of the previous sections satisfies the criteria for good faith, and therefore, the Court should easily conclude that the Petition has been filed in good faith. By definition, bankruptcy creditors have not been paid by a debtor, otherwise they would not be creditors. Simply owing a debt to a creditor does not make filing bankruptcy an act of bad faith. Here, the Debtor is seeking to maximize its ability to satisfy all of its creditors, especially the bondholders. Without having

filed its Petition, the hard-won assets represented by the Subject Parcels would have been lost to a County tax sale. Preserving those assets through filing the Petition was a supreme act of good faith.

VII. CONCLUSION

Based on the foregoing, the Court should find that the Debtor is eligible to be a debtor under 11 U.S.C. 109(c), reject and/or overrule the Objection, and enter an Order For Relief pursuant to 11 U.S.C. §921(d).

Dated: November 4, 2026

BURKE, WILLIAMS & SORENSEN, LLP

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