

## CONSENT AND WAIVER

### CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO)

City Council  
City of Fontana  
8353 Sierra Avenue  
Fontana, California 92335

Members of the City Council:

Pursuant to a petition of Lennar Homes of California, LLC, a California limited liability company (the “Landowner”), the City Council (the “City Council”) of the City of Fontana (the “City”) has commenced proceedings under the Mello-Roos Community Facilities Act of 1982 (the “Act”) to establish a community facilities district proposed to be named City of Fontana Community Facilities District No. 111 (Monterado) (the “Community Facilities District”) and to authorize the levy of a special tax (the “Special Tax”) therein and to authorize special tax bonds for the Community Facilities District. This is a consent and waiver with respect to certain procedural matters under the Act, and the undersigned hereby states as follows:

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**1. Landowner; Property.** This Consent and Waiver is submitted by the Landowner, as the legal owner of the real property described in Exhibit A attached hereto and made a part hereof (the “Property”). All of the Property is proposed to be included within the boundaries of the Community Facilities District. The Property consists of approximately 20.57 acres and comprises 100% of the land within the Community Facilities District not proposed to be exempt from the Special Tax.

**2. Proceedings.** The Landowner hereby acknowledges and agrees that the City Council has, pursuant to a petition of the Landowner, commenced proceedings pursuant to the Act to establish the Community Facilities District, to authorize the levy of the Special Tax in the Community Facilities District to finance certain public facilities and services, and to authorize special tax bonds for the Community Facilities District in an amount not to exceed \$8,000,000. The public facilities proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption “Facilities” on Exhibit B attached hereto and the services proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption “Services” on Exhibit B attached hereto. The City Council has fixed September 13, 2022 at 7:00 p.m. or as soon thereafter as the City Council may reach the matter, at 8353 Sierra Avenue, Fontana, California, as the time and place where the City Council will conduct public hearings on the establishment of the Community Facilities District and the proposed debt issue of the Community Facilities District, provided, that, in the event the September 13, 2022 City Council meeting is held via teleconference and/or videoconference only, the means by which the public may observe such public hearings and offer public comment would be as prescribed in the notice and agenda for such City Council meeting. The Landowner hereby acknowledges and agrees that notices of the hearings were published by the City Clerk on August 26, 2022 in the

*Fontana Herald News*, a newspaper of general circulation published in the area of the Community Facilities District. The Landowner hereby acknowledges and agrees that it had actual notice of the public hearings, that notice of such hearings has been given in accordance with the Act, that it waives any and all defects (if any) in such notice, and that it waives any rights it may have to make any protest or complaint or to undertake any legal action challenging the adequacy of such notice.

**3. Ownership of Property; No Registered Voters; Landowner Election.** The Landowner represents and warrants to the City that it is the legal owner of the fee interest in all of the Property and that no other person or entity is the legal owner of all or any portion of the fee interest in any of the Property. To the best of the Landowner's knowledge, there are no registered voters residing within the boundaries of the Property as of the date hereof, and there have been fewer than 12 registered voters residing therein during each of the 90 days preceding the date of this Consent and Waiver.

The Landowner hereby acknowledges and agrees that, pursuant to Section 53326(b) of the Act, if fewer than 12 persons have been registered to vote within the territory of the Community Facilities District for each of the 90 days preceding the close of the public hearings on the establishment of the Community Facilities District and the proposed debt issue of the Community Facilities District, the vote on the proposition to incur bonded indebtedness of the Community Facilities District, to levy the Special Tax in the Community Facilities District and to establish an appropriations limit for the Community Facilities District shall be by the landowners of the Community Facilities District and each person who is the owner of land at the close of said public hearings, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the Community Facilities District not exempt from the Special Tax. The Landowner hereby acknowledges and agrees that if, as anticipated, said public hearings are closed on the date hereof, said vote shall, pursuant to Section 53326(b) of the Act, be by the landowners of the Community Facilities District.

**4. Request.** The Landowner hereby requests that the special election to be held under the Act on the proposition to incur bonded indebtedness of the Community Facilities District, to levy the Special Tax in the Community Facilities District and to establish an appropriations limit for the Community Facilities District be conducted using mailed or hand-delivered ballots, that such ballots be opened and canvassed at such election, and that the results of such election be certified at the same meeting of the City Council as the public hearings on the establishment of the Community Facilities District and the proposed issuance of bonded indebtedness of the Community Facilities District, or as soon thereafter as possible.

**5. Consent and Waiver.** The Landowner hereby acknowledges and agrees that if the special election to be held under the Act on the proposition to incur bonded indebtedness of the Community Facilities District, to levy the Special Tax in the Community Facilities District and to establish an appropriations limit for the Community Facilities District is held on September 13, 2022, said election would be held less than 90 days after the anticipated close of the September 13, 2022 public hearings on the establishment of the Community Facilities District and the proposed issuance of bonded indebtedness of the Community Facilities District. The Landowner hereby acknowledges and agrees that, pursuant to Section 53326 of the Act, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of such special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act

(commencing with Section 53345 of the Act), may be waived with the unanimous consent of the qualified electors of the Community Facilities District and the concurrence of the election official conducting the election. The Landowner hereby consents to the waiver of, and hereby waives, any time limit specified by Section 53326 of the Act and any requirement pertaining to the conduct of said special election, including any time limit or requirement applicable to an election pursuant to Article 5 of the Act (commencing with Section 53345 of the Act), including, but not limited to, all notices with respect thereto (published, mailed or otherwise to be given), any voter qualification requirements, any time limitations, any requirements as to form or content of election materials, all publication requirements, all pre-election, election or voting procedures (other than the right to vote) and all canvass, recount and tie vote procedures. The Landowner hereby consents to the holding of said special election on September 13, 2022.

The Landowner hereby acknowledges and agrees that (a) as the vote is to be by the landowners of the Community Facilities District, pursuant to Section 53327(b) of the Act, any impartial analysis, arguments or rebuttals, if any, with respect to the special election on the proposition to incur bonded indebtedness of the Community Facilities District, to levy the Special Tax in the Community Facilities District and to establish an appropriations limit for the Community Facilities District may be waived with the unanimous consent of all the landowners of the Community Facilities District, and (b) pursuant to Section 53326 of the Act, with the concurrence of the election official for said special election, any requirement pertaining to the conduct of said special election may be waived with the unanimous consent of all the qualified electors of the Community Facilities District. The Landowner hereby acknowledges and agrees that said special election is to be held without the preparation of an impartial analysis and arguments and rebuttals, if any, as permitted by Section 53327(b) of the Act. The Landowner hereby consents to the waiver of, and hereby waives, the requirement in Section 53327(a) that there be prepared and included in the ballot material provided to each voter an impartial analysis pursuant to Section 9160, 9280 or 9500 of the California Elections Code, and arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and Section 9190 of the California Elections Code or pursuant to Sections 9281 to 9287, inclusive, and Section 9295 of the California Elections Code, or pursuant to Sections 9501 to 9507, inclusive, of the California Elections Code, or pursuant to other provisions of law applicable to other special districts as appropriate.

The Landowner hereby represents that it has obtained such information with respect to the consents and waivers contained herein as it has deemed necessary or appropriate. The Landowner hereby confirms and represents that it is fully informed with respect to such consents and waivers and fully understands the consequences thereof.

The Landowner hereby waives any and all defects in notice or procedure in any proceedings to establish the Community Facilities District, to levy the Special Tax in the Community Facilities District and to authorize special tax bonds for the Community Facilities District, or in the conduct of the election, whether known or unknown (other than, in the case of the election, the right to have ballots accurately counted), and the Landowner hereby represents that the election is being expedited pursuant to this Consent and Waiver, at the particular request of the Landowner. The Landowner further waives its right to make any protest or complaint or to undertake any legal action challenging the validity of the election.

**6. Authorized Representative.** The undersigned, Geoffrey Smith, has been duly authorized by the Landowner and possesses all authority necessary to execute this Consent and Waiver on behalf of the Landowner in connection with the election to be held under the Act on the proposition to incur bonded indebtedness of the Community Facilities District, to levy the Special Tax in the Community Facilities District and to establish an appropriations limit for the Community Facilities District, and is the authorized representative of the Landowner authorized to execute ballots on behalf of the Landowner and to vote in the election referred to herein. The signature set forth opposite the name of such authorized representative is the genuine signature of such person:

Name

Signature

Geoffrey Smith



**7. Mailing Address.** The address of the Landowner for receiving notices and ballots is: Lennar Homes of California, LLC, 980 Montecito Avenue, Suite 300, Corona, California 92879, Attention: Geoffrey Smith, Vice President.

This Consent and Waiver is dated as of September 13, 2022.

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**LENNAR HOMES OF CALIFORNIA, LLC,**  
a California limited liability company

By: \_\_\_\_\_



Geoffrey Smith, Vice President

**EXHIBIT A**

**DESCRIPTION OF PROPERTY**

The Property consists of the following San Bernardino County Assessor Parcel Number:

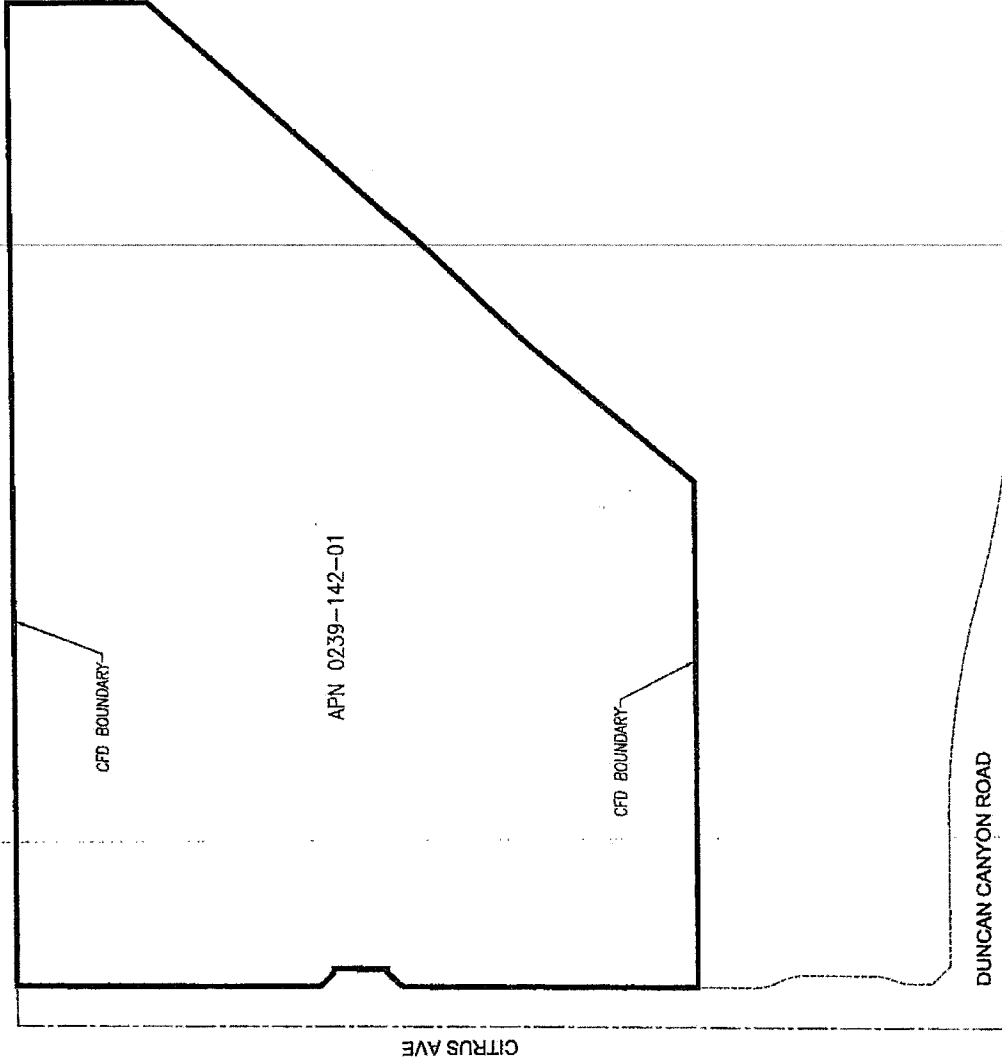
0239-142-01

The Property constitutes all of the property included within the boundaries of the Community Facilities District. The boundaries of the Community Facilities District are depicted in the attached map.

05/06

# PROPOSED BOUNDARIES OF CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO)

COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA



### BASIS OF BEARINGS:

BASES OF BEARINGS TAKEN FROM THE SOUTH LINE OF THE SW 1/4 OF SECTION 18, T14N, R9W, S34M, AS SHOWN ON RS 159782 BEING N 85°28'27" E

### PROPOSED BOUNDARIES:

THE PROPOSED BOUNDARIES OF CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO) CONTAINS 20.87 ACRES OF LAND MORE OR LESS.

REFERENCE IS HEREBY MADE TO THE ASSESSOR MAPS OF THE COUNTY OF SAN BERNARDINO FOR A DESCRIPTION OF THE LINES AND DIMENSIONS OF THE PARCEL LISTED BELOW.

APN 0239-142-01

### CITY CLERK'S CERTIFICATE:

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF FONTANA THIS 27 DAY OF JULY, 2022  
*Germaine McCallister*  
CITY CLERK OF THE CITY OF FONTANA

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO), COUNTY OF SAN BERNARDINO, WAS PREPARED AND SUBMITTED TO THE CITY CLERK OF FONTANA AT A REGULAR MEETING HEREBY HELD ON THE 24 DAY OF JULY, 2022 BY ITS RESOLUTION NO. 2022

*Germaine McCallister*  
CITY CLERK OF THE CITY OF FONTANA

### SAN BERNARDINO COUNTY RECORDER'S CERTIFICATE:

THIS MAP HAS BEEN FILED UNDER DOCUMENT NUMBER 2022-0266763. THIS 27 DAY OF JULY, 2022 AT 10:40 A.M. IN BOOK 50 OF 2022 AT PAGE 50, AT THE REQUEST OF THE CITY OF FONTANA IN THE AMOUNT OF \$ 11.00

ROB DUTTON  
ASSESSOR - RECORDER  
SAN BERNARDINO COUNTY

*Rob Dutton*  
DEPUTY RECORDER



# PROPOSED BOUNDARIES OF CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 111 (MONTERADO)

COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

ALLARD ENGINEERING

18655 SHELLE AVENUE  
FONTANA, CA 92335  
(951) 356-1815 FAX: (951) 356-1795

SHEET  
1 OF 1

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## **EXHIBIT B**

### **FACILITIES AND SERVICES TO BE FINANCED**

#### **Facilities**

The types of facilities to be financed by the Community Facilities District are streets, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, sewers, storm drains, flood control facilities, fire protection facilities, police facilities, public facilities, landscaping, library facilities, park and recreational facilities, and land, rights-of-way and easements necessary for any of such facilities.

#### **Services**

The types of services to be financed by the Community Facilities District are fire protection and suppression services, maintenance and lighting of parks, parkways, streets, roads and open space, flood and storm protection services and maintenance and operation of any real property or other tangible property with an estimated useful life of five or more years that is owned by the City.