

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF FONTANA, ACTING AS THE LEGISLATIVE BODY OF
THE CITY OF FONTANA COMMUNITY FACILITIES
DISTRICT NO. 116M, COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, AUTHORIZING THE LEVY OF
SPECIAL TAXES IN SUCH COMMUNITY FACILITIES
DISTRICT**

WHEREAS, the City Council (the “City Council”) of the City of Fontana (the “City”), California has, among other things, initiated proceedings, held a public hearing, conducted an election, and received a favorable vote from the qualified electors authorizing the levy of special taxes in the City of Fontana Community Facilities District No. 116M, County of San Bernardino, State of California (the “District”), all as authorized pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, being Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code (the “Act”).

**THE CITY COUNCIL OF THE CITY OF FONTANA DOES ORDAIN AS
FOLLOWS:**

Section 1. This City Council does, by the passage of this Ordinance, authorize the levy of special taxes on taxable properties located in the District pursuant to that certain Rate and Method of Apportionment as set forth in Appendix “A” attached hereto and incorporated herein by this reference (the “Rate and Method”).

Section 2. This City Council, acting as the legislative body of the District, is hereby further authorized, by resolution, to annually determine the special tax to be levied within the District for the then current tax year and all future tax years; provided, however, the special tax to be levied shall not exceed the maximum special tax authorized to be levied pursuant to the Rate and Method.

Section 3. The special taxes herein authorized to be levied, to the extent possible, shall be collected in the same manner as ordinary *ad valorem* property taxes and shall be subject to the same penalties and the same procedure, sale, and lien priority in any case of delinquency as applicable for *ad valorem* property taxes; provided, however, the District may, by resolution, elect to collect the special taxes at a different time or in a different manner if necessary to meet its financial obligations.

Section 4. The special taxes authorized to be levied shall be secured by the lien imposed pursuant to Sections 3114.5 and 3115.5 of the California Streets and Highways Code, which lien shall be a continuing lien and shall secure each levy of the special taxes. The lien of the special tax shall continue in force and effect until the special tax obligation is canceled in accordance with law or until the special tax ceases to be levied by the City Council.

Section 5. This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk shall cause this Ordinance, or a summary of it, to be published in a newspaper of general circulation in the City.

APPROVED AND ADOPTED ____ day of _____, 2024

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine McClellan Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 22nd day of October, 2024, and was finally passed and adopted on the _____ day of _____, 2024 to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

APPENDIX A

RATE AND METHOD OF APPORTIONMENT FOR COMMUNITY FACILITIES DISTRICT NO. 116M OF THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property in City of Fontana Community Facilities District No. 116M ("CFD No. 116M") and collected each Fiscal Year, commencing in Fiscal Year 2025-2026, in an amount determined by the City Council of the City of Fontana, through the application of the Rate and Method of Apportionment as described below. All of the real property in CFD No. 116M, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area expressed in acres of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable final map, parcel map, condominium plan, or other recorded County map or the land area calculated to the reasonable satisfaction of the CFD Administrator using the boundaries set forth on such map or plan.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, of Part 1 of Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 116M, including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the City, CFD No. 116M or any designee thereof of complying with City or CFD No. 116M disclosure requirements; the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 116M or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 116M for any other administrative purposes of CFD No. 116M, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

"Assessor's Parcel Map" means an official map of the County Assessor of the County of San Bernardino designating parcels by Assessor's Parcel Number.

"Assessor's Parcel Number" means that number assigned to an Assessor's Parcel by the County of San Bernardino for purposes of identification.

"CFD Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Taxes, and performing other duties as set forth herein.

"CFD No. 116M" means the City of Fontana Community Facilities District No. 116M.

"City" means the City of Fontana, California.

"Council" means the City Council of the City of Fontana, acting as the legislative body of CFD No. 116M.

"County" means the County of San Bernardino.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Taxable Property for which (i) a Final Residential Subdivision has been recorded with the County as of January 1 of the previous Fiscal Year or (ii) a building permit for new construction has been issued on or before January 1 of the previous Fiscal Year for a non-residential use.

"Final Residential Subdivision" means a Final Subdivision that creates individual lots for which building permits may be issued for residential dwelling units without further subdivision of such property.

"Final Subdivision" means (i) a subdivision of property by recordation of a final map, parcel map, or lot line adjustment approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 *et seq.*) that creates individual lots or parcels for which building permits may be issued, or (ii) for condominiums, a final map approved by the City and a condominium plan recorded pursuant to California Civil Code Section 4285 that creates an individual lot(s) for which a building permit(s) may be issued without further subdivision. The term "Final Subdivision" shall not include any Assessor's Parcel Map or subdivision map or portion thereof that does not create individual lots for which a building permit may be issued, including Assessor's Parcels that are designated as remainder parcels. Notwithstanding the above, a condominium plan for which one or more building permits have been issued, but no individual lots have been created for such building permits, shall be considered a Final Subdivision, and the portion of the condominium plan for which building permits have been issued shall be defined as Developed Property.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

"Land Use Class" means any of the classes listed in Table 1 below.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C hereof, that can be levied by CFD No. 116M in any Fiscal Year on any Assessor's Parcel.

"Non-Residential Property" means all Assessor's Parcels of Developed Property for which a building permit(s) has been issued by the City permitting the construction of one or more non-residential structures or facilities.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 116M that was owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, as of January 1 of the previous Fiscal Year.

"Proportionately" means, for Developed Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property.

"Public Property" means, for each Fiscal Year, any property within the boundaries of CFD No. 116M that is (i) owned by, irrevocably offered or dedicated to the federal government, the State, the County, the City, or any local government or other public agency, provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use; or (ii) encumbered by a public utility easement making impractical its use for any purpose other than that set forth in the easement. To ensure that property is classified as Public Property in the first Fiscal Year after it is acquired by, irrevocably offered for dedication to, or dedicated to a public agency, the property owner shall notify the CFD Administrator in writing of such acquisition, offer, or dedication not later than June 30 of the Fiscal Year in which the acquisition, offer, or dedication occurred.

"Rate and Method of Apportionment" means this Rate and Method of Apportionment of Special Taxes for CFD No. 116M.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property, to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount required in any Fiscal Year for CFD No. 116M to pay for: (1) maintenance services authorized to be financed by CFD No. 116M, (2) Administrative Expenses, (3) anticipated delinquent special taxes (such delinquent special taxes shall be estimated based on the delinquency rate in CFD No. 116M for the previous Fiscal Year), and (4) less a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 116M which are not exempt from the Special Tax pursuant to law or Section E below.

"Undeveloped Property" means, for each Fiscal Year, all Assessor's Parcels of Taxable Property which are not categorized as Developed Property.

"Welfare Exemption" means, for each Fiscal Year, any Assessor's Parcel that is subject to a welfare exemption under subdivision (g) of Section 214 of the California Revenue and Taxation Code (or any successor statute), as indicated in the County's assessment roll finalized as of the last preceding January 1.

B. ASSIGNMENT TO LAND USE CATEGORIES

For each Fiscal Year, commencing with Fiscal Year 2025-2026, all Taxable Property within CFD No. 116M shall be categorized as either Developed Property or Undeveloped Property, and shall be subject to the Special Tax in accordance with the rate and method of apportionment determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

The Fiscal Year 2025-2026 Maximum Special Tax for each Assessor's Parcel classified as Developed Property shall be equal to the amount shown in the table below:

TABLE 1
Fiscal Year 2025-2026
Maximum Special Tax for Developed Property

Land Use Class	FY 2025-2026 Maximum Special Tax
Final Residential Subdivision	\$737 per lot
Non-Residential Property	\$8,217 per Acre

On each July 1, commencing July 1, 2026, the Maximum Special Tax for Developed Property shall increase by two percent (2%) per Fiscal Year.

2. Undeveloped Property

The Maximum Special Tax for each Assessor's Parcel classified as Undeveloped Property shall be equal to \$0 per Acre.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2025-2026 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement and the City shall provide for the levy of the Special Tax until the total Special Tax levy equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property at up to 100% of the Maximum Special Tax for such Assessor's Parcel.

E. EXEMPTIONS

No Special Tax shall be levied on (i) Public Property, (ii) Property Owner Association Property, (iii) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, (iv) Assessor's Parcels which are privately owned and are encumbered by or restricted solely for public uses, (v) or any Assessor's Parcel that has a Welfare Exemption. Should an Assessor's Parcel, however, no longer be classified as items (i)-(v) above, including Property Owner Association Property, Public Property, or have a Welfare Exemption, its tax-exempt status will, without the necessity of any action by the Council, terminate.

The exempt status of any property will be determined by the CFD Administrator and such determination shall be final.

F. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes and shall be subject to the same penalties, and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* property taxes; provided, however, that CFD No. 116M may directly bill the Special Tax, and/or may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 116M.

G. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement, unless no longer required to pay for the authorized services as determined at the discretion of the Council.

H. APPEALS

Any landowner or resident who feels that the amount of the Special Tax levied on his/her Assessor's Parcel is in error may submit a written appeal to the CFD Administrator,

provided that the appellant is current in his/her payment of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, a cash refund shall not be made (except for the last year of levy), but the amount of the Special Tax levied shall be appropriately modified, reduced, or eliminated through an adjustment to the Special Tax levy in the following Fiscal Year. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has thirty (30) days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payment of Special Taxes. This second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

The CFD Administrator shall interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals. Any decision of the CFD Administrator shall be subject to appeal to the Council whose decision shall be final and binding as to all persons.

I. PREPAYMENT

No prepayments of the Special Tax are permitted.