

RESOLUTION NO. 2022-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA CALLING A SPECIAL ELECTION AND SUBMITTING TO THE QUALIFIED ELECTOR OF COMMUNITY FACILITIES DISTRICT NO. 110M OF THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA A PROPOSITION WITH RESPECT TO THE ANNUAL LEVY OF SPECIAL TAXES WITHIN SAID COMMUNITY FACILITIES DISTRICT TO PAY THE COSTS OF CERTAIN SERVICES TO BE PROVIDED BY THE COMMUNITY FACILITIES DISTRICT AND A PROPOSITION WITH RESPECT TO THE ESTABLISHMENT OF AN APPROPRIATIONS LIMIT FOR SAID COMMUNITY FACILITIES DISTRICT

WHEREAS, pursuant to Section 53325.1 of the California Government Code, the City Council (the "City Council") of the City of Fontana ("the City") has adopted Resolution No. 2022-____, the resolution of formation of Community Facilities District No. 110M of the City of Fontana, County of San Bernardino, State of California (the "Community Facilities District"), establishing the Community Facilities District and the boundaries thereof; and

WHEREAS, pursuant to Section 53326 of said Code, it is necessary that the City Council submit to the voters of the Community Facilities District the annual levy of special taxes on the property within the Community Facilities District to pay the costs of providing services described in Resolution No. 2022-____ the resolution of formation of the Community Facilities District; and

WHEREAS, pursuant to Section 53325.7 of said Code, the City Council may also submit to the voters of the Community Facilities District a proposition for the establishment of an appropriations limit for the Community Facilities District;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fontana as follows:

Section 1. Findings. The City Council finds that: (i) the foregoing recitals are correct; (ii) less than 12 persons have been registered to vote within the territory of the Community Facilities District during the 90 days preceding the close of the protest hearing on September 13, 2022; (iii) pursuant to Section 53326(b) of the California Government Code, as a result of the findings set forth in clause (ii) above, the vote in the special election called by this resolution shall be by the landowners of the Community Facilities District whose property would be subject to the special taxes if they were levied at the time of the election, and each landowner shall have one vote for each acre, or portion thereof, which he or she owns within the Community Facilities District which

would be subject to the proposed special taxes if they were levied at the time of the election; (iv) the landowner of the property within the Community Facilities District has by written consent (a) waived the time limits set forth in said Section 53326 for holding the election called by this Resolution, (b) consented to the holding of said election on September 13, 2022, (c) waived notice of the time and date of said election, and (d) waived an impartial analysis by the City Attorney of the City of the ballot propositions pursuant to Section 9280 of the California Elections Code and arguments and rebuttals pursuant to Sections 9281 to 9287, inclusive, and 9295 of said Code; and (v) the City Clerk of the City has consented to the holding of said consolidated elections on September 13, 2022.

Section 2. Call of Election. The City Council hereby calls and schedules a special election for September 13, 2022 on the proposition of the annual levy of special taxes within the Community Facilities District for financing the services to be provided within and of benefit to the Community Facilities District and on the proposition of the establishment of an appropriations limit for the Community Facilities District. The City Council hereby ratifies and approves all prior actions taken by the officers and employees of the City with respect to conducting the special election, including the publication of notices, the mailing of official ballots and the mailing of consent of the landowner to conduct the special election on September 13, 2022 and waiver of notices and impartial analysis.

Section 3. Propositions. The propositions to be submitted to the landowner-voter of the Community Facilities District at such special election shall be as follows:

First Proposition

Shall special taxes be levied annually on taxable property within Community Facilities District No. 110M of the City of Fontana, County of San Bernardino, State of California, to pay the costs of services to be provided for a new residential development (Tract 16897), including street lighting, landscaping, park maintenance, detention basins/water quality systems, and open space facilities within and surrounding the area of the Community Facilities District, mailboxes located within the Community Facilities District owned by the City with an estimated useful life of five or more years, and to pay the costs associated with the determination of the amount, levy and collection of the special taxes at the special tax rates and pursuant to the method of apportioning such special taxes set forth in Exhibit "B" to Resolution No. 2022-089 adopted by the City Council of the City of Fontana on July 26, 2022?

Second Proposition

Shall an appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, be established for Community Facilities District No. 110M of the City of Fontana, County of San Bernardino, State of California, in the amount of \$1,000,000?

Section 4. Conduct of Election. Except as otherwise provided in Section 5 hereof, said consolidated elections shall be conducted by the City Clerk of the City pursuant to the provisions of the California Elections Code governing elections of cities, and the provisions of Division 4 (commencing with Section 4000) of said Code, insofar as they may be applicable.

Section 5. Election Procedures. The procedures to be followed in conducting the special elections on (i) the proposition with respect to the levy of special taxes on the land within the Community Facilities District to pay the costs of services to maintain street lighting, landscaping, park maintenance, detention basins/water quality systems, and open space facilities within and surrounding the area of the Community Facilities District, mailboxes located within the Community Facilities District owned by the City with an estimated useful life of five or more years, and the incidental costs related thereto within the area of the Community Facilities District and (ii) the proposition with respect to the establishment of an appropriations limit for the Community Facilities District in the amount of \$1,000,000 (the "consolidated special elections") shall be as follows:

(a) Pursuant to Section 53326 of the California Government Code, a ballot for the consolidated special elections shall be distributed to the qualified elector by the City Clerk or her designee by mail or hand delivery with return postage prepaid.

(b) Pursuant to applicable sections of the aforementioned provisions of the California Elections Code governing the conduct of mail ballot elections, including in particular Division 4 (commencing with Section 4000) of said Code, the City Clerk or her designee shall mail or hand deliver to the qualified elector an official ballot in the form attached hereto as Exhibit "A", and shall also mail or hand deliver to such qualified electors a ballot pamphlet and instructions to voter, including a sample ballot identical in form to the official ballot but identified as a sample ballot, a return identification envelope with prepaid postage thereon addressed to the City Clerk for the return of voted official ballot, and a copy of Resolution No. 2022-089 and the exhibits thereto.

(c) The official ballot to be mailed or hand delivered by the City Clerk or her designee to the landowner-voter shall have printed or typed thereon the name of the landowner-voter and the number of votes to be voted by the landowner-voter and shall have appended to it a certification to be signed by the person voting the official ballot which shall certify that the person signing the certification is the person who voted the official ballot, and if the landowner-voter is other than a natural person, that he or she is an officer of or other person affiliated with the landowner-voter entitled to vote such

official ballot, that he or she has been authorized to vote such official ballot on behalf of the landowner-voter, that in voting such official ballot it was his or her intent, as well as the intent of the landowner-voter, to vote all votes to which the landowner-voter is entitled based on its land ownership on the propositions set forth in the official ballot as marked thereon in the voting square opposite each such proposition, and further certifying as to the acreage of the landowner-voter's land ownership within the Community Facilities District. Ballots shall be executed by an owner of the taxable property that is subject to the special taxes of the Community Facilities District, or by a representative of an owner lawfully appointed to represent the owner for the purposes of the election described herein pursuant to Section 53326(b) of the California Government Code.

(d) The return identification envelope delivered by the City Clerk or her designee to the landowner-voter shall have printed or typed thereon the following: (i) the name of the landowner, (ii) the address of the landowner, (iii) a declaration under penalty of perjury stating that the voter is the landowner or the authorized representative of the landowner entitled to vote the enclosed ballot and is the person whose name appears on the identification envelope, (iv) the printed name and signature of the voter, (v) the address of the voter, (vi) the date of signing and place of execution of said declaration, and (vii) a notice that the envelope contains an official ballot and is to be opened only by the City Clerk.

(e) The information to voter form to be mailed or hand delivered by the City Clerk or her designee to the landowner-voter shall inform them that the official ballot shall be returned to the City Clerk properly voted as provided thereon and with the certification appended thereto properly completed and signed in the sealed return identification envelope with the certification thereon completed and signed and all other information to be inserted thereon properly inserted by 7:00 p.m. on the date of the consolidated special election.

(f) Upon receipt of the return identification envelopes which are returned prior to the voting deadline on the date of the elections, the City Clerk shall canvass the votes cast in the consolidated special elections, and shall file a statement with the City Council after the consolidated special elections as to the results of such canvass and the election on each proposition set forth in the official ballot.

Section 6. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the levy of special taxes by the Community Facilities District shall be subject to the following accountability measures:

(a) The special taxes shall be used for the specific purpose of providing for the maintenance of street lights, landscaping, park maintenance, detention basins/water quality systems, and open space facilities within and surrounding the area of the Community Facilities District, mailboxes located within the Community Facilities District owned by the City with an estimated useful life of five or more years, and to pay costs associated with the determination of the amount of and the levy and

collection of the special taxes at the special tax rates and pursuant to the method of apportioning such special taxes set forth in Exhibit "B" to Resolution No. 2022-089 adopted by the City Council on July 26, 2022.

- (b) The proceeds of the special taxes shall be applied only for the specific purposes identified in subsection (a).
- (c) An account or accounts shall be created into which the proceeds of the special taxes shall be deposited.
- (d) The City's Director of Management Services shall file a report with the City Council no later than January 1 of the calendar year beginning after the year in which the special taxes are first levied and annually thereafter, which shall contain the information required by Section 50075.3 of the California Government Code.

APPROVED AND ADOPTED this 13th day of September, 2022.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Lewis Key, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City of Fontana at a regular meeting on the 13th day of September, 2022, by the following vote to wit:

AYES:
NOES:
ABSENT:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk