

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF FONTANA OF INTENTION TO ESTABLISH A  
COMMUNITY FACILITIES DISTRICT PROPOSED TO BE  
NAMED CITY OF FONTANA COMMUNITY FACILITIES  
DISTRICT NO. 112 (THE GARDENS PHASE ONE), AND TO  
AUTHORIZE THE LEVY OF A SPECIAL TAX**

**WHEREAS**, Section 53318 of the Mello-Roos Community Facilities Act of 1982 (the “Act”) provides that proceedings for the establishment of a community facilities district shall be instituted by a legislative body of a local agency when a petition requesting the institution of the proceedings signed by the owners of not less than 10% of the area of land proposed to be included in the community facilities district and not proposed to be exempt from the special tax proposed to be levied therein, describing the boundaries of the territory that is proposed for inclusion in the community facilities district and specifying the types of facilities and services to be financed by the community facilities district is filed with the clerk of the legislative body;

**WHEREAS**, Section 53318 of the Act further provides that such a petition may not be acted upon until the payment of a fee in an amount that the legislative body determines, within 45 days of receiving such petition, is sufficient to compensate the legislative body for all costs incurred in conducting proceedings to create a community facilities district pursuant to the Act;

**WHEREAS**, the City Council (the “City Council”) of the City of Fontana (the “City”) has received from each of Lennar Homes of California, LLC, a California limited liability company and AG EHC II (LEN) CA 2, L.P., a Delaware limited partnership (collectively, the “Landowners”) a written petition (together, the “Petitions”), requesting the institution of proceedings to establish a community facilities district (the “Community Facilities District”) and to levy a special tax (the “Special Tax”) in the Community Facilities District, describing the boundaries of the territory that is proposed for inclusion in the Community Facilities District and specifying the types of facilities and services to be financed by the Community Facilities District;

**WHEREAS**, in connection with the request to institute proceedings to establish the Community Facilities District, North Fontana Investment Company, LLC (“North Fontana Investment Co.”) paid a fee in an amount that the City Council has determined is sufficient to compensate the City Council for all cost incurred in conducting proceedings to create the Community Facilities District pursuant to the Act;

**WHEREAS**, the Landowners have represented and warranted to the City Council that the Landowners are the owners of 100% of the area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the Special Tax;

**WHEREAS**, Section 53314.9 of the Act provides that, at any time either before or after the formation of a community facilities district, the legislative body may accept advances of funds from any source, including, but not limited to, private persons or private entities and may provide, by resolution, for the use of those funds for any authorized purpose, including, but not limited to, paying any cost incurred by the local agency in creating a community facilities district;

**WHEREAS**, Section 53314.9 of the Act further provides that the legislative body may enter into an agreement, by resolution, with the person or entity advancing the funds, to repay all or a portion of the funds advanced, as determined by the legislative body, with or without interest, under all the following conditions: (a) the proposal to repay the funds is included in both the resolution of intention to establish a community facilities district adopted pursuant to Section 53321 of the Act and in the resolution of formation to establish a community facilities district pursuant to Section 53325.1 of the Act, (b) any proposed special tax is approved by the qualified electors of the community facilities district pursuant to the Act, and (c) any agreement shall specify that if the qualified electors of the community facilities district do not approve the proposed special tax, the local agency shall return any funds which have not been committed for any authorized purpose by the time of the election to the person or entity advancing the funds;

**WHEREAS**, the City and North Fontana Investment Co. have entered into a Deposit and Reimbursement Agreement, dated as of September 1, 2022 (the “Deposit Agreement”), relating to the Community Facilities District, that provides for the advancement of funds by North Fontana Investment Co. to be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby, and provides for the reimbursement to North Fontana Investment Co. of such funds advanced, without interest, from the proceeds of any such bonds issued by the Community Facilities District; and

**WHEREAS**, the City desires to include in this Resolution, in accordance with Section 53314.9 of the Act, the proposal to repay funds pursuant to the Deposit Agreement;

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

**Section 1.** The foregoing recitals are true and correct, and the City Council so finds and determines.

**Section 2.** The City Council hereby finds that the Petitions are signed by the landowners owning the requisite area of land proposed to be included within the Community Facilities District and not proposed to be exempt from the Special Tax.

**Section 3.** The City Council proposes to establish a community facilities district under the terms of the Act. The boundaries of the territory proposed for inclusion in the Community Facilities District are described in the map showing the proposed Community Facilities District (the “Boundary Map”) on file with the City Clerk of the City (the “City Clerk”), a copy of which is attached hereto as Exhibit A, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The City Clerk is hereby directed to sign the original Boundary Map and record, or cause to be recorded, the Boundary Map with all proper endorsements thereon in the office of the San Bernardino County Recorder within 15 days of the date of adoption of this Resolution, all as required by Section 3111 of the California Streets and Highways Code.

**Section 4.** The name proposed for the Community Facilities District is “City of Fontana Community Facilities District No. 112 (The Gardens Phase One)”.

**Section 5.** The public facilities (the “Facilities”) proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption “Facilities” on Exhibit B hereto, which is by this reference incorporated herein. Those Facilities proposed to be purchased as completed public facilities are described under the caption “Facilities to be Purchased” on Exhibit B hereto. The services (the “Services”) proposed to be financed by the Community Facilities District pursuant to the Act are described under the caption “Services” on Exhibit B hereto. The incidental expenses proposed to be incurred are identified under the caption “Incidental Expenses” on Exhibit B hereto. All or any portion of the Facilities may be financed through a financing plan, including, but not limited to, a lease, lease-purchase or installment-purchase arrangement.

**Section 6.** Except where funds are otherwise available, the Special Tax sufficient to pay for all Facilities and Services, secured by recordation of a continuing lien against all nonexempt real property in the Community Facilities District, will be annually levied within the Community Facilities District. The rate and method of apportionment of the Special Tax (the “Rate and Method”), in sufficient detail to allow each landowner within the proposed Community Facilities District to estimate the maximum amount that he or she will have to pay, is described in Exhibit C attached hereto, which is by this reference incorporated herein. The conditions under which the obligation to pay the Special Tax to pay for Facilities may be prepaid and permanently satisfied are specified in the Rate and Method. The Special Tax will be collected in the same manner as ordinary *ad valorem* property taxes or in such other manner as the City Council shall determine, including direct billing of the affected property owners.

**Section 7.** The Special Tax may only finance the Services to the extent that they are in addition to those provided in the territory of the Community Facilities District before the Community Facilities District is created. The Services may not supplant services already available within that territory when the Community Facilities District is created.

**Section 8.** The tax year after which no further Special Tax to pay for Facilities will be levied against any parcel used for private residential purposes is specified in the Rate and Method. Under no circumstances shall the Special Tax to pay for Facilities in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the Community Facilities District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. For purposes of this paragraph, a parcel shall be considered “used for private residential purposes” not later than the date on which an occupancy permit for private residential use is issued.

**Section 9.** Pursuant to Section 53344.1 of the Act, the City Council hereby reserves to itself the right and authority to allow any interested owner of property within the Community Facilities District, subject to the provisions of said Section 53344.1 and to those conditions as it may impose, and any applicable prepayment penalties as prescribed in the bond indenture or comparable instrument or document, to tender to the Community Facilities District treasurer in full payment or part payment of any installment of the Special Tax or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.

**Section 10.** The City Council hereby fixes Tuesday, April 25, 2023, 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 when and where the City Council will conduct a public hearing on the establishment of the Community Facilities District; provided, that, in the event the April 25, 2023 City Council meeting is held via teleconference and/or videoconference only, the means by which the public may observe such public hearing and offer public comment shall be prescribed in the notice and agenda for such City Council meeting.

**Section 11.** The City Clerk is hereby directed to publish, or cause to be published, a notice of said public hearing one time in a newspaper of general circulation published in the area of the proposed Community Facilities District. The publication of said notice shall be completed at least seven days prior to the date herein fixed for said public hearing. Said notice shall contain the information prescribed by Section 53322 of the Act.

**Section 12.** The levy of the proposed Special Tax shall be subject to the approval of the qualified electors of the Community Facilities District at a special election. The proposed voting procedure shall be by mailed or hand-delivered ballot among the landowners in the Community Facilities District, with each owner having one vote for each acre or portion of an acre such owner owns in the Community Facilities District.

**Section 13.** Each officer of the City who is or will be responsible for providing one or more of the proposed types of Facilities or Services is hereby directed to study, or cause to be studied, the proposed Community Facilities District and, at or before said public hearing, file a report with the City Council containing a brief description of the Facilities and Services by type that will in his or her opinion be required to adequately meet the needs of the Community Facilities District, and his or her estimate of the cost of providing the Facilities and Services. Such officers are hereby also directed to estimate the fair and reasonable cost of the Facilities proposed to be purchased as completed public facilities and of the incidental expenses proposed to be paid. Such report shall be made a part of the record of said public hearing.

**Section 14.** North Fontana Investment Co. has heretofore advanced certain funds, and may advance additional funds, that have been or may be used to pay costs incurred in connection with the establishment of the Community Facilities District and the issuance of special tax bonds thereby. The City Council proposes to repay all or a portion of such funds expended for such purpose, solely from the proceeds of such bonds, pursuant to the Deposit Agreement. The Deposit Agreement is hereby incorporated herein as though set forth in full herein.

**Section 15.** All actions heretofore taken by the officers, employees and agents of the City with respect to the establishment of the Community Facilities District, or in connection with or related to any of the matters referred to herein, are hereby approved, confirmed and ratified.

**Section 16.** The officers, employees and agents of the City are hereby authorized and directed to take all actions and do all things that they, or any of them, may deem necessary or desirable to accomplish the purposes of this Resolution and not inconsistent with the provisions hereof.

**Section 17.** This Resolution shall take effect immediately upon its adoption.

**APPROVED and ADOPTED** by the City Council of the City of Fontana on March 14, 2023.

**READ AND APPROVED AS TO LEGAL FORM:**

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City Attorney

**EXHIBIT A**  
**BOUNDARY MAP**

The map illustrates the proposed 20362 subdivision, showing the following tracts and lots:

- TRACT NO. 20363**: A large tract on the left side of the map.
- TRACT NO. 20364**: A tract on the right side of the map.
- TRACT NO. 20362 LOT 5**: A rectangular lot in the center of the map.
- TRACT NO. 20362 LOT 6**: A smaller lot to the right of Lot 5.

The map includes several streets and boundaries:

- Streets**: DUNCAN CANYON ROAD, SIERRA AVENUE, CYPRESS AVENUE, GARDENS STREET, CASSAVA DRIVE, MONTELEÑA ROAD, and FIELDPRESS DRIVE.
- Boundaries**: CFD BOUNDARY (Community Development Fund Boundary) is indicated for each tract and lot.

SCALE: 1" = 200'

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## **EXHIBIT B**

### **FACILITIES, SERVICES AND INCIDENTAL EXPENSES**

#### **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, water distribution, treatment and storage facilities and land, rights-of-way and easements necessary for any of such facilities.

#### **Facilities to be Purchased**

The types of facilities to be purchased as completed facilities are streets, including grading, paving, curbs and gutters, sidewalks, street signalization and signage, street lights and parkway and landscaping related thereto, sewers, storm drains, fire protection facilities, police facilities, public facilities, landscaping, library facilities, park and recreational facilities, flood control facilities, water distribution, treatment and storage 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.

#### **Incidental Expenses**

The incidental expenses proposed to be incurred include the following:

- (a) the cost of planning and designing public facilities to be financed, including the cost of environmental evaluations of those facilities;
- (b) the costs associated with the creation of the Community Facilities District, issuance of bonds, determination of the amount of taxes, collection of taxes, payment of taxes, or costs otherwise incurred in order to carry out the authorized purposes of the Community Facilities District; and
- (c) any other expenses incidental to the construction, completion, and inspection of the authorized work.



## **EXHIBIT C**

### **PROPOSED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**

**RATE AND METHOD OF APPORTIONMENT FOR  
CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 112  
(THE GARDENS PHASE ONE)**

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. 112 (The Gardens Phase One) ("CFD No. 112") and collected each Fiscal Year, 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. 112, 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. For residential dwelling units within a condominium plan, the Acres applicable to each residential dwelling unit shall be determined by dividing (i) the Acres of the underlying lot or parcel on which the residential dwelling unit is constructed or to be constructed, by (ii) the total number of residential dwelling units constructed or to be constructed on such lot or parcel. The square footage of an Assessor's Parcel is equal to the Acreage of such parcel multiplied by 43,560.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2 of Title 5 (commencing with Section 53311) of the California Government Code.

**"Administrative Expenses"** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 112, 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 of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 112 or any designee thereof of complying with arbitrage rebate requirements with respect to the Special Tax and CFD No. 112 Bonds; the costs to the City, CFD No. 112 or any designee thereof of complying with disclosure requirements of the City, CFD No. 112 or obligated persons associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 112, or any designee thereof related to the reduction of the Assigned Facilities Special Tax and Backup Facilities Special Tax in accordance with Section C.1 herein; the costs of the City, CFD No. 112 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses related to CFD No. 112 Bonds. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 112 for any other administrative purposes of CFD No. 112, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Assessor"** means the Assessor of the County.

**"Assessor's Parcel"** means a lot or parcel to which an Assessor's parcel number is assigned as determined from an Assessor's Parcel Map or the applicable assessment roll.

**"Assessor's Parcel Map"** means an official map of the Assessor designating parcels by Assessor's Parcel number.

**"Assigned Facilities Special Tax"** means the applicable Facilities Special Tax for (i) Residential Property as determined in accordance with Section C.1.a.(2) herein, and (ii) Non-Residential Property as determined in accordance with Section C.1.a.(3) herein.

**"Assigned Services Special Tax"** means the Services Special Tax, determined in accordance with Section C.2.b herein, that can be levied in any Fiscal Year on any Assessor's Parcel of Developed Property.

**"Authorized Facilities"** means those facilities eligible to be funded by CFD No. 112.

**"Authorized Services"** means those services eligible to be funded by CFD No. 112 in accordance with the Act, including, but not limited to, 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.

**"Backup Facilities Special Tax"** means the Facilities Special Tax applicable to each Assessor's Parcel of Developed Property, as determined in accordance with Section C.1.a.(4) herein.

**"Buildout"** means, for CFD No. 112, that all expected building permits for residential dwelling units and/or non-residential development to be constructed within CFD No. 112 have been issued, as determined by the CFD Administrator.

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

**"CFD No. 112"** means City of Fontana Community Facilities District No. 112 (The Gardens Phase One).

**"CFD No. 112 Bonds"** means any bonds or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by CFD No. 112 and secured by the Facilities Special Tax levy on property within the boundaries of CFD No. 112 under the Act.

**"City"** means the City of Fontana, California.

**"Contractual Impositions"** means (a) a voluntary contractual assessment established and levied on an Assessor's Parcel pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10 *et seq.*), as amended from time to time, (b) a special tax established and levied on an Assessor's Parcel pursuant to Section 53328.1 of the California Government Code and related provisions of the Act, as amended from time to time

time, and (c) any other fee, charge, tax or assessment established and levied on an individual Assessor's Parcel pursuant to a contractual agreement or other voluntary consent by the owner thereof.

**"Council"** means the City Council of the City acting as the legislative body of CFD No. 112.

**"County"** means the County of San Bernardino.

**"Developed Property"** means, for each Fiscal Year, (i) with respect to the Facilities Special Tax, all Taxable Property, exclusive of Taxable Public Property and Taxable Property Owner Association Property, for which a building permit for new construction, other than the construction of a garage, parking lot, or parking structure, was issued after January 1, 2023 and on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Facilities Special Taxes are being levied, and (ii) with respect to the Services Special Tax, all Taxable Property, exclusive of Taxable Public Property and Taxable Property Owner Association Property, (a) for which the Final Residential Subdivision was recorded prior to the Fiscal Year for which the Services Special Taxes are being levied, or (b) for which a building permit has been issued with respect to Non-Residential Property on or before May 1 of the Fiscal Year preceding the Fiscal Year for which the Services Special Taxes are being levied.

**"Facilities Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property within CFD No. 112 to fund the Special Tax Requirement for Facilities, as set forth in Section C.1 herein.

**"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.

**"Indenture"** means the indenture, fiscal agent agreement, trust agreement, resolution or other instrument pursuant to which CFD No. 112 Bonds are issued, as modified, amended and/or supplemented from time to time.

**"Land Use Class"** means any of the classes listed in Table 1, Table 5, or Table 6 herein.

**"Lower Income Households Welfare Exemption Property"** means, for each Fiscal Year, an Assessor's Parcel within the boundaries of CFD No. 112 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.

**"Maximum Facilities Special Tax"** means the maximum Facilities Special Tax, determined in accordance with Section C.1 herein, that can be levied in any Fiscal Year on any Assessor's Parcel of Taxable Property.

**"Maximum Services Special Tax"** means the maximum Services Special Tax, determined in accordance with Section C.2 herein, that can be levied in any Fiscal Year on any Assessor's Parcel of Developed Property.

**"Minimum Sale Price"** means the minimum price at which any parcel in a given Land Use Class has sold or is expected to be sold in a normal marketing environment and shall not include prices for such parcels that are sold at a discount to expected sales prices for the purpose of stimulating the initial sales activity with respect to such Land Use Class.

**"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.

**"One Story Residential Property"** means an Assessor's Parcel of Residential Property containing a one-story residential dwelling unit as set forth in the building permit(s) issued for such Assessor's Parcel and/or as set forth in the appropriate records kept by the Building and Safety Department of the City, or other applicable City department, as determined by the CFD Administrator.

**"Outstanding Bonds"** means all CFD No. 112 Bonds which are outstanding under the Indenture.

**"Planning Area"** means an area designated with the letters "P.A." as shown on Exhibit B.

**"Price Point Consultant"** means any consultant or firm of such consultants selected by CFD No. 112 that (a) has substantial experience in performing price point studies for residential dwelling units within community facilities districts or otherwise estimating or confirming pricing for residential dwelling units in community facilities districts, (b) has recognized expertise in analyzing economic and real estate data that relates to the pricing of residential dwelling units in community facilities districts, (c) is in fact independent and not under the control of CFD No. 112 or the City, (d) does not have any substantial interest, direct or indirect, with or in (i) CFD No. 112, (ii) the City, (iii) any owner of real property in CFD No. 112, or (iv) any real property in CFD No. 112, and (e) is not connected with CFD No. 112 or the City as an officer or employee thereof, but who may be regularly retained to make reports to CFD No. 112 or the City.

**"Price Point Study"** means a price point study or a letter updating a previous price point study prepared by the Price Point Consultant pursuant to Section C herein.

**"Property Owner Association Property"** means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 112 for which the owner of record, as determined from the County's assessment roll for the Fiscal Year in which the Special Tax is being levied, is a property owner's association, including any master or sub-association, or (ii) any property located in a Final Subdivision that was recorded as of the January 1 preceding the Fiscal Year in which the Special Tax is being levied and which, as determined from such Final Subdivision, is or will be open space, a common area recreation facility, or a private street. Notwithstanding the foregoing, any property previously classified as Developed Property and subsequently owned in fee or by easement, or dedicated to, a property owner association, including any master or sub-association, shall remain classified as Developed Property.

**"Proportionately"** means that the ratio of the actual Facilities Special Tax levy to the Assigned Facilities Special Tax is equal for all Assessor's Parcels of Developed Property, and that the ratio of the actual Services Special Tax levy to the Assigned Services Special Tax is equal for all Assessor's Parcels of Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Facilities Special Tax levy per Acre to the Maximum Facilities Special Tax per Acre is equal for all Assessor's Parcels of Undeveloped Property. The term "Proportionately" shall similarly be applied to other categories of Taxable Property as listed in Section D herein.

**"Public Property"** means, for each Fiscal Year, any property within the boundaries of CFD No. 112 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.

**"Rate and Method of Apportionment"** means this Rate and Method of Apportionment for CFD No. 112.

**"Residential Floor Area"** means all of the square footage of living area within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area. The determination of Residential Floor Area for an Assessor's Parcel shall be as set forth in the building permit(s) issued for such Assessor's Parcel and/or as set forth in the appropriate records kept by the Building and Safety Department of the City, or other applicable City department, as determined by the CFD Administrator.

**"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 thereon of one or more residential dwelling units.

**"Services Special Tax"** means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Developed Property within CFD No. 112 to fund the Special Tax Requirement for Services, as set forth in Section C.2 herein.

**"Special Tax" or "Special Taxes"** means the Facilities Special Tax and/or Services Special Tax, as applicable.

**"Special Tax Requirement for Facilities"** means, for any Fiscal Year, that amount required, after taking into account available amounts held in the funds and accounts under the Indenture, for the following items: (i) debt service on all Outstanding Bonds due in the calendar year commencing in such Fiscal Year; (ii) periodic costs with respect to the CFD No. 112 Bonds, including but not limited to, costs of credit enhancement and federal rebate payments due in the calendar year commencing in such Fiscal Year; (iii) pay all or a portion of Administrative Expenses; (iv) any amounts required to establish or replenish any reserve funds for all Outstanding Bonds; (v) without duplicating any amounts described in clause (iv), above, reasonably anticipated Facilities Special Tax delinquencies based on the delinquency rate for the Facilities Special Tax in the previous Fiscal Year, as said levy for delinquencies shall be limited by the Act; and (vi) pay directly for the acquisition or construction of Authorized Facilities, provided that the inclusion of such amount does not increase the Facilities Special Tax levy beyond the first step in Section D.1 herein.

**"Special Tax Requirement for Services"** means that amount required in any Fiscal Year for CFD No. 112 to (i) pay directly for the Authorized Services; (ii) pay Administrative Expenses not funded through the Special Tax Requirement for Facilities as determined by the CFD Administrator; (iii) pay for reasonably anticipated Services Special Tax delinquencies based on the delinquency rate for the Services Special Tax levy in the previous Fiscal Year; less (iv) a credit for funds available to reduce the annual Services Special Tax levy, as determined by the CFD Administrator, so long as the amount required is not less than zero.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels within the boundaries of CFD No. 112 which are not exempt from the Special Tax pursuant to applicable law or Section E herein.

**"Taxable Property Owner Association Property"** means all Assessor's Parcels of Property Owner Association Property that are not exempt pursuant to Section E herein.

**"Taxable Public Property"** means all Assessor's Parcels of Public Property that are not exempt pursuant to Section E herein.

**"Total Tax Burden"** means, for a parcel of residential property within a Land Use Class, for the Fiscal Year in which Total Tax Burden is being calculated, the sum of (a) the Assigned Facilities Special Tax for such Fiscal Year, plus (b) the Assigned Services Special Tax for such Fiscal Year, plus (c) the *ad valorem* property taxes, special assessments, special taxes for any overlapping community facilities districts, and any other governmental fees, charges (other than fees or charges for services such as sewer and trash), taxes and assessments (which, for purposes of clarity, do not include Contractual Impositions) collected by the County on *ad valorem* tax bills and that the CFD Administrator estimates would be levied or imposed on such residential property in such Fiscal Year if the residential dwelling unit thereon or therein had been completed and sold, and was subject to such fees, charges, taxes and assessments in such Fiscal Year.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

**"Two Story Residential Property"** means an Assessor's Parcel of Residential Property containing a two-story residential dwelling unit as set forth in the building permit(s) issued for such Assessor's Parcel and/or as set forth in the appropriate records kept by the Building and

Safety Department of the City, or other applicable City department, as determined by the CFD Administrator.

**"Undeveloped Property"** means, for each Fiscal Year, all Taxable Property not classified as Developed Property, Taxable Public Property or Taxable Property Owner Association Property.

*Please refer to additional definitions in Section H herein relating to the Prepayment of Facilities Special Tax.*

## **B. ASSIGNMENT TO LAND USE CATEGORIES**

Each Fiscal Year, commencing with Fiscal Year 2023-2024, all Taxable Property within CFD No. 112 shall be classified as Developed Property, Undeveloped Property, Taxable Public Property or Taxable Property Owner Association Property, and shall be subject to Special Taxes in accordance with this Rate and Method of Apportionment determined pursuant to Sections C and D herein.

## **C. MAXIMUM SPECIAL TAX RATE**

### **1. Facilities Special Tax**

At least 30 days prior to the issuance of the first series of CFD No. 112 Bonds, the Assigned Facilities Special Tax for Residential Property (set forth in Table 1 below) shall be analyzed in accordance with and subject to the conditions set forth in this Section C. At such time, the CFD Administrator shall request the Price Point Consultant to prepare a Price Point Study setting forth the Minimum Sale Price of residential property within each Land Use Class. If based upon such Price Point Study the CFD Administrator calculates that the Total Tax Burden applicable to one or more Land Use Classes of residential property constructed or to be constructed within CFD No. 112 shall exceed 1.95% of the Minimum Sale Price of such residential property constructed or to be constructed within CFD No. 112, the CFD Administrator shall reduce the Assigned Facilities Special Tax to the extent necessary to cause the Total Tax Burden that shall apply to residential property within such Land Use Class(es) to not exceed 1.95% of the Minimum Sale Price of such residential property. Each Assigned Facilities Special Tax reduction for a Land Use Class shall be calculated separately, and it shall not be required that such reduction be proportionate among Land Use Classes. In connection with any reduction in the Assigned Facilities Special Tax for Residential Property, the CFD Administrator shall also reduce the Assigned Facilities Special Tax for Non-Residential in accordance with Section C.1.a.(3) herein, and the Backup Facilities Special Tax in accordance with Section C.1.a.(4) herein. Upon determining the reductions, if any, in the Assigned Facilities Special Tax and Backup Facilities Special Tax required pursuant to this Section C, the CFD Administrator shall complete the Certificate to Amend Facilities Special Tax substantially in the form attached hereto as Exhibit A (the "Certificate to Amend") and shall execute such completed Certificate to Amend and shall deliver such Certificate to Amend to CFD No. 112. Upon receipt thereof, if in satisfactory form, CFD No. 112 shall execute such Certificate to Amend. The reduced Assigned Facilities Special Tax and Backup Facilities Special Tax specified in such Certificate to Amend shall become effective upon the execution of such Certificate to Amend by CFD No. 112. The Assigned Facilities Special Tax and Backup Facilities Special Tax reductions permitted pursuant to this Section C shall be reflected in an amended notice of Special Tax lien which CFD No. 112 shall cause to be recorded with the San Bernardino County Recorder as soon as practicable after execution of the Certificate to Amend by CFD No. 112. If based upon such Price Point Study



the CFD Administrator calculates that the Total Tax Burden applicable to each Land Use Class of residential property constructed or to be constructed within CFD No. 112 does not exceed 1.95% of the Minimum Sale Price of each such Land Use Class of residential property constructed or to be constructed within CFD No. 112, then there shall be no reduction in the Assigned Facilities Special Tax, nor shall there be a reduction in the Backup Facilities Special Tax.

**a. Developed Property**

(1). Maximum Facilities Special Tax

The Maximum Facilities Special Tax for each Assessor's Parcel classified as Developed Property shall be the greater of (i) the amount derived by application of the Assigned Facilities Special Tax or (ii) the amount derived by application of the Backup Facilities Special Tax.

(2). Assigned Facilities Special Tax for Residential Property

Residential Property shall be assigned to Land Use Classes 1 through 15 as listed in Table 1 below based on the Planning Area, Description, and the Residential Floor Area associated with each such residential dwelling unit. The Assigned Facilities Special Tax that shall be levied in any Fiscal Year for each Land Use Class is shown below in Table 1 and shall not be subject to escalation.

**Table 1**  
**Assigned Facilities Special Tax for Residential Property**  
**City of Fontana CFD No. 112 (The Gardens Phase One)**

Land Use Class	Planning Area	Description	Residential Floor Area (square feet)	Assigned Facilities Special Tax
1	Planning Area 7, 8, 9 & 10	Two Story Residential Property	3,400 or greater	\$5,626 per unit
2		Two Story Residential Property	3,200 to less than 3,400	\$5,417 per unit
3		Two Story Residential Property	3,000 to less than 3,200	\$5,208 per unit
4		Two Story Residential Property	2,800 to less than 3,000	\$5,007 per unit
5		Two Story Residential Property	2,600 to less than 2,800	\$4,883 per unit
6		Two Story Residential Property	2,400 to less than 2,600	\$4,381 per unit
7		Two Story Residential Property	2,200 to less than 2,400	\$4,164 per unit
8		Two Story Residential Property	Less than 2,200	\$3,947 per unit
9		One Story Residential Property	2,000 or greater	\$4,829 per unit
10		One Story Residential Property	Less than 2,000	\$4,613 per unit
11	Planning Area 5 & 6	Residential Property	1,900 or greater	\$3,845 per unit
12		Residential Property	1,700 to less than 1,900	\$3,414 per unit
13		Residential Property	1,500 to less than 1,700	\$2,953 per unit
14		Residential Property	1,300 to less than 1,500	\$2,768 per unit
15		Residential Property	Less than 1,300	\$2,583 per unit

(3). Assigned Facilities Special Tax for Non-Residential Property

The Assigned Facilities Special Tax for an Assessor's Parcel of Non-Residential Property within a Planning Area shall equal the lesser of (a) the Assigned Facilities Special Tax applicable for such Planning Area set forth in Table 2 below (as such Assigned Facilities Special Tax shall not be subject to escalation), or (b) in connection with any reduction in the Assigned Facilities Special Tax for Residential Property as set forth in Section C.1 herein, the amount per Acre calculated for each Planning Area pursuant to the formula below:

$$\text{RAFST} = \text{AFST} \div \text{ATP}$$

These terms have the following meaning:

RAFST = the reduced Assigned Facilities Special Tax for Non-Residential Property within a Planning Area.

AFST = The total estimated Assigned Facilities Special Tax levy within such Planning Area based on the reduced Assigned Facilities Special Taxes for Developed Property permitted pursuant to Section C.1 herein which could be levied on all expected development within such Planning Area assuming Buildout of CFD No. 112.

ATP = The sum of the Acreage of all Taxable Property within a Final Subdivision (assuming Buildout of CFD No. 112) within such Planning Area (after excluding Public Property and Property Owner Association Property as set forth in Section E.1 herein).

**Table 2**

**Assigned Facilities Special Tax for Non-Residential Property  
City of Fontana CFD No. 112 (The Gardens Phase One)**

<b>Planning Area</b>	<b>Assigned Facilities Special Tax</b>
P.A. 5	\$55,240 per Acre
P.A. 6	\$50,260 per Acre
P.A. 7	\$63,050 per Acre
P.A. 8, 9 & 10	\$40,030 per Acre

(4). Backup Facilities Special Tax

The Backup Facilities Special Tax for an Assessor's Parcel of Developed Property within a Planning Area shall equal the lesser of (a) the Backup Facilities Special Tax applicable for such Planning Area set forth in Table 3 below (as such Backup Facilities Special Tax shall not be subject to escalation), or (b) in connection with any reduction in the Assigned Facilities Special Tax as set forth in Section C.1 herein, the amount per Acre calculated for each Planning Area pursuant to the formula below:

$$\text{RBFST} = \text{AFST} \div \text{ATPX}$$

These terms have the following meaning:

RBFST = the reduced Backup Facilities Special Tax for Developed Property within a Planning Area.

AFST = The total estimated Assigned Facilities Special Tax levy within such Planning Area based on the reduced Assigned Facilities Special Taxes for Developed Property permitted pursuant to Section C.1 herein which could be levied on all expected development within such Planning Area assuming Buildout of CFD No. 112.

ATPX = The sum of the Acreage of all Taxable Property within a Final Subdivision (assuming Buildout of CFD No. 112) within such Planning Area (after excluding Public Property and Property Owner Association Property as set forth in Section E.1 herein) multiplied by 90%.

**Table 3**  
**Backup Facilities Special Tax for Developed Property**  
**City of Fontana CFD No. 112 (The Gardens Phase One)**

<b>Planning Area</b>	<b>Backup Facilities Special Tax</b>
P.A. 5	\$64,990 per Acre
P.A. 6	\$59,120 per Acre
P.A. 7	\$70,050 per Acre
P.A. 8, 9 & 10	\$44,480 per Acre

Furthermore, all Assessors' Parcels within CFD No. 112 shall be relieved simultaneously and permanently from the obligation to pay and disclose the Backup Facilities Special Tax if the CFD Administrator calculates that (i) the annual debt service required for the Outstanding Bonds, when compared to the Assigned Facilities Special Tax that shall be levied against all Assessors' Parcels of Developed Property in CFD No. 112 results in 110% debt service coverage (i.e., the Assigned Facilities Special Tax that shall be levied against all Developed Property in CFD No. 112 in each remaining Fiscal Year based on the then existing development is at least equal to the sum of (a) 1.10 times the debt service necessary to support the remaining Outstanding Bonds in each corresponding Fiscal Year, and (b) Administrative Expenses), and (ii) all authorized CFD No. 112 Bonds have already been issued or the Council has covenanted that it shall not issue any additional CFD No. 112 Bonds (except refunding bonds) to be supported by the Facilities Special Tax in CFD No. 112.

(5). Multiple Land Uses

In some instances an Assessor's Parcel may contain both Developed Property and Undeveloped Property. In such cases, the Acreage of the Assessor's Parcel shall be allocated between Developed Property and Undeveloped Property based on the portion of the Assessor's Parcel for which building permits had been issued prior to May 1 of the

prior Fiscal Year and the portion of the Assessor's Parcel for which building permits had not been issued prior to May 1 of the prior Fiscal Year.

Furthermore, Developed Property may contain more than one Land Use Class. In such cases, the Acreage that is considered Developed Property shall be allocated between Residential Property and Non-Residential Property based on the amount of Acreage designated for each land use as determined by reference to the site plan approved for such Assessor's Parcel. The Maximum Facilities Special Tax that can be levied on such Assessor's Parcel shall be the sum of the Maximum Facilities Special Tax that can be levied on each type of property located on that Assessor's Parcel.

The CFD Administrator's allocation to each type of property shall be final.

**b. Undeveloped Property, Taxable Public Property, and Taxable Property Owner Association Property**

The Maximum Facilities Special Tax for each Assessor's Parcel of Undeveloped Property, Taxable Public Property, and Taxable Property Owner Association Property within a Planning Area shall be the applicable amount for such Planning Area set forth in Table 4 below. The Maximum Facilities Special Tax for Undeveloped Property, Taxable Public Property, and Taxable Property Owner Association Property shall not be subject to escalation and shall therefore remain the same in every Fiscal Year.

**Table 4**  
**Maximum Facilities Special Tax for Undeveloped Property,  
Taxable Public Property and Taxable Property Owner Association Property  
City of Fontana CFD No. 112 (The Gardens Phase One)**

<b>Planning Area</b>	<b>Maximum Facilities Special Tax</b>
P.A. 5	\$64,990 per Acre
P.A. 6	\$59,120 per Acre
P.A. 7	\$70,050 per Acre
P.A. 8, 9 & 10	\$44,480 per Acre

**2. Services Special Tax**

For purposes of the Services Special Tax, an Assessor(s) Parcel of Developed Property within a Final Residential Subdivision shall be assigned to Land Use Classes 1 through 4, as identified in Table 5 and Table 6 below, based on the Planning Area associated with such Assessor's Parcel. Non-Residential Property shall be assigned to Land Use Class 5. Furthermore, the Services Special Tax levied against each Assessor's Parcel within a Final Residential Subdivision shall be based on the number of residential dwelling units for which building permits have been issued or are expected to be issued for such Assessor's Parcel, as determined by the CFD Administrator based on such Final Residential Subdivision or other available documents.

**a. Maximum Services Special Tax**

The Fiscal Year 2023-2024 Maximum Services Special Tax for each Land Use Class of Developed Property is shown below in Table 5.

**Table 5**  
**Maximum Services Special Tax for Developed Property**  
**City of Fontana CFD No. 112 (The Gardens Phase One)**  
**Fiscal Year 2023-2024**

Land Use Class	Planning Area	Description	Maximum Services Special Tax
1	P.A. 5	Final Residential Subdivision	\$770 per unit
2	P.A. 6	Final Residential Subdivision	\$770 per unit
3	P.A. 7	Final Residential Subdivision	\$810 per unit
4	P.A. 8, 9 & 10	Final Residential Subdivision	\$810 per unit
5	NA	Non-Residential Property	\$7,820 per Acre

**b. Assigned Services Special Tax**

The Fiscal Year 2023-2024 Assigned Services Special Tax for each Land Use Class of Developed Property is shown below in Table 6.

**Table 6**  
**Assigned Services Special Tax for Developed Property**  
**City of Fontana CFD No. 112 (The Gardens Phase One)**  
**Fiscal Year 2023-2024**

Land Use Class	Planning Area	Description	Assigned Services Special Tax
1	P.A. 5	Final Residential Subdivision	\$550 per unit
2	P.A. 6	Final Residential Subdivision	\$550 per unit
3	P.A. 7	Final Residential Subdivision	\$576 per unit
4	P.A. 8, 9 & 10	Final Residential Subdivision	\$576 per unit
5	NA	Non-Residential Property	\$5,580 per Acre

**c. Increase in the Maximum Services Special Tax**

The Maximum Services Special Tax in Table 5 above shall be applicable for Fiscal Year 2023-2024, and shall increase thereafter, commencing on July 1, 2024, and on each July 1 thereafter by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year.

**d. Increase in the Assigned Services Special Tax**

The Assigned Services Special Tax in Table 6 above shall be applicable for Fiscal Year 2023-2024, and shall increase thereafter, commencing on July 1, 2024, and on each July

1 thereafter in an amount estimated to fund the Special Tax Requirement for Services for the Fiscal Year commencing on such July 1. However, in no case shall the Assigned Services Special Tax for an Assessor's Parcel of Developed Property exceed the applicable Maximum Services Special Tax for such Assessor's Parcel of Developed Property in any Fiscal Year.

**e. Multiple Land Uses**

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Class. In such cases, the Acreage of Developed Property shall be allocated between Residential Property and Non-Residential Property based on the amount of Acreage designated for each land use as determined by reference to the site plan approved for such Assessor's Parcel. The Maximum Services Special Tax that can be levied on such Assessor's Parcel shall be the sum of the Maximum Services Special Tax that can be levied on each type of property located on that Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

**D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

**1. Facilities Special Tax**

Commencing with Fiscal Year 2023-2024, and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement for Facilities and shall provide for the levy of the Facilities Special Tax each Fiscal Year as follows:

First: The Facilities Special Tax shall be levied on each Assessor's Parcel of Developed Property in an amount equal to 100% of the applicable Assigned Facilities Special Tax;

Second: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first step has been completed, the Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property at up to 100% of the Maximum Facilities Special Tax for Undeveloped Property;

Third: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first two steps have been completed, then the levy of the Facilities Special Tax on each Assessor's Parcel of Developed Property whose Maximum Facilities Special Tax is determined through the application of the Backup Facilities Special Tax shall be increased in equal percentages from the Assigned Facilities Special Tax up to the Maximum Facilities Special Tax for each such Assessor's Parcel;

Fourth: If additional monies are needed to satisfy the Special Tax Requirement for Facilities after the first three steps have been completed, then the Facilities Special Tax shall be levied Proportionately on each Assessor's Parcel of Taxable Public Property and Taxable Property Owner Association Property at up to 100% of the Maximum Facilities Special Tax for Taxable Public Property and Taxable Property Owner Association Property, as needed to satisfy the Special Tax Requirement for Facilities.

Notwithstanding the above, the CFD Administrator shall, in any Fiscal Year, calculate a levy Proportionately less than 100% of the Assigned Facilities Special Tax in step one (above), when (i) the CFD Administrator is no longer required to provide for the levy of the Facilities Special

Tax pursuant to steps two through four above in order to meet the Special Tax Requirement for Facilities; and (ii) all authorized CFD No. 112 Bonds have already been issued or the Council has covenanted that it shall not issue any additional CFD No. 112 Bonds (except refunding bonds) to be supported by the Facilities Special Tax.

Further notwithstanding the above, under no circumstances shall the Facilities Special Tax levied in any Fiscal Year against any Assessor's Parcel of Residential Property for which an occupancy permit for private residential use has been issued (in accordance with Section 53321(d)(3) of the California Government Code), be increased as a consequence of delinquency or default by the owner of any other Assessor's Parcel within CFD No. 112 by more than ten percent above the amount that would have been levied in that Fiscal Year had there never been any such delinquencies or defaults. To the extent that the levy of the Facilities Special Tax on Residential Property is limited by the provision in the previous sentence, the levy of the Facilities Special Tax on each Assessor's Parcel of Non-Residential Property shall continue in equal percentages up to 100% of the applicable Maximum Facilities Special Tax.

## **2. Services Special Tax**

Commencing with Fiscal Year 2023-2024 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement for Services and shall provide for the levy of the Services Special Tax until the total Services Special Tax levy equals the Special Tax Requirement for Services. The Services Special Tax shall be levied each Fiscal Year as follows:

First: The Services Special Tax shall be levied Proportionately each Fiscal Year on each Assessor's Parcel of Developed Property at up to 100% of the applicable Assigned Services Special Tax as needed to satisfy the Special Tax Requirement for Services;

Second: If additional monies are needed to satisfy the Special Tax Requirement for Services after the first step has been completed, then the levy of the Services Special Tax on each Assessor's Parcel of Developed Property shall be increased in equal percentages from the Assigned Services Special Tax up to the Maximum Services Special Tax for each such Assessor's Parcel.

## **E. EXEMPTIONS**

### **1. Facilities Special Tax**

No Facilities Special Tax shall be levied on up to the applicable Acreage limit of Public Property and/or Property Owner Association Property established for each Planning Area as set forth in Table 7 below. Tax-exempt status shall be assigned by the CFD Administrator in the chronological order in which property within a Planning Area becomes Public Property or Property Owner Association Property. However, should an Assessor's Parcel no longer be classified as Public Property or Property Owner Association Property, it shall, from that point forward, be subject to the Facilities Special Tax.

**Table 7**  
**Exempt Acreage Limits**  
**City of Fontana CFD No. 112 (The Gardens Phase One)**

<b>Planning Area</b>	<b>Exempt Acreage Limit</b>
P.A. 5	2.04 Acres
P.A. 6	1.07 Acres
P.A. 7	4.92 Acres
P.A. 8, 9 & 10	13.74 Acres

Notwithstanding the above, an Assessor's Parcel within a Planning Area that is transferred to a public agency or property owner's association prior to the issuance of the first series of CFD No. 112 Bonds that causes the Acreage of Public Property and Property Owner Association Property within such Planning Area to exceed the applicable Acreage limit that can be designated by the CFD Administrator under this Section E.1 shall also be exempted from paying the Special Tax.

Public Property or Property Owner Association Property that is not exempt from the Facilities Special Tax under this Section E.1 shall be subject to the levy of the Facilities Special Tax and shall be taxed Proportionately as part of the fourth step in Section D herein, at up to 100% of the applicable Maximum Facilities Special Tax for Taxable Public Property and Taxable Property Owner Association Property.

In addition, no Facilities Special Tax shall be levied on Lower Income Households Welfare Exemption Property, provided that if, in any Fiscal Year, applicable law does not require that an Assessor's Parcel that is Lower Income Households Welfare Exemption Property be exempt from the Facilities Special Tax, then the Facilities Special Tax shall be levied on such Assessor's Parcel in accordance with this Rate and Method of Apportionment as if such Assessor's Parcel were not classified as Lower Income Households Welfare Exemption Property.

## **2. Services Special Tax**

No Services Special Tax shall be levied on Undeveloped Property, Taxable Public Property, Taxable Property Owner Association Property, Public Property, or Property Owner Association Property.

In addition, no Services Special Tax shall be levied on Lower Income Households Welfare Exemption Property, provided that if, in any Fiscal Year, applicable law does not require that an Assessor's Parcel that is Lower Income Households Welfare Exemption Property be exempt from the Services Special Tax, then the Services Special Tax shall be levied on such Assessor's Parcel in accordance with this Rate and Method of Apportionment as if such Assessor's Parcel were not classified as Lower Income Households Welfare Exemption Property.

## **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; provided, however, that CFD No. 112 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



financial obligations, and, to the extent of the Facilities Special Tax, may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels.

#### **G. APPEALS AND INTERPRETATIONS**

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 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 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 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.

#### **H. PREPAYMENT OF FACILITIES SPECIAL TAX**

Under this Rate and Method of Apportionment, an Assessor's Parcel within CFD No. 112 is permitted to prepay the Facilities Special Tax. The obligation of the Assessor's Parcel to pay the Facilities Special Tax may be fully prepaid and permanently satisfied or partially prepaid as described herein, provided that a prepayment may be made only for Assessor's Parcels of Developed Property, or for an Assessor's Parcel of Undeveloped Property for which a building permit has been issued after January 1, 2023, and only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Facilities Special Tax obligation shall provide the CFD Administrator with written notice of intent to prepay. Within 30 days of receipt of such written notice, the CFD Administrator shall notify such owner of the prepayment amount for such Assessor's Parcel. The CFD Administrator may charge such owner a reasonable fee for providing this service. If there are Outstanding Bonds, prepayment must be made not less than 30 days prior to a date that notice of redemption of CFD No. 112 Bonds from the proceeds of such prepayment may be given by the Trustee pursuant to the Indenture that is specified in the report of the Facilities Special Tax Prepayment Amount (defined below).

The following additional definitions apply to this Section H:

**"CFD Public Facilities Costs"** means either \$31,460,000 in 2023 dollars, which shall increase by the Construction Inflation Index on July 1, 2024, and on each July 1 thereafter, or such lower number as (i) shall be determined by the CFD Administrator as sufficient to provide funding for the Authorized Facilities under the authorized bonding program for CFD No. 112, or (ii) shall be

determined by the Council concurrently with a covenant that it shall not issue any more CFD No. 112 Bonds (except refunding bonds) to be supported by the Facilities Special Tax levy under this Rate and Method of Apportionment.

**"Construction Inflation Index"** means the annual percentage change in the Engineering News Record Building Cost Index for the City of Los Angeles, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Construction Inflation Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Engineering News Record Building Cost Index for the City of Los Angeles.

**"Future Facilities Costs"** means the CFD Public Facilities Costs minus (i) costs of Authorized Facilities previously paid from the Improvement Fund, (ii) moneys currently on deposit in the Improvement Fund available to pay costs of Authorized Facilities, and (iii) the amount the CFD Administrator reasonably expects to derive from the reinvestment of these funds.

**"Improvement Fund"** means a fund or account specifically identified in the Indenture (or prior to the issuance of the first series of CFD No. 112 Bonds a fund or account held by the City) to hold funds which are currently available for expenditure to acquire or construct Authorized Facilities.

**"Previously Issued Bonds"** means, for any Fiscal Year, all Outstanding Bonds that are outstanding under the Indenture after the first interest and/or principal payment date following the current Fiscal Year.

## **1. Prepayment in Full**

The Facilities Special Tax Prepayment Amount (defined below) shall be calculated as summarized below (capitalized terms as defined below):

Bond Redemption Amount	
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
less	Reserve Fund Credit
less	Capitalized Interest Credit
Total: equals Facilities Special Tax Prepayment Amount	

As of the proposed date of prepayment, the Facilities Special Tax Prepayment Amount shall be calculated according to the following paragraphs:

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For Assessor's Parcels of Developed Property, compute the Assigned Facilities Special Tax and Backup Facilities Special Tax for the Assessor's Parcel to be prepaid. For Assessor's Parcels of Undeveloped Property for which a building permit has been issued after January 1, 2023, compute the Assigned Facilities Special Tax and Backup Facilities Special Tax for that Assessor's Parcel as though it was already designated as Developed

Property, based upon the building permit which has already been issued for such Assessor's Parcel.

3. (a) Divide the Assigned Facilities Special Tax computed pursuant to paragraph 2 by the total estimated Assigned Facilities Special Tax levy for CFD No. 112 based on the Assigned Facilities Special Taxes for Developed Property which could be levied on all expected development assuming Buildout of CFD No. 112, excluding any Assessor's Parcels which have been prepaid, and  
  
(b) Divide the Backup Facilities Special Tax computed pursuant to paragraph 2 by the total estimated Backup Facilities Special Taxes at Buildout for the entire CFD No. 112, excluding any Assessor's Parcels which have been prepaid.
4. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the Previously Issued Bonds to compute the amount of Previously Issued Bonds to be redeemed (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount computed pursuant to paragraph 4 by the applicable redemption premium (e.g., the redemption price minus 100%) set forth in the Indenture, if any, on the Previously Issued Bonds to be redeemed (the "Redemption Premium").
6. Compute the current Future Facilities Costs.
7. Multiply the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the amount determined pursuant to paragraph 6 to compute the amount of Future Facilities Costs to be prepaid (the "Future Facilities Amount").
8. Compute the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the redemption date for the Previously Issued Bonds specified in the report of the Facilities Special Tax Prepayment Amount.
9. Determine the Facilities Special Tax levied on the Assessor's Parcel in the current Fiscal Year which has not yet been paid.
10. Compute the minimum amount the CFD Administrator reasonably expects to derive from the reinvestment of the Facilities Special Tax Prepayment Amount, less any interest earnings attributed to the Future Facilities Amount, and less any interest earnings attributed to the Administrative Fees and Expenses (defined below) from the date of prepayment until the redemption date for the Previously Issued Bonds to be redeemed with the prepayment.
11. Add the amounts computed pursuant to paragraphs 8 and 9 and subtract the amount computed pursuant to paragraph 10 (the "Defeasance Amount").
12. The administrative fees and expenses of CFD No. 112 are as calculated by the CFD Administrator and include the costs of computation of the prepayment, the costs to invest the prepayment proceeds, the costs of redeeming CFD No. 112 Bonds, and the costs of

recording any notices to evidence the prepayment and the redemption (the "Administrative Fees and Expenses").

13. The reserve fund credit (the "Reserve Fund Credit") shall equal the lesser of: (a) the expected reduction in the reserve requirement (as defined in the Indenture), if any, associated with the redemption of Previously Issued Bonds as a result of the prepayment, or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Previously Issued Bonds as a result of the prepayment from the balance in the reserve fund on the prepayment date, but in no event shall such amount be less than zero. No Reserve Fund Credit shall be granted if the amount then on deposit in the reserve fund for the Previously Issued Bonds is below 100% of the reserve requirement (as defined in the Indenture).
14. If any capitalized interest for the Previously Issued Bonds will not have been expended as of the date immediately following the first interest and/or principal payment following the current Fiscal Year, a capitalized interest credit shall be calculated by multiplying the larger quotient computed pursuant to paragraph 3(a) or 3(b) by the expected balance in the capitalized interest fund or account under the Indenture after such first interest and/or principal payment date (the "Capitalized Interest Credit").
15. The Facilities Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 4, 5, 7, 11 and 12, less the amounts computed pursuant to paragraphs 13 and 14 (the "Facilities Special Tax Prepayment Amount").

## **2. Prepayment in Part**

The amount of the prepayment shall be calculated as in Section H.1; except that a partial prepayment shall be calculated according to the following formula:

$$PP = [(PE - A) \times F] + A$$

These terms have the following meaning:

PP = the partial prepayment.

PE = the Facilities Special Tax Prepayment Amount calculated according to Section H.1.

F = the percentage, expressed as a decimal, by which the owner of the Assessor's Parcel is partially prepaying the Facilities Special Tax.

A = the Administrative Fees and Expenses calculated according to Section H.1.

## **3. General Provisions Applicable to the Prepayment of Facilities Special Tax**

### **(a). Use of the Facilities Special Tax Prepayment Amount**

The Facilities Special Tax Prepayment Amount, less the Administrative Fees and Expenses calculated according to Section H.1 which shall be retained by CFD No. 112, and less the Future Facilities Amount calculated according to Section H.1 which shall be deposited into the Improvement Fund, shall be deposited into specific funds established under the Indenture, to fully or partially redeem as many Outstanding Bonds as possible,

and, if amounts are less than \$5,000, to make debt service payments on the Outstanding Bonds.

(b). Full Prepayment of Facilities Special Tax

Upon confirmation of the payment of the current Fiscal Year's entire Facilities Special Tax obligation, the CFD Administrator shall remove the current Fiscal Year's Facilities Special Tax levy for such Assessor's Parcel from the County tax rolls. With respect to any Assessor's Parcel that is prepaid in accordance with Section H.1, the CFD Administrator shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of the Facilities Special Tax and the release of the Facilities Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay the Facilities Special Tax shall cease.

(c). Partial Prepayment of Facilities Special Tax

With respect to any Assessor's Parcel that is partially prepaid, the CFD Administrator shall (i) distribute or cause to be distributed the funds remitted to it according to Section H.3.(a) and (ii) indicate in the records of CFD No. 112 that there has been a partial prepayment of the Facilities Special Tax and that a portion of the Facilities Special Tax with respect to such Assessor's parcel, equal to the outstanding percentage  $(1.00 - F)$  of the remaining Maximum Facilities Special Tax, shall continue to be levied on such Assessor's Parcel pursuant to Section D herein.

(d). Debt Service Coverage

Notwithstanding the foregoing, no prepayment of the Facilities Special Tax shall be allowed unless the amount of Facilities Special Tax that may be levied on Taxable Property (assuming Buildout) within CFD No. 112 in each future Fiscal Year (after excluding Public Property and Property Owner Association Property as set forth in Section E.1 herein), after the proposed prepayment, is at least equal to the sum of (i) 1.10 times the debt service necessary to support the remaining Outstanding Bonds in each corresponding Fiscal Year, and (ii) Administrative Expenses.

**I. TERM OF SPECIAL TAX**

The Facilities Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2023-2024. The Services Special Tax shall be levied in perpetuity to fund the Special Tax Requirement for Services.

T/Clients/FONTANA/MELLO/CFD Nos. 112 (The Gardens Phase One)/Rate and Method/Fontana CFD No. 112 (The Gardens Phase One) RMA v3.docx  
Printed: February 25, 2023

**EXHIBIT A**  
**CERTIFICATE TO AMEND FACILITIES SPECIAL TAX**  
**CFD NO. 112 CERTIFICATE**

1. Pursuant to Section C.1 of the Rate and Method of Apportionment (the "Rate and Method") for City of Fontana Community Facilities District No. 112 (The Gardens Phase One) ("CFD No. 112"), the Assigned Facilities Special Tax and the Backup Facilities Special Tax for Developed Property within CFD No. 112 has been reduced as described herein.

- (a) The information in Table 1 of the Rate and Method relating to the Assigned Facilities Special Tax for Residential Property within CFD No. 112 shall be modified as follows:

Land Use Class	Planning Area	Description	Residential Floor Area (square feet)	Original Assigned Facilities Special Tax	Modified Assigned Facilities Special Tax
1	Planning Area 7, 8, 9 & 10	Two Story Residential Property	3,400 or greater	\$5,626 per unit	\$[ ] per unit
2		Two Story Residential Property	3,200 to less than 3,400	\$5,417 per unit	\$[ ] per unit
3		Two Story Residential Property	3,000 to less than 3,200	\$5,208 per unit	\$[ ] per unit
4		Two Story Residential Property	2,800 to less than 3,000	\$5,007 per unit	\$[ ] per unit
5		Two Story Residential Property	2,600 to less than 2,800	\$4,883 per unit	\$[ ] per unit
6		Two Story Residential Property	2,400 to less than 2,600	\$4,381 per unit	\$[ ] per unit
7		Two Story Residential Property	2,200 to less than 2,400	\$4,164 per unit	\$[ ] per unit
8		Two Story Residential Property	Less than 2,200	\$3,947 per unit	\$[ ] per unit
9		One Story Residential Property	2,000 or greater	\$4,829 per unit	\$[ ] per unit
10		One Story Residential Property	Less than 2,000	\$4,613 per unit	\$[ ] per unit
11	Planning Area 5 & 6	Residential Property	1,900 or greater	\$3,845 per unit	\$[ ] per unit
12		Residential Property	1,700 to less than 1,900	\$3,414 per unit	\$[ ] per unit
13		Residential Property	1,500 to less than 1,700	\$2,953 per unit	\$[ ] per unit
14		Residential Property	1,300 to less than 1,500	\$2,768 per unit	\$[ ] per unit
15		Residential Property	Less than 1,300	\$2,583 per unit	\$[ ] per unit

- (b) The Assigned Facilities Special Tax for Non-Residential Property within a Planning Area, set forth in Table 2 within Section C.1.a.(3) of the Rate and Method, shall be modified as follows:

Planning Area	Original Assigned Facilities Special Tax	Modified Assigned Facilities Special Tax
P.A. 5	\$55,240 per Acre	\$[ ] per Acre
P.A. 6	\$50,260 per Acre	\$[ ] per Acre
P.A. 7	\$63,050 per Acre	\$[ ] per Acre
P.A. 8, 9 & 10	\$40,030 per Acre	\$[ ] per Acre

- (c) The Backup Facilities Special Tax for Developed Property within a Planning Area, set forth in Table 3 within Section C.1.a.(4) of the Rate and Method, shall be modified as follows:

<b>Planning Area</b>	<b>Original Backup Facilities Special Tax</b>	<b>Modified Backup Facilities Special Tax</b>
P.A. 5	\$64,990 per Acre	\$[ ] per Acre
P.A. 6	\$59,120 per Acre	\$[ ] per Acre
P.A. 7	\$70,050 per Acre	\$[ ] per Acre
P.A. 8, 9 & 10	\$44,480 per Acre	\$[ ] per Acre

2. The Assigned Facilities Special Tax and the Backup Facilities Special Tax for Developed Property may only be reduced prior to the first issuance of CFD No. 112 Bonds.
3. Upon execution of the certificate by CFD No. 112, CFD No. 112 shall cause an amended notice of Special Tax lien for CFD No. 112 to be recorded reflecting the reductions set forth herein.

All capitalized terms used herein shall have the meanings set forth in the Rate and Method.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
*CFD Administrator*

By execution hereof, the undersigned acknowledge, on behalf of CFD No. 112, receipt of this certificate and modification of the Rate and Method as set forth in this certificate.

CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 112  
(THE GARDENS PHASE ONE)

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

**EXHIBIT B**  
**PLANNING AREAS**

<b>Planning Area (P.A.)</b>	<b>Legal Description</b>
Planning Area 5	Lot 5 of Tract No. 20362
Planning Area 6	Lot 6 of Tract No. 20362
Planning Area 7	All of Tract No. 20364
Planning Area 8, 9 & 10	All of Tract No. 20363
Reference is hereby made to Tract No. 20362 filed in Book 362 of Tract Maps at Pages 78 through 84 in the Office of the San Bernardino County Recorder (recorded as Document No. 2022-0129505), Tract No. 20363 filed in Book 363 of Tract Maps at Pages 58 through 66 in the Office of the San Bernardino County Recorder (recorded as Document No. 2022-0259528), and Tract No. 20364 filed in Book 363 of Tract Maps at Pages 67 through 71 in the Office of the San Bernardino County Recorder (recorded as Document No. 2022-0259529) for a description of the lines and dimensions of the tracts and lots listed above.	



I, Germaine Key, City Clerk of the City of Fontana, California, 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 Council of said City at a regular meeting thereof, held on March 14, 2023, by the following vote to-wit:

**AYES:**

**NOES:**

**ABSENT:**

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City Clerk

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Mayor

**ATTEST:**

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City Clerk