

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
FONTANA CALLING A SPECIAL ELECTION AND
SUBMITTING TO THE VOTERS OF CITY OF FONTANA
COMMUNITY FACILITIES DISTRICT NO. 116M,
COUNTY OF SAN BERNARDINO, STATE OF
CALIFORNIA, A PROPOSITION REGARDING THE
ANNUAL LEVY OF SPECIAL TAXES WITHIN THE
COMMUNITY FACILITIES DISTRICT TO PAY THE
COST OF CERTAIN PUBLIC SERVICES TO BE
PROVIDED BY THE COMMUNITY FACILITIES
DISTRICT AND ESTABLISHING AN APPROPRIATIONS
LIMIT FOR THE COMMUNITY FACILITIES DISTRICT**

WHEREAS, on September 10, 2024, the City Council (the “City Council”) of the City of Fontana (the “City”) adopted its resolution of formation (the “Resolution of Formation”) of the City of Fontana Community Facilities District No. 116M, County of San Bernardino, State of California (“CFD No. 116M”), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code (the “Act”), thereby establishing CFD No. 116M and the boundaries thereof; and

WHEREAS, pursuant to Section 53326 of the Act, it is necessary that the City Council submit to the qualified voters of CFD No. 116M the proposition relating to the annual levy of special taxes on taxable property within CFD No. 116M to pay the costs of providing the public services described in the Resolution of Formation; and

WHEREAS, pursuant to Section 53325.7 of the California Government Code, the City Council may also submit to the qualified voters of CFD No. 116M a proposition with respect to establishing an appropriations limit for CFD No. 116M; and

WHEREAS, the City Clerk (the “City Clerk”) has advised the City Council that a statement has been received from the Registrar of Voters of the County of San Bernardino stating that there are no persons registered to vote in the territory of CFD No. 116M; and

WHEREAS, the City Council is fully advised in this matter and now desires to call the special mail ballot election.

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

Section 1. Findings. The City Council hereby finds and determines as follows:

(a) The foregoing recitals are true and correct and are incorporated herein by this reference;

(b) The public hearing held by the City Council pursuant to the resolution declaring its intention to establish CFD No. 116M adopted September 10, 2024 (the “Resolution of Intention”) has been properly conducted, and notice thereof was duly given, in compliance with all applicable requirements of the Act;

(c) No written protests were filed with the City Clerk prior to the conclusion of said public hearing and the City Council is therefore authorized, pursuant to Section 53326 of the Act, to submit to the qualified electors of CFD No. 116M the question of the levy of the special tax and the appropriations limit;

(d) No persons have been registered to vote within the territory of CFD No. 116M for each of the 90 days preceding the close of the public hearing on October 22, 2024, and pursuant to Section 53326 of the Act, the vote in the special election called by this Resolution shall, therefore, be by the landowners of CFD No. 116M 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 CFD No. 116M which would be subject to the proposed special taxes if they were levied at the time of the election;

(e) The owner of all of the property in CFD No. 116M has, by written consent, (a) waived the conduct and time limits for holding the election called by this Resolution, including as set forth in Section 53326 of the California Government Code, (b) consented to the calling and holding of the special election on October 22, 2024, (c) waived notice of the time and date of the special election, (d) waived an impartial analysis of the ballot propositions pursuant to Section 9313 or 13119 of the California Elections Code and arguments and rebuttals pursuant to Sections 9314 to 9317, inclusive, (e) waived the word limit requirement for the ballot pursuant to Section 13247 and 9051 of the Elections Code, and (f) waived the mailing of a statement pursuant to the Elections Code, and receipt of a ballot pamphlet as required by Section 3023 of that Code; and

(f) The City Clerk, as the election official, has consented to the holding of the special election on October 22, 2024.

Section 2. Call of Election. The City Council hereby calls and schedules a special election for October 22, 2024, within and for CFD No. 116M as to (i) the proposition with respect to the annual levy of special taxes on taxable property within CFD No. 116M for the payment of the costs of the public services to be provided within and for the benefit of CFD No. 116M, and (ii) the proposition with respect to establishing an appropriations limit for CFD No. 116M.

Section 3. Propositions. The propositions to be submitted to the qualified electors of CFD No. 116M at such special election shall be as follows:

Proposition A: “Shall the City of Fontana, Community Facilities District No. 116M, County of San Bernardino, State of California, subject to accountability measures required pursuant to Government Code Section 50075.1, levy a special tax annually on taxable property therein, to pay the costs of certain services as defined and for the purposes specified in the Resolution of Formation adopted by the City Council of the City of Fontana on October 22, 2024 (the “Resolution of

Formation”), to accumulate and fund the maintenance of parks, parkways, street lighting and open space, including any incidental expenses authorized by the Mello-Roos Community Facilities Act of 1982, and any other expense required in order to carry out the authorized purposes of Community Facilities District No. 116M and within and surrounding the area of any territory to be annexed to Community Facilities District No. 116M in the future, and to levy and collect the special tax, so long as the special tax is needed to pay for the services and for such other purposes, at the special tax rates and pursuant to the Rate and Method of Apportionment for the City of Fontana Community Facilities District No. 116M, County of San Bernardino, State of California, which is attached as Exhibit “C” to the Resolution of Formation adopted by the City Council of the City of Fontana on October 22, 2024?”

Proposition B: “Shall the City of Fontana Community Facilities District No. 116M, County of San Bernardino, State of California, establish an annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, in the amount of \$5,000,000?”

Section 4. Conduct of Election. Except as otherwise provided in Section 5 hereof, the special election shall be conducted by the City Clerk in accordance with the provisions of the California Elections Code governing mail ballot elections of cities, and in particular the provisions of Division 4 (commencing with Section 4000) of the California Elections Code with respect to elections conducted by mail, and provisions of the Act, insofar as they may be applicable. The ballot for said elections shall be in the form attached hereto as Exhibit “A.”

Section 5. Election Procedures. The procedures to be followed in conducting the special election on the propositions described in Section 3 above shall be as follows:

(a) Pursuant to Section 53326 of the Act, ballots for the special election shall be distributed to the qualified electors by the City Clerk by mail with return postage prepaid or by personal service.

(b) Pursuant to applicable sections of the California Elections Code governing the conduct of mail ballot elections of cities, and in particular Division 4 (commencing with Section 4000) of that Code with respect to elections conducted by mail, and of the Act, the City Clerk shall mail or deliver to each qualified elector an official ballot in the form attached hereto as Exhibit “A,” and shall also mail or deliver to all such qualified electors a ballot pamphlet and instructions to voter, ballot title and summary, 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 ballots, and a copy of the Resolution of Intention adopted by the City Council on September 10, 2024.

(c) The official ballot to be mailed or delivered by the City Clerk to each 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 CFD No. 116M.

(d) The return identification envelope to be mailed or delivered by the City Clerk to each 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 the declaration, and (vii) a notice that the envelope contains an official ballot and is to be opened only by the City Clerk.

(e) The instructions to voter form to be mailed or delivered by the City Clerk 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 2:00 p.m. on the date of the special election; provided that if all qualified electors have voted, the election shall be closed with the concurrence of the City Clerk.

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

Section 6. Effective Date. This Resolution shall take effect immediately from and after the date of its passage and adoption.

APPROVED AND ADOPTED this 22nd day of October, 2024.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, City Clerk of the City of Fontana, 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 22nd day of October, 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

EXHIBIT “A”

FORM OF OFFICIAL BALLOT

**SPECIAL ELECTION FOR
CITY OF FONTANA
COMMUNITY FACILITIES DISTRICT NO. 116M
COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA**

October 22, 2024

This ballot represents ____ votes.

To vote, mark a cross (+) or “X” in the voting square after the word “YES” or after the word “NO.” All marks otherwise made are forbidden.

If you wrongly mark, tear, or deface this ballot, return it to the City Clerk and obtain another.

PROPOSITION A: “Shall the City of Fontana, Community Facilities District No. 116M, County of San Bernardino, State of California, subject to accountability measures required pursuant to Government Code Section 50075.1, levy a special tax annually on taxable property therein, to pay the costs of certain services as defined and for the purposes specified in the Resolution of Formation adopted by the City Council of the City of Fontana on October 22, 2024 (the “Resolution of Formation”), to accumulate and fund the maintenance of parks, parkways, street lighting and open space, including any incidental expenses authorized by the Mello-Roos Community Facilities Act of 1982, and any other expense required in order to carry out the authorized purposes of Community Facilities District No. 116M and within and surrounding the area of any territory to be annexed to Community Facilities District No. 116M in the future, and to levy and collect the special tax, so long as the special tax is needed to pay for the services and for such other purposes, at the special tax rates and pursuant to the Rate and Method of Apportionment for the City of Fontana Community Facilities District No. 116M, County of San Bernardino, State of California, which is attached as Exhibit “C” to the Resolution of Formation adopted by the City Council of the City of Fontana on October 22, 2024?”

Yes ☐

No ☐

PROPOSITION B: “Shall the City of Fontana Community Facilities District No. 116M, County of San Bernardino, State of California, establish an annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, in the amount of \$5,000,000?”

Yes ☐

No ☐

PROPOSITION A IS SUBJECT TO THE ACCOUNTABILITY MEASURES PRESCRIBED IN SECTION 50075 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.