

**CONSENT AND WAIVER OF ELECTION PROCEDURES AND SHORTENING OF TIME
FOR CONDUCTING A SPECIAL ELECTION IN
COMMUNITY FACILITIES DISTRICT NO. 114M OF THE CITY OF FONTANA
AND APPOINTMENT OF AUTHORIZED REPRESENTATIVES**

TO: CITY COUNCIL
CITY OF FONTANA

The undersigned does hereby CERTIFY under penalty of perjury, that the following statements are all true and correct:

PROPERTY OWNER CONSENT AND WAIVER

1. The undersigned is the duly authorized representative of D.R. Horton Los Angeles Holding Company, Inc., the owner (the "Owner") of that certain real property identified in Exhibit A attached hereto and incorporated herein by this reference ("Owner's Property"), and is legally authorized to give the consent and provide the waivers contained herein on behalf of such Owner.
2. Owner is aware of and understands the following:
 - A. The City of Fontana (the "City") will initiate proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982," being Government Code Section 53311 *et seq.*, as amended, (the "Act") to establish that certain community facilities district to be known and designated as Community Facilities District No. 114M of the City of Fontana, County of San Bernardino, State of California (the "District").

The City has proposed to authorize the levy of special taxes within the District pursuant to the provisions of the Act to finance the authorized services described in Exhibit B attached hereto (the "Services").
 - B. The Owner's Property is the only property located within the proposed boundaries of the District. If the levy of the special taxes is approved as described below, Owner's Property will be subject to the levy of the special taxes for the District. A copy of the rate and method of apportionment of the special tax for the District (the "Rate and Method") is set forth in Exhibit C attached hereto. Owner has had a reasonable opportunity to review, and has reviewed, the Rate and Method.
 - C. The Act requires, as a prerequisite to the levy of any special taxes, that the City Council (the "City Council") submit the question of whether or not to levy such special tax to the qualified electors of the District at a special election. The Act further provides that in order for the District to be authorized to levy special taxes pursuant to the Rate and Method, two-third's of the qualified electors must vote in favor of the levy of such special taxes.

The Act provides that the qualified electors of the District shall be the voters registered to vote within the District if at least twelve (12) persons, who need not necessarily be the same twelve (12) persons, have been registered to vote within the territory proposed to be included within the boundaries of the District for each of the ninety (90) days preceding the close of the public hearing to consider the formation of the District. Otherwise, the Act provides that the vote shall be by the landowners, as such term is defined in the Act, of land within the proposed boundaries of the District with each such landowner who is the owner of record at the close of such public hearing, or the authorized representative of such owner, having one vote for each acre or portion of an acre of land that such landowner owns within the proposed boundaries of the District.

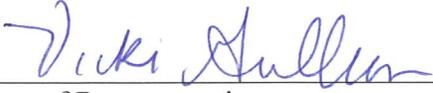
- D. The provisions of the Act require that such special election be held at least ninety (90) but not more than one hundred eighty days (180) following the date of the adoption of the resolution forming and establishing the District (the “Resolution of Formation”). The Act further provides, however, that any such special election time limit or requirement pertaining to the conduct of such a special election may be waived with the unanimous consent of the qualified electors of the District and the concurrence of the official conducting the election. As is stated below, it is proposed that the special election shall be held on May 14, 2024 or such other date upon which all of the qualified electors of the District and the official conducting the election may concur, a date which may be less than ninety (90) days from the date of the Resolution of Formation.
3. Owner certifies that there are no persons residing within the Owner’s Property as of the date of execution of this Consent and Waiver and there have been no persons residing within the Owner’s Property for each of the ninety (90) days preceding the date of this Consent and Waiver, and there will not have been any persons residing within the Owner’s Property for each of the ninety (90) days preceding May 14, 2024.
 4. Owner has received the necessary and relevant information from the City regarding the formation of the District, and the City has made available to the Owner adequate opportunity to obtain such information. Owner has had a reasonable opportunity to consult with and to be advised by Owner’s legal counsel regarding the matters contained in this document and the exhibits hereto.
 5. Owner desires and requests that the special election be held on May 14, 2024, or such other date as the Owner and the City Clerk (the “City Clerk”), acting as the official conducting the election, may mutually agree, a date which may be less than ninety (90) days from the date of the adoption of the Resolution of Formation.
 6. Owner expressly waives the time limits set forth in Section 53326 of the California Government Code with respect to such special election and consents to the holding of such special election on May 14, 2024 or such other date as the Owner and the City Clerk may mutually agree.

7. Owner waives any requirement for the mailing of the election ballot and conduct related to the election. Owner expressly waives the publication and mailing by the City Clerk of a notice of the special election and a sample ballot pursuant to Sections 4101 and 4102 of the California Elections Code, and compliance with other applicable notice requirements of the Elections Code.
8. Owner expressly waives an impartial analysis of the ballot measures to be contained in the Official Ballot for the special election pursuant to Section 9313 of the Elections Code, and further waives ballot arguments and rebuttals pursuant to Sections 9314 to 9317, inclusive, of the Elections Code. The Owner further waives mailing of a tax rate statement pursuant to Section 9401 of the Elections Code.
9. The Owner further waives the word limit requirement for the ballots pursuant to Sections 13247 and 9051 of the Elections Code.
10. The Owner further waives Elections Code Section 9203, which requires that the City Attorney provide and return to the City election official a ballot title for and summary of the proposed measure for distribution to persons interested in the proposed measure.
11. Elections Code Section 13119 requires that any ballot measure imposing a tax or raising the rate of a tax include a statement of the measure, which among other things requires the City state the amount of money to be raised annually and duration of the tax to be levied. Owner expressly waives any requirements to include a statement as required by Election Code Section 13119 and hereby acknowledges that Owner has previously received information regarding the annual Special Tax levy and duration of the Special Tax.
12. Owner expressly waives mailing of the official ballot by the tenth (10th) day before the date of the special election pursuant to Section 4101 of the Elections Code and receipt of a ballot pamphlet as required by Section 3023 of the Elections Code, and consents to Best Best & Krieger LLP, acting for and on behalf of the City Clerk, mailing or delivering the official ballot to be voted by the Owner to the Owner on any date prior to the date of the special election.
13. Owner expressly waives any protest, complaint or legal action of any nature whatsoever pertaining to the shortening of all time periods pertaining to the subject special election, including but not limited to, the time for holding the special election and the necessity and requirement for any newspaper publication of the notice of said election.
14. The undersigned hereby represents that compliance with the procedural requirements for conducting said election, including the mailing and receipt of the notices, statements and other documents waived by paragraphs listed above and the time limitations which apply in connection with the scheduling and mailing of notice of said election are unnecessary because the Owner has received information which is sufficient to enable the undersigned to vote on behalf of the Owner in said election

Remainder of this page intentionally left blank.

OWNER APPOINTMENT OF AUTHORIZED REPRESENTATIVE

The Owner hereby appoints Vicki Gullion as its authorized representative to vote in the subject special election, and the owner certifies that the true and exact signature of each alternative representative is set forth below:



Signature of Representative

Vicki Gullion

Print Name of Representative

Signature of Representative

Print Name of Representative

Remainder of this page intentionally left blank.

THIS CONSENT AND WAIVER AND APPOINTMENT OF AUTHORIZED REPRESENTATIVES was executed this 28th day of March, 2024, in Corona, California.

D.R. HORTON LOS ANGELES HOLDING
COMPANY, INC. a California corporation

By: 
Vicki Gullion
Assistant Secretary and Vice President of
Forward Planning

EXHIBIT "A"

**DESCRIPTION OF PROPERTY SUBJECT
TO CONSENT AND WAIVER**

The Property subject to this Consent and Waiver is all of that property located within the boundary map titled "Proposed Boundaries of City of Fontana Community Facilities District No. 114M, San Bernardino County, State of California." (APN 1107-262-37-0-000)

EXHIBIT “B”

DESCRIPTION OF SERVICES

The types of services to be provided by the proposed community facilities district are the maintenance of parks, parkways, street lighting and open space within and surrounding the area of the District and within and surrounding the area of any territory to be annexed to the District in the future and the costs associated with the determination of the amount of a collection of taxes, the payment of taxes and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district.

“Maintenance” means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of such parks, parkways, street lighting and open space, and the incidental costs related thereto, including but not limited to:

- a) Repair, removal, or replacement of all or any part of any improvement.
- b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- c) The removal of trimmings, rubbish, debris, and other solid waste.
- d) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

EXHIBIT "C"

**RATE AND METHOD OF APPORTIONMENT FOR
COMMUNITY FACILITIES DISTRICT NO. 114M OF THE
CITY OF FONTANA, COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property in City of Fontana Community Facilities District No. 114M ("CFD No. 114M") and collected each Fiscal Year, commencing in Fiscal Year 2024-2025, 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. 114M, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

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

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 114M, including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the City, CFD No. 114M or any designee thereof of complying with City or CFD No. 114M disclosure requirements; the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 114M or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 114M for any other administrative purposes of CFD No. 114M, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

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

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

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

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

“CFD No. 114M” means the City of Fontana Community Facilities District No. 114M.

"City" means the City of Fontana, California.

"Council" means the City Council of the City of Fontana, acting as the legislative body of CFD No. 114M.

"County" means the County of San Bernardino.

"Developed Property" means, for each Fiscal Year, all Assessor’s Parcels of Taxable Property for which a final tract map, parcel map, lot line adjustment or any other similar map which subdivides such parcels into lots for which a building permit could be issued for construction has been recorded with the County, as of January 1 of the previous Fiscal Year.

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

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

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C hereof, that can be levied by CFD No. 114M in any Fiscal Year on any Assessor’s Parcel.

“Property Owner Association Property” means, for each Fiscal Year, any Assessor’s Parcel within the boundaries of CFD No. 114M that was owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, as of January 1 of the previous Fiscal Year.

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

"Public Property" means, for each Fiscal Year, any property within the boundaries of CFD No. 114M that is (i) owned by, irrevocably offered or dedicated to the federal government, the State, the County, the City, or any local government or other public agency, provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use; or (ii) encumbered by a public utility easement making impractical its use for any purpose other than that set forth in the easement. To ensure that property is classified as Public Property in the first Fiscal Year after it is acquired by, irrevocably offered for dedication to, or dedicated to a public agency, the property owner shall notify the CFD Administrator in writing of such acquisition, offer, or dedication not later than June 30 of the Fiscal Year in which the acquisition, offer, or dedication occurred.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Taxes for CFD No. 114M.

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

"Special Tax Requirement" means that amount required in any Fiscal Year for CFD No. 114M to pay for: (1) maintenance services authorized to be financed by CFD No. 114M, (2) Administrative Expenses, (3) anticipated delinquent special taxes (such delinquent special taxes shall be estimated based on the delinquency rate in CFD No. 114M for the previous Fiscal Year), and (4) less a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"Taxable Property" means all of the Assessor’s Parcels within the boundaries of CFD No. 114M which are not exempt from the Special Tax pursuant to law or Section E below.

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

"Welfare Exemption" means, for each Fiscal Year, any Assessor's Parcel that is used exclusively for charitable, hospital, or religious purposes and that has a property tax welfare exemption as indicated in the County’s assessor’s roll finalized as of the last preceding January 1, including those Assessor’s Parcel receiving a welfare exemption under subdivision (g) of Section 214 of the California Revenue and Taxation Code.

B. ASSIGNMENT TO LAND USE CATEGORIES

For each Fiscal Year, commencing with Fiscal Year 2024-2025, all Taxable Property within CFD No. 114M shall be categorized as either Developed Property or Undeveloped Property, and shall be subject to the Special Tax in accordance with the rate and method of apportionment determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

The Fiscal Year 2024-2025 Maximum Special Tax for each Assessor’s Parcel classified as Developed Property shall be equal to the amount shown in the table below:

TABLE 1
Fiscal Year 2024-2025
Maximum Special Tax for Developed Property

Land Use Class	FY 2024-2025 Maximum Special Tax
Developed Property	\$907 per Assessor’s Parcel

On each July 1, commencing July 1, 2025, the Maximum Special Tax for Developed Property shall increase by two percent (2%) per Fiscal Year.

2. Undeveloped Property

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

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2024-2025 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement and the City shall provide for the levy of the Special Tax until the total Special Tax levy equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

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

E. EXEMPTIONS

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

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

F. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes and shall be subject to the same penalties, and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* property taxes; provided, however, that CFD No. 114M may directly bill the Special Tax, and/or may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 114M.

G. TERM OF SPECIAL TAX

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

H. APPEALS

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

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

I. PREPAYMENT

No prepayments of the Special Tax are permitted.