

RESOLUTION NO. 2022-101

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A JOINT COMMUNITY FACILITIES AGREEMENT AND ACQUISITION AND FUNDING AGREEMENT RELATING TO COMMUNITY FACILITIES DISTRICT NO. 109 OF THE CITY OF FONTANA (NARRA HILLS)

WHEREAS, the City of Fontana (the “City”) is undertaking proceedings pursuant to the Mello-Roos Community Facilities Act of 1982 (the “Act”) for the formation of Community Facilities District No. 109 (Narra Hills) (“CFD”) and for the issuance of bonds by the CFD; and

WHEREAS, pursuant to the Act, the proceedings of the City Council, and an election held within the Community Facilities District, the Community Facilities District is authorized to issue special tax bonds (the “Bonds”) secured by special taxes (the “Special Taxes”) levied within the CFD to finance certain public facilities (the “Facilities”);

WHEREAS, the Facilities proposed to be financed by the CFD include certain Facilities to be owned and operated by the City (the “City Facilities”), certain Facilities to be owned and operated by the San Bernardino County Flood Control District (the “Flood Control District Facilities”) and certain Facilities to be owned and operated by certain other public agencies;

WHEREAS, Section 53316.2 of the Act provides that a community facilities district may finance facilities to be owned or operated by a public agency other than the agency that created the community facilities district only pursuant to a joint community facilities agreement or a joint exercise of powers agreement adopted pursuant to said Section;

WHEREAS, Section 53316.2 of the Act further provides that at any time prior to the adoption of the resolution of formation creating a community facilities district or a resolution of change to alter a district, or a resolution or resolutions authorizing issuance of bonds pursuant to Section 53356 of the Act, the legislative bodies of two or more local agencies may enter into a joint community facilities agreement pursuant to said Section and Sections 53316.4 and 53316.6 of the Act to exercise any power authorized by the Act with respect to the community facilities district being created if the legislative body of each entity adopts a resolution declaring that such a joint agreement would be beneficial to the residents of that entity;

WHEREAS, no resolution authorizing the issuance of any Bonds has been adopted;

WHEREAS, such a joint agreement would be beneficial to the residents of the San Bernardino County Flood Control District (the “Flood Control District”) and San Bernardino County (the “County”);

WHEREAS, LS-FONTANA LLC (the “Developer”) is developing the property within the boundaries of the CFD;

WHEREAS, development of such property will require the acquisition, construction and installation of certain Flood Control District Facilities;

WHEREAS, in order to provide for the acquisition, construction and installation of such Flood Control District Facilities, the Flood Control District, and the Developer propose to enter into an Acquisition and Funding Agreement (the “Acquisition Agreement”), pursuant to which the Developer will acquire, construct and install, or cause to be acquired, constructed and installed, certain of the Flood Control District Facilities and, upon satisfaction of the conditions specified therein, the Flood Control District will acquire and take title to such Flood Control District Facilities and that the Developer will be paid the purchase price thereof from proceeds of Special Taxes or Bonds (collectively, “District Proceeds”) made available for such purpose by the CFD;

WHEREAS, the City, the CFD, and the Flood Control District desire to enter into a Joint Community Facilities Agreement in accordance with Sections 53316.2, 53316.4 and 53316.6 of the Act in order to provide for the financing of the Flood Control District Facilities with District Proceeds;

WHEREAS, there has been presented to this meeting a form of Joint Community Facilities Agreement by and between the City, the CFD, and the Flood Control District that provides for the financing of the Flood Control District Facilities from the District Proceeds (such Joint Community Facilities Agreement, in the form presented to this meeting, with such changes, insertions and omissions as are made pursuant to this Resolution, being referred to herein as the “Joint Community Facilities Agreement”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the San Bernardino County Flood Control District as follows:

Section 1. The above recitals are true and correct.

Section 2. The Board of Supervisors hereby declares that the Joint Community Facilities Agreement will be beneficial to the residents of the District and County.

Section 3. The Joint Community Facilities Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The Chairman of the Board of Supervisors, and any such other member of the Board of Supervisors as the Chairman may designate, the Chief Executive Officer of the County, any Deputy Executive Officer of the County, the Chief Flood Control Engineer, and any such other officer of the District as the Chief Executive Officer may designate (the “Authorized Officers”), is hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the District, to execute and deliver the Joint Community Facilities Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same in consultation with County Counsel may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Joint Community Facilities Agreement by such Authorized Officer.

Section 4. The Acquisition Agreement, in substantially the form submitted to this meeting and made a part hereof as though set forth herein, be and the same is hereby approved. The Authorized Officers are hereby authorized, and any one of the Authorized Officers is hereby directed, for and in the name of the District, to execute and deliver the Acquisition Agreement in the form submitted to this meeting, with such changes, insertions and omissions as the Authorized Officer executing the same in consultation with County Counsel may require or approve, such requirement or approval to be conclusively evidenced by the execution of the Acquisition Agreement by such Authorized Officer.

Section 5. The officers, employees and agents of the District are hereby authorized and directed to take all actions and do all things which 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 6. This Resolution shall take effect immediately upon its adoption.

PASSED and ADOPTED by the Board of Supervisors of the San Bernardino County Flood Control District, State of California, by the following vote:

AYES: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman,

Joe Baca, Jr.

NOES: None

ABSENT: None

STATE OF CALIFORNIA)
) ss:
SAN BERNARDINO COUNTY)

I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County Flood Control District, State of California, hereby certify the foregoing to be a full, true and correct copy of the record of the action taken by the Board of Supervisors, by vote of the members present, as the same appears in the Official Minutes of said Board at its meeting of June 14, 2022. #93 LA

LYNNA MONELL
Clerk of the Board of Supervisors

By: _____
Deputy