

**RESOLUTION NO. 2020.11**

**A RESOLUTION OF THE EAST VALLEY WATER DISTRICT ESTABLISHING  
COMMUNITY FACILITIES DISTRICT NO. 2020-1 (HIGHLAND HILLS) OF EAST  
VALLEY WATER DISTRICT AND IMPROVEMENT AREA NOS. 1, 2 AND 3 THEREIN,  
AUTHORIZING THE LEVY OF A SPECIAL TAX AND CALLING AN ELECTION  
THEREIN**

**WHEREAS**, the Board of Directors (the “Board”) of East Valley Water District (the “District”), a county water district that is duly organized and existing under and by virtue of the laws of the State of California, has previously adopted Resolution No. 2020.09 on April 22, 2020 (the “Resolution of Intention”) stating its intention to form Community Facilities District No. 2020-1 (Highland Hills) of East Valley Water District (the “Community Facilities District”) and Improvement Area Nos. 1, 2 and 3 therein (each, an “Improvement Area” and collectively, the “Improvement Areas”), pursuant to 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 (the “Act”); and

**WHEREAS**, a copy of the Resolution of Intention setting forth a description of the proposed boundaries of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein, the public facilities and the incidental expenses to be financed by the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein (the “Facilities” and “Incidental Expenses,” respectively) is on file with the Board Secretary, and the Resolution of Intention is incorporated herein by reference; and

**WHEREAS**, a combined notice of a public hearing (the “Hearing”) to be held on June 10, 2020 was published and mailed to all landowners of the land proposed to be included within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein; and

**WHEREAS**, on June 10, 2020, the Board opened the Hearing as required by law; and

**WHEREAS**, at the Hearing there was filed with Board a report containing a description of the Facilities necessary to meet the needs of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and an estimate of the cost of such Facilities as required by Section 53321.5 of the Act (the “Community Facilities District Report”); and

**WHEREAS**, at the Hearing, all persons desiring to be heard on all matters pertaining to the proposed formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and the levy of the special taxes and the issuance of bonded indebtedness were heard and a full and fair hearing was held; and

**WHEREAS**, at the Hearing, evidence was presented to the Board on the matters before it, and the proposed formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and the levy of special taxes was not precluded by a majority protest of the type described in Section 53324 of the Act, and the Board at the conclusion of the hearing is fully advised as to all matters relating to the formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein, the levy of the special taxes and the issuance of bonded indebtedness; and

**WHEREAS**, the Board has determined that there have been no registered voters residing within the proposed boundaries of the Community Facilities District and Improvement Area Nos. 1, 2

and 3 therein for the period of 90 days prior to the Hearing and that the qualified electors in the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein are the landowners within each Improvement Area; and

**WHEREAS**, on the basis of all of the foregoing, the Board has determined at this time to proceed with the establishment of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and with the calling of an election within the boundaries of each Improvement Area to authorize: (i) the levy of special taxes within each Improvement Area pursuant to the rate and method of apportionment of the special tax for such Improvement Area; (ii) the issuance of bonds by the Community Facilities District on behalf of each Improvement Area to finance the Facilities and Incidental Expenses; and (iii) the establishment of an appropriations limit for the Community Facilities District; and

**WHEREAS**, the property owners of all of the land in the Community Facilities District (the “Developer”) and the District desire to enter into a Funding, Construction and Acquisition Agreement (the “Acquisition Agreement”) in order to provide for the acquisition, construction and financing of the Facilities and Incidental Expenses within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein;

---

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED:**

SECTION 1. Findings. The Board hereby specifically finds and declares that each of the statements, findings and determinations of the District set forth in the above recitals and in the preambles of the documents approved herein are true and correct.

SECTION 2. Formation. The Community Facilities District to be designated “Community Facilities District No. 2020-1 (Highland Hills) of East Valley Water District, County of San Bernardino, State of California,” and Improvement Area Nos. 1, 2 and 3 therein, is hereby established pursuant to the Act. The Board hereby finds and determines that all prior proceedings taken with respect to the establishment of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

SECTION 3. Boundaries. The boundaries of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein are established as shown on the map designated “Boundary Map Community Facilities District No. 2020-1 (Highland Hills) of East Valley Water District, County of San Bernardino, State of California,” which map is on file in the office of the Board Secretary and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County of San Bernardino Book of Assessments and Community Facilities Districts in the County Recorder’s Office in Book No. 89 at page 19 as Document No. 2020-0178864 on May 29, 2020.

SECTION 4. Types of Facilities to be Financed by the Community Facilities District. The types of Facilities and Incidental Expenses that are authorized to be provided for the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein are those set forth in the Resolution of Intention. The estimated costs of the Facilities and Incidental Expenses to be financed is set forth in the Community Facilities District Report, which estimates may change as the Facilities are designed and bid for construction and acquisition.

The District is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The Board finds that the proposed Facilities are necessary to meet the increased demand that will be placed upon public infrastructure and the District as a result of new development within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

SECTION 5. Special Taxes. The Board hereby adopts the rate and method of apportionment of special tax for each of the Improvement Areas attached to the Resolution of Intention as Exhibit C (each, the “Rate and Method” for the applicable Improvement Area) as the applicable rate and method of apportionment for the designated Improvement Area. Except where funds are otherwise available, it is the intention of the Board, subject to the approval of the eligible voters within each Improvement Area, to levy the proposed special taxes in each Improvement Area at the rates set forth in the applicable Rate and Method on all non-exempt property within the Improvement Area in order to pay: (i) the cost of the Facilities and the principal of and interest and other periodic costs on the bonds proposed to be issued by the Community Facilities District on behalf of the applicable Improvement Area to finance the Facilities and Incidental Expenses, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash) and other expenses of the type permitted by Section 53345.3 of the Act; and (ii) the Incidental Expenses.

The Community Facilities District expects to incur, and in certain cases has already incurred, Incidental Expenses in connection with the creation of the Improvement Areas, providing for the issuance of bonds, the levying and collecting of the special tax, the completion and inspection of the Facilities and the annual administration of the bonds and the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

The Rate and Method for each Improvement Area is described in detail in Exhibit C to the Resolution of Intention and incorporated herein by this reference, and the Board hereby finds that said Exhibit C contains sufficient detail to allow each landowner within each Improvement Area to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Community Facilities District Report, which is incorporated by reference herein, the special tax is based on the expected demand that each parcel of real property within each Improvement Area will place on the Facilities and, accordingly, is hereby determined to be reasonable. The special tax shall be levied on each assessor’s parcel in each Improvement Area pursuant to the applicable Rate and Method, but the special tax shall not be levied after Fiscal Year 2070-71. The special tax is apportioned to each parcel in each Improvement Area on the foregoing bases pursuant to Section 53325.3 of the Act and such special tax is not a tax on or a tax based upon the ownership of real property.

The District’s Chief Financial Officer will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor’s parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act. The District’s Chief Financial Officer contact information is as follows: East Valley Water District, Attn: Chief Financial Officer, 31111 Greenspot Road, Highland, California 92346, (909) 889-9501.

SECTION 6. Public Hearing. In the event that a portion of the property within the Improvement Areas shall become for any reason exempt, wholly or partially, from the levy of the special tax specified in the applicable Rate and Method, the Board shall, on behalf of such Improvement Area, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within such Improvement Area which is not delinquent or

exempt in order to yield the required debt service payments on any outstanding bonds for such Improvement Area or to prevent the Community Facilities District from defaulting on any other obligations or liabilities for such Improvement Area; provided, however, that under no circumstances shall the Special Tax levied on Residential Property (as such term is defined in the Rates and Methods) in the Improvement Areas be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the applicable Improvement Area by more than ten percent (10%) above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults in the applicable Improvement Area. The amount of the special tax will be set in accordance with the Rate and Method for the applicable Improvement Area.

SECTION 7. Lien of Special Taxes. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in each Improvement Area; and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the Community Facilities District on behalf of the applicable Improvement Area ceases.

SECTION 8. Finding Related to Agricultural Land. Consistent with Section 53325.6 of the Act, the Board finds and determines that the land within the Improvement Areas, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein and will be benefited by the Facilities proposed to be provided within the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

SECTION 9. No Other Taxes. It is hereby further determined that there is no *ad valorem* property tax currently being levied on property within the proposed Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein as are proposed to be provided by the Facilities to be financed by the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein.

SECTION 10. No Protests. Written protests against the establishment of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein have not been filed by one half or more of the registered voters within the boundaries of the Improvement Area or by the property owners of one half or more of the area of land within the boundaries of the Community Facilities District or Improvement Area Nos. 1, 2 and 3 therein. The Board hereby finds that the proposed special tax has not been precluded by a majority protest pursuant to Section 53324 of the Act.

SECTION 11. Elections. An election is hereby called within each Improvement Area on the propositions of levying the special tax on the property within each Improvement Area, establishing an appropriations limit for the Community Facilities District pursuant to Section 53325.7 of the Act and incurring bonded indebtedness for each Improvement Area pursuant to Section 53351 of the Act. The propositions to be placed on the ballot for each Improvement Area are attached hereto as Exhibit A.

The date of the elections within each Improvement Area shall be June 10, 2020, or such later date as is consented to by the Board Secretary and the landowners within the Improvement Areas. The Board Secretary shall conduct the elections. Except as otherwise provided by the Act, the elections shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the

Act, the elections shall be conducted in accordance with the provisions of law regulating elections of the District insofar as such provisions are determined by the Board Secretary to be applicable. Notwithstanding the foregoing, by unanimous consent of all landowners within the Improvement Areas, analysis and arguments with respect to the matters set forth on the ballots are waived.

SECTION 12. No Registered Voters. It is hereby found that there are no registered voters within the territory of any of the Improvement Areas, and, pursuant to Section 53326 of the Act, each landowner who is the owner of record on the date hereof, or the authorized representative thereof, shall have one vote for each acre or portion thereof that he, she or it owns within each Improvement Area. The voters shall be the landowners of record within each Improvement Area as of June 10, 2020.

SECTION 13. Community Facilities District Report. The preparation of the Community Facilities District Report is hereby ratified. The Community Facilities District Report, as submitted, is hereby approved and made a part of the record of the Hearing regarding the formation of the Community Facilities District and Improvement Area Nos. 1, 2 and 3 therein, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

SECTION 14. Acquisition Agreement. The Acquisition Agreement in substantially the form attached hereto is hereby approved. The President or Vice President of the Board or the General Manager of the District or the designee thereof are authorized and directed to execute and deliver the Acquisition Agreement with such changes, insertions and omissions as may be recommended by General Counsel or Stradling Yocca Carlson & Rauth, the District's Bond Counsel, and approved by the person executing the same, said execution being conclusive evidence of such approval.

SECTION 15. Legislative Body. In accordance with the Act, the Board of the District shall act as the governing board and legislative body of the Community Facilities District.

SECTION 16. Other Actions. The President or Vice President of the Board or the General Manager or Chief Financial Officer of the District or the designee thereof and any other proper officers of the District, acting singly, are hereby authorized and directed to do any and all things and to execute and deliver any and all documents and certificates which such officers may deem necessary or advisable in order to effectuate the purposes of this Resolution, and such actions previously taken by such officers are hereby ratified and confirmed.

SECTION 17. Effect. This Resolution shall take effect immediately.

\* \* \* \* \*

The foregoing resolution was duly passed and adopted at a meeting of the Board of Directors of the East Valley Water District, upon motion duly made, seconded and carried on June 10, 2020.

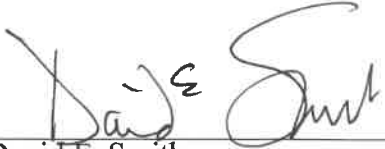
**ADOPTED** this 10<sup>th</sup> day of June 2020 by the following roll call vote:

Ayes: Directors: Carrillo, Coats, Goodrich, Smith

Noes: None

Absent: Director Morales

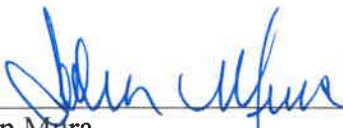
Abstain: None

  
\_\_\_\_\_  
David E. Smith  
Board President

Attest:   
\_\_\_\_\_  
John Mura,  
Board Secretary/CEO

June 10, 2020

**I HEREBY CERTIFY** that the foregoing is a full, true and correct copy of Resolution 2020.11 adopted by the Board of Directors of East Valley Water District at its Regular Meeting held June 10, 2020.

  
\_\_\_\_\_  
John Mura,  
Board Secretary