

**RESOLUTION NO. 2023-09**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, DECLARING ITS INTENTION TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2023-1 (PUBLIC SAFETY) OF THE CITY OF INDIAN WELLS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

**WHEREAS**, the City Council (the "City Council") of the City of Indian Wells (the "City") has received written petitions from the owners (the "Owners") of certain real property within the City requesting that the City Council initiate proceedings for the formation of a community facilities district, pursuant to Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the California Government Code, commonly known as the "Mello-Roos Community Facilities Act of 1982" (the "Act") for the purpose of financing certain public services which are necessary to meet increased demands placed upon the City as a result of the development of real property within the territory to be included in the community facilities district (the "Services"); and

**WHEREAS**, Section 53313 of the Act provides that a community facilities district may be established to finance certain types of services, including but not limited to the Services; and

**WHEREAS**, the Owners are the owners of all of the property which is proposed to be included within the boundaries of the proposed community facilities district; and

**WHEREAS**, pursuant to such petitions the City Council desires to initiate proceedings to consider the formation of a community facilities district which shall hereinafter be referred to as Community Facilities District No. 2023-1 (Public Safety) of the City of Indian Wells, County of Riverside, State of California" (the "CFD"); and

**WHEREAS**, the Act provides that the City Council may initiate proceedings to establish a community facilities district only if it has first considered and adopted local goals and policies concerning the use of community facilities districts; and

**WHEREAS**, the City Council has heretofore established its Local Goals and Policies (the "Policy") for the use of the Act, and the proposed formation and Services comply with the Policy; and

**WHEREAS**, having received such petitions, the City Council is required to institute proceedings for the formation of the CFD by the adoption of a resolution of intention to initiate the proceedings for the establishment of the CFD, to set forth the boundaries for the CFD, to indicate the type of public services proposed to be financed by the CFD, to indicate the rate and method of apportionment of a special tax sufficient to finance the public services and the administration of the CFD, and to set a time and place for a public hearing relating to the establishment of the CFD; and

**WHEREAS**, portions of the land within the proposed community facilities district is currently owned by the City, a public agency. The City has stated pursuant to Section 53317(f) of the Act and to a separate certificate attached hereto as Exhibit "D" that the land is intended to be transferred to private ownership and will be subject to the special taxes on the same basis as private property in the proposed community facilities district and has affirmatively waived any

**ATTACHMENT #1**

defense that it may have, as a result of public ownership, to any action to foreclose on such property in the event of non-payment of the special tax.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDIAN WELLS AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are true and correct and the City Council hereby accepts the petition of the landowners to proceed with the formation of the CFD.

**Section 2. Proposed Community Facilities District.** A community facilities district is proposed to be established under the provisions of the Act. The name proposed for the CFD is "Community Facilities District No. 2023-1 (Public Safety)."

**Section 3. Description and Map of Boundaries.** The boundaries of the CFD are shown on the map entitled "Map of Proposed Boundaries of Community Facilities District No. 2023-1 (Public Safety)" which is on file with the City Clerk of the City Council (the "City Clerk"), and attached hereto as Exhibit "C" and incorporated herein by this reference. Said map is hereby approved and, pursuant to Section 3110 of the California Streets and Highways Code, the City Clerk shall, after conforming with the other requirements of Section 3111 of the California Streets and Highways Code, record the original of said map in the office of the City Clerk, and within 15 days of the adoption of this Resolution but not later than 15 days prior to the date of the public hearing set forth in Section 8 hereof shall file a copy of said boundary map with the County Clerk-Recorder of the County of Riverside.

**Section 4. Types of Services; Incidental Expenses.** It is the further intention of the City Council to finance the municipal services generally described in Exhibit "A" (the "Services") attached hereto and incorporated herein by this reference and all costs associated with the establishment of the CFD, administration thereof, the determination of the amount of any special taxes to be levied, the costs of collecting any special taxes, and costs otherwise incurred in order to carry out the authorized purposes of the CFD.

The City Council hereby finds and determines that the public interest will not be served by allowing the property owners in the CFD to enter a contract in accordance with Section 53329.5(a) of the Act.

**Section 5. Special Taxes and Appropriations Limit.** It is the intention of the City Council that, except where funds are otherwise available, a special tax sufficient to pay for the Services and related incidental expenses authorized by the Act, secured by the recordation of a continuing lien against all non-exempt real property in the CFD, shall be annually levied within the boundaries of the CFD pursuant to the Rate and Method (defined below).

Particulars as to the rate and method of apportionment of the proposed special tax are set forth in the attached Exhibit "B" (the "Rate and Method"), which is incorporated herein by this reference and which sets forth in sufficient detail the rate and method of apportionment of the special taxes to allow each landowner or resident within the proposed CFD to clearly estimate the maximum amount that such person will have to pay.

The special tax obligation for any parcel may not be prepaid.

Pursuant to Section 53340 of the Act, said special taxes shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided however, that the CFD may collect special taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent assessor's parcels as permitted by the Act.

Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure the levy of special taxes shall attach to all non-exempt real property in the CFD, and that lien shall continue in force and effect until the collection of the special taxes ceases. The City Council hereby finds that the provisions of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a community facilities district) are inapplicable to the proposed CFD.

**Section 6. Exempt Properties.** Pursuant to Section 53340 of the Act, and except as provided in Section 53317.3 of the Act, properties of entities of the state, federal, and local governments shall be exempt from the levy of special taxes. Additionally, the Rate and Method describes property exempt from the Special Tax for the CFD. If a portion of the property within the CFD becomes exempt for any reason, wholly or in part, from the levy of the Special Tax, the City Council will, on behalf of the CFD, increase the levy to the extent necessary upon the remaining property within the CFD that is not exempt in order to yield the annual expenses of the CFD, if any, subject to the provisions of the Rate and Method and the Act regarding limitations on maximum annual Special Tax rates and annual increases in the annual Special Tax levy.

**Section 7. Necessity.** It is further determined by the City Council that the Services are necessary to meet increased demands and needs placed upon the City as a result of development within the boundaries of the CFD.

**Section 8. Hearing.** A public hearing will be held by the City Council to consider the formation of the CFD, the proposed levy of special taxes therein, the proposed rate, method of appointment, and manner of collection of the special taxes, and all other matters as set forth in this Resolution at 1:30 p.m. on June 1, 2023 in the City Council Chamber, 44950 Eldorado Drive, Indian Wells, California 92210. At such hearing, any persons interested, including all taxpayers, property owners, and registered voters within the CFD, may appear and be heard, and the testimony of all interested persons or taxpayers for or against the establishment of the CFD and the levy of the special taxes, or the extent of the CFD, or the establishment of an appropriations limit therefor, or on any other matters set forth in this Resolution, will be heard and considered.

Any protests to the proposals in this Resolution may be made orally or in writing by any interested persons or taxpayers, except that any protests pertaining to the regularity or sufficiency of such proceedings shall be in writing and shall clearly set forth the irregularities and defects to which the objection is made. The City Council may waive any irregularities in the form or content of any written protest and at such public hearing may correct minor defects in such proceedings. All written protests not presented in person by the protester at the public hearing shall be filed with the City Clerk on or before the time fixed for the public hearing in order to be received and

considered. Any written protest may be withdrawn in writing at any time before the conclusion of such public hearing.

If fifty percent (50%) or more of the registered voters, or six registered voters, whichever is more, residing within the territory proposed to be included in the CFD and not exempt from the levy of special taxes, or the owners of one-half or more of the area of the land in said territory, file written protests against the formation of the CFD, and protests are not withdrawn so as to reduce the value of the protest to less than a majority, no further proceedings to create the CFD or to levy the specified special taxes shall be taken for a period of one year from the date of the decision of the City Council. If a majority of protests of the registered voters or of the landowners are only against the furnishing of a specified type or types of Services within the CFD, those types of Services will be eliminated from the resolution of formation establishing the CFD.

The public hearing may be continued from time to time, but shall be completed within thirty (30) days, except that if the City Council finds that the complexity of the CFD or the need for public participation requires additional time, the public hearing may be continued from time to time for a period not to exceed six (6) months.

At the conclusion of the public hearing, the City Council may abandon the proposed formation or may, after passing upon all protests, determine to proceed with establishing the CFD.

**Section 9. Notice.** The City Clerk shall publish a notice of the time and place of said public hearing as required by Section 53322 of the Act, and may also give notice of the time and place of said hearing by first-class mail to each registered voter and to each landowner within the proposed boundaries of the CFD as prescribed by Section 53322.4 of the Act. Said notice shall be published in a newspaper of general circulation within the boundaries of the CFD at least seven (7) days before the date of the public hearing, and may be mailed, first-class postage prepaid, to each owner of land and each registered voter residing within the boundaries of the CFD at least fifteen (15) days prior to the date of the public hearing, and shall contain the information required by said Section 53322.

**Section 10. Report.** The City Manager is hereby directed to study the CFD, and, at or before the time of said hearing, cause or cause to be made and then file a report or reports with the City Council containing a brief description of the Services by type which will in their opinion be required to adequately meet the needs of the new development expected to occur within the CFD and their estimates of the fair and reasonable cost of providing those Services, and the related incidental expenses to be incurred in connection therewith. Such report shall be submitted to the City Council for its review, shall be available for inspection by the public, and shall be made a part of the record **of the public hearing to be held pursuant to Section 8 hereof.**

**Section 11. Description of Voting Procedures.** The voting procedures to be followed shall be pursuant to Section 53326 of the Act and pursuant to the applicable provisions of the California Election Code. If the City Council determines at the conclusion of the public hearing to proceed with the establishment of the CFD, it expects that the proposed voting will be by the landowners voting in accordance with the Act, as the City Council is informed that during the ninety (90) days prior to the date set for the hearing, there have been fewer than twelve (12)

registered voters residing in the proposed boundaries of the CFD. The City Council hereby requires this information to be confirmed before ordering the election.

**Section 12.** This Resolution shall take effect from and after the date of its passage and adoption.

**PASSED AND ADOPTED** by the City Council of the City of Indian Wells, California, at a regular meeting held on this 6<sup>th</sup> day of April, 2023.

---

**DONNA GRIFFITH**  
**MAYOR**

**CERTIFICATION FOR RESOLUTION NO. 2023-09**

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that the whole number of the members of the City Council is five (5); that the above and foregoing Resolution was duly and regularly passed and adopted at a regular meeting of the City Council of the City of Indian Wells on the 6<sup>th</sup> day of April, 2023, by the following vote:

AYES:  
NOES:

**ATTEST:**

**APPROVED AS TO FORM:**

---

**ANGELICA AVILA  
CITY CLERK**

---

**TODD LEISHMAN  
CITY ATTORNEY**

## EXHIBIT A

### CITY OF INDIAN WELLS COMMUNITY FACILITIES DISTRICT NO. 2032-1 (PUBLIC SAFETY)

#### Authorized Services

The City of Indian Wells (the "City") is establishing Community Facilities District No. 2032-1 (Public Safety) (the "CFD") to finance, in whole or in part, the following services ("services" shall have the meaning given to that term in the Mello-Roos Community Facilities Act of 1982 (the "Act")) which include administration expenses and collection for reserves. All services to be funded by the CFD are to be in addition to those provided before the CFD was created, and may not supplant services already available when the CFD was created.

#### Authorized Services:

The types of City services to be financed by the CFD ("Services") shall include, but are not limited to, police protection services, fire protection and suppression services, ambulance and paramedic services, maintenance of streets and roadways, maintenance and operation of street lights, parks, parkways and open space, and maintenance of public facilities, including any incidental expenses authorized by the Act, and any other miscellaneous or incidental services identified by the City necessary to provide the described Services herein.

#### Administrative Expenses:

In addition, the following costs will also be funded by the special taxes levied within the CFD.

1. Administrative Expenses including costs incurred to determine, levy and collect the special taxes, including compensation of City employees for administrative work performed in relation to the CFD and a proportionate amount of the City's general administrative overhead related thereto, the fees of consultants and legal counsel, the costs of collecting installments of the special taxes upon the general tax rolls, preparation of required reports, and any other costs incurred for the administration of the CFD by the City;
2. Any amounts needed for operating reserves and capital replacement reserves; and
3. Any amounts needed to cure actual or estimated delinquencies in special taxes for the current or previous fiscal years.

## EXHIBIT B

### CITY OF INDIAN WELLS COMMUNITY FACILITIES DISTRICT NO. 2023-1 (PUBLIC SAFETY)

#### Rate and Method of Apportionment of Special Taxes

#### RATE AND METHOD OF

#### APPORTIONMENT OF SPECIAL TAX

For the City of Indian Wells Community Facilities District No. 2023-1 (Public Safety), County of Riverside, State of California

The Special Tax as hereinafter defined shall be levied on all Assessor's Parcels within the City of Indian Wells Community Facilities District No. 2023-1 (Public Safety), ("CFD 2023-1"), other than Assessor's Parcels classified as Exempt Property as defined herein and collected each Fiscal Year commencing in Fiscal Year 2023-24, in an amount determined by the CFD Administrator through the application of the procedures described below. All the real property within CFD 2023-1, 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:

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

**"Administrative Expenses"** means the following actual or reasonably estimated expenses related to the administration of CFD 2023-1: the costs of determining the amount of the levy of the Special Tax, the collection of Special Taxes, including the expenses of collecting delinquencies and pursuing foreclosures, the payment of a proportional share of salaries and benefits of any City employee and City overhead whose duties are directly related to the administration of CFD 2023-1, fees and expenses for counsel, audits, costs associated with responding to public inquiries regarding CFD 2023-1, and any and all other costs incurred in connection with the administration of CFD 2023-1.

**"Annual Escalation Factor"** means the annual percentage increase of the All Urban Consumers Consumer Price Index ("CPI") or three percent (3%), whichever is greater. The annual CPI used shall be for the area of Los Angeles-Long Beach-Anaheim, CA as determined by the Bureau of Labor Statistics for the twelve (12) months ending the preceding December 31, or such other replacement index as may be determined by the City.

**"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 Assessor of the County designating parcels by assessor’s parcel number.

**“Base Year”** means Fiscal Year beginning July 1, 2023 and ending June 30, 2024.

**“Building Permit”** means a permit issued for new construction of a residential dwelling or non-residential structure. For purposes of this definition, “Building Permit” shall not include permits for construction or installation of retaining walls, grading, utility improvements, or other such improvements not intended for human habitation or commercial activities.

**“Building Square Footage”** or **“Building Square Foot”** means for Residential Property, all the square footage within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, or similar area; and for Non-Residential Property, all the square footage within the perimeter of the non-residential structure, measured from outside wall to outside wall, not including space devoted to stairwells, basement storage, required corridors, public restrooms, elevator shafts, light courts, vehicle parking areas incidental thereto, mechanical equipment incidental to the operation of such building, and covered pedestrian circulation areas, including atriiums, lobbies, plazas, patios, decks, arcades and similar areas, except such public circulation areas or portions thereof that are used solely for business purposes. The determination of Building Square Footage shall be based on the Building Permit(s) issued for such structure and/or by reference to appropriate records kept by the City.

**“CFD Administrator”** means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Tax for CFD 2023-1.

**“CFD 2023-1”** means City of Indian Wells Community Facilities District No. 2023-1 (Public Safety) established by the City Council under the Act.

**“City”** means the City of Indian Wells.

**“City Council”** means the Council of the City of Indian Wells, acting as the legislative body of CFD 2023-1.

**“County”** means the County of Riverside.

**“Developed Property”** means an Assessor’s Parcel of Taxable Property for which a Building Permit was issued on or before June 1 preceding the Fiscal Year for which the Special Tax is being levied.

**“Exempt Property”** means all Assessor’s Parcels within CFD 2023-1 that are exempt from the Special Tax pursuant to the Act or Section F herein.

**“Fiscal Year”** means the period commencing on July 1 of any year and ending the following June 30.

**“Hotel Property”** means all Assessor’s Parcels of Developed Property within CFD 2023-1 for which a Building Permit has been issued for purposes of constructing one or more non-residential buildings intended to provide accommodations, meals and other services for travelers and tourists.

**“Land Use Type”** means any of the land use types listed in Table 1 below.

**“Maximum Special Tax”** means the maximum Special Tax determined in accordance with Section C, which may be levied in any Fiscal Year on an Assessor’s Parcel of Taxable Property.

**“Multi-Family Residential Property”** means all Assessor’s Parcels of Residential Property for which a Building Permit has been issued for the purpose of constructing a building or buildings comprised of attached Residential Units available for rental by the general public, not for sale to an end user, and under common management.

**“Municipal Services”** means those authorized services that may be funded by CFD 2023-1 pursuant to the Act, as amended including but not limited to fire protection and suppression services; ambulance and paramedic services; police protection services; maintenance of streets and roadways; maintenance and operation of street lights; maintenance of parks, parkways and open space; and maintenance of public facilities.

**“Non-Residential Property”** means any Assessor’s Parcel classified as Developed Property, which is not classified as any, Residential Property, Public Property and Property Owner Association Property.

**“Permanent Residential Property”** means all Assessor’s Parcels of Residential Property not classified as Short-Term Rental Property.

**“Property Owner Association Property”** means for each Fiscal Year any property within the boundaries of CFD 2023-1 that was owned by, or irrevocably dedicated as indicated in an instrument recorded with the County Recorder to a property owner association, including any master or sub-association, as of June 1.

**“Proportionately”** means in a manner such that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels within each Land Use Class.

**“Public Property”** means any property that is owned by, dedicated or irrevocably dedicated to a city, the federal government, the State of California, the County, or any other public agency (each, a “Public Entity”); provided, however, that any such property is leased by such a Public Entity to a private entity and is thereby subject to taxation pursuant to Section 53340.1 of the Act, such leasehold estate shall be classified and taxed according to the use thereof.

**“Residential Property”** means Assessor’s Parcels of Developed Property within CFD 2023-1 for which a Building Permit has been issued for purposes of constructing one or more Residential Unit(s).

**“Residential Unit”** means any residence in which a person or persons may live, which is not considered to be used for non-residential purposes.

**“Short-Term Rental Property”** means Assessor’s Parcels of Residential Property intended for rental to the general public on a short-term basis.

**“Special Tax”** means the special tax authorized to be levied within CFD 2023-1 pursuant to the Act, to fund the Special Tax Requirement.

**“Special Tax Requirement”** means the amount, as determined by the CFD Administrator, for any Fiscal Year to: (i) pay the costs of providing the Municipal Services during such Fiscal Year, (ii) pay Administrative Expenses associated with the Special Tax, (iii) establish or replenish any operational reserve fund established for Municipal Services, (iv) pay incidental expenses related to the Municipal Services as authorized pursuant to the Act, (v) fund an amount equal to a reasonable estimate of delinquencies expected to occur in the Fiscal Year in which the Special Tax will be levied (“Estimated Special Tax Delinquency Amount”) and (vi) fund the shortfall, if any, in the Special Tax revenues collected in the preceding Fiscal Year necessary to fund the Special Tax Requirement for such Fiscal Year where such shortfall resulted from delinquencies in the payment of the Special Tax in such Fiscal Year that exceeded the Estimated Special Tax Delinquency Amount included in the Special Tax Requirement for such Fiscal Year.

**“Taxable Property”** means all Assessor’s Parcels that are not exempt from the Special Tax pursuant to the Act or Section F.

**“Undeveloped Property”** means an Assessor’s Parcel of Taxable Property which is not classified as Developed Property.

**B. CLASSIFICATION OF ASSESSOR’S PARCELS**

Each Fiscal Year, beginning with Fiscal Year 2023-24, using the definitions above, each Assessor’s Parcel within CFD 2023-1 shall be classified by the CFD Administrator as Taxable Property or Exempt Property. In addition, each such Fiscal Year, each Assessor’s Parcel of Taxable Property shall be further classified by the CFD Administrator as Developed Property or Undeveloped Property. Commencing with Fiscal Year 2023-24 and for each subsequent Fiscal Year, all Taxable Property shall be assigned a Land Use Type and subject to the levy of the Special Tax pursuant to Section C below.

**C. SPECIAL TAX RATES**

**1. Developed Property**

Each Fiscal Year commencing in Fiscal Year 2023-24, each Assessor’s Parcel of Developed Property shall be subject to the Special Tax.

The Maximum Special Tax for Developed Property for Fiscal Year 2023-24 is shown below in Table 1.

**TABLE 1**

| Land Use Type                  | Maximum Special Tax        |
|--------------------------------|----------------------------|
| Permanent Residential Property | \$388 per Residential Unit |
| Short-Term Rental Property     | \$291 per Residential Unit |

|                                |                                 |
|--------------------------------|---------------------------------|
| Hotel Property                 | \$277 per Hotel Room            |
| Retail Property                | \$0.67 per Building Square Foot |
| Other Non-Residential Property | \$0.34 per Building Square Foot |

For each subsequent Fiscal Year following the Base Year, the Maximum Special Tax rates shall be increased from the Maximum Special Tax rate in effect for the prior Fiscal Year by the Annual Escalation Factor.

**2. Undeveloped Property**

Each Fiscal Year commencing in Fiscal Year 2023-24, each Assessor’s Parcel classified as Undeveloped Property shall be exempt from the levy of the Special Tax.

**3. Exempt Property**

No Special Tax shall be levied on Exempt Property as defined in Section F.

For each Fiscal Year, if the use or ownership of an Assessor’s Parcel or Exempt Property changes so that such Assessor’s Parcel is no longer classified as one of the uses set forth in Section F, therefore making such Assessor’s Parcel no longer eligible to be classified as Exempt Property, such Assessor’s Parcel shall be deemed to be Taxable Property and shall be taxed pursuant to the provisions of Section C.

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

Commencing in Fiscal Year 2023-24 and for each subsequent Fiscal Year, the CFD Administrator shall levy the Special Tax on all Taxable Property of CFD 2023-1 until the total amount of Special Tax levied equals the Special Tax Requirement. The Special Tax shall be levied Proportionately on each Assessor’s Parcel of Developed Property within CFD 2023-1 up to 100% of the Maximum Special Tax to satisfy the Special Tax Requirement.

Notwithstanding any provision of this Section D to the contrary, under no circumstances will the Special Tax levied against any Assessor’s Parcel of Developed Property that is classified as Residential Property be increased by more than ten percent (10%) per Fiscal Year as a consequence of delinquency or default in the payment of the Special Tax by the owner of any other Assessor’s Parcel.

**E. PREPAYMENT OF SPECIAL TAX**

The Special Tax shall be levied in perpetuity for the purpose of financing ongoing authorized services and therefore may not be prepaid.

**F. EXEMPTIONS**

The City Council shall classify as Exempt Property: (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, including but not limited to property designated for open space, trails, pathways, parks or park and recreation related facilities, and (iv) property reasonably

designated by the City or CFD Administrator as Exempt Property due to deed restrictions, conservation easement, or similar factors.

#### **G. APPEALS**

Any property owner claiming that the amounts or application of the Special Tax is not correct may file a written notice of appeal with the CFD Administrator not later than twelve months after having paid the first installment of the Special Tax. The CFD Administrator shall promptly review the appeal, and if necessary, meet with the property owner, consider written and oral evidence regarding the amount of the Special Tax, and rule on the appeal. If the decision of the CFD Administrator requires that the Special Tax for an Assessor's Parcel be modified or changed in favor of the property owner, a cash refund shall not be made but an adjustment shall be made to the Special Tax on that Assessor's Parcel in the subsequent Fiscal Year(s) to compensate for the overpayment of the Special Tax.

#### **H. 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 the Special Tax may be billed and collected at a different time or in a different manner if necessary to meet the financial obligations of CFD 2023-1.

#### **I. DURATION OF TAX**

The Special Tax shall be levied in perpetuity to fund the Special Tax Requirement unless such tax is no longer required as determined by the City Council.

#### **J. INTERPRETATION**

The City may interpret, clarify, and revise this Rate and Method to correct any inconsistency, vagueness, or ambiguity, by resolution and/or ordinance, that does not create a material adverse effect on the levy and collection of the Special Tax.

**EXHIBIT C**

**CITY OF INDIAN WELLS  
COMMUNITY FACILITIES DISTRICT NO. 2023-1  
(PUBLIC SAFETY)**

**Proposed Boundary Map**

**EXHIBIT D**

**CITY OF INDIAN WELLS  
COMMUNITY FACILITIES DISTRICT NO. 2023-1  
(PUBLIC SAFETY)**

**REPRESENTATION AS TO OWNERSHIP OF PROPERTY  
AND INTENDED USE BY THE CITY OF INDIAN WELLS**

The undersigned states and certifies as follows:

1. That they are the [City Manager/Mayor] of the City of Indian Wells and as such is authorized to sign this certificate.

2. That the City of Indian Wells is owner of the property described in Resolution No. \_\_\_\_\_ of the City of Indian Wells in Exhibit C thereto (the "Property").

3. That the City of Indian Wells is a "landowner" within the provisions of Section 53317(f), that all of the Property is intended to be transferred to private ownership for development and as such the Property will be subject to the special taxes on the same basis as private property within the proposed community facilities district.

4. The City of Indian Wells hereby affirmatively waives any defense based on the fact of public ownership to any action to foreclose on the property in the event of non-payment of the special tax.

THE CITY OF INDIAN WELLS

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_