

ATTACHMENT #1
ORDINANCE NO. 757

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2024-1 (PUBLIC SAFETY), AUTHORIZING THE LEVY OF SPECIAL TAXES IN SUCH COMMUNITY FACILITIES DISTRICT

WHEREAS, the City Council (the "City Council") of the City of Indian Wells, California (the "City"), has initiated proceedings, held a public hearing, conducted an election and received a favorable vote from the qualified electors authorizing the levy of special taxes in the community facilities district, all as authorized pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982", being Chapter 2.5, Part 1. Division 2, Title 5 of the Government Code of the State of California (the "Act"). This community facilities district shall hereinafter be referred to as Community Facilities District No. 2024-1 (Public Safety), City of Indian Wells, County of Riverside, State of California ("CFD No. 2024-1").

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDIAN WELLS, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2024-1, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. This City Council does, by the passage of this Ordinance, authorize the levy of special taxes on taxable properties located in CFD No. 2024-1 pursuant to the Rate and Method of Apportionment for CFD No. 2024-1 as set forth in Exhibit A attached hereto and incorporated herein by this reference (the "Rate and Method").

SECTION 2. This City Council, acting as the legislative body of CFD No. 2024-1, is hereby further authorized, by resolution, to annually determine the special tax to be levied within CFD No. 2024-1 for the then current tax year or future tax years; provided, however, the special tax to be levied shall not exceed the maximum special tax authorized to be levied pursuant to the Rate and Method.

SECTION 3. The special taxes herein authorized to be levied, to the extent possible, shall be collected in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure, sale and lien priority in any case of delinquency as applicable for ad valorem taxes; provided, however, CFD No. 2024-1 may utilize a direct billing procedure for any special taxes that cannot be collected on the County of Riverside tax roll or may, by resolution, elect to collect the special taxes at a different time or in a different manner if necessary to meet its financial obligations.

SECTION 4. The special taxes authorized to be levied shall be secured by the lien imposed pursuant to Section 3114.5 and 3115.5 of the California Streets and Highways Code, which lien shall be a continuing lien and shall secure each levy of the special taxes. The lien of the Special Tax (as defined in the Rate and Method) shall continue in force and effect until the City no longer provides the services and the lien canceled in accordance with law or until the Special Tax ceases to be levied by the City Council.

SECTION 5. This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in the City.

Introduced at a regular meeting of the City Council of the City of Indian Wells, California, on June 20, 2024.

PASSED, APPROVED and ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk this 18th day of July 2024.

GREG SANDERS
MAYOR

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF INDIAN WELLS)

CERTIFICATION FOR ORDINANCE NO. 757

I, Angelica Avila, City Clerk of the City Council of the City of Indian Wells, California, **DO HEREBY CERTIFY** that Ordinance No. 757, having been regularly introduced at a regular meeting of June 20, 2024 was again introduced, the reading in full thereafter unanimously waived, and duly passed and adopted at a regular meeting of the City Council held on July 18, 2024 and said Ordinance was passed and adopted by the following stated vote, to wit:

AYES:
NOES:

ATTEST:

APPROVED AS TO FORM:

ANGELICA AVILA
CITY CLERK

TODD LEISHMAN FOR
BEST BEST & KRIEGER LLP
CITY ATTORNEY

EXHIBIT "A"

RATE AND METHOD OF APPORTIONMENT FOR COMMUNITY FACILITIES DISTRICT NO. 2024-1 (Public Safety) OF THE CITY OF INDIAN WELLS

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

For the City of Indian Wells Community Facilities District No. 2024-1
(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. 2024-1 (Public Safety), ("CFD 2024-1"), other than Assessor's Parcels classified as Exempt Property as defined herein and collected each Fiscal Year commencing in Fiscal Year 2024-25, in an amount determined by the CFD Administrator through the application of the procedures described below. All the real property within CFD 2024-1, 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 2024-1: 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 2024-1, fees and expenses for counsel, audits, costs associated with responding to public inquiries regarding CFD 2024-1, and any and all other costs incurred in connection with the administration of CFD 2024-1.

"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 Riverside-San Bernardino-Ontario, 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, 2024 and ending June 30, 2025.

"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 atriums, 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 2024-1.

“CFD 2024-1” means City of Indian Wells Community Facilities District No. 2024-1 (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 2024-1.

“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 2024-1 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 2024-1 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 2024-1 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 2024-1 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 2024-1 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 2024-1 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 2024-25, using the definitions above, each Assessor’s Parcel within CFD 2024-1 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 2024-25 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 2024-25, each Assessor’s Parcel of Developed Property shall be subject to the Special Tax.

The Maximum Special Tax for Developed Property for Fiscal Year 2024-25 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
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Effective July 1, 2026 and each subsequent Fiscal Year following, 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 2024-25, 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 2024-25 and for each subsequent Fiscal Year, the CFD Administrator shall levy the Special Tax on all Taxable Property of CFD 2024-1 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 2024-1 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 2024-1.

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.