

## RESOLUTION NO. 2024-\_\_

### **RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF MENIFEE TO ESTABLISH COMMUNITY FACILITIES DISTRICT NO. 2024-3 (RIVER WALK VILLAGE) OF THE CITY OF MENIFEE, TO AUTHORIZE THE LEVY OF A SPECIAL TAX TO PAY THE COSTS OF ACQUIRING OR CONSTRUCTING CERTAIN FACILITIES AND TO PAY DEBT SERVICE ON BONDED INDEBTEDNESS**

**WHEREAS**, the City of Menifee (the “City”) received a petition signed by the owner of more than 10 percent of the land within the boundaries of the territory that is proposed for inclusion in a proposed community facilities district, which petition meets the requirements of Sections 53318 and 53319 of the Government Code of the State of California; and

**WHEREAS**, the City Council of the City of Menifee (the “City Council”) desires to adopt this resolution of intention as provided in Section 53321 of the Government Code of the State of California to establish a community facilities district consisting of the territory described in Exhibit “A” hereto and incorporated herein by this reference, which the City Council hereby determines shall be known as “Community Facilities District No. 2024-3 (River Walk Village) of the City of Menifee” (“Community Facilities District No. 2024-3” or the “District”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53311 of the Government Code (the “Act”) to finance (1) the purchase, construction, modification, expansion, improvement or rehabilitation of certain real or other tangible property described in Exhibit “B” hereto and incorporated herein by this reference, including all furnishings, equipment and supplies related thereto (collectively, the “Facilities”), which Facilities have a useful life of five years or longer, and (2) the incidental expenses to be incurred in connection with financing the Facilities and forming and administering the District (the “Incidental Expenses”); and

**WHEREAS**, the City Council further intends to approve an estimate of the costs of the Facilities and the Incidental Expenses for Community Facilities District No. 2024-3; and

**WHEREAS**, it is the intention of the City Council to consider financing the Facilities and the Incidental Expenses through the formation of Community Facilities District No. 2024-3 and the issuance of bonded indebtedness in an amount not to exceed \$7,000,000 with respect to the Facilities and the Incidental Expenses and the levy of a special tax to pay for the Facilities and the Incidental Expenses (the “Special Tax”) and to pay debt service on the bonded indebtedness, provided that the bond sale and such Special Tax levy are approved at an election to be held within the boundaries of Community Facilities District No. 2024-3; and

**WHEREAS**, the District and Richmond American Homes of Maryland, a Maryland corporation (the “Developer”) propose to enter into a joint community facilities agreement (the “JCFA”) with Menifee Union School District (the “School District”) relating to certain facilities proposed to be financed by the District and owned and operated by the School District and the District expects to enter into the JCFA prior to the approval of the issuance of bonds pursuant to the Act.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Menifee, California, does hereby determine and order:

**Section 1.** The above recitals are true and correct.

**Section 2.** A community facilities district is proposed to be established under the terms of the Act. It is further proposed that the boundaries of the community facilities district shall be the legal boundaries as described in Exhibit “A” hereto, which boundaries shall, upon recordation of the boundary map for the District, include the entirety of any parcel subject to taxation by the District, and as depicted on the map of the proposed Community Facilities District No. 2024-3 which is on file with the City Clerk. The City Clerk is hereby directed to sign the original map of the District and record it with all proper endorsements thereon with the

Assessor-County Clerk-Recorder of the County of Riverside within 15 days after the adoption of this resolution, all as required by Section 3111 of the Streets and Highways Code of the State of California.

**Section 3.** The name of the proposed community facilities district shall be “Community Facilities District No. 2024-3 (River Walk Village) of the City of Menifee.”

**Section 4.** The Facilities proposed to be provided within Community Facilities District No. 2024-3 are public facilities as defined in the Act, which the City and the School District, with respect to certain school facilities, are authorized by law to construct, acquire, own and operate. The City Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow taxpayers within the proposed District to understand what the funds of the District may be used to finance. The Incidental Expenses expected to be incurred include the cost of planning and designing the Facilities, the costs of forming the District, issuing bonds and levying and collecting the Special Tax within the proposed District. The Facilities may be acquired from one or more of the property owners within the District as completed public improvements or may be constructed from bond or Special Tax proceeds.

All or a portion of the Facilities may be purchased with District funds as completed public facilities pursuant to Section 53314.9 or as discrete portions or phases pursuant to Section 53313.51 of the Act and/or constructed with District funds pursuant to Section 53316.2 of the Act. Any portion of the Facilities may be financed through a lease or lease-purchase arrangement if the District hereafter determines that such arrangement is of benefit to the District.

**Section 5.** Except where funds are otherwise available, it is the intention of the City Council to levy annually in accordance with the procedures contained in the Act the Special Tax, secured by recordation of a continuing lien against all nonexempt real property in the District, sufficient to pay for: (i) the Facilities and Incidental Expenses; and (ii) the principal and interest and other periodic costs on bonds or other indebtedness issued to finance the Facilities and Incidental Expenses, including the establishment and replenishment of any reserve funds deemed necessary by the District, and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments that serve as the basis of a reserve fund in lieu of cash). The rate and method of apportionment and manner of collection of the Special Tax are described in detail in Exhibit “C” attached hereto, which Exhibit “C” is incorporated herein by this reference. Exhibit “C” allows each landowner within the District to estimate the maximum amount of the Special Tax that may be levied against each parcel. In the first year in which such Special Tax is levied, the levy shall include an amount sufficient to repay to the District all amounts, if any, transferred to the District pursuant to Section 53314 of the Act and interest thereon.

If the Special Tax is levied against any parcel used for private residential purposes, (i) the maximum Special Tax rate shall be specified as a dollar amount that shall be calculated and established not later than the date on which the parcel is first subject to the Special Tax because of its use for private residential purposes and shall not be increased over time, except as set forth in Exhibit “C” hereto, (ii) such Special Tax shall not be levied after fiscal year 2069/2070, as described in Exhibit “C” hereto, and (iii) under no circumstances will the Special Tax levied in any fiscal year against any such parcel used for private residential uses be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the District 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.

The Special Tax is based on the expected demand that each parcel of real property within proposed Community Facilities District No. 2024-3 will place on the Facilities and on the benefit that each parcel derives from the right to access the Facilities. The City Council hereby determines that the proposed Facilities are necessary to meet the increased demand placed upon the City and the existing infrastructure in the City as a result of the development of the land proposed for inclusion in the District. The City Council hereby determines the rate and method of apportionment of the special tax with respect to the Special Tax set forth in Exhibit "C" to be reasonable. The Special Tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act and such special tax is not on or based upon the value or ownership of real property. In the event that a portion of the property within Community Facilities District No. 2024-3 shall become for any reason exempt, wholly or partially, from the levy of the Special Tax specified on Exhibit "C," the City Council shall, on behalf of Community Facilities District No. 2024-3, cause the levy to be increased, subject to the limitation of the maximum Special Tax for a parcel as set forth in Exhibit "C," to the extent necessary upon the remaining property within proposed Community Facilities District No. 2024-3 which is not exempt in order to yield the Special Tax revenues required for the purposes described in this Section 5. The obligation to pay the Special Tax may be prepaid only as set forth in Section G of Exhibit "C" hereto.

**Section 6.** A public hearing (the "Hearing") on the establishment of the proposed Community Facilities District No. 2024-3, the proposed rate and method of apportionment of the Special Tax and the proposed issuance of bonds to finance the Facilities and the Incidental Expenses shall be held at 6:00 p.m., or as soon thereafter as practicable, on August 7, 2024, at the City Council Chambers, 29844 Haun Road, Menifee, California. Should the City Council determine to form the District, a special election will be held to authorize the issuance of the bonds and the levy of the special tax in accordance with the procedures contained in Government Code Section 53326. If held, the proposed voting procedure at the election will be a landowner vote with each landowner who is the owner of record of land within the District at the close of the Hearing, or the authorized representative thereof, having one vote for each acre or portion thereof owned within the proposed District. Ballots for the special election may be distributed by mail or by personal service.

**Section 7.** At the time and place set forth above for the Hearing, the City Council will receive testimony as to whether the proposed Community Facilities District No. 2024-3 shall be established and as to the method of apportionment of the special tax and shall consider:

- (A). if an ad valorem property tax is currently being levied on property within proposed Community Facilities District No. 2024-3 for the exclusive purpose of paying principal of or interest on bonds, lease payments or other indebtedness incurred to finance construction of capital facilities; and
- (B). if the capital facilities to be financed and constructed by Community Facilities District No. 2024-3 will provide the same services as were provided by the capital facilities mentioned in subsection (a); and
- (C). if the City Council makes the findings specified in subsections (a) and (b) above, it will consider appropriate action to determine whether the total annual amount of ad valorem property tax revenue due from parcels within Community Facilities District No. 2024-3, for purposes of paying principal and interest on the debt identified in subsection (a) above, shall not be increased after the date on which Community Facilities District No. 2024-3 is established, or after a later date determined by the City Council with the concurrence of the legislative body that levied the property tax in question.

- Section 8.** At the time and place set forth above for the Hearing, any interested person, including all persons owning lands or registered to vote within proposed Community Facilities District No. 2024-3, may appear and be heard.
- Section 9.** Each City officer who is or will be responsible for providing the Facilities within proposed Community Facilities District No. 2024-3, if it is established, is hereby directed to study the proposed District and, at or before the time of the above-mentioned Hearing, file a report with the City Council containing a brief description of the public facilities by type that will in his or her opinion be required to meet adequately the needs of Community Facilities District No. 2024-3 and an estimate of the cost of providing those public facilities, including the cost of environmental evaluations of such facilities and an estimate of the fair and reasonable cost of any Incidental Expenses to be incurred.
- Section 10.** The District may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, for any authorized purpose, including, but not limited to, paying any cost incurred in creating Community Facilities District No. 2024-3. The District may enter into an agreement with the person or entity advancing the funds or work-in-kind, to repay all or a portion of the funds advanced, or to reimburse the person or entity for the value, or cost, whichever is less, of the work-in-kind, as determined by the City Council, with or without interest.
- Section 11.** The City Clerk is hereby directed to publish a notice (the "Notice") of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of proposed Community Facilities District No. 2024-3. The City Clerk is further directed to mail a copy of the Notice to each of the landowners within the boundaries of the District at least 15 days prior to the Hearing. The Notice shall contain the text or a summary of this Resolution, the time and place of the Hearing, a statement that the testimony of all interested persons or taxpayers will be heard, a description of the protest rights of the registered voters and landowners in the proposed district and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least seven (7) days prior to the date of the Hearing.
- Section 12.** The reasonably expected maximum principal amount of the bonded indebtedness to be incurred by the District for the Facilities and Incidental Expenses is Seven Million Dollars (\$7,000,000).
- Section 13.** Except to the extent limited in any bond resolution or trust indenture related to the issuance of bonds, the City Council hereby reserves to itself all rights and powers set forth in Section 53344.1 of the Act (relating to tenders in full or partial payment).
- Section 14.** This Resolution shall be effective upon its adoption.

**PASSED, APPROVED AND ADOPTED** this the 19<sup>th</sup> day of June, 2024.

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Bill Zimmerman, Mayor

Attest:

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Stephanie Roseen, Acting City Clerk

Approved as to form:

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Jeffrey T. Melching, City Attorney

**PROPOSED BOUNDARY MAP**  
COMMUNITY FACILITIES DISTRICT NO. 2024-3  
(RIVER WALK VILLAGE)  
OF THE CITY OF MENIFEE,  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

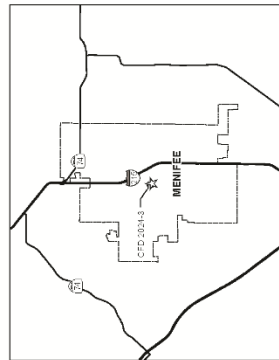
I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF COMMUNITY FACILITIES DISTRICT NO. 2024-3 (RIVER WALK VILLAGE), OF THE CITY OF MENIFEE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MENIFEE AT A REGULAR MEETING THEREOF, HELD ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, BY RESOLUTION NO. \_\_\_\_\_.

RECORDED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ AT \_\_\_\_\_  
THE HOUR OF \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M IN BOOK \_\_\_\_\_  
PAGE \_\_\_\_\_ OF MAPS OF ASSESSMENT AND COMMUNITY  
FACILITIES DISTRICTS IN THE OFFICE OF THE COUNTY  
RECORDER, IN THE COUNTY OF RIVERSIDE, STATE OF  
CALIFORNIA.

FEE: \_\_\_\_\_ NO.: \_\_\_\_\_  
PETER ALDANA, ASSESSOR, COUNTY CLERK, RECORDER

CITY CLERK  
CITY OF MENIFEE

FILED IN THE OFFICE OF THE CITY CLERK, CITY OF MENIFEE,  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY CLERK  
CITY OF MENIFEE

**SPICER**  
CONSULTING GROUP



THIS BOUNDARY MAP CORRECTLY SHOWS THE LOT OR PARCEL OF LAND INCLUDED WITHIN THE BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT. FOR DETAILS CONCERNING THE LINES AND DIMENSIONS OF LOTS OR PARCELS REFER TO THE COUNTY ASSESSOR MAPS FOR FISCAL YEAR 2024-25.

XXX\*XXX\*XXX  
ASSESSOR PARCELS NUMBER

1,500 Feet

## LEGEND

CITY BOUNDARY

CFD BOUNDARY

PARCEL LINE

ASSESSING PARCEL NUMBER

## **EXHIBIT B**

### **Types of Facilities to Be Financed by Community Facilities District No. 2024-3 (River Walk Village) of the City of Menifee**

The proposed types of public facilities and expenses to be financed by the District include:

The construction, purchase, modification, expansion, rehabilitation and/or improvement of (i) drainage, library, park, street, roadway, traffic signal and streetlights, administration and general government facilities, animal shelter facilities, fire and public safety facilities, and other public facilities of the City, including the foregoing public facilities that are included in the City's fee programs with respect to such facilities and authorized to be financed under the Mello-Roos Community Facilities Act of 1982, as amended (the "City Facilities"); and (ii) interim and permanent school facilities of Menifee Union School District, including classrooms, multi-purpose facilities, administration and auxiliary space at school facilities, athletic fields, playgrounds and recreational facilities and improvements thereto, landscaping, access roadways, drainage, sidewalks and gutters and utility lines, furniture, equipment and technology, including technology upgrades and mobile devices and infrastructure therefore, with a useful life of at least five (5) years at such school facilities, including such school facilities of Menifee Union School District that are included in Menifee Union School District's school fee program (the "School Facilities" and together, with the City Facilities, the "Facilities"), and all appurtenances and appurtenant work in connection with the foregoing Facilities, including the cost of engineering, planning, designing, materials testing, coordination, construction staking, construction management and supervision for such Facilities, and to finance the incidental expenses to be incurred, including:

- a. The cost of engineering, planning and designing the Facilities;
- b. All costs, including costs of the property owner petitioning to form the District, associated with the creation of the District, the issuance of the bonds, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the District; and
- c. Any other expenses incidental to the construction, acquisition, modification, rehabilitation, completion and inspection of the Facilities.

Capitalized terms used and not defined herein shall have the meaning set forth in the Rate and Method of Apportionment of Special Taxes for the District.

## EXHIBIT C

### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES FOR COMMUNITY FACILITIES DISTRICT NO. 2024-3 (RIVER WALK VILLAGE) OF THE CITY OF MENIFEE

A Special Tax (all capitalized terms not otherwise defined herein are defined in Section A, "Definitions", below) shall be applicable to each Assessor's Parcel of Taxable Property located within the boundaries of the City of Menifee Community Facilities District No. 2024-3 (River Walk Village) ("CFD No. 2024-3"). The amount of Special Tax to be levied in each Fiscal Year on an Assessor's Parcel shall be determined by the City Council of the City of Menifee, acting in its capacity as the legislative body of CFD No. 2024-3, by applying the appropriate Special Tax for Developed Property, Approved Property, Undeveloped Property, and Provisional Undeveloped Property that is not Exempt Property as set forth below. All of the real property, unless exempted by law or by the provisions hereof in Section F, 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:

**"Accessory Dwelling Unit"** means a residential unit of limited size including a smaller second unit that shares an Assessor's Parcel with Single Family Residential Property that has a stand-alone Residential Unit.

**"Acre" or "Acreage"** means the land area 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 parcel map or instrument. The square footage of an Assessor's Parcel is equal to the Acreage multiplied by 43,560.

**"Act"** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311) 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. 2024-3: the costs of computing the Special Taxes and preparing the Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs of remitting Special Taxes to the Trustee; the costs of the Trustee (including legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City, CFD No. 2024-3 or any designee thereof of complying with arbitrage rebate requirements; the costs to the City, CFD No. 2024-3 or any designee thereof of complying with continuing disclosure requirements of the City, CFD No. 2024-3 and any major property owner associated with applicable federal and state securities laws and the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2024-3 or any designee thereof related to an appeal of the Special Tax; the costs associated with the release of funds from an escrow account; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated by the CFD Administrator or advanced by the City or CFD No. 2024-3 for any other administrative



purposes of CFD No. 2024-3, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"Approved Property"** means all Assessor's Parcels of Taxable Property: (i) that are included in a Final Map that was recorded prior to the January 1<sup>st</sup> preceding the Fiscal Year in which the Special Tax is being levied, (ii) that have an assigned Assessor's Parcel Number from the County shown on an Assessor's Parcel Map for the individual lot included on the Final Map, and (iii) that have not been issued a building permit on or before May 1<sup>st</sup> preceding the Fiscal Year in which the Special Tax is being levied.

**"Assessor's Parcel"** means a lot or parcel of land designated on 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.

**"Assessor's Parcel Number"** means that number assigned to an Assessor's Parcel by the County for purposes of identification.

**"Assigned Special Tax"** means the Special Tax of that name described in Section D below.

**"Backup Special Tax"** means the Special Tax of that name described in Section D below.

**"Bonds"** means any obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals, or long-term contracts, or any refunding thereof, to which the Special Tax of CFD No. 2024-3 have been pledged.

**"Boundary Map"** means a recorded map of the CFD which indicates the boundaries of the CFD.

**"Building Permit"** means the first legal document issued by the City giving official permission for new construction. For purposes of this definition, "Building Permit" may or may not include expired or cancelled building permits, or any subsequent building permit document(s) authorizing new construction on an Assessor's Parcel that are issued or changed by the City after the first original issuance, as determined by the CFD Administrator, provided that following such determination the Maximum Special Tax that may be levied on all Assessor's Parcels of Taxable Property will be at least 1.1 times annual debt service on all outstanding Bonds plus the estimated annual Administrative Expenses.

**"Building Square Footage" or "BSF"** means the square footage of assessable internal living space, exclusive of garages or other structures not used as living space, as determined by reference to the Building Permit for such Assessor's Parcel.

**"Calendar Year"** means the period commencing January 1 of any year and ending the following December 31.

**"CFD" or "CFD No. 2024-3"** means Community Facilities District No. 2024-3 (River Walk Village) established by the City under the Act.

**"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 Taxes.

**"City"** means the City of Menifee, State of California.

**"City Council"** means the City Council of the City of Menifee, acting as the legislative body of CFD No. 2024-3.

**"Condominium Plan"** means a condominium plan pursuant to California Civil Code, Section 6624.

**"County"** means the County of Riverside, State of California.

**"Developed Property"** means all Assessor's Parcels that: (i) are included in a Final Map that was recorded prior to the January 1<sup>st</sup> preceding the Fiscal Year in which the Special Tax is being levied, (ii) have an Assessor's Parcel Number from the County shown on an Assessor's Parcel Map for the individual lot included on the Final Map, and (iii) for which a Building Permit for new construction was issued on or before May 1<sup>st</sup> preceding the Fiscal Year in which the Special Tax is being levied.

**"Exempt Property"** means all Assessor's Parcels designated as being exempt from Special Taxes as provided for in Section F.

**"Final Map"** means a subdivision of property by recordation of a final map, parcel map, or lot line adjustment, pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) or recordation of a Condominium Plan pursuant to California Civil Code Section 6624 that creates individual lots for which Building Permits may be issued without further subdivision.

**"Fiscal Year"** means the period commencing on July 1<sup>st</sup> of any year and ending the following June 30<sup>th</sup>.

**"Indenture"** means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**"Land Use Category"** means any of the categories listed in Table 1 of Section D.

**"Maximum Special Tax"** means for each Assessor's Parcel, the maximum Special Tax, determined in accordance with Section D below, that can be levied by CFD No. 2024-3 on such Assessor's Parcel.

**"Multifamily Property"** means all Assessor's Parcels of Developed 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, as determined by the CFD Administrator.

**"Non-Residential Property"** means all Assessor's Parcels of Developed Property for which a Building Permit(s) was issued for a non-residential use. The CFD Administrator shall make the determination if an Assessor's Parcel is Non-Residential Property.

**"Partial Prepayment Amount"** means the amount required to prepay a portion of the Special Tax obligation for an Assessor's Parcel, as described in Section G.2.

**"Prepayment Amount"** means the amount required to prepay the Special Tax obligation in full for an Assessor's Parcel, as described in Section G.1.

**"Proportionately"** means for Taxable Property that is (i) Developed Property, that the ratio of the actual Special Tax levy to the Assigned Special Tax is the same for all Assessor's Parcels of Developed Property, (ii) Approved Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is the same for all Assessor's Parcels of Approved Property, and (iii) Undeveloped Property or Provisional Undeveloped Property, that the ratio of the actual Special Tax levy per Acre to the Maximum Special Tax per Acre is the same for all Assessor's Parcels of Undeveloped Property or Provisional Undeveloped Property, as applicable.

**"Provisional Undeveloped Property"** means all Assessor's Parcels of Taxable Property that would otherwise be classified as Exempt Property pursuant to the provisions of Section F, but cannot be classified as Exempt Property because to do so would reduce the Acreage of all Taxable Property below the required minimum Acreage set forth in Section F.

**"Rate and Method of Apportionment"** means this Rate and Method of Apportionment of Special Tax for CFD No. 2024-3.

**"Residential Property"** means all Assessor's Parcels of Developed Property for which a Building Permit has been issued for purposes of constructing one or more Residential Units.

**"Residential Unit" or "RU"** means a residential unit that is used or intended to be used as a domicile by one or more persons, as determined by the CFD Administrator. An Accessory Dwelling Unit that shares an Assessor's Parcel with a Single Family Residential Property shall not be considered a Residential Unit for purposes of this Rate and Method of Apportionment.

**"Single Family Residential Property"** means all Assessor's Parcels of Residential Property other than Multifamily Property.

**"Special Tax" or "Special Taxes"** means any of the special taxes authorized to be levied within CFD No. 2024-3 pursuant to the Act to fund the Special Tax Requirement.

**"Special Tax Requirement "** means the amount required in any Fiscal Year to pay: (i) the debt service or the periodic costs on all outstanding Bonds due in the Calendar Year that commences in such Fiscal Year, (ii) Administrative Expenses, (iii) the costs associated with the release of funds from an escrow account, (iv) any amount required to replenish any reserve funds established in association with the Bonds (provided that the same amount was not previously levied), (v) an amount up to any anticipated shortfall due to Special Tax delinquencies and (vi) for the collection or accumulation of funds for the acquisition or construction of facilities authorized by CFD No. 2024-3 or the payment of debt service on Bonds anticipated to be issued, provided that the inclusion of such amount does not cause an increase in the levy of Special Tax on Approved Property or Undeveloped Property as set forth in Steps Two or Three of Section E., less (vii) any amounts available to pay debt service or other periodic costs on the Bonds pursuant to the Indenture.

**"Taxable Property"** means all Assessor's Parcels within CFD No. 2024-3, which are not Exempt Property.

**"Taxable Unit"** means either a Residential Unit or an Acre.

**"Trustee"** means the trustee, fiscal agent, or paying agent under the Indenture.

**"Undeveloped Property"** means all Assessor's Parcels of Taxable Property which are not Developed Property, Approved Property, or Provisional Undeveloped Property.

## **B. SPECIAL TAX**

Commencing Fiscal Year 2024-2025 and for each subsequent Fiscal Year, the City Council shall levy Special Taxes on all Taxable Property, up to the applicable Maximum Special Tax, to fund the Special Tax Requirement.

## **C. ASSIGNMENT TO LAND USE CATEGORY FOR SPECIAL TAX**

Each Fiscal Year, beginning with Fiscal Year 2024-2025, each Assessor's Parcel within CFD No. 2024-3 shall be classified as Taxable Property or Exempt Property. In addition, each Assessor's Parcel of Taxable Property shall be further classified as Developed Property, Approved Property, Undeveloped Property or Provisional Undeveloped Property.

Assessor's Parcels of Developed Property shall further be classified as Residential Property or Non-Residential Property. Each Assessor's Parcel of Residential Property shall further be classified as a Single Family Residential Property or Multifamily Property. Each Assessor's Parcel of Single Family Residential Property shall be further assigned to a Land Use Category based on its Building Square Footage.

In the event that there are Assessor's Parcel(s) for which one or more Building Permits for Residential Units have been issued and the County has not yet assigned final Assessor's Parcel Number(s) to such Assessor's Parcel(s) (in accordance with the Final Map or Condominium Plan), the amount of the Special Tax levy on such Assessor's Parcel for each Fiscal Year shall be determined as follows: (1) the CFD Administrator shall first determine an amount of the Maximum Special Tax for such Assessor's Parcel, based on the classification of such Assessor's Parcel as Undeveloped Property; (2) the amount of the Special Tax for the Residential Units on such Assessor's Parcel for which Building Permits have been issued shall be determined based on the Developed Property Special Tax rates and such amount shall be levied as Developed Property in accordance with Step 1 of Section E below; and (3) the amount of the Special Tax on the Taxable Property in such Assessor's Parcel not subject to the Special Tax levy in clause (2) shall be equal to: (A) the percentage of the Maximum Special Tax rate levied on Undeveloped Property pursuant to Step 3 of Section E below, multiplied by the total of the amount determined in clause (1), less (B) the amount determined in clause (2).

## **D. MAXIMUM SPECIAL TAX**

### **1. Developed Property**

The Maximum Special Tax for each Assessor's Parcel of Single Family Residential Property in any Fiscal Year shall be the greater of (i) the Assigned Special Tax for such Assessor's Parcel or (ii) the Backup Special Tax.

The Maximum Special Tax for each Assessor's Parcel of Multifamily Property and Non-Residential Property shall be the applicable Assigned Special Tax described in Table 1 of Section D.

#### **a. Assigned Special Tax**

Each Fiscal Year, each Assessor's Parcel of Single Family Residential Property, Multifamily Property or Non-Residential Property shall be subject to an Assigned Special Tax. The Assigned Special Tax for Fiscal Year 2024-2025 applicable to an Assessor's Parcel of Developed Property shall be determined pursuant to Table 1 below.

**TABLE 1  
ASSIGNED SPECIAL TAX FOR DEVELOPED PROPERTY  
FISCAL YEAR 2024-2025**

<b>Land Use Category</b>	<b>Taxable Unit</b>	<b>Building Square Footage</b>	<b>Assigned Special Tax Per Taxable Unit</b>
1. Single Family Residential Property	RU	Less than 1,400 sq. ft	\$1,605.00
2. Single Family Residential Property	RU	1,400 sq. ft to 1,550 sq. ft	\$1,635.00
3. Single Family Residential Property	RU	1,551 sq. ft to 1,700 sq. ft	\$1,720.00
4. Single Family Residential Property	RU	Greater than 1,700 sq. ft	\$1,770.00
5. Multifamily Property	Acre	N/A	\$43,584.00
6. Non-Residential Property	Acre	N/A	\$43,584.00

On each July 1, commencing July 1, 2025, the Assigned Special Tax rate for Developed Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

b. Multiple Land Use Categories

In some instances an Assessor's Parcel of Developed Property may contain more than one Land Use Category. The Maximum Special Tax levied on an Assessor's Parcel shall be the sum of the Maximum Special Tax for each Taxable Unit for all Land Use Categories located on the Assessor's Parcel. The CFD Administrator's allocation to each type of property shall be final.

c. Backup Special Tax

The Backup Special Tax for an Assessor's Parcel within a Final Map classified as Single Family Residential Property or Approved Property expected to be classified as Single Family Residential Property shall be calculated according to the following formula.

$$B = (U \times A) / L$$

The terms above have the following meanings:

B = Backup Special Tax per Assessor's Parcel classified as Single Family Residential Property or Approved Property expected to be classified as Single Family Residential Property within the Final Map.

U = Maximum Special Tax per Acre of Undeveloped Property per Section D.3 below.

A = Acreage of Single Family Residential Property expected to exist after build out in such Final Map at the time of calculation, as determined by the Administrator

L = Number of Assessor's Parcels of Single Family Residential Property expected to exist after build out in such Final Map at the time of calculation, as determined by the Administrator.

In the event any portion of the Final Map is changed or modified, the Backup Special Tax for all Assessor's Parcels within such changed or modified area shall be \$43,584 per Acre.

Notwithstanding the foregoing, the Backup Special Tax for an Assessor's Parcel of Developed Property for which a certificate of occupancy has been granted may not be revised.

In the event any superseding Final Map is recorded as a Final Map within the boundaries of the CFD, the Backup Special Tax for all Assessor's Parcels within such Final Map shall be \$43,584 per Acre. The Backup Special Tax shall not apply to Multifamily Residential Property or Non-Residential Property.

On each July 1, commencing July 1, 2025, the Backup Special Tax rate shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

## **2. Approved Property**

The Maximum Special Tax for each Assessor's Parcel of Approved Property expected to be classified as Single Family Residential Property shall be the Backup Special Tax computed pursuant to Section D.1.c above.

The Maximum Special Tax for each Assessor's Parcel of Approved Property not expected to be classified as Single Family Residential Property shall be \$43,584 per Acre.

On each July 1, commencing July 1, 2025, the Maximum Special Tax rate for Approved Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

## **3. Undeveloped Property and Provisional Undeveloped Property**

The Maximum Special Tax for each Assessor's Parcel of Undeveloped Property and Provisional Undeveloped Property shall be \$43,584 per Acre.

On each July 1, commencing July 1, 2025, the Maximum Special Tax rate for Undeveloped Property and Provisional Undeveloped Property shall be increased by two percent (2.00%) of the amount in effect in the prior Fiscal Year.

## **E. METHOD OF APPORTIONMENT OF THE SPECIAL TAX**

Commencing Fiscal Year 2024-2025 and for each subsequent Fiscal Year, the City Council shall levy Special Taxes on all Taxable Property in accordance with the following steps:

Step One: The Special Tax shall be levied Proportionately on each Assessor's Parcel of Developed Property at up to 100% of the applicable Assigned Special Tax rates in Table 1 to satisfy the Special Tax Requirement.

Step Two: If additional moneys are needed to satisfy the Special Tax Requirement after the first step has been completed, the Special Tax shall be levied Proportionately on

each Assessor's Parcel of Approved Property at up to 100% of the Maximum Special Tax applicable to each such Assessor's Parcel as needed to satisfy the Special Tax Requirement.

Step Three: If additional moneys are needed to satisfy the Special Tax Requirement after the first two steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to 100% of the Maximum Special Tax applicable to each such Assessor's Parcel as needed to satisfy the Special Tax Requirement.

Step Four: If additional moneys are needed to satisfy the Special Tax Requirement after the first three steps have been completed, then the Special Tax levy on each Assessor's Parcel of Developed Property for which the Maximum Special Tax is the Backup Special Tax shall be increased in equal percentages from the Assigned Special Tax up to 100% of the Backup Special Tax as needed to satisfy the Special Tax Requirement.

Step Five: If additional moneys are needed to satisfy the Special Tax Requirement after the first four steps have been completed, the Special Tax shall be levied Proportionately on each Assessor's Parcel of Provisional Undeveloped Property up to 100% of the Maximum Special Tax applicable to each such Assessor's Parcel as needed to satisfy the Special Tax Requirement.

Notwithstanding the above, under no circumstances will the Special Taxes levied in any Fiscal Year against any Assessor's Parcel of Residential Property as a result of a delinquency in the payment of the Special Tax applicable to any other Assessor's Parcel be increased by more than ten percent (10%) above the amount that would have been levied in that Fiscal Year had there never been any such delinquency or default.

## **F. EXEMPTIONS**

The City shall classify as Exempt Property, in the following order of priority, (i) Assessor's Parcels which are owned by, irrevocably offered for dedication, encumbered by or restricted in use by the State of California, Federal or other local governments, including school districts, (ii) Assessor's Parcels which are used as places of worship and are exempt from *ad valorem* property taxes because they are owned by a religious organization, (iii) Assessor's Parcels which are owned by, irrevocably offered for dedication, encumbered by or restricted in use by a homeowners' association, (iv) Assessor's Parcels with public or utility easements making impractical their utilization for other than the purposes set forth in the easement, (v) Assessor's Parcels which are privately owned and are encumbered by or restricted solely for public uses, (vi) Assessor's Parcels which are classified as Non-Residential Property or (vii) Assessor's Parcels restricted to other types of public uses determined by the City Council, provided that no such classification would reduce the sum of all Taxable Property to less than 7.59 Acres.

Notwithstanding the above, the City Council shall not classify an Assessor's Parcel as Exempt Property if such classification would reduce the sum of all Taxable Property to less than 7.59 Acres. Assessor's Parcels which cannot be classified as Exempt Property because such classification would reduce the Acreage of all Taxable Property to less than 7.59 Acres will be classified as Provisional Undeveloped Property, and will be subject to Special Tax pursuant to Step Five in Section E.

## **G. PREPAYMENT OF SPECIAL TAX**

The following additional definitions apply to this Section G:

**“CFD Facilities”** means \$5,500,000 expressed in 2024 dollars, which shall increase by the Construction Inflation Index on July 1, 2025, and on each July 1 thereafter, or such lower amount (i) determined by the City Council as sufficient to provide the facilities under the authorized bonding program for CFD No. 2024-3, or (ii) determined by the City Council concurrently with a covenant that it will not issue any more Bonds to finance additional facilities to be supported by Special Tax levied under this Rate and Method of Apportionment.

**“Construction Fund”** means an account specifically identified in the Indenture or functionally equivalent to hold funds, which are available for expenditure to acquire or construct facilities eligible to be financed by CFD No. 2024-3.

**“Construction Inflation Index”** means the greater of (i) 2% and (ii) the annual percentage change in the Engineering News-Record Building Cost Index for the city of Los Angeles, measured as of the Calendar Year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Construction Inflation Index shall be another index as determined by the City that is reasonably comparable to the Engineering News-Record Building Cost Index for the City of Los Angeles.

**“Future Facilities Costs”** means the CFD Facilities minus (i) amounts deposited in the Construction Fund, (ii) amounts deposited in any escrow accounts funded by the Outstanding Bonds and anticipated to fund public facilities costs, and (iii) public facility costs funded by interest earnings on the Construction Fund actually earned prior to the date of prepayment, but in no event shall such amount be less than zero.

**“Outstanding Bonds”** means all previously issued Bonds issued and secured by the levy of Special Tax which will remain outstanding after the first interest and/or principal payment date following the current Fiscal Year, excluding Bonds to be redeemed at a later date with the proceeds of prior prepayments of Special Tax.

#### **1. Prepayment in Full**

The Special Tax obligation may be prepaid and permanently satisfied for (i) Assessor's Parcels of Developed Property, (ii) Assessor's Parcels of Approved Property or Undeveloped Property for which a Building Permit has been issued, (iii) Assessor's Parcels of Approved Property or Undeveloped Property for which a Building Permit has not been issued and (iv) Assessor's Parcels of Provisional Undeveloped Property. The Special Tax obligation applicable to an Assessor's Parcel may be fully prepaid and the obligation to pay the Special Tax for such Assessor's Parcel permanently satisfied as described herein; provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. An owner of an Assessor's Parcel intending to prepay the Special Tax obligation for such Assessor's Parcel shall provide the CFD Administrator with written notice of intent to prepay, and within 5 business days of receipt of such notice, the CFD Administrator shall notify such owner of the amount of the non-refundable deposit determined to cover the cost to be incurred by the CFD in calculating the Prepayment Amount (as defined below) for the Assessor's Parcel. Within 15 days of receipt of such non-refundable deposit, the CFD Administrator shall notify such owner of the Prepayment Amount for the Assessor's Parcel. Prepayment must be made not less than 60 days prior to the redemption date for any Bonds to be redeemed with the proceeds of such prepaid Special Taxes.



The Prepayment Amount shall be calculated as follows (some capitalized terms are defined below):

	Bond Redemption Amount
plus	Redemption Premium
plus	Future Facilities Amount
plus	Defeasance Amount
plus	Administrative Fees and Expenses
less	Reserve Fund Credit
Equals:	Prepayment Amount

The Prepayment Amount shall be determined as of the proposed prepayment date as follows:

1. Confirm that no Special Tax delinquencies apply to such Assessor's Parcel.
2. For an Assessor's Parcel of Developed Property, compute the Maximum Special Tax for the Assessor's Parcel. For an Assessor's Parcel of Approved Property or Undeveloped Property for which a Building Permit has been issued, compute the Maximum Special Tax for the Assessor's Parcel as though it was already designated as Developed Property, based upon the Building Permit which has been issued for the Assessor's Parcel. For an Assessor's Parcel of Approved Property or Undeveloped Property for which a Building Permit has not been issued, or Provisional Undeveloped Property, compute the Maximum Special Tax for the Assessor's Parcel.
3. Divide the Maximum Special Tax derived pursuant to paragraph 2 by the total amount of Maximum Special Taxes that could be levied assuming build out of all Assessor's Parcels of Taxable Property based on the applicable Maximum Special Tax for Assessor's Parcels of Developed Property not including any Assessor's Parcels for which the Special Tax obligation has been previously prepaid.
4. Multiply the quotient derived pursuant to paragraph 3 by the principal amount of the Outstanding Bonds to determine the amount of Outstanding Bonds to be redeemed with the Prepayment Amount (the "Bond Redemption Amount").
5. Multiply the Bond Redemption Amount by the applicable redemption premium, if any, on the Outstanding Bonds to be redeemed (the "Redemption Premium").
6. Determine the Future Facilities Costs.
7. Multiply the quotient derived pursuant to paragraph 3 by the amount determined pursuant to paragraph 6 to determine the amount of Future Facilities Costs for the Assessor's Parcel (the "Future Facilities Amount").
8. Determine the amount needed to pay interest on the Bond Redemption Amount from the first bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Outstanding Bonds on which Bonds can be redeemed from Special Tax prepayments.

9. Determine the Special Taxes levied on the Assessor's Parcel in the current Fiscal Year which have not yet been paid.

10. Determine the amount the CFD Administrator reasonably expects to derive from the investment of the Bond Redemption Amount and the Redemption Premium from the date of prepayment until the redemption date for the Outstanding Bonds to be redeemed with the Prepayment Amount.

11. Add the amounts derived pursuant to paragraphs 8 and 9 and subtract the amount derived pursuant to paragraph 10 (the "Defeasance Amount").

12. Verify the administrative fees and expenses of the CFD, the cost to invest the Prepayment Amount, the cost of redeeming the Outstanding Bonds, and the cost of recording notices to evidence the prepayment of the Special Tax obligation for the Assessor's Parcel and the redemption of Outstanding Bonds (the "Administrative Fees and Expenses").

13. The reserve fund credit (the "Reserve Fund Credit") shall equal the lesser of: (a) the expected reduction in the reserve requirement (as defined in the Indenture), if any, associated with the redemption of Outstanding Bonds as a result of the prepayment, or (b) the amount derived by subtracting the new reserve requirement (as defined in the Indenture) in effect after the redemption of Outstanding Bonds as a result of the prepayment from the balance in the reserve fund on the prepayment date, but in no event shall such amount be less than zero.

14. The Prepayment Amount is equal to the sum of the Bond Redemption Amount, the Redemption Premium, the Future Facilities Amount, the Defeasance Amount and the Administrative Fees and Expenses, less the Reserve Fund Credit.

15. From the Prepayment Amount, the Bond Redemption Amount, the Redemption Premium, and Defeasance Amount shall be deposited into the appropriate fund as established under the Indenture and be used to redeem Outstanding Bonds or make debt service payments. The Future Facilities Amount shall be deposited into the Construction Fund. The Administrative Fees and Expenses shall be retained by the CFD.

The Prepayment Amount may be sufficient to redeem other than a \$5,000 increment of Bonds. In such event, the increment above \$5,000 or an integral multiple thereof will be retained in the appropriate fund established under the Indenture to be used with the next redemption from other Special Tax prepayments of Outstanding Bonds or to make debt service payments.

As a result of the payment of the current Fiscal Year's Special Tax levy as determined pursuant to paragraph 9 above, the CFD Administrator shall remove the current Fiscal Year's Special Tax levy for the Assessor's Parcel from the County tax roll. With respect to any Assessor's Parcel for which the Special Tax obligation is prepaid, the City Council shall cause a suitable notice to be recorded in compliance with the Act, to indicate the prepayment of Special Tax obligation and the release of the Special Tax lien for the Assessor's Parcel, and the obligation to pay the Special Tax for such Assessor's Parcel shall cease.

Notwithstanding the foregoing, no Special Tax prepayment shall be allowed unless the amount of Maximum Special Tax that may be levied on all Assessor's Parcels of Taxable Property after the proposed prepayment will be at least 1.1 times maximum annual debt service on the

Bonds that will remain outstanding after the prepayment plus the estimated annual Administrative Expenses.

Tenders of Bonds in prepayment of the Special Tax obligation may be accepted upon the terms and conditions established by the City Council pursuant to the Act. However, the use of Bond tenders shall only be allowed on a case-by-case basis as specifically approved by the City Council.

## **2. Prepayment in Part**

The Special Tax obligation for an Assessor's Parcel of Developed Property, Approved Property, Undeveloped Property, or Provisional Undeveloped Property may be partially prepaid. For purposes of determining the Partial Prepayment Amount, the provisions of Section G.1 shall be modified as provided by the following formula:

$$PP = ((P_E - A) \times F) + A$$

These terms have the following meaning:

PP = Partial Prepayment Amount

$P_E$  = the Prepayment Amount calculated according to Section G.1

F = the percent by which the owner of the Assessor's Parcel(s) is partially prepaying the Special Tax obligation

A = the Administrative Fees and Expenses determined pursuant to Section G.1

The owner of an Assessor's Parcel who desires to partially prepay the Special Tax obligation for the Assessor's Parcel shall notify the CFD Administrator of (i) such owner's intent to partially prepay the Special Tax obligation, (ii) the percentage of the Special Tax obligation such owner wishes to prepay, and (iii) the company or agency that will be acting as the escrow agent, if any. Within 5 days of receipt of such notice, the CFD Administrator shall notify such property owner of the amount of the non-refundable deposit determined to cover the cost to be incurred by the CFD in calculating the Partial Prepayment Amount. Within 15 business days of receipt of such non-refundable deposit, the CFD Administrator shall notify such owner of the amount of the Partial Prepayment Amount for the Assessor's Parcel. A Partial Prepayment Amount must be made not less than 60 days prior to the redemption date for the Outstanding Bonds to be redeemed with the proceeds of the Partial Prepayment Amount.

With respect to any Assessor's Parcel for which the Special Tax obligation is partially prepaid, the CFD Administrator shall (i) distribute the Partial Prepayment Amount as provided in Paragraph 15 of Section G.1, and (ii) indicate in the records of the CFD that there has been a partial prepayment for the Assessor's Parcel and that a portion of the Special Tax obligation equal to the remaining percentage ( $1.00 - F$ ) of the applicable Special Tax will continue to be levied on the Assessor's Parcel pursuant to Section E.

## **H. TERMINATION OF SPECIAL TAX**

For each Fiscal Year that any Bonds are outstanding the Special Tax shall be levied on all Assessor's Parcels subject to the Special Tax pursuant to Section E. The Special Tax shall cease not later than the 2069-2070 Fiscal Year, however, Special Taxes will cease to be levied in an earlier Fiscal Year if the CFD Administrator has determined (i) that all the required interest and principal payments on the CFD No. 2024-3 Bonds have been paid; (ii) all authorized facilities of CFD No. 2024-3 have been acquired and all reimbursements to the developer have been paid,

(iii) no delinquent Special Taxes remain uncollected and (iv) all other obligations of CFD No. 2024-3 have been satisfied.

## **I. 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 CFD No. 2024-3 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.

## **J. APPEALS OF SPECIAL TAXES**

Any taxpayer may file a written appeal of the Special Taxes levied on his/her Assessor's Parcel(s) with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During 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, the CFD Administrator shall grant a credit to eliminate or reduce future Special Taxes on the appellant's Assessor's Parcel(s). No refunds of previously paid Special Taxes shall be made unless approved by the CFD Administrator.

The CFD Administrator shall interpret this Rate and Method of Apportionment and make determinations relative to the annual levy and administration of the Special Taxes and any taxpayer who appeals, as herein specified.