

ORDINANCE NO. 1443

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF INDIO ACTING AS THE LEGISLATIVE BODY OF CITY OF INDIO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (LAW ENFORCEMENT, FIRE AND PARAMEDIC SERVICES) AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN ANNEXATION AREA NOS. 55, 56, 57, 58, 59, 60, 61 AND 62 ANNEXED TO SAID DISTRICT

WHEREAS, on July 6, 2005, the City Council (the "Council") of the City of Indio, California (the "City"), adopted Resolution No. 8995 stating its intention to annex certain properties, consisting of (Tract 32304 – Sun Desert Homes) ("Annexation Area No. 55"), (Tract 33014 – Villa La Jolla) ("Annexation Area No. 56"), (Tract 32411 – Barcelona) ("Annexation Area No. 57"), (Tract 33435 – Montana Del Oro) ("Annexation Area No. 58"), (Tract 33089 – Cameo Homes) ("Annexation Area No. 59"), (Trendwest Resorts) ("Annexation Area No. 60") and (Tract 32425 – Villa De Vinci) ("Annexation Area No. 61"), into City of Indio Community Facilities District No. 2004-1 (Law Enforcement, Fire and Paramedic Services) (the "District") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, (the "Act"); and

WHEREAS, on August 3, 2005, the Council also adopted Resolution No. 9030 stating its intention to annex certain properties, consisting of (Tract 29714 – Dillion Lake Estates) ("Annexation Area No. 62") into District pursuant to the Act; and

WHEREAS, notice was published as required by law relative to the intention of the Council to annex Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 into the District; and

WHEREAS, on September 7, 2005 this Council held a noticed public hearing as required by law relative to the determination to proceed with the annexation of Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 into the District and the rate and method of apportionment and manner of collection of the special tax to be levied within Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 to finance certain public services; and

WHEREAS, at said hearing all persons desiring to be heard on all matters pertaining to the annexation of Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 were heard and a full and fair hearing was held; and

WHEREAS, the Council subsequent to said hearing adopted Resolution No. 9041 determining the validity of prior proceedings relative to the annexation of Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62, annexed Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 into the District and authorized the levy of a special tax within Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62; and

WHEREAS, the Council subsequent to said hearing adopted Resolution No. 9042 which called an election within Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 for September 7, 2005 on the proposition of levying a special tax; and

WHEREAS, on September 7, 2005 an election was held within Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 in which the eligible electors approved by more than two-thirds vote the proposition of levying a special tax.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF INDIO AS FOLLOWS:

Section 1. A special tax is levied within the boundaries of Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 pursuant to the formula set forth in Exhibit "A" attached hereto and incorporated by reference in an amount necessary to finance a portion of the cost of providing law enforcement, fire and paramedic services that are in addition to those provided in the territory within Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62 prior to the annexation of Annexation Area Nos. 55, 56, 57, 58, 59, 60, 61 and 62, respectively, into the District.

Section 2. This legislative body is hereby further authorized each year, by resolution adopted as provided in section 53340 of the Act, to determine the specific special tax rate and amount to be levied for the next fiscal year, except that the special tax rate to be levied shall not exceed the maximum rate set forth in Exhibit "A."

Section 3. All of the collections of the special tax shall be used as provided for in the Act and Ordinance No. 1443 of the Council.

Section 4. The above authorized special tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency and provided for ad valorem taxes.

Section 5. The Mayor shall sign this ordinance and the City Clerk shall attest to such signature. The City Clerk is directed to cause the title and summary or text of the this ordinance, together with the vote thereon, to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated within the territorial jurisdiction of the City, and to post at the main office of the City a certified copy of the full text of the adopted ordinance along with the names of the Council Members voting for and against the ordinance.

Section 6. This ordinance relating to the levy of the special tax takes effect and shall be in force from and after 30 days from the date of final passage. A copy of this ordinance shall be transmitted to the Clerk of the Board of Supervisors of Riverside County, the Assessor and the Treasurer-Tax Collector of Riverside County.

PASSED, APPROVED and ADOPTED this 21st day of September, 2005 by the following vote:

AYES: Gilbert, Godfrey, Ramos Watson, Wilson, Fesmire

NOES: None



MELANIE FESMIRE, MAYOR

ATTEST:



**CYNTHIA HERNANDEZ, CMC
CITY CLERK**

**RATE AND METHOD OF APPORTIONMENT FOR
CITY OF INDIO COMMUNITY FACILITIES DISTRICT NO. 2004-1
(LAW ENFORCEMENT, FIRE and PARAMEDIC SERVICES)**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels in Community Facilities District No. 2004-1 of the City of Indio ("CFD No. 2004-1") and collected each Fiscal Year commencing in Fiscal Year 2004-05, in an amount determined by the City Council of the City of Indio, through the application of the Rate and Method of Apportionment as described below. All of the real property in CFD No. 2004-1, 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 Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"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 County Assessor of the County designating parcels by Assessor's parcel number.

"CFD Administrator" means an official of the City, or designee thereof, responsible for providing for the levy and collection of the Special Taxes.

"CFD No. 2004-1" means City of Indio Community Facilities District No. 2004-1 (Law Enforcement, Fire and Paramedic Services).

"City" means the City of Indio.

"City Council" means the City Council of the City.

"Commercial or Industrial Property" means for each Fiscal Year, property for which a building permit for new construction of a commercial or industrial use building was issued after May 1, 2004.

"County" means the County of Riverside.

"Developed Multi-Family Residential Property" means for each Fiscal Year, all Taxable Property for which a building permit for new construction of a multi-family dwelling with two or more units was issued after May 1, 2004 and prior to June 30 of the prior Fiscal Year, exclusive of property for which the property owner pays Transient Occupancy Taxes or the property owner has entered into an agreement with the City pursuant to which such property owner pays Transient

Occupancy Taxes.

“Developed Property” means for each Fiscal Year, all Developed Multi-Family Residential Property and Developed Single-Family Residential Property.

“Developed Single-Family Residential Property” means for each Fiscal Year, all Taxable Property for which a building permit for new construction of a single-family dwelling unit was issued after May 1, 2004 and prior to June 30 of the prior Fiscal Year, excluding any Developed Single-Family Restricted Residential Property.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Resolution of Formation” means the resolution adopted by the City as authorized by Section 53325.1 of the California Government Code.

“Special Tax” means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property.

“State” means the State of California.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2004-1 which are not exempt from the Special Tax pursuant to law or Section E below.

“Transient Occupancy Taxes” means those taxes payable to the City pursuant to Ordinance No. 408, as it may be amended from time to time.

“Undeveloped Property” means, for each Fiscal Year, all Assessor’s Parcels not classified as Developed Property or Commercial or Industrial Property.

B. ASSIGNMENT TO LAND USE CLASSES

Each Fiscal Year, all Taxable Property within CFD No. 2004-1 shall be classified as Developed Single-Family Residential Property, or Developed Multi-Family Residential Property, and shall be subject to Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX

1. Developed Single-Family Residential Property

a. Maximum Special Tax

The 2004-05 Maximum Special Tax for each Assessor’s Parcel classified as Developed Single-Family Residential Property shall be \$360.

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2005, the Maximum Special Tax shall be increased by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year.

2. Developed Multi-Family Residential Property

a. Maximum Special Tax

The 2004-05 Maximum Special Tax for each Assessor's Parcel classified as Developed Multi-Family Residential Property shall be \$360 multiplied by the number of separate dwelling units applicable to such Assessor's Parcel.

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2005, the Maximum Special Tax shall be increased by an amount equal to two percent (2%) of the amount in effect for the previous Fiscal Year.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2004-05 and for each following Fiscal Year, the City Council shall levy the Special Tax at the Maximum Special Tax on all Developed Single-Family Residential Property and Developed Multi-Family Residential Property.

E. EXEMPTIONS; EXCLUSIONS

No Special Tax shall be levied on Undeveloped Property, Commercial or Industrial Property or for Developed Property developed as part of a development with less than 4 units. In the event that a Developed Multi-Family Residential Property that has been excluded from a levy of the Special Tax by reason of the payment by the property owner of Transient Occupancy Tax, and should that payment be terminated, such Assessor Parcel shall not longer be excluded from Developed Multi-Family Residential Property and will be subject to the Special Tax.

F. APPEALS AND INTERPRETATIONS

Any taxpayer may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the 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 calculation of 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 eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Board by filing a written notice of appeal with the Board Secretary, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

G. MANNER OF COLLECTION

The Special Tax will be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2004-1 may directly bill the Special Tax, 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.

H. PREPAYMENT OF THE SPECIAL TAX

The Special Tax may not be prepaid.

I. TERM OF THE SPECIAL TAX

The Annual Maximum Special Tax shall be levied in perpetuity or until Law Enforcement, Fire and Paramedic Services are no longer being provided by the City within CFD No. 2004-1, whichever is earlier. The Maximum Annual Special Tax shall be reviewed by the City Council at the end of each ten year period.
