

RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA DECLARING ITS INTENTION TO ESTABLISH CITY OF FONTANA COMMUNITY FACILITIES DISTRICT NO. 114M AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX THEREIN TO FINANCE THE PROVISION OF CERTAIN PUBLIC SERVICES

WHEREAS, the City Council (the “City Council”) of the City of Fontana (the “City”) has received a written petition from the owner (the “Owner”) 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 described in Exhibit A hereto (the “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; 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 Owner is the owners of all of the property which is proposed to be included within the proposed community facilities district; and

WHEREAS, pursuant to such petition the City Council desires to initiate proceedings to consider the formation of a community facilities district which shall hereinafter be referred to as City of Fontana Community Facilities District No. 114M (the “District”); 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 previously established its local goals and policies concerning the use of community facilities districts (the “Policy”) and the proposed formation complies with the Policy; and

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

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Fontana, as follows:

Section 1. Recitals. The foregoing recitals are true and correct and the City Council hereby finds and determines.

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 District is “City of Fontana Community Facilities District No. 114M.”

Section 3. Description and Map of Boundaries. The boundaries of the District are shown on the map entitled “Proposed Boundaries of City of Fontana Community Facilities District No. 114M, San Bernardino County, State of California” which is on file with the City Clerk, and attached hereto as Exhibit “B” 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 San Bernardino.

Section 4. Types of Services; Incidental Expenses. It is the further intention of the City Council to finance the Services generally described in Exhibit “A” attached hereto and incorporated herein by this reference and all costs associated with the establishment of the District, 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 District.

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 District, shall be annually levied within the boundaries of the District 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 “C (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 District to clearly estimate the maximum amount that such person will have to pay.

Under no circumstances will the special taxes levied in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels by more than ten percent (10%) above the amount that would have been levied in that fiscal year had there not been any such delinquencies or defaults. Further, the maximum authorized special tax for financing the Services that may be levied against any parcel used for private residential purposes is specified in the Rate and Method as a dollar

amount. A parcel shall be considered “used for private residential purposes” not later than the date on which an occupancy permit or the equivalent for private residential use is issued for such parcel.

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 District 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 District, and that lien shall continue in force and effect until the collection of the special taxes ceases.

It is the intention of the City Council, pursuant to Section 53325.7 of the Act, to establish the initial appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the District in the amount of \$5,000,000.

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 property may be exempt from the levy of special taxes pursuant to the provisions of the Rate and Method.

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 District.

Section 8. Hearing. A public hearing will be held by the City Council to consider the formation of the District, 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 2:00 p.m. on May 14, 2024 in the City Council Chambers, 8353 Sierra Avenue, Fontana, California. At such hearing, any persons interested, including all taxpayers, property owners, and registered voters within the District, may appear and be heard, and the testimony of all interested persons or taxpayers for or against the establishment of the District and the levy of the special taxes, or the extent of the District, 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 District and not exempt from the levy of special taxes, or the owners or one-half or more of the area of the land in said territory, file written protests against the formation of the District, 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 District 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 District, those types of Services will be eliminated from the resolution of formation establishing the District.

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 District 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 District.

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 District 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 District 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 District 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 officers of the City who will be responsible for providing the proposed Services to be provided within and financed by the District, if it is established, are hereby directed to study the District, and, at or before the time of said hearing, 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 District 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 District, 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 each of 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 District. The City Council hereby requires this information to be confirmed before ordering the election.

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

APPROVED AND ADOPTED this 9th day of April, 2024.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine Key, City Clerk of the City of Fontana, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City of Fontana at a regular meeting on the 9th day of April, 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk

EXHIBIT A

DESCRIPTION OF PUBLIC SERVICES

The types of services to be provided by the proposed community facilities district are the maintenance of parks, parkways, street lighting and open space within and surrounding the area of the District and within and surrounding the area of any territory to be annexed to the District in the future and the costs associated with the determination of the amount of a collection of taxes, the payment of taxes and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district.

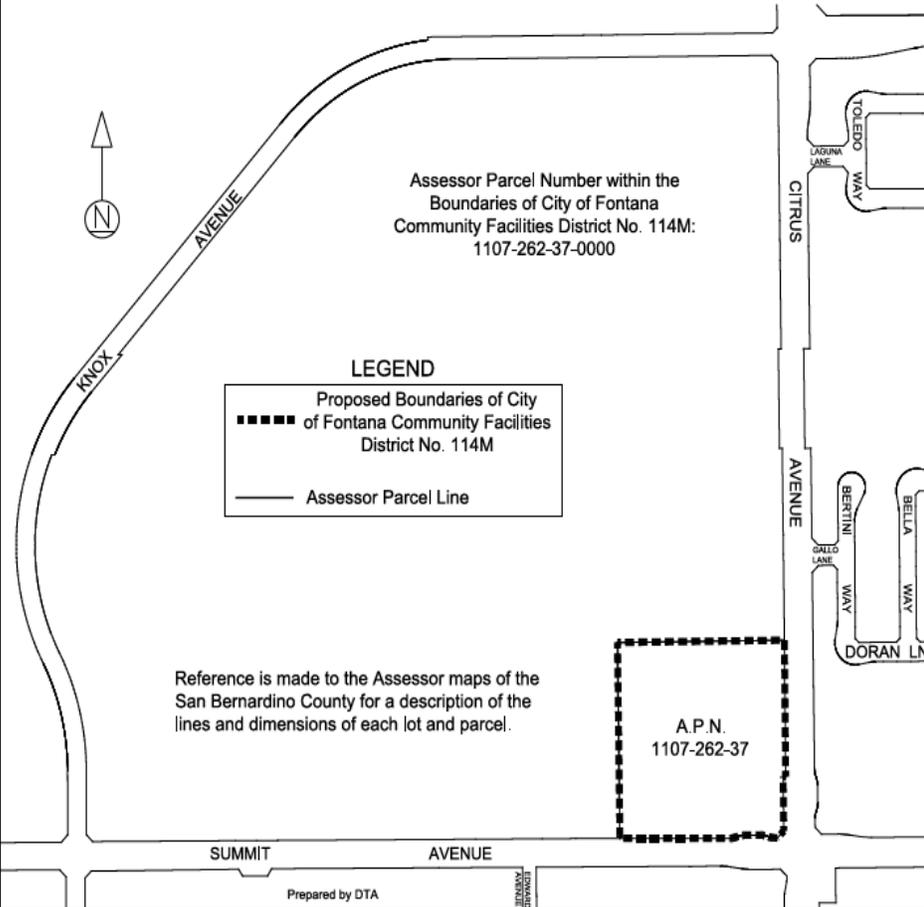
“Maintenance” means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of such parks, parkways, street lighting and open space, and the incidental costs related thereto, including but not limited to:

- a) Repair, removal, or replacement of all or any part of any improvement.
- b) Providing for the life, growth, health, and beauty of landscaping, including cultivation, irrigation, trimming, spraying, fertilizing, or treating for disease or injury.
- c) The removal of trimmings, rubbish, debris, and other solid waste.
- d) The cleaning, sandblasting, and painting of walls and other improvements to remove or cover graffiti.

EXHIBIT B
BOUNDARY MAP

SHEET 1 OF 1

**PROPOSED BOUNDARIES OF
CITY OF FONTANA
COMMUNITY FACILITIES DISTRICT NO. 114M
SAN BERNARDINO COUNTY
STATE OF CALIFORNIA**



(1) Filed in the office of the Clerk of the City of Fontana this day of _____ 2024.

Germaine Key, Clerk of the City of Fontana, California

(2) I hereby certify that the within map showing the proposed boundaries of City of Fontana Community Facilities District No. 114M, San Bernardino County, State of California, was approved by the City Council of the City of Fontana at a regular meeting thereof, held on the _____ day of _____, 2024, by its Resolution No. _____.

Germaine Key, Clerk of the City of Fontana, California

(3) San Bernardino County Recorder's Certificate

This map has been filed under Document Number _____, this _____ day of _____, 2024, at _____m., in Book _____ of Maps of Assessment and Community Facilities Districts at page _____, in the office of the county recorder in San Bernardino County, State of California, at the request of the City of Fontana in the amount of \$ _____.

Chris Wilhite
Assessor-Recorder
San Bernardino County

By: _____

Deputy Recorder

Prepared by DTA

DTA
REVISIONS

EXHIBIT C

RATE AND METHOD OF APPORTIONMENT FOR COMMUNITY FACILITIES DISTRICT NO. 114M OF THE CITY OF FONTANA, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Taxable Property in City of Fontana Community Facilities District No. 114M ("CFD No. 114M") and collected each Fiscal Year, commencing in Fiscal Year 2024-2025, in an amount determined by the City Council of the City of Fontana, through the application of the Rate and Method of Apportionment as described below. All of the real property in CFD No. 114M, 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:

"Acre" or "Acreage" means the land area expressed in acres 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 map or the land area calculated to the reasonable satisfaction of the CFD Administrator using the boundaries set forth on such map or plan.

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

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 114M, including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the City, CFD No. 114M or any designee thereof of complying with City or CFD No. 114M disclosure requirements; the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 114M or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 114M for any other administrative purposes of CFD No. 114M, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"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 of San Bernardino designating parcels by Assessor's Parcel Number.

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

"CFD Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement, providing for the levy and collection of the Special Taxes, and performing other duties as set forth herein.

"CFD No. 114M" means the City of Fontana Community Facilities District No. 114M.

"City" means the City of Fontana, California.

"Council" means the City Council of the City of Fontana, acting as the legislative body of CFD No. 114M.

"County" means the County of San Bernardino.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Taxable Property for which a final tract map, parcel map, lot line adjustment or any other similar map which subdivides such parcels into lots for which a building permit could be issued for construction has been recorded with the County, as of January 1 of the previous Fiscal Year.

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

"Land Use Class" means any of the classes listed in Table 1 below.

"Maximum Special Tax" means the maximum Special Tax, determined in accordance with Section C hereof, that can be levied by CFD No. 114M in any Fiscal Year on any Assessor's Parcel.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 114M that was owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association, as of January 1 of the previous Fiscal Year.

"Proportionately" means, for Developed Property, that the ratio of the actual Special Tax levy to the Maximum Special Tax is equal for all Assessor's Parcels of Developed Property.

"Public Property" means, for each Fiscal Year, any property within the boundaries of CFD No. 114M that is (i) owned by, irrevocably offered or dedicated to the federal government, the State, the County, the City, or any local government or other public agency, provided, however, that any property leased by a public agency to a private entity

and subject to taxation under Section 53340.1 of the Act shall be taxed and classified according to its use; or (ii) encumbered by a public utility easement making impractical its use for any purpose other than that set forth in the easement. To ensure that property is classified as Public Property in the first Fiscal Year after it is acquired by, irrevocably offered for dedication to, or dedicated to a public agency, the property owner shall notify the CFD Administrator in writing of such acquisition, offer, or dedication not later than June 30 of the Fiscal Year in which the acquisition, offer, or dedication occurred.

“Rate and Method of Apportionment” means this Rate and Method of Apportionment of Special Taxes for CFD No. 114M.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor's Parcel of Taxable Property, to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount required in any Fiscal Year for CFD No. 114M to pay for: (1) maintenance services authorized to be financed by CFD No. 114M, (2) Administrative Expenses, (3) anticipated delinquent special taxes (such delinquent special taxes shall be estimated based on the delinquency rate in CFD No. 114M for the previous Fiscal Year), and (4) less a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 114M which are not exempt from the Special Tax pursuant to law or Section E below.

“Undeveloped Property” means, for each Fiscal Year, all Assessor's Parcels of Taxable Property which are not categorized as Developed Property.

"Welfare Exemption" means, for each Fiscal Year, any Assessor's Parcel that is used exclusively for charitable, hospital, or religious purposes and that has a property tax welfare exemption as indicated in the County's assessor's roll finalized as of the last preceding January 1, including those Assessor's Parcel receiving a welfare exemption under subdivision (g) of Section 214 of the California Revenue and Taxation Code.

B. ASSIGNMENT TO LAND USE CATEGORIES

For each Fiscal Year, commencing with Fiscal Year 2024-2025, all Taxable Property within CFD No. 114M shall be categorized as either Developed Property or Undeveloped Property, and shall be subject to the Special Tax in accordance with the rate and method of apportionment determined pursuant to Sections C and D below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

The Fiscal Year 2024-2025 Maximum Special Tax for each Assessor’s Parcel classified as Developed Property shall be equal to the amount shown in the table below:

TABLE 1
Fiscal Year 2024-2025
Maximum Special Tax for Developed Property

Land Use Class	FY 2024-2025 Maximum Special Tax
Developed Property	\$907 per Assessor’s Parcel

On each July 1, commencing July 1, 2025, the Maximum Special Tax for Developed Property shall increase by two percent (2%) per Fiscal Year.

2. Undeveloped Property

The Maximum Special Tax for each Assessor’s Parcel classified as Undeveloped Property shall be equal to \$0 per Acre.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2024-2025 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement and the City shall provide for the levy of the Special Tax until the total Special Tax levy equals the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year as follows:

The Special Tax shall be levied Proportionately on each Assessor’s Parcel of Developed Property at up to 100% of the Maximum Special Tax for such Assessor’s Parcel.

E. EXEMPTIONS

No Special Tax shall be levied on (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, (iv) Assessor’s Parcels which are privately owned and are encumbered by or restricted solely for public uses, (v) or any Assessor’s Parcel that has a Welfare Exemption. Should an Assessor’s Parcel, however, no longer be classified as items (i)-(v) above, including Property Owner Association Property, Public Property, or have a Welfare Exemption, its tax-exempt status will, without the necessity of any action by the Council, terminate.

The exempt status of any property will be determined by the CFD Administrator and such determination shall be final.

F. MANNER OF COLLECTION

The Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes and shall be subject to the same penalties, and the same procedure, sale and lien priority in case of delinquency as is provided for *ad valorem* property taxes; provided, however, that CFD No. 114M may directly bill the Special Tax, and/or may collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of CFD No. 114M.

G. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement, unless no longer required to pay for the authorized services as determined at the discretion of the Council.

H. APPEALS

Any landowner or resident who feels that the amount of the Special Tax levied on his/her Assessor's Parcel is in error may submit a written appeal to the CFD Administrator, provided that the appellant is current in his/her payment 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 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, a cash refund shall not be made (except for the last year of levy), but the amount of the Special Tax levied shall be appropriately modified, reduced, or eliminated through an adjustment to the Special Tax levy in the following Fiscal Year. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has thirty (30) days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payment of Special Taxes. This second appeal must specify the reasons for its disagreement with the CFD Administrator's determination.

The CFD Administrator shall interpret this Rate and Method of Apportionment for purposes of clarifying any ambiguity and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals. Any decision of the CFD Administrator shall be subject to appeal to the Council whose decision shall be final and binding as to all persons.

I. PREPAYMENT

No prepayments of the Special Tax are permitted.