

**RESOLUTION NO. 2022-38**

**RESOLUTION OF INTENTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA TO ANNEX PROPERTY INTO CITY OF COACHELLA COMMUNITY FACILITIES DISTRICT NO. 2005-1 (LAW ENFORCEMENT, FIRE AND PARAMEDIC SERVICES) AND TO AUTHORIZE THE LEVY OF A SPECIAL TAX WITHIN ANNEXATION AREA NO. 34 (VILLA VERDE APARTMENTS– APN 768-250-002 AND 768-400-001).**

**WHEREAS**, the City Council (the “Council”) of the City of Coachella (the “City”) has established City of Coachella Community Facilities District No. 2005-1 (Law Enforcement, Fire and Paramedic Services) (the “CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Section 53321 of the Government Code of the State of California (the “Act”); and,

**WHEREAS**, the CFD will finance law enforcement, fire and paramedic services that are in addition to those provided in the territory within the CFD prior to the formation of the CFD and do not supplant services already available within the territory included in the CFD subject to the levy of a special tax to pay for such services, approved at an election held within the boundaries of the CFD; and,

**WHEREAS**, the Council has provided for the annexation in the future of territory (the “Future Annexation Area”) to the CFD pursuant to the terms and provisions of the Act; and,

**WHEREAS**, the Villa Verde Apartments project was conditioned to annex into the City’s Community Facilities District No. 2005-01 as part of Architectural Review No. 19-06; and,

**WHEREAS**, the Council has determined pursuant to Section 53339.2 of the Act that public convenience and necessity require that territory be added to the CFD upon its formation; and

**WHEREAS**, the Developer has requested that it be permitted to prepay fifty-five (55) years of the Special Assessments for the Property; and

**WHEREAS**, the City has agreed to make a loan to the Developer in order to prepay the Special Assessments, and the City and the Developer wish to enter into a loan and prepayment agreement to provide for the terms and conditions upon which the Special Assessments will be prepaid; and

**WHEREAS**, the Developer needs the City Council to provide a conditional loan commitment (“Commitment”) to enter into these agreements to apply for project financing.

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

**Section 1.** The Council hereby determines to institute proceedings for the annexation of certain territory into the proposed CFD under the terms of the Act. The exterior boundaries of the area to be annexed (“Annexation Area No. 34”) are hereby specified and described to be as

shown on that certain map now on file in the office of the City Clerk entitled “Annexation Map No. 34 – Villa Verde Apartments Community Facilities District No. 2005-1 (Law Enforcement, Fire and Paramedic Services)” which map indicates by a boundary line the extent of the territory included in Annexation Area No. 34 and shall govern for all details as to the extent of Annexation Area No. 34. On the original and one copy of the map of such Annexation Area No. 34 on file in the City Clerk’s office, the City Clerk shall endorse the certificate evidencing the date and adoption of this Resolution. The City Clerk shall file the original of such map in her office and, within fifteen (15) days after the adoption of this Resolution, the City Clerk shall file a copy of such map.

**Section 2.** Except where funds are otherwise available, it is the intention of the City Council to levy annually in accordance with procedures contained in the Act a special tax (the “Special Tax”) sufficient to finance law enforcement, fire and paramedic services that are in addition to those provided in the territory within Annexation Area No. 34 prior to the annexation of Annexation Area No. 34 into the CFD and do not supplant services already available within the territory proposed to be annexed into the CFD, the costs of administering the levy and collection of the Special Tax and all other costs of the levy of the Special Tax, including any foreclosure proceedings, legal, fiscal, and financial consultant fees, election costs, and all other administrative costs of the tax levy. The Special Tax will be secured by recordation of a continuing lien against all real property in the proposed Annexation Area No. 34. The schedule of the rate and method of apportionment and manner of collection of the Special Tax is described in detail in Exhibit “A” attached hereto and by this reference incorporated herein. The annexation of Annexation Area No. 34 will not result in any change to the special tax rates levied in the CFD prior to such annexation.

The Special Tax is apportioned to each parcel on the foregoing basis pursuant to Section 53325.3 of the Act.

The maximum Special Tax applicable to a parcel to be used for private residential purposes, as set forth in Exhibit A, is specified as a dollar amount which shall be calculated and established not later than the date on which the parcel is first subject to tax because of its use for private residential purposes, and such amount shall not be increased over time by an amount in excess of 2 percent per year. Under no circumstances will the Special Tax to be levied 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 within the proposed Annexation Area No. 34. As specified by the Act, for purposes of this paragraph, a parcel shall be considered “used for private residential purposes” not later than the date on which an occupancy permit for private residential use is issued.

**Section 3.** A public hearing (the “Hearing”) on the annexation of Annexation Area No. 34 and the proposed rate and method of apportionment of the Special Tax shall be held on July 13, 2022, at 6:00 o’clock p.m., or as soon thereafter as practicable, at the chambers of the City Council of the City of Coachella, 1515 Sixth Street, Coachella, California 92236.

**Section 4.** At the time and place set forth above for the hearing, any interested person for or against the annexation of Annexation Area No. 34 to the CFD or the levying of special taxes within the proposed Annexation Area No. 34 will be heard.

**Section 5.** Each City officer who is or will be responsible Annexation Area No. 34, if they are annexed, is hereby directed to study the proposed Annexation Area No. 34 and, at or

before the time of the above-mentioned Hearing, file a report with the City Council, and which is to be made a part of the record of the Hearing, containing a brief description of Annexation Area No. 34, and his or her estimate of the cost of providing additional law enforcement, fire and paramedic services within the boundary of Annexation Area No. 34. The City Manager is directed to estimate the fair and reasonable cost of all incidental expenses, including all costs associated with the annexation of Annexation Area No. 34, determination of the amount of any special taxes, collection of any special taxes, or costs otherwise incurred in order to carry out the authorized purposes of the City with respect to Annexation Area No. 34.

**Section 6.** The City may accept advances of funds from any sources, including private persons or private entities, and is authorized and directed to use such funds for any authorized purpose, including any cost incurred by the City in annexing the proposed Annexation Area No. 34. The City may enter into an agreement to repay all of such funds as are not expended or committed for any authorized purpose at the time of the election on the levy of the Special Tax, if the proposal to levy such tax should fail, and to repay all of such funds advanced if the levy of the Special Tax shall be approved by the qualified electors of Annexation Area No. 34.

**Section 7.** The City Clerk is hereby directed to publish a notice (“Notice”) of the Hearing pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the area of the proposed Annexation Area No. 34. Such Notice shall contain the text of this Resolution, state 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 Annexation Area No. 34 as provided in Section 53339.5 of the Act and a description of the proposed voting procedure for the election required by the Act. Such publication shall be completed at least 7 days prior to the date of the Hearing.

**Section 8.** The voting procedure with respect to the annexation of the Annexation Area No. 34 and the imposition of the special tax shall be by hand delivered or mailed ballot election.

**Section 9.** Council authorizes the City Manager of Finance Director to enter into a conditional loan commitment with the developer (Conditional Loan Commitment Letter) with minor modifications as to exact wording for needed updates and to conform and clarify the letter as needed to facilitate the proper wording of the letter subject to approval by the City Attorney.

**Section 10.** The City Manager or Finance Director is authorized to enter into a prepayment and loan agreement (including a note and deed of trust) consistent with the terms of the conditional loan commitment provided the terms are met by the developer. Agreement wording will be prepared and approved by the City’s Finance Director and Attorney; however, agreement terms will be consistent in all respect with the terms outlined in the conditional loan commitment letter.

**PASSED, APPROVED and ADOPTED** this 9<sup>th</sup> day of June 2022.

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Steven A. Hernandez  
Mayor

**ATTEST:**

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Angela M. Zepeda  
City Clerk

**APPROVED AS TO FORM:**

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Carlos Campos  
City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF RIVERSIDE        ) ss.  
CITY OF COACHELLA            )

**I HEREBY CERTIFY** that the foregoing Resolution No. 2022-53 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 9<sup>th</sup> day of June 2022, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Andrea J. Carranza, MMC  
Deputy City Clerk

**EXHIBIT A**

**RATE AND METHOD OF APPORTIONMENT**