

RESOLUTION NO. 23-03

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE KIRKWOOD MEADOWS
PUBLIC UTILITY DISTRICT TO FORM COMMUNITY FACILITIES DISTRICT NO. 2023-1
(FIRE SERVICES) TO FINANCE PUBLIC SERVICES
IN AND FOR SUCH COMMUNITY FACILITIES DISTRICT**

WHEREAS, on March 3, 2023, the Board of Directors (the "Board") of the Kirkwood Meadows Public Utility District ("City") adopted a resolution entitled "A Resolution of Intention to Establish a Community Facilities District" (the "Resolution of Intention"), stating its intention to form "Kirkwood Meadows Public Utility District Community Facilities District No. 2023-1 (Fire Services)" (the "CFD") to fund fire safety, prevention, response and suppression services, medical services, and costs incidental thereto pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"); and

WHEREAS, the Resolution of Intention, describing a map of the proposed boundaries of the CFD and stating the services to be provided, the cost of providing such services, and the rate and method of apportionment of the special tax to be levied within the CFD, is on file with the Board Secretary and the provisions thereof are incorporated herein by this reference as if fully set forth herein; and

WHEREAS, on this date, this Board held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the CFD; and

WHEREAS, at the hearing all interested persons desiring to be heard on all matters pertaining to the formation of the CFD, the services to be provided therein and the levy of said special tax were heard and a full and fair hearing was held; and

WHEREAS, at the hearing evidence was presented to this Board on said matters before it, including a report caused to be prepared by the General Manager of the District (the "Report") as to the services to be provided through the CFD and the costs thereof, a copy of which is on file with the Board Secretary, and this Board at the conclusion of said hearing is fully advised in the premises; and

WHEREAS, written protests with respect to the proposed formation of the CFD, the furnishing of specified types of services and the rate and method of apportionment of the special taxes have not been filed with the Board Secretary by 50% or more of the registered voters residing within the territory of the CFD or property owners of one-half or more of the area of land within the CFD and not exempt from the proposed special tax; and

WHEREAS, the special tax proposed to be levied in the CFD to pay for the proposed services to be provided therein, as set forth in Exhibit B hereto, has not been eliminated by protest by 50% or more of the registered voters residing within the territory of the CFD or the owners of one-half or more of the area of land within the CFD and not exempt from the special tax.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. **Recitals Correct.** The foregoing recitals are true and correct.
2. **No Majority Protest.** The proposed special tax to be levied within the CFD has not been precluded by majority protest pursuant to section 53324 of the Act.
3. **Prior Proceedings Valid.** All proceedings taken by this Board in connection with the establishment of the CFD, and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the Act.
4. **Name of CFD.** The community facilities District designated “Kirkwood Meadows Public Utility District Community Facilities District No. 2023-1 (Fire Services)” is hereby established pursuant to the Act.
5. **Boundaries of CFD.** The boundaries of the CFD, as set forth in the map of the CFD heretofore recorded in the (i) Alpine County Recorder’s Office on March 9, 2023 in Book 8 at Page 27 of Maps of Assessment and Community Facilities Districts, (ii) Amador County Recorder’s Office on March 10, 2023 in Book 1 at Page 390 of Maps of Assessment and Community Facilities Districts, as Document No. 2023-0001236 (iii) El Dorado County Recorder’s Office on March 10, 2023 in Book 5 at Page 47 of Maps of Assessment and Community Facilities Districts, as Document No. 2023-0006785 are hereby approved, are incorporated herein by reference and shall be the boundaries of the CFD, respectively.
6. **Description of Services.** The type of public services proposed to be financed by the CFD and pursuant to the Act shall consist of those items listed on Exhibit B hereto (the “Services”), together with all direct, indirect, periodic, and/or other related costs (including, without limitation, costs of administering the CFD, levying the Special Tax and administering the CFD).
7. **Special Tax.**
 - a. Except to the extent that funds are otherwise available to the CFD to pay for the Services, a special tax (“Special Tax”) sufficient to pay the costs thereof, secured by recordation of a continuing lien against all non-exempt real property in the CFD, will be levied annually within the CFD, and collected in the same manner as ordinary *ad valorem* property taxes, or in such other manner as the Board or its designee shall determine, including direct billing of the affected property owners.
 - b. The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the CFD, in sufficient detail to allow each landowner within the proposed CFD to estimate the maximum amount such owner will have to pay, are described in the Rate and Method of Apportionment attached hereto as Exhibit A and hereby incorporated herein (the “Rate and Method”).

It is anticipated that the Special Tax will be billed as a separate line item on the regular property tax bill. However, the Board reserves the right, under Section 53340 of the Act, to utilize any method of collecting the Special Tax which it shall, from time to time, determine to be in the best interests of District, including, but not limited to, direct billing by the District to the property owners and supplemental billing.

c. The Special Tax shall be levied in the amount and for the duration set forth in the Rate and Method. Under no circumstances shall the Special Tax levied against any parcel in the CFD to be 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 CFD by more than 10%.

d. Except as may otherwise be provided by law or by the Rate and Method, the following shall be omitted from the levy of the Special Tax: (i) all lands owned by any public entity, including the United States, the State of California and the District, or any departments or political subdivisions thereof, and (ii) acreage that is the subject of an open-space easement acquired by the County, or dedicated or restricted to agricultural or conservation uses, as described in the Act.

8. Accounting for Fire Suppression Assessment. The Board of Directors intends that if the Special Tax of the CFD is implemented, the total amount of the Special Tax levy each year shall be determined by including as a credit referenced in item (iv) of the "Special Tax Requirement" defined in the Rate and Method of Apportionment, the funds derived from the fire suppression assessment implemented pursuant to Resolution No. 97-03 adopted by the Board on July 24, 1997 and levied among parcels within KMPUD, for so long as it exists.

9. Responsible Official. The General Manager of the Kirkwood Meadows Public Utility District, 33540 Loop Road, Kirkwood, California, Tel: (209) 258-4444, is the officer of the District who will be responsible for preparing annually a current roll of special tax levy obligations by assessor's parcel number and who will be responsible for estimating future special tax levies pursuant to the Act.

10. Tax Lien. Upon recordation of a notice of special tax lien pursuant to Section 3114.5 of the Streets and Highways Code of California, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied to the extent allowed under the Rate and Method and the lien canceled in accordance with law or until collection of the tax by the District ceases.

11. Appropriations Limit. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the CFD is hereby preliminarily established at \$6,000,000, and said appropriations limit shall be submitted to the voters of the CFD as hereafter provided. The proposition establishing said annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act.

12. Election. Pursuant to the provisions of the Act, the proposition of the levy of the special tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the CFD at an election. The time, place and conditions of the election shall be as specified by a separate resolution of this Board.

13. Effective Date. This resolution shall take effect upon its adoption.

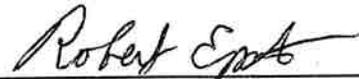
PASSED AND ADOPTED at a regular meeting of the Board of Directors on the 3rd day of April 2023 by the following vote:

AYES: President Epstein, Directors Schroeder & Dornbrook

NOES: Director Perroud

ABSTAIN:

ABSENT: Director Mitarotonda



Robert Epstein, President



Peter Dornbrook, Secretary

EXHIBIT A

RATE AND METHOD OF APPORTIONMENT

**Kirkwood Meadows Public Utility District
Community Facilities District No. 2023-1
(Fire Services)**

**RATE AND METHOD OF APPORTIONMENT FOR
KIRKWOOD PUBLIC UTILITY DISTRICT
COMMUNITY FACILITIES DISTRICT NO. 2023-1
(FIRE PROTECTION AND SUPPRESSION)**

A Special Tax hereinafter defined shall be levied on Assessor's Parcels in the Kirkwood Public Utility District Community Facilities District No. 2023-1 (Fire Protection and Suppression) ("CFD No. 2023-1") and collected each Fiscal Year commencing in Fiscal Year 2023-2024, in an amount determined by the CFD Administrator, according to the method of apportionment set forth herein. All of the real property in CFD No. 2023-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided. All Special Taxes collected hereunder shall only be used for the Special Tax Requirement, as hereinafter defined, and for no other purpose.

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.

"Administrative Expenses" means the actual or reasonably estimated costs directly related to the formation and administration of CFD No. 2023-1 including, but not limited to: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the District or designee thereof or both); the costs of collecting the Special Taxes (whether by the County or otherwise); the costs to the District, CFD No. 2023-1 or any designee thereof of complying with District or CFD No. 2023-1 disclosure requirements; the costs associated with responding to public inquiries regarding the Special Taxes; the costs of the District, CFD No. 2023-1 or any designee thereof related to an appeal of the Special Tax; and the District's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the District or CFD No. 2023-1 for any other administrative purposes of CFD No. 2023-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Assessor's Parcel" means any real property to which an Assessor's parcel number is assigned as shown on an Assessor's Parcel Map.

"Assessor's Parcel Map" means an official map of the County Assessor of the County designating parcels by Assessor's parcel number.

"Authorized Fire Protection Services" means (i) fire protection, suppression and medical services and the purchase and/or replacement of fire equipment of the District and (ii) any other services authorized to be financed pursuant to the Act.

"Board" means the Board of Directors of the District, acting as the legislative body of CFD No. 2023-1.

"CFD Administrator" means the official of the District, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2023-1" means the Kirkwood Public Utility District Community Facilities District No. 2023-1 (Fire Protection and Suppression).

"Condominium Property" means all Assessor's Parcels of Residential Property classified as condominium or multi-family residential property based on the County Land Use Code or other applicable information as determined by the CFD Administrator.

"Consumer Price Index" means the Consumer Price Index published by the U.S. Bureau of Labor Statistics for "All Urban Consumers" in the San Francisco – Oakland - Hayward Area, measured as of the month of December in the calendar year which ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco – Oakland - Hayward Area.

"County" means the County of Alpine, County of Amador, and/or County of El Dorado, as applicable.

"County Assessor's Roll" means, for each Fiscal Year, the final County Assessor's Roll as of January 1 of the prior Fiscal Year. The County Assessor's Roll includes certain data for each valid Assessor's Parcel, including the County Land Use Code, and Improvement Value.

"County Land Use Code" means, for each Fiscal Year, the land use code assigned by the County to identify the particular land use for each Assessor's Parcel as included in the County Assessor's Roll. To the extent that the naming/numbering conventions currently used by the County change, the CFD Administrator shall determine the new applicable County Land Use Code(s) to replace any specific County Land Use Code(s) that are no longer valid.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Taxable Property not classified as Vacant Property.

"District" means the Kirkwood Public Utility District.

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

"Improvement Value" means, for each Fiscal Year, for each APN, the value of the improvements located on such APN as indicated on the County Assessor's Roll.

"KMR Parking Report" means the maximum daily Parking Spaces identified in the annual report prepared by Kirkwood Mountain Resort as required pursuant to Mitigation Measure 4.7(d) of the Kirkwood Specific Plan. Such report is submitted by the fall of each year to the Tri-County Technical Advisory Committee.

"Maximum Annual Special Tax" means the Maximum Annual Special Tax, determined in accordance with Section C.1 below, that can be levied in any Fiscal Year on any Assessor's Parcel of Developed Property within CFD No. 2023-1.

"Non-Residential Property" means all Assessor's Parcels of Developed Property not classified as Residential Property.

"Parking Space(s)" means the number of vehicle parking spaces assigned to a particular Assessor's Parcel as determined by the CFD Administrator pursuant to Section B.1. below.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 2023-1 that is owned in fee or by easement, or dedicated to, a property owner association (also known as a homeowner association), including any master or sub-association as of January 1 of the prior Fiscal Year.

"Proportionately" means, for Developed Property, that the ratio of the actual Special Tax levy to the Maximum Annual Special Tax is equal for all Assessor's Parcels of Developed Property, except to the extent that the Special Tax levy on Developed Property is limited as described in Section D below.

"Public Property" means, for each Fiscal Year, any Assessor's Parcel within the boundaries of CFD No. 2023-1 that is used for rights-of-way or any other purpose and is owned by, dedicated to, or irrevocably offered for dedication to the District, federal government, the State of California, the County or any other public agency as of January 1 of the prior Fiscal Year; 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 in accordance with its use. In order to ensure that such property is correctly classified as Public Property, the owner of such property shall provide the CFD Administrator with a copy of any applicable documents.

"Residential Property" means all Assessor's Parcels of Developed Property coded as residential property based on the County Land Use Code or other applicable information as determined by the CFD Administrator.

"Single Family Residential Property" means all Assessor's Parcels of Residential Property that are not classified as Condominium Property or Timeshare Property.

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

"Special Tax Requirement" means that amount required in any Fiscal Year for CFD No. 2023-1 to: (i) pay for Authorized Fire Protection Services; (ii) pay for Administrative Expenses as determined by the CFD Administrator; (iii) pay for reasonably anticipated Special Tax delinquencies based upon the historical delinquency rate for CFD No. 2023-1; less (iv) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator.

"State" means the State of California.

"Taxable Property" means all of the Assessor's Parcels within the boundaries of CFD No. 2023-1 which are not exempt from the Special Tax pursuant to law or Section E below.

"Timeshare Property" means any Assessor's Parcels of Condominium Property considered timeshare units as (i) identified by the County Land Use Code, (ii) described on the Assessor's Parcel Map, or (iii) based on other applicable information as determined by the CFD Administrator. Each physical timeshare dwelling unit will be assigned multiple timeshare Assessor's Parcel numbers, representing a fractional share of such dwelling unit.

"Vacant Property" means, for each Fiscal Year, all Assessor's Parcels of Taxable Property with an Improvement Value equal to \$0 as indicated in the County Assessor's Roll and not listed in Table 2 herein.

"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.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Taxable Property within CFD No. 2023-1 shall be classified as Developed Property or Vacant 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.

The Maximum Annual Special Tax for Developed Property shall be based on the number of Parking Spaces located on the Assessor's Parcel. The number of Parking Spaces

assigned to Residential Property and Non-Residential Property is described in Section 1 and Section 2 below.

1. Residential Property

The number of Parking Spaces for Assessor’s Parcels of Residential Property is determined in Table 1 below.

**Table 1
Fiscal Year 2023-24
Parking Spaces for Residential Property**

Land Use Description	Parking Spaces
Single Family Residential Property	Two (2) Parking Spaces per dwelling unit
Condominium Property	One (1) Parking Space per dwelling unit
Timeshare Property	<p>The number of Parking Spaces allocated to each Assessor’s Parcel of Timeshare Property will be calculated based on such Assessor’s Parcel’s fractional share of the physical dwelling unit.</p> <p>For example, if a timeshare dwelling unit includes eight individual timeshare Assessor’s Parcels, then each such Assessor’s Parcel represents 1/8 of a Parking Space.</p>

2. Non-Residential Property

- (i) Parking Spaces assigned to Non-Residential Property at time of formation of CFD No. 2023-1

The number of Parking Spaces assigned to specific Assessor’s Parcels of Non-Residential Property at the time of formation of CFD No. 2023-1 is listed in Table 2 below. The number of Parking Spaces shall be updated each year by the CFD Administrator pursuant to the KMR Parking Report or as otherwise determined by the CFD Administrator based on site plans, physical inspection, or other available information. Notwithstanding the foregoing, the number of Parking Spaces for an Assessor’s Parcel cannot be decreased from the prior Fiscal Year other than due to (i) abandonment of the Parking Spaces as a result of a change in land use for such Assessor’s Parcel, (ii) changes to the Assessor Parcel number based on information provided by the County, or (iii) other factors as determined by the CFD Administrator.

**Table 2
Fiscal Year 2023-24**

Parking Spaces at time of formation of CFD No. 2023-1

Assessor's Parcel	County	Additional Description	Parking Spaces
006-010-024-000	Alpine	Timber Creek / Loop Road (portion)	105
006-010-077-000	Alpine	Village / KMD / Tennis Courts	827
006-010-087-000	Alpine	West Village (portion)	84
006-010-088-000	Alpine	West Village (portion)	36
006-010-095-000	Alpine	East Village	50
006-010-096-000	Alpine	East Village (portion)	8
006-010-097-000	Alpine	East Village (portion)	68
006-010-099-000	Alpine	Red Cliffs (portion)	242
006-010-102-000	Alpine	Mighty Mountain	94
006-010-105-000	Alpine	Red Cliffs (portion)	241
006-020-007-000	Alpine	Kirkwood Inn East (portion)	21
006-020-009-000	Alpine	Kirkwood Inn East (portion)	42
006-020-019-000	Alpine	Timber Creek	310
006-090-024-000	Alpine	Cornice Grill	8
006-060-001-000	Alpine	Retail Sales	0
006-060-002-000	Alpine	Retail Sales	0
006-010-023-000	Alpine	Miscellaneous	0
006-010-048-000	Alpine	Commercial	0
006-010-049-000	Alpine	Commercial	0
006-010-050-000	Alpine	Commercial	0
006-010-065-000	Alpine	Miscellaneous	0
006-010-075-000	Alpine	Recreational	0
006-010-094-000	Alpine	Commercial	0
006-020-008-000	Alpine	Commercial	0
006-020-010-000	Alpine	Commercial	0
006-020-017-000	Alpine	Commercial	0
006-020-018-000	Alpine	Commercial	0
006-160-001-000	Alpine	Office	0
006-160-002-000	Alpine	Office	0
006-160-003-000	Alpine	Office	0
006-160-004-000	Alpine	Office	0
006-160-005-000	Alpine	Office	0
006-160-006-000	Alpine	Office	0
006-160-007-000	Alpine	Office	0
006-201-002-000	Alpine	Restaurant	0
006-201-003-000	Alpine	Office	0
006-201-005-000	Alpine	Commercial	0
026-010-021-000	Amador	Commercial	0
026-020-047-000	Amador	Commercial	0
026-270-034-000	Amador	Timber Creek / Loop Road	574
026-270-037-000	Amador	Renwick / KMD	30
039-070-017-000	El Dorado	Kirkwood Inn East	63
039-070-018-000	El Dorado	Village East	0

If an Assessor's Parcel is subdivided and the new Assessor's Parcels are not identified in the KMR Parking Report, then the CFD Administrator shall allocate the Parking Spaces from the prior Assessor's Parcels to the new Assessor's Parcels based on the latest County Assessor's maps, site plans, or other available information.

- (ii) Parking Spaces assigned to Non-Residential Property not identified in Section B.2.(i) above

For an Assessor's Parcel of Non-Residential Property not identified in Section B.2.(i) above, the number of Parking Spaces will be equal to zero (0).

C. MAXIMUM ANNUAL SPECIAL TAX

1. Developed Property

The Fiscal Year 2023-2024 Maximum Annual Special Tax for Developed Property is equal to \$513 per Parking Space.

2. Vacant Property

The Special Tax shall not be levied on Vacant Property.

3. Increase in Maximum Annual Special Tax

On each July 1, commencing on July 1, 2024, the Maximum Annual Special Tax shown in Section C.1 above shall be increased by the greater of (i) the percentage increase in the Consumer Price Index or (ii) the actual costs of Authorized Fire Protection Services with a maximum annual increase of six percent (6%) and a minimum annual increase of two percent (2%) per Fiscal Year.

D. APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2023-2024 and for each following Fiscal Year, the Board shall determine the Special Tax Requirement and shall levy 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 applicable Maximum Annual Special Tax.

E. EXEMPTIONS

No Special Taxes shall be levied on Property Owner Association Property, Public Property, or any Assessor's Parcel that has a Welfare Exemption.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident 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 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 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 District Clerk, 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.

Interpretations may be made by the Board by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

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. 2023-1 may directly bill the Special Tax, may collect the Special Tax 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. TERM OF SPECIAL TAX

The Special Tax shall be levied as long as necessary to meet the Special Tax Requirement.

EXHIBIT B

DESCRIPTION OF SERVICES

The Services consist of all fire protection, prevention and suppression services, including medical services, and including but not limited to costs of personnel, equipment, replacement reserves and maintenance and costs incidental thereto.

Reimbursement of costs related to the formation of the CFD advanced by KMPUD or any party related to any of the foregoing, and administrative expenses of KMPUD related to the CFD.