

## **RESOLUTION NO. 2017 -**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE ESTABLISHING IMPROVEMENT AREAS JJ AND KK OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY), AUTHORIZING THE LEVY OF SPECIAL TAXES, AND CALLING ELECTIONS THEREIN**

**Whereas**, after a public hearing, on February 28, 2006, the City Council (the "City Council") of the City of Lake Elsinore (the "City") adopted Resolution Nos. 2006-30 (the "Original Resolution of Formation") and 2006-31 (the "Original Resolution to Incur Bonded Indebtedness") which formed City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) (the "District" or "Community Facilities District No. 2006-1") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") and called a special election for February 28, 2006 within the District and Improvement Area Nos. 1 through 3 therein on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness and the establishment of an appropriations limit for the District, which were approved by more than two-thirds vote by the qualified electors on February 28, 2006; and,

**Whereas**, subsequent to the formation of the District, the District received a petition signed by owners of the land within the boundaries of the District to dissolve Improvement Area Nos. 1 through 3 therein and to establish Improvement Areas A through F of the District, to authorize the levy of the special tax in accordance with rates and methods of apportionment of special taxes for Improvement Areas A through F and to authorize the District to incur bonded indebtedness for Improvement Areas A through F; and,

**Whereas**, on January 25, 2011, the City Council, acting as the legislative body of the District, adopted Resolution Nos. 2011-005 and 2011-006, dissolving Improvement Area Nos. 1 through 3 therein, establishing Improvement Areas A through F of the District and declaring the intention to incur bonded indebtedness of the District for Improvement Areas A through F; and,

**Whereas**, after a public hearing, on March 8, 2011, the City Council adopted Resolution Nos. 2011-119 and 2011-120, which called special elections on March 8, 2011 within Improvement Areas A through F of the District on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness and the establishment of an appropriations limit for the District, which were approved by more than two-thirds vote by the qualified electors on March 8, 2011 (collectively, the "2011 Change Proceedings"); and,

**Whereas**, subsequent to the 2011 Change Proceedings, the District received a petition signed by owners of the land within Improvement Areas C through F of the District to dissolve Improvement Areas C through F and to establish Improvement Areas CC, DD, EE, FF, GG, HH and II of the District from the areas within Improvement Areas C through F of the District; and,

**Whereas**, on February 25, 2014, the City Council, acting as the legislative body of the District, adopted Resolution Nos. 2014-010 and 2011-011, dissolving Improvement Areas C through F therein, establishing Improvement Areas CC, DD, EE, FF, GG, HH and II of the District and declaring the intention to incur bonded indebtedness of the District for Improvement Areas CC, DD, EE, FF, GG, HH and II; and,

**Whereas**, after a public hearing, on April 8, 2014, the City Council adopted Resolution Nos. 2014-016 and 2014-017, which called special elections on April 8, 2014 within Improvement Areas CC, DD, EE, FF, GG, HH and II of the District on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness and the establishment of an appropriations limit for the District for Improvement Areas CC, DD, EE, FF, GG, HH and II, which were approved by more than two-thirds vote by the qualified electors on April 8, 2014 (collectively, the “2014 Change Proceedings”); and,

**Whereas**, subsequent to the 2014 Change Proceedings, the District received a petition signed by McMillin Summerly, LLC, a Delaware limited liability company, (the “Owner”) which owns land within Improvement Area DD and GG of the District, which the Owner desires to establish as Improvement Areas JJ and KK of the District, respectively (“Proposed Improvement Area JJ” and “Proposed Improvement Area KK” and together, the “Proposed Improvement Areas”) and to approve rates and methods of apportionment for each of Proposed Improvement Area JJ and Proposed Improvement Area KK; and,

**Whereas**, on January 24, 2017, the City Council of the City adopted Resolution No. 2017-016 stating its intention to establish the Proposed Improvement Areas, to approve rates and methods of apportionment for each of Proposed Improvement Area JJ and Proposed Improvement Area KK attached as Attachments “B” and “C,” to Resolution No. 2017-016 respectively (the “Proposed Rates and Methods”); and,

**Whereas**, on January 24, 2017, the City Council also adopted Resolution No. 2017-017 stating its intention to incur bonded indebtedness within the Proposed Improvement Areas in an amount not to exceed \$7,000,000 for Improvement Area JJ and \$5,700,000 for Improvement Area KK to finance: (1) the purchase, construction, expansion, improvement or rehabilitation of public improvements identified in Attachment “A” to Resolution No. 2017-017 (collectively, the “Facilities”); and (2) the incidental expenses to be incurred in financing the Facilities and forming and administering the District (the “Facilities Incidental Expenses”); and,

**Whereas**, a copy of Resolution No. 2017-016 setting forth a description of the second amended boundary map of Community Facilities District No. 2006-1 and the Proposed Improvement Areas therein, is on file with the City Clerk and is incorporated herein by reference; and,

**Whereas**, on February 28, 2017, the City Council continued the public hearing called for pursuant to Resolution No. 2017-016 and Resolution No. 2017-017 to March 14, 2017 and on March 14, 2017, such public hearing was continued to March 28, 2017; and,

**Whereas**, a notice of a public hearing, as continued to March 28, 2017, was published and mailed to all landowners of the land proposed to be included within the Proposed Improvement Areas as required by law relative to the intention of the City Council to form the Proposed Improvement Areas and to levy special taxes in accordance with the Proposed Rates and Methods and to incur bonded indebtedness within each Improvement Area; and,

**Whereas**, on March 28, 2017, this City Council held a noticed public hearing as required by law relative to the proposed establishment of the Proposed Improvement Areas within Community Facilities District No. 2006-1, the levy of special taxes therein in accordance with the Proposed Rates and Methods and the issuance of bonded indebtedness by the District with respect to each Proposed Improvement Area; and,

**Whereas**, at the March 28, 2017 public hearing there was filed with this City Council a report containing a description of the Facilities and Services (as defined in the Proposed Rates and Methods) necessary to meet the needs of the Proposed Improvement Areas and an estimate of the cost of such Facilities and Services as required by Section 53321.5 of the Act (the “Community Facilities District Report”); and,

**Whereas**, at the March 28, 2017 public hearing all persons desiring to be heard on all matters pertaining to the proposed establishment of the Proposed Improvement Areas and the levy of the special taxes within the Proposed Improvement Areas in accordance with the Proposed Rates and Methods and the issuance of bonded indebtedness with respect to each Proposed Improvement Area were heard and a full and fair hearing was held; and,

**Whereas**, at the public hearing, evidence was presented to the City Council on the matters before it, and the proposed establishment of the Proposed Improvement Areas and the levy of special taxes within the Proposed Improvement Areas in accordance with the Proposed Rates and Methods was not precluded by a majority protest of the type described in Section 53324 of the Act, and this City Council at the conclusion of the hearing is fully advised as to all matters relating to the establishment of the Proposed Improvement Areas within the District, the levy of the special taxes in accordance with the Proposed Rates and Methods and the issuance of bonded indebtedness with respect to each Proposed Improvement Area; and,

**Whereas**, the City Council has determined that there have been fewer than twelve registered voters residing in each of the Proposed Improvement Areas for the period of 90 days prior to March 28, 2017 and that the qualified electors in Proposed Improvement Areas are the landowners within Proposed Improvement Areas; and,

**Whereas**, on the basis of all of the foregoing, the City Council has determined at this time to proceed with establishment of the Proposed Improvement Areas within Community Facilities District No. 2006-1 and to call an election within each Proposed Improvement Area to authorize (i) the levy of special taxes pursuant to the respective Proposed Rate and Method, (ii) the issuance of bonds for each Proposed Improvement Area to finance the Facilities and Facilities Incidental Expenses described Attachment “D” to Resolution No. 2017-016 of the City Council, and (iii) to increase the appropriations limit for Community Facilities District No. 2006-1; and,

**Whereas**, the City Council and the Owner desire that upon, and in consideration for, completion of the formation of the Proposed Improvement Areas that the special tax obligation and lien with respect to Improvement Area DD and GG shall be fully satisfied, a notice of cancellation shall be recorded with respect to such property and Improvement Areas DD and GG shall be dissolved;

**NOW, THEREFORE, THE CITY COUNCIL OF CITY OF LAKE ELSINORE, ACTING HAS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY) HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:**

1. Each of the above recitals is true and correct.
2. The City Council hereby finds and determines that all prior proceedings taken with respect to the establishment of the Proposed Improvement Areas, were valid and in conformity with the requirements of law, including the Act. This finding is made in accordance with the provisions of Section 53325.1(b) of the Act.

3. The boundaries of Community Facilities District No. 2006-1 are shown on the map designated "Second Amended Boundary Map of Community Facilities District No. 2006-1 (Summerly) of the City of Lake Elsinore", which map is on file in the office of the City Clerk and was recorded pursuant to Sections 3111 and 3113 of the Streets and Highways Code in the County of Riverside Book of Maps of Assessment and Community Facilities Districts in the County Recorder's Office in Book No. 80, Page Nos. 42-43 on January 31, 2017 (the "Map"). In accordance with Section 53350 of the Act, the City Council hereby designates Improvement Areas JJ through KK of the District, with the boundaries of each Proposed Improvement Area being as set forth on the Map.

4. The types of Facilities, Services, Facilities Incidental Expenses and Services Incidental Expenses (as defined in Resolution No. 2017-016) authorized to be provided for Community Facilities District No. 2006-1 are those set forth in Resolution No. 2017-016. The estimated cost of the Facilities, Services, Facilities Incidental Expenses and Services Incidental Expenses to be financed is set forth in the Community Facilities District Report, which estimates may change as the Facilities are designed and bid for construction and acquisition.

5. The City is authorized by the Act to contribute revenue to, or to construct or acquire the Facilities, all in accordance with the Act. The City Council finds that the proposed Facilities and Services are necessary to meet the increased demand that will be placed upon public infrastructure as a result of new development within the District.

6. The City Council hereby adopts the Proposed Rates and Methods attached as Attachments "B" and "C" to Resolution No. 2017-016 as the applicable rate and method for Improvement Areas JJ and KK of Community Facilities District No. 2006-1, respectively. Except where funds are otherwise available, it is the intention of the City Council, subject to the approval of the eligible voters within each of the Proposed Improvement Areas, to levy the proposed special taxes at the applicable rates for each Proposed Improvement Area set forth in Attachments "B" and "C" to Resolution No. 2017-016 on all non-exempt property within the Proposed Improvement Areas sufficient to pay for (i) the Facilities, (ii) the principal and interest and other periodic costs on the bonds proposed to be issued by the District for each Proposed Improvement Area to finance the Facilities and Facilities Incidental Expenses, including the establishment and replenishment of reserve funds, any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash), administrative expenses and other expenses of the type permitted by Section 53345.3 of the Act; (iii) the Services and (iv) the Services Incidental Expenses. The District expects to incur, and in certain cases has already incurred, Facilities Incidental Expenses and Services Incidental Expenses in connection with the creation of the Proposed Improvement Areas, the issuance of bonds, the levying and collecting of the special tax, the completion and inspection of the Facilities and the annual administration of the bonds and the District. The rate and method of apportionment of the special tax applicable to each Proposed Improvement Area is described in detail in Attachments "B" and "C" to Resolution No. 2017-016 which are incorporated herein by this reference, and the City Council hereby finds that Attachments "B" and "C" to Resolution No. 2017-016 contains sufficient detail to allow each landowner within each Proposed Improvement Area to estimate the maximum amount that may be levied against each parcel. As described in greater detail in the Community Facilities District Report, which is incorporated by reference herein, the special tax is based on the expected demand that each parcel of real property within the Proposed Improvement Areas will place on the Facilities and Services and on the benefit that each parcel will derive from the right to access the Facilities and Services and, accordingly, is hereby determined to be reasonable.

The Facilities Special Tax and Services Special Tax are apportioned to each parcel on the foregoing bases pursuant to Section 53325.3 of the Act and such special tax is not on or based upon the ownership of real property.

The Facilities Special Tax shall be levied on each assessor's parcel for a period not to exceed the Fiscal Year 2058-59 with respect to each of the Proposed Improvement Areas. The Services Special Tax may be levied for such period as the Services are needed, as further described in Attachments "B" and "C" to Resolution No. 2017-016.

7. The City's Assistant City Manager will be responsible for preparing annually, or authorizing a designee to prepare, a current roll of special tax levy obligations by assessor's parcel number and will be responsible for estimating future special tax levies pursuant to Section 53340.2 of the Act.

8. In the event that a portion of the property within a Proposed Improvement Area shall become for any reason exempt, wholly or partially, from the levy of the special tax specified in the Proposed Rates and Methods contained in Attachments "B" and "C" to Resolution No. 2017-016, the City Council shall, on behalf of Community Facilities District No. 2006-1, increase the levy to the extent necessary and permitted by law and these proceedings upon the remaining property within such Proposed Improvement Area which is not delinquent or exempt in order to yield the required debt service payments on any outstanding bonds of such Proposed Improvement Area or to prevent the District from defaulting on any other obligations or liabilities of such Proposed Improvement Area; provided, however, that with respect to the special tax for Facilities, in under no circumstances will such special tax be increased in any fiscal year as a consequence of delinquency or default by the owner of any other parcel or parcels within any Proposed Improvement Area by more than ten percent above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults. The amount of the special tax for each Proposed Improvement Area will be set in accordance with the Proposed Rates and Methods contained in Attachments "B" and "C" to Resolution No. 2017-016.

9. Upon recordation of a notice of special tax lien for each Proposed Improvement Area pursuant to Section 3114.5 of the Streets and Highways Code, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the Proposed Improvement Areas and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the special tax by the District ceases.

10. Consistent with Section 53325.6 of the Act, the City Council finds and determines that the land within the Proposed Improvement Areas, if any, devoted primarily to agricultural, timber or livestock uses and being used for the commercial production of agricultural, timber or livestock products is contiguous to other land within the Proposed Improvement Areas and will be benefited by the Facilities proposed to be provided within the Proposed Improvement Areas.

11. It is hereby further determined that there is no ad valorem property tax currently being levied on property within the Proposed Improvement Areas of Community Facilities District No. 2006-1 for the exclusive purpose of paying the principal of or interest on bonds or other indebtedness incurred to finance the construction of capital facilities which provide the same services to the territory of the Proposed Improvement Areas as are proposed to be provided by the Facilities to be financed by Community Facilities District No. 2006-1.

12. Written protests against the establishment of the Proposed Improvement Areas have not been filed by one-half or more of the registered voters within the boundaries of any of such Proposed Improvement Areas or by the property owners of one-half or more of the area of land within the boundaries of any of such Proposed Improvement Areas. The City Council hereby finds that the proposed special tax for each Proposed Improvement Area has not been precluded by a majority protest pursuant to Section 53324 of the Act.

13. An election is hereby called for each Proposed Improvement Area of Community Facilities District No. 2006-1 on the propositions of levying the special tax on the property within such Proposed Improvement Area and increasing the appropriations limit for the District pursuant to Section 53325.7 of the Act and shall be consolidated with the election on the proposition of incurring bonded indebtedness for each Proposed Improvement Area, pursuant to Section 53351 of the Act. The propositions to be placed on the ballot for each Proposed Improvement Area are attached hereto as Attachments "A" and "B." Following certification of a landowner vote in favor of the formation of the Proposed Improvement Areas, the District shall record notices of cancellation of special tax liens with respect to Improvement Area DD and GG.

14. The date of the foregoing elections for each Proposed Improvement Area shall be March 28, 2017, or such later date as is consented to by the City Clerk and the landowners within the Proposed Improvement Areas. The City Clerk shall conduct the elections. Except as otherwise provided by the Act, the elections shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the elections shall be conducted in accordance with the provisions of law regulating elections of the City insofar as such provisions are determined by the City Clerk to be applicable.

15. It is hereby found that there are not more than twelve registered voters within the territory of any of the Proposed Improvement Areas, and, pursuant to Section 53326 of the Act, each landowner who is the owner of record on the date hereof, or the authorized representative thereof, shall have one vote for each acre or portion thereof that he or she owns within each Proposed Improvement Area.

16. The preparation of the Community Facilities District Report is hereby ratified. The Community Facilities District Report, as submitted, is hereby approved and made a part of the record of the public hearing regarding the formation of the Proposed Improvement Areas, and is ordered to be kept on file with the transcript of these proceedings and open for public inspection.

17. This Resolution shall be effective upon its adoption.

**PASSED and ADOPTED** at a regular meeting of the City Council of the City of Lake Elsinore, California, this 28th day of March, 2017.

\_\_\_\_\_  
Robert E. Magee, Mayor

**ATTEST:**

\_\_\_\_\_  
Susan M. Domen, MMC  
City Clerk

STATE OF CALIFORNIA                    )  
COUNTY OF RIVERSIDE                ) ss.  
CITY OF LAKE ELSINORE                )

I, Susan M. Domen, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2017-\_\_\_\_\_ was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of March 28, 2017, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Susan M. Domen, MMC  
City Clerk

**ATTACHMENT "A"**

SAMPLE

BALLOT

CITY OF LAKE ELSINORE  
COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY)  
(IMPROVEMENT AREA JJ)

SPECIAL TAX AND SPECIAL BOND ELECTION

March 28, 2017

This ballot represents \_\_\_\_ votes.

To vote, write or stamp a cross ("+" or "X") in the voting square after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Lake Elsinore and obtain another.

PROPOSITION A: Shall City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) (the "District") incur an indebtedness and issue bonds for Improvement Area JJ of the District in the maximum principal amount of \$7,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Facilities Incidental Expenses for Improvement Area JJ described in Resolution No. 2017-016 (the "Resolution of Intention"), adopted by the City Council of the City of Lake Elsinore, acting as the legislative body of the District?

YES\_\_\_\_\_

NO\_\_\_\_\_

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Attachment "B" to the Resolution of Intention, for Improvement Area JJ of the District, be levied to pay for the Facilities, Facilities Incidental Expenses, the Services and the Services Incidental Expenses (as such terms are defined in the Resolution of Intention) and other purposes described in the Resolution of Intention, including the payment of the principal of and interest on bonds issued to finance the Facilities and Facilities Incidental Expenses for Improvement Area JJ?

YES\_\_\_\_\_

NO\_\_\_\_\_

PROPOSITION C: Shall the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the District be increased by an amount equal to \$2,000,000?

YES\_\_\_\_\_

NO\_\_\_\_\_

ATTACHMENT A



**ATTACHMENT "B"**

SAMPLE

BALLOT

CITY OF LAKE ELSINORE  
COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY)  
(IMPROVEMENT AREA KK)

SPECIAL TAX AND SPECIAL BOND ELECTION

March 28, 2017

This ballot represents \_\_\_\_ votes.

To vote, write or stamp a cross ("+" or "X") in the voting square after the word "YES" or after the word "NO". All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk of the City of Lake Elsinore and obtain another.

PROPOSITION A: Shall City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) (the "District") incur an indebtedness and issue bonds for Improvement Area KK of the District in the maximum principal amount of \$5,700,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Facilities and the Facilities Incidental Expenses for Improvement Area KK described in Resolution No. 2017-016 (the "Resolution of Intention"), adopted by the City Council of the City of Lake Elsinore, acting as the legislative body of the District?

YES\_\_\_\_\_

NO\_\_\_\_\_

PROPOSITION B: Shall a special tax with a rate and method of apportionment as provided in Attachment "C" to the Resolution of Intention, for Improvement Area KK of the District, be levied to pay for the Facilities, Facilities Incidental Expenses, the Services and the Services Incidental Expenses (as such terms are defined in the Resolution of Intention) and other purposes described in the Resolution of Intention, including the payment of the principal of and interest on bonds issued to finance the Facilities and Facilities Incidental Expenses for Improvement Area KK?

YES\_\_\_\_\_

NO\_\_\_\_\_

PROPOSITION C: Shall the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, for the District be increased by an amount equal to \$1,000,000?

YES\_\_\_\_\_

NO\_\_\_\_\_

ATTACHMENT B