

ORDINANCE NO. 2017 -

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY) AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN EACH OF IMPROVEMENT AREAS JJ AND KK OF SUCH DISTRICT

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, pursuant to Resolution No. 2017-016, the City Council also stated its intention to levy special taxes within the Proposed Improvement Areas to finance certain services as identified in Attachment “D” to Resolution No. 2017-016 (the “Services”) and certain incidental expenses related thereto (the “Services Incidental Expenses”); 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 calling a public hearing, as continued to March 28, 2017 was published as required by law relative to the intention of the City Council to establish the Proposed Improvement Areas within Community Facilities District No. 2006-1 and to incur bonded indebtedness within each Proposed Improvement Area; and,

Whereas, on March 28, 2017, this City Council conducted a noticed public hearing to determine whether it should proceed with the formation of the Proposed Improvement Areas, to issue bonds for the benefit of each Proposed Improvement Area to pay for the Facilities and Facilities Incidental Expenses and authorize the levy of the special taxes to finance the Facilities, Facilities Incidental Expenses, Services and Services Incidental Expenses in accordance with the Proposed Rates and Methods, all as described in the Resolution of Intention; and,

Whereas, at the March 28, 2017 public hearing all persons desiring to be heard on all matters pertaining to the formation of the Proposed Improvement Areas, the levy of special taxes in accordance with the Proposed Rates and Methods and the issuance of bonds within each Proposed Improvement Area to pay for the cost of the proposed Facilities and Facilities Incidental Expenses were heard and a full and fair hearing was held; and

Whereas, on March 28, 2017, following the close of the public hearing, the City Council adopted Resolution Nos. _____ (the "Resolution of Formation") and _____ (the "Resolution to Incur Bonded Indebtedness") which called a special election on March 28, 2017 within each Proposed Improvement Area on three propositions relating to the levying of a special tax, the incurring of bonded indebtedness and the increase of the appropriations limit for the District; and

Whereas, on March 28, 2017, a special election was held within each of the Proposed Improvement Areas of the District at which the qualified electors approved by more than a two-thirds vote Propositions A, B and C authorizing the levy of a special tax within each of the Proposed Improvement Areas for the purposes described in the Resolution of Formation and the issuance of bonded indebtedness for each of the Proposed Improvement Areas as described in the Resolution to Incur Bonded Indebtedness and the appropriations limit; and

NOW, THEREFORE, THE CITY COUNCIL, ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2006-1 (SUMMERLY), ORDAINS AS FOLLOWS:

1. The above recitals are all true and correct.
2. By the passage of this Ordinance, the City Council authorizes the levy of a special tax within each of Improvement Area JJ and Improvement Area KK of Community Facilities District No. 2006-1 at the maximum rates and in accordance with the Proposed Rates and Method.
3. The City Council is hereby further authorized to determine in each subsequent fiscal year, by ordinance, or by resolution if permitted by then applicable law, on or before August 10 of each year, or such later date as is permitted by law, the specific special tax rate and amount to be levied on each parcel of land in the Proposed Improvement Areas pursuant to the applicable Proposed Rate and Method. The special tax rates to be levied pursuant to the Proposed Rates and Methods shall not exceed the applicable maximum rates set forth therein, but the special tax may be levied at a lower rate.
4. Properties or entities of the state, federal or other local governments shall be exempt from the special tax, except as otherwise provided in Sections 53317.3 and 53317.5 of the Act and the Proposed Rates and Methods. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the Resolution of Formation, or in a resolution of consideration to levy a new special tax or special taxes or to alter the rate or method of apportionment of an existing special tax as provided in Section 53334 of the Act.
5. All of the collections of the special tax pursuant to the Proposed Rates and Methods shall be used as provided for in the Act and the Resolution of Formation. The special tax shall be levied within the Proposed Improvement Areas only so long as needed for the purposes described in the Resolution of Formation.

6. The special tax levied pursuant to the Proposed Rates and Methods shall be collected in the same manner as ordinary ad valorem property taxes are collected 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 taxes (which such procedures include the exercise of all rights and remedies permitted by law to make corrections, including, but not limited to, the issuance of amended or supplemental tax bills), as such procedure may be modified by law or by this City Council from time to time.

7. As a cumulative remedy, if any amount levied as a special tax for payment of the interest or principal of any bonded indebtedness of the District, together with any penalties and other charges accruing under this Ordinance, are not paid when due, the City Council may, not later than four years after the due date of the last installment of principal on the Bonds, order that the same be collected by an action brought in the superior court to foreclose the lien of such special tax.

8. The Mayor shall sign this Ordinance and the City Clerk shall attest to the Mayor's signature and then cause the same to be published within fifteen (15) days after its passage at least once in a newspaper of general circulation published and circulated in City of Lake Elsinore.

9. This Ordinance relating to the levy of the special tax within the Proposed Improvement Areas shall take effect 30 days following its final passage, and the specific authorization for adoption is pursuant to the provisions of Section 53340 of the Act.

10. The City Clerk is hereby authorized to transmit a certified copy of this ordinance to the Riverside County Assessor and Treasurer-Tax Collector, and to perform all other acts which are required by the Act, this Ordinance or by law in order to accomplish the purpose of this Ordinance.

INTRODUCED ON the 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 Ordinance No. 2017-_____ was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of April __, 2017, and that the same was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Susan M. Domen, MMC
City Clerk