

RESOLUTION NO. 2017-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE,
CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE
COMMUNITY FACILITIES DISTRICT NO. 2007-4 (MAKENNA COURT), APPROVING
A SECOND AMENDMENT TO THE RATE AND METHOD OF APPORTIONMENT AND
CALLING AN ELECTION THEREIN**

Whereas, on August 28, 2007, the City Council (Council) of the City of Lake Elsinore (City) adopted Resolution No. 2007-156 stating its intention to form City of Lake Elsinore Community Facilities District No. 2007-4 (Makenna Court) (CFD No. 2007-4 or the District) pursuant to 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 (Act); and,

Whereas, on August 28, 2007, the Council also adopted Resolution No. 2007-157 stating its intention to incur bonded indebtedness within the District in the amount not to exceed \$4,000,000 to finance the facilities and improvements identified in Exhibit "B" to Resolution No. 2007-156 (Improvements); and the incidental expenses to be incurred in financing the Improvements and forming and administering the District (Incidental Expenses); and,

Whereas, pursuant to Resolution No. 2007-156, the Council also stated its intention to finance parks, open space and storm drain maintenance services (Services) within the District through the levy of a services special tax in accordance with the Rate and Method (as defined below); and,

Whereas, a notice calling a Public Hearing on October 9, 2007, was published as required by law relative to the intention of the Council to establish Community Facilities District No. 2007-4 and to incur bonded indebtedness within Community Facilities District No. 2007-4; and,

Whereas, on October 9, 2007, the Council conducted a noticed public hearing to determine whether it should proceed with the establishment of Community Facilities District No. 2007-4, issue bonds for the benefit of Community Facilities District (CFD) No. 2007-4 to pay for the Improvements and Incidental Expenses and authorize the Rate and Method of apportionment of the special taxes in the form attached as Exhibit "A" to Resolution No. 2007-156 (Rate and Method) to be levied within Community Facilities District No. 2007-4 for the purposes described in Resolution No. 2007-156; and,

Whereas, at the October 9, 2007, Public Hearing all persons desiring to be heard on all matters pertaining to the establishment of Community Facilities District No. 2007-4, the levy of the special taxes in accordance with the Rate and Method and the issuance of bonds within CFD No. 2007-4 to pay for the cost of the proposed Improvements and Incidental Expenses were heard and a full and fair hearing was held; and,

Whereas, after the Public Hearing, on October 9, 2007, the Council adopted Resolution Nos. 2007-177 (Resolution of Formation) and 2007-178 (Resolution to Incur Bonded Indebtedness) which formed the District and called a special election on October 9, 2007, within the District on three propositions relating to the levying of the special taxes, 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 October 9, 2007; and,

Whereas, pursuant to Resolution No. 2007-179, adopted on October 9, 2007, the Council, acting as the legislative body of Community Facilities District No. 2007-4, declared the results of the special election and directed the recording of a Notice of Special Tax Lien within Community Facilities District No. 2007-4; and,

Whereas, subsequent to the formation of the District, the District received a petition signed by the owner of property within the District, requesting that the District (i) approve a new Rate and Method of apportionment for Community Facilities District No. 2007-4,; (ii) increase the amount of bonded indebtedness authorized to be incurred by the District from \$4,000,000 to \$6,000,000, to finance the Improvements and the Incidental Expenses and (iii) to include the services set forth in the definition of “Services” in the First Amended and Restated Rate and Method as services authorized to be provided by the District (Prior Changes); and,

Whereas, on October 25, 2016, the Council, acting as the legislative body of CFD No. 2007-4, adopted Resolution No. 2016-119, stating its intention to consider the Prior Changes; and,

Whereas, a notice calling a Public Hearing on December 13, 2016, was published as required by law relative to the intention of the Council to consider the approval the Prior Changes; and,

Whereas, on December 13, 2016, this Council conducted a noticed Public Hearing to determine whether it should proceed with the approval of the Prior Changes; and,

Whereas, at the December 13, 2016, Public Hearing all persons desiring to be heard on all matters pertaining to the approval of the Prior Changes were heard and a full and fair hearing was held; and,

Whereas, after the Public Hearing, on December 13, 2016, the Council adopted Resolution No. 2016-146 and which approved the Prior Changes and called a special election on December 13, 2016, within the District on three propositions relating to the Prior Changes, which were approved by more than two-thirds vote by the qualified electors on December 13, 2016; and,

Whereas, the District has received a petition signed by Western Pacific Housing, Inc., a Delaware corporation (Owner), which owns land within the District, the boundaries of which are described in Resolution No. 2007-156 which petition meets the requirements of Section 53332 of the Act, requesting that the District approve a new rate and method of apportionment for CFD No. 2007-4 attached to the Resolution of Intention (as defined below) as Attachment “B” (Second Amended Rate and Method); and,

Whereas, on June 13, 2017, the Council, acting as the legislative body of CFD No. 2007-4, adopted Resolution No. 2017-068 (Resolution of Intention), stating its intention to consider the approval of the Second Amended Rate and Method; and,

Whereas, a notice calling a Public Hearing on July 25, 2017, was published as required by law relative to the intention of the Council to consider the approval the Second Amended and Restated Rate and Method; and,

Whereas, on July 25, 2017, this Council conducted a noticed public hearing to determine whether it should proceed with the approval of the Second Amended Rate and Method; and,

Whereas, at the July 25, 2017, Public Hearing all persons desiring to be heard on all matters pertaining to the approval of the Second Amended Rate and Method were heard and a full and fair hearing was held; and,

Whereas, the Council has determined that there have been fewer than twelve registered voters residing in the District for the period of 90 days prior to July 25, 2017, and that the qualified electors in the District are the landowners within the District; and,

Whereas, on the basis of all of the foregoing, the Council has determined at this time to proceed with the approval of the Second Amended Rate and Method as described herein.

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF LAKE ELSINORE DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOW:

Section 1. Each of the above recitals is true and correct.

Section 2. The Council hereby adopts the Second Amended and Restated Rate and Method as the rate and method for CFD No. 2007-4. Except where funds are otherwise available, it is the intention of the Council, subject to the approval of the eligible voters within CFD No. 2007-4, to levy the proposed special taxes at the rates for CFD No. 2007-4 set forth in the Second Amended Rate and Method on all non-exempt property within CFD No. 2007-4 sufficient to pay for (i) the Improvements, (ii) the principal and interest and other periodic costs on the bonds proposed to be issued by the District to finance the Improvements and 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; and (iii) the Incidental Expenses. The Second Amended Rate and Method is described in detail in Attachment "B" to the Resolution of Intention which is incorporated herein by this reference, and the Council hereby finds that the Second Amended Rate and Method contains sufficient detail to allow each landowner within the District to estimate the maximum amount that may be levied against each parcel. The Special Tax for Facilities (as defined in the Second Amended Rate and Method) shall be levied on each assessor's parcel for a period not to exceed Fiscal Year 2057-58.

Section 3. Upon recordation of a second amended and restated notice of special tax lien 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 District 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.

Section 4. The indebtedness is to be incurred for the purpose of financing the costs of purchasing, constructing, modifying, expanding, improving, or rehabilitating the Improvements, as described in Resolution No. 2007-156, financing the Incidental Expenses, and carrying out the powers and purposes of CFD No. 2007-4, including, but not limited to, financing the costs of selling the bonds, establishing and replenishing bond reserve funds and paying 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 authorized by Section 53345.3 of the Act.

Section 5. The Council, acting as the legislative body of CFD No. 2007-4 determines that the property within CFD No. the 2007-4 will be benefited by the services to be provided as set forth in the Second Amended Rate and Method.

Section 6. Written protests against the approval of the Second Amended Rate and Method have not been filed by one-half or more of the registered voters within the boundaries of the District or by the property owners of one-half or more of the area of land within the boundaries of the District. The Council hereby finds that the approval of the Second Amended Rate and Method with respect to CFD No. 2007-4 has not been precluded by a majority protest pursuant to Section 53337 of the Act.

Section 7. An election is hereby called for CFD No. 2007-4 on the proposition of approving the Second Amended Rate and Method. The proposition to be placed on the ballot for the District is attached hereto as Exhibit "A." Following certification of a landowner vote in favor of the adoption of the Second Amended Rate and Method, the District shall record a second amended and restated notice of special tax lien for the District.

Section 8. The date of the foregoing election for the District shall be July 25, 2017, or such later date as is consented to by the City Clerk and the landowners within the District. The City Clerk shall conduct the election. Except as otherwise provided by the Act, the election shall be conducted by personally delivered or mailed ballot and, except as otherwise provided by the Act, the election 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.

Section 9. It is hereby found that there are not more than twelve registered voters within the territory of the District, 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 the District.

Section 10. This Resolution shall take effect immediately upon its adoption.

Section 11. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

Passed and Adopted on this 25th day of July, 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 July 25, 2017, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Susan M. Domen, MMC
City Clerk

EXHIBIT "A"

SAMPLE BALLOT

COMMUNITY FACILITIES DISTRICT NO. 2007-4 (MAKENNA COURT)
OF CITY OF LAKE ELSINORE

SPECIAL ELECTION

July 25, 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 Secretary of City of Lake Elsinore and obtain another.

PROPOSITION A: Shall a special tax with a second amended and restated rate and method of apportionment (the "Second Amended Rate and Method") as provided in Attachment "B" to Resolution No. 2017-068 adopted by the City Council of the City of Lake Elsinore on June 13, 2017, acting as the legislative body of City of Lake Elsinore Community Facilities District No. 2007-4 (Makenna Court) (the "District"), be levied to pay for the Improvements, Incidental Expenses and other purposes described in Resolution No. 2007-156 and the Services described in the Second Amended Rate and Method, including the payment of the principal of and interest on bonds issued to finance the Improvements and Incidental Expenses for the District?

YES_____

NO_____