

**ORDINANCE NO. 2017 – \_\_\_\_\_**

**ORDINANCE OF THE CITY COUNCIL OF CITY OF LAKE ELSINORE, CALIFORNIA,  
ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY  
FACILITIES DISTRICT NO. 2007-4 (MAKENNA COURT) AUTHORIZING THE LEVY  
OF A SPECIAL TAX WITHIN SUCH DISTRICT**

**Whereas**, on August 28, 2007, the City Council of the City of Lake Elsinore (Council) adopted Resolution No. 2007-156 stating its intention to form City of Lake Elsinore Community Facilities District No. 2007-4 (Makenna Court) (CFD or 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 CFD No. 2007-4 and to incur bonded indebtedness within CFD 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 CFD No. 2007-4, issue bonds for the benefit of 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 CFD 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 CFD 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 CFD No. 2007-4, declared the results of the special election and directed the recording of a Notice of Special Tax Lien within CFD 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 CFD 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 of 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**, subsequent to the Prior Changes, the District received a petition signed by Western Pacific Housing, Inc., a Delaware corporation, 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; and,

**Whereas**, on June 13, 2017 the Council, acting as the legislative body of CFD No. 2007-4, adopted Resolution No. 2016-068 (Resolution of Intention), stating its intention to consider the approval of the Second Amended and Restated Rate and Method of Apportionment attached thereto as Attachment B (Second Amended and Restated 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 and Restated 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 and Restated Rate and Method were heard and a full and fair hearing was held; and,

**Whereas**, on July 25, 2017, following the close of the Public Hearing, the Council adopted Resolution No. \_\_\_\_\_ (Change Resolution), which called a special election on July 25, 2017, within CFD No. 2007-4 on the approval of the Second Amended and Restated Rate and Method; and,

**Whereas**, on July 25, 2017, a special election was held within CFD No. 2007-4 at which the qualified electors approved by more than a two-thirds vote, Proposition A, approving the Second Amended and Restated Rate and Method for CFD No. 2007-4.

**NOW, THEREFORE, THE CITY COUNCIL, ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE COMMUNITY FACILITIES DISTRICT NO. 2007-4 (MAKENNA COURT), DOES ORDAINS AS FOLLOWS:**

**Section 1:** The above recitals are all true and correct.

**Section 2.** By the passage of this Ordinance, the Council authorizes the levy of a special tax within CFD No. 2007-4 at the maximum rates and in accordance with the Second Amended and Restated Rate and Method.

**Section 3:** The 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 District pursuant to the Second Amended and Restated Rate and Method. The special tax rates to be levied pursuant to the Second Amended and Restated Rate and Method shall not exceed the applicable maximum rates set forth therein, but the special tax may be levied at a lower rate.

**Section 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 Second Amended and Restated Rate and Method. No other properties or entities are exempt from the special tax unless the properties or entities are expressly exempted in the Resolution of Formation and the Change Resolution, 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.

**Section 5:** All of the collections of the special tax pursuant to the Second Amended and Restated Rate and Method shall be used as provided for in the Act, the Resolution of Formation and the Change Resolution. The special tax shall be levied within the District only so long as needed for the purposes described in the Resolution of Formation and in the Change Resolution.

**Section 6:** The special tax levied pursuant to the Second Amended and Restated Rate and Method 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 Council from time to time.

**Section 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 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.

**Section 8.** This Ordinance relating to the levy of the special tax within the District 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.

**Section 9.** 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.

**Section 11.** Certification. The City Clerk shall certify the passage of this Ordinance and shall cause a synopsis of the same to be published according to law.

**Passed and Adopted** on this 25<sup>th</sup> day of July, 2017.

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

Attest:

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

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

I Susan M. Domen, MMC, City Clerk of the City of Lake Elsinore, do hereby certify that the foregoing Ordinance No. 2017-\_\_\_\_\_ was introduced at the Regular meeting of July 25, 2017, and adopted by the City Council of the City of Lake Elsinore at its Regular meeting of \_\_\_\_\_, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Lake Elsinore, California, on the \_\_\_\_\_ day of the \_\_\_\_\_, 2017.

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