

ORDINANCE NO. 2018- 1396

ORDINANCE 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. 2006-1 (SUMMERLY) AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN IMPROVEMENT AREA II OF SUCH DISTRICT

Whereas, after a public hearing, on February 28, 2006, the City Council (Council) of the City of Lake Elsinore (City) adopted Resolution Nos. 2006-30 and 2006-31, which formed City of Lake Elsinore Community Facilities District No. 2006-1 (Summerly) (the "District" or "Community Facilities District No. 2006-1") and Improvement Area Nos. 1 through 3 therein, and called special elections on February 28, 2006, within Improvement Area Nos. 1 through 3 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 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 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 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 Council, acting as the legislative body of the District, adopted Resolution Nos. 2014-2010 and 2011-2011, 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 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 increase of the appropriations

limit for the District, 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, which owns land within Improvement Area II, the boundaries of which are described in Resolution Nos. 2014-2010 and 2014-011 which petition meets the requirements of Section 53332 of the Act, requesting that the District approve a new rate and method of apportionment for Improvement Area II; and,

Whereas, on October 23, 2018, the Council, acting as the legislative body of CFD No. 2006-1, adopted Resolution No. 2018-133 (the "Resolution of Intention"), stating its intention to consider the approval of the First Amended and Restated Rate and Method of Apportionment attached thereto as Attachment "A" (the "First Amended and Restated Rate and Method"); and,

Whereas, a notice calling a public hearing on November 27, 2018, was published as required by law relative to the intention of the Council to consider the approval the First Amended and Restated Rate and Method; and,

Whereas, on November 27, 2018, the Council conducted a noticed public hearing to determine whether it should proceed with the approval of the First Amended and Restated Rate and Method; and,

Whereas, at the November 27, 2018, public hearing all persons desiring to be heard on all matters pertaining to the approval of the First Amended and Restated Rate and Method were heard and a full and fair hearing was held; and,

Whereas, on November 27, 2018, following the close of the public hearing, the Council adopted Resolution No. 2018-1396 (the "Change Resolution"), which called a special election on November 27, 2018, within Improvement Area II of CFD No. 2006-1 on the approval of the First Amended and Restated Rate and Method; and,

Whereas, on November 27, 2018, a special election was held within Improvement Area II of CFD No. 2006-1 at which the qualified electors approved by more than a two-thirds vote, Proposition A, approving the First Amended and Restated Rate and Method for CFD No. 2006-1.

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:

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

Section 2. By the passage of this Ordinance, the City Council authorizes the levy of a special tax within Improvement Area II of CFD No. 2006-1 at the maximum rates and in accordance with the First Amended and Restated Rate and Method.

Section 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 Improvement Area II of the District pursuant to the First Amended and Restated Rate and Method. The special tax rates to be

levied pursuant to the First 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 First 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 Resolution No. 2014-2010 or 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 First Amended and Restated Rate and Method shall be used as provided for in the Act, Resolution No. 2014-2010 and the Change Resolution. The special tax shall be levied within Improvement Area II of the District only so long as needed for the purposes described in Resolution No. 2014-2010 and in the Change Resolution.

Section 6. The special tax levied pursuant to the First 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 the City 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 issued for Improvement Area II, 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 such 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. 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 the City of Lake Elsinore.

Section 9. This Ordinance relating to the levy of the special tax within Improvement Area II of 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 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.

Passed and Adopted on this 11th day of December 2018.

Natasha Johnson
Mayor

Attest:

Mark Mahan, Deputy City Clerk

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

I, Mark Mahan, Deputy City Clerk of the City of Lake Elsinore, California, do hereby certify that Ordinance No. 2018-1396 was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of December 11, 2018, and that the same was adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mark Mahan, Deputy City Clerk