

**RESOLUTION NO. 2021-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2019-2 OF THE CITY OF LAKE ELSINORE (NICHOLS RANCH), APPROVING AMENDMENT TO THE RATE AND METHOD OF APPORTIONMENT, INCREASING THE AMOUNT OF AUTHORIZED BONDED INDEBTEDNESS TO BE INCURRED BY COMMUNITY FACILITIES DISTRICT NO. 2019-2 AND CALLING AN ELECTION THEREIN**

**Whereas**, on October 22, 2019, the City Council of the City of Lake Elsinore (the "City Council") adopted Resolution No. 2019-083 stating its intention to form Community Facilities District No. 2019-2 of the City of Lake Elsinore (Nichols Ranch) ("Community Facilities District No. 2019-2" 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 (the "Act"); and,

**Whereas**, on October 22, 2019, the City Council also adopted Resolution No. 2019-084 stating its intention to incur bonded indebtedness within the District in the amount not to exceed \$10,000,000 to finance the facilities and improvements identified in Attachment "B" to Resolution No. 2019-083 (collectively, the "Improvements"); and the incidental expenses to be incurred in financing the Improvements and forming and administering the District (the "Incidental Expenses"); and,

**Whereas**, a notice calling a public hearing on December 10, 2019, was published as required by law relative to the intention of the City Council to establish Community Facilities District No. 2019-2 and to incur bonded indebtedness within Community Facilities District No. 2019-2; and,

**Whereas**, on December 10, 2019, the City Council conducted a noticed public hearing to determine whether it should proceed with the establishment of Community Facilities District No. 2019-2, issue bonds for the benefit of Community Facilities District No. 2019-2 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 Attachment "C" to Resolution No. 2019-083 (the "Rate and Method") to be levied within Community Facilities District No. 2019-2 for the purposes described in Resolution No. 2019-083; and,

**Whereas**, at the December 10, 2019, public hearing all persons desiring to be heard on all matters pertaining to the establishment of Community Facilities District No. 2019-2, the levy of the special taxes in accordance with the Rate and Method and the issuance of bonds within Community Facilities District No. 2019-2 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 December 10, 2019, the City Council adopted Resolution Nos. 2019-095 (the "Resolution of Formation") and 2019-096 (the "Resolution to Incur Bonded Indebtedness") which formed the District and called a special election on December 10, 2019, 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 December 10, 2019; and,

**Whereas**, pursuant to Resolution No. 2019-097, adopted on December 10, 2019, the City Council, acting as the legislative body of Community Facilities District No. 2019-2, declared the results of the special election and directed the recording of a Notice of Special Tax Lien within Community Facilities District No. 2019-2; and,

**Whereas**, the District has received a petition signed by Nichols Rd. Partners, LLC, a California limited liability company (the "Owner"), which owns all of the land within Community Facilities District No. 2019-2, the boundaries of which are described in Resolution No. 2019-083 which petition meets the requirements of Section 53332 of the Act, requesting that the District initiate proceedings to: (i) approve a new rate and method of apportionment for Community Facilities District No. 2019-2, and (ii) increase the amount of bonded indebtedness authorized to be incurred by the District from \$10,000,000 to \$11,000,000, to finance the Improvements and the Incidental Expenses (collectively, the "Changes"); and,

**Whereas**, on December 8, 2020, the City Council, acting as the legislative body of Community Facilities District No. 2019-2, adopted Resolution No. 2020-101 (the "Resolution of Intention"), stating its intention to consider the Changes, including the approval of a new rate and method of apportionment for Community Facilities District No. 2019-2, attached to the Resolution of Intention as Attachment "B" (the "Amended and Restated Rate and Method"); and,

**Whereas**, a notice calling a public hearing on January 12, 2021, was published as required by law relative to the intention of the City Council to consider the approval of the Changes; and,

**Whereas**, on January 12, 2021, this City Council conducted a noticed public hearing to determine whether it should proceed with the approval of the Changes; and,

**Whereas**, at the January 12, 2021 public hearing all persons desiring to be heard on all matters pertaining to the approval of the Changes were heard and a full and fair hearing was held; and,

**Whereas**, the City Council has determined that there have been fewer than twelve registered voters residing in the District for the period of 90 days prior to January 12, 2021 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 City Council has determined at this time to proceed with the approval of change proceedings with respect to Community Facilities District No. 2019-2 as described herein; and,

**Whereas**, the City, on behalf of itself and the District, and the Owner have previously entered into that certain Funding Agreement dated December 10, 2019, and the parties thereto now desire to amend and restate the Funding Agreement in its entirety in the form of the Amended and Restated Funding Agreement (the "Amended and Restated Funding Agreement") on file with the City Clerk.

**NOW, THEREFORE, THE CITY COUNCIL OF CITY OF LAKE ELSINORE, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2019-2 OF THE CITY OF LAKE ELSINORE (NICHOLS RANCH), HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOW:**

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

**Section 2.** The City Council hereby adopts the Amended and Restated Rate and Method attached as Attachment "B" to the Resolution of Intention as the rate and method for Community

Facilities District No. 2019-2. Except where funds are otherwise available, it is the intention of the City Council, subject to the approval of the eligible voters within the Community Facilities District No. 2019-2, to levy the proposed special taxes at the rates for Community Facilities District No. 2019-2 set forth in the Amended and Restated Rate and Method on all non-exempt property within Community Facilities District No. 2019-2 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 Amended and Restated Rate and Method is described in detail in Attachment "B" to the Resolution of Intention which is incorporated herein by this reference, and the City Council hereby finds that the Amended and Restated 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 (as defined in the Amended and Restated Rate and Method) shall be levied on each assessor's parcel for a period not to exceed the Fiscal Year 2060-61.

**Section 3.** Upon recordation of an 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 City Council, acting as the legislative body of Community Facilities District No. 2019-2, hereby determines that it is necessary increase the amount of bonded indebtedness to be incurred by Community Facilities District No. 2019-2 in a maximum aggregate principal amount from \$10,000,000 to \$11,000,000 for the benefit of Community Facilities District No. 2019-2.

**Section 5.** 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. 2019-095, financing the Incidental Expenses, and carrying out the powers and purposes of Community Facilities District No. 2019-2, 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 6.** Written protests against the approval of the Amended and Restated Rate and Method and the increase in the maximum principal amount of bonded indebtedness to be incurred by Community Facilities District No. 2019-2 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 City Council hereby finds that the approval of the foregoing changes with respect to Community Facilities District No. 2019-2 has not been precluded by a majority protest pursuant to Section 53337 of the Act.

**Section 7.** An election is hereby called for Community Facilities District No. 2019-2 on the propositions of approving the Amended and Restated Rate and Method and the increase in the maximum principal amount of bonded indebtedness to be incurred by Community Facilities District No. 2019-2. The propositions to be placed on the ballot for the District is attached hereto as Attachment "A." Following certification of a landowner vote in favor of the adoption of the

Amended and Restated Rate and Method, the District shall record an amended and restated notice of special tax lien for the District.

**Section 8.** The date of the foregoing election for the District shall be January 12, 2021, 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.** The form of the Amended and Restated Funding Agreement on file with the City Clerk is approved as to form, and each of the City Manager, Assistant City Manager, and their written designees, is authorized to execute the Amended and Restated Funding Agreement in substantially the form on file with the City Clerk, together with such changes as are approved by the officer executing the same, with the approval of such changes to be conclusively evidenced by the execution and delivery thereof.

**Section 11.** This Resolution shall be effective upon its adoption.

**Passed and Adopted** on this 12<sup>th</sup> day of January, 2021.

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

**Attest:**

\_\_\_\_\_  
Candice Alvarez, MMC  
City Clerk

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

I, Candice Alvarez, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. 2021-\_\_\_\_\_ was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of January 12, 2021 and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Candice Alvarez, MMC  
City Clerk

**ATTACHMENT “A”**

**SAMPLE BALLOT**

**COMMUNITY FACILITIES DISTRICT NO. 2019-2  
OF THE CITY OF LAKE ELSINORE (NICHOLS RANCH)**

**SPECIAL ELECTION**

January 12, 2021

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 a special tax with an amended and restated rate and method of apportionment as provided in Attachment “B” to Resolution No. 2020-101 adopted by the City Council of the City of Lake Elsinore on December 8, 2020, with respect to certain change proceedings for Community Facilities District No. 2019-2 of the City of Lake Elsinore (Nichols Ranch) (the “District”), be levied to pay for the Improvements, Incidental Expenses and other purposes described in Resolution No. 2019-095, including the payment of the principal of and interest on bonds issued to finance the Improvements and Incidental Expenses for the District?

YES\_\_\_\_\_

NO\_\_\_\_\_

PROPOSITION B: Shall the amount of authorized indebtedness and the issuance bonds by the District be increased in the maximum principal amount from \$10,000,000 to \$11,000,000, with interest at a rate or rates not to exceed the maximum interest rate permitted by law, to finance the Improvements and the Incidental Expenses described in Resolution No. 2019-095 of the City Council of the City of Lake Elsinore for the District?

YES\_\_\_\_\_

NO\_\_\_\_\_