

ORDINANCE NO. 2021-_____

**AN ORDINANCE OF THE CITY COUNCIL OF CITY OF LAKE ELSINORE,
CALIFORNIA, ACTING IN ITS CAPACITY AS THE LEGISLATIVE BODY OF
COMMUNITY FACILITIES DISTRICT NO. 2019-2 OF THE CITY OF LAKE ELSINORE
(NICHOLS RANCH) AUTHORIZING THE LEVY OF A SPECIAL TAX WITHIN SUCH
DISTRICT**

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 the Amended and Restated Rate and Method; 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, on January 12, 2021, following the close of the public hearing, the City Council adopted Resolution No. _____ (the "Change Resolution"), which called a special election on January 12, 2021 within Community Facilities District No. 2019-2 on the approval of the Amended and Restated Rate and Method and the increase of principal amount of bonded indebtedness authorized to be issued by the District from \$10,000,000 to \$11,000,000; and,

Whereas, on January 12, 2021, a special election was held within Community Facilities District No. 2019-2 at which the qualified electors approved by more than a two-thirds vote Proposition A, approving the Amended and Restated Rate and Method for Community Facilities District No. 2019-2 and Proposition B, approving the increase of principal amount of bonded indebtedness authorized to be issued by the District from \$10,000,000 to \$11,000,000.

NOW, THEREFORE, THE CITY COUNCIL, ACTING AS THE LEGISLATIVE BODY OF COMMUNITY FACILITIES DISTRICT NO. 2019-2 OF THE CITY OF LAKE ELSINORE (NICHOLS RANCH), 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 Community Facilities District No. 2019-2 at the maximum rates and in accordance with the 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 District pursuant to the Amended and Restated Rate and Method. The special tax rates to be levied pursuant to the 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 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 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 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 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, 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.

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 City of Lake Elsinore.

Section 9. 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. Upon effectiveness, this Ordinance shall supersede Ordinance No. 2019-1416 previously approved by the City with respect to the levy of special taxes of the District.

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 12th day of January, 2021.

Robert E. Magee, Mayor

Attest:

Candace Alvarez, MMC
City Clerk

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

I, Candace Alvarez, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Ordinance No. 2021-_____ was introduced at the Regular meeting of the City Council of January 12, 2021, and 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:

Candace Alvarez, MMC
City Clerk